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**ADVISORY COMMITTEE'S RECOMMENDATION**

**Recommendation:** The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 16 as amended by a vote of 23-0-0.

<b>Executive Summary:</b>	WA 16, submitted by the Department of Planning and Community Development, adds massing requirements to two Two-Family zoning districts located north of Beacon St. to prevent the demolition of existing 2.5 story structures and their subsequent replacement with 3-story flat-roof structures. A total of 594 parcels are included in this change. The additional requirements seek to limit demolitions and encourage adaptive reuse by limiting the principal structure to 2.5 stories, prohibiting flat and certain other roof types and limiting the building depth to 60% of the lot depth. These new dimensional requirements were modeled off of the predominant features of the existing structures in these zoning districts. All underlying dimensional T-5 district requirements would remain the same.
<b>Voting Yes will...</b>	Impose additional massing restrictions in two T-5 districts north of Beacon St. These amended districts would be designated as T-5(NH) standing for North Harvard because of their proximity to the northern portion of Harvard St.
<b>Voting No will...</b>	Leave all T-5 zoning requirements unchanged.
<b>Financial impact [if any]</b>	The new massing requirements may add complexity to the review processes that the Building Department, Planning Department, Planning Board and Zoning Board of Appeals perform. However, with the addition of clearly defined design standards, the process of design review may well be simpler. Planning Department staff do not believe these new requirements will cause any increased costs or need for additional staff.
<b>Legal implications [if any]</b>	Two land use attorneys, Robert L. Allen, Jr and Jennifer Dopazo Gilbert sent a memo to the Town asserting that WA 16 "will result in the creation of non-conforming structures and the loss of equity in existing properties as these restrictions will limit the ability to utilize the allowable Gross Floor Area of 1.0." The Planning Department issued a response to these concerns asserting the public purpose of these additional regulations and providing data documenting the alignment between existing conditions and the proposed requirements in this WA. The Planning Department also eased the new massing restrictions (subsequent to receipt of that letter) in their amended version of WA 16.

## **Introduction**

WA 16 is a response to WA 12 from Fall 2022 STM. WA 12 was a resolution (which was initially filed as a moratorium on demolitions) asking the Planning and Community Development Department to seek and propose solutions to the proliferation of demolitions happening town wide but especially frequently within our Two-family (T) zoning districts. The Planning Department has described WA 16 as a partial form-based zoning response and "a stop gap measure" because of the rash of recent projects where older, often historically significant homes are being demolished to make way for much larger box-like structures. WA 12 passed last Fall by a vote of 186-50-16, indicating a wide-spread desire among TMM's to reduce and slow down the rate of demolition of older homes in Brookline. It was also noted that this process of redevelopment often results in the same number of housing units, which are sold at price points 2x to 3x more expensive than the price of the original structure. When traditional two-families, where there is one owner-occupied unit and one rental unit are redeveloped in this way, we are losing a "moderately priced" rental and replacing it with a very expensive luxury condominium.

The primary factor driving T-zone demolitions is the fact that in the T-5 districts the size of existing homes is significantly below the allowed floor area ratio of 1.0 (meaning that on a 5,000 sf parcel a building with 5,000 sf of usable space is allowed). Current structures are predominately in the range of 0.5 to 0.7 floor area ratio. This disparity provides a strong financial incentive to developers to demolish existing structures and to rebuild larger structures.

The Article's massing standards as originally submitted are as follows. (Planning staff noted that they deliberately set these initial values at the "more restrictive" level because they could be changed to be less restrictive during the review process in advance of Town Meeting):

- A maximum number of stories at 2.5.
- Half-story defined as no more than 40% floor area of the floor below.
- Roof types are prescribed to reinforce the existing pattern of gable and hip roofs.
- Standards for dormer sizes and placement that are consistent with existing roof massing patterns and ensure that habitable space at the attic level is feasible.
- Maximum building depth: no more than 50%.

