

Draft Provisions, Notes, and Samples
For Royalston Zoning Task Force Consideration
Meeting Requirements of Task #2 Memorandum

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I. Purpose

There are several purposes to this memorandum:

1. To review recommendations in several recent studies, and to identify recurring issues, themes and/or approaches in them:
 - a. The Greater Gardner Sustainable Growth Management Plan
 - b. The Community Development Plan
 - c. The Open Space and Recreation Plan
2. Identify any existing recommendations in the studies that would address problems with the current zoning bylaw identified under Task 1 (zoning diagnostic; see technical memo for Task 1).
3. Provide a legal and technical review of the proposed zoning amendments offered by citizen petition at the Royalston 2005 Annual Town Meeting.
 - a. Make recommendations as to which of the proposed amendments are consistent with previous zoning recommendations and should be considered for adoption, and which amendments may not be necessary at this time.
4. Provide a comprehensive list of existing zoning recommendations for the Town, broken down into two categories:
 - a. Revisions to the existing zoning bylaw (e.g., changing the definition of Home Occupations or updating the Cluster Development section of the bylaw), and
 - b. Adoption of new zoning bylaws (e.g., an Accessory Residential Use bylaw).
5. Supplemental Task: Supply a list of model bylaws for several zoning areas as previously discussed.

II. Consolidated Recommendations From Review of Past Planning Documents

The three aforementioned plans/studies make the following observations:

Objectives for planning in Royalston should include:

1. Protecting open space and preserving scenic character
2. Stabilizing municipal finances
3. Protecting natural resources and public water supplies
4. Accommodating new growth where the environment can best support it

Citizen concerns regarding resources to protect can be prioritized in the following order:

1. Water resources (including lakes, streams, ponds, and clean drinking water)
2. Forests
3. Rural, small-town character
4. Wildlife habitat
5. Clean air

The top five amenities needed in the town are:

1. Wildlife and habitat conservation areas
2. Trails for hiking, skiing, and horseback riding
3. Gathering centers for the performing arts
4. A local café or pub that could serve as a community gathering spot
5. Public swimming areas

The most significant threats to Royalston's sense of community and rural character were:

1. Residential development
2. Lack of plan for managing future development

Strong community support was voiced for these protection measures:

1. Town acceptance of donated land
2. Cooperative protection efforts
3. Town purchase of land
4. State-sponsored property tax reduction programs for farm, forest and recreation land (chapter 61, 61a & 61b) (82% supported)
5. 2/3 supported these additional actions:
 - a. Zoning changes for open space protection
 - b. Town acceptance of donated development rights
 - c. Mandatory dedication of open space by developers of large parcels/multiple house lots
 - d. Town purchase of development rights.

As a result of these observations and findings, the following recommendations were

articulated in the planning documents cited:

1) Zoning-Related

- a) Implementation of a scenic roadways bylaw that regulates the design of new roadside development both within and outside the road right-of-way.
- b) Establish a local historic district or an overlay district specifying certain design standards to preserve the character of Royalston center. Include site and building design standards that are compatible with the existing character of the area.
- c) Improve Cluster Zoning (OSRD)
 - i) Remove the 80% limit on number of units: raise to 100%
 - ii) Remove special permit requirement
 - iii) Lower 1-acre minimum lot size
 - iv) Remove wetlands from Open Land calculation
- d) Pursue Affordable Housing Now
 - i) To provide for citizens in low-income brackets
 - ii) To provide for citizens on fixed-incomes
 - iii) To avoid 40B situations
 - iv) Types to consider
 - (1) Inclusionary zoning in subdivisions (as development pressure grows – in the next decade)
 - (2) Multi-family housing in South Royalston (where sewer infrastructure exists)
 - (3) Accessory apartments (see below)
- e) Consider Village Center Zoning for South Royalston
 - i) Where infrastructure exists
 - ii) Where redevelopment potential exists
 - iii) To broaden tax base
 - iv) To provide amenities indicated above via citizen survey
- f) Consider Accessory Residential Apartment Bylaw
 - i) To provide for affordable living
 - ii) To supplement citizens' income
- g) Consider Senior Housing Bylaw
 - i) To provide for aging population needs

- ii) To diversify tax base
 - h) Allow for Home-Based Businesses
 - i) Consider Loosening Regulation on Business Zoning
 - i) To avoid becoming a bedroom community
 - ii) To provide for some indicated activities
 - (1) Gathering centers for the performing arts
 - (2) A local café or pub that could serve as a community gathering spot
- 2) Non-Zoning
- a) The town must begin working with its large landowners to identify alternatives to development now, before the landowners decide to sell.
 - b) Begin preservation efforts with sensitive properties surrounding the historic town center.
 - c) The Board of Selectmen should ratify the Statement of Collaboration, which is a multi-town agreement to examine the critical issue of water supply protection. Was this done?
 - d) The Town should inventory publicly-owned property, vacant, underutilized, deteriorated land and/or buildings with residential reuse potential.
 - e) Form an Affordable Housing Committee
 - i) To educate the public about housing needs and prepare for housing initiatives
 - ii) To begin collecting background information on local housing
 - f) The Planning Board should convene a meeting with local contractors to determine how the back-lot bylaw could be improved in a way that would encourage the use of back land rather than roadside "approval-not-required lots" (ANR).

Consultant Commentary

With the exceptions of Cluster/Open Space housing and Accessory Uses, none of the above recommendations relate to issues raised by the legal analysis provided for Task 1.

With respect to Royalston's OSRD, the recommendation is as outlined above (1c). The goal is to encourage this type of housing development over and above conventional subdivisions. While encouraging down-zoning in the short term allows for lower densities, in the end it creates private sprawl, rather than public/private open, preserved land. While considering these changes, it is important to note the following characteristics and results from making these changes:

1. no increase in density would occur over a conventional subdivision
2. preservation of land is automatic and without cost to the town
3. removing the 80% limitation would give developers an equal return when compared to conventional subdivisions, thus making OSRD more likely
4. removing wetlands from the Open Land provision allows for open space that is usable, not just "viewable"
5. removing the special permit requirement also removes a serious disincentive
6. clarifying (in favor of allowing) community septic system use would also make the choice of OSRD more viable.

With respect to the Accessory Apartment recommendation, this change would allow for additional housing with no perceivable visual impact on the town. It is a way to provide for some practical (but not legally identifiable) affordability in town. It provides affordable living in two ways: a) provides small dwelling units that are less expensive than full-blown apartments; b) supplements income for property owners that may be "house-rich but cash-poor". See example provided in Appendix J.

III. Legal and Technical Review of Prior Zoning Amendments

What follows is an analysis, provision by provision, of prior zoning amendment proposals. The proposals are labeled as in the originals: e.g. Article 16. Comments and recommendations are included.

