

# Town of Windham

Planning Department  
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Windham, ME 04062

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## MEMO

DATE: July 22, 2020

TO: Windham Town Council

THROUGH: Barry Tibbetts, Town Manager

FROM: Amanda Lessard, Planning Director

Cc: Windham Planning Board

Chris Hanson, Director of Code Enforcement

RE: Planning Board Recommendation - Ordinance Amendment – Land Use  
Ordinance Sections 300, and 500 and related to backlots

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At the Planning Board's meeting on July 13, 2020, a public hearing was held on the proposed ordinance changes to the Land Use Ordinance, Section 1200 and Appendix A Fee Schedule, to would allow for the creation of new backlots on public streets.

In the proposed ordinance amendment, a backlot is defined as a lot that does not have the required minimum Frontage directly on a public street and meets the proposed backlot standards. These standards require that a backlot be accessed by a right-of-way having a minimum of width of 50 feet. A driveway located in the right-of-way could serve two backlots. The further addition of lots on the right-of-way would require the entire right-of-way to be improved to the applicable street standard. At their meeting on June 9, 2020 the Council requested that the Board provide a recommendation on restricting a backlot driveway to serve only one lot.

Two (2) members of the public provided comments on the amendment. One member of the public was in favor of the amendment as the current ordinance requires that he build a public street and offer it to the town for acceptance in order to build a house on his property. The cost of building a road is prohibitive for one house and it is irresponsible for the town to have to pay for maintenance and snow removal for what is essentially a driveway. One member of the public submitted written comment on various unrelated private road standards and suggested that a driveway should serve 3 dwelling units. The Fire Chief spoke in favor of the amendment but had a concern about maintaining sufficient access for emergency services when backlot driveways were expanded.

Following the public hearing members of the Board discussed that multiple dwelling units are currently allowed on a single lot if the lot has frontage and sufficient net density, but a driveway may only serve two of the dwellings and that a second driveway or a road would be required. As the ordinance requires a road after more than two dwellings, adequate access for emergency

services would be provided. Limiting backlots to public roads should not create a safety concern.

Following discussion of the proposed changes, the Board made the following motion:

To recommend approval of the proposed amendment to Sections 300 and 500 of the Land Use Ordinance related to backlots with the comment that a backlot driveway may serve two lots.

Motion: Haden Brooks

Second: Tyler Dunlea

Vote: 4-0.

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## MEMO

DATE: July 9, 2020

TO: Windham Planning Board  
FROM: Amanda Lessard, Planning Director *ALL*  
Cc: Jenn Curtis, Planner  
Chris Hanson, Director of Code Enforcement

RE: Ordinance Amendment: Land Use Ordinance Sections 300, and 500 and related to backlots  
Planning Board Meeting & Public Hearing – July 13, 2020

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At their meeting on June 9, 2020, the Town Council voted to forward the enclosed proposed ordinance change to the Board for review and recommendation. The proposed ordinance language would allow for the creation of new backlots on public streets. Backlots were removed from the Land Use Ordinance in October 2017 as part of several changes related to private road standards as it was a policy decision to require that all new lots have the required road frontage. Other changes that occurred at the time clarified that a driveway provides access to no more than two lots and requires that new streets constructed with access to a public street be constructed to the Local Street standard and offered for public acceptance.

In the proposed ordinance amendment, a backlot is defined as a lot that does not have the required minimum Frontage directly on a public street and meets the proposed backlot standards. These standards require that a backlot be accessed by a right-of-way having a minimum of width of 50 feet. A driveway located in the right-of-way could serve two backlots. The further addition of lots on the right-of-way would require the entire right-of-way to be improved to the applicable street standard. At their meeting on June 9, 2020 the Council requested that the Board provide a recommendation on restricting a backlot driveway to serve only one lot.

