

Town of Liberty Zoning Discussion

Houses of Worship
Regulations

Private Schools
Regulations

Development
Standards



Why is this being brought up now?

- The Town has had several requests as to where Houses of Worship and Private Schools are currently allowed.
- A review of existing zoning regulations has indicated that the Town currently is NOT compliant with the Religious Land Use and Institutionalized Persons Act (RLUIPA).
- The Town has elected to review and update its zoning regulations with respect to these two uses.
- The Town is also drafting adjustments to the Schedule of District Regulations in the Zoning Law

What then are the rights of a town?

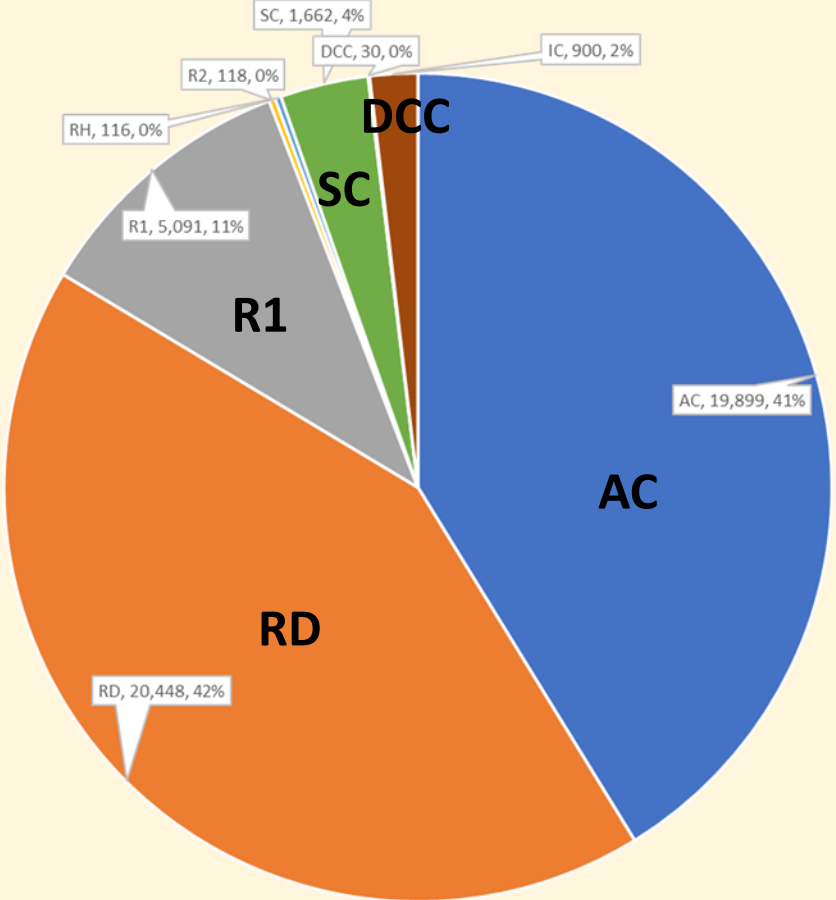
- Houses of Worship are NOT exempt from Zoning Regulations.
- A religious use may be excluded only in those rare instances where it is demonstrated to be dangerous to the surrounding area or decisively contrary to the public health, safety, or welfare.
- Otherwise, the zoning power is generally confined to minimizing the undesirable impacts of the use.

Current Zone Distribution in The Town of Liberty

Currently the Town of Liberty permits only 3.5% of its land to Houses of Worship and 0% to Private Schools!

Houses of Worship are permitted as Special Uses in the Service Commercial and Downtown Commercial Core Districts.

