

December 6, 2011

## STAFF REPORT

Community Development Department

### RE: Administrative Zoning Changes Worksession – March 2012 Warrant

**Public Worksessions:** October 4, November 8, November 22  
**Public Hearings:** December 6  
**Board Action:** Posted and Published for Town Vote

At the October worksession on zoning changes the Board reviewed a brief outline of the proposed zoning changes for the 2012 ballot. The following is an explanation of the exact Administrative changes, brought to Staff since last year. These changes do not include the new Zoning overlay districts currently under development. Those changes will be discussed at future worksessions.

---

#### PROPOSED REVISIONS:

##### 1. Nashua and Elm Streets Corridor District –

6.05.00 NASHUA AND ELM STREETS CORRIDOR ~~OVERLAY~~-DISTRICT (2008)  
(2011)

6.05.6 Performance Standards

A. General

3. Consistency with Plans...

d. *Town of Milford Nashua and Elm Street Corridor Design Guidelines (2007)*; Prepared by Nashua Regional Planning Commission

And

C. Site Design Standards

4. Landscaping...

c. Prohibited Plants and Trees. Plant species as listed on the “*NH Prohibited Invasive Species List*” (as amended) by the NH Department of Agriculture are prohibited. As of 2007, the list includes the species listed in Appendix III (~~aquatic species not listed~~).

2. Add “**Filling Station**” to ICI – this item was reviewed and approved by the Planning Board in 2010 along many other updates to uses suggested through the Little Land Use subcommittees comprehensive review of allowed uses, however Staff mistakenly left this item out of the Public Hearing announcements.

5.08.0 INTEGRATED COMMERCIAL-INDUSTRIAL “ICI” DISTRICT (1995)

5.08.1 ACCEPTABLE USES

**CC. Filling Station**

3. Add “**Shall, should and may**” statement at beginning of ZO – this statement is currently part of the draft Commerce and Community District but was suggested it should be removed and instead placed at the front of the entire Zoning Ordinance to eliminate any confusion on if it is only applicable to one or several sections.

## 1.02.0 AUTHORIZATION

1.02.3 Provisions of this Ordinance are activated by “shall” when required, “should” when recommended and “may” when optional.

- 4. Accessory Dwelling Unit updates** – are minor administrative wording updates to better enforce the Code.

Please see **Attachment 1** – Accessory Dwelling Units

- 5. Sign Ordinance updates** – Wording revisions to clarify: Monument Signs must display the address number, Building markers and Directional signs.

Please see **Attachment 2 and 3** – Building Markers/Directional Signs & Monument Signs

- 6. Remove Extra Definitions:** Kennel, nursery, nursery stock – unnecessary

~~**Kennel:** Any lot or premises on which four (4) or more dogs other than personal pets, at least four (4) months of age, are kept, boarded or trained whether in special structures or runways or not. The foregoing definition shall specifically exclude veterinary clinics. (1983)~~

~~**Nursery:** The grounds and premises, private or public, on or in which nursery stock is propagated, grown or cultivated for the purpose of distributing or selling nursery stock as a business. This shall include the on-site retail distribution of nursery stock provided, however, under this definition it is not intended that such retail distribution will be in the form of a retail store or be the principal use of the premises. (1990)~~

~~**Nursery Stock:** All hardy deciduous and evergreen trees and shrubs, brambles, woody vines, woody florist stock and herbaceous annuals and perennials, their roots, cuttings, grafts, scions, buds, seeds and plant parts thereof, including any collected plants, for and capable of propagation. (1990)~~

- 7. Update “Discontinued Use” and “Lot of Record” Definitions:** Proposed changes suggested by Bill Dresher’s 3/1/11 memo due to a complicated ZBA case this year

Please see **Attachment 4** – Definitions

- 8. Add Mixed-use Dwelling Units as a Definition and Allowed Use**

Please see **Attachment 5** – Mixed-use Dwelling Units

**10.02.6 ACCESSORY DWELLING UNITS (2008) (2012 proposed revisions)**

**A.** In all cases involving an Accessory Dwelling Unit (ADU):

**1.** ~~An ADU shall meet the following minimum requirements:~~

- a. Only one ADU shall be allowed per a property.
- b. The primary dwelling unit shall be owner occupied.
- c. The ADU shall not exceed 700 SF total space.
- d. The ADU shall include no more than one bedroom.
- e. No additional curb cuts shall be allowed.
- f. Attached accessory dwelling units shall have and maintain at least one common interior access between the principal dwelling structure and the accessory dwelling unit consisting of a connector a minimum of 36" in width or doorway a minimum of 32" in width.
- g. An ADU shall be located in an existing or proposed single-family home or detached accessory structure.
- h. All criteria of the zoning district including lot sizes, frontages, yard requirements and height requirements must be met.
- i. An existing nonconforming residential use shall not be made more nonconforming.

