

Proposed Accessory Dwelling Unit (ADU) Bylaw (8/23/2015 draft)

To see if the Town will vote to amend Chapter 10 of the General Bylaws, known as the Zoning Bylaws, by deleting the contents of Section III, par. 9 and inserting in its place the following:

9. ACCESSORY DWELLING UNITS

1. Purpose and Intent: The intent of permitting accessory dwelling units is to:

1. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing;
3. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
4. Provide housing units for persons with disabilities;

2. Definitions:

1. Accessory Dwelling Unit (ADU): An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling (not within accessory structures, except with a Special Permit) that is clearly a subordinate part of the single-family dwelling and complies with each of the criteria stated within this Accessory Dwelling Unit Bylaw..
2. Building, Attached: A building having any portion of one or more walls in common or within five feet of an adjacent building.
3. Building, Detached: A building having a five feet or more of open space on all sides.
4. Dwelling, Single-family: A building designed or used exclusively as a residence and including only one Dwelling Unit.
5. Dwelling Unit: One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. This definition does not include a trailer, however mounted.
6. Primary Residence: Where an individual or family (as defined in the Zoning Bylaws)

resides as their primary dwelling, provided however, that no person shall hold concurrent rights in more than one (1) primary residence, as set forth under MGL Ch. 188, Section 1, as amended. Regular or periodic interruptions in residency shall not be considered to change the status of primary residence where such interruptions are the result of illness, catastrophe, professional or academic scheduling, or other temporary reasons for absence which do not affect basic indices of residency. For the purposes of this Bylaw, primary residency shall be determined by the Zoning Enforcement Officer, based upon a preponderance of evidence, including but not limited to the following indices of residency and address, as applicable: declaration of homestead, filing of state and federal income taxes, voter registration, annual street list, driver's license, motor vehicle registration, mortgage, mailing address, and telephone listing (if any).

3. Procedural Requirements:

1. Procedures: No ADU shall be constructed without issuance of a building permit by the Building Commissioner. A Special Permit is required to construct and/or use an ADU that is in a Detached Building or in an Attached Building or that requires the expansion of an existing Primary Residence/Single-family Dwelling. The application for a building permit or Special Permit shall comply with the permitting authority's Rules and Regulations.

4. Use and Dimensional Regulations:

1. The Building Commissioner may issue a Building Permit authorizing the construction and use of an ADU within an existing or new owner-occupied, single-family dwelling and the Planning Board may issue a Special Permit authorizing the installation and use of an ADU in an expansion of a Primary Residence or in a detached structure on a single-family home lot only when the following conditions are met:
 - (a) The Primary Residence is currently, and will remain, compliant with dimensional requirements of the zoning bylaws with the construction of the ADU.
 - (b) The ADU will be a complete, separate housekeeping unit containing both kitchen and bath.
 - (c) Only one ADU may be created within a Single-family Dwelling or house lot.
 - (d) The owner(s) of the Primary Residence in which the ADU is created must continue to occupy at least one of the Dwelling Units as their Primary Residence, except for bona fide temporary absences.
 - (e) The ADU shall be designed so that the appearance of the structure maintains that of a Single-family Dwelling, subject further to the following conditions and requirements:

1. Any new separate outside entrance serving an ADU shall be located on the side or in the rear of the building.
 2. Where two or more entrances already exist on the front façade of a Primary Residence, modifications made to any of the entrances shall result in one entrance appearing to be the principal entrance and other entrances appearing to be secondary.
 3. All stairways to second stories shall be enclosed within the exterior walls of the Single-family Dwelling.
- (f) The gross floor area of an ADU (including any additions) shall not be greater than eight hundred (800) square feet.
- (g) Once an ADU has been added to a Single-family Dwelling or lot, the ADU shall never be enlarged beyond the eight hundred (800) square feet allowed by this bylaw.
- (h) An ADU may not be occupied by more than three (3) people nor have more than two (2) bedrooms.
- (i) The construction of any ADU must be in conformity with the State Building Code, Title V of the State Sanitary Code and other local bylaws and regulations.
- (j) Sufficient and appropriate space for one (1) dedicated parking space shall be provided to serve the ADU. Said parking space shall be accessed from, and constructed of materials consistent with, the driveway serving the Primary Residence. No hardship permit for on-street parking will be permitted at Primary Residences containing an ADU.
- (k) In order to maintain the single-family appearance of the property, all parking spaces on the lot shall be subject further to the following conditions and requirements:
1. Each parking space and the driveway leading thereto shall be paved or shall have an all-weather gravel surface. No motor vehicles shall be regularly parked on the premises other than in the parking spaces.
 2. No parking space shall be located within the Front Yard.
 3. Parking spaces shall be located so that both the Primary Residence and the ADU shall have one parking space with direct and unimpeded access to the street without passing through a parking space designated to serve the other Dwelling Unit.
 4. Where there are more than two outdoor parking spaces, there shall

be provided suitable screening with evergreen or dense deciduous plantings, walls, fence, or a combination thereof in the area between the parking spaces and the nearest lot line. Screening shall be sufficient to minimize the visual impact on abutters and to maintain the single-family appearance of the neighborhood.

2. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Planning Board may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.
3. Approval for an ADU requires that the owner must occupy one of the Dwelling Units. The zoning approval and the notarized letters required in 04.4 and 04.5 below must be recorded in the County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the ADU.
4. When a structure, which has received a permit for an ADU, is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they will occupy one of the Dwelling Units on the premises as their primary residence, except for bona fide temporary absences.
5. Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the Dwelling Units on the premises as the owner's Primary Residence, except for bona fide temporary absences.
6. Prior to issuance of a permit, a site plan, floor plan, building section and building elevations must be submitted showing the proposed interior and exterior changes to the building and site, including the location of parking spaces.

05.0 Administration and Enforcement

1. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this Bylaw.
2. No building shall be constructed or changed in use or configuration, until the Building Commissioner has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with the Town's laws and bylaws. Any new building or structure shall conform to all adopted state and town laws, bylaws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.
3. The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this chapter or in a violation of the conditions or terms of any Special Permit granted by the Planning Board.
4. The Building Commissioner shall issue a cease and desist order on any work in

progress or on the use of any premises, either of which are in violation of the provisions of this Section.

5. Construction or use according to a building permit or Special Permit shall conform to any subsequent amendment of this Section unless the construction or use is begun within a period of not more than six (6) months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.

Submitted by the Planning Board.