Private Schools are not listed in Schedule of District Regulations in the Town of Liberty Zoning Law



| Zone | Acres | Percentage |
|--------------|---------------|------------|
| AC | 19,899 | 41.23% |
| RD | 20,448 | 42.37% |
| R1 | 5,091 | 10.55% |
| R2 | 118 | 0.24% |
| RH | 116 | 0.24% |
| SC | 1,662 | 3.44% |
| DCC | 30 | 0.06% |
| IC | 900 | 1.86% |
| Total | 48,264 | |

■ AC ■ RD ■ R1 ■ R2 ■ RH ■ SC ■ DCC ■ IC

The Religious Land Use and Institutionalized Persons Act (RLUIPA) (2000)

- Background: Congress heard testimony that zoning authorities were frequently placing excessive or unreasonable burdens on the ability of congregations and individuals to exercise their faith with little to no justification and in violation of the Constitution.
- Congress passed RLUIPA unanimously; signed into law September 22, 2000.
- RLUIPA is a civil rights law that protects individuals and religious assemblies and institutions from discriminatory and unduly burdensome land use regulations.



RLUIPA

RLUIPA provides several important protections for the religious freedom of persons, places of worship, religious schools, and other religious assemblies and institutions, including:



- ***Protection against substantial burdens on religious exercise:*** RLUIPA prohibits the implementation of any land use regulation that imposes a “substantial burden” on the religious exercise of a person or religious assembly or institution except where justified by a “compelling governmental interest” that the government pursues in the least restrictive way possible.
- ***Protection against unequal treatment for religious assemblies and institutions:*** RLUIPA provides that religious assemblies and institutions must be treated at least as well as nonreligious assemblies and institutions.⁵

RLUIPA



- ***Protection against religious or denominational discrimination:*** RLUIPA prohibits discrimination “against any assembly or institution on the basis of religion or religious denomination.”
- ***Protection against total exclusion of religious assemblies:*** RLUIPA provides that governments must not totally exclude religious assemblies from a jurisdiction.
- ***Protection against unreasonable limitation of religious assemblies:*** RLUIPA states that governments must not unreasonably limit “religious assemblies, institutions, or structures within a jurisdiction.”



New York State courts have afforded and upheld wide-ranging protections of religious uses

“Religious and educational institutions are examples of uses which exist for the benefit of the public and which must, in most instances, exist in the residential areas which they serve.

The expanding concept of what is considered to be a religious activity, coupled with the ever-increasing intensity and hours of utilization of school facilities, often produces impacts which interfere with the tranquility sought in residential neighborhoods.

Nevertheless, residents must tolerate such minor inconvenience in order to accommodate the higher public benefit promoted by such institutions.

A religious or educational use may be excluded only in those rare instances where it is demonstrated to be dangerous to the surrounding area or decisively contrary to the public health, safety, or welfare. Otherwise, the zoning power is generally confined to minimizing the undesirable impacts of the use.”

See: *Cornell Univ. v. Bagnardi*, 68 N.Y.2d 583, 595, 503 N.E.2d 509, 515, 510 N.Y.S.2d 861, 867 (1986).

Source: Terry Rice, *Re-Evaluating the Balance between Zoning Regulations and Religious and Educational Uses*, 8 Pace L. Rev. 1 (1988) pp. 1-2
<https://digitalcommons.pace.edu/plr/vol8/iss1/1>

What are religious uses?



“The New York courts have consistently taken an expansive view of what constitutes a religious use and have held that a religious use is more than just prayer and worship.

Moreover, when expansion of religious facilities is needed to accommodate those who wish to take advantage of the services offered by religious institutions, the same preferential analysis is applied to the proposed expansion.

The activities constituting religious or accessory uses which are entitled to preferential treatment have also been broadly construed. It has been suggested that ‘[t]he language of the courts in several cases indicates that it is difficult to find an activity which, if sponsored by the church, would not share the immunity.’

Among the uses which have been construed to be primary or accessory religious uses are: a parochial school, meeting room, parking lot, and playground; a drug center; a day care center; and a facility for the teaching of secular subjects... a gymnasium; facilities for meetings of Boy Scouts and Girl Scouts; and an office from which the house of worship or school is administered.”

