



# MANCHESTER-BY-THE-SEA

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PLANNING BOARD • TOWN HALL  
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Telephone (978) 526-6405 FAX (978) 526-2001

## MINUTES OF THE PLANNING BOARD

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May 18, 2022 6:30 p.m.

Virtual Meeting

**MEMBERS PRESENT:** Ron Mastrogiacomo, Chair, Sarah Creighton, Mary Foley, Chris Olney, Gary Gilbert, , and Laura Tenny

**MEMBERS NOT PRESENT:** Christina Delisio

**STAFF PRESENT:** Town Planner, Sue Brown, Alan Wilson, Moderator

**The following minutes were approved by vote of the Planning Board on July 11, 2022**

The chair called the meeting to order at 6:30 with a roll call vote.

The chair read the public notice into the record and called for a motion to continue the deliberation portion of the public hearing for zoning changes . The motion carried on roll call vote 7-0. The chair turned the meeting over to vice chair Creighton.

Moved to authorize Sue, Chris, and Sarah to design a postcard to go to all postal customers. Ron moved, Chris seconded. The motion passed 6-0.

The board discussed changes to the definition of allowed boarders and other slight modifications..

Moved to allow Sarah and Chris to consolidate and enter the administrative changes to the motions and submit them as final provided the final versions are available to the full board by Sunday May 22 pm.

Chris moved and Ron seconded the following: Motion to move these to final articles and motions with amendments with the intension to move to Town Meeting with a final version to be voted at the next meeting:

- Articles: 1 (section 1-4), May 18 version
- Articles 3 (removed the articles going to General Bylaws) – add language “provide Article XX is approved to amend General Bylaws on related topics” or other

- Article 4 – (Renumbering)
- Article 6 (section 6) need to delete the note in line 36 and 98 and add view shed language
- Article 8: Adult Entertainment with lines 29, 33 –change board of appeals to PB

The motion passed 6-0

Chris moved and Ron seconded a Motion to add language in yellow to Section 12.5.2 Criteria (page 3):

1. Social, economic, or community needs which are served by the proposal; **if appropriate**

Insert after 5 and renumber: **Preservation, enhancement, or creation of existing and proposed scenic viewsheds for the enjoyment of the general public .**

**to Section 12.5.4 Conditions:**

8. Requirement for surety bonds or other security for the performance of any conditions attached to the special permit, **if appropriate**

**12.5.5 Referral. When appropriate,** The Board of Appeals, Select Board and Planning Board, when serving as the SPGA, shall refer a special permit application to the Board of Health, Conservation Commission, and the Department of Public Works for written comments and recommendations before taking final action on said special permit application. **Referral to staff members of these departments, boards, or committees for comments shall be required in all instances.**

The motion passed 6-0.

Sara asked if there are any objections to Mark Bobrowski’s edits listed below and heard no objections :

- Admin and procedures:
- 12.5.2 and 12.5.2.1 – should be 6.3 not 6.2
- 12.5.6 – delete \*\*\*\*
- 12.5.6 – Should begin “Unless otherwise provided by rule or regulation of the SPGA ...”
- 12.6.3 – Substitute the following:
- 12.6.3 Procedure. The planning board shall hold a public hearing for consideration of an application of site plan approval. Said hearing shall be conducted in accordance with the procedures set forth in M.G.L. c. 40A, § 11 for special permits. The written

decision of the PB shall be filed with the Town Clerk within 90 days of the close of the public hearing. Failure to file the decision within 90 days of the close of the public hearing shall be constructive approval of the site plan application.

- 12.6.7 - add this second sentence: "A majority of the Planning Board, as constituted, shall be required for site plan approval."

Chris moved and Laura seconded to Move to advance amended draft Article 5 (section 12) to final warrant and associated motions. The motion passed 6-0

The board discussed whether section 7.6 Abandonment or Non-Use should stay as drafted. It was agreed that this should stay in for now.

Chris moved and Laura seconded a motion to strike the following shown in red from the May 13 version

#### **7.7 RECONSTRUCTION AFTER CATASTROPHE OR VOLUNTARY DEMOLITION**

Any nonconforming structure, ~~other than a nonconforming single or two family dwelling~~ governed by Section 7.5, may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions.

