

CURRENT ZONING BYLAW ANALYSIS

Relevant to preparing new land use regulations and design standards for the NEVC Project Area

TOWN OF EASTHAM ZONING BYLAWS

Commentary: The Town of Eastham Zoning Bylaws were comprehensively revised in 1988 and most recently amended in May 2009. While the Local Comprehensive Plan is highly supportive of the concept of creating a mixed use district in North Eastham, the zoning bylaws pose a major obstacle in implementing the components of a traditional village center. A portion of the NEVC Project Area was down-zoned in the late 1990s from commercial to residential use. An evaluation of the current zoning bylaws relevant to the NEVC Project Area is made below:

Section II - Zoning Districts

DISTRICT C -- An area to serve the industrial needs of the community.

DISTRICT D -- A retail sales and/or service area.

Commentary: One of the key issues for the Critical Planning Committee is to determine which portions of the C and D districts should be included in the new North Eastham Village District while facilitating the general design principals and traditional development characteristics of being compact, walkable, mixed use village center. The NEVC Strategic Report and Concept Plan defines the Village Center Core Area as including properties in the D District centered on Route 6 from The Real Estate Company to the north and the Seadog Restaurant to the south. This would be a good starting point for the CPC in discussing the boundaries of a new NEV zoning district or overlay district. Additional consideration should also be given to including the C District (Industrial) along Homes Road including the McGregor property to the south.

Section III – Definitions

Commentary: Additional definitions will need to be added to the bylaw as a result of the new NEV District.

Section V – Uses

Commentary: See existing and proposed table of uses for the NEVC Project Area under separate document.

District C Permitted Uses

- Manufacturing
- Assembling
- Processing
- Packaging
- Warehousing
- Storage and shipping of non-hazardous or non-toxic goods and materials
- Plumbing, electrical, carpentry or similar service and repair facilities
- Concrete batching plants
- Manufacturing of house framing, furniture and like products
- Repair shops for automobiles, trucks and marine equipment
- Contractors yards
- Boat building, repairs and storage
- Rental of automobiles, trucks and trailers
- Wholesale bakeries
- Auction houses

- Kennels
- Sales, retail or wholesale - Permitted except as otherwise noted so long as they are strictly incidental to the primary use and provided that a designated sales area, separate from the operational area, is maintained in order to provide for the protection and safety of customers.
- No residences shall be allowed.
- Business band radio antennas - Allowed in this district subject to the building height restrictions of these By-Laws.
- Any light industry or heavy industry not specifically permitted - SP/ZBA
- Adult uses - SP/ZBA - Defined in Section II of this by-law may only be permitted by a grant of a special permit by the Zoning Board of Appeals.

Commentary: The C District (Industrial) does not allow for office uses (by right or special permit) that may be desirable in addition to light industry in the NEVC Project Area. There are also no specific performance standards for permitted or special permit uses in the district which could be incompatible with other allowable uses in the district.

District D Permitted Uses

- Antique shops
- Craft and gift shops
- Hair styling and barber shops
- Offices
- Art galleries
- Banks
- Animal hospitals
- Kennels
- Funeral homes
- Nurseries and florists
- Fitness centers
- Lodges
- Retail stores and shops
- Residential apartments - Allowed above businesses of a permitted nature provided such residences occupy no more than 50% of the structure.
- Convenience Store - Defined in Section II; no food preparation or heating will take place on the premises except the preparation of hot beverages. All food is to be sold in sealed packages, with the exception of fresh produce.

Commentary: The D District (Retail Sales/Service) provides for 50% of building spaces to be allowed for residential use above business uses. However, retail and service uses are fairly limited and none are allowed by special permit. There are also no performance standards for certain uses that could potentially be incompatible with other allowable uses in the district. The uses permitted in District E – Limited Commercial (which is not in the NEVC project) area should be allowed at least by special permit in District C (Section V). Also, certain key existing and potential future uses in the NEVC Project Area are specifically prohibited, such as hotels, motels, resorts, conference centers, and restaurants (at least drive-ins but possibly others as well). These are important uses in a traditional village center and need to be considered at least by special permit. Additionally, incentives should be in place to encourage existing restaurants and hotels in the Project Area to make renovations, expansions, and other improvements consistent with the desired design characteristics of the village center.