The Planning Board must hold a public hearing prior to making a recommendation on this item to the Town Council. The Town Council will need to vote on the proposed changes to the Land Use Ordinance for the changes to be officially approved. A public hearing is scheduled for the July 13, 2020 Planning Board meeting. After the public hearing and discussion by the Board, the Planning Board may vote on a recommendation to the Town Council similar to the following:

**MOTION:** To (**recommend/recommend with comments/not recommend**) approval of the proposed amendment to Sections 300 and 500 of the Land Use Ordinance related to backlots.

## Section 300 Definitions

Lot, Backlot. A lot that does not have the required minimum Frontage directly on a public street and meets the standards of Section 529 Lot, Backlot. (See Sec. 500 Performance Standards)

### 529 Lot, Backlot

A. Zoning Districts. Backlots shall be permitted in the following zoning districts:

- Farm
- Farm-Residential
- Light-Density Residential
- Medium-Density Residential

B. Standards. The following standards shall apply to the creation of backlots, or the extension of existing backlot right-of-ways:

1. General Standards. The following general standards apply to backlots:

(a) **Rights-of-Way.**

(1) Backlots must be accessed by a right-of-way having a minimum width of fifty (50) feet. The required minimum width must be continued for the entire length of the right-of-way.

(2) Extension of a right-of-way to serve additional backlots shall meet the applicable street construction standards of Section 550.

a) If the addition of lots on a right-of-way falls within a different street standard, the entire right-of-way shall be improved in accordance with the street standards in Section 550.

(3) A hammerhead turnaround shall be provided in accordance with Section 550(B)(8)(f)(2).

(4) Right-of-Way Extensions:

a) The first hammerhead created after March 12, 2012 may be retained as part of the right-of-way and may continue to be used to meet the minimum frontage requirement of the zoning district. Hammerheads created prior to that date will not be required to be removed, even if this results in more than one hammerhead on a right-of-way.

b) All subsequent hammerheads created after March 12, 2012 shall be removed if a road is extended beyond the location of said existing hammerhead turnaround(s). After the hammerhead turnaround is removed, all lots must continue to comply with the minimum frontage requirement of the zoning district.

(b) Frontage. The backlot shall meet the minimum frontage requirement of the applicable zoning district along the right-of-way.

**Commented [ALL1]:** A backlot may be accessed with a driveway in a right-of-way. A driveway is defined to serve no more than 2 lots.

- 1) All sides of a hammerhead turnaround right-of-way may be used in the calculation of frontage. If the hammerhead turnaround is removed to accommodate future right-of-way extensions, the original lot must still meet the minimum lot frontage requirement.
- (c) Minimum Setback Requirements
- (1) The required minimum front setback standard for structures constructed on a backlot shall be measured from the closest edge of the right-of-way.
  - (2) Minimum setbacks from a new right-of-way do not apply to structures on abutting properties that do not obtain their frontage from said right-of-way.
  - (3) Front Lot Line. For purposes of determining the front lot line, and the front setback, the right-of-way shall be deemed to run from one side of the lot to the other side of the lot if it ends prior to that point. *(See Diagram A)*
  - (4) Corner Lots. If a corner lot is created by the installation of a right-of-way, the minimum setbacks shall be met in accordance with the corner lot standards in Section 500. The installation of a hammerhead turnaround does not constitute the creation of a corner lot. Backlots that obtain their frontage from a hammerhead turnaround shall choose which side of the hammerhead turnaround will constitute the front lot line. The designated front lot line shall be stated on the building permit and shall not be changed after said designation. *Note: If a choice of front lot lines is available, care should be taken to plan for the setback requirements necessary for future right-of-way extensions.*

If the minimum setbacks for corner lots cannot be met, the applicant may apply for a dimensional variance in accordance with Section 1100 of this Ordinance.

- (5) No dwelling unit shall be erected on a backlot that is closer than two hundred (200) feet from an existing public street, private road or private way.

**Diagram A**  
**Front Lot Line**