- a) Purpose Section of Existing Bylaw

Zoning Amendment Language

This bylaw shall not apply to any existing buildings or structures, nor to the continuation of the existing lawful use of an building or structure, nor to any land or premises. thereof, to the extent of the use existing at the time of adoption of this bylaw. An amendment to the Zoning Bylaw shall not apply to structures of uses lawfully in existence or lawfully begun. or to a building or special permit issued before the first publication of the notice of the public hearing on such Bylaw as required by SECTION VHI -*Rferred to as:* Article 15 - **Reason for Request: To** be more precise and cleanup. To protect the projects in progress and to allow for the proper use of the land.

Recommendation

Not needed here. This is really a discussion about nonconformities and should go elsewhere. Under M.G.L. ch.40A, s.6, such uses and structures are exempt from subsequently enacted zoning bylaws. Courts have held that these nonconformities run with the property, not the owner. Nonconformities is a very technical area of the law. See Appendix J for better language.

- b) Definitions: Articles 16 through 23

- 1) Article 16 Provision

Non use of complete activity for a period of more than Twelve (12) consecutive months, or following the termination of legal proceedings, if any, concerning the status of the use or property associated with such use. - *Referred to as:* Article 6 - **Reason for Request:** The Zoning Study Committee felt twenty-Four (24) months was too long of a period of time to take any action on. The committee felt Twelve (12) months was more appropriate and to coincide with the telecommunication by-law.

Alternate Article 16 Provision

Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law; provided, however, that the Board of Appeals may reestablish such use by special permit.

2) Article 17 Provision: see discussion under Definitions

3) Article 18 Provision

AGRICULTURE- Use of land principally for the raising of crops. horticulture and gardening, tree farming, for the keeping or raising of domestic animals. livestock, or fowl. - *Referred to as:* Article 18 - **Reason for Request:** To be added because. it was omitted from original zoning By-laws, enacted May 8, 1987. Also, due to the more court cases. it needed to be addressed.

Article 18 Comments

This is tricky. Under M.G.L. ch. 40A, s.3, you cannot unreasonably regulate or require a special permit for agricultural uses, on more than 5 acres. Riding Schools, Boarding Horses, etc. are considered "agricultural uses".

4) Article 19 Provision

Alternate Definition:

Establishments primarily engaged in the retail sale of new automobiles or new and used automobiles. These establishments frequently maintain repair departments and carry stocks of replacement parts, tires, batteries, and automotive accessories. These establishments also frequently sell pickups and vans at retail.

- Automobile agencies (dealers)-retail
- Automobiles, new and used-retail
- Cars, new and used-retail
- Motor vehicle dealers, new and used cars-retail
- Pickups and vans, new and used-retail

5) Article 20 Provision: no comments

6) Article 21 Provision: see Definitions and Appendix G

7) Article 22 Provision: change to "any and all state regulations"

8) Article 23 Provision: no comments

9) Article 24 Provision: Comments on individual uses below.

Boarding of Horses: Exempt over 5 acres
Riding Academy: Exempt over 5 acres
Sale of Natural Products: Agree with proposed change
Sadle and Horse Riding: Exempt over 5 acres
Sale of Natural Products: Agree with proposed change
Wood Lot Operations: Why?
Commercial Greenhouses: Should not base changes on perceived capacity.
Utilities: Why?
Gov't owned recreation: SPA
Private Recreation: Agree
Health Organizations: Disagree; town needs services
Nursing Homes: Disagree; town needs services
Private Clubs: Should not base on perceived capacity
Restaurants: Agree
Vehicle Sales: Agree
Retail Office of Service: Disagree
B&B: Agree
Auto Salvage: Your choice
Restricted Industry: Disagree
Large Industrial Uses: Disagree

10) Article 25 Provision: agree with changes

11) Article 26 Provision: I tend to agree with this amendment, but would like to hear more about the purpose.

IV. Zoning Amendment Priorities

1. Cluster Zoning (OSRD): Revision of Bylaw

This is top priority. Once conventional subdivisions are put in place, the open land that would have been preserved by OSRD is gone forever. Royalston has vast quantities of open space to protect. It's best to get started now, otherwise the future holds in favor of 3-acre estates.

- a. Remove the 80% limit on number of units: raise to 100%
- b. Remove special permit requirement
- c. Lower 1-acre minimum lot size in cluster developments
- d. Remove wetlands from Open Land calculation

2. Accessory Residential Apartment Bylaw: New Bylaw Provision

While not critical, this change is easy to do, has little impact that would cause opposition, and will help the aging population in a very practical way.

- a. To provide for affordable living
- b. To supplement citizens' income

3. Allow for Home-Based Businesses: New Bylaw Provision

Again, not critical, but this could have significant impact on traffic, commuting, etc. Also, allows for employment without accompanying development.

4. Implementation of a scenic roadways bylaw that regulates the design of new roadside development both within and outside the road right-of-way: New Bylaw Provision
- a. Establish better incentives for back-lot development in exchange for ANRs

Consultant unsure if there is sufficient community support for regulating outside the public way. Back-lot development is usually promoted to avoid ANRs. In Royalston they seem to serve a different purpose: providing some relief to those without adequate frontage. There should be an incentive to those with adequate frontage to alternatively use back-lot development.

5. Establish a local historic district or an overlay district specifying certain design standards to preserve the character of Royalston center. Include site and building design standards that are compatible with the existing character of the area: New Bylaw Provision

This is very important as growth occurs. Once an out-of-character structure is built, you have to live with it for a very long time. In commercial corridors, this is the norm, but in sensitive corridors (entrance to town, historic center, valuable streetscape) you can control look-and-feel via Design Review.

6. Consider Senior Housing Bylaw: New Addition
- a. To provide for aging population needs
 - b. To diversify tax base

Royalston's population is aging. This is true for most places in Massachusetts. You need to provide for your own senior population in the next 2 decades, or they will be forced to leave town. Sustainable growth means that towns, cities and regions should have the capacity to sustain themselves. That means providing services, housing, amenities for a changing population.

