



PUBLIC WORKSHOP: ZONING AMENDMENTS REQUIRED BY 2023 LEGISLATION

October 25, 2023



AGENDA

1. Introduction
2. Amendments per Bill S1032A
3. Public Comments/Questions
4. Amendments per Bill S1035A
5. Public Comments/Questions
6. Recommendation to the Town Council



INTRODUCTION

- 2023 RI General Assembly passed several bills impacting land use regulation to promote development of housing by reducing regulatory burden and streamlining procedures.
- Several bills require changes to municipal regulations and procedures, including zoning ordinances, development regulations, and comprehensive plans:
 - S1032A - SUP criteria, substandard lots, modifications, variance standards
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1032A.pdf>
 - S1033A – Comprehensive Plan Implementation
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1033A.pdf>
 - S1034A – Development definitions and review procedures & thresholds
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1034A.pdf>
 - S1035A – Adaptive Reuse of commercial structures for multi-family and mixed-use
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1035A.pdf>
 - S1037A - Changes to requirements for affordable housing Comprehensive Permit
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1037A.pdf>
 - S1038A - Change public notice requirements for major subdivision/land development project and variance applications
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1038A.pdf>
 - S1050A - Appeals of affordable housing Comprehensive Permit decisions directly to Superior Court
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1050A.pdf>
 - S1051A - Inclusionary zoning thresholds and density bonus
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1051A.pdf>
- Highest Priority for adoption by Jan. 1st: S1032A, S1035A, S1034A, S1038A

Summary

S1032-A SUP criteria, substandard lots, modifications, variance standards: Requires specific criteria for uses requiring a special use permit; limits zoning relief needed when developing substandard lots; changes variance standards, including removing the requirements that relief be the least necessary, and not primarily for financial gain; removes the requirement that requests for special use permits be consistent with the comp plan. Effective 1/1/2024

S1032A (CONT.)

Proposed Amendments

Zoning Ordinance Article 4 – Definitions

- **MODIFICATION.** Permission granted and administered by the Zoning Officer of the town and pursuant to the provisions of this chapter, contained herein, to grant a dimensional variance other than lot area requirements from this chapter to a limited degree as determined by this chapter ~~but not to exceed 25% of each of the applicable dimensional requirements.~~
- **VARIANCE.** Permission to depart from the literal requirements of a zoning ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land which is prohibited by a zoning ordinance. There shall be only two categories of variance:
 - (a) *Use variance.* Permission to depart from the use requirements of a zoning ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of that zoning ordinance.
 - (b) *Dimensional variance.* Permission to depart from the dimensional requirements of a zoning ordinance, ~~where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief. (Also known as a **REGULATORY VARIANCE**)~~ under the applicable standards set forth in §45-24-41 RIGL.

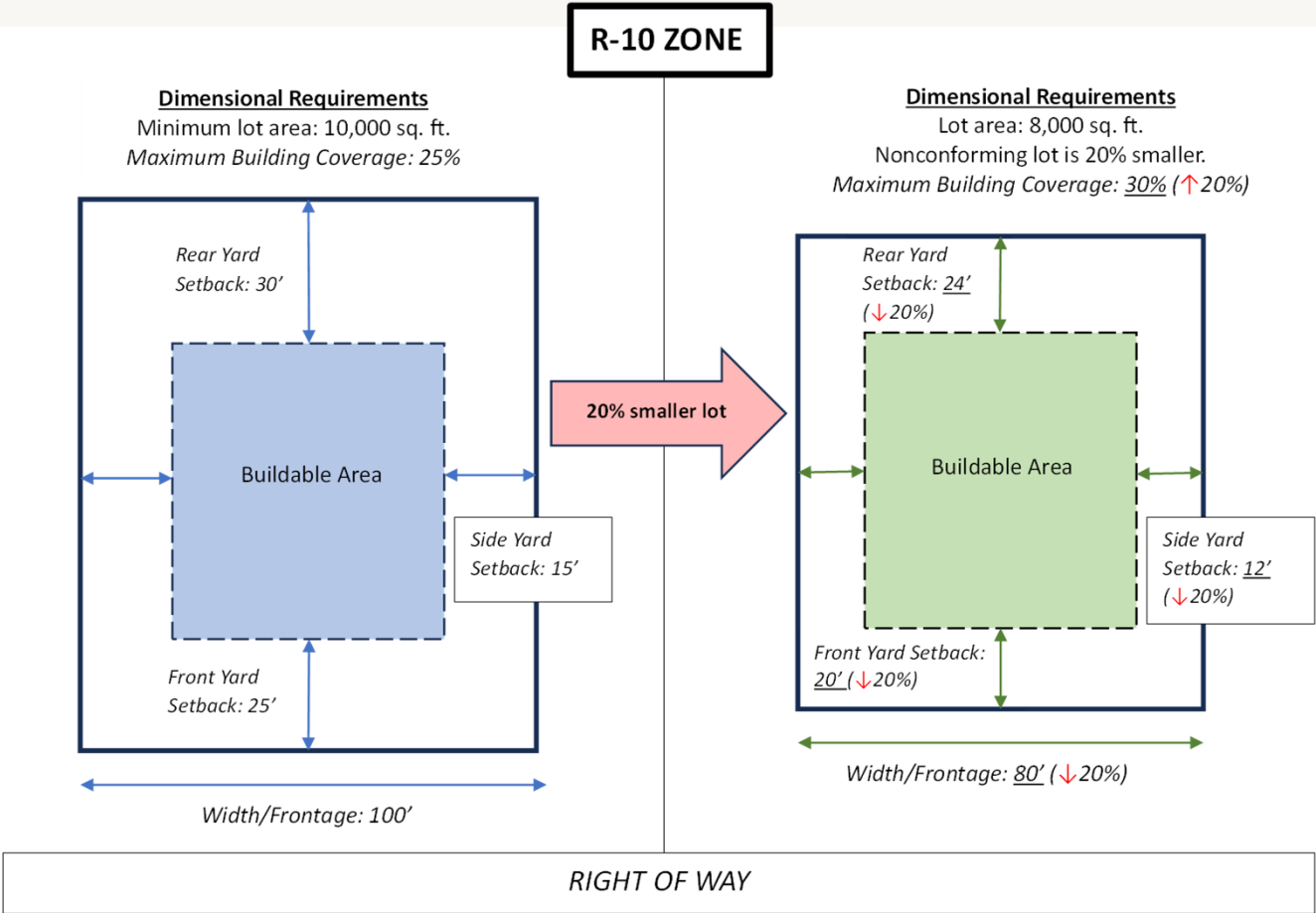
S1032A (CONT.)