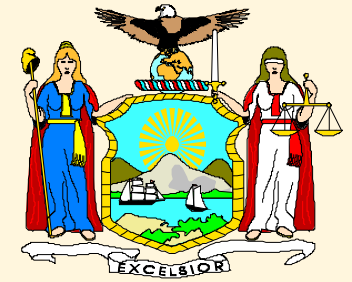
Source: Terry Rice, *Re-Evaluating the Balance between Zoning Regulations and Religious and Educational Uses*, 8 Pace L. Rev. 1 (1988) pp. 19-20
<https://digitalcommons.pace.edu/plr/vol8/iss1/1>

Special Use Permit and Site Plan Review

Special Use Permit: An authorization to use land in a way permitted by zoning, subject to requirements designed to assure that the proposed use is in harmony with zoning and will not adversely affect the neighborhood if the requirements are met.

Site Plan Review: Reviews the design and layout of a proposed use on single parcel of land

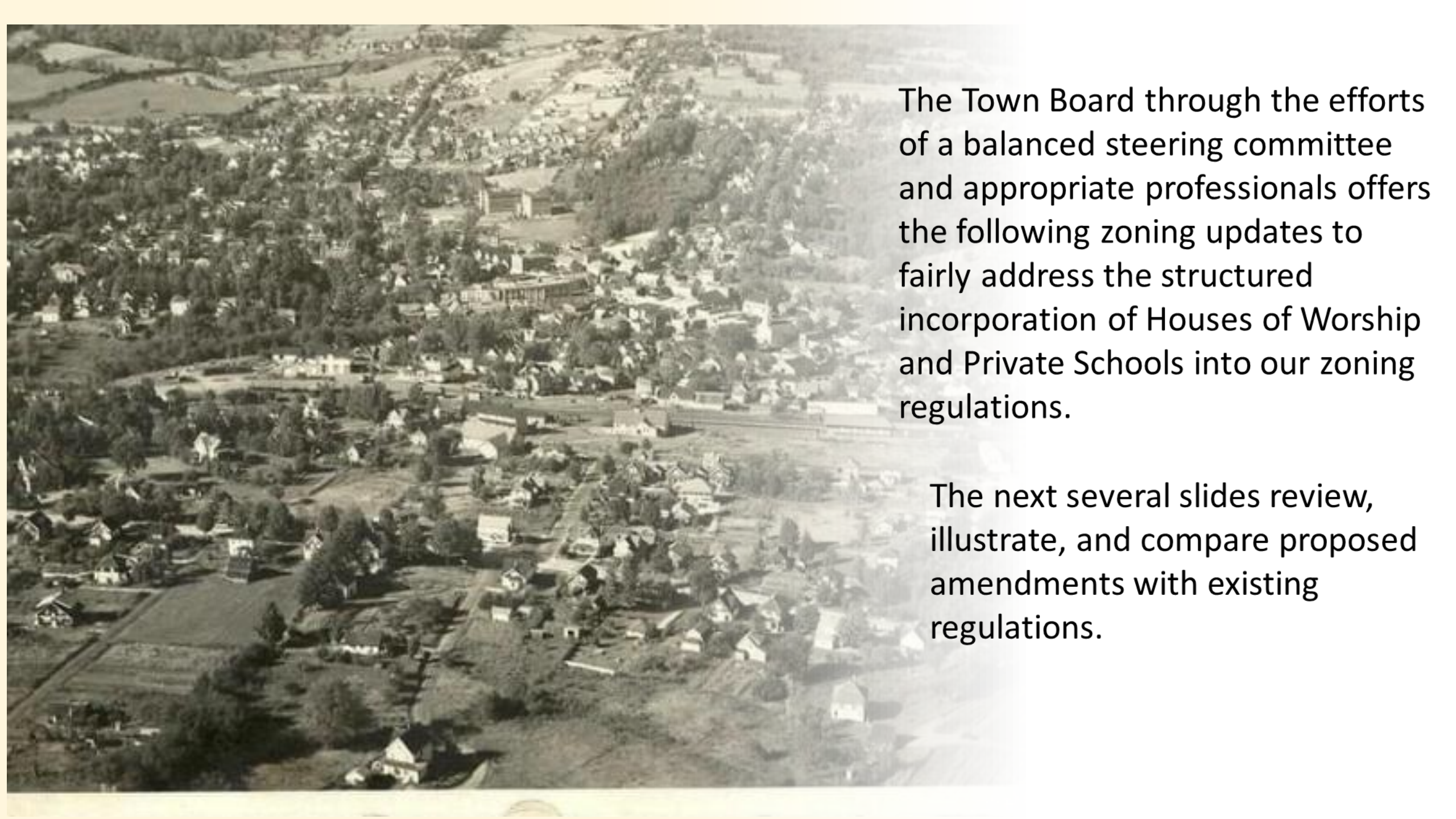
* The reviewing board (planning board) has the authority to place conditions on approvals that are directly related to the SUP/ SP