7. Consider Village Center Zoning for South Royalston: New Bylaw Provision
- a. Where infrastructure exists
 - b. Where redevelopment potential exists
 - c. To broaden tax base

d. This would be required prior to pursuing some of #7

8. Pursue Affordable Housing Now

- a. To provide for citizens in low-income brackets
- b. To provide for citizens on fixed-incomes
- c. To avoid 40B situations
- d. Types to consider: New Bylaw Provisions
 - i. Inclusionary zoning in subdivisions (as development pressure grows – in the next decade)
- e. Multi-family housing in Village Center**
- f. Accessory apartments

9. Consider Loosening Regulation on Business Zoning: Revision of Bylaw

- a. To avoid becoming a bedroom community
- b. To provide for some indicated activities
 - i. Gathering centers for the performing arts
 - ii. A local café or pub that could serve as a community gathering spot

V. Additional Recommendations: Revision of Bylaw

- a. Pg. 7, Section IV.A.: refers to Site Plan Approval Section VI.B. (but this is Site Plan Review Special Permit): see Task 1 memo
- b. Use chart: SP ?, PBS? Legend is incorrect or missing a code.
- c. Use Chart: uses of more than 2000 sft (business?)
- d. VII.A.1.c makes no sense: language does not read well
- e. Open Space Residential (VII.C): there is a conflict in septic provisions (is a community septic system allowed?)
- f. Purpose Clause: see Task 1 memo
- g. Authority Clause: recommended language
 - i. These Bylaws are authorized by, but not limited by, the provisions of the Zoning Act, G.L. c.40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

Appendix A: Accessory Use Alternative

Given Royalston's largely residential nature, it may not be the best use of time and effort to create an Accessory Use table in the zoning bylaw. If, however, new uses are allowed through subsequent zoning revisions, the following uses would be candidates for an Accessory Use Table. I can provide definitions, etc., if interested.

1. Family Day Care, Small
2. Adult Day Care
3. Home Occupations
4. Accessory Dwelling Units
5. Boarding of not more than 5 people
6. Temporary Trailers
7. Garages holding not more than 3 cars
8. Stabling of horses
9. Storage of unregistered vehicles
10. Accessory scientific uses
11. Split lot driveways
12. Common lot access-ways

Appendix B: Analysis of Royalston's Zoning Bylaw Definitions

Existing Definitions and Sample Alternatives:

1. Introductory Paragraph to Definitions
 - ii. Existing: None
 - iii. Alternative: In this bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this bylaw.
2. Accessory Structure:
 - iv. Existing: keep proposed
3. Accessory Use:
 - v. Existing: Any building whose use is incidental and accessory to the use of the principal building on the same lot.
 - vi. Alternative: A use customarily incidental to that of the main or principal building or use of the land.
4. Approved Way:
 - vii. Existing: Keep existing
 - viii. Alternative:
5. Auto Body Shop:
 - ix. Existing:
 - x. Alternative:
6. Automobile Sales:
 - xi. Existing:
 - xii. Alternative:
7. Auto Service Station:
 - xiii. Existing:
 - xiv. Alternative:
8. Bed and Breakfast:
 - xv. Existing: A business use that consists of the overnight renting of rooms within a residential structure and the provision of breakfast to those renters. No other meals may be served as a part of the business activity. Bed and breakfasts must conform to the requirements of a home occupation with the exception that the use may occupy more than 40% of the gross floor area.

- xvi. Alternative: Accommodations with not more than ____ bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfasts are intended for guest on intermittent visits, and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.
9. Buildable Land:
- xvii. Existing: The amount of land within a lot that falls outside of the wetlands and edge districts.
 - xviii. Alternative: None
10. Buildable Lot:
- xix. Existing: Any lot containing buildable land totaling at least 85% of the minimum lot size for that zoning district.
 - xx. Alternative: None
11. Common Land:
- xxi. Existing: Any parcel or parcels of land set aside in an Open Space Residential Development designed and intended for the use, benefit and enjoyment of the residents of the subdivision.
 - xxii. Alternative: Land within or related to a development which is not individually owned and is designed and intended for the common use or enjoyment of the residents of a development and may include such complementary structures and improvements as are necessary and appropriate.
12. Frontage:
- xxiii. Existing: The linear distance of a lot measured along an approved way from the intersection of one side lot line to the intersection of the other side lot line of the same lot.
 - xxiv. Alternative: A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120) degrees. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot.
 - xxv. Alternative 2: The continuous portion of the line separating a lot from a street to which the owner of the lot can provide the physical access to a principal building on the lot, in compliance with applicable by-laws, regulations or laws, for motor vehicles to reach required off-street parking spaces or loading bays, and for emergency services such as fire protection or ambulance service, and for other vehicles to gain access to the principal building for deliveries, such as mail
13. Home Occupation:
- xxvi. Consultant comments: The existing bylaw does not actually define Home Occupations; rather, it regulates an undefined set of activities. Recommendation: keep the regulations, but put them elsewhere. Add a true definition (see iii below). Alternative Recommendation: see Appendix G
 - xxvii. Existing: The occupation shall not employ more than one (1) non-resident employee, and shall not be characterized by outward manifestations that are unlike those of dwelling units in the particular neighborhood in which the dwelling is located (i.e. traffic generation, noise, public service and utility demand, etc. The home occupation shall occupy not more than forty (40) percent of the gross floor area

or six hundred (600) square feet, whichever is less, of the dwelling unit. In connection with a home occupation, there shall be no display visible from outside the building other than an identification sign not larger than two (2) square feet in area.

- xxviii. Alternative: An occupation, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof. (This is the definition; Regulations go elsewhere).

14. Housekeeping Unit:

- xxix. Existing:

- xxx. Alternative:

15. Industry, Light:

- xxxi. Existing: Fine, except move the regulatory part to the use table

- xxxii. Alternative: None

16. Industry, Prohibited:

- xxxiii. Existing: Fine

- xxxiv. Alternative: None

17. Industry, Restricted:

- xxxv. Existing: Fine

- xxxvi. Alternative: None, but where is it in the Use Chart?

18. Non-conforming Use:

- xxxvii. Existing: An existing use of land or a structure or a building which does not conform to the regulation for the district in which such use of land, structure, or building exists. The term "use" refers to the type of activity conducted on the land, (e.g. manufacturing, retail store, or double residence), and not to any regulations regarding intensity, frontage, or setbacks.

- xxxviii. Alternative:

19. Open Land:

- xxxix. Existing:

- xl. Alternative:

20. Private Club:

- xli. Existing:

- xlii. Alternative:

21. Residence, Single:

- xliii. Existing:

- xliv. Alternative:

22. Residence, Double:

- xlvi. Existing:

- xlvi. Alternative:

23. Residence, Multi-Unit:

- xlvi. Existing:

- xlvi. Alternative:

24. Retail Store:

- xlix. Existing:

- l. Alternative:

25. Rooming or Boarding House:

- li. Existing: Any dwelling in which living space without kitchen facilities is let to three or more persons for an average of five nights or more per person.

- lii. Alternative: A dwelling or part thereof in which lodging is provided by the owner or operator to at least three, but not more than six, boarders.