**j.** An ADU shall meet all applicable local and State Building, Fire, and Health Safety Codes.

**2.** The Board of Adjustment prior to granting a Special Exception shall conduct a hearing to determine if the proposed ADU complies with the following criteria:

- a. The ADU must be developed in a manner which does not alter the character or appearance of the principal use as a single-family residence.
- b. The ADU is intended to be secondary and accessory to a principal single-family dwelling unit.
- c. The ADU shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other property in the neighborhood.
- d. Adequate off-street parking must be provided.
- e. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.

~~f. Attached accessory dwelling units shall be designed to allow for re-incorporation into the principal dwelling unit.~~

**B.** All ADUs must apply for a compliance inspection ~~every five (5) years and~~ when a change of ownership occurs, to ensure compliance with Section 10.02.6:A.

**C.** Existing Unpermitted Accessory Dwelling Units: Unpermitted Accessory Dwelling Units found to be in existence prior to the passage of this Section and are not legally non-conforming, must obtain Special Exception approval to continue to be occupied in accordance with the following criteria: (2010)

1. The ADU complies with all requirements in 10.02.6.A.

<a href="#"><u>Town of Milford</u></a>	<a href="#"><u>Article X</u></a>
<a href="#"><u>Zoning Ordinance</u></a>	<a href="#"><u>Administrative Relief</u></a>

2. Prior to the Special Exception application being heard by the Zoning Board of Adjustment, a compliance inspection shall be conducted by the Code Enforcement Department.
  3. Within forty-five (45) days of the approval of a Special Exception to allow the continuation of a existing unpermitted ADU, the applicant shall complete one of the following:
    - a. If the ADU has been found to meet all applicable codes, or will need alterations that do not require a building permit, obtain a certificate of compliance from Code Enforcement based on the code compliance inspection; or
    - b. If the ADU has been found not to meet all applicable codes, and a building permit is required, the ADU must pass all required inspections and obtain a certificate of occupancy.
- D. Failure to obtain a certificate of compliance or occupancy for an ADU shall be a violation of the Milford Zoning Ordinance and subject to enforcement action.

**[7.06.3-Definitions Building marker sign:** A sign lettered to give the name of a building and/or date of construction of the building. Such signs shall include signs recessed into the surface, cut into any masonry surface, or constructed of metallic or other ~~incombustible~~ noncombustible material. For purposes of this Article, “building name signs” are deemed to be directional signs.]

Section 7.067 – Sign requirements by sign type

**D. Directional Signs**

1. Definition: A “**directional sign**” means a sign that is necessary for on-site public safety and convenience. Examples include signs located next to a driveway and reading “in,” “out,” “entrance,” “parking,” or “exit.”
2. Applicability: The following table [7.06-3] summarizes the standards regarding Directional Signs:

	Zoning Districts							
	C	I	ICI	LCB	A	B	R	OSD
<b>Standards</b>								
Permitted?	Y	Y	Y	Y	<del>Y</del> <u>N</u>	Y	Y	Y
Permit Required?	*	*	*	*	*	*	*	*
<b>Dimensions</b>								
Maximum area per sign	4	4	4	4		4	4	4
Illumination	Y	Y	Y	Y	N	N	N	N

Table 7.06-1

\* = No permit required in permitted district if part of site plan package; otherwise, permit required.

3. Directional information (i.e., “In,” “Out,” “Parking” must be at least sixty-five percent (65%) of the area of the sign.
4. Supplemental Standards for Directional Signs:
  - a. Directional Signs are allowed in addition to other permitted signage on-site.
  - b. A sign permit is required for directional signs that are setback less than fifteen (15) feet from a property line, or located so as to be visible from a public right-of-way.
  - c. Directional signs may be located adjacent to a driveway provided it does not impede lines of sight or visibility.
  - d. Corporate emblems or logos on directional signs must be incidental and must not exceed thirty-three (33) percent of the total area of the sign.
  - e. Directional signs shall conform to the Manual of Uniform Traffic-Control Devices where applicable.

## Attachment 4 - Monument Signs

Town of Milford  
Zoning Ordinance

Article XII  
GMO

**D. Monument Sign (also known as Ground, Identification, Detached, Freestanding, Pole or Pylon Sign)**

1. Definition: A “**Monument Sign**” is a sign established on a freestanding frame, mast or pole and not attached to any building. Where such signs are established back to back, the larger face shall be calculated for the purposes of determining allowable area.
2. Applicability: The following table [7.06-4] summarizes the standards regarding Monument Signs: (2011)

	Zoning Districts							
	C	I	ICI	LCB	A	B	R	OSD
<b>Standards</b>								
Permitted?	Y	Y	Y	Y	Y	Y	Y	Y
Permit Required?	Y	Y	Y	Y	Y	Y	Y	Y
Number per site	1	1	1	1	1	1	1	1
<b>Dimensions</b>								
Maximum area per sign	75	75	75	32	*	*	*	32
Maximum height	15	15	15	10	6	6	6	10
<b>Design Characteristics</b>								
Electronic message copy	Y	Y	Y	N	N	N	N	N
Price numbering signs	Y	Y	Y	Y	N	N	N	Y
Changeable copy	Y	Y	Y	Y	N	N	Y	Y

**Table 7.06-14**

\* = Area per sign in Residential “A,” “B,” or “R” depends on the total acreage of the property where the sign is to be established. For properties consisting of less than five (5) acres of land, the maximum area permitted is six (6) square feet. For properties five (5) acres or larger, the maximum area permitted is sixteen (16) square feet.