## **Evaluation Methodology/Research**

- Planning staff documented 5 demolition applications in the past 1.5 year period that included plans for much larger replacement structures with 3 full stories within these T-5 districts near north Harvard St. north of Beacon St.
- Planning staff believe these demolitions are due primarily to the disparity between the as-built floor area ratio, (0.5 - 0.7) and the allowable FAR of 1.0.
- There are no massing standards for the attic level, only the height limit of 35'. Because of this the build-out of 3 full stories creates box-like structures that are out-of-scale to their context.
- Discretionary waivers of the minimum yard setbacks, and also redevelopment of deep lots, has resulted in extra deep building footprints that are much deeper than prevailing building depths, which are about 50% of the lot depth. This reduces our urban tree canopy and diminishes available usable open space.

- All current property owners affected by this proposed change received notification from the Town, which was mailed on March 23, 2023.
- The Article attempts to strike a balance between neighborhood design consistency and allowing sufficient flexibility for homeowners to allow additional living space via building out the attic and/or exterior additions.
- By encouraging renovation of and additions to existing structures this Article furthers the Town's sustainability goals by avoiding the negative carbon consequences of wasting structures' embodied carbon and the embodied carbon of building new.
- Planning staff noted that the Chief Assessor stated that there are 1,000 two-family structures left in Brookline and that they are diminishing at a rate of 1% per year. The Assessor treats two-condominium buildings differently and those are excluded from this count.
- Planning staff presented their survey findings, documenting prevailing existing conditions, the data from which were used to develop the design standards proposed in the Article.

### **Discussion**

At the April 3 public hearing, the AC Sub-Committee voted to table WA 16 for further consideration at a future date. The public comment was primarily positive for the aims of the Article, with many speakers mentioning the benefits of retaining existing structures and the benefits of retaining back yards including addressing the issues of embodied carbon and climate change resiliency. There was general agreement that the newer 3-story box like structures were not compatible within the neighborhood and that the loss of many existing structures was a loss for the Town.

Subsequent to the first Sub-Committee hearing and a separate public hearing of the Planning Board, staff made amendments to Article 16. Staff also met with the AC Subcommittee chair, the Planning Board chair, and the vice chair of the Preservation Commission on two occasions to review their proposed changes. Those changes included expanding the maximum potential attic livable space limit to 70% (from the original 40%) of the floor area on the second floor, and increasing the limitation on the depth of the lot that the building could occupy to 60% (from the original 50%) of the lot depth.

At the joint public meeting of the full membership of these three committees, which was held on May 3, 2023, staff presented their survey findings and their version of the amended Article. After considerable discussion, two further amendments to the Article were made:

- 1) The allowable roof types list was expanded by adding Gambrel roofs.
- 2) Flat and Mansard roofs remain prohibited, but that prohibition is limited to roofs above the second story (this is to allow flexibility on the roof types for additions, porches and other projections.)

In the course of discussing this Article, many questions were raised both by the AC Sub-Committee, Planning Board, Preservation Commission, and members of the public. Comments focused on several themes:

- 1) Were the parameters of allowing only 40% of the 2nd floor area to be utilized within the half-story above the second floor adequate to allow sufficient expansion potential?
- 2) Was the requirement that the building footprint could not exceed 50% depth of the lot too restrictive to accommodate additions?,

- 3) General concern about regulating architectural style,
- 4) Acknowledgment that more prescriptive design standards were needed,
- 5) A desire from sub-committee members to see the examples and data on existing structures that formed the basis of these standards and
- 6) Concern that some of the restrictions on roof types and dormer dimensions were too prescriptive.

It was acknowledged that these zoning changes are considered a "stop gap" measure and experience and time may show that further refinements remain to be made. However, given recent history and extreme development pressures, all concerned felt it was important to take action to hopefully prevent further demolitions and in appropriate development outcomes.