Section VII – Accessory Uses

- A. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with the principal use, may be permitted upon the issuance of a Special Permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

- B. Bed and Breakfasts, as defined in this By-Law, may serve a morning meal to overnight guests.
- C. Accessory Dwelling Units: For the purpose of promoting the development of affordable rental housing in Eastham for year-round residents, one accessory dwelling unit per lot may be allowed by Special Permit from the Board of Appeals subject to the standards and conditions listed below:

Commentary: This is a well written and flexible bylaw. It may also be well used in a new NEV District in areas that are currently residential and have excess septic system capacity such as Brackett Landing.

Section VIII – Prohibited Uses

- E. Hotels, Motels, Inns, and Resort and Conference Centers.
- F. Restaurant, Drive In; Restaurant, Fast Food

Commentary: The Critical Planning Committee should consider allowing hotels, inns, and restaurants in the new NEV District with specific performance standards to ensure that they are an appropriate size and scale, and locally oriented to fit the setting of a small village center. For example, performance standards could include a limitation on formula-based (or franchise) restaurants (such as was recently adopted in Nantucket), and limiting the size of restaurants and hotels to a reasonable square footage and number of rooms. The same size limitations could apply to new stores in the district. If done properly, these uses couple with performance standards and existing restaurants already in the district could create a new business cluster that may expand the existing and potential future customer market.

Section IX – Intensity Regulations

Commentary: See existing and proposed table of intensity regulations for the NEVC Project Area under separate document.

A. LOT SIZE

- 3. In Districts B, C, D, and E, no business structure shall be built on a lot with an area of less than 40,000 square feet.

Commentary: Lot size requirements for business structures in the C and D districts are a minimum of 40,000 s.f. These large lots are not consistent with traditional village centers, which would be more on the order of 5,000 to 10,000 s.f.

- 4. All lots in Districts A, B, C, D, and E shall have frontage of at least 50 feet on an accepted public way, a way shown on a plan approved or endorsed in accordance with the subdivision control regulations or a way in existence when the subdivision control law became effective having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed land use. Panhandle lots shall have frontage of at least 40 feet on an accepted public way or private way as described above.

Commentary: Appropriate for a traditional village center development pattern

- 7. In order to comply with the minimum lot size requirement, a lot must be a closed plot of land having a definite area and perimeter, and having a shape number not exceeding a value of 22. A lot may have a shape number greater than 22 provided that the lot has within it a plot 100% of which is buildable upland, containing at least the minimum lot area required for the district in which the lot is located and having a shape number not exceeding 22, within which the site intended for building is

located. The shape number shall be calculated by dividing the square of the perimeter of the lot or plot by the square foot area of same. Except as otherwise provided in Sections IX A. 3. and IX A. 4., each lot shall have a minimum of fifty (50) feet of frontage on an approved street or way.

Commentary: Appropriate for a traditional village center development pattern

For the purpose of this Zoning By-Law change, all lots approved since May 1, 1989 which meet the shape number required above, are deemed to be in compliance of the By-Law.

B. SETBACK REQUIREMENTS:

1. The building lines for structures for human habitation shall not be nearer to the nearest boundary of any way than fifty (50) feet, nor nearer to the interior side and rear lot lines than thirty (30) feet; and if on land of single ownership, they shall not be nearer to each other than fifty (50) feet. The building lines of detached buildings which are necessary to structures for human habitation shall not be nearer to the nearest boundary of any way than fifty (50) feet, nor nearer to the interior side and rear lot lines than thirty (30) feet. Additionally, detached buildings shall not be closer than eight (8) feet to any other structure on the lot.

Commentary: The front setback for residential buildings is 50 feet from any public way. This is appropriate for major arterials such as Route 6, but on smaller village neighborhood streets, a more typical setback would be about 10 to 20 feet.

2. In Districts B, D, and E, all new construction, including residential, commercial, or other, shall be set back a minimum of 100 feet from all ways. Side and rear setbacks shall not be less than twenty-five (25) feet.