State Statutes

SUP Town Law §274-b
SPR Town Law §274-a

-
- Outside of principal permitted “as of right” uses; allowed uses in the town are subject to SUP & SPR
 - All special uses in the zoning law are subject to the standards and criteria in § 147-27
 - Some special uses in the zoning law are subject to the standards and criteria in Article V – Supplementary Regulations Pertaining to Certain Uses (§147-15 - §147-20.2)
 - Houses of Worship, Private Schools, and Restaurants & Taverns **may have** supplementary use regulations; these would be based on existing standards/ criteria with some modification



The Town Board through the efforts of a balanced steering committee and appropriate professionals offers the following zoning updates to fairly address the structured incorporation of Houses of Worship and Private Schools into our zoning regulations.

The next several slides review, illustrate, and compare proposed amendments with existing regulations.

Proposed Amendments to the Zoning Law

Addition of special uses:

- Houses of Worship
- Private Schools
- Restaurants and Taverns (in SC District)

Changes to the development standards in the Schedule of District Regulations

(Development standards refer to the dimensional requirements - e.g., setbacks, building height, lot coverage.)

Potential changes to Article VI – Supplementary Regulations Pertaining to Certain Uses

Note, there are other sections of the town code that may apply to special uses, e.g. water and sewer service.

And there may be county or state reqs.

Article VI **Supplementary Regulations Pertaining to Certain Uses**

- § 147-15 Amusement, recreation and social areas.
- § 147-16 Parking, loading and access requirements.
- § 147-17 Signs.
- § 147-18 Commercial and manufacturing performance standards.
- § 147-19 Floodplain development.
- § 147-20 Miscellaneous uses.
- § 147-20.1 Telecommunication facilities.
- § 147-20.2 Transportation Facility Floating Zone.

- A. Amusement centers, bowling alleys, and similar places...
- B. Annual membership clubs.
- C. Resort establishments, summer camps, motels & hotels.
- D. Recreational vehicles, RV parks and campgrounds.
- E. Swimming pools.
- F. Camps.
- G. To be determined.**

Additions of Private Schools and Places of Worship to Zoning Districts

| | Private Schools | | | | Places of Worship | | | |
|--------------------------|--------------------|----------------|---------|----------------|--------------------|----------------|---------|----------------|
| | Service Commercial | | DCC | | Service Commercial | | DCC | |
| Current/Proposed | Current | Proposed | Current | Proposed | Current | Proposed | Current | Proposed |
| Supplemental Regulations | N/A | 147-15G | | 147-15G | | 147-15G | N/A | 147-15G |
| Principle Use | No | No | No | No | No | No | No | No |
| Special Use | No | Yes | No | Yes | Yes | Yes | Yes | Yes |