The Full Advisory Committee held a public meeting on the amended Article on May 9, 2023. The recording of the Advisory Committee meeting can be seen here:

[https://brooklinema.zoomgov.com/rec/play/8y8LEdMiKwZjDoA1pYcCHYkdfhO7kzVNE0Pqb598Nz6bOt6oM1\\_kTyMs-pBIhbu6q3\\_X8nD-b7SbAF5o.ofNKSaAxG3C3iT\\_H?continueMode=true](https://brooklinema.zoomgov.com/rec/play/8y8LEdMiKwZjDoA1pYcCHYkdfhO7kzVNE0Pqb598Nz6bOt6oM1_kTyMs-pBIhbu6q3_X8nD-b7SbAF5o.ofNKSaAxG3C3iT_H?continueMode=true)

Discussion at the Full Advisory Committee focused on the negative consequences in neighborhoods of demolitions and out-of-scale redevelopment. Members spoke to make it clear that this Article may help maintain existing "more affordable" rentals but otherwise does not positively affect the issues of housing supply or housing affordability. There was also an objection raised to the amendment that limited the prohibition of flat roofs to "above the second floor". In previous version of WA 16 flat roofs were simply prohibited. However, it was noted that such appendages to the principal structure, such as covered porches or additions would likely have flat roofs and therefore, since the focus of the Article is to prohibit a full third story, the requirements for gable, hip and gambrel roofs was only relevant to the attic story.

The objection focused on the potential for a large footprint two story structure with a flat roof. It was thought that this build-out potential could be attractive to developers as a work around from the "above the second floor" flat roof prohibition. An amendment endeavoring to address this concern (by re-establishing a flat roof exception with some additional restrictions) failed by a vote of 2-17-4. (The failed language was "Exception: Flat Roof is allowed but not above the second story but only with respect to an appendage to the building where the roof does not exceed 30% of the total footprint of the building.")

### **Recommendation**

The Advisory Committee recommends FAVORABLE ACTION on the following amended motion under WA 16 by a vote of 23-0-0.

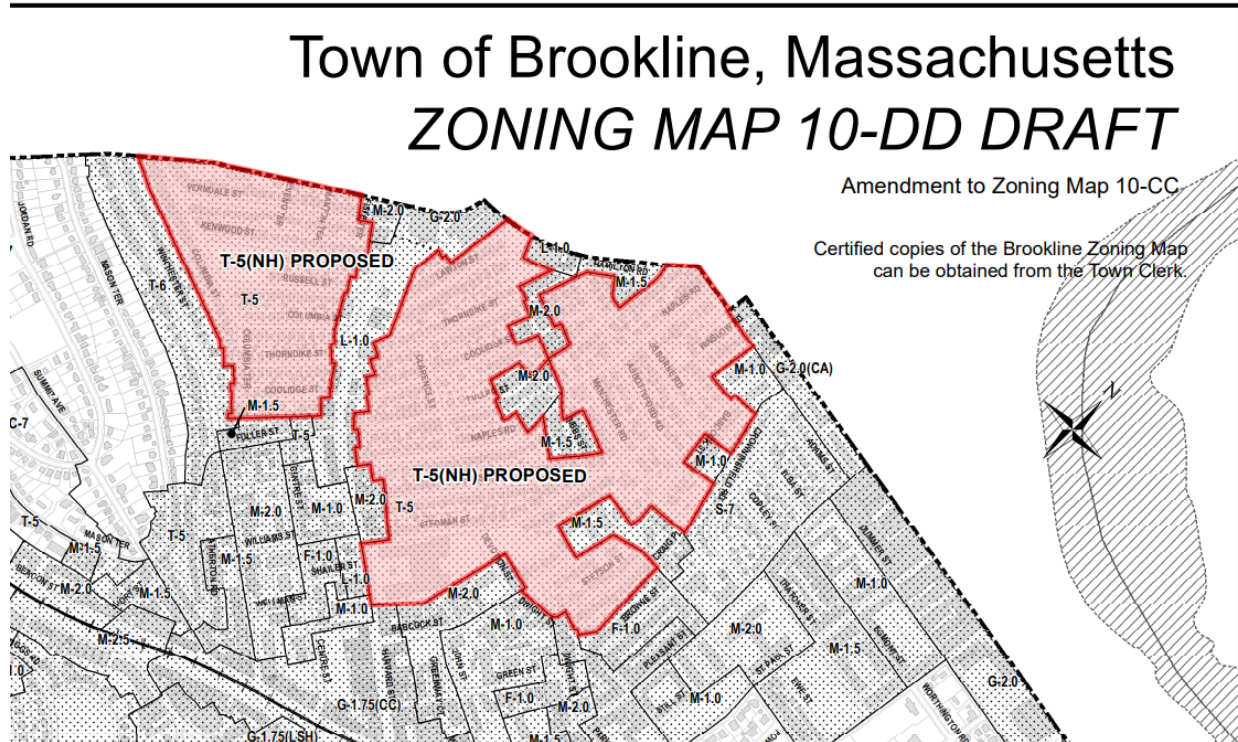
The Amended version of Article 16 (below) was unanimously voted Favorable Action by all three bodies at their joint public meeting held on May 3, the Planning Board, Preservation Commission and Advisory Sub-Committee (one AC sub-committee member abstained).

