

Section 9 – Proposed

The Manchester Planning Board has been working for two years to improve the town’s Zoning Bylaws to be clearer and remove redundant sections and update to best practices.

A public hearing is scheduled for May 17 at 6:30 via Zoom and will be continued if needed on May 18. Town meeting is scheduled for June 11.

The following sections are proposed to be changed or added

Section 9.1 Accessory Dwelling Units

- Modify Section 9.1 Accessory dwelling units (ADU) to facilitate their creation with reasonable restrictions.
- Allow new ADUs annually by right, as long as they met strict conditions, including only modest changes to existing home, a maximum of 900 SF, a requirement of occupancy in one of the units by the property owner, and a minimum 6-month lease.
- Allow only up to 20 ADUs per year
- ADUs (including existing units) will require a permit from the building inspector
- Delete Accessory Use #7 “As part of an existing garage, stable or other existing structure, family living quarters for an employee of the owner/occupant” from the Table of Uses in Section 4.

Section 9.2 Residential Conservation Cluster

- Delete Section 9.2: Residential Conservation Cluster and replace it with a new Section 9.2: Residential Conservation Cluster to remove the minimum lot size for residential conservation clusters and specify density bonuses for deeded affordability, open space, or town amenities.

Section 9.3: Senior Housing This is a new section

- Add Section 9.3: Senior Housing to provide regulations that allow, by special permit, the development and use of alternative housing and nursing care for seniors and to create health care, housing and other supportive services for the senior populations in all districts.

Accessory Dwelling Units

Motion

Delete Accessory Use #7 “As part of and existing garage, stable or other existing structure, family living quarters for an employee of the owner/occupant” from the Table of Uses in Section 4.

Modify Accessory Use # 6 in the Table of Uses in Section 4 to “Y/ZBA” in Residential Districts A, B, C, E and the General District.

Delete “Section 9.1 Special Housing Provisions” from the Zoning Bylaw and insert the following:

9.1 Accessory Dwelling Units

An Accessory Dwelling Unit (ADU) is a dwelling unit, commonly referred to as an in-law apartment, that is subordinate to the primary dwelling and occupies the same lot.

9.1.1 Purpose and Intent

- 1) To provide homeowners with a means of obtaining rental income, companionship, security and thereby the opportunity to remain comfortably in their homes that they might otherwise be forced to vacate;
- 2) To create moderately priced rental units to help meet the needs of smaller households, young families, local employees, including accessible options for the elderly and persons with disabilities who may have difficulty finding housing options;
- 3) To create new housing options that reinforce, and are sympathetic with the look and scale of single-family residential character of existing neighborhoods while encouraging the preservation of older housing stock,
- 4) To offer environmentally friendly housing choices with less average space per person and smaller associated carbon footprints
- 5) To bring into compliance existing non-conforming apartments with zoning and building codes;
- 6) Accessory dwelling units:
 - a. Will be kept small in size;
 - b. Will be in owner-occupied residences;
 - c. Will not be held under separate ownership;
 - d. Will not be rented for short time periods.

9.1.2 Use Regulations: General

Owners of All single-family homes in all zoning districts, except districts RD1 & RD2, may obtain an ADU Certificate provided that they comply with the following:

- 1) No more than 20 ADU certificates shall be issued in any given calendar year except for ADU's proven to be in existence prior to the enactment of this law. There shall be no limitation to the amount of permits issued for pre-existing ADU's if they obtain a permit within two calendar years after the enactment of this bylaw.
- 2) The ADU may not be rented, for time periods less than six months and will require a written lease. . No subletting is allowed.
- 3) The ADU shall not be larger than 900 square feet of living area nor have more than two bedrooms as determined by the Building Inspector.
- 4) A minimum of one off-street parking space must be provided for the ADU in addition to the required parking spaces for the principal dwelling. To prevent unnecessary expansion of impervious surfacing, ADU parking may use existing driveway. .
- 5) No new exterior entries may be added to the front or principal facade of the building for the purpose of accommodating the ADU. New unit entries may be created via a shared interior entry vestibule or located on the side or rear of the building.
- 6) A notarized Ownership Affidavit shall be submitted attesting that the owner will occupy one of the dwelling units at least six months of the year, and that the principal and accessory unit must remain under the same ownership.
- 7) A floor plan is submitted drawn to scale illustrating all floor levels of the ADU, any proposed interior or exterior modifications all unit entries, satisfactory means of egress and fire safety devices.
- 8) The ADU permit shall be renewed every five years requiring reaffirmation of owner occupancy. If there is a transfer in ownership of the property, the new owner shall obtain a new ADU certification within 30 days of the transfer.
- 9) The property owner of any existing ADU shown to be in existence at least one year prior to the enactment of this bylaw may obtain an ADU Certificate if they comply with sections 9.1.2 subsections 2, 6, 7 and 8.

