

RECOMMENDATION

The Planning Board unanimously recommends the motion under Article 41 be **APPROVED**.

SUMMARY

This bylaw seeks to address adverse impacts of recent residential redevelopment, including new construction and additions. The Town is losing an increasing number of modest-size houses due to teardowns that are replaced with very large and expensive houses. Impacts include abutter impacts like blocked views, loss of sunlight, loss of privacy and noise pollution as well as Town-wide impacts such as loss of neighborhood character, mature tree canopy, and diversity of housing size and price. If adopted this bylaw would establish a maximum house size—or Gross Floor Area (GFA) in square feet—in relation to lot size. This dimensional control would complement existing maximum height and minimum setback controls. Residents could apply for special permit relief from the Gross Floor Area limits. The bylaw would direct new construction toward building more moderate-sized houses and renovation of existing houses in the interest of maintaining a diversity of housing sizes throughout Town over time and preserving Lexington's historic New England town character.

BACKGROUND

Lexington's Zoning Bylaw has included dimensional controls like 40' / 2-½ story maximum height and minimum 30' front and 15' side and rear setbacks (no build zones) since the 1950s. Height maximum was meant for unusual cases. Redeveloped houses today, however, routinely reach 40' height on all size lots, and with extensive attic dormers, push the limit of the 2 ½-story restriction. Setbacks were established to create an area in the interior of the lot within which a dwelling could be located. New construction, however, routinely extends from setback to setback, leaving the narrow 15' side and rear yards as the only open space on lots. Consequently, the impacts of new residential construction change the quality of life for neighbors with absolutely no formal warning and little recourse. Cumulatively, the scale of redeveloped housing has resulted in the loss of neighborhood character—according to residents' testimony given through the Planning Board's outreach, rendering a number of streets unrecognizable.

A significant long-term effect is the reduction of attainable housing for middle class families in Lexington. Over 1,000 houses have been torn down since 2000, and the redeveloped houses sell for over two and three times the price of the demolished house, making them permanently out of reach for a large segment of the regional population. Our Comprehensive Plan calls for community diversity and housing opportunity and yet our 2014 Housing Production Plan documents that the number of young adults in Lexington has gone down and options for seniors to downsize in Lexington are scarce. The cost and available types of housing in Lexington have clearly altered the age profile of the Town, and Lexington is increasingly a community highly stratified by income.

In addition to this proposed change, the Planning Board is proposing a number of additional initiatives to encourage that future housing stock in Lexington reflects the Town's housing policy goals.

BENEFITS OF ADOPTION OF THIS ARTICLE

Lexington as a Welcoming Community

The result of current zoning and these recent building trends is that the Town is moving further away from realizing its established housing policy goals. The long-term effect of continuing this trend is that Lexington will be considered more exclusionary if it encourages the market forces resulting in teardowns and skewing demographics for tax revenue and financial reasons. Adoption of this Article is an effort to slow this accelerating trajectory.

Neighbors

Many homeowners would prefer that the mass of their neighbor's houses not overpower their own. Many homeowners believe that under such conditions, the value of their house would be diminished. This proposal would set an upper bound on the amount of allowable disparity.

Streamlined Process and Low Administrative Burden

The Maximum Gross Floor Area restrictions proposed by this Article are predictable limitations on house size, enabling homeowners, developers, and abutters to plan and anticipate new construction. Several of our "peer communities" require a review process for teardowns and large house construction, which can be costly, time-consuming and their outcomes are uncertain. Building permits sought under this GFA proposal have a lower administrative burden on Town staff.

However, if property owners want to exceed the established GFA limits, they can seek a special permit from the Zoning Board of Appeals. The special permit criteria are described below.

PLANNING BOARD'S RECOMMENDATION

The Planning Board has undertaken a yearlong process to actively engage the Lexington community on residential policy issues. We have heard from residents and other stakeholders on a number of issues, concerns, hopes, and suggested solutions. While there is general consensus that existing zoning regulation and market forces encourage housing development that many residents view as problematic, there is a wide spectrum of opinions on how to deal with this. There are competing interests: some residents perceive house values will diminish if a gross floor area is instituted while other residents perceive house values will diminish if a gross floor area is *not* instituted. There is a concern that future tax revenues will not increase at the same rate as now if a gross floor area is instituted, while others claim that the fabric of Lexington's current non-fiscal values will be sacrificed if a gross floor area is *not* instituted.