Commentary: In District D the front setback is 100 feet from all ways. This large setback is essentially incompatible with a traditional village center design that would allow for (or even require) buildings to be brought up to the street line to create a pedestrian environment and ensure parking is located behind or to the side of the building. The setbacks should be broken down future with possibly a minimum setback from Route 6 being 20 feet and on other public ways creating a range of say 0 to 20 feet which specific requirements for front setback areas such as outdoor terraces and plazas that enhance the pedestrian environment. In addition to a minimum front setback, a maximum front setback should be used as well. One of the key design characteristics of a traditional village is "Street Enclosure" where building are brought up to the public r-o-w line creating a more friendly pedestrian setting while calming traffic.

3. In District C, all new construction shall be set back a minimum of fifty (50) feet from all ways. Side and rear setbacks shall not be less than twenty-five (25) feet.

Commentary: The CPC may want to consider reducing the front setback in the C District as well to say 25 feet if it is to be incorporated into the new NEV District.

5. Section IX requirements shall not apply to any lot for single or two family residential use which, at the time of the adoption of this By-law, was lawfully in existence by way of recording or endorsement. Such lot must conform with the setback requirements then in existence at the time of the creation of the lot. For lots subdivided before April 19, 1988, the building lines for structures for human habitation shall not be nearer to the nearest boundary of any way than thirty (30) feet, nor nearer to the interior side or rear lot line than twenty-five (25) feet.

Commentary: The setback requirements all new residential structures should be in keeping with traditional village neighborhood development patterns such as 20 feet in front along a public way and to the rear, and 15 feet on the side.

6. Setback requirements for detached accessory buildings not used for any human habitation, located on lots subdivided **prior** to April 19, 1988 shall be 12' for side and rear lot lines, and 30' for any lot line that abuts a street or a way shown on an approved plan of subdivision or in existence prior to the acceptance of the subdivision control law, and further any such accessory building shall be 8' from the main building or other accessory buildings.
7. Setback requirements for detached accessory building not used for human habitation on lots subdivided **after** April 19, 1988 shall be 30' for side and rear lot lines, and 50' for any lot line that abuts a street or way shown on an approved plan of subdivision or in existence prior to the acceptance of the subdivision control law, and further any such accessory building shall be 8' from the main building or other accessory buildings.

Commentary: The setback requirements for all accessory buildings should be in keeping with traditional village neighborhood development patterns such as 5 feet side and rear property lines.

D. RESIDENTIAL LOT INTENSITY

Site Plan Approval under Section XIV of this Zoning By-law shall be required for any addition, expansion or construction on a residential lot that meets the following requirements:

1. Any lot under 20,000 square feet where a proposed addition or expansion of an existing dwelling exceeds 2.5% of the lot area and/or the site coverage ratio including the addition exceeds 15% and where the site coverage ratio for a new dwelling or the addition of an accessory building causes the site coverage ratio to exceed 15% of the lot area.
2. Any lot containing 20,000 square feet or more, where the site coverage exceeds 3,000 square feet.
3. Any lot containing 40,000 square feet or more with a deed restricted two-family dwelling proposed in accordance with Section IX, paragraph A., number 2 or this By-laws.

Commentary: The residential lot intensity for new residential development in the new NEV District should provide opportunities for higher lot coverage on small lots in keeping with traditional village neighborhood development patterns. One example is modern "Cottage Communities" being created a 1 or 2 acres where small affordable homes are created around a neighborhood common or park. Certain performance standards would have to be included such as a common open space and community septic systems meeting the requirements of Title 5.

Section X – Parking Requirements

- A. Off-street parking shall be provided to service all parking demand created by new construction, whether through new structures or additions to pre-existing structures, or through change of use creating higher parking demand. An area of 300 square feet of appropriate dimensions for the parking of a motor vehicle, including maneuvering area, and aisles, shall be considered as one (1) off-street parking space.
- B. TABLE OF REQUIREMENTS -- The following minimums must be met unless these are reduced on Special Permit from the Special Permit Granting Authority, upon determination that special circumstances render a lesser provision adequate for all parking needs:
 1. Hotel, Motel, Inn, Guest House, Bed and Breakfast, or Resort and Conference Center: one (1) space per guest unit.
 2. Offices, Stores: one (1) space per 150 square feet floor area accessible to the public.
 3. Restaurants: one (1) space per four (4) seats.
 4. Coffee Shops: one (1) space per two (2) seats.

5. Industrial: one (1) space per 13 employees per shift, with no on-street parking permitted.
6. Bank: one (1) space per employee and one (1) space per 150 sq. ft. of public area.
7. All other uses: five (5) spaces or one (1) space per 350 sq. ft., whichever is greater.

