

**CHATHAM PLANNING BOARD
LEGAL NOTICE**

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 5, the Chatham Planning Board will hold a Public Hearing on Tuesday, January 3, 2012 at 7:00 p.m. in the Town Offices Annex Large Meeting Room, 261 George Ryder Road, Chatham, MA to take public comments on the following proposed amendments to the Protective (Zoning) By-Law:

Article A – Zoning Bylaw: Grade Plane and Building Height Definition

~~Strikethrough~~ indicates language proposed for deletion

Underline indicates language proposed for inclusion

Bold Italicized Words are defined in the Bylaw

To see if the Town will vote to amend its Protective (Zoning) Bylaw, **Section II., Definitions, Subsection B.**, by amending the existing definition of **Grade Plane** as follows:

“**GRADE PLANE**” means a reference plane representing the average of the ~~finished ground~~ existing grade levels adjoining a proposed or existing *building* or *structure* at all exterior walls prior to construction, *grading* or *filling*. ~~Where the finished ground slopes away from the exterior walls, the reference plane shall be established by averaging the lowest points within the area between the *building* and the *lot* line or, where the *lot* line is more than twenty (20) feet from the *building* at a point twenty (20) feet from the *building*.~~

And by deleting the existing definition of **BUILDING HEIGHT** which currently reads:

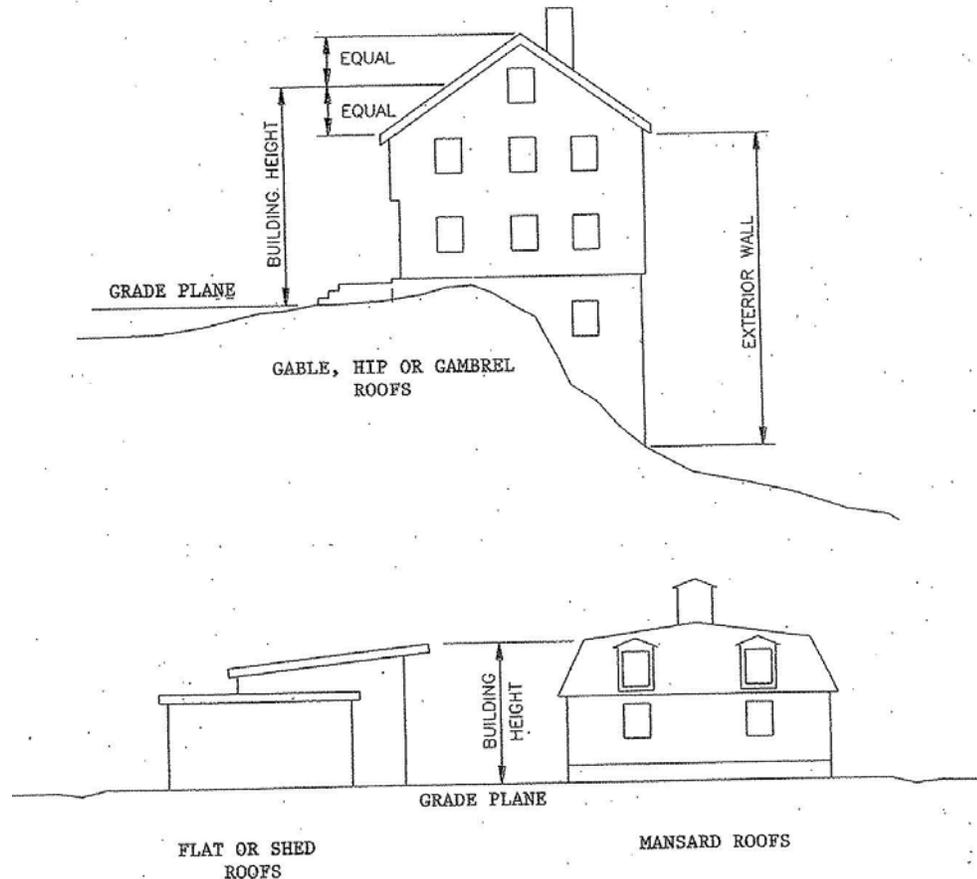
~~“**BUILDING HEIGHT**” means the vertical distance measured from the *grade plane* to the highest point of a *structure* or roof surface. Height limitations shall not apply to television antennas, chimneys, spires, cupolas or extensions of structures normally carried above roof lines and which are strictly ornamental in nature.~~

Adding a new definition of **BUILDING HEIGHT** to read as follows:

“**BUILDING HEIGHT**” means the vertical distance measured from the *grade plane* to:

1. The highest point of the roof surface or parapet for flat or shed roofs, or
2. The midpoint between the highest and lowest points of the roof surface for gable, hip and gambrel roofs, or
3. The roof deck line for mansard roofs (with an upper slope under four (4) inches per foot), and provided that at no point shall an exterior wall exceed the permitted heights by more than twelve (12) feet.