| | Private Schools | | | | Places of Worship | | | |
|--------------------------|---------------------------|----------------|-------------------|----------------|---------------------------|----------------|-------------------|----------------|
| | Agricultural Conservation | | Rural Development | | Agricultural Conservation | | Rural Development | |
| Current/Proposed | Current | Proposed | Current | Proposed | Current | Proposed | Current | Proposed |
| Supplemental Regulations | N/A | 147-15G | N/A | 147-15G | N/A | 147-15G | N/A | 147-15G |
| Principle Use | No | No | No | No | No | No | No | No |
| Special Use | No | Yes | No | Yes | No | Yes | No | Yes |

| | Private Schools | | | | Places of Worship | | | |
|--------------------------|-----------------|----------------|---------|----------------|-------------------|----------------|---------|----------------|
| | R1 | | R2 | | R1 | | R2 | |
| Current/Proposed | Current | Proposed | Current | Proposed | Current | Proposed | Current | Proposed |
| Supplemental Regulations | N/A | 147-15G | N/A | 147-15G | N/A | 147-15G | N/A | 147-15G |
| Principle Use | No | No | No | No | No | No | No | No |
| Special Use | No | Yes | No | Yes | No | Yes | No | Yes |

| | Private Schools | | | | Places of Worship | | | |
|--------------------------|-----------------------|----------------|--------------|----------------|-----------------------|----------------|--------------|----------------|
| | Industrial Commercial | | Resort Hotel | | Industrial Commercial | | Resort Hotel | |
| Current/Proposed | Current | Proposed | Current | Proposed | Current | Proposed | Current | Proposed |
| Supplemental Regulations | N/A | 147-15G | N/A | 147-15G | N/A | 147-15G | N/A | 147-15G |
| Principle Use | No | No | No | No | No | No | No | No |
| Special Use | No | Yes | No | Yes | No | Yes | No | Yes |

* 147-15G would be a new section with supplemental regs pertaining to special uses being added. If it is determined that the supplemental regs are needed they will be informed by existing supplemental use regs.

Proposed Amendments to Development Standards

- Based on the nature of different uses, the town is proposing two sets of development standards in the R1, R2, RD, and AC Districts
- The following **excerpts** from the Schedule of District Regulations illustrate the changes
- Note, all principal permitted “as of right” uses are Development Standard A

R1 – Low Density Residential

| SPECIAL USES | STANDARD | DEVELOPMENT STANDARDS | | |
|---|----------|--|---------------------|---------------------|
| | | Minimums : [per dwelling unit] Except for building height and coverage which are maximums | | |
| | | | A | B |
| Dog Parks | B | Lot area with offsite water and sewer | 10,000 sq. ft. | N/A |
| Essential services | A | Lot area offsite sewer only | 30,000 sq. ft. | N/A |
| Single/two family conservation developments | A | Lot area offsite water only | 30,000 sq. ft. | N/A |
| Bed-and-breakfasts | A | Lot area onsite water and sewer | 1 acre | N/A |
| Public parks and playgrounds | B | Lot area all uses not a dwelling unit | 1 acre | 1 acre |
| Cemeteries | A | Lot width | 100 feet | 200 Feet |
| House of Worship | B | Lot depth | 100 feet | 100 Feet |
| Private Schools | B | Front yard | 25 Feet | 25 Feet |
| | | Side yard | 15 Feet | 50 feet |
| | | Rear yard | 30 Feet | 50 Feet |
| | | Floor area/dwelling unit | 1,000 sq. ft. | N/A |
| | | Building Height | 35 Feet/2.5 stories | 35 feet/2.5 stories |
| | | Building Coverage | 20% | 20% |
| | | | | |

