



**TOWN COUNCIL**  
**Committee to Review Zoning and Permitting Regulations**  
**Selectmen's Conference Room**

Thursday September 10, 2020 – 6:30pm

**Councilors:**

Councilor Paula K. Schnepf (Chair)  
Councilor Jennifer Cullum  
Councilor Gordon Starr  
Councilor Kristine Clark  
Councilor Matthew Levesque

**MEETING MINUTES**

**PRESENT:** Councilor Paula K. Schnepf; Councilor Jennifer Cullum; Councilor Matthew Levesque; Councilor Gordon Starr; Councilor Kristine Clark; **ALSO IN ATTENDANCE:** Arden Cadrin

Chair of the Committee opened the meeting at 6:00pm, making the statement that the meeting is going to be recorded and aired at a later time, The Chair also declared the following statement: **In Accordance with MGL, Chapter 30A, Section 20, I must inquire whether anyone is recording this meeting and if so, to please make your presence known;** The Chair also declared the following: Tonight's meeting is with Remote Participation Instructions Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>
2. Join Zoom Meeting <https://zoom.us/j/97659261160> Meeting ID: 976 5926 1160  
1- 888 475 4499 US Toll-free Meeting ID: 976 5926 1160

Chair of Committee asked for a Roll Call vote

Councilor Jennifer Cullum	HERE
Councilor Matthew Levesque	HERE
Councilor Gordon Starr	HERE
Councilor Kristine Clark	HERE
Councilor Paula K. Schnepf	HERE

All members present

Chair of Committee asked for a motion to approve the meeting minutes of June 11, 2020  
Councilor Jennifer Cullum made the motion to approve the meeting minutes of June 11, 2020, Councilor Clark seconded the motion, and a Roll Call Vote was taken.

Councilor Jennifer Cullum	yes
Councilor Matthew Levesque	abstain
Councilor Gordon Starr	yes
Councilor Kristine Clark	yes
Councilor Paula K. Schnepf	yes

Chair of Committee explained to new member Councilor Levesque regarding the ADU BY-LAW by Right from Stephanie Cox back in June, so we are picking this topic up again with an explanation from Arden Cadrin (who is retired from the Town but was kind enough to join us tonight and explain) Chair of Committee asked that Arden get us back acquainted with the Accessory Dwelling Unit (ADU) Do we want to make it easier for homeowner to create an AADU by right which id the main purpose of the following documents and discussions going forward;

Councilor Starr asked about the sewer lines and asked if we allow a lot of these types of homers are we adding to the already strained sewer systems. Arden said you could limit that with the amount of bedroom allowed.

The following was introduced by Arden Cadrin

ADU Policy Chart

<b>POLICY CONSIDERATIONS</b>	<b>OPTIONS</b>
<b>Eligibility</b>	
ADU in existing house or detached structure	Allowed: yes or no. Additional standards yes or no
ADU is new construction attached	Allowed: yes or no. Additional standards yes or no
ADU is new construction detached	Allowed: yes or no. Additional standards yes or no
<b>Use and Dimensional</b>	
Lot Size	Minimum, Maximum, Silent
House Size	Minimum, Maximum, Silent
ADU Size	Maximum, Silent
ADU Number of Bedrooms	Maximum, Silent
Parking	Off street, silent
Design Standards	Yes or No
Septic System	Title 5 compliant
<b>Occupancy and Ownership</b>	
Main House	Owner or tenant
ADU	Owner or tenant
Length of Tenancy	Yes or No
Homeowner	Primary, second home, silent
Tenant Income Requirement	Yes or No
<b>Annual Limit to ADU Permits</b>	Yes, how many, no limit
<b>Procedural</b>	
Building Permit/Internal /Administrative	
Board Review	

Councilor Clark asked why anyone would consider decreasing the house size, Arden did not know why you would do it, but it currently is under consideration in some communities which is why she listed it.