The limitations of height in feet shall not apply to television antennas, chimneys, spires, cupolas or extensions of structures normally carried above roof lines and which are strictly ornamental in nature. (See Drawing)



And also by amending, **Section II., Definitions, Subsection B.**, by adding new definitions as follows:

“CLEARING” means the removal or causing to be removed, through either direct or indirect actions, trees, shrubs, and/or vegetation from a site, or any material change in the use or appearance of the land. Actions considered to be clearing include, but are not limited to: causing irreversible damage to roots or trunks of trees; destroying the structural integrity of vegetation; and/or any excavating or *grubbing*.

“EXISTING GRADE” means the level of a *lot*’s ground surface in its existing state prior to construction, *grading* or *filling*. For a developed *lot existing grade* is the existing level of the ground surface approved in accordance with a duly issued *Building Permit*, approved Subdivision or Special Permit and/or other development plans on file with the Town.

“FILLING” means the act of transporting or placing by any manner or mechanism additional material to any soil surface or area of vegetation.

“GRADING” means the act of moving soil, sand or gravel which alters the existing surface of the land.

“GRUBBING” means the removal of roots and stumps of trees or shrubs by digging.

Including, the renumbering of **Subsection B.** accordingly to account for the above new definitions;

And also by amending, **Appendix II., Schedule of Dimensional Requirements (Table), Maximum Bldg. Height, Feet (Column)**, by adding a Footnote superscript number **14** beside the word **Feet** and by deleting the number **30** in each **District** line under the Sub-Column **Feet** in the **Maximum Building Height** Column and substituting the number **35** as follows:

<u>District</u>	<u>Feet¹⁴</u>
R 60	30 35
R40	30 35
R40A	30 35
R30	30 35
R20	30 35
R20A	30 35
SB	30 35
GB1	30 35
GB2	30 35
GB3	30 35
I	30 35
RC3	30 35
M	30 35
M/C	30 35

Including, adding **Footnote 14** to the end of the list of footnotes in **Appendix II** as follows;

- ¹⁴ The Zoning Board of Appeals may, by grant of a dimensional *Special Permit* pursuant to the criteria contained in **Subsection B. of Section V., NONCONFORMING LOTS, BUILDING AND USES** of the Bylaw, waive the **Maximum Building Height** in feet if it determines that the strict enforcement of this dimensional control will result in a substantially more detrimental building design than would otherwise result.

The provisions of this amendment to the Protective (Zoning) Bylaw shall not take effect until the date that they are approved by Town Meeting.

Or take any other action in relation thereto.

Article B – Zoning Bylaw: Clearing, Grading, Filling and Site Alteration (Permit)

~~Strikethrough~~ indicates language proposed for deletion
Underline indicates language proposed for inclusion
Bold Italicized Words are defined in the Bylaw

To see if the Town will vote to amend its Protective (Zoning) Bylaw, **Section III., District Regulations, Paragraph D. District Area Regulations, Subparagraph 3. Specific Requirements, a. Minimum Lot Conditions**, by inserting a new **Subparagraph k. Clearing, Grading, Filling and Site Alteration** as follows:

k. Clearing, Grading, Filling and Site Alteration

Clearing, Grading, Filling and Site Alteration within any twelve (12) month period of time of more than five thousand (5,000) square feet of area on any lot or parcel is prohibited without a validly authorized construction permit or ***Site Alteration Permit*** issued by the *Zoning Enforcement Officer*. Applications for ***Site Alteration Permits*** will be reviewed in accordance with the applicable Grading and Drainage provisions of the Massachusetts State Building Code, including but not limited to, the provisions governing: excavations, fills, setbacks, drainage and terracing and erosion control.

