

2.22.2021 Planning Board Hearing Meeting Notes

TRACK CHANGES OF PETITION ARTICLE AGAINST EXISTING BYLAW

V-K Accessory Dwelling Units

1. Purpose

Consistent with the Master Plan Goals and Objectives adopted March 20, 2017, the purpose of permitting accessory dwelling units in connection with single-family dwellings is to:

Commented [SM1]: Consider deletion of this clause.

- a) Provide accessory dwelling units without adding to the number of buildings in the Town or substantially altering the appearance of the dwelling and for the purpose of enabling owners of single-family dwellings, including those with existing, separate, detached accessory structures situated on the same lot, to share space and the burdens of homeownership with family members (as defined in this Section V-K) while also protecting the stability, property values and residential character of the surrounding neighborhood.
- b) Provide housing units for family members with diverse housing needs including, without limitation, family members with mental and physical disabilities.
- c) Enable the Town to monitor accessory dwelling unit construction for code compliance.

Commented [SM2]:
Allows ADU in all or any portion of an existing detached structure

2. Definitions

- a) An "accessory dwelling unit" is a second self-contained dwelling unit either (i) within a single-family dwelling (an "attached accessory dwelling unit"), or (ii) within an existing, separate, detached structure situated on the same lot as the principal dwelling (a "detached accessory dwelling unit"), which second dwelling unit is subordinate in size to the principal dwelling and otherwise complies with the provisions of this Section V-K.
- b) For the purposes of this Section V-K, a "family member" shall be a person related to the owner by blood, adoption or marriage, and may also include domestic help and caregivers.
- c) A "principal dwelling" for the purposes of this Section V-K is a single-family dwelling exclusive of the area that constitutes the accessory dwelling unit.
- d) A single-family dwelling with an accessory dwelling unit shall not be deemed to be a two-family dwelling.

Commented [SM3]:
Allows ADU in all or any portion of an existing detached structure
•Many communities impose a particular period of time that the structure must be in existence (5-10 years)
•What about pre-existing nonconforming detached structures in setbacks (potential abutter impacts?)

3. Eligibility Requirements

The Board of Appeals may only issue a Special Permit A1 for an accessory dwelling unit that meets the following minimum eligibility requirements:

- a) As of the date that the application for a special permit is filed with the Board of Appeals, the total number of accessory dwelling units in the Town shall not exceed two and one-half percent (2.5%) of the total single-family dwelling units in the Town (the "ADU Cap"). The ADU Cap shall be determined by a fraction represented as follows: the numerator shall be the total number of accessory dwelling units allowed by special permit pursuant to this Section V-K

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plus the number of accessory dwelling unit permit applications pending approval before the Board of Appeals and the denominator shall be the total number of single-family dwelling units existing in the Town as classified in the Hingham assessors' records.

- b) The applicant shall, at the time application is made for the special permit, be the owner of the lot and single-family dwelling thereon ~~for~~ which the accessory dwelling unit is proposed and must certify in such application that (i) the owner currently occupies the single-family dwelling or will occupy the principal dwelling or accessory dwelling unit as his or her primary residence immediately upon issuance of the special permit and (ii) that the other unit shall be occupied by a family member.
- c) The area of the lot on which the existing single-family dwelling is located shall not be less than five thousand (5,000) square feet or, in the case of new construction (~~which shall be limited to attached accessory dwelling units~~), shall comply with the applicable minimum lot size for the single-family zoning district in which the single-family dwelling is proposed.
- d) The application must be accompanied by written confirmation from either (i) the Board of Health that the requirements of the Massachusetts Title 5 septic system regulations and the Hingham Board of Health Supplemental Rules and Regulations for septic systems have been or can be met or (ii) the Sewer Department that there exists available capacity in the applicable sewer district, in either case, to support the total number of bedrooms proposed for the lot inclusive of the accessory dwelling unit.
- e) Only one accessory dwelling unit shall be permitted per lot, either as an attached accessory dwelling unit within a single-family dwelling or as a detached accessory dwelling unit in an existing, separate, detached structure, and per lot so that the total number of dwelling units per lot shall not exceed two.
- f) In Residence District D and in Business Districts A and B accessory dwelling units are only permitted in preexisting nonconforming single-family dwellings.