Others Needed:

26. Use Chart

- liii. Accessory Building
 - 1. Existing: None
 - 2. Alternative: A subordinate building located on the same lot as the main or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.
- liv. Convalescent, Nursing, or Long Term Care Facility
 - 1. Existing: None
 - 2. Alternative: An institution or distinct part of an institution which is licensed by the Massachusetts Department of Public Health to provide twenty-four-hour care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.
- lv. Gross Floor Area
 - 1. Existing: None
 - 2. Alternative: The sum, in square feet, of the horizontal areas of all stories of a building or several buildings on the same lot measured from the exterior face of exterior walls, or from the center line of a party wall separating two buildings. Gross floor area shall also include garages, basements, cellars, porches and half stories, but shall exclude crawl spaces, attics, and decks.
- lvi. Mobile Home
 - 1. Existing: None
 - 2. Alternative: A dwelling built upon a chassis, containing complete electrical, plumbing and sanitary facilities, and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation or otherwise permanently located.
- lvii. Research Operations
 - 1. Existing: None
 - 2. Alternative: ?
- lviii. Warehousing
 - 1. Existing: None
 - 2. Alternative: A business utilizing buildings used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.
- lix. Auto Salvage Operation
 - 1. Existing: None
 - 2. Alternative: ?
- lx. Religious
 - 1. Existing: None
 - 2. Alternative: ?
- lxi. Educational (non-exempt)
 - 1. Existing: None

2. Alternative: Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

lxii. Utilities

1. Existing: None
2. Alternative: ?

lxiii. Private Clubs

1. Existing: None
2. Alternative: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

lxiv. Hotel/Motel/Inn

1. Existing: None
2. Alternative: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

27. Signs

lxv. Existing:

lxvi. Alternative:

28. Public Way (VII.1.b)

lxvii. Existing: None

lxviii. Alternative (Street, Road, or Way): STREET, ROAD or WAY:

1. An area of land dedicated, approved by the Planning Board, or legally open for public travel under at least one of the following classifications:
 - a. A public way duly laid out by the Town of Lexington, the Middlesex County Commissioners, or the Commonwealth of Massachusetts, or a way which the Lexington Town Clerk certifies is maintained by public authority and used as a public way; or
 - b. (2) A way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law and constructed in accordance with such plan; or
 - c. A way in existence on April 4, 1948, 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 use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

2. A public or private way as aforesaid shall not be deemed to be a "street" as to any lot of land that does not have rights of access to and passage over said way.

29. Lot width (VII.A.3.b)

lxi. Existing: None

lxx. Alternative: The horizontal distance between side lot lines, measured parallel to the lot frontage at the front yard setback line.

30. Principal dwellings (VII.A.3.e)

lxxi. Existing: None

lxxii. Alternative:

31. Access frontage (VII.A.3.c) and Frontage

lxxiii. Existing: None

lxxiv. Alternative:

32. Conforming Use Status: IV.C

lxxv. Existing: None

lxxvi. Alternative:

33. Non-conforming Uses: IV.D

lxxvii. Existing: None

lxxviii. Alternative: Those uses, buildings, structures, parking spaces, loading bays, signs, landscaping and other activities that are now subject to the provisions of this By-Law which were lawful before this By-Law was adopted or before amendments to this By-Law which are applicable to the situation were adopted, and such situations do not now conform to the provisions of this By-Law.

Appendix C: Special Permit Model

1. **Special Permit Granting Authority.** Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
2. **Criteria.** Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the proposed use or structure(s) shall not cause substantial detriment to the neighborhood or the town, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth elsewhere in this Bylaw, such determination shall include consideration of each of the following:
 - a. Social, economic, or community needs which are served by the proposal;
 - b. Traffic flow and safety, including parking and loading;
 - c. Adequacy of utilities and other public services;
 - d. Neighborhood character and social structures;
 - e. Impacts on the natural environment; and
 - f. Potential fiscal impact, including impact on town services, tax base, property values, and employment.
3. **Procedures.** Applications shall be filed in accordance with the rules and regulations of the special permit granting authority. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.
4. **Plans.** An applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 4, herein.
5. **Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this Bylaw.
6. **Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.
7. **Regulations.** The special permit granting authority may adopt rules and regulations for the administration of this section.
8. **Fees.** The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

Appendix D: Site Plan Review Model Regulations

A. Applicability. The following types of activities and uses require site plan review by the Planning Board:

1. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or any multi-family structure;
2. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose.

B. Procedures. Applicants for site plan approval shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the Select Board, Board of Health, Board of Public Works, Building Inspector, Town Engineer, and Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.

a. Application for Building Permit. An application for a building permit to perform work as set forth in Section A available as of right shall be accompanied by an approved site plan.

b. Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section A shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section A shall contain the following condition: The work described herein requires the approval of a site plan by the Planning Board pursuant to Section ____ of the Zoning Ordinance. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

c. Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

d. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

e. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

f. No deviation from an approved site plan shall be permitted without modification thereof.

C. Preparation of Plans. Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular

meeting of the Planning Board. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'.

D. Contents of Plan. The contents of the site plan are as follows:

1. Five (5) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the planning board. The plans are as follows: a. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the planning board. b. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage. c. Utility and landscaping plan, which shall include all facilities for refuse and sewerage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas. d. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering. e. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures.

2. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

3. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this ordinance.

4. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to Royalston subdivision regulations.

5. The Planning Board may require a narrative statement detailing the impact of the proposed use on municipal services and the environment.

6. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

E. Waiver of Technical Compliance. The Planning Board may, upon written request of the applicant, waive any of the requirements of this Section where the project involves

relatively simple development plans or constitutes a minor site plan. An application for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2000 square feet, or an application which will not generate the need for more than 10 parking spaces shall be deemed a "minor site plan." For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 5440; provided, however, that the scale of the site plan may be 1' = 80', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.

F. Approval. Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board`s Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

1. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of storm water flow increase from the site, soil erosion, and threat of air and water pollution;
2. Maximize pedestrian and vehicular safety both on the site and egressing from it;
3. Minimize obstruction of scenic views from publicly accessible locations;
4. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
5. Minimize glare from headlights and lighting intrusion;
6. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.
7. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;
8. Ensure compliance with the provisions of this Zoning Ordinance, including parking and landscaping.

G. Lapse. Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

H. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

I. Fee. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

J. Appeal. The appeal of any decision of the planning board hereunder shall be made in accordance with the provisions of Mass. Gen. L. ch. 40A, §17.