Councilor Schnepf also mentioned that the town is trying to create long term rentals so the length of tenancy we need to look at given the issues surrounding Short -Term Rentals. (Councilor Cullum had to leave the meeting)

Councilor Starr asked are the occupancy still 2 people for the first bedroom and 1 person per other bedroom is that still the standard for these types of dwellings, or can you add to the septic without upgrading. Arden answered the building standards remain the same, if someone is adding a bedroom then the bedroom in the house gets decreased, you can't add people to an already permitted 4 bedroom home, the capacity remains the same as the permit issued.

Councilor Starr asked how many current ADU are permitted. Arden answered there are currently 140 ADU in the Town of Barnstable currently. Councilor Starr asked if there was any incentive for the landlords of these properties to keep the program going. Arden does not know of any but we need to protect those that are existing currently. Councilor Starr and Councilor Cullum do not want to lose the already 140 that are permitted.

Arden also mentioned that the concern of some are that once these BY-LAWS are put in place that the flood gates of applications will start, and that isn't true, the program is still difficult to navigate and the process is cumbersome, and it is also cost prohibited to get back any of the investment that the homeowners put forth.

Councilor Clark would like to request the BY LAWS from the other Communities that have adopted this already so we as a Committee are not reinventing the wheel, and also to get an idea from others what works and what does not work for them, so we do not make the same mistakes as others.

Arden will forward those documents for discussion at your next meeting.

Councilor Schnepf would like to have the Committee look at the goals that were mentioned tonight and one of those was to increase the year round housing stock in Barnstable. The Committee members agreed that point was important. Councilor Levesque asked how we stop someone from building the ADU and then turning it into a Short Term Rental. Arden stated there is an affidavit on file that needs to have a homeowner's signature on it with who is living in the dwelling as well as a copy of a signed lease has to be with the affidavit as to who is residing in the ADU. Councilor Schnepf asked if any of the Committee members had an issue with the homeowner either living in the ADU or the main house, did it matter to anyone. The Committee members did not have any issues with that. Councilor Schnepf stated we are not taking any votes on these issues, these are for discussion only. Councilor Schnepf also wanted to mention either allows 1 homeowner or can 2 people own the home and create a second homeowner with the ability to create an ADU. We need to look at that as well as it ties into the Short Term Rental policy that the Council is currently debating. Arden mentioned that you could put into policy that only one of the units at a time can be rented. Councilor Schnepf said she would also like to see more duplexes be rented in our town, so it's another possibility. Councilor Starr wants to make sure that we are keeping our wastewater in mind when these are created. The last thing we need in another load on the public system and the private systems in peoples yards by adding these.

Arden stated that any homes that are listed as a Trust as the homeowner can't apply for an ADU because we can't decide who lives there, who is the primary resident, there could be 7-10 people listed in a Trust, so that's a definite problem which is why we do not allow it.

Councilor Schnepf would like to explain the process moving forward using members of the Planning Board to create an ADU BY LAW package and then presenting that package to the Public for their input. Councilor Levesque was in agreement with this. Councilor Starr did not think the survey was a very good idea with the Short Term Rentals, so he isn't sure that a survey with ADU would be beneficial. Councilor Clark would like to have staff from our own internal personnel that may have some financial ideas on how to grow this or to give incentives to those homeowners already doing this. Councilor Schnepf asked how he members felt about how they felt about inviting the Planning Board to join us in creating these ADU's. Councilor Schnepf will have a discussion with the Chair of the Planning Board to see if there were any members that would like to join our Committee in helping craft

an ADU Policy. Councilor Clark would like to craft a DRAFT ADU before the Planning Board joins so that when they do join we have something for them to look at.

PUBLIC COMMENT

Jessica Rapp Grassetti- very excited the Committee is taking this on, wanted to mention that this is so important to our Seniors in our town as well as some young people as well in creating this opportunity for everyone.

