

TOWN OF HINGHAM



WARRANT for the **ANNUAL TOWN MEETING**

Saturday, May 8, 2021 at 2:00 P.M.

(Rain Dates: Saturday, May 15, 2021 & Sunday, May 16, 2021 at 2:00 P.M.)

**Hingham High School Multi-Purpose Athletic Field
17 Union Street, Hingham, MA**

and

**REPORTS
of the**

**Advisory Committee
Capital Outlay Committee
Planning Board**

**Board of Selectmen
Personnel Board
School Committee**

Please bring this report to the meeting for use in the proceedings

quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY- see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Massachusetts State Building Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings, or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Massachusetts State Building Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter

along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns, or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition State Building Code, and as it may be later amended]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in US Code of Federal Regulations, Title 44, Part 60, §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]”

Item 3: By replacing the current map "Zoning Part B: Floodplain Protection Overlay District" with an updated map with the same title that (1) shows the updated floodplain information on the following panels: 25023C0091K, 25023C0092K, 25023C0101K, 25023C0103K, 25023C0104K, and 25023C0111K, (2) replaces the date with May 2021, and (3) in the footnote, replaces the phrase “Flood zone designations are based on 2012 Flood Insurance Rate Maps”, with the phrase “Flood zone designations are based on 2012 and 2021 Flood Insurance Rate Maps”.

ARTICLE 27: Will the Town amend the Zoning By-law of the Town of Hingham, adopted March 10, 1941, as heretofore amended as follows:

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:

- 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.

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.

3. Eligibility Requirements

The Board of Appeals may only issue a Special

Permit AI 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 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.

4. Dimensional and Design Requirements

The Board of Appeals may only issue a Special Permit AI 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 shall be the lesser of 750 square feet or 350% 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 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.

- 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.

or act anything related thereto?

(Inserted at the request of registered voters Raymond C. Estes and others – Citizens Petition)

COMMENT: This is a Citizens Petition. The intent of this Article is to modify the Zoning By-law, Section V-K, entitled Accessory Dwelling Units, to allow detached as well as attached accessory dwelling units (“ADUs”).

The current By-law permits only an accessory dwelling unit that is attached to a principal dwelling. It defines an accessory dwelling unit as “a second self-contained dwelling unit within a single-family dwelling which second dwelling unit is subordinate in size to the principal dwelling and otherwise complies with the provisions of this Section V-K.” The By-law specifies that the applicant for a special permit for an attached accessory dwelling unit must certify that the applicant is the owner of the principal dwelling unit; that it is the applicant’s primary residence; and that the attached accessory dwelling unit will be occupied by family members.

The proposed modification would permit an accessory dwelling unit in a separate detached structure on the same lot as a principal dwelling. The major change is that the amendment would permit two dwelling unit structures on one lot. Other significant changes include that the amendment would (1) increase the minimum square footage of an allowed accessory dwelling unit (ADU) from 30% to 35% of the square footage of the principal dwelling unit or 750 square feet, whichever is less; (2) allow a new front entrance to a detached ADU while retaining the restriction that an attached ADU could only add an entrance on the rear or side of the attached ADU; and (3) allow separate water and sewer utilities metering for a detached ADU.

Section V-K allowing attached accessory dwelling units was added in 2018. Before the adoption of the attached ADU amendment to the Zoning By-law, a Study Committee, formed by the Board of Selectmen and Planning Board, did extensive research and review of the issues associated with attached and detached ADUs. No By-law change resulted directly from that Study Committee’s work. Subsequently, however, after a further review of the Study Committee’s work and further investigation, the Planning Board proposed an amendment permitting attached ADUs, but not detached ADUs. Among the reasons cited by the Planning Board for limiting its

proposal to attached ADUs was its conclusion (which had also been the conclusion of the Study Committee) that the impacts of detached ADUs are significantly greater on residential neighborhoods than attached ADUs and need to be approached more cautiously. The Planning Board concluded that giving the Town time to observe the impacts of attached ADUs would provide more insight into the impacts of detached ADUs. Since the ADU By-law became effective in 2018, 13 ADUs have been permitted in Hingham.

As the existing ADU By-law states, accessory dwelling units enable owners of single-family dwellings to share space and the burdens of homeownership with family members. They also provide housing units for family members with diverse housing needs including, without limitation, family members with mental and physical disabilities. A By-law permitting ADUs enhances the Town’s ability to monitor ADU construction for code compliance.

The Planning Board conducted five public hearings on the Article. Each of these hearings was attended by the principal proponent of the Citizens Petition, Raymond C. Estes. Mr. Estes worked closely with the Planning Board, as did other citizens. They provided further information as requested by the Board, including a review of the by-laws of benchmark towns, and answered all questions forthrightly. Mr. Estes was transparent as to his motivation and candidly acknowledged that the proposed modifications to the existing By-law are necessary to accommodate the possibly unique circumstances of his own situation. The Board publicly acknowledged the efforts of Mr. Estes and thanked him for his work and candor. But it also recognized that a zoning change having Town-wide impact should not be crafted based solely on facts that are intended to benefit a particular parcel without consideration of possibly broader impacts and necessary mitigation.

