

## RESIDENTIAL PARKING IN BELMONT

### A REPORT PRESENTED TO THE BELMONT BOARD OF SELECTMEN BY THE BELMONT PLANNING BOARD

NOVEMBER 29, 2007

#### INTRODUCTION

The Belmont Planning Board prepared this report in response to a request from the Town's Zoning Board of Appeals to assess and, if appropriate, propose changes to the residential parking regulations found in the Town's Zoning By-Laws. This request was prompted by an influx of special permit applications by residents that had received citations for illegal parking during a recent Office of Community Development enforcement action. While the citations primarily concerned the number of vehicles parked in driveways, the Planning Board requested staff to prepare a report that examines residential parking issues, concerns, and current regulations in their entirety.

#### REGULATORY ENVIRONMENT

Existing regulations, directly and indirectly affecting residential parking, found in the Zoning By-Laws are summarized as follows (regulations apply to all residential districts unless otherwise noted):

1. Open lot parking for not more than 3 vehicles accessory to a single family home allowed by right.
2. Open lot parking for not more than 2 vehicles per dwelling unit or 5 vehicles per structure accessory to residential structure other than a single family or apartment allowed by right.
3. Open lot parking in excess of that allowed by right is allowed by special permit.
4. Two parking spaces per dwelling unit are required except only one space required for dwelling unit with less than 2 bedrooms.
5. Parking within a required front yard allowed by Special Permit except on a driveway leading to, and no wider than, an attached garage. Front yard is defined as the area between the two sides of the principle structure and extended to the street. (Note a corner lot has two front yards.)
  - A. Additional criteria for the General Residence District (GR)
    - i. driveway cannot exceed 25% of front yard area
    - ii. Slope of driveway shall be no greater than 15%
    - iii. two car garage openings or larger below ground floor require special permit.
      - Paved area of driveway no wider than garage
    - iv. For attached single car garage, maximum width of driveway shall not exceed 12 feet

6. Areas of driveways and parking spaces are not credited towards meeting open space requirements.
  - A. 50% minimum open space requirement for all single-family districts.
  - B. 40% minimum open space requirement for GR district.
7. A garage shall have a vehicular access from the street.
8. Detached garages (accessory buildings)
  - A. may be built to within five feet of the side line and rear line of a lot and to within five feet of the principal building.
    - i. If any part of the garage is forward of the rear line of the dwelling, the garage shall conform to the dimensional regulations of the dwelling.
  - B. shall not exceed 660 square feet or contain more than 3 vehicles.
  - C. shall not cover more than 40% of the rear yard.

#### Other Regulations

Several regulations relating to residential parking are found in the General By-Laws of the Town or have been established by the Traffic Division of the Belmont Police Department. These regulations include:

1. Parking for over one (1) hour between the hours of 1 a.m. and 7 a.m. is prohibited.
2. No person shall permit a motor vehicle which is unregistered, disabled, dismantled or inoperative to remain ungaraged for more than thirty days.
3. Posted parking prohibited signs on various streets throughout the Town.

#### **REGULATORY BASIS FOR ENFORCEMENT**

Enforcement actions result from violations of vehicle parking regulations. However, with the exception of Regulation 1 through 3, and 8B (see above), the number of parked vehicles is not regulated by the zoning by-laws.

#### Purpose of Vehicle Regulations

Regulations 1 through 3 limit the number of vehicles parked in open areas (i.e. not in a garage) on residential zoned properties. However, it is not clear what public purpose generated these regulations. The minimum number of parking spaces as required by zoning varies by use and, specifically for residential uses, is determined by the number of residential units on a parcel. Thus zoning recognizes that parking associated with a use, residential or otherwise, is not a separate use or accessory use of that parcel. However, the Town's Zoning By-Law treats the number of vehicles on a residential zoned parcel as an accessory use (open lot storage). Based on the wording of the regulations, it appears the regulations were written to prevent residential property owners from creating the 'appearance of' parking lots on their property. However,

commercial parking within the residential districts is already prohibited via use regulations. Therefore, limiting the number of parked vehicles would not appear to relate to concerns with non-residential uses of the property.

Open space and lot coverage concerns could serve as the purpose for regulating number of allowed parked vehicles. However, those concerns are already addressed under the residential dimensional regulations. Vehicles parked on driveways do not alter percent of open space as the driveway is already deducted from available open space. Vehicles parked on pervious surfaces (e.g. lawns) count against available open space. Additionally, controlling number of vehicles utilizing a percent open space standard is difficult, if not impossible to enforce.

The regulations may have been written with the intent to establish an aesthetic standard. The difficulty here is that establishing such a standard is generally not the purpose of zoning and current regulations do not consider differences between zoning districts especially minimum lot sizes (see below). A family of six may require an identical number of vehicles regardless of whether that family resides in an SR-A or SR-C district. Clearly, however, the visual impact of the number of vehicles is more pronounced in smaller minimum lot size zones.

## **RESIDENTIAL PARKING ISSUES**

The review of existing residential parking regulations, their relationship to enforcement, and their intended purpose raises several concerns/issues. These issues include differences among residential districts, intensity of allowed use, location of parking on the parcel, and on-site versus off-site parking.