Jake Dewey- wanted to listen in and tax abatements for affordable units has been an idea of his for a very long time, so he is excited to see this idea mentioned, creating two units rentals you may want to talk about this more in depth it may create more investment type ownership, and garages turned into two units to rent , but that is something for the Committee to consider, on the septic point, in Yarmouth when you have 2 units rented the septic requirements changes and you need a compartmental type septic, and if the Committee would look at the Form Base Code as well.

**THE DOCUMENTATION BELOW WAS SUBMITTED FOR INFORMATIONAL PURPOSES DISCUSSION DID NOT OCCUR WITH THE BELOW**

**TOWN OF MASHPEE ADU BY-LAW**

**ARTICLE: - Zoning Bylaw amendment for single-family dwelling with accessory apartment**

To see if the Town will vote to amend the Town’s Zoning Bylaw, as follows:

- (i) By amending ARTICLE V, Use Regulation, §325.13.A, Paragraph I, Residential Uses, namely Table 1, Use Regulations, Paragraph I – Residential Uses, Use No. 10, Single-family dwelling with accessory apartment, as follows (deletions shown in ~~strike-through~~ and proposed language in **bold underline**):

**Table 1, Use Regulations**

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR	
Paragraph IV – Residential Uses														
10	Single-family dwelling with accessory apartment ( <del>§325-51H</del> <b><u>§325-14.T</u></b> )	<del>S</del> <b><u>P</u></b>	<del>S</del> <b><u>P</u></b>	<del>S</del> <b><u>P</u></b>	<del>S</del> <b><u>P</u></b>	-	-	<del>S</del> <b><u>P</u></b>	<del>S</del> <b><u>P</u></b>	-	-	<del>S</del> <b><u>P</u></b>	<del>S</del> <b><u>P</u></b>	<del>S</del> <b><u>P</u></b>

and

- (ii) By renumbering and repositioning with the Zoning Bylaw ARTICLE X, Administration and Enforcement, §325-51.H, Single-family dwelling with accessory apartment, as and to ARTICLE V, Use Regulation, §325-14.T, Single-family dwelling with accessory apartment; and

- (iii) By amending said Article X, Administration and Enforcement, §325-51.H, Single-family dwelling with accessory apartment, now ARTICLE V, Use Regulation, §325-14.T, Single-family dwelling with accessory apartment, as follows (deletions shown in ~~strike-through~~ and proposed language in **bold underline**):

**T. Single-family dwelling with accessory apartment.**

- (1) Purpose. The intent of permitting accessory apartments is to:
  - a. Increase the number of small dwelling units available for rent in Town;
  - b. Increase the range of choice of housing accommodations;
  - c. Encourage greater diversity of population with particular attention to young adults and senior citizens; and
  - d. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods.
  
- (2) Definitions. **OWNER** One or more individuals holding title to the property.
  
- (3) Criteria. ~~for special permit approval. Special permits for single-family dwellings with a~~ **An** accessory apartment **is allowable within a single-family dwelling**, either attached or detached, ~~may be granted upon determination by the Planning Board that~~ **provided that** the following criteria have been ~~met~~ **satisfied**:
  - a. Only one accessory apartment is permitted for each principal dwelling unit.
  - b. The accessory apartment may not be held in separate ownership from the principal use.
  - c. Only one of the principal dwelling or accessory apartment may be rented at any given time **and, if rented, shall be rented for a term of no less than six (6) consecutive months.**
  - d. The accessory apartment shall have a net floor area not exceeding 1/2 of the net floor area of the principal dwelling unit and not more than 900 square feet.
  - e. The accessory apartment shall have not more than two bedrooms.
  - f. At least one off-street parking space shall be provided for the accessory ~~dwelling unit~~ **apartment.**
  - g. The minimum lot area required for a parcel ~~to be eligible for a special permit~~ to allow an accessory apartment shall not be less than 15,000 square feet if the parcel is situated in a RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in a RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District. **For parcels existing within an approved Open Space Residential Development or Cluster Subdivision, the lots size shall be consistent with the endorsed plan.**
  - h. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single-family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.
  - i. The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.
  - ~~j. The proposed use shall not create traffic hazards or volume greater than the capacity of the streets affected.~~
  - ~~k. The proposed use shall not exceed the building or site coverage for the zoning district.~~
  - ~~l. If an addition is to be built for the proposed use, the addition shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.~~

