

9. LAND USE

This chapter contains suggested revisions and additions to the Town of Bolton Zoning Bylaws to guide and control future development in Bolton. Some add to existing Bylaws and others are new tools to help towns direct growth in ways that benefit or enhance the community.

9.1 Establish Design Review Committee and Guidelines (Non-Residential)

The town should establish a Design Review Committee and create a set of Design Review Guidelines to establish the design criteria of all new signs and commercial projects in the town. Single-family houses would not be subjected to the Design Review or the Guidelines. The Design Review Committee typically reviews the building architecture, building materials, landscape treatments, lighting design and signage of proposed projects with reference to the published Design Review Guidelines. The Design Review Committee then provides an advisory report to the permit granting authority (Planning Board, Zoning Board of Appeals, Building Inspector, etc.).

The Design Review Guidelines are included in a written document that identifies what type of building designs, building materials and landscape treatments are preferred in the town. In Bolton's case, preferred designs would be consistent with the existing rural and historic vernacular. An example of a compatible commercial building design is the structure on the northwest corner of I-495 and 117.

These guidelines could be established through the assistance of a consultant and/or could be created by a citizen task force comprised of land use regulators, business representatives, historical advocates, landscape architects and architects. It is critical that business leaders be involved at the beginning of the process to ensure that the guidelines are fair and reasonable.

In practice, developers appreciate having a set of pre-published design guidelines to assist in the design of their building and site plan. The Guidelines give developers an up-front idea of what the town is looking for and ensures that the Design Review process is as objective as possible. The Design Review process is a complement to the existing Site Plan review process. Site Plan Approval addresses technical criteria such as conformance with zoning, proper drainage and safe access. Design Review focuses on aesthetic criteria. Examples of Design Review Guidelines may be viewed at: http://town.boxborough.ma.us/DesignReview_draftMay2004.pdf and <http://www.capecodcommission.org/bylaws/village.html>

Box 9-1: Suggested Elements of Design Review

- Architectural Standards that address building materials, roof lines, windows, facades and other elements.
- Sign standards that give preference to pedestrian scale monument signs rather than tall, highway scale internally lit signage. Materials and lighting should also be addressed.
- Landscape standards that address screening and buffering considerations and give preference to native species.
- Review of impact to Town’s character, natural resources and safety.

A Design Review Committee typically consists of five members appointed by the Board of Selectmen (3 appointees), Planning Board (1 appointee), and Historical Commission (1 appointee). Members of the Design Review Committee should include individuals familiar with design, construction, and real estate, such as architects, landscape architects, lawyers, realtors, and contractors.

Responsible Entity –The Planning Board, Town Planner, and Board of Selectmen should work to produce the Design Review Guidelines. The Board of Selectmen, Planning Board, and Historical Commission should appoint their respective members of the Design Review Committee.

9.2 Review the Table of Uses Bylaw

The Planning Board has begun updating the Table of Uses within the Zoning Bylaw. In practice, each type of use presents a different set of issues and impacts. The more generic the Table of Uses, the less capable a town is of appropriately distinguishing between, and planning to manage, the impacts of these uses. For example, all manufacturing and industrial uses are grouped under one definition and are permitted as of right in the Industrial District. Other uses, such as Health Clubs and Shopping Malls are not described or defined, thus leaving interpretation up to the Zoning Enforcement Agent and the Zoning Board of Appeals. A detailed Table of Uses Regulation would take the guess work out of deciding if a particular use is permitted or not and allow the town to manage future growth with more precision. Further, such a table protects the town from uses that may not have been anticipated when the bylaw was originally created.

The current bylaw needs more specific use definitions; it must anticipate and address common uses that are not yet present. These uses should be appropriately defined and added to the Table of Uses, where they should be allowed by special permit where appropriate and prohibited elsewhere. Overly broad and general use definitions only hamper the town’s ability to properly guide and manage future growth and to enforce the intent of the bylaw.

In addition to updating the types of Uses, the Planning Board should revisit those that are allowed “as of right” to insure that this designation remains appropriate given existing

development and growth patterns. The MPC believes that a greater emphasis should be placed on the use of special permits to insure appropriate review of the impact of new development on the surrounding neighborhoods. Further, they encourage the town to resist the granting of “use variances” in situations where the statutory requirements for the granting of a variance are not met. The Table of Uses should add more clarity to franchise uses, and limit the size of “big box” stores, as these two are rapidly growing uses in the region.

Responsible Entity - The Town Planner and the Planning Board should work to modernize and update the Table of Uses

9.3 Strengthen Site Plan Review Bylaw

Site Plan Review allows the Planning Board to review site design, lighting, vehicle and pedestrian access, architecture, landscaping, parking, stormwater management and other site features prior to the granting of a permit for the construction of commercial, industrial and multi-family housing developments. Bolton’s current Site Plan Review Bylaw is limited in scope compared to that employed by many other towns and municipalities. Additional review criteria and submittal requirements should be added to strengthen the review process. Further, detailed submittal requirements and review criteria could help to take the “guess work” out of the permitting process and help to foster a fair process.