Commentary: Parking requirements for offices and stores is significantly higher than typically needed in a village district. Additionally, measuring parking need by employee or by "floor area accessible to the public" (vs. gross square footage) is difficult to administer.

- C. SURFACING: Required parking areas shall be paved with bituminous concrete according to current Town of Eastham Subdivision Regulations, unless service a one (1) or two (2) family dwelling, or unless authorized to be paved with an alternative surface on Special Permit by the Special Permit Granting Authority. Such authorization may be granted by the Special Permit Granting Authority upon its determination that drainage, erosion, siltation, dust, and appearance will be satisfactorily controlled. Where an alternative to bituminous concrete is authorized on Special Permit, the following shall be complied with:
1. Access drives shall be paved with bituminous concrete (unless the Special Permit Granting Authority shall grant a Special Permit for alternative surfacing), or other pavement authorized by the Planning Board for at least twenty (20) feet from the edge of the paved street unless the street itself is not paved.
 2. Grading and materials selection shall assure that surface materials will not be carried into the street, and that drainage is positively provided for on-site.
 3. If there are six (6) or more parking spaces, there shall be provisions for identifying individual spaces through use of segmented bumper strips or other similar permanent means.
- D. EGRESS -- Parcels with six (6) or more parking spaces shall not have more than two (2) driveway openings onto any street unless each opening is separated from all others on or off the parcel by more than 200 feet measured from center to center. No driveway opening shall exceed 30 feet in width at the property line. Parking areas with six (6) or more parking areas shall be so designed and located that their use does not require backing onto a public way.

Commentary: Two driveways should not be allowed in a new pedestrian-oriented NEV District unless one is on a side street. Driveway openings should also be reduced from 30 feet to 18-24 feet maximum depending on the side of the development.

- E. OFF-STREET QUEUES -- Establishments having drive-in facilities which from time to time have queues of vehicles awaiting service shall have comparably sufficient on-site space for such queues without requiring cars to stand on any public way or across any public sidewalk.
- F. LOADING -- Off street loading facilities and space must be provided to service all needs, and so sized and arranged that no trucks need back onto or off a public way, or be parked on a public way while loading, unloading, or waiting to do so.
- G. PARKING AND LOADING AREA SETBACKS -- The required distance between off-street parking and loading areas and any street line shall be five percent (5%) of lot depth from the street, but no such requirement shall be greater than 50 feet nor less than 15 feet. Off-street parking servicing non-residential districts shall not be allowed within 30 feet of a residential district.
- H. HANDICAPPED ACCESS -- All such parking shall comply with all State and Federal statutes or regulations having Handicapped Access for Parking as its subject matter.

Commentary: The parking requirements in terms of layout, required spaces, and surfacing are generally adequate for the C and D Districts. However, to facilitate traditional village design, flexible provisions should be added to ensure parking is located behind or to the rear of primary buildings, incentives for shared access points and internal connections/circulation, a reduction in the required on-site spaces for shared parking lots, mixed use buildings and future on and off-street public parking, and the use of nearby/off-site satellite parking where available.

Section XI – Landscaping Requirements

Commentary: Under the landscaping requirements, sidewalks should be required for all new development in the new NEV District with a distinction between larger, more formal sidewalks for commercial and civic spaces, and smaller sidewalks for residential areas. Landscaping in front of commercial and civic spaces should be more hardscapes and formal street tree plantings to encourage pedestrian and outdoor activities.

In Districts B, C, D, and E, excluding one (1) and two (2) family dwellings, the following landscaping standards shall be in effect:

- A. BUILDINGS -- Along the front of the building parallel to the road, there shall be planting for a minimum width of four (4) feet with curbing and/or sidewalk (minimum width four feet) adjacent to parking and driveways. Planting may be in the form of planters or sunken planting beds, shrubs, or ground cover. Outdoor dining areas shall have suitable shrubs or suitable vegetative barrier to create a hedge at least 36" high between these areas and all roads. The outdoor dining areas shall conform to the required setback of buildings from all roads.

Commentary: In a new NEV District, parking would typically not be in front of the building and landscaping would be more formal streetscape enhancements such as sidewalks with street trees and furniture. Outdoor dining is highly encouraged but would not typically be buffered by a vegetative barrier but rather by fencing if necessary.