When the work intended to be regulated herein under a *Site Alteration Permit* is divided into separate phases so as to be performed over time to avoid triggering the thresholds noted above, the total amount of any such work performed within any thirty six (36) month period shall be added together for the purpose of determining whether the requirements of this section must be met.

And amend **Section II. Definitions, Subsection B.** by adding new definitions as follows;

“CLEARING” means the removal or causing to be removed, through either direct or indirect actions, trees, shrubs, and/or vegetation from a site, or any material change in the use or appearance of the land. Actions considered to be clearing include, but are not limited to: causing irreversible damage to roots or trunks of trees; destroying the structural integrity of vegetation; and/or any *excavating* or *grubbing*.

“EXCAVATING” means the act of digging or removing material from any soil surface or area of vegetation.

“FILLING” means the act of transporting or placing by any manner or mechanism additional material to any soil surface or area of vegetation.

“GRADING” means the act of moving soil, sand or gravel which alters the existing surface of the land.

“GRUBBING” means the removal of roots and stumps of trees or shrubs by digging.

“SITE ALTERATION” means the *clearing, grubbing, grading, filling* or *excavating* of land; and/or pervious or impervious paving when such activities are not directly related to authorized and validly permitted construction activities.

“SITE ALTERATION PERMIT” a permit issued by the Zoning Enforcement Officer authorizing *site alteration* activities.

Including, the renumbering of **Subsection B.** accordingly to account for the above new definitions.

Or take any other action in relation thereto.

Article C – Zoning Bylaw: Appliances/Accessory Buildings and Structures

~~Strikethrough~~ indicates language proposed for deletion

Underline indicates language proposed for inclusion

Bold Italicized Words are defined in the Bylaw

To see if the Town will vote to amend its Protective (Zoning) Bylaw, **Section II., Definitions, Subsection B.**, by adding new definitions as follows:

“**SLED, GARDEN STORAGE**” means a single *story, accessory building* used for the shelter or storage of tools and/or equipment incidental to the lot’s principal use.

“**SLED, UTILITY**” means a single *story, accessory building* used for the housing and operation of mechanical pumps, filters, generators, condensers, air conditioners, power shop tools and the like which are used in a manner that generates and emits noise on a continuous or regular basis.

Including, renumbering the remainder of **Subsection B.** accordingly to account for the above new definitions;

And also, amend **SECTION III - D. District Area Regulations, 3. Specific Requirements** by deleting the existing subsection **g.** and replacing it with a new subsection **g.** to read as follows:

g. Exterior Mechanical System Appliances

All exterior mechanical system appliances, located at ground level, including but not limited to air conditioners; condensers; generators; and pumps shall be set back a minimum of two thirds (2/3) the distance of the *Abutters Setback* to the property line as required for *buildings* and *structures* in **Appendix II, Schedule of Dimensional Requirements**. Placement of exterior mechanical system appliances within the *Street Setback* area is prohibited, except by Special Permit from the Zoning Board of Appeals. All exterior mechanical system appliances located within the *Abutters Setback* shall be screened from the view of abutters with evergreen plantings and solid fencing to mitigate any potential visual and noise impacts. Exterior mechanical system appliances located at ground level that are associated with septic systems (e.g. blowers, clarifiers, etc...) shall also be screened. All screening shall be by measures deemed appropriate by the Zoning Enforcement Officer.

And substituting a new subsection **h.** for the existing subsection **h.** to read as follows:

h. Accessory Buildings and Structures

1. Over 100 square feet in area

All *structures* accessory to a residential use, including *buildings* over one hundred (100) square feet in area; *swimming pools* and tennis courts and their enclosures, shall be set back from the *street* and *abutters* as required for *buildings* and *structures* in **Appendix II, Schedule of Dimensional Requirements**.

2. Under 100 square feet in area

Garden Storage Sheds

Garden Storage Sheds under one hundred (100) square feet in area shall be set back a minimum of one third (1/3) the distance of the *Abutters Setback* from the property line, as required for *buildings* and *structures* in **Appendix II, Schedule of Dimensional Requirements**. Placement of *Garden Storage Sheds* within the *Street Setback* area is prohibited, except by Special Permit from the Zoning Board of Appeals. There shall be no more than one (1) *Garden Storage Shed* or *Utility Shed* located within the required setback area. The *Building Height* of these *Garden Storage Sheds* shall not exceed ten feet (10') for sheds with gable, gambrel, hip or lean-to or saltbox style roofs and eight feet (8') for shed or flat style roofs.

