

## **Zoning Article Update of Accessory Dwelling Unit Regulations**

Will the Town amend the Zoning By-Law of the Town of Hingham, adopted March 10, 1941, as heretofore amended, in order to update Section V-K of the Zoning By-Law for consistency with the provisions of Sections 1A and 3A of the Zoning Act as modified by § 8 of Chapter 150 of Acts of 2024 (the Affordable Homes Act) and any regulation promulgated pursuant thereto, by replacing Section V-K in its entirety as follows:

### **V-K Accessory Dwelling Units**

#### **1. Purpose**

The purpose of permitting dwelling units accessory to single-family dwellings is to:

- a. Provide accessory dwelling units without significantly adding to the number of buildings in the Town or substantially altering the appearance of the residential property in order to protect the stability, property values and residential character of the surrounding neighborhood.
- b. Provide housing units for persons with diverse housing needs including, without limitation, persons 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 within a single-family dwelling or a detached structure accessory thereto, which second dwelling unit is subordinate in size to the principal dwelling and otherwise complies with the provisions of this Section V-K.
- b. 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.
- c. A single-family dwelling with an accessory dwelling unit shall not be deemed to be a two-family dwelling.

#### **3. Eligibility Requirements**

The Building Commissioner may only issue a building permit for an accessory dwelling unit that meets the following minimum eligibility requirements:

- a. 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 for an accessory dwelling unit within the principal structure or ten thousand (10,000) square feet for an accessory dwelling unit in a detached accessory structure. In the case of new construction, the area of the lot shall comply with the applicable minimum lot size for the single-family zoning district in which the single-family dwelling is proposed.
  - b. 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.
  - c. Only one accessory dwelling unit shall be permitted per lot so that the total number of dwelling units per lot shall not exceed two.
  - d. In Residence District D and in Business Districts A and B accessory dwelling units are only permitted in connection with preexisting nonconforming single-family dwellings.
4. Dimensional and Design Requirements Applicable to All Accessory Dwelling Units  
An accessory dwelling unit shall meet the following dimensional and design requirements:
- a. The architectural character of a single-family dwelling shall be maintained.
  - b. All stairways accessing an accessory dwelling unit above the ground floor of a single-family dwelling or detached accessory structure shall be enclosed within the exterior walls of the single-family dwelling; provided, however, that the Building Commissioner may permit an unenclosed stairway on the rear of a structure to access an accessory dwelling unit located on the second floor of an existing building.
  - c. The maximum area of an accessory dwelling unit shall be the lesser of 900 square feet or 50% 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. Notwithstanding the provisions of Section III-I,2 of the Zoning By-Law, no accessory dwelling unit shall be created by any extension of a non-conforming building dimension, including the front, side or rear yard setback.
  - e. Any new entrance for the accessory dwelling unit or principal dwelling shall be located to the side or rear of the single-family dwelling or detached accessory structure.
  - f. Water and sewer utilities serving the accessory dwelling unit shall not be metered separately from the principal dwelling; provided, however, an accessory dwelling

unit with a lawfully existing structure which already maintains separately metered utilities, if the request is accompanied by the written approval of the appropriate utility.

- 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. In addition to the minimum required parking spaces for a single-family dwelling, the parking requirement for an accessory dwelling unit is one space, provided however, that no parking space is required for an accessory dwelling unit located within 0.5 miles of a commuter rail station or ferry terminal.
- i. An accessory dwelling unit shall not have more than two (2) bedrooms.

5. Additional Requirements Applicable to Accessory Dwelling Units in Detached Accessory Structures

A detached accessory dwelling unit shall meet the following dimensional and design requirements:

- a. The detached accessory dwelling unit shall comply with all building dimensions, including the front, side or rear yard setback and height limitations. Notwithstanding the foregoing, an accessory dwelling unit may be located within a lawfully existing nonconforming detached accessory structure provided that the accessory dwelling unit is not less than 10' from a side or rear property line.
- b. The detached accessory dwelling unit shall be located a minimum of 10' from the principal dwelling and (i) to the rear of the principal single-family dwelling or (ii) to the side of the single-family dwelling at a minimum position 10' further back from the front plane of the single-family dwelling.

6. General Conditions

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

- a. Neither the principal dwelling nor the accessory dwelling unit may be sold or otherwise conveyed or transferred separately from the other.
- b. The principal dwelling and accessory dwelling unit, if not owner-occupied, shall have a minimum occupancy or rental term of 6 months.

or act on anything related thereto, including such further revisions to the Zoning By-Law as may be reasonably related to the regulation of accessory dwelling units?