Commented [SM4]:

This provision would not allow ADUs in detached structures in the case of new construction.

Clarification needed:

- For attached ADUs in original bylaw it is clear that "new construction" means new home; does "new construction" need to be clarified if detached ADUs are allowed? Does it refer to new construction of a home and/or new construction of accessory structures? Does new construction of a home include tear downs (and substantial reconstruction)?

4. Dimensional and Design Requirements

The Board of Appeals may only issue a Special Permit A1 for an accessory dwelling unit that meets the following dimensional and design requirements:

- a) The architectural character of a detached single-family dwelling shall be maintained.
- b) All stairways accessing an accessory dwelling unit above the ground floor of a single-family dwelling or otherwise in an existing, separate, detached structure shall be enclosed within the exterior walls of the single-family dwelling or existing, separate, detached structure.
- c) The maximum area of an accessory dwelling unit shall be the lesser of 750 square feet or ~~35%~~ 35% of the gross floor area of the principal dwelling. For this calculation, the gross floor area shall be as defined in Section VI of this By-Law.
- d) An accessory dwelling unit shall not be created by any extension of a non-conforming building dimension, including the front, side or rear yard setback.
- e) Any new entrance for ~~an~~ attached accessory dwelling unit or principal dwelling shall be located to the side or rear of the single-family dwelling.
- f) Water and sewer utilities serving the accessory dwelling unit shall not be

Commented [SM5]: Building/fire code question – If ADU in detached structure is on second floor, does single, interior staircase meet building/fire codes?

Commented [SM6]: Increase in permitted size of ADU from 30% to 35% of principal dwelling

Commented [SM7]: Entrance for attached ADU must be to side or rear; change would allow detached ADU entrance from front.

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metered separately from the principal dwelling except to the extent required or if such utilities serving a detached accessory dwelling unit have previously been separately metered; provided, however, that any separately metered utilities shall be in the name of the owner of the principal dwelling.

Commented [SM8]: Separately metered utilities.

- g) Additional or modified landscaping, fences or other buffers may be required to protect abutting properties from potential negative visual or auditory impacts of the accessory dwelling unit.
- h) The parking requirement for an accessory dwelling unit is one space per bedroom in addition to the minimum required parking spaces for a single-family dwelling.
- i) An accessory dwelling unit may not have more than two (2) bedrooms.

5. General Conditions

Any special permit issued pursuant to this Section V-K shall be subject to, and shall incorporate the following conditions:

- a) The owner of the single-family dwelling shall occupy either the principal dwelling or the accessory dwelling unit as the owner's primary residence. Temporary absences of the owner for a period of not more than nine months in the aggregate in any twelve month period and active military service of the owner for any length of time shall not be deemed a violation of this requirement provided that the dwelling units may only be occupied by family members of the owner during the owner's absence.
- b) The owner shall recertify annually, by submission of a notarized letter to the Building Commissioner, that the owner will continue to occupy either the primary dwelling or the accessory dwelling unit as the owner's primary residence, except for a bona fide temporary absence as provided above in subsection 5.a.
- c) Upon the sale or other conveyance or transfer of a single-family dwelling which has been issued a permit for an accessory dwelling unit, if the new owner wishes to maintain the special permit for the accessory dwelling unit use, such new owner must, within thirty (30) days of such transfer, submit a notarized letter to the Building Commissioner certifying that the new owner will occupy one of the dwelling units as the new owner's primary residence and comply with the other conditions of the accessory dwelling unit use.
- d) Neither the principal dwelling nor the accessory dwelling unit may be sold or otherwise conveyed or transferred separately from the other.

[Other Notes]

Commented [SM9]: •Amendment also does not preclude construction of other accessory buildings (no limitations in Hingham zoning bylaw re number of accessory structures, lot coverage, etc.)