And to add the following language shown in yellow to 7.2 NONCONFORMING USES

- The Zoning Board of Appeals may award a special permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. **In its determination that the proposed use is less detrimental, the Zoning Board shall consider the standards listed in Section 6.3 of this By-law that are appropriate.**

Voted 5-1

Chris moved and Laura seconded a motion to advance the Residential Conservation Section a written in the May 13 version

- Strike line 14, 15
- Edit lines 33 and 34

It was voted 6-0

Motion to advance the Residential Conservation Section as written in the May 13 version

- Strike line 14, 15
- Edit lines 33 and 34

It was agreed to advance the Senior Housing as written in the May 13 version and Sarah and Chris to address the LCD issue.

Chris moved and Gary seconded the Motion to advance the ADU bylaw as written in the May 17 version.

Discussion:

Sue asked that the ADU limit of 2 bedrooms in the special permit be removed because some families need more than two bedrooms. Laura indicated that the May17 version did not include the 2 bedrooms.

Gary indicated that he feels that a 2 Bedroom limit is strategic for helping to get people comfortable with that.

Voted 6-0

The General Bylaw section was discussed.

Olney moved to continue the deliberation comment portion of the public hearing. Tenny seconded. The motion passed on roll call vote.

Motion to adjourn. Motion passed unanimously.



### Introduction

- Zoning establishes allowed uses and dimensional requirements in town within the parameters of state and case law.
- Special permits can change restrictions when in the public interest.
- Today's Zoning has been modified many times:
  - Confusing
  - Redundant
  - Some provisions in conflict with state and case law.
  - Prohibits or discourages recommendations of the Masterplan
- The Planning Board has been working to remedy these issues
- Most changes are administrative.
- We will highlight those that are not.

To view the Zoning Changes in full: <https://www.townofmanchester.com/development/development-services/zoning>

### Finding the text

<https://bit.ly/mbtzoning>  
Or [Manchester.ma.us](https://www.townofmanchester.com)

Scroll to

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To view the Zoning Changes in full: <https://www.townofmanchester.com/development/development-services/zoning>

### Procedures

- 13 Topics for discussion
  - Develop with land use attorney
  - Many of the changes are administrative
  - We are calling out those things that are substantive
- Purpose is to get input
- The pro/con arguments → town meeting
- Keep comments short
- Second comment must be a new issue
- Zoom chat has been disabled

Town Meeting is June 11 at 1pm

To view the Zoning Changes in full: <https://www.townofmanchester.com/development/development-services/zoning>

### Section 1: Authority and Purpose

**Old:** Defines authority & purpose of the bylaws.

**New:** Revises vague language and adds scope, applicability and procedures for approval of amendments

To view the Zoning Changes in full: <https://www.townofmanchester.com/development/development-services/zoning>

### Section 2: Definitions

**Old:**

- 11 definitions in this section
- Other definitions were scattered and hard to find.
- Some definitions needed improvement.

**New:**

- 80 definitions developed by land use attorney
- New definitions for affordable housing, dwelling types, & senior housing
- The definition of lot width is now simpler and clearer.
- All definitions are now gathered into the same bylaw section.

To view the Zoning Changes in full: <https://www.townofmanchester.com/development/development-services/zoning>

**Section 3: Districts**

**Old:** Defined the General, Residential and Limited Commercial zoning districts & zoning map.

**New:**

- No changes to the districts
- District D has been clarified as 2 districts.
- Lot lines and lots in multiple districts have been clarified.
- Updated Zoning Map

To view the Zoning Changes in full: <https://bit.ly/mbtzoning>

**New Zoning Map**



To view the Zoning Changes in full: <https://bit.ly/mbtzoning>

**Section 4: Use Regulations**

**Old:**

- Lengthy narrative description of all land uses including those allowed in residential, general, & limited commercial districts.

**New:**

- Comprehensive table which clearly defines all allowed land uses in all zoning districts.
  - The table is a best practice and used by many towns
  - A version of the table has been on our web site for comment for a number of months
- Minor changes were made to a few land uses including some accessory uses.
- Swimming pools will be allowed as of right if specific criteria have been met.

