

## MEMORANDUM

To: Judy Sneath, Chair, Hingham Planning Board

CC: Emily Wentworth, Michael Silveira

From: Gary Tondorf-Dick, Member, Hingham Planning Board

Date: November 7, 2022

RE: Proposed Discussion Items and Recommendations: ADU Study Committee Report  
To the Planning Board, September 2022

### **Purpose:**

The Citizens' Petition submitted to the 2021 Town Meeting proposed to extend the familial occupancy By Law provisions in the primary residence to allow an ADU to an Accessory Structure located on the same lot.

The 2021 Town meeting formed a study committee to evaluate the merits of allowing ADUs in a detached (accessory) structure.

At the first meeting, the ADU Study Committee expanded the study scope to focus on how to advance ADUs in the detached structure and not to focus on the merits as summarized in the approved 2021 Town Meeting ADU Study Committee Warrant Article. At subsequent ADU Study Committee meetings, representatives of housing advocacy groups discussed the perceived benefits of deleting the familial requirements for the ADU occupancy.

It is my recollection that in the ADU Study Committee in 2016, of which I was the Chair, in which we studied the merits of ADU's in the primary residence and in detached structures, and subsequent ADU by law review by the Planning Board leading up to the 2018 Town Meeting approval of occupancy in the primary residence restricted to familial occupancy. The focus of familial occupancy is to provide for multi-generational housing for family members, those with disabilities and caretakers.

The 2016 Study Committee's focus was to protect the stability, property values and character of one-family residential neighborhoods and help preserve ownership of one-family dwellings.

Should the Town include By Law provisions for Affordable ADUs in residence Districts A, B and C? Scituate's By Law has provisions for Affordable ADUs in Residence Districts that warrant further review.

In review of the ADU Study Committees Draft Report submitted to the Planning Board in September 2022, I appreciate the efforts that the Study Committee undertook. In researching our Peer Towns By Laws, I have seen many ADU By Laws in which this issue is vetted very proactively and thoroughly. I propose that the Planning Board consider the following proposals of areas that we should research and evaluate further for inclusion in any ADU By Law Warrant Article that the Planning Board would recommend.

### **Proposed Special Permit Procedures and Conditions:**

The Hingham Planning Board has developed site plan review criteria based on lot disturbance in ATM 2021. Given that an accessory dwelling unit is proposed to be allowed in an accessory structure, this will constitute a site disturbance. It would be consistent with the By Law to have the Accessory Dwelling Unit Special Permit be issued by the Planning Board as part of Site Plan Review.

Excerpts from Scituate ADU By Law: “The Planning Board may authorize an Accessory Dwelling by Special Permit in any residential district , or business district, provided that the following standards and criteria are met:

1. Accessory Dwelling Units shall be complete, separate housekeeping units that function as a separate unit from the primary residential structure or dwelling.
2. The Single Family Residence or the Accessory Unit shall be occupied by the Primary Owner of the Lot as the Primary Residence.
3. Only one ADU shall be created on the lot either within the single family residence or in an accessory dwelling unit.
4. At least two off street parking spaces will be provided for the use by the ADU occupants. A waiver of this requirement may be granted by the planning board if occupancy or other circumstances merit.
5. The application for the Special Permit shall conform with the requirements of Title 5 Septic (12,500 SF per bedroom) and the storm water management requirements and provisions of the By Law.

### **Proposed Application Procedure**

An application for approval of a special permit for an accessory dwelling shall include a notarized letter of application from the owner(s) with a covenant stating that the applicant is the primary owner and will occupy one of the dwelling units on the premises.

Every accessory dwelling unit special permit shall include a condition that the applicant will occupy one of the dwelling units in the house.

The lot, the single family house and the ADU shall comply with existing zoning requirements, lot size of the residential district, setbacks, tree yard, building height and Maximum Lot Coverage-Floor Area Ratio. Provisions for grandfathered lots are included in the Lot Coverage, Maximum Floor Area Ratio By Law subsection below.

An application for an accessory dwelling unit special permit shall include a site plan and floor plan. When the creation of an accessory dwelling unit involves exterior alteration of the house,

elevation plans shall show the sides of the building affected by the creation of an accessory dwelling unit, before and after the construction of the accessory dwelling unit. These plans shall include, at a minimum, footprint of existing house, location and number of off-street parking spaces, square footage of existing house, square footage of proposed accessory dwelling, and location/means of ingress and egress from the accessory dwelling unit. All plans must be prepared and stamped by a registered professional architect or engineer.

ADU shall be on first floor of accessory building.

ADU cannot be sold separately as the ADU is Accessory to the primary residence on the single lot.

Minimum primary residence size-1,200 SF  
35% of accessory structure, 875 SF, whichever is less.

2 BR maximum, with one bedroom for a caretaker.

Lot Coverage By Law-(Concord, MA By Law Excerpt) FAR: The Maximum Floor Area ratio: The total gross floor area of all buildings on a lot shall not exceed the maximum square footage per acre of lot area as noted in the table AA above (to be created), (except as provided in M.G.L c.40A, sec. 9C for child care facility as an accessory use). for residence Districts A, B, C and D. Excluded from the gross floor area in residential districts are , open or screened porches, decks and accessory structures with no permanent foundation or less than 100 square feet in area. The Planning Board may grant relief from the maximum Floor Area Ratio in the residence Districts A, B, C and D provided that the Board finds that a literal application of this requirement would be unreasonable because there are no reasonable alternatives available and that the relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this By Law. Non-residential principal uses in the residence Districts A, B, C, D shall be exempt from the Maximum Floor Area Ratio in Table AA above because they are covered elsewhere in the Zoning By Law Use Table.  
Maximum Floor Area calculation:  $.24X$  (1200/actual lot area in square feet).

**Proposed ADU By Law Discussion Items:**

Coordination with the Master Plan Implementation Plan

Control number of buildings on a residential lot.

Affordable ADU Option: Combine ADU By Law provisions with Flexible Residential Development.

Covenant contract with primary owner. Notarized

Yearly renewable occupancy permit and certification.

Rental period, if allowed-12 months. Condominium HOA's require 12 months occupancy to protect quality of residential community. This would deter unwanted Air BNBs.

Site Plan Review compliance with all existing zoning and Town By Law regulations required.

Full compliance with Title 5 Septic Requirements-12,500 SF per bedroom

Full compliance with storm water standards.

Ownership duration prerequisite-5 years.

Primary residence ADU or accessory building ADU, only 1 ADU allowed on 1 lot

Issue: convert existing garage, new garage requirements-all buildings to comply with all zoning requirements and regulations and Lot Coverage Bylaw (FAR).

No more than 10 new accessory dwelling special permits shall be issued by the Planning Board each year.

### **Coordination with Proposed Massachusetts Housing Legislation:**

MBTA Communities Legislation-Only market rate units are required?  
Affordable units?

40 B-Inclusionary Zoning

Affordable ADUs

Housing Production Plan

Mixed Use Village Planning

An investigation of Community Policies and Attitudes Towards Accessory Dwelling Units in greater Boston; Alexandra P. Levering, Tufts University, 2017 includes look back issues encountered in peer towns. Excerpts:

Seniors don't want to share home with tenant strangers.

Seniors will downsize due to maintenance issues rather than build a new ADU rental unit.