Proposed Amendments

Zoning Ordinance Section 805 – Nonconforming Lot of Record

- Development of nonconforming lots or record not required to seek zoning relief solely due to not meeting minimum lot size requirement.
- Dimensional requirements (setbacks, frontage, lot width) reduced by the same proportion the lot does not meet minimum area requirement.
- Maximum building coverage increased by the same proportion the lot does not meet minimum area requirement.
- Building height limits not impacted.

NONCONFORMING LOT EXAMPLE



S1032A (CONT.)

Proposed Amendments

Zoning Ordinance Section 902 – Special Use Permits

- Consistency with the Comprehensive Plan no longer used as a criteria for approving a special use permit.
- Specific and objective criteria for issuance of a special use permit required for each use category:
 - Agricultural
 - Residential, single-family & two-family
 - Residential, multi-family
 - Manufacturing/Industrial
 - Commercial/Office
 - Cannabis-related
 - Recreational
 - Transportation/Communications/Utility

S1032A (CONT.)

Proposed Amendments

Zoning Ordinance Section 602 – Schedule of District Regulations – Uses & Districts

- Planning Board review of all uses requiring a special use permit.
- 127 use currently require SUP in one or more zoning districts.
- 32 uses proposed to no longer require SUP, making them prohibited or permitted depending on district, such as:
 - Veterinarians
 - Single-family dwellings
 - Construction contractors
 - Laundromat,
 - Barber shop

S1032A (CONT.)

Proposed Amendments

Zoning Ordinance Section 903 – Variances

- Revisions to standards used for granting variances:

(1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not ~~primarily~~ due to a physical or economic disability of the applicant; ~~excepting those physical disabilities addressed in § 45-24-30(a)(16) RIGL;~~

(2) That the hardship is not the result of any prior action of the applicant ~~and does not result primarily from the desire of the applicant to realize greater financial gain;~~ and

(3) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan upon which this chapter is based.; ~~and~~

~~(4) That the relief to be granted is the least relief necessary.~~

S1032A (CONT.)

Proposed Amendments

Zoning Ordinance Section 903 – Variances

- Revisions to standards used for granting variances (cont.):

(54) The Zoning Board of Review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

(a) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and

(b) In granting a dimensional variance, that the hardship which will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is fronted shall not be grounds for relief.

(c) Dimensional variances granted in conjunction with a special use permit shall be supported by independent evidence on the record satisfying each of the requirements for a dimensional variance, and the Board shall vote on each dimensional variance before voting on the special use permit.

S1032A (CONT.)