To view the Zoning Changes in full: <https://bit.ly/mbtzoning>

**Section 4: Table of Uses**

	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	GC	LC	
<b>I. Single-Family Residential</b>											
1. Single-Family Detached Dwelling (SFD)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
2. Single-Family Attached Dwelling (SFA)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
3. Single-Family Detached Dwelling with Attached Garage (SFD/G)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
4. Single-Family Detached Dwelling with Attached Garage and Attached Garage (SFD/GA)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
5. Single-Family Detached Dwelling with Attached Garage and Attached Garage (SFD/GA)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
6. Single-Family Detached Dwelling with Attached Garage and Attached Garage (SFD/GA)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
<b>II. Two-Family Residential</b>											
1. Two-Family Detached Dwelling (2FD)	N	N	N	N	N	N	N	N	N	N	
2. Two-Family Attached Dwelling (2FA)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
3. Two-Family Attached Dwelling with Attached Garage (2FA/G)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
<b>III. Commercial</b>											
1. Office/Professional (O/P)	N	N	N	N	N	N	N	N	N	N	
2. Retail/Service (R/S)	N	N	N	N	N	N	N	N	N	N	
3. Restaurant (R)	N	N	N	N	N	N	N	N	N	N	
4. Gasoline Station (G)	N	N	N	N	N	N	N	N	N	N	
5. Amusement (A)	N	N	N	N	N	N	N	N	N	N	
6. Adult (A)	N	N	N	N	N	N	N	N	N	N	
7. Nightclub (N)	N	N	N	N	N	N	N	N	N	N	
8. Adult Entertainment (AE)	N	N	N	N	N	N	N	N	N	N	
9. Adult Entertainment (AE)	N	N	N	N	N	N	N	N	N	N	
10. Adult Entertainment (AE)	N	N	N	N	N	N	N	N	N	N	
11. Adult Entertainment (AE)	N	N	N	N	N	N	N	N	N	N	
12. Adult Entertainment (AE)	N	N	N	N	N	N	N	N	N	N	
13. Adult Entertainment (AE)	N	N	N	N	N	N	N	N	N	N	
14. Adult Entertainment (AE)	N	N	N	N	N	N	N	N	N	N	
15. Adult Entertainment (AE)	N	N	N	N	N	N	N	N	N	N	

To view the Zoning Changes in full: <https://bit.ly/mbtzoning>

**Swimming Pools (4.3.2)**

Swimming Pool Issue	Current	Proposed
Governance	Special Permit by ZBA	Building Inspector can issue permit for those that comply Special Permit by ZBA for all others
Lot and lot coverage	Special Permit by ZBA	Conforming
Allowed within setbacks (Section 5 defines "setback" for side, front, rear lot lines)	No	No
Fenced	Yes	Yes Landscape to screen visibility is encouraged

To view the Zoning Changes in full: <https://bit.ly/mbtzoning>

**Finding the text**

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**Section 5: Dimensional Regulations**

Section 5 covers rules for frontage, setbacks from lot lines and height restrictions.

- No Changes

To view the Zoning Changes in full: [View the Zoning Changes](#)



**Section 6: General Regulations**


**Old:**

- Lengthy and redundant "Special Provisions"
- Unrelated issues such as parking, signage, non-conforming uses, & site plan review.

**New:**

- Renamed "General Regulations"
- Move to General Bylaw: curb cuts (driveway entrances), junk cars, and (updated) stormwater permit
- Parking Regulations are mostly unchanged
- Signage Regulations are unchanged
- Consolidated performance-based design standards for special permit & site plan review
- Topographical Changes and Site Clearing Special Permit: new title and revised purpose

To view the Zoning Changes in full: [View the Zoning Changes](#)



**Section 6 (continued)**

**What are performance-based standards for special permits and site plan review?**

- A single set of design standards provides guidance for developers and Town boards
- Promotes more sustainable, resilient, and creative design solutions

**Prescriptive standards:**

- Specify exact minimum requirements quantities, distances, materials, etc.
- Risk: designs that meet the minimum standard without imaginative solutions
- Can have unintended consequences.

**Performance-based standards: Considered a best practice:**

- Focus on an outcome or end result of the design.
- Avoid controlled pass design that may technically meet prescriptive standards
- Promotes sustainable and creative principles


**Example:**

Plant size tree for every five parking stalls in a parking lot

OR

Landscape is designed to manage stormwater and mitigate heat island effect

To view the Zoning Changes in full: [View the Zoning Changes](#)



**Section 7: Non Conforming Uses (previously section 6.1)**

**Rationale:**

- About three quarters of the properties in town do not fully comply with current zoning
- Loosening the rules will allow changes to non-conforming buildings with less difficulty and expense
- More flexibility in approving modifications of grandfathered properties that benefit the neighborhood


**Old Non-Conforming Use section:**

- Any change to non-conforming structures requires a special permit or variance
- Changes in use are not allowed

**New:**

- Allow minor changes to non-conforming residences without obtaining a special permit
- ZBA will be allowed more flexibility in issuing permits for changes in use
- Reconstruction, demolition and abandonment of nonconforming structures is allowed
- Brings the Bylaw into compliance with case law and avoids the risk of lawsuits and appeals.