(Inserted at the request of the Planning Board)

## **Planning Board Recommendation:**

That the Town amend the Zoning By-Law of the Town of Hingham, adopted March 10, 1941, as heretofore amended, in order to update Section V-K of the Zoning By-Law for consistency with the provisions of Sections 1A and 3A of the Zoning Act as modified by § 8 of Chapter 150 of Acts of 2024 (the Affordable Homes Act) and any regulations promulgated pursuant thereto, as follows:

Item 1            Replace Section V-K in its entirety as follows:

### **V-K    Accessory Dwelling Units**

#### 1.    Purpose

The purpose of permitting dwelling units accessory to Principal Dwellings is to:

- a.    Provide Accessory Dwelling Units without substantially altering the appearance of the residential property in order to protect the stability, property values and residential character of the surrounding neighborhood.
- b.    Provide housing units for persons with diverse housing needs including, without limitation, persons with mental and physical disabilities.
- c.    Enable the Town to monitor accessory dwelling unit construction for code compliance.

#### 2.    Definitions

For the purposes of this Section V-K, the following terms shall have the meaning set forth herein:

#### **Accessory Dwelling Unit (ADU)**

A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that:

- a.    maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the Building Code for safe egress;
- b.    is not larger in Gross Floor Area than ½ the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller; and
- c.    complies with the provisions of this Section V-K and 760 CMR 71.

#### **Gross Floor Area (GFA)**

The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed

porches and similar spaces. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of an ADU.

**Lot**

An area of land with definite boundaries that is used, or available for use, as the site of a structure, or structures, regardless of whether the site conforms to requirements of Zoning.

**Principal Dwelling**

A structure, regardless of whether it, or the Lot it is situated on, conforms to Zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as an ADU.

**Short-term Rental**

Short-term rental, as defined in M.G.L. c. 64G, § 1.

3. Dimensional and Design Requirements

To be eligible for a building or occupancy permit, an Accessory Dwelling Unit shall meet the following dimensional and design requirements:

- a. All stairways accessing an Accessory Dwelling Unit above the ground floor of a Principal Dwelling or detached accessory structure shall be enclosed within the exterior walls of the structure; provided, however, that the Building Commissioner may permit an unenclosed stairway on the rear of a structure to access an Accessory Dwelling Unit located on the second floor of an existing building.
- b. The Accessory Dwelling Unit shall comply with all building dimensions, including, without limitation, the front, side or rear yard setback and height limitations for the applicable Zoning District. Notwithstanding the foregoing, an Accessory Dwelling Unit may be located within a lawfully existing nonconforming structure, provided that the location shall not result in an extension of a nonconforming building dimension.
- c. Any new entrance for the Accessory Dwelling Unit or Principal Dwelling shall be located to the side or rear of the Principal Dwelling or detached accessory structure.
- d. In addition to the minimum required parking spaces for a Principal Dwelling, the parking requirement for an Accessory Dwelling Unit is one space, provided however, that no parking space is required for an Accessory Dwelling Unit located within 0.5 miles of a Transit Station as defined in 760 CMR 71.
- e. Only one Accessory Dwelling Unit shall be permitted per Lot.

4. General Conditions

Any permit issued pursuant to this Section V-K shall be subject to, and shall incorporate

the following conditions:

- a. Neither the Principal Dwelling nor the Accessory Dwelling Unit may be sold or otherwise conveyed or transferred separately from the other.
- b. The Principal Dwelling and Accessory Dwelling Unit shall have a minimum occupancy or rental term of 30 days and shall not be used as a Short-term Rental.

Item 2 Delete subsection 1.8.9 to the Schedule of uses under Section III-A in its entirety and resequence the existing subsections 1.8.10 and 1.8.11 to subsections 1.8.9 and 1.8.10.

Item 3 Insert a new subsection 1.9 to the Schedule of Uses under Section III-A as follows:

Residence					Business		Office Park*	Waterfront Business	Waterfront Recreation	Industrial	Industrial Park*	Limited Industrial Park	Business Recreation	Official and Open Space
A	B	C	D	E	A**	B								
1.9 Accessory Dwelling Units in connection with a Principal Dwelling, subject to Section V-K														
P	P	P	O	P	O	O	O	O	O	O	O	O	O	O

(Recommended by the Planning Board (3-1-1))