Site Plan Review Alternative 2: Simpler

1. **Applicability.** The following types of activities and uses are subject to site plan review by the Planning Board:
 - a. Construction, exterior alteration, exterior expansion of a nonresidential or multifamily structure or tower, or change in use;
 - b. Construction or expansion of a parking lot associated with a nonresidential or multifamily structure or use.
2. **Exemptions.** This section shall not be construed to apply to those uses otherwise exempt by the provisions of G.L. c. 40A, s. 3.
3. **Procedures.**
 - a. *General.* Applicants for site plan approval shall submit five (5) copies of the site plan to the Planning Board for review. The Planning Board shall review and approve the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision.
 - b. *Building Permit.* An application for a building permit shall be accompanied by an approved site plan. Prior to the commencement of any activity set forth in Section 9.4.1, the proponent shall obtain site plan approval from the Planning Board. No building permit shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.
 - c. *Uses and Structures Requiring a Variance or Special Permit.* An application for a variance or special permit to conduct any activity set forth in Section 1 shall also require site plan approval from the Planning Board.
4. **Plans.** Plans subject to this section shall show:
 - a. Existing and proposed topography at 2 foot contour intervals;
 - b. Existing and proposed buildings and structures, including fences, loading areas, accessory buildings, waste disposal areas, and storage areas;
 - c. Water provision, including fire protection measures;
 - d. Sanitary sewerage;
 - e. All utilities serving the site (provisions shall be made to underground all onsite utility services);
 - f. Storm drainage, including means of ultimate disposal and calculations to support maintenance of the requirements in the Planning Board's Subdivision Rules and Regulations;
 - g. Parking, access, and egress provisions;
 - h. Planting, landscaping, buffers, and screening;
 - i. All boundary line information pertaining to the land sufficient to permit location of same on ground;
 - j. Compliance with all applicable provisions of this Zoning Bylaw.
 - k. Compliance with Americans with Disabilities Act (ADA).

5. **Preparation of Plan.** Site Plans shall be submitted on 24–inch by 36–inch sheets. Plans shall be prepared by a Registered Professional Engineer and a Registered Land Surveyor. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'.
6. **Waiver of Technical Compliance.** The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Section 4 or 5 where the project involves relatively simple development plans, and may waive the associated fees for all municipal, state, or federal projects.
7. **Approval.** Site Plan approval shall be granted upon determination by the Planning Board that the following conditions have been satisfied. The Planning Board may impose reasonable conditions, at the expense of the applicant, to ensure that the following conditions have been satisfied. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board’s Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:
 - a. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
 - b. Maximize pedestrian and vehicular safety both on and offsite;
 - c. Minimize obstruction of scenic views from publicly accessible locations;
 - d. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
 - e. Minimize glare from headlights through plantings or other screening;
 - f. Minimize lighting intrusion through use of such devices as cutoff luminaries confining direct rays to the site, with fixture mounting not higher than 20 feet;
 - g. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways;
 - h. Minimize contamination of groundwater from onsite wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances.
 - i. Maintain an acceptable level of traffic service, volume and infrastructure which meets the goals of the Master Plan, the Traffic and Pedestrian Safety Manual, and Route xxx Master Plan, the Sidewalk Master Plan, and other Town adopted Master Plans.
 - j. Encourage alternative methods of transporting people, through public transportation, car pools and van pools, bicycling and walking, rather than near exclusive reliance on single-occupant vehicles.
8. **Lapse.** Site plan approval shall lapse after three (3) years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.
9. **Regulations.** The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.
10. **Fee.** The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

11. **Appeal.** Any decision of the Planning Board pursuant to this Section 9.4 shall be appealed in accordance with G.L. c. 40A, s. 17.

Appendix E: Light Pollution Provision

Lighting of Parking Areas. All artificial lighting used to specifically illuminate any parking space, loading bay, maneuvering space or driveway shall be so arranged that all direct rays from such lighting fall entirely within the parking or loading area and shall be shielded so as not to shine upon abutting properties or streets. The level of illumination of lighting for parking and loading areas shall be low so as to reduce the flow of ambient lighting perceptible at nearby properties or streets, unless abutting neighbors request otherwise.

Appendix F: Miscellaneous Provisions (Gaps in Current Bylaw)

GENERAL LANDSCAPING REQUIREMENTS

1. Purpose. This section is designed to accomplish the following objectives: to provide a suitable boundary or buffer between residential uses and nearby nonresidential uses; to define the street edge and provide visual connection between nonresidential uses of different architectural styles; to separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots; to provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas; to preserve or improve the visual and environmental character of the town, as generally viewed from residential or publicly accessible locations; and to offer property owners protection against diminution of property values due to adjacent nonresidential use.

2. Applicability. The requirements of this section shall apply to any nonresidential use and to multifamily dwellings.

3. Landscaping Requirements for Property Lines. Property line(s) with residential districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential purposes. No part of any building or structure or paved space intended for or used a parking area may be located within the buffer area. Planted buffer areas along property lines with residential districts or uses shall be of the following minimum depth in each district:

DISTRICT	XXX	YYY
Buffer Requirement (feet)	10	20

4. Landscaping Requirements for Street Frontage of Nonresidential Uses. In all nonresidential districts except the CB, a landscaped buffer area, except for approved access ways, at least twenty feet in width as measured from the layout of the roadway providing frontage, shall be established. The buffer area shall be planted with grass, medium height shrubs, and shade trees. Shade trees shall be planted at least every 35 feet along the road frontage.

5. Planted Area Requirements. Planted areas shall contain an appropriate mix of the following types of plants. Plant species shall be appropriate to proposed use, siting, soils, and other environmental conditions. Where the Planning Board determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees.

1. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting, and have a spread of at least 18 inches.
2. Grass is preferable to mulch where practical.
3. Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible.
4. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

6. Coordination with Site Plan Approval. The Planning Board shall require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section.

7. Maintenance of Landscaped Areas. The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section and shall have a continuing obligation to comply with the provisions set forth herein. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

8. Special Permit. By special permit, the Planning Board may authorize a reduction in the requirements of this section, where such reduction will not result in substantial detriment.

ENVIRONMENTAL PERFORMANCE STANDARDS

1. General. No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection included herein. The Building Commissioner may require an applicant for a building or occupancy permit to supply, at his expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant. After a permit is issued in accordance with this section, continuing compliance is required. When the Building Commissioner suspects a subsequent violation he may, as necessary obtain expert advice, which if the violation is established, shall be paid for by the violator, otherwise, by the town. The following standards are hereby established.

2. Noise. No use shall be permitted within the town which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property, as set forth in 310 CMR 7.01.

3. Solid Waste Storage. Any accessory receptacle or structure with holding capacity of at least one hundred (100) cubic feet for temporary storage or solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be located not less than ten (10) feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with Section ___ of this by-law. Screening materials will not be attached to any structure.

4. Erosion Control. Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

1. Grading or construction which will result in final slopes of 15% or greater on 25% or more of lot area, or on 20,000 square feet or more on a single lot, even if less than 25% of lot area, shall be allowed only by special permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.

2. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.

3. No area or areas totalling 0.5 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a soil control plan approved by the Planning Board, except in the case of agricultural activity where such temporary cover would be infeasible.

4. The Building Commissioner may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.

5. In granting a special permit hereunder, the Planning Board shall require a performance bond to ensure compliance with the requirements of this Section.