To view the Zoning Changes in full: [View the Zoning Changes](#)



**Section 7: Non Conforming Uses (continued)**

Non Conforming Use Issue	Current	Proposed
Changes to one and two-family dwellings on underlying lots if changes comply with 1991	By Right	By Right
Changes to one and two-family dwellings on lots smaller than required in District	Special Permit by ZBA	By Right if within setback
Changes to structures that do not conform to setback requirements	Special Permit by ZBA	By Right if non-conformity is not made worse or is de minimis. Otherwise, special permit
Changes to buildings that currently exceed height of 35 feet	Special Permit by ZBA	By Right if non-conformity is not made worse or is de minimis. Otherwise, special permit
Changes in use (T2)	Not allowed	Special Permit if the new use is less detrimental to the neighborhood

To view the Zoning Changes in full: [View the Zoning Changes](#)



**Section 8: Special Regulations (Adult Entertainment)**

**Rationale:**

- We are obligated to allow Adult Entertainment (free speech)
- Only in the LCD by Special Permit
- Can regulate as long as it is not totally banned
- Without regulations, the Town is vulnerable to an unregulated adult entertainment establishment.

**Old: None**

**New:**

- This is a new section developed by land use attorney
- Regulations are needed to require standards of operation for such establishments.
- Requires special permit
- Prohibits visible pictures and other merchandise from public view

To view the Zoning Changes in full: [View the Zoning Changes](#)



**Break**

Zoning Public Hearing will be right back

To view the Zoning Changes in full: [TOWN OF WARREN](#)



**Section 9.1: Accessory Dwelling Units (ADU)**

**Rationale:** ADUs offer low cost housing options to seniors and singles without significant disruption to neighborhoods. They also allow homeowners an effective source of revenue so they can maintain residency in town.


**Old:**

- All ADUs require special permits by ZBA
- Only in houses built before 1984
- Double the minimum lot size required
- 4 parking spaces.

**New:**

- Building Inspector may grant ADU "by right" as long as they comply with specific regulations:
  - Within the single family home, limited size to 900 sq. ft., One additional parking space
  - senior occupancy
  - minimum 8 month lease
- Annual cap of 20 new units per year
- Eliminates the employee occupied allowed use (in section 4)
- Allows ADU's by special permit from the ZBA that do not comply.

To view the Zoning Changes in full: [TOWN OF WARREN](#)



ADU Issue	Current (with SP)	Proposed - permit from Building Dept	Proposed - w/SP permit
Location	Single family dwellings built prior to 1984 Districts: A, B, C, E	Single family dwellings in all districts except R21 and R22	Single family homes in all districts R21 and R22
Lot size	As the minimum lot (except in E (not specified))	None (subject to not conforming section if lots share minimum)	Waived by Special Permit
ADU size	Cannot exceed 30% of floor area of residence (no max) & parking spaces	Max 900 of additional Within the existing house One additional parking space	Waived by Special Permit
Detached structure	No	No	Waived by Special Permit
Allowed for employees	As the only way ADUs are allowed by SP (in Section 9)	Define requirement from section 4	Define from section 4
Owner occupied primary dwelling	Yes, but no overnight	Yes - 8 mo. min with affidavit. Clause occupied for more than one year	Yes - 8 mo. min with affidavit. Clause occupied for more than one year
Lease/rental	Not required	Required for at least 8 mo. with lease	Required for at least 8 mo. with lease
Overnight	280 - one time	Building Inspector Review permit every 5 years	Building Inspector Review permit every 5 years
Number of permits per year	No limit	20	Waived by Special Permit
Streamlining of zoning	No	Yes	Yes

**Section 9.2: Residential Conservation Cluster (RCC)**

**Rationale:**

- Clustered housing allows for preservation of open space and more efficient use of land by allowing smaller lot sizes and reduced setbacks.
- Examples: Surf Village, Elm Street, and 21 Pine Street.


**Old:**

- The existing RCC special permit is not easy to use
- Requires 5 acres of land (many examples of clustered housing are on smaller land parcels)
- Provides little benefits for the town.