**The Building Commissioner shall determine compliance with said criteria following receipt of the application for a building permit for a change of use and/or for construction of the said accessory apartment.**

~~(4) The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the special permit decision and the special permit shall lapse if it is not so recorded and if it is not duly exercised within two years as provided for under MGL c. 40A, § 9.~~

~~(5) Transfer of ownership. The provisions of the special permit may be transferred with ownership of the property provided the provisions of this section and all other provisions of the Zoning Code of the Town~~

~~of Harwich and the State Building Code are met and the Planning Department has approved a transfer for the special permit. The new owner also may request a Planning Board certification for the accessory apartment. To obtain such certification, the owner shall submit a written request with a statement that the conditions at the time of the original special permit approval remain unchanged and with a certification of ownership. The Planning Board certification shall be recorded at the Registry of Deeds.~~

~~(6)~~ **(4)** A ~~final~~ determination that the owner **has** failed to comply with these **forgoing criteria** provisions ~~or the termination of occupancy by the owner of the subject property shall be evidence that the rights and benefits conferred **here** under the special permit were abandoned or otherwise surrendered and discontinued by the owner and all such rights and benefits shall lapse **are null and void** and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said ~~final~~ determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted;~~

or take any other action thereon.

## SMARTER CAPE MODEL ADI BY-LAW

### MODEL ZONING PROVISIONS FOR ACCESSORY DWELLING UNITS (ADUs)\*

*\*With further modifications suggested by Smarter Cape*

#### Introduction

All 15 Cape towns have adopted zoning that allows for the creation of dwelling units accessory to principal single family dwellings (e.g. accessory dwelling units, accessory apartments, affordable accessory dwelling units or family apartments). The primary purpose of these zoning bylaws and ordinances is to permit the creation of a greater number and variety of housing units, in terms of size and price, which can be integrated into single family residential properties with little or no negative impact on the character of their surrounding neighborhoods.

Current zoning bylaws and ordinances include various restrictions intended to mitigate potential negative impacts of accessory units. Town planners across the Cape report that some of these restrictions have discouraged the creation of new accessory units. This model limits zoning restrictions to encourage the creation of more accessory units, while including those limitations (primarily regarding site and building design) necessary to protect community character.

This model proposes that accessory dwelling units (ADUs) should be allowed as a “by right” accessory use to a principal single family dwelling use. It proposes that dimensional considerations for ADUs should be addressed by general standards required of all buildings and uses contained in the zoning.

This model does not include an owner occupancy requirement for either the principal or accessory dwelling unit, and it therefore allows for the rental of both or either of the units, so long as the ownership of the units is not severed into legally separate units. Owner occupancy can be difficult to enforce, and the literature does not necessarily support the proposition that owner occupancy is necessary to protect neighborhood character. For towns that wish to prevent both units being rented concurrently, it is suggested that language that “no more than one of the two units may be rented at the same time” be used in lieu of an owner occupancy requirement, which excludes snowbirds.

The italicized comments appearing throughout are not intended to be part of the draft model, and are provided for the reader’s consideration.

## MODEL ZONING - Accessory Dwelling Units (ADUs)

### A. Purpose and Intent.

The intent of permitting Accessory Dwelling Units is to:

- e. Increase the number of small dwelling units available for rent in Town and the range of choice of housing accommodations while remaining wastewater flow neutral;
- b. Develop housing units on single-family residential properties that are appropriate for households at a variety of stages in their life cycle;
- d. Encourage greater diversity of population with particular attention to young adults and senior citizens; and
- e. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
- f. Provide homeowners with a means of obtaining rental income to defray housing costs.