### Differences among Districts

Open space and lot coverage requirements are based on a percentage of lot area thus creating a situation where actual amount of open space and/or lot covered varies from one residential zone to another. Unlike open space and lot coverage regulations, parking regulations/requirements do not vary by district except as shown in 5A above. Parking regulations which limit number of vehicles or require minimum number of parking spaces therefore have differing net impacts depending on the particular residential zone. Allowing three vehicles to park on a 12,000 square foot lot has very different visual and aesthetic impacts than allowing the same three vehicles to park on a 5,000 square foot lot.

### Intensity of Use

The number of parked vehicles allowed by regulation is solely determined by type of district or classification of structure (single-family, two-family, etc). Thus, while required number of parking spaces is, at least indirectly, related to intensity of use, number of vehicles is held to an arbitrarily established standard. This creates a situation is where, for example, a five bedroom single family home generating more vehicles than a two bedroom home and potentially more vehicles than two 2-bedroom units in a two family home are all subject to the same regulatory standard.

### Allowed On-Site Parking Locations

Generally speaking, regulations encourage vehicles to be parked in garages and on driveways. Garages are divided into two classes: attached and detached. Attached garages are considered as part of the principle structure with setbacks and other dimensional criteria established by the underlying zoning as applied to the principle structure. Detached garages are treated as accessory structures and have their own dimensional criteria. Interestingly, where maximum size of attached garages is solely regulated by percent open space and/or lot coverage, maximum size of detached garages, while still controlled by open space and lot coverage considerations, is additionally limited (660 square feet).

The ban on front yard parking prohibits parking on a circular driveway constructed in front of one's home (construction of the driveway is not specifically prohibited; it is the parking that's regulated). However, in the large lot zones, homeowners have circumvented this regulation by constructing their homes with a greater front yard setback. Because the definition stipulates 'required' front yard, a homeowner may construct their home exceeding the front yard setback. The land where the setback ends and the structure begin is not considered part of the required front yard and therefore not subject to the parking ban. Thus the circular driveway can be built outside of the 'required' front yard setback, but still within the front yard.

### On-Site Versus Off-Site

Parking regulations found in the Town By-Laws pertain to off-site parking (generally street parking) and are not directly related to the residential parking issues raised by the recent enforcement action. However, changes to the regulations may offer alternative solutions to these concerns. For this reason, it is significant to note that, with the exception of overnight parking, most street parking bans appear to result from neighborhood requests for a ban and not from standards or criteria that relate to appropriateness of parking. The result is that the regulations place a burden on certain properties that may not be placed on others; all properties on a street are treated equally despite differing lot sizes, differing building sizes, etc.

### Other Issues

A recent survey identified 22 properties with no driveways. In some cases, if not all, the lots are so small that no side yards exist. In effect, the current regulations prohibit these home owners from parking on their properties unless a special permit is granted.

Finally, residential parking regulations require 2 parking spaces per unit in residential districts. However, while requiring 6 parking spaces for a three family structure (regulation 4), only 5 vehicles are allowed to park on site (regulation 2). This regulation needs to be reviewed and made consistent.

## **RECOMMENDATIONS**

1. Regulations governing the number of parked vehicles allowed on a residentially zoned lot are tenuously supported by the purposes justifying the establishment of the Town's Zoning By-

Laws (attached). The Planning Board therefore recommends that such regulations be promulgated by the Board of Selectmen and be amended to the Town's General By-Laws. The Planning Board encourages the Board of Selectmen to hold public meetings soliciting the input of residents in developing parking regulations.

2. Automobile use and ownership is an integral part of 21<sup>st</sup> Century life. The Planning Board recognizes the environmental concerns associated with the automobile and certainly encourages families to be sensitive to those concerns. Nevertheless, the households of today are minimally two automobile families (one for the husband and one for the wife) and add automobiles as children become of legal driving age. The Planning Board therefore recommends that the allowed number of parked vehicles on driveways on single family lots be equal to three except that any family may apply for and be given parking stickers to allow parking for family owned vehicles equal to the number of bedrooms plus one. An upper limit on numbers of parked vehicles may deserve some consideration.
3. Allowed on-site parking locations remain as mandated under current regulations except that in GR zones, where no side yards exist, one front yard space is allowed by right. No impermeable material is allowed in the construction of that space.
4. The Board of Selectmen to identify the locations of all properties with no space for on-site parking. Streets on which those properties are located and which create no public safety hazards should be posted as "Resident Parking Allowed" including overnight parking. A snow-emergency parking ban may be imposed. Where a street is not suitable for parking, the closest suitable street should be posted as "Resident Parking Allowed".
5. The Planning Board recognizes that the success of any parking policy is dependent upon an effective enforcement/implementation program. The Board of Selectmen should review and institute such a program concurrent with the establishment of the policy.

## ATTACHMENT

### **ZONING BY-LAW**

#### **Section 1.2 Purposes**

The purposes of this By-Law include, but are not limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the comprehensive plan, if any, adopted by the Planning Board and the comprehensive plan, if any, of the regional planning agency; and to preserve and increase amenities by the promulgation of regulations to fulfill these purposes under the provisions of Massachusetts General Law, Chapter 40A.

Regulations adopted pursuant to these purposes may include, but are not limited to, restricting, prohibiting, permitting or regulating the use, alteration, height, area and location of buildings and structures and the use of premises in the Town of Belmont.