



## City of Auburn, Maine

Office of Planning & Permitting

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To: Auburn Planning Board  
From: Katherine Cook, Planning Coordinator  
Re: Staff Report: Petition to amend T-4.2B zoning text  
Date: August 8th, 2023

**I. Public Hearing/ Zoning Text Amendment:** Consider a proposed text change to Sec. 60-548B- *Front Setback, Principal* for Traditional Downtown Neighborhood T-4.2B as shown in the Citizen’s Petition submitted June 12, 2023 and subsequently tabled by the Planning Board to a date certain (August 8<sup>th</sup>, 2023) on the July 11, 2023 Planning Board meeting. This item is pursuant to Chapter 60, Article XVII, Division 2- Amendment to the zoning ordinance or zoning map.

**II. Background:** Amendments to the zoning ordinance, including the zoning map, may be initiated by the Planning Board on its own initiative or upon request by the City Council or by a petition signed by not less than 25 registered voters of the city (Ord. of 9-21-2009, Sec. 8.1A) Zoning map and text changes may be appropriate where they serve to support the goals of the Comprehensive Plan.

Staff currently understands that front setbacks in T-4.2B zoning districts may be measured from shared accessways, private ways, and shared parking areas. This petition seeks to clarify this understanding by adding the underlined language to Sec. 60-548B as follows: “Where adjacent buildings exceed the maximum setback, the maximum setback may be calculated by the average setback of the principal structures on adjacent lots. For undeveloped adjacent lots, a setback of 25 feet shall be used for the calculation. **Where a private shared access drive is provided serving more than once structure (minimizing access points on any public road), the front setback shall be measured from the private access drive, pedestrian accessway or parking area.**”

This language addition is consistent with the comprehensive plan, but staff suggests a few additional changes to T-4.2B including amending Sec. 60-548B.2- Building frontages to allow for greater flexibility for single family homes and duplexes and amending Sec. 60-548B.1- Building placement and configuration T-4.2B to decrease the minimum frontage buildout for residential lots.

In the petition's explanation, the circulator intends for the added language confirming setback interpretation to be applied to the approval of past projects to this point, and notwithstanding M.R.S. § 302 is intended to apply retroactively to all pending proceedings, without requiring any remand for re-approval by the Board for its implementation to approved projects. Staff acquired legal counsel on the intention for this language change to apply retroactively, and as such, recommends that the Board not consider retroactive because the language was not included in the petition for the amendment to change the text in the asterisk (\*) to Table of PRINCIPAL BUILDING PLACEMENT of Section 60-548B.

**Planning Board Action:** Staff suggests planning board forward a negative recommendation to Council on the proposed text change to Sec. 60-548B- *Front Setback, Principal* for Traditional Downtown Neighborhood T-4.2B as shown in the Citizen's Petition submitted June 12, 2023 and recommend that they not consider the retroactive language suggested in the description of the petition.

**III. Suggested Reasons and Finding of Fact:**

1. The applicant submitted rezoning petitions and signatures, Text with public Notice, on June 12, thus meeting submission standards (Sec. 60-1446).
2. The text amendment is consistent with the current comprehensive plan and the intent of the existing ordinance text and diagrams.
3. The text and intent of the petition can be clarified in a different way and the Board will review that later this evening.

**V. Suggested Motion:** I make a motion to recommend that the Council not amend (\*) the Table of PRINCIPAL BUILDING PLACEMENT of Section 60-548B. *Front Setback, Principal Where a private shared access drive is provided serving more than once structure (minimizing access points on any public road), the front setback shall be measured from the private access drive, pedestrian accessway or parking area* for Traditional Downtown Neighborhood T-4.2B as shown in the Citizen's Petition submitted June 12, 2023.