6. Hillside areas, except naturally occurring ledge or bedrock outcroppings or ledge cuts, shall be retained with vegetative cover as per an approved plan.

5. Miscellaneous Standards.

1. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over to neighboring properties and the night sky.

2. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and town laws and regulations.

3. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten (10) percent in line voltage off the premises.

4. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry. Burning of waste materials in the open contrary to state law is prohibited.

5. All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

Appendix G: Home Occupations Alternative

I HOME OCCUPATIONS

A Home Occupations As of Right. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling; provided, however, that all of the following conditions shall be satisfied:

1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto which has been in existence at least five (5) years, without extension thereof.
2. Not more than thirty (30) percent of the combined floor area of the residence and any qualified accessory structures shall be used in the home occupation.
3. No person not a member of the household shall be employed on the premises in the home occupation.
4. The home occupation shall not serve clients, customers, pupils, salespersons, or the like on the premises.
5. There shall be no sign, exterior display, no exterior storage of materials, and no other exterior indication of the home occupation, or other variation from the residential character of the premises.
6. No disturbance, as defined in Section XXX, shall be caused, nor shall the home occupation use or store hazardous materials in quantities greater than associated with normal household use.
7. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

B. Home Occupations by Special Permit. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling upon the issuance of a special permit by the Board of Selectmen; provided, however, that all of the following conditions shall be satisfied:

1. All of the requirements of Section A.1, A.2, and A.7.
2. Not more than one (1) person not a member of the household shall be employed on the premises in the home occupation.
3. An unlighted sign of not more than three (3) square feet in area may be permitted. The visibility of exterior storage of materials and other exterior indications of the home occupation, or other variation from the residential character of the premises, shall be minimized through screening and other appropriate devices.

4. Parking generated by the home occupation shall be accommodated off-street, other than in a required front yard, and shall not occupy more than 35% of lot area.
5. No disturbance shall be caused. The use or storage of hazardous materials in quantities greater than associated with normal household use shall be subject to design requirements to protect against discharge to the environment.

Appendix H: Accessory Dwelling Units

Below is a good example of an Accessory Apartment Bylaw. This can be modified to require owner-occupancy of one of the units.

- 1) **Purpose.** This section has been adopted to promote the following purposes:
 - a) To provide small additional dwelling units to rent without adding to the number of buildings in the Town, or substantially altering the appearance of the Town;
 - b) To enable owners of single family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership;
 - c) To provide additional living space for extended family members.
- 2) **Special Permit Required.** Accessory dwelling units may be allowed by special permit by the Board of Appeals, which shall terminate either upon transfer of the ownership of the premises or when the owner no longer occupies the premises as his legal residence, and subject to the following considerations.
- 3) **Procedures.** An application for a special permit shall be governed by the following procedures:
 - a) *Plot Plan.* A plot plan, prepared by a Registered Land Surveyor, of the existing dwelling unit and proposed accessory dwelling unit shall be submitted to the Board of Appeals, showing the location of the building on the lot, proposed accessory dwelling unit, location of any septic system and required parking. A mortgage inspection survey, properly adapted, shall be sufficient to meet this requirement.
 - b) *Board of Health.* Any special permit application shall be subject to review and approval by the Board of Health as to sanitary wastewater disposal in full conformance with the provisions of 310 CMR 15.00 (Title V of the State Environmental Code). Therefore, applicants are encouraged to seek Board of Health review prior to making an application to the Board of Appeals. The Board of Health shall also approve water supply and drainage resulting from the proposed accessory dwelling unit as adequate for the proposed construction.
 - c) *Affidavit.* Certification by affidavit shall be provided that one of the two dwelling units shall be occupied by the owner of the property at least six months in any calendar year.
- 4) **Standards.** Accessory dwelling units shall be subject to the following standards:
 - a) *Limit.* Not more than one accessory dwelling unit may be established on a lot. The accessory dwelling unit shall not exceed 33% of the gross living space of the existing or expanded principal structure or 800 square feet, whichever is greater.
 - b) *Location.* The accessory dwelling unit may be located in the principal structure or in a detached accessory structure; provided, however, that an accessory dwelling unit may be located in such detached accessory structure only where such detached accessory structure has been in existence for at least ten (10) years.

- c) *Appearance.* The external appearance of the structure in which the accessory dwelling unit is to be located shall not be significantly altered from the appearance of a single family structure, in accordance with the following:
- i) Any accessory dwelling unit construction shall not create more than a 15% increase in the gross floor space of the structure;
 - ii) Any stairways or access and egress alterations serving the accessory dwelling unit shall be enclosed, screened, or located so that visibility from public ways is minimized;
 - iii) Sufficient and appropriate space for at least one (1) additional parking space shall be provided by the owner to serve the accessory dwelling unit. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway; and
 - iv) All construction and/or renovation shall be performed in accordance with the applicable requirements of the State Building Code.
- 5) **Conditions for Issuance and Renewal of Special Permits.** The initial term and subsequent terms of a special permit for an accessory dwelling unit shall terminate upon transfer of the ownership of the premises or when the owner no longer occupies the premises as his or her legal residence. Subsequent special permit issuances for existing accessory dwelling units may be granted after certification by affidavit is made by the applicant to the Board of Appeals that the accessory dwelling unit has not been extended, enlarged, or altered to increase its original dimensions, as defined in the initial special permit application.
- 6) **Decision.** Special permits for an accessory dwelling unit may be issued by the Board of Appeals upon a finding that the construction and occupancy of the dwelling unit complies with foregoing provisions and will not be detrimental to the neighborhood in which the lot is located and after consideration of the criteria specified.

Appendix I: FLEXIBLE DEVELOPMENT REQUIREMENTS AND PROCEDURES

1. Applicability. An owner or owners of land in a Single Family Residence District may apply to the Planning Board for a Special Permit for Flexible Development under this Section AA.

H. This will exempt such land from the lot area, frontage, setback and other applicable dimensional requirements set forth in the Table of Conventional Dimensional Requirements of this Zoning By-Law in order to fulfill the purposes of Flexible Development. The Planning Board in order to fulfill the purposes of Flexible Development. The Planning Board shall be the Special Permit Granting Authority for any Special Permit for Flexible Development issued under this Section. Nothing in this section shall be interpreted as conflicting with the right of a landowner to proceed under the Subdivision Control Law with an application for a preliminary or definitive subdivision plan pursuant to G.L.c.41, Sections 81S and 81T, or with an application for endorsement of a plan of land division as "approval not required" pursuant to G.L.c.41, Section 81P.

2. Purpose

The general purpose of Flexible Development is to allow greater flexibility and creativity in the design and layout of single family residential development, without any increase in permitted density, in order to:

- a. minimize alteration of or damage to the natural and cultural features and topography of the land;
- b. avoid undue adverse impacts of new development on existing homes and neighborhoods;
- c. preserve wooded areas and other undeveloped open land particularly along Town roads;
- d. preserve the existing semi-rural appearance of the Town.