The Planning Board has found a fair balance among these and other competing issues in our consensus proposed motion.

In summary, the Planning Board believes this Article will recalibrate our existing zoning to better balance market forces with the goals of residents and the Town, enabling us all to:

- Better predict the house size that may be built on a given lot;
- Reduce the impacts of redevelopment on neighborhood character;
- Reduce the negative impacts on abutters, like shadows, loss of views, and loss of privacy;
- Slow the reduction of the Town's moderate-sized housing stock;
- Slow the reduction of open space on lots; and

- Better bring Lexington’s built housing closer into alignment with the Town’s housing policies

RESIDENTIAL GROSS FLOOR AREA DEFINITION

The standard method of calculating house size is Gross Floor Area, where the area of each floor is measured in square feet and then totaled. This Article uses the definition currently in our Zoning Bylaw:

Gross floor area: 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 centerline 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. Where the text of this bylaw refers to floor area, the term shall mean gross floor area unless the term net floor area is used.

Why include basements? Basements affect the mass of houses on sloping lots; in fact, often lots are re-graded to increase living area or install garages, as illustrated here:

Therefore, basements and cellars are included in the calculation. The maximum height restrictions, 40 feet and 2 1/2 stories, restrict the size of finished attics. Storage space is not included, but attics with approved 3’-wide stairs and walls taller than 5 feet are included. When a “basement” has a floor-to-ceiling height less than seven feet, it is not counted in the gross floor area measurement, even when it contains “living area.”



MAXIMUM ALLOWABLE GROSS FLOOR AREA TABLE

The maximum allowable residential Gross Floor Area, listed by lot area in square feet, is:

Lot Area (in square feet)	Max. Gross Floor Area (in square feet)
0 – 5,000	0.8 * Lot Area
5,000 – 7,500	4,000 + 0.55 * (Lot Area – 5,000)
7,500 – 10,000	5,375 + 0.23 * (Lot Area – 7,500)
10,000 – 15,000	5,950 + 0.2 * (Lot Area – 10,000)
15,000 – 30,000	6,950 + 0.16 * (Lot Area – 15,000)
More than 30,000	9,350 + 0.16 * (Lot Area – 30,000)

Because lot sizes are rarely round numbers, the formula is given at intervals to calculate the exact Gross Floor Area allowed on a given lot. For example: An owner’s lot is 20,592 SF. The corresponding Lot Area from the table is 15,000 – 30,000. Therefore 6,950 + 0.16 * (20,592-

15,000) = 7,844 GFA is allowed on the lot. For comparison purposes, here is a picture of a 7,843 GFA house:



SPECIAL PERMIT RELIEF

Property owners may apply to the Special Permit Granting Authority (SPGA), in this case, the Zoning Board of Appeals (ZBA), for a special permit to exceed the maximum allowable Gross Floor Area for their lot. First, the ZBA would consider the criteria for granting of all special permits (found in Section 9.4.2 of the Zoning Bylaw). Specific to Gross Floor Area, the ZBA would need to determine that the extra square footage may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of the Bylaw including Town policy documents that define housing goals. Finally, the ZBA would need to determine site-specific conditions, including that:

- The project design addresses specific neighborhood and Town concerns;
- The proposed structure is compatible with the scale of the neighborhood;
- The massing of the project does not adversely impact the solar access of adjoining lots; and
- Noise generated by fixed plant equipment such as, but not limited to, air conditioners, pumps, fans, and furnaces does not adversely impact adjoining lots.

The public process, including abutter notification and public hearings, may add delay and uncertainty to a project.

IMPACTS ASSESSMENT

During public outreach events throughout the development of this proposal, three major concerns were frequently articulated: how effective would the proposal be at achieving its stated goals, what are the financial impacts to property owners, and what are the fiscal impacts to town tax revenue. To address these concerns a six-month study was undertaken that involved significant data gathering; statistical modeling and analysis; and an overall effects assessment. During the data-gathering phase, data was collected from the Town's Assessor Database, the Multiple Listing Service (MLS), and other public records to construct a holistic picture of the nature of

redevelopment in Lexington from 2013 to 2015. Significant effort was put into the curation and validation of these data on a property-by-property basis. Next, this dataset was analyzed to characterize redevelopment market dynamics in Lexington, and from this analysis, three major factors were determined for more in-depth study, as follows:

1. The sale price of speculatively built new construction is largely based on a fixed margin from what the developer acquires the lot for. Within this margin, fit and finish, finished square footage, and other attributes are modulated to hit the target-selling price, while ensuring profit.
2. Given the number of developers now operating in Lexington and the scarcity of buildable lots, developers are collaborating with real estate agents to aggressively pursue and obtain properties for redevelopment through private sale. Private sales are desirable because they reduce competition from end-users and other developers, and private sales now account for 73% of all redeveloped properties.
3. Tracking the relationship between market sales data, assessed values, and assessed gross floor area captures additional market dynamics. For example, the median ratio of sale price to assessed value is 108% and 115% for teardown properties sold in private and public sales respectively, and a property in good salable condition will yield a median of 120% of assessed value.

From an understanding of the data and these factors, the working group designed a case study of 58 homes built in 2013 to estimate a “year in the life” to assess the effectiveness and impacts of this article. 2013 was used to ensure finished construction of the projects and complete market and assessor data on each new property. Using the 3-year hand-curated dataset of redevelopments, a series of statistical models were built that capture the market and developer dynamics around redevelopment. First, the GFA regulation was applied to the 58 homes and those that did not comply were then adjusted to the maximum GFA allowed by their lot sizes. For each hypothetical GFA home, the models were used to estimate the selling price of those homes and what the maximum a developer and an end-user (homeowner) would have been willing to pay to acquire the lot to build the hypothetical new home.

Next, an effects assessment was created that determined four different outcomes: If the property would be sold to a developer and redeveloped or if it would be sold for an end user. We also estimate for both the developer and end-user outcomes if the seller would potentially receive a lower offer under GFA than they would not under GFA. Given how much of outcomes are driven by what a developer would pay, it was important to model these outcomes at three different points in time, as follows:

- An “historic” model based on the actual amounts developers paid in 2013-2015, ranging from 33%-38% of the eventual selling price;
- A “current” model based on conversations with developers and examination of trends in more recent sales, assuming a developer would pay 40% of the eventual selling price; and
- A “future” model based on an extrapolation of the increase between the historic and current models and assuming that, as the supply of lots continues to tighten and competition increases, developers will be willing to pay up to 45% of the eventual selling price to acquire the lot.

This analysis is based on three years of data and focuses on only impacts within a single year redevelopment projects and thus should be considered to represent a range of possible outcomes,

not a specific projection. The actual indirect benefits and impacts will be determined by future market forces beyond our ability to predict. For example, a significant change in the price per square foot buyers are willing to pay for new construction in Lexington—or a premium placed on big yards rather than big houses—would change the projections of impacts dramatically.

A summary of the projected proposal outcomes and associated fiscal and financial impacts across the three-modeled points in time follows:

		Historic Developer Margin	Current Developer Margin	Future Developer Margin
Redeveloped	Same or Higher Price	31 (53%)	48 (83%)	56 (97%)
	Lower Price	1 (2%)	3 (5%)	0 (0%)
Sold to End-User	Same or Higher Price	13 (22%)	5 (9%)	2 (3%)
	Lower Price	13 (22%)	2 (3%)	0 (0%)
Decrease in Annual Tax Revenue		\$424K (33%)	\$200K (16%)	\$135K (11%)
Decrease in Developer Offer (for Properties with Lost Value)		\$48K median \$3K-\$138K range 14 properties (24%)	\$89K median \$56K-\$109K range 5 properties (8%)	No properties with projected decrease

Impact on Developer Offers

The limit on the size of new homes for a given lot will also limit the amount a developer is willing to pay for that lot to ensure profitability. In most cases, this has no effect on the selling price of an existing house, either because the house’s value is below the new limit or because the house will be sold to an end-user instead. In the “historic” model, the owners of 14 (24%) properties might see a decrease in the price a developer might offer them, and that decrease might range from \$3K to \$138K. Under the “current” model, the owners of five (8%) properties might see a decrease in the price a developer might offer them, and that decrease might range from \$56K to \$109K. Finally, under the “future” model there are no properties with a projected decrease in developer price; all properties are projected to receive the same developer price or a higher developer price.