R2 – High Density Residential

| SPECIAL USES | STANDARD | DEVELOPMENT STANDARDS | | |
|------------------------------|----------|---|---------------------|---------------------|
| | | Minimums : [per dwelling unit] Except for building height and coverage which are maximums Must have offsite water and sewer | | |
| | | | A | B |
| Dog Parks | B | Lot area with offsite water and sewer | 10,000 sq. ft. | N/A |
| Multi-family Dwellings | A | Lot area offsite sewer only | 30,000 sq. ft. | N/A |
| Essential services | A | Lot area offsite water only | 30,000 sq. ft. | N/A |
| Public Parks and Playgrounds | B | Lot area onsite water and sewer | 1 acre | N/A |
| Bed-and-breakfasts | A | Lot area | 7,000 sq. ft. | 1 acre |
| Public Schools | B | Lot width | 60 Feet | 200 Feet |
| House of Worship | B | Lot depth | 100 feet | 100 Feet |
| Private Schools | B | Front yard | 25 Feet | 25 Feet |
| | | Side yard | 8 Feet | 8 feet |
| | | Side yard combined | 20 Feet | 20 Feet |
| | | Rear yard | 30 feet | 30 Feet |
| | | Floor area/dwelling unit | 800 sq. ft. | 800 square feet |
| | | Building Height | 35 Feet/2.5 stories | 35 feet/2.5 stories |
| | | Building Coverage | 20% | 20% |

RD – Rural Development

| SPECIAL USES | Standard | DEVELOPMENT STANDARDS | | |
|---|----------|---|----------|----------|
| | | Minimums [per individual use with or without single family dwellings] Except for building height and coverage which are maximums | | |
| | | | A | B |
| Animal Hospitals | B | Lot Size | 3 acres | 3 acres |
| Auction barns | B | Lot width | 200 feet | 300 Feet |
| Cemeteries | A | Lot Depth | 200 feet | 300 Feet |
| Commercial Stables and riding academies | A | Front Yard | 50 Feet | 75 Feet |
| Day care and nursery schools | B | Side Yard | 25 Feet | 75 Feet |
| Essential Services | A | Rear Yard | 25 Feet | 100 Feet |
| Farm and garden, feed and fertilize stores | A | Building Height | 35 Feet | 35 Feet |
| Hunting and Fishing Camps | A | Building Coverage | 15% | 15 % |
| Dairy, Livestock and Poultry Farming | A | | | |
| Farm equipment sales and service operations | A | | | |
| Golf courses and ski areas | A | | | |
| Recreational vehicle parks and campgrounds | B | | | |
| Restaurants and Taverns | B | | | |
| Sawmills and other wood products industries | B | | | |
| Single family conservation developments | A | | | |
| Bed and Breakfast inns | A | | | |
| Hotels and Motels | B | | | |
| Home Occupations | A | | | |
| Electronic Reception Devices | A | | | |
| Agri-business | A | | | |
| Agri-tourism | A | | | |
| Houses of Worship | B | | | |
| Private Schools | B | | | |

AC – Agricultural Conservation

| SPECIAL USES | STANDARD | DEVELOPMENT STANDARDS | | |
|---|----------|---|----------|----------|
| | | Minimums:[per individual use with or without single family dwellings] Except for building height and coverage which are maximums | | |
| | | | A | B |
| Farm Equipment sales and operation | B | Lot Size | 10 acres | 10 acres |
| Commercial stables and riding academies | A | Lot width | 200 feet | 300 Feet |
| Cemeteries | A | Lot depth | 200 Feet | 300 Feet |
| Animal Hospitals | B | Front Yard | 50 Feet | 75 Feet |
| Hunting and Fishing Camps | A | Side Yard | 50 Feet | 75 Feet |
| Farm and Garden stores and feed and fertilizer businesses | A | Rear Yard | 50 Feet | 100 Feet |
| Auction Barns | B | Building Height | 50 Feet | 50 Feet |
| Single-family conservation developments | A | Building Coverage | 20% | 20% |
| Bed and Breakfast/inns | A | | | |
| Saw Mills and other wood product industries | B | | | |
| Essential Services | A | | | |
| Shooting Ranges | B | | | |
| Electronic Reception Devices | A | | | |
| Agri-business | A | | | |
| Agri-tourism | A | | | |
| Houses of Worship | B | | | |
| Private Schools | B | | | |

Questions and Discussion