### B. Definitions.

The following definitions shall be applicable to this section:

Accessory Dwelling Unit (ADU) An Accessory Dwelling Unit is a Dwelling Unit incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot as a lawful principal single-family dwelling use, which ADU shall be clearly subordinate in design to that principal single-family dwelling use to which it is accessory.

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 mobile home trailer, however mounted.

Owner: One or more individuals holding title to the property, individually or as a trust or LLC.

*COMMENT: Having fewer or no restrictions on accessory dwelling unit tenants gives greater control over the unit to the homeowner while offering more diverse housing opportunities, and eases burdens of local administration and enforcement.*

*Note, that the definition of "Dwelling Unit" limits use to a 'household' unit, which would help maintain the single family residential use of the property.*

*COMMENT: A Town may want to ensure that its general zoning contains clear definitions for terms used herein such as "building" and/or "structure," "attached building/ structure," "detached building/ structure," "single family dwelling," "accessory use" and "principal use."*

*COMMENT: Many older homeowners, for estate planning purposes, have put their property into a family trust or LLC.*

### C. Procedural Requirements/ Administration and Enforcement:

- a. An ADU, either attached or detached that conforms to the dimensional requirements of the town's Zoning Bylaw and the requirements contained herein shall be permitted as a "By Right" use accessory to a lawful single family dwelling use.
- b. The Building Commissioner/ Chief Zoning Officer shall administer and enforce the provisions of this section.
- c. ADUs shall not be eligible for zoning use variances, or for zoning dimensional variance relief proposing to increase the allowable number of ADUs on a lot.
- d. The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and lawful under all other provisions of applicable town health, building, zoning and other local laws and regulations, including all conservation, historic, and Old King's Highway requirements if applicable.
- e. Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new building and improvements on a lot associated with a proposed ADU.
- f. Property owners who fail to comply with the requirements of this bylaw shall be subject to a three-hundred dollar (\$300) fine each day that the violation persists.

A determination that the owner has repeatedly failed to comply with this bylaw shall be evidence that the rights and benefits conferred here under are null and void and the elements that make the accessory dwelling unit a separate dwelling unit shall be removed from the property within 90 days of said determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted; or take any other action thereon.

*COMMENT: Permitting and review could also be through Special Permit; Conditional Use; Site Plan Review; or Design Review processes, or some combination thereof to the extent they exist or may be created under zoning.*

#### D. Use and Dimensional Requirements:

The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within a lawful existing or new single-family dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following:

*COMMENT: This provision allows accessory dwelling units accessory to any lawful new or existing principal single-family dwelling, regardless of whether the principal single family property is conforming or nonconforming. There may be situations where the Zoning Board of Appeals has Special Permit jurisdiction over construction of an ADU because of the non-conforming nature of the residential property on which it is proposed.*

- a. The ADU shall be a complete, separate housekeeping unit containing both kitchen and bath.
- b. No more than one (1) Accessory Dwelling Unit may be created per lot.
- c. If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.

*COMMENT: A town could require that any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building.*



d. An ADU shall be clearly subordinate in use, size and design to the principal single family dwelling. An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property and the privacy of abutting properties is maintained, considering the following: building architectural details, roof design, building spacing and orientation, building screening, door and window location, and building materials. Appropriate landscaping may be required in order to provide a buffer between the applicant's lot and abutting properties.

e. The ADU shall contain no more two bedrooms and be no greater than a maximum habitable floor area of 40% of the habitable floor area of the principal single family dwelling unit, but in no event greater than 1000 square feet. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations. Once an ADU has been added to a single-family dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section. The ADU shall contribute toward the property's lot coverage and the combined use shall not exceed the building or site coverage for the zoning district.

