



Town of Lexington

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**ANNUAL TOWN MEETING 2021**

**ARTICLE 39 AMEND ZONING BYLAW – HISTORIC PRESERVATION INCENTIVES**  
**JANUARY 21, 2021 REVISED FEBRUARY 25, 2021**

To see if the Town will vote to amend the Zoning By-Law to allow additional flexibility in permitting under § 6.2, Historical Preservation Incentives, or act in any other manner in relation thereto.

(Inserted at the request of the Planning Board)

**DESCRIPTION:** This article would allow special permits for historical preservation under § 135-6.2 to permit additional uses where necessary to preserve historic elements.

**MOTION:** That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington be amended as follows, and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Lexington:

*NOTE: SPGA = Special Permit Granting Authority, in this case it is the Zoning Board of Appeals.*

*The **highlights** indicates substantial altered language. Revisions not highlighted were edited for clarity or grammar.*

1. Replace § 135-6.2 with the following:

**6.2 HISTORIC PRESERVATION INCENTIVES**

**6.2.1 Purpose.**

The general objectives of this section are to:

1. Encourage preservation of buildings, structures, sites, settings, and other elements of historical or architectural significance;
2. Establish eligibility criteria for buildings, structures, sites, settings, and other elements attaining protected status under §6.2.2;
3. Expand economic options for owners **investors**, by broadening the permitted uses in various zoning districts and removing barriers presented by development standards governing those uses;
4. Permit flexibility of development options by modifying dimensional requirements that might be an impediment to historic preservation; and

5. Provide incentives to preserve contributory elements of historic or architectural significance, such as settings, sites, objects, monuments, trees, or other elements.

### 6.2.2 Historic Eligibility Defined.

Any historic building, structure, site, setting, object, monument, tree, or any other element of historical, architectural or cultural significance that contributes value in establishing historical context, may qualify for eligibility under this section, if it is included on any of the following lists or surveys:

1. National Register of Historic Places;
2. Massachusetts State Register of Historic Places;
3. Lexington Comprehensive Cultural Resources Survey; or
4. Pending nominations in good standing to the National or State Register.

### 6.2.3 Special Permit.

The SPGA, after making the findings required by §6.2.4 below, may grant a special permit to authorize the following uses and activities in order to allow the renovation, repair, adaptive reuse or, in limited instances, relocation of historic or architecturally significant buildings, structures, or elements:

1. Permit uses permitted in another district;
2. Modify the operating or development standards contained in Table 1, Permitted Uses and Development Standards; ~~provided that any negative impacts to the surrounding area can be feasibly mitigated~~
3. Modify the standards for bed-and-breakfast homes (§6.5), congregate living facilities (§6.6), and accessory apartments (§6.7);
4. Modify the dimensional controls of §4.0;
5. Modify the off-street parking and loading requirements of §5.1; and
6. Modify the landscaping, transition and screening requirements of §5.3.

**Commented [A1]:** Removed because it is already said in the findings section

### 6.2.4 Findings Required.

In order to grant a special permit, the SPGA shall determine that:

1. The uses or the modification of standards and requirements authorized in §6.2.3 are necessary to maintain the historic or architecturally significant building, structure, or element;
2. The proposed renovation, repair, adaptive reuse, or relocation preserves, to the maximum extent feasible, the historical and architectural features of the building, structure, or element;
3. For relocation of buildings, structures and elements to another location, no other preservation measures are practical or reasonable, on the existing site;
4. The historical and architectural features of the building, structure, or element will be preserved for the duration of the special permit;

**Commented [A2]:** The HC asked that language be included that require consultation with HC. It is not included. HC will have had jurisdiction during the demo delay proceedings. Such language, in effect, would give them double jurisdiction. Not having language does not preclude them from being consulted, the ZBA still can consult and HC is always welcome to comment without being asked. In addition, Requiring HC review adds a one-off administrative step that could introduce deadline issues under MGL 40A and could be grounds for appeals should that step be accidentally missed.

5. failure to grant the special permit is likely to result in inappropriate use or physical modification or demolition of the building, structure, or element; and
6. the use or the modification of standards and requirements will not generate negative impacts to the surrounding area or zoning district or that any negative impacts generated may be feasibly mitigated.

**6.2.5 Contributory Lots.**

For one or more lots that do not otherwise qualify under §6.2.2, above, the SPGA may grant a special permit to modify the standards of §3.3, 6.3, 7.1, 7.2, and 7.3; the dimensional controls of § 4.0; the landscaping, transition and screening requirements of § 5.3; and the off-street parking and loading requirements of § 5.1; provided the SPGA makes a finding that such modifications are necessary to make historic preservation feasible on another lot within the same development on which an historic element, as defined in §6.2.2, is located.