Box 9-3: Suggested Elements of Site Plan Review

- Enhanced review procedure with pre-application meetings and site visits.
- Enhanced application materials to include documented design process conducted by a registered Landscape Architect showing site constraints, distinctive features, and neighborhood context. Application materials should also include detailed plan requirements so that the requirements of each sheet of the site plan are clear and orderly. The application should also include detailed impact reports for environmental issues, traffic and fiscal impacts and these reports should detail any proposed mitigation.
- Create “Site Plan Regulations” that are referenced in the Bylaw but are similar to Subdivision Rules and Regulations that may be amended by the responsible party from time to time.
- Add notification of abutters, paid for by the applicant.

Responsible Entity-The Planning Board, the Town Planner and the Board of Selectmen should revise the Site Plan Review Bylaw. These changes would need to be approved by Town Meeting. The various land use boards should work together with a consultant to create Site Plan Best Development Practices.

9.4 Create Mixed Use Village Overlay District

In order to meet affordable housing goals and create compatible retail and commercial space (not “strip malls”), a Village Overlay District should be created to enable the creation of village gateways while preserving open space. This district would permit small to moderate economic development uses and residential uses designed in a village setting and scale. This district should be designed to create a small village with strong pedestrian connections, architectural design guidelines, consistent architecture, and small scale structures that service Bolton residents and agricultural tourism.

Over time, the town should introduce and permit the phasing in of residential units in the area, including apartments over first floor commercial structures. Such housing should be designed with town residents in mind, to enhance the sense of community, and should include senior and affordable housing opportunities. Possible locations for a village overlay district include along Rte. 117 by the Stow line; at the Davis Gravel Pit at the corner of Rtes. 110 and 117; and at the Rte. 117/495 off ramps.

Box 9-4: Sample Mixed Use Village Overlay District Standards

- Establish strong design guidelines to further enhance the colonial and small-town style intended for this district.
- Permit economic development uses such as retail, service, and office, but limit the size and bulk of these uses so as to be consistent with village character.
- Allow for “top of shop” housing at a higher density (perhaps 10 units/acre or more). Use Inclusionary Zoning to ensure that at least 10% of all units are affordable to low and moderate income households.
- Set maximum setbacks (fifteen to thirty feet) to allow parking to be to the rear or side of structures.
- Set “as of right” building size (5000 sq ft maximum) and height limitations (two stories maximum) and tie anything beyond these limits to the TDR provisions. Through the use of the TDR the size limits should be able to increase to at least 25,000 sq ft and three stories.
- Create more stringent signage provisions.

Responsible Entity- The Planning Board and Bolton Affordable Housing Partnership should work with the Conservation Commission.

9.5 Improve Bolton’s Farmland and Open Space Planned Residential Development Bylaw (FOSPRD)

One of the most important planning issues in Bolton is the future of the town’s remaining large, undeveloped, unprotected tracts of land. In addition, there are numerous smaller tracts of land that are still large enough to be subdivided, but have not yet been developed. Therefore, the town should have in place a zoning framework to encourage environmentally and aesthetically sensitive development while preserving as much of the open space as possible. Fortunately,

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Bolton already has a type of Open Space Subdivision Bylaw in place in the Farmland and Open Space Planned Residential Development Bylaw (FOSPRD).

The FOSPRD bylaw has resulted in the protection of 233 acres of land in Bolton over the last fifteen years, at no cost to the Town, and projects now in the pipeline will increase that amount to over 300 acres. Many of these protected acres are important blocks of land in themselves, or abut other significant conservation lands to form a larger whole. However, in some cases, the protected land is just the land around the perimeter of the development, as septic and zoning rules require the houses and their septic systems to occupy most of the most desirable open space.

FOSPRD does not reduce the number of houses that can be built on a piece of land in Bolton, it simply affects where the houses are placed on the land. Rather than a conventional subdivision which divides a parcel into an even checkerboard of 80,000 sq ft lots, FOSPRD allows the house lots to be reduced to 1 acre and the remaining land then becomes protected open space. The developer has to present both a conventional and a FOSPRD design for the parcel and the number of homes that fit on the conventional subdivision is what determines the number of homes that can be built in the FOSPRD design. The proposed enhancements to the bylaw described below do not change how many houses can be built on a parcel.

The following suggestions outline steps the town can take to modify its current bylaw to better ensure the preservation of open space. Many of these suggestions are intended to provide the Planning Board with more flexibility to specify the most important open space on the site to protect, and then fitting the houses into the natural topography of the site.