9.1.3 Special Permits

The Zoning Board of Appeals shall be the Special Permit Granting Authority (SPGA) for this bylaw. In the interests of design flexibility and overall project quality, the ZBA may grant a Special Permit for an ADU for any of the following reasons:

- 1) To construct any ADU in Districts RD1 or RD2;
- 2) To construct a unit entry that is not in compliance with **Section 9.1.2.5** ~~4.2.5~~, above.

9.1.4 Termination

The use of the ADU shall terminate under the direction of the Building Inspector if the terms of this bylaw are violated and in accordance with Section 7.0 of the Town Zoning Bylaws.

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Section 9.2: Residential Conservation Cluster

Motion:

Amend the Zoning Bylaws by deleting Section 9.2 and inserting the following:

9.2 RESIDENTIAL CONSERVATION CLUSTER

9.2.1 Purpose. The purpose of this Section 9.2 is to:

1. Allow for greater flexibility and creativity in the design of residential developments.
2. Encourage the permanent preservation of open space, agricultural and forestry land, other natural resources including water bodies and wetlands, and historical and archeological resources.
3. Maintain the Town's traditional character and land use pattern in which small villages contrast with open land.
4. Protect scenic vistas from the Town's roadways and other places.
4. Encourage screening of new residential development from the Town's roads, open spaces and scenic areas.
5. Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.
6. Protect existing and potential municipal water supplies.
7. Encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision.
8. Minimize the total amount of disturbance on the site.
9. Preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails.
10. Encourage the provision of diverse housing opportunities and the integration of a variety of housing types, especially smaller dwellings, that are compatible with the community's character and serve the needs of people of various income levels.
11. Further the goals and policies of the Manchester-by-the-Sea Master Plan.
13. Encourage more sensitive reuse of qualifying sites within the RD1, RD2 and G Districts so that redevelopment in these more populated districts is integrated with

surrounding uses and promotes compact, pedestrian-friendly neighborhoods with shared open space.

9.2.2 Definitions. See “Residential Conservation Cluster in Section 2.

9.2.3 Applicability. In accordance with the following provisions, a Residential Conservation Cluster may be created, whether a subdivision or not, from any parcel or set of contiguous parcels with at least two times the minimum lot area required in the district.

9.2.4 Procedures. A Residential Conservation Cluster may be authorized upon the issuance of a special permit by the Planning Board, and shall be subject to the procedures and performance standards of the Special Permit requirements as set forth in **this bylaw**.

Applicants for Residential Conservation Cluster shall file with the Planning Board eleven (11) copies of the following:

1. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.
2. Where wetland delineation is in doubt or dispute, the Planning Board may require appropriate documentation.
3. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation. And approval by the Board of Health?
4. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.

9.2.5 Design Process. Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed streets, houselots, and contiguous open space.

1. Understanding the Site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
2. Evaluating Site Context. The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
3. Designating the Contiguous Open Space. The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend existing neighborhood open space networks or create new shared open space as a neighborhood amenity.

4. Location of Development Areas. The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.

5. Lot Lines. The final step is simply to draw in the lot lines (if applicable).

9.2.6 Modification of Lot Requirements. The Planning Board encourages applicants for Residential Conservation Cluster to modify lot size, shape, and other dimensional requirements for lots within a Residential Conservation Cluster, subject to the following limitations:

1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Residential Conservation Cluster; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.
2. At least 50% of the required side and rear yards required in the district shall be required in the Residential Conservation Cluster.