Proposed Amendments

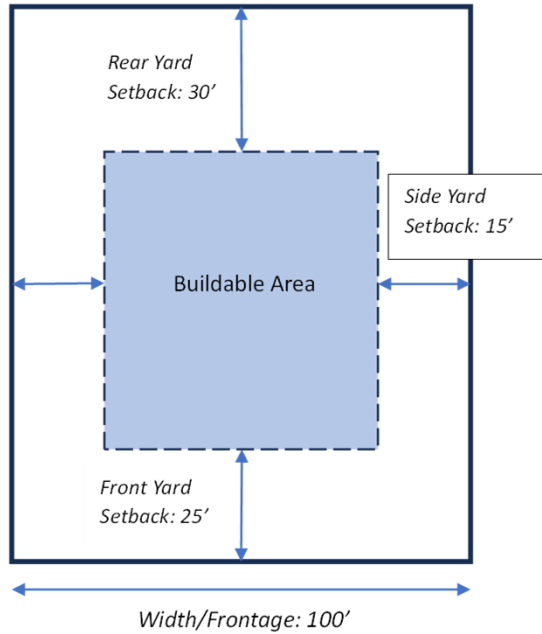
Zoning Ordinance Section 906 – Modification

- New section that authorizes the zoning enforcement officer to grant permits to modify zoning dimensional requirements.
- Maximum modification is 25% of the dimensional requirement.
- Modification that is 15% or less of the dimensional requirement “shall be permitted”.
- Modifications 5% or less of the dimensional requirement do not require abutter notice. Modifications greater than 5% require 14-day notice to abutters.
- If written objection is received, the modification is transmitted to the ZBR to be heard as a variance.

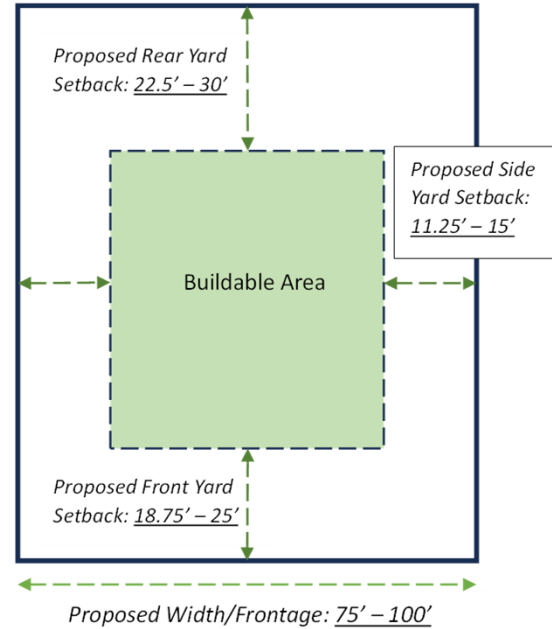
MODIFICATION PERMIT EXAMPLE

R-10 ZONE

Dimensional Requirements
Minimum lot area: 10,000 sq. ft. lot
Maximum Building Coverage: 25%



Modification Permit Allowed
(Up to 25% of Dimensional Requirements)
Lot area: 10,000 sq. ft.
Proposed Building Coverage between 25% – 31.25%



RIGHT OF WAY

PUBLIC COMMENT
AND QUESTIONS

Summary

S1035A – Adaptive Reuse of commercial structures for multi-family and mixed-use Allows the conversion of any commercial structure to multi-family residential or mixed-use as a permitted use in any zoning district unless there is a recorded environmental land use restriction. Effective 1/1/2024

Proposed Amendments

Zoning Ordinance Article 4 – Definitions

- New definition:
 - **ADAPTIVE REUSE.** “adaptive reuse” as defined in § 42-64.22-2 RIGL.
 - *The definition in § 42-64.22-2: “Adaptive reuse” means the conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting such elements to a new use.*

Zoning Ordinance Section 602 – Schedule of District Regulations – Uses & Districts

- In the use table insert “adaptive reuse” as a new use under the residential category a permitted use in all zoning districts.

S1035A (CONT.)

Proposed Amendments

Zoning Ordinance Section 728 – Adaptive Reuse of Commercial Buildings

- New section in the zoning ordinance to implement adaptive reuse
 - Conversion of any commercial building into multi-family residential, or mixed-use where at least 50% of floor area is residential is permitted by right, except where prohibited by environmental restrictions.
 - All adaptive reuse projects require Development Plan Review, and must comply with applicable requirements of the zoning ordinance.
 - One parking space required per residential unit.
 - Residential Density
 - Up to 15 units per acre allowed where project is limited to existing building footprint, is at least 20% affordable, and has access to public or other adequate water and sewer/septic.
 - All others may include the number units based on meeting minimum housing requirements (see § 45-24.3-11 RIGL).
 - Existing setback and height encroachments may remain and considered legal nonconforming.

PUBLIC COMMENT
AND QUESTIONS



THANK YOU