Box 9-5: Suggested Elements of an Enhanced FOSPRD Bylaw

The following are some elements that Bolton may include in the FOSPRD Bylaw to make it attractive to developers and the town, and more likely to create a desirable outcome:

Apply to all 15+ Acre Developments: Today the Planning Board can insist on a (FOSPRD) development on parcels greater than 15 acres that involve building a new road. The requirement for a new road should be dropped, so that all parcels greater than 15 acres would require a FOSPRD development.

Common Septic: Allow a common septic system to serve the development. This is the single most important change, as without it individual septic systems dictate how the land is developed and what land is “left over” for open space. A common septic system does not mean more houses, as the number of houses is first determined by how many conventional lots with individual septic systems could be supported by the parcel in a conventional subdivision.

No One-Acre Minimum Lot Size: Rather than a one-acre minimum lot size, do not require minimum

Box 9-5: Suggested Elements of an Enhanced FOSPRD Bylaw

lot sizes within the Open Space Subdivision except as driven by reasonable setbacks between houses. This maximizes the flexibility of the design process, thus allowing the town and the developer to preserve the best land as open space. Frontage and other requirements should also be flexible to allow for the most sensitive design of the development. As mentioned above with the common septic recommendation, the overall density would not increase on a parcel because the maximum number of houses is determined by a conventional subdivision plan.

Increase Open Space Percentage to 50%: In today's FOSPRD bylaw, a minimum of 33% of the land must be preserved as open space. This minimum should be increased to 50% of the original site. The Planning Board should create detailed open space standards that describe the types of open space that may be included, how it should be arranged within the site, how it should interact with surrounding lands, and how it should be preserved.

Responsible Entity - The Planning Board and Town Planner should work with the Conservation Commission, Bolton Conservation Trust and the Board of Health (with respect to wastewater issues) to develop appropriate amended bylaws, as well as supporting regulations for both the Planning Board and Board of Health.

9.6 Create a Transfer of Development Rights Bylaw

Another possible vehicle for preserving open space is the Transfer of Development Rights (TDR) bylaw. Transfer of Development Rights is a term used to describe a land use regulation whereby the actual development rights of a parcel are purchased and transferred to another parcel. In a TDR, a landowner in a designated open space or protection area of Bolton may sell the "development rights" attached to their land to a developer for use in another area of the town where development had been deemed more appropriate by the Town.

The area where development rights may be purchased is called the sending district. The area where development rights may be transferred and relocated is called the receiving district. For example, one landowner in town owns Bolton's largest orchard as well as a sand pit that abuts a business zone area next to the post office. If the landowner is interested, the town might consider designating a portion of the orchards as sending zones and the gravel mine as the receiving zone. Assuming that property values are equal, the property in the sending district benefits because it receives fair market value for the development potential, and the property becomes permanently protected, which provides certain tax benefits, while the property in the receiving district benefits because it may use the additional development rights to enhance the potential of the parcel. The town benefits because critical open space and agricultural lands are protected at no cost to the town and development occurs in specific areas where the town has

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indicated that such development is appropriate. The Conservation Commission's 2005 Open Space and Recreation Plan should be consulted when designating sending districts.

Box 9-6: Suggested Elements of a TDR Program

The following principles should be included in the town's TDR program:

Receiving Districts should include Residential and Commercial areas: The town should institute a more flexible and 'bonus driven' transfer of development rights program that allows the development rights of farmland to be used for both commercial and residential bonuses. Throughout this Master Plan, there are several proposed strategies that describe a type of development that is not currently permitted under the town's zoning code. Such development includes senior villages and mixed use structures. These development types could be explicitly tied to a TDR program to ensure that the only method to permit the increased density inherent with these different bylaws is the TDR program.

Choices for preserving open space: The developer should have an option of transferring density from:

1. another parcel that he or she may own within the sending district;
2. donating off-site, developable open space directly to the town;
3. or donating a town-approved fee in lieu of an open space donation or transfer of development rights.

Dedicated fund: The fees collected as part of the TDR program would be dedicated funds that could only be used to purchase open space or Agricultural Preservation Restrictions, or Conservation Restrictions.

Fair and realistic tradeoffs and bonuses: The town must establish reasonable density incentive provisions. If the town requires too much open space (or too large a payment-in-lieu) in exchange for the right to build bonus housing units, developers will not take advantage of the creative zoning techniques. If the open space requirement is too low, the town will not be realizing the maximum potential to conserve open space. The payment-in-lieu amount per bonus dwelling unit should be set ahead of time by the Planning Board, but may be changed from time to time. The payment-in-lieu should be some percentage of the estimated additional marginal profit that the developer could earn by building each bonus unit.

Responsible Entity - The Planning Board and Town Planner should work with the Conservation Commission and the Bolton Conservation Trust to develop a new bylaw.