9.2.7 Maximum Number of Dwelling Units. The maximum number of dwelling units allowed in a Residential Conservation Cluster shall not exceed the number of dwelling units which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements (the "Maximum Number"). The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

9.2.8 Density Bonus. The Planning Board may award a density bonus to increase the number of dwelling units beyond the Maximum Number. The density bonus for the Residential Conservation Cluster shall not, in the aggregate, exceed 20% of the Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

1. For each additional ten percent (10%) of the site over the open space required below and set aside as contiguous open space, a bonus of one dwelling unit or ten (10%) percent of the Maximum Number may be awarded.
2. Where the Planning Board determines that the applicant has offered significant amenities to the Town, including but not limited to infrastructure improvements, equipment, or technical assistance, or the preservation of land outside the Residential Conservation Cluster, a bonus of one dwelling unit to 10% the Maximum Number may be awarded.
3. Affordable Component. The Planning Board may also award a density bonus of a minimum of one unit or 10% of the total number of permitted units in the Cluster as long as this unit or units are set aside as affordable to households with incomes at or below

60% of Area Median Income as defined by the US Department of Housing and Urban Development. The restriction shall be in perpetuity and approved as to form by legal counsel to the Planning Board to ensure that the dwellings units will count on the Commonwealth's Subsidized Housing Inventory, and a right of first refusal upon the transfer of such restricted units shall be granted to the Affordable Housing Trust for a period not less than 120 days after notice thereof.

9.2.9 Affordable Component. As a condition of the grant of any special permit for a Residential Conservation Cluster, a minimum of (10%) of the total number of dwelling units (i.e., the Maximum Number of dwelling units, plus any Density Bonus units) shall be restricted in perpetuity. The restriction shall be approved as to form by legal counsel to the Planning Board to ensure that the dwellings units will count on the Commonwealth's Subsidized Housing Inventory, and a right of first refusal upon the transfer of such restricted units shall be granted to the local Affordable Housing Trust for a period not less than 120 days after notice thereof. [Note: how do we handle affordable units for smaller developments?]

9.2.10 Types of Buildings. The Residential Conservation Cluster may consist of the following types of dwellings: Single family in all eligible districts, Two-family in the RD1 and RD2, and Three family in the G District. ~~Residential structures shall be oriented toward the street serving the premises and not the required parking area.~~ HOW ABOUT TOWNHOUSE CONFIGURATIONS?

9.2.11 Roads. The principal roadway(s) serving the site shall be designed to conform with the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

9.2.12 Parking. Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. The Planning Board may reduce this requirement in pedestrian-friendly locations near mass transit such as parcels in the RD1, RD2 and G Districts.

9.2.13 Contiguous Open Space. A minimum of 20% of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

1. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Section 1, above. In no case shall the percentage of contiguous open space which is wetlands exceed fifty (50%) of the tract.

2. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

3. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to 10% of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths.

4. Underground utilities to serve the Residential Conservation Cluster site may be located within the contiguous open space.

5. For the purpose of calculating open space in sites developed in condominium ownership, shared common areas, including landscaped areas, yards, gardens and the like, shall be considered open space so long as such areas are not reserved for the exclusive use of any single owner or unit.

9.2.14 Ownership of the Contiguous Open Space. The contiguous open space shall, at the Applicant's election, be conveyed to

1. the Town or its Conservation Commission;

2. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;

3. a corporation or trust owned jointly or in common by the owners of lots within the Residential Conservation Cluster. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

9.2.15 Buffer Areas. A buffer area of 25 feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation; or (ii) where the land abutting the site is held by the Town for

conservation or recreation purposes; or (iii) where the site is located in the RD1, RD2 and G Districts and the underlying side and rear setback requirements for such districts are observed; or (iv) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

9.2.16 Stormwater Management. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board and the General Bylaws .

9.2.17 Condominium or Homeowners' Association. In order to maintain and repair any common areas or the required open space, the developer shall create a condominium homeowner's association. The documents establishing such association shall be approved as to form by Town Counsel.

9.2.18 Decision. The Planning Board may approve, approve with conditions, or deny an application for a Residential Conservation Cluster after determining whether the Residential Conservation Cluster better promotes the purposes of Section 7.3.1 of this Residential Conservation Cluster By-Law than would a conventional subdivision development of the same locus.

9.2.19 Relation to Other Requirements. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Bylaw.

Section 9.3: Senior Housing

Motion: Amend the Zoning Bylaw by adding a row to Table 1 in Section 4 to indicate Senior Housing as an allowed use in the following districts:

Single Residence District A
Single Residence District B
Single Residence District C
Residence District D1
Residence District D2
Single Residence District E
General District
Limited Commercial District

And to add section 9.3 as follows:

9.3 SENIOR HOUSING

9.3.1 Purpose. The objectives of this Section are to achieve the following public purposes:

1. To provide for the development and use of alternative housing and nursing care for seniors.
2. To create home health care, housing and other supportive services for the senior population outside of an institutional setting.
3. To provide housing which is less costly.
4. To provide such accommodations in a manner harmonious with the surrounding land uses while protecting community character, natural resources and open space.