Article 16 as Amended

**Zoning Warrant Article – Modification to T-5 District Surrounding Harvard Street north of Beacon Street**  
**Petitioner – Department of Planning & Community Development**  
**Article 16**

**VOTED:** That the Town amend the Zoning By-Law as follows:

1. Amend the Zoning Map to change the lots below from T-5 to T-5(NH)  
*[Addresses and Block and Lots are listed in Exhibit A]*



2. Add to Sec. 3.01 – Classification of Districts, under

1 - Residence Districts

c - Two-Family and Attached Single-Family (T)

3) T-5(NH) – Abutting Harvard Street North

3. Add to Table 5.01- Table of Dimensional Requirements:

Add T-5(NH)<sup>21</sup> to T-5 row 1 column 1

Add footnote to Table 5.01:

21. Also see Section 5.93 – Massing Requirements for T-5(NH)

Table 5.01 – Table of Dimensional Requirements		LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT <sup>9</sup> MAXIMUM (feet)	MINIMUM YARD <sup>3, 10</sup> (feet)			OPEN SPACE (% of gross floor area)	
DISTRICT	USE					Front <sup>1,6</sup>	Side <sup>2</sup>	Rear	Landsc.	Usable
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2-family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
T-5(NH) <sup>21</sup>	1-family attached dwelling	2,500	1.0	20	35	15	none <sup>2</sup>	30	10%	30%
	Any other structure or principal use	5,000	1.0	50	35	25	20	40	30%	none

4. Modify the last sentence of Section 5.43 as underscored below:

“...provided, however, that under this section the Board of Appeals shall not:

1. reduce the depth of a required front yard below 15 feet in M Districts; nor
  2. increase the maximum Building Depth, as defined in Sec. 5.93, in T-5(NH) Districts.”
5. Add a new Section 5.93 to follow Section 5.92 in Article V as indicated below:

**Section 5.93 – Massing Requirements for T-5(NH)**

The following specifications are required for Principal Structures in the T-5(NH) Zoning District:

Massing Requirements	
Building Depth (max)	<del>60</del> % of Lot Depth A special permit under Sec. 5.43 is not available.
Story Height (min-max)	10 ft – 12ft
Number of Stories (max)	2.5
Roof Types	Allowed: Gable, Hip, <del>Gambrel</del>
Above the second story	Prohibited: Flat, Mansard, <del>Gambrel</del>
Dormer Specifications	See below.
Rear Additions	
Number of Stories (max)	2.5
Roof Types	[see above] Allowed: Gable, Hip Exception: Flat Roof is allowed on 1- and 2-story Rear Additions
Margins	<u>1foot setback from exterior walls and ridge</u>

## DEFINITIONS

The Lot Depth shall be measured as the horizontal distance from the midpoint of the Front Lot line of the Primary Street to the midpoint of the Rear Lot Line.