3. Fees

An applicant for a Special Permit for Flexible Development shall pay a filing fee and review fees as the Planning Board shall deem reasonably necessary, which fees shall be set forth in the Planning Board Special Permit Rules for Flexible Development.

4. Procedure

A landowner seeking to create a Flexible Development of land may file with the Planning Board an Application for a Special Permit for Flexible Development. The Application shall conform to the applicable requirements for a Definitive Subdivision Plan as set forth in the Planning Board's Rules and Regulations for the Subdivision of Land, as well as the Flexible Development requirements contained herein and all other requirements in the Special Permit Rules for Flexible Development.

The Planning Board shall give notice, hold a public hearing and file its decision regarding a Flexible Development Application, in accordance with the procedures governing special permits contained in Sections 9, 11 and 15 of M.G.L.c.40A, the Zoning Act.

5. Dimensional Requirements.

A Special Permit for Flexible Development may authorize the creation and use of lots meeting the following dimensional requirements in lieu of the conventional dimensional requirements contained in Section AA.B.2. and AA.B.3.

- a. Lot Area. Each lot shall be at least of a size capable of supporting the construction of a single-family dwelling and its accessory structures in accordance with all applicable state and local regulatory requirements and the purposes of Flexible Development.
- b. Frontage. The frontage of each lot for a building site created in a Flexible Development shall be that necessary, in the opinion of the Planning Board, to provide for adequate access to the lot. Where shared driveways or other circumstances provided adequate access to an individual lot, frontage may not be required.
- c. Setbacks. All structures shall be set back a minimum of twenty (20) feet from all lot lines, provided, however, that with respect to lot lines which abut an existing street or which otherwise abut land outside the Flexible Development, setbacks from said lot lines shall conform to the Section AA.B.2. setback requirements applicable to conventional development in the underlying zoning district.
- d. Building Height. The height of all buildings or other structures within a Flexible Development shall conform to the requirements of Section AA.E.

6. Other Requirements

- a. Buildable Lot. Buildable lot shall be defined for purposes of determining the density of a Flexible Development as an area of contiguous land, having sufficient area and dimensions to meet the applicable requirements of this Zoning By-Law for use as the site of one single family detached dwelling, and conforming to all relevant state and local laws and regulations.
- b. Developed Areas. The boundaries of the area(s) within each lot that will contain all principal and accessory structures shall be shown on the plan and designated as the "Developed Areas". The areas so designated shall be of a size and location to satisfy the stated purposes and standards set forth herein.
- c. Single Dwelling. Not more than one single family dwelling and its accessory structures and uses may be located on a lot created under Flexible Development pursuant to Section AA.F.2.
- d. Density. The maximum number of lots for building sites in a Flexible Development shall not exceed the number of buildable lots which could be created through conventional development of the site. The allowable maximum density shall be based upon the maximum number of buildable lots which may be created through conventional development of the land without substantial waivers from the Planning Board's Rules and Regulations for the Subdivision of Land and in conformance with the conventional dimensional requirements for the underlying zoning district. The Planning Board shall make the final determination of density, provided, however, that for the limited purpose of showing conformance with said conventional dimensional requirements in accordance with Section 602 – Table of Dimensional Regulations.
- e. NOTE: in d. above, you can craft a an incentive to preserve usable/valuable open space by granting a little extra density, up to (say) 120% or 110% or a

minimum of 1 extra lot (if a small development) for using the land well. Alternatively, you can try to force it through the special permit process and risk the pulling of the application. The incentive, at the discretion of the Board, is better, because it gives the Board the option.

- f. Restrictions Against Further Development. No Flexible Development for which a Special Permit has been issued under this Section may be further subdivided. A notation to that effect shall be made on the Lot Plan as defined in the Planning Board Rules and Regulations to be endorsed by the Planning Board and recorded in the Registry of Deeds or the Land Court. In addition, a perpetual restriction, running with the land, and enforceable by the Town of Royalston, shall be recorded with respect to the land within the Flexible Development. Such restriction shall provide that no lot in the Flexible Development may be further subdivided into additional building lots. Said restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the lots as the Planning Board may deem appropriate.

7. Allowed Uses.

The land in a Flexible Development may be used for any use otherwise allowable in the Single Family Residence District in which it is located, pursuant to the provisions of Section _____. Use Regulations.

8. Standards

In reviewing an Application for a Special Permit for Flexible Development, the Planning Board shall consider the extent to which the Application meets the purposes of Flexible Development by satisfying the following standards:

- a. The laying out of Developed Areas, roads, storm drains, sewage disposal systems, and utilities shall be in conformance with the natural features of the parcel, minimizing changes to the topography and maximizing the amount of preserved wooded areas and other open space.
- b. The amount of land to be disturbed for the construction of buildings, driveways, septic systems, utilities, storm drainage systems and roads shall be minimized.
- c. Important natural and historic features of the land, as determined by the Planning Board, shall be protected.
- d. The Flexible Development shall be in keeping with and enhance the overall rural appearance of Royalston by:
 - i. preserving views from existing roads;
 - ii. avoiding undue adverse impacts on neighborhoods;
 - iii. conserving natural and historic resources, including but not limited to those linked to off-site protected resource areas.
- e. The impacts of road and utility installations for each dwelling unit served shall be less than those generated by a conventional development of the same land.
- f. The design, number and location of curb cuts shall be such that any conflict with existing traffic flow is minimized, and the semi-rural appearance of existing streets is maintained or enhanced.
- g. Provision, satisfactory to the Planning Board, shall be made with regard to the ownership and maintenance of any and all private roads, common driveways, common land, or other common facilities within the Flexible Development.

h. The design shall minimize the size of Developed Areas.

The Planning Board shall not grant a Special Permit for Flexible Development unless the Application is consistent with the above standards and conforms to the dimensional and use requirements for Flexible Development set forth herein and in the Planning Board Special Permit Rules for Flexible Development.

Appendix J: Proposed Language for Non-Conformities

Existing: (IV.D. Non-conforming Uses)

1. The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this bylaw may be continued although such structure or use does not conform with provisions of the bylaw.
2. Alteration. Internal alteration or reconstruction of a non-conforming structure may be allowed only through a Special Permit from the Board of Appeals.
3. Extension. An increase in the extent in the non-conforming use of a structure or land may be made only with a Special Permit from the Board of Appeals.
4. Abandonment. A non-conforming use which has been abandoned for two years or more shall not be re-established and any future use shall conform with this bylaw.
5. Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use.

Suggested:

?? Nonconforming Uses and Structures.

