

## **Planning Board Report and Recommendation**

### **ARTICLE DDD Detached Accessory Dwelling Units**

A petition warrant article was submitted on behalf of the requisite number of residents to amend the Hingham Zoning Bylaw, Section V-K (Accessory Dwelling units) to allow for accessory dwelling units (ADUs) in detached structures. In summary, the petition article requests the following changes:

- Allow detached ADUs in existing detached structures.
- Increases the minimum s.f. of the ADU from 30% to 35% of the single-family dwelling.
- Would allow entrances to the detached ADU to be on the front of the structure (as opposed to side or rear as required for attached ADUs)
- Would allow separate metering for detached ADUs (separate metering is currently prohibited)

While on the surface these changes do not appear to be extensive, based on five public hearings to discuss the proposed changes, the Planning Board has identified a number of potential consequences (whether intended or unintended) which could have significant impacts on residential neighborhoods throughout the Town of Hingham.

In addition, while the petition is signed by the requisite number of residents, the primary proponent of the warrant article is the owner of a home with a detached structure who has been transparent throughout the process that the proposed changes summarized above are tailored to fit the exact conditions of an existing detached structure on the proponent's own lot. The Board has raised a serious concern that a zoning change that will have Town-wide impact should not be crafted based solely on facts that are intended to benefit a particular parcel without mitigation of possible impacts.

The consensus of the Planning Board is that allowing detached ADUs in Hingham has merits worth considering, but more discussion and input is required. It is noted that, prior to the adoption of the existing ADU bylaw, Section V-K, a study committee formed by the Board of Selectmen and Planning Board that met from 2015-2016 looked at both attached and detached ADUs. No bylaw change came directly out of that committee, but subsequently the Planning Board undertook to review the work of the committee and elected for multiple reasons to propose only attached ADUs. Those reasons included a desire to approach this change in the Bylaw in small, incremental steps. The consensus of the prior committee and the Planning Board is that the impacts of detached ADUs are significantly greater on residential neighborhoods than attached ADUs and need to be approached more cautiously.

Less than three years have passed since Section V-K came into effect (with the covid-19 pandemic affecting over a year of that period). During that period, thirteen attached ADUs have been permitted. Therefore, a significant amount of time and experience with the existing ADU bylaw has yet to occur.

Issues for further review that were raised by the Planning Board members throughout their discussions at the public hearings on the petition article, and which raise questions not posed by ADUs currently allowed within single-family dwellings, include the following:

- Should detached ADUs be permitted in structures which do not comply with existing zoning setbacks? Buildings within zoning setbacks are located very close to abutting neighbors. Given that activities, lights, and sounds within a dwelling are generally more intensive than those in structures used for accessory purposes (e.g. a garage, home office), there may be greater impacts on abutters from a detached ADU than an attached ADU.
- Should detached ADUs be permitted within an entire detached structure or in only a portion of the detached structure? For example, the most common detached ADU found in most communities is an ADU above an existing garage. Other examples might be conversion of a pool house (or a portion thereof) to an ADU. In addition, many older properties in Hingham have barns that may be converted. Allowing a detached ADU to occupy an entire detached structure (subject to the square footage limitation) would create an entirely separate second home on the property. The pros and cons of such a change requires further review.
- Should detached ADUs be permitted in newly constructed detached structures and/or if a homeowner elects to turn its existing detached structure (e.g., garage) into an ADU, should that homeowner be permitted to then build another detached structure for a garage? The potential for the construction of multiple detached accessory structures on the property may cause, particularly on smaller lots, overbuilding. The potential impact across residential zoning districts should be explored.
- Are the existing requirements of Section V-K, and enforcement mechanisms with the Zoning Bylaw generally, sufficient to ensure substantial compliance by property owners of the “family member” restriction on the occupancy of detached ADUs? The Board members expressed concern that enforcement will fall to abutters who, if adversely affected, will have to report on a neighbor, thereby creating an unfair burden on abutters.
- The Board further notes that there has not been significant public interest in this warrant article. At each of its hearings, there were present, on average, only 3 to 5 residents with only three providing public comment. As one of the primary purposes of the adoption of the original ADU bylaw is to allow for families to provide housing for family members, particularly those with special housing needs, the Planning Board feels strongly that a broader discussion that provides for direct representation by seniors, the special needs community, affordable housing proponents and residents at large is needed.

**Based on the foregoing, the Planning Board recommends against favorable action on the petition article, and in lieu thereof, recommends formation of a study committee as outlined below.**

**The below motion has been reviewed by Town Counsel and Real Estate Counsel as to form.**

**Significant consideration by the Planning Board has been put into the proposed charge and configuration of the study committee, and the Planning Board respectfully requests that the Advisory Committee support and advance the following recommended motion:**

**PROPOSED RECOMMENDED MOTION:**

That the Town establish a committee, to be known as the ADU Study Committee, for the purpose of reviewing the merits of this Warrant Article and/or the merits of amending the provisions of the Hingham Zoning Bylaw, Section V-K, or other applicable provisions of the Zoning Bylaw, to allow detached accessory dwelling units and/or to amend any other provisions of the Zoning Bylaw reasonably related to the creation of accessory dwelling units (either attached or detached), and to submit a written report to the Planning Board setting forth whether the committee recommends in favor of any such amendment(s) and the reasons for such recommendations. If any amendments are recommended, the committee shall include in its report its proposed changes. The committee shall consist of seven (7) members as follows: one member of the Planning Board (or its designee) who shall be the chair of the committee; one member of the Council on Aging (or its designee); one member of the Commission on Disabilities (or its designee); one member of the Zoning Board of Appeals (or its designee); one member of the Historic Districts Commission (or its designee); and one resident of the Town appointed by the Board of Selectmen and one resident of the Town appointed by the Moderator who shall not be members of the foregoing boards. The committee shall endeavor to issue its report to the Planning Board within one year of its formation, but in no event later than October 1, 2022. Upon receipt of such report, the Planning Board shall hold at least one public meeting in advance of the December 1 deadline for submission of zoning amendments as set forth in Article 2, Section 7 of the Hingham General Bylaws, to determine if the Planning Board will elect to submit, or to support the submission of, one or more zoning amendments based on the report of the committee.