*Comment: A town could require that the owner execute/ record a deed rider or restriction limiting the number of bedrooms in and size of an ADU.*

f. At least one (1) off street parking space in addition to that required for the principal single family dwelling is required for an ADU. All parking for the ADU shall be off street.

g. The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and local Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot. An ADU and principal dwelling shall share common septic/ wastewater and water service facilities.

h. An ADU is not intended for sale. The principal dwelling and ADU and lot on which they are located shall remain in common or single ownership, and shall not be severed in ownership, including that the lot or buildings thereon shall not be placed in a condominium form of ownership. The rights and requirements of this bylaw hereby transfer upon the sale of a property containing an ADU built under the provisions of this bylaw.

i. An ADU shall not be used for boarding and lodging, or other commercial use. An ADU and principal dwelling to which it is accessory may be rented for periods not shorter than one month at a time, and are prohibited from any use as rental units on a weekly or daily basis.

j. The minimum lot area required for a parcel allowing an ADU in an accessory structure shall not be less than the minimum lot area required for any other accessory structure. An ADU constructed as an addition to the existing dwelling shall not be less than the minimum lot area required for any other addition. An ADU within the footprint of the existing dwelling shall not have to meet a minimum lot size requirement.

#### E. Amnesty

In an effort to meet local housing needs, real property containing an accessory dwelling unit as described in this Section, for which a validly-issued Variance, Special Permit, Building Permit, Occupancy Permit or Rental Certificate does not exist, may apply to the Building Department for an Occupancy Permit within 7 years of the date of adoption of this bylaw. An Occupancy Permit shall not be granted unless the Building Commissioner has determined the accessory dwelling unit meets all applicable state and local building codes. The accessory dwelling unit must follow all applicable Board of Health regulations. Amnesty is for accessory dwelling constructed prior to the passage of this bylaw and shall not be granted unless the septic loading capacity for existing structure(s) and the existing approved septic flow for the property, both comply with the requirements of the Board of Health regulations and 310 CMR 15.00 – The State Environmental Code, Title 5. Failure to comply with all pertinent State and local rules and regulations shall result in forfeiture of the accessory dwelling unit

and/or the removal of the bedroom(s) causing exceedance to the approved septic flow capacity of the property. All rights and requirements of this bylaw hereby apply to accessory dwelling units approved under Amnesty.

## CAPE COD ADU MODEL

### MODEL ZONING PROVISIONS FOR ACCESSORY DWELLING UNITS (ADUs)

#### INTRODUCTION

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#### **MODEL ZONING - Accessory Dwelling Units (ADUs)**

##### A. Purpose and Intent.

The intent of permitting Accessory Dwelling Units is to:

- a. 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;
- b. Develop housing units on single-family residential properties that are appropriate for households at a variety of stages in their life cycle;
- c. Increase the number of small dwelling units available for rent in Town, and increase the range of choice of housing accommodations;
- d. Encourage greater diversity of population with particular attention to young adults and senior citizens; and
- e. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
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*COMMENT: Having fewer or no restrictions on accessory dwelling unit tenants gives greater control over the unit to the homeowner while offering more diverse housing opportunities, and eases burdens of local administration and enforcement.*

*Note, that the definition of “Dwelling Unit” limits use to a ‘household’ unit, which would help maintain the single family residential use of the property.*

*COMMENT: A Town may want to ensure that its general zoning contains clear definitions for terms used herein such as “building” and/or “structure,” “attached building/ structure,” “detached building/ structure,” “single family dwelling,” “accessory use” and “principal use.”*

**C. Procedural Requirements/ Administration and Enforcement:**

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- b. The Building Commissioner/ Chief Zoning Officer shall administer and enforce the provisions of this section.
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- d. The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and lawful under all o t h e r provisions of applicable town health, building, zoning and other local laws and regulations.
- e. Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new building and improvements on a lot associated with a proposed ADU.