The Planning Board was unanimous in the view that allowing detached ADUs in Hingham has merit and should be considered, but more study, discussion and input is required. Illustrative of the questions to be considered are those raised by Board members during the Board’s several hearings, including the following:

(1) 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.

(2) 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.

(3) 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 overbuilding, particularly on smaller lots. The potential impact across residential zoning districts should be explored.

(4) Are the existing requirements of Section V-K, and enforcement mechanisms with the Zoning By-law 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 placing an unfair burden on abutters.

The Board further noted that the current ADU By-law has only been in effect for a short time, including, a year of lockdowns resulting from the pandemic. Thus, the Board has had only a very limited opportunity to observe the impacts of allowing attached ADUs. Moreover, there has not been significant public interest in this Article. There may be more interest in the community, particularly among groups who may benefit from a further amendment. The Board observed that a principal benefit of the original ADU By-law is to allow families to provide housing for other family members, particularly those with special housing needs. The Planning Board strongly endorsed a broader discussion that provides for input from representatives of the subgroups who may benefit most directly from expanding the availability of ADUs.

The Advisory Committee agrees with the premises of the existing ADU By-law that accessory dwelling units

may enable owners of single-family dwellings to share space and the burdens of homeownership with family members; that they may provide housing units for family members with diverse housing needs including, without limitation, family members with mental and physical disabilities; and that a permitting process enhances the Town’s ability to monitor ADU construction for code compliance. The Advisory Committee also agrees with the reasoning of the Planning Board that detached ADUs raise issues and concerns different from those of attached ADUs and may have more significant impacts on neighbors and neighborhoods. Accordingly, the Advisory Committee recommends that a Study Committee as described by the Planning Board should be established.

The Advisory Committee voted unanimously in support of the Recommended Motion.

RECOMMENDED: 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 By-law, to allow detached accessory dwelling units and/or to amend any other provisions of the Zoning By-law 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 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), 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 By-

laws, 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.

ARTICLE 28: Will the Town authorize, but not require, the Board of Selectmen to accept grants of easements for streets, water, drainage, sewer and utility purposes or any public purpose on terms and conditions the Board deems in the best interest of the Town, or act on anything relating thereto?
(Inserted by the Board of Selectmen)

COMMENT: The Town benefits from many easements over private property throughout Hingham. From time to time, the Town, particularly its Department of Public Works, requires new easements in order to complete roadway and other public works projects. At times, the Town receives requests from private property owners to relocate easements held by the Town on their property. Under Massachusetts law, Town Meeting approval is required for the Board of Selectmen to accept such easements. This Article would allow the Board of Selectmen to accept such easements during the coming year and thus avoid potentially expensive delays and inconvenience to projects that benefit the Town. This Article is intended solely to cover easements voluntarily granted to the Town and would not allow the Board of Selectmen to accept easements that require funds to acquire them. Furthermore, the authority conferred by this Article is not unlimited in time; it is limited to the coming year. If continuing authority is required, the next Annual Town Meeting may be asked to approve it.

The Advisory Committee and the Board of Selectmen voted unanimously in support of this Article.

RECOMMENDED: That the Town authorize, but not require, for a period through the end of Fiscal Year 2022, the Board of Selectmen to accept grants of easements for purposes of streets, sidewalks, or pedestrian walkways, or water, drainage, sewage, or utility facilities on terms or conditions that the Board deems in the best interests of the Town.

You are hereby also directed to notify and warn the inhabitants of the Town of Hingham qualified to vote in Town affairs to meet at three designated polling places in said Town of Hingham according to their precinct, to wit: Precinct 1, 2, 3 and 4: High School, 17 Union Street; Precincts 5 and 6: Middle School, 1103 Main Street, and Precinct 5a: Willard Square at

Linden Ponds on SATURDAY, the twenty-second day of May at EIGHT O’CLOCK in the forenoon, then and there to give their votes on the official ballot for:

A Moderator to serve one year; a Selectman to serve three years; a Town Clerk to serve three years; an Assessor to serve three years; one member of the Board of Health to serve three years; two members of the School Committee to serve three years; a member of the Planning Board to serve five years; a member of the Sewer Commission to serve three years; a member of the Recreation Commission to serve five years; and a member of the Municipal Light Board to serve three years.

Hereof fail not and make due return of this warrant with your doings thereon to the Town Clerk on or before the sixteenth day of April 2021.

Given under our hands at Hingham this thirteenth day of April 2021.

Mary M. Power, Chair
Joseph M. Fisher
William C. Ramsey

BOARD OF SELECTMEN

A true copy
Attest:

Kathleen A. Peloquin
Constable of Hingham
April 16, 2021

By virtue of the within warrant I hereby certify that I have noticed and warned the inhabitants of the Town of Hingham, qualified to vote in Town affairs to meet at the time and place indicated in the above warrant by causing a notice thereof to be published in The Hingham Journal seven days at least before the day appointed for said meeting. An attested copy was presented and posted by the Town Clerk in the Town Hall as of this date.

Kathleen A. Peloquin
Constable of Hingham
April 16, 2021