- B. ROAD BOUNDARIES -- Shrubbery and/or grass shall be planted and maintained to a minimum width of twenty (20) feet parallel with road except in the areas required for entrance and exit. Shrubs shall not exceed 18" in height, and shall be planted a maximum of six (6) feet apart. Shrubbery shall be located in such a manner so as to not obstruct vision of any entering or exiting vehicle.

Commentary: More formal planting would be appropriate in a new NEV District such as street trees to create shade and a buffer between pedestrians and vehicles and to enhance traffic calming through the village district. Low scale shrubs and other plantings (typically used to screen parking lots) in a village setting are generally ineffective and can be detrimental by limiting visibility of businesses.

- C. PARKING LOTS -- Customer parking lots intended for the use of twenty (20) vehicles shall have areas of shrubbery, trees and/or grass containing a minimum of 400 square feet for each twenty (20) vehicles or fraction thereof. These areas are to be suitable dispersed throughout the parking area, and are in addition to the requirements of Section XI. B. above.
- D. ABUTTING PROPERTY -- There shall be suitable screening from adjacent residential property.

Section XVIII – Town of Eastham Sign Code

Section 2 - Regulations

- A. **PERMANENT SIGN** - Permanent signs shall mean all advertising devices or insignia, whether lettered or not, free-standing or attached to a structure, designed to promote a business, the sale of a product or a service. Signs must be supported by a frame or post erected for that purpose, and such support structures

shall be included in the overall size of the sign. Free-standing sign area shall include any and all accessory or supplementary signs such as "open", "closed", "vacancy", "no vacancy", credit card names, and endorsement names.

Permanent signs identifying a home occupation shall be limited to not more than one double-faced sign. All signs shall pertain to the resident occupants business or profession and must be on the resident occupants property.

- B. **WINDOW SIGNS** -- signs visible from a public way that are located in, on and immediately behind windows, including, but not limited to product advertising signs. Beginning May 1, 2001, window signs will be considered signage and count against the total square footage permitted within a given district.
- C. **BUSINESS UNIT** -- A separately owned and operated business.
- D. **STREET SIGNS** -- Street name signs shall be placed in a position that is clearly visible from the intersecting street and in a position that will not interfere with traffic. A similar sign to identify such ways as private may accompany a street name sign.
- E. **LADDER SIGNS** -- Ladder signs at street intersections listing names of residents of the street are allowed provided a permit is granted by the Building Inspector under the procedures in Section I. Such signs must be supported by a frame or post. Regardless of the number of names on the sign, the sign shall be considered as one sign for purposes of fees. Ladder signs shall comply with the size regulations for the zoning district in which the sign is erected.
- I. All signs must conform to the dimensions allowed in the particular zone in which the sign is located, as indicated.

TYPE OF SIGN

ALLOWED IN DISTRICTS

Signs not greater than 100 square feet including post, with no free-standing sign having a vertical dimension greater than 10 feet

B, C

Multiple businesses in one building, one sign for each business unit on building

B,C,D,E

Free-standing signs, single or multiple businesses --each sign not more than 60 square feet one side, total 120 square feet, including post.

D

If free-standing sign exists, sign on building or buildings not to exceed 24 square feet per business.

B, C, D, E

If no free-standing sign exists, sign on building or buildings not to exceed 50 square feet per business.

B, C, D, E

Ladder sign, residential -- name on one side only, off-premise, maximum 3' wide x 8' high.

A, D, F, G

Ladder sign, business -- name on one side only, off-premise, maximum 4' wide x 10' high.

C, D

Home occupation sign, must be erected on owners

property, 2 square feet per side, total 4 square feet.

A, D, E, F

Permit and fee regulations apply

A, B, C, D, E, F, G

- J. Off-premise signs will be allowed provided permission is granted by the off-premise property owner. Off-premise signs shall be ladder-type for two or more businesses. Businesses with frontage on Route 6 will not be permitted to have off-premise signs.

Commentary: More specific sign definitions and dimensional standards are needed for a new NEV District. If the district is to be pedestrian (vs. automobile) oriented, large and multiple ground signs are not necessary. The amount of signage allowed should be directly to the size of the building with a total square footage allocated between wall signs, projecting (blade) signs, window signs, sandwich board signs and possibly ground signs.