*COMMENT: Permitting and review could also be through Special Permit; Conditional Use; Site Plan Review; or Design Review processes, or some combination thereof to the extent they exist or may be created under zoning.*

**D. Use and Dimensional Requirements:**

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*COMMENT: This provision allows accessory dwelling units accessory to any lawful new or existing principal single-family dwelling, regardless of whether the principal single family property is conforming or nonconforming. There may be situations where the Zoning Board of Appeals has Special Permit jurisdiction over construction of an ADU because of the non-conforming nature of the residential property on which it is proposed.*

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- b. No more than one (1) Accessory Dwelling Unit may be created per lot.
- c. If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.

*COMMENT: A town could require that any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building.*

- d. An ADU shall be clearly subordinate in use, size and design to the principal single family dwelling. An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property and the privacy of abutting properties is maintained, considering the following: building architectural details, roof design, building spacing and orientation, building screening, door and window location, and building materials.
- e. The ADU shall contain no more two bedrooms and no greater than a maximum habitable floor area of 50% of the habitable floor area of the principal single family dwelling unit, but in no event greater than 1000 square feet. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations. Once an ADU has been added to a single-family dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.

*COMMENT: A town could require that the owner execute/ record a deed rider or restriction limiting the number of bedrooms in and size of an ADU.*

- f. At least one (1) off street parking space in addition to that required for the principal single family dwelling is required for an ADU.
- g. The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and local Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory apartment shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot.
- h. An ADU is not intended for sale. The principal dwelling and ADU and lot on which they are located shall remain in common or single ownership, and shall not be severed in ownership, including that the lot or buildings thereon shall not be placed in a condominium form of ownership.
- i. An ADU shall not be used for boarding and lodging, or other commercial use. An ADU and principal dwelling to which it is accessory may be rented for periods not shorter than one month at a time, and are prohibited from any use as rental units on a weekly or daily basis.
- j. An ADU and principal dwelling shall share common septic/ wastewater and water service facilities.

### ADU CHART

Inventory of Accessory Dwelling Unit Provisions	CCC	BAR	BOU	BRE	CHA	DEN	EAS	FAL	HAR	MAS	ORL	PRO	SAN	TRU	WEL	YAR
By Right	✓	X	X	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	X <sup>1</sup>	X	X
Income or Family Restriction	X	✓	X	X	X	✓	X	X	X	X	X	✓	✓	X	✓	✓
Long-term Deed Restriction	X	✓	X	X	X	✓	X	X	X	X	X	✓	X	X	X	✓
Owner Occupancy Requirement	X	✓	✓	✓	✓	✓	X	✓	X	X	✓	X	✓	X	X	✓
Additional or Specific Dimensional or Lot Requirements	X	X	X	✓	X	✓	X	✓	✓	X	✓	X	✓	X	X	✓
Design Standards	✓	X	X	✓	✓	X	X	✓	✓	✓	X	X	✓	✓	X	✓
Maximum Size	1000sf/50%	X	X	600/40%	600/12 BR	X	800sf/50%	1200/50%/2BR	900sf/50%	40%	800sf	600sf including 40% other	1000sf	1000sf	1200sf	800sf
Approval/Enforcement	Building Comm.	ZBA	ZBA	Building Comm.	Building Comm.	Building Comm.	PB	Planning Board/ZBA	Building Comm.	Building Comm.	Building Comm.	Building Comm.	PB	PB	ZBA	ZBA

Updated October 30, 2019

Notes:

1. Technically allowed "by-right" but requires an ADU Permit from the Planning Board.

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Chair of Committee asked for a motion to Adjourn, Councilor Kristine Clark made the motion to Adjourn; this was seconded by Councilor Starr. A Roll Call vote was taken by Administrator

- Councilor Matthew Levesque      **yes**
- Councilor Gordon Starr            **yes**
- Councilor Kristine Clark           **yes**
- Councilor Paula K. Schnepf       **yes**

NEXT MEETING: October 8, 2020

ADJOURN: 7:35pm