- Primary Street is defined as the street onto which the Façade of the Principal Structure is oriented.
- Façade means the exterior wall of a Principal Structure that is the front face of the building.
- Principal Structure is the structure in which the principle use is conducted.

The Building Depth shall be measured perpendicularly from the Façade as the maximum length to the furthest exterior wall of a Principal Structure. The Building Depth measurement shall not include Unenclosed Porches, balconies, and decks as defined in Zoning By-Law Sec. 2.16.2-1/2. An Enclosed Porch shall be included in the measurement for Building Depth.

Rear Addition      A rear addition is an extension from the rear wall of a Building.  
Half Story          A story having a maximum floor area of 70% of the area of the floor below

Story                The portion of a building located between the surface of a habitable floor and the surface of the habitable floor or roof next above

Ridge                The horizontal line on the roof where two planes intersect to create a peak or highest point on the roof

Wall Plane          The plane that extends from the ground to the top of the wall of a Structure

Roof, Flat            A roof with a slope that is less than 10 degrees

Roof, Gable          A roof sloped on two sides from a central ridge with an exterior wall enclosing each end

Roof, Gambrel      A compound, gabled roof with two slopes on each of its sides, where the lower has a steeper slope than the upper

Roof, Hip            A roof with four evenly sloping sides

Roof, Mansard      A roof having a double slope on all four sides, with the lower slope being much steeper

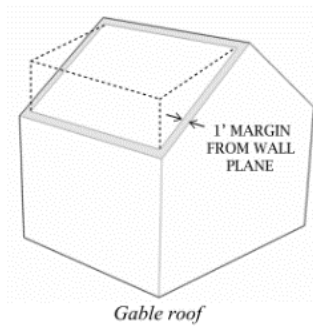
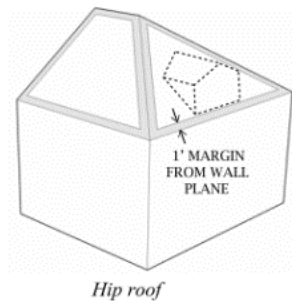
Roof, Shed            A roof with one slope

## DORMER SPECIFICATIONS

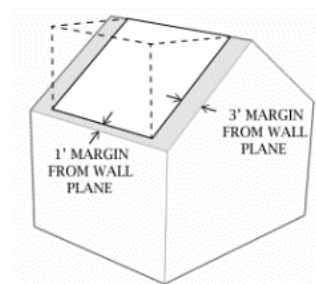
### Standards

1. The face wall of a gable dormer shall not project beyond the exterior wall of the building and may not interrupt the eaves of the roof.
2. The cumulative width of a single, multiple, or attached combinations of dormers shall not exceed 50% of the eave length of the roof.
3. Flat roofs are prohibited.
4. It is encouraged but not required to center dormers, and in the case of multiple dormers to equally space and center them.

### Dimensions



OR



**Figure 5.19 Dormer Specifications**



Dormer Dimensions	
Face Width (min)	3.5 feet
Separation from Ridge (min)	1 foot
Separation from Wall Plane (min)	1 foot
Separation from Wall Plane (min), if separation from Ridge is 0	3 feet
Dormer separation (max)	50% of width of the largest dormer

ARTICLE 16 ADVISORY COMMITTEE VOTES

Article Description	Modification to T-5 District Surrounding Harvard Street north of Beacon Street
<b>AC recommendation (Favorable Action unless indicated)</b>	<b>23-0-0</b>
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	
Kelly Hardebeck	Y
Amy Hummel	Y
Anita Johnson	Y
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