Utility Sheds

Utility Sheds under one hundred (100) square feet in area shall be set back a minimum of two thirds (2/3) the distance of the *Abutters Setback* to the property line as required for *buildings* and *structures* in **Appendix II, Schedule of Dimensional Requirements**. Placement of *Utility Sheds* within the *Street Setback* area is prohibited, except by Special Permit from the Zoning Board of Appeals. There shall be no more than one (1) *Garden Storage Shed* or *Utility Shed* located within the required setback area. The *Building*

Height of these *Utility Sheds* shall not exceed ten feet (10') for sheds with gable, gambrel, hip or lean-to or saltbox style roofs and eight feet (8') for shed or flat style roofs. All *Utility Sheds* located within the *Abutters Setback* shall provide interior measures for sound attenuation and/or shall be screened from the abutters with evergreen plantings and solid fencing to mitigate any potential visual and noise impacts on abutters, as deemed appropriate by the Zoning Enforcement Officer.

3. Structures Under 25 square feet in area

Single *story structures* under twenty five (25) square feet in area and six feet (6') or less in height shall be set back a minimum of one third (1/3) the distance of the *Abutters Setback* from the property line as required for *buildings* and *structures* in **Appendix II, Schedule of Dimensional Requirements.**

And re-letter the existing subsection **h. Lots in More than One** District to subsection **i.** and the remainder of **Subsection D. 3.** as necessary to account for the above new subsection.

Or take any other action in relation thereto

Article D – Zoning Bylaw Amendment: Variable Building Coverage - Open Porches

~~Strikethrough~~ indicates language proposed for deletion;
Underline indicates language proposed for inclusion;
Bold, italicized words are defined in the Bylaw.

To see if the Town will vote to amend its Protective (Zoning) Bylaw, **SECTION II DEFINITIONS: Subsection B.**, by deleting the existing definition of **“BUILDING COVERAGE”** which presently reads:

~~“**BUILDING COVERAGE**” means the *buildable upland* portion of a *lot* which is covered by *buildings*, including porches but excluding parking areas, pools, decks and any other permanent *structures* which do not have roofs.~~

In its entirety and replacing it with a new definition of **“BUILDING COVERAGE”** which will read as follows:

“BUILDING COVERAGE” The area of the *buildable upland* portion of a *lot* which is covered by *buildings*; excluding *open porches*, not exceeding ten feet (10') in *depth*, located at the *first story* of and not covering more than fifty percent (50%) of the perimeter of a *building*; but excluding parking areas; *swimming pools*; *decks* and any other permanent *structures* which do not have roofs.

And also add the following new definitions of **“DECK”**, **“STORY, FIRST”**, **“STORY ABOVE THE GRADE PLANE”**, **“PORCH”**, **“PORCH DEPTH”** and **“PORCH, OPEN”**:

“DECK” An outdoor *structure*, without a roof, built as an aboveground platform, either freestanding or attached to a principal or *accessory building*, that is supported by pillars, posts or the adjacent *building*'s structure. Landings for stairways required by the building code are not considered *decks*.

“PORCH” A roofed, open area which may be screened or glazed; attached and with direct access to a *building* and not more than seventy five percent (75%) enclosed by walls. A *porch* is considered a room when the enclosed space is heated or air conditioned and, if glazed, when the percentage of window area to wall area is less than fifty percent (50%).

“PORCH DEPTH” The dimension of a *porch* measured outward from the façade of the *building*.

“PORCH, OPEN” A roofed *structure* attached to a *building* and open on two or more sides. A screened-in *porch* shall not be considered *open*.

“STORY, FIRST” The lowest *story* in a *building* that qualifies as a *story above the grade plane*.

“STORY ABOVE THE GRADE PLANE” Any *story* of a *building* having its finished floor surface entirely above the *grade plane* or in which the finished surface of the floor next above is:

1. More than six feet (6’) above the *grade plane*; or
2. More than six feet (6’) above the finished ground level for more than fifty percent (50%) of the total *building* perimeter; or
3. More than twelve feet (12’) above the finished ground level at any point.