3. Any provision of this Article notwithstanding, electronic copy can change every five minutes.
4. Address number(s) must be displayed on each face of the sign so as to be visible from the public way with Arabic numerals or Alphabet letters a minimum of four (4”) inches in height.
  - a.—

Formatted

Formatted

November 23, 2011

## STAFF REPORT

Community Development Office

**RE: Update of "Discontinued Use" and "Lot of Record" Definitions and Reference**

**Public Worksession:** November 8, 2011

**Public Hearings:** TBD

**Board Action:** TBD

As the Zoning Administrator I occasionally seek the counsel of Town Attorney Bill Drescher in determining the correct interpretation of the Milford Zoning Ordinance relative to applications for variances and special exceptions so that proper guidance can be given to applicants. During the past year there have been cases where a property owner is seeking relief from the Ordinance to change or expand the use of his/her property, and in specific situations the properties were legal non-conforming lots of record combined with uses that were discontinued.

Consequently, Attorney Drescher has recommended two changes to the Zoning Ordinance to better clarify applicability of 'discontinued use' and 'lot of record' (suggested wording below). If the Planning Board is concerned with the length of the ballot relative to recommended zoning changes, these revisions are not urgent or critical in the application of the Ordinance. However, clarification is recommended at some point.

### Recommendation:

1. **Revise Article II: General Provisions** as follows by inserting the wording 'if it was in existence' as that wording may have been omitted over time due to Ordinance revisions:

#### **Section 2.01.0 LOT OF RECORD (2009)**

Lot of record shall be considered to meet the minimum lot size and frontage requirements of the Ordinance *if it was in existence* prior to the adoption of the Zoning Ordinance (3/11/69) as long as the lot of record has fifteen (15) feet of frontage on a Class V or better road.

**Revise Article IV: DEFINITIONS** by adding **Section 4.01.1 DEFINITIONS** and inserting in the definition for Lot of Record the wording 'if it was in existence' as follows:

**Lot of Record:** Lot of record shall be considered to meet the minimum lot size and frontage requirements of the Ordinance *if it was in existence* prior to the adoption of the Zoning Ordinance (3/11/69) as long as the lot of record has fifteen (15) of frontage on a Class V or better road.

2. **Revise Article II: Section 2.02.0 NON-CONFORMING USES**

from:

Uses of land and buildings in existence at the time of passage of the Ordinance may be continued although such use does not conform to the provisions of this Ordinance.

To:

*A use lawfully existing prior to the enactment of the Zoning Ordinance, and that is maintained after the effective date of the Ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated.*

**Revise Article IV: DEFINITIONS** by adding the new definition for Use, Non-conforming:

Section 4.01.1 DEFINITIONS

**Use, Non-conforming:** *A use existing prior to the enactment of the Zoning Ordinance, and that is maintained after the effective date of the Ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated.*

December 7, 2011

## STAFF REPORT

Community Development Office

**RE: Mixed-Use Dwelling Units to be Added as an Acceptable Use in the C, LCB, and ICI Districts**

**Public Worksessions:** November 8, 2011; November 22, 2011  
**Public Hearings:** December 6, 2011  
**Board Action:** Posted and Published for 2012 Town Vote

As a follow-up to the Planning Board zoning amendment worksession on November 8<sup>th</sup> at which it reviewed the above referenced amendment (first presented by memo dated November 3, 2011), please see changes noted below reflecting Board comments:

### Recommendation

1. Add the following definition to Article IV: Definitions –  
**Dwelling Unit, Mixed-use:** One room or rooms connected together and designed for use as a dwelling unit; located in a non-residential building with no more than two (2) dwelling units that are in addition to the primary non-residential use.
2. Add 'Dwelling, Mixed-use(s)' under Acceptable Uses as follows:  
  
Commercial "C" District: 5.05.1 ACCEPTABLE USES  
GG. Dwelling, Mixed-use(s)  
  
Limited Commercial-Business "LCB" District: 5.07.1 ACCEPTABLE USES  
P. Dwelling, Mixed-use (s)  
  
Integrated Commercial-Industrial "ICI" District: 5.08.1 ACCEPTABLE USES  
CC. Dwelling, Mixed-use (s)