9.3.2 Definitions. See Section 2, “Senior Housing Facility.”

9.3.3 Applicability. The Planning Board may grant a special permit for a Senior Housing Facility as defined in Section 2 as set forth in the Table of Use Regulations, subject to the requirements of this Section.

1. This Section shall not apply to Senior Housing Facilities existing on the date of adoption of this Section.

9.3.4 Dimensional Requirements and Design Standards. Dimensional requirements and design standards shall be as follows:

1. **Minimum Lot Size.** The minimum lot size (square feet) shall be that required in the district.
2. **Building Height.** Any addition or new construction shall not exceed 35 feet in height in a Residence District or 45 feet in height in a General or Limited Commercial District. By separate special permit, the Planning Board may allow building height greater than that set forth above. This shall not preclude the reuse and renovation of existing structures which may exceed this height limit.
3. **Building Coverage.** The maximum building coverage, including accessory buildings, shall conform to the requirements for new construction or expansion of existing structures in that district.
4. **Building Setbacks.** Buildings shall have the setbacks required in the district.
5. **Setback from Residential Dwellings.** All buildings associated with the Senior Housing Facility shall be no closer than 50 feet from existing residential dwellings; however, with respect to accessory structures not greater than 300 square feet, the Planning Board, in its discretion, may reduce said setback by an amount up to but not greater than 30 feet if it determines that said structure will not adversely impact the use and enjoyment of the existing residential dwelling.
6. **Minimum Lot Frontage.** The minimum lot frontage shall conform to the requirements of the district where such use is located.
7. **Design Standards.** In addition to the listed requirements, Senior Housing shall:
 - a. limited to no more than two (2) bedrooms per living unit.
 - b. at least one bedroom and bathroom shall be located on the same floor as the kitchen and living/family room.
 - c. maximum area shall be 1200 sf for a 2 bedroom unit; 900 sf for a one bedroom unit; and 600 sf for a studio unit.
8. **Town Services.** Where available, facilities shall be serviced by public water and sewer of sufficient capacity to serve the project. Any extension and/or replacement of sewer and/or water lines necessary to provide sufficient capacity shall be the responsibility of the applicant.
9. **Transportation Services.** The operator of the facility shall be encouraged to provide or arrange for transportation to town services and facilities.
10. **Common Open Space:** In the Residence Districts, there shall be an area of common open space equal to at least 20% of the lot area. The common open space shall be retained in perpetuity for conservation or passive recreation use. No more than 25% of the minimum required open space shall be situated within wetlands. The Planning Board, in its discretion, may reduce this requirement.
11. **Parking.** The minimum number of parking spaces shall be determined by Special Permit.

12. Access and On-site Circulation. Adequate on-site circulation shall be provided to and from the site, taking into consideration the adjacent sidewalks and streets and accessibility of the site and building(s) thereon for emergency vehicles. Adequate provision shall be made for off-street loading and unloading requirements of delivery vehicles and passengers using private transportation.
13. Public Safety. The facility shall have an integrated emergency call, telephone and other communication system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of residents with emphasis on ensuring the safety of residents with physical impairments.
14. Landscaping. Landscaping and screening is required to obscure visibility from beyond the boundaries of the premises of parking areas, dumpster locations and loading areas. The minimum setback from all property lines of such parking areas, dumpster locations, and loading areas, except for their points of ingress and egress, shall be 15 feet.

9.3.5 Accessory Uses. The operator of the Senior Housing Facility may also provide optional services on the site for the convenience of residents, including but not limited to transportation, barber/beauty services, sundries for personal consumption, laundry services and other amenities, provided such uses serve primarily the residents and staff of the Senior Housing Facility and the accessory uses shall be wholly within a residential structure and shall have no exterior advertising display. A Senior Housing Facility may also provide adult social day care to nonresident participants as an accessory use.

9.3.6 Special Permit Procedure. The procedure for a special permit under this Section shall be governed by the relevant sections of this bylaw.