Including the re-numbering of **Subsection B**, accordingly to account for the above new definitions.

Or take any other action in relation thereto.

Article E – Zoning: Site Clearing, Grading, Filling and Site Alteration (Special Permit)

Underline indicates language proposed for inclusion
Bold Italicized Words are defined in the Bylaw

To see if the Town will vote to amend its Protective (Zoning) Bylaw, **Section III. District Regulations, Paragraph D. District Area Regulations, Subparagraph 3. Specific Requirements, a. Minimum Lot Conditions**, by inserting a **new Subparagraph k. Site Alteration** as follows:

k. Site Alteration

Site alteration within any twelve (12) month period of time of more than ten thousand square feet (10,000 s.f.) of area, or more than fifty cubic yards (50 cu. yd.) of volume, encroaching upon the setback areas shown in Appendix II of any lot or parcel, is prohibited without a validly authorized construction permit or a ***Site Alteration Special Permit***. The Special Permit Granting Authority (SPGA) for the ***Site Alteration Special Permit*** is the Planning Board. The SPGA will follow the procedures outlined in Section VIII, except that as a minimum each of the following considerations will be addressed:

- a. Compliance with the applicable grading and drainage sections of the Massachusetts State Building Code as determined by the Building Commissioner.
- b. Impact of the grade transition to adjacent land.
- c. Preservation of significant or specimen trees in excess of sixteen (16) inches in diameter at breast height (DBH) when possible.
- d. Impact on neighborhood visual character, including views and vistas.
- e. Impact on wildlife habitat.
- f. Preservation of archeological resources.

Site alteration within any twelve (12) month period of time of more than ten thousand square feet (10,000 s.f.) of area, or more than fifty cubic yards (50 cu. yd.) of volume, NOT encroaching upon the setbacks on any lot or parcel, is prohibited without a validly authorized construction permit or a ***Site Alteration Permit*** issued by the Zoning Enforcement Officer. The Zoning Enforcement Officer will review applications for a ***Site Alteration Permit*** in accordance

with the applicable **grading** and drainage sections of the Massachusetts State Building Code, including but not limited to: excavations, fills, setbacks, drainage and terracing and erosion control.

When the work intended to be regulated herein under a **Site Alteration Permit** or **Site Alteration Special Permit** is divided into separate phases so as to be performed over time to avoid triggering the thresholds noted, the total amount of any such work performed in any thirty six (36) month period shall be added together for purposes of determining whether the requirements of this section must be met.

And amend, **Section II., Definitions, Subsection B.**, by adding the new definitions as follows:

“CLEARING” means the removal or causing to be removed, through either direct or indirect actions, trees, shrubs, and/or vegetation from a site, or any material change in the use or appearance of the land. Actions considered to be clearing include, but are not limited to: causing irreversible damage to roots or trunks of trees; destroying the structural integrity of vegetation; and/or any **excavating** or **grubbing**.

“FILLING” means the act of transporting or placing by any manner or mechanism additional material to any soil surface or area of vegetation.

“GRADING” means the act of moving soil, sand or gravel which alters the existing surface of the land.

“GRUBBING” means the removal of roots and stumps of trees or shrubs by digging.

“EXCAVATING” means the act of digging or removing material from any soil surface or area of vegetation.

“SITE ALTERATION” means the **clearing, grubbing, grading, filling** or **excavating** of land; and/or pervious or impervious paving when such activities are not directly related to authorized and validly permitted construction activities.

“SITE ALTERATION PERMIT” a permit issued by the Zoning Enforcement Officer authorizing **site alteration** activities.

“SITE ALTERATION SPECIAL PERMIT” a permit issued by the Planning Board authorizing **site alteration** activities.

Including, the renumbering of **Subsection B.** accordingly to account for adding the above new definitions.

Copies of the text and graphic for the proposed amendments are available in the Community Development Department, 261 George Ryder Road, Chatham, MA 02633 and the Town Clerk’s Office, 549 Main Street, Chatham, MA 02633 and may be inspected during normal business hours or viewed online at http://www.chatham-ma.gov/Public_Documents/ChathamMA_CommDev/Public_Notice.

Cory Metters, Chairman

12/15/11 and 12/22/11 (Cape Cod Chronicle)