Impact on Tax Revenue

By reducing the number of redeveloped lots and the size of the redeveloped houses, the proposed change will result in decreased tax revenues. The models show the levy limit due to residential new growth related to redevelopment would not be increased by between \$135K and \$424K. However, for properties not redeveloped, their tax is calculated using the FY2016 tax rate on a FY2011/12 assessed value, which is the last assessment available before demolition. These properties would have been reassessed before FY2016, but we did not attempt to retroactively project that increased value. In addition, these numbers do not try to project any figures for

improvements or expansions to properties by homeowners. Therefore, the numbers are very conservative, and were constructed to predict the highest decrease in tax revenue possible.

PUBLIC HEARING

A duly advertised public hearing was held on February 3, 2016 in Battin Hall, Cary Memorial Building. The Board received significant comments on this article that evening, although the Board was able to close the hearing that evening. Additional comments have continued to be received. The opinions expressed have been varied; many in support, many opposed. After deliberations at their March 2, 2016 meeting, the Planning Board voted unanimously to recommend the adoption of this Article. The minutes of these meetings may be accessed on the Town’s website or in hard copy at the Planning Office. The Board re-voted the motion, with the same unanimous recommendation, on March 16, 2016 after making minor modifications.

PROPOSED MOTION

That Chapter 135 of the Code of the Town of Lexington, the Zoning Bylaw, be amended as follows:

1. Insert new sub-section to Section 4.0, Dimensional Controls, to set a maximum gross floor area standard for residential uses, as depicted below:

4.4 RESIDENTIAL GROSS FLOOR AREA.

4.4.1 Purpose. Lexington seeks to have a socially and economically diverse community, both over the whole of the community and within its neighborhoods. In support of that fundamental social goal, a basic housing goal is to provide housing opportunities supportive of the population diversity we seek. The Town encourages small- and medium-sized housing stock, in the interest of providing diverse housing sizes throughout the Town. Section 4.4 limits the massing of buildings, which may impact owners of abutting properties, the streetscape, landscape, and the character of the neighborhood and Town.

4.4.2 Maximum Allowable Residential Gross Floor Area Table. The total gross floor area of all buildings on a lot containing a one-family or two-family dwelling may not exceed the amount listed in the table below based on lot area.

Lot Area (in square feet)	Maximum Gross Floor Area (in square feet)
<u>0 – 5,000</u>	<u>0.8 * Lot Area</u>
<u>5,000 – 7,500</u>	<u>4,000 + 0.55 * (Lot Area – 5,000)</u>
<u>7,500 – 10,000</u>	<u>5,375 + 0.23 * (Lot Area – 7,500)</u>
<u>10,000 – 15,000</u>	<u>5,950 + 0.2 * (Lot Area – 10,000)</u>
<u>15,000 – 30,000</u>	<u>6,950 + 0.16 * (Lot Area – 15,000)</u>
<u>More than 30,000</u>	<u>9,350 + 0.16 * (Lot Area – 30,000)</u>

4.4.3 Special Permit. Pursuant to § 9.4, the SPGA may grant a special permit for a building to exceed the maximum gross floor area otherwise allowed by § 4.4 provided that the SPGA finds that the desired relief may be granted without substantial detriment to the neighborhood and without derogating from the intent

and purpose of this Bylaw including Town policy documents that define Housing Goals. In addition to the criteria in § 9.4.2, the SPGA shall find that:

- a. The project is compatible with the scale of the neighborhood;
 - b. The massing of the project does not adversely impact the solar access of adjoining lots;
 - c. Noise generated by fixed plant equipment, such as, but not limited to, air conditioners, pumps, fans, and furnaces, does not adversely impact adjoining lots; and
 - d. The project design addresses specific neighborhood and Town concerns.
2. To ensure consistency with the introduction of a residential GFA standard:
- a. Update § 135-4.4.1, Schedule of Dimensional Controls (Table 2), by changing the label for the seventh line from “Maximum Floor Area Ratio (FAR)” to “Maximum Nonresidential Floor Area Ratio.”; and
 - b. Update the gross floor area standards for Special Permit Residential Developments (§ 135-6.9.6), as detailed below:
 1. Site sensitive developments (SSD). ~~Gross floor area of the dwellings in a SSD is not regulated.~~—The total gross floor area (GFA) in a SSD may not exceed the sum of the gross floor area that would be permitted on each of the lots shown on the proof plan under § 135-4.4 of this bylaw.