A. Applicability. This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

B. Nonconforming Uses. The 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. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. Change or substantial extension of the use;
2. Change from one nonconforming use to another, less detrimental, nonconforming use.

C. Nonconforming Structures. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

1. Reconstructed, extended or structurally changed;

2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;
3. Reconstructed after a catastrophe, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within eighteen (18) months after such catastrophe, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure.
4. The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

D. Nonconforming Single and Two Family Residential Structures. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the issuance of a building permit, where applicable. In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

E. Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law.

F. Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert back to a nonconforming use.

Appendix K: Sample Scenic Road Bylaw

Scenic roads

Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission of Royalston, the Town may designate any road in Royalston other than a numbered route or state highway, as a scenic road. After a road has been designated as a scenic road, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees of more than four (4) inches in diameter, measured two (2) feet above the ground, or the tearing down or destruction of stone walls, or portions thereof, by the Town or any other public agency, or by property abutters, except with the prior written consent of the Planning Board; after a public hearing has been held. The public hearing shall be duly advertised as per the requirements of Section X.X of this Bylaw. Designation of a road as a scenic road shall not affect the eligibility of Royalston to receive construction or reconstruction aid for such road pursuant to the provisions of Chapter 90 of the Massachusetts General Laws.

Appendix L: Notes on Royalston's Residential Zoning

2. Residential Analysis:
 - a. Use Chart Limitations
 - i. Detached Single Family Dwelling:
 1. Allowed in R, HR, RRA
 - ii. Two Family Dwelling:
 1. Allowed in R, HR, RRA
 - iii. Room Rental or Boarding House:
 1. Allowed by Special Permit ZBA (SPBA) in all districts
 - iv. Internal or External Enhancement from 1 to 2 unit:
 1. Y, Y, Y, with BofHealth Approval for sewage disposal
 - b. Intensity Requirements:
 - i. R
 1. 1/2 acre, 75 feet (sewer)
 2. 1 acre, 100 feet
 - ii. HR
 1. 1 acre, 125 feet (either)
 - iii. RRA
 1. 1 acre, 125 feet (sewer)
 - 2. 3 acre, 300 feet**
 - c. Special Development Limitations
 - i. Development Regulated Under VI.B (Site Plan Review Special Permit)
 1. Any zone
 2. Triggers
 - a. for developments on a single lot or contiguous lots under common ownership
 - i. yielding 10+ parking spaces, or
 - ii. 5000+ sft of gross floor area, or
 1. This is 2 houses
 - b. Or, uses specified in use chart (SPA?)
 - 3. current language suggests PBd discretion on subdivisions**
 - a. lots of special permit language**
 4. requires permit application, plus site plan
 5. double the intensity minimums for duplexes
 - ii. Development Regulated Under VI.C (Large Development Review)
 1. applies to subdivisions
 2. any zone
 3. triggers
 - a. 4 or more residential lots created, or
 - b. Construction of 4+ dwelling units within a 2 year period, or
 - c. 10,000+ sft gross flr area
 4. site plan required
 5. impact statement

6. **Phased Growth (VI.C.4)**
 7. **(VI.C.5) "Shall approve, or approve with conditions...provided that the Board determines that the plan is on balance beneficial to the Town..."**
- iii. **Interior Lot Development (VII.A)**
 1. applies to:
 - a. RRA
 - b. Frontage on public way
 2. Process
 - a. Building Inspector approves
 - b. PBd reviews, with Interior Lot Site Plan
 3. Intensity
 - a. 5 acre min lot size per dwelling unit
 - b. Min lot width: 400 ft
 - c. Other dimensional limitations: radius, driveway separations, etc.
 - iv. **Flexible Development for Small Projects (VII.B)**
 1. no special permit or SPA required
 2. Limits
 - a. RRA
 - b. 3 or less lots created (subdivision or not)
 3. Flexibility features
 - a. Can reduce frontage, but average may not be less than minimum required (i.e. some lots can be up to 2/3 less, if some are large enough to bring average back to the minimum)
 - b. Cannot exceed lot density standard intensity chart allows
 - i. Works?
 1. calculate density based on chart
 2. cannot exceed
 - ii. but can reduce individual lot sizes up to 50%
 - c. no further subdivision of lots allowed
 - v. **Open Space Residential Development (VII.C)**
 1. Limits
 - a. Any district?
 - b. 4 or more lots created
 - c. 10+ acres
 - d. Must meet dimensions in Table 1
 - i. 1 acre lots; 2 acre for duplexes
 - ii. 100 ft frontage; 125 for duplexes
 - e. 80% of conventional units maximum
 - f. Open Land
 - i. shall be conveyed away
 - ii. for recreation, incl pools
 - iii. for indiv septic, or community septic, with safeguards
 - g. 40%+ of buildable land shall be open land
 - h. Private roads, unless Town accepts
 - i. Must go through Large Development Review
 - i. Unclear if by right or by SP

- ii. See VII.C.2.c: which mandates SP
- j. Must calculate conventional number of units (excluding all unbuildable land – wetlands or other)

3. Business Zoning Analysis:

- a. Boarding of Horses: SP(?) in R, Y in RH, RRA
- b. Riding Academy: SP(?) in R, Y in RH, RRA
- c. Stables: Special Permit (ZBA) in R, Y in RRA
- d. Wood Lot Operations: Special Permit (ZBA) all zones
- e. Lumbermills: Special Permit (ZBA) RRA
- f. Commercial Greenhouse: Special Permit (ZBA) all zones
- g. Health Organizations: Special Permit (ZBA) all zones
- h. Nursing or Convalescent Homes: Special Permit (ZBA) all zones
- i. Golf Courses: Special Permit (ZBA) RRA Zone
- j. Home Occupations: Y in all zones
- k. Bed & Breakfast: Site Plan Approval: R and RRA zones
- l. Auto Salvage: Site Plan Approval: RRA zone
- m. Research Operations: Site Plan Approval all zones
- n. Wholesaling: Site Plan Approval: RRA zone
- o. Light Industry (less than 10,000 sft): Site Plan Approval: R and RRA zones
- p. Restricted Industries: Site Plan Approval: R and RRA zones
- q.
 - i. Manufacturing, processing, assembly, packaging, other industrial operation
 - ii. See other limitations in bylaw

4. Models to Provide

- a. Accessory Uses: Alternative Model: Appendix A
- b. Definitions Analysis: Appendix B
- c. Special Permit Regulations: Appendix C
- d. Site Plan Review Regulations: Appendix D
- e. Open Space Cluster: Alternative Model: Appendix E
- f. ANR Frontage definition: incl access
- g. Home Occupations
- h. Village Center Zoning
- i. Flexible Development: Appendix I
- j. Accessory Apartment: Appendix J
- k. An analysis of Royalston's Residential Zoning:
- l. An analysis of Royalston's Business Zoning