**New:**

- Special permit for clustered housing with no increase in density
- Minimum Lot size: as would be allowed by zoning/subdivision
- Affordability of 10% of units
- Density bonuses for affordable housing, open space, or town amenities.


To view the Zoning Changes in full: [TOWN OF WARREN](#)



**Section 9.2: Residential Conservation Cluster**

Issue	Current	Proposed
Minimum Lot	5 acres	As required by zoning
Districts	All Residential Districts	All Residential Districts
Review	Special Permit	Special Permit
Required Affordability	10%	10%
Open Space Requirement	50% minimum	20% minimum
Density Bonus	None	Up to 20% additional units for: <ul style="list-style-type: none"> <li>Affordable units</li> <li>Open Space</li> <li>Other Special Benefits</li> </ul>
Setbacks	Reduced by SP	Reduced by up to 50% by SP

To view the Zoning Changes in full: [TOWN OF WARREN](#)



**Section 9.3: Senior Housing**

**Rationale:**

- Allowing senior housing by special permit will promote greater diversity of housing opportunities as recommended by the Master Plan.
- Allow the development of assisted living and long-term care for seniors and to create health care, housing and other supportive services for our senior population.

**Old:** None

**New:** Proposed Bylaw language provided by land use attorney

To view the Zoning Changes in full: [TOWN OF WARREN](#)






### Section 9.3: Senior Housing

Senior Housing Issue	Proposed
Overnight	Special Permit
Districts	All
Minimum Lot size	As required in the district
Dimensional requirements	As required in the district
Senior Units	Max: 2 Bedrooms Bedrooms/bath on floor with living/kitchen Max 2BR: 1,200 SF Max 1 BR: 900 SF Max Studio: 600 SF
Design standards (exterior and site plan)	Yes
Age restriction	Yes, as defined by State Law


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### Section 10: Special Districts and Section 11: Energy Regulations

- Section 10 (no changes)
  - Flood Control District
  - Flood Plain District
  - Ground and Surface Water Resource Overlay District
- Section 11: Energy Regulations (see changes)
  - Wind Energy Conversion Facilities (wind turbines)
  - Large Scale Ground Mounted Photovoltaic Installations

To view the Zoning Changes in Full: [VIEW THE ZONING CHANGES](#)



### Section 12: Administration and Procedures

**Summary:**

- Administrative and procedural requirements
- New section that replaces Section 7 of the current bylaw.


**Old (Section 7)**

- Confusing and neglects to describe the role of the Planning Board

**New:**

- The roles, powers and organizational framework of the Building Inspector, Zoning Board of Appeals and Planning Board are clarified.
- The procedures and criteria for reviewing special permits and site plan review are simplified and strengthened.

To view the Zoning Changes in Full: [VIEW THE ZONING CHANGES](#)



### Move Sections to General Bylaw

**Rationale:**

- Zoning regulations apply one time only to new development
- General bylaws may be enforced over time as needed.


**Old:**

- No changes are being proposed to the existing General Bylaws beyond adding modified zoning bylaws from Section 6 to them.

**New:**

- Curb cuts will be referred to as Driveway Entrances and reviewed based on specific criteria by the DPW. Most towns already review these by their DPW/ Highway or Traffic Departments only.
- Junk car regulations are relocated here and will not change.
- Stormwater Management will have minor changes bringing it into compliance with current State standards.

To view the Zoning Changes in Full: [VIEW THE ZONING CHANGES](#)



### Town Meeting Articles

Article 1: Replace Section 1, 2, 3, and 4 (see summary (0) vote)

Article 2: Amend General Bylaws

- needed to clarify things (majority)

Article 3: Delete Sections that Move to the General Bylaw (1/1)

Article 4: Re-number Sections 5.1 and Section 7

- administrative to make the use of the articles more concise. Suggested to separate it out to article 6 from the substance of Section 7 (majority, unanimity 4/4)

Article 5: Section 12 – ADMINISTRATION (see second priority) (1/1)

Article 6: Section 6 (see a priority)

Article 7: Section 7 – Non-Conforming Uses (2/1)

Article 8: Section 8 – Adult Entertainment (2/1)

Article 9: 9.2 Residential Conversation Cluster (2/1)

Article 10: 9.3 Senior Housing (2/1)

Article 11: 9.4 ADU (majority)

To view the Zoning Changes in Full: [VIEW THE ZONING CHANGES](#)



### Old or extra

To view the Zoning Changes in Full: [VIEW THE ZONING CHANGES](#)

