

## **MEMORANDUM**

To: Judy Sneath, Chair, Hingham Planning Board

From: Gary Tondorf-Dick, Hingham Planning Board Member

CC: Emily Wentworth, Michael Silveira

Date: November 14, 2022

RE: Recommendations to the Planning Board-Accessory Dwelling Units in Accessory Structures

I am offering these suggestions and recommendations to the Planning Board as we begin our discussion on the Accessory Dwelling Study Committee report:

### **Background Planning for Accessory Dwelling Units:**

The consensus of the 2014-2015 ADU Study Committee and the Planning Board was that the impacts of detached ADUs are significantly greater in residential neighborhoods than attached ADUs and need to be approached more cautiously given the complexity of the zoning restrictions to protect the abutters. The 2017 Master Plan Goals and Objectives adopted by the Planning Board, recommended “Enact an accessory unit by law tailored to Hingham’s specific needs that will allow secondary units while respecting neighborhood character”.

The Master Plan adopted unanimously by the Planning Board in August 2021, includes a goal of “provide a variety of housing to encourage population diversity and aging in the community” with a specific Policy Recommendation 4.4: “explore the possibility of allowing detached accessory dwelling units in some or all of the areas where accessory dwelling units are now allowed for family members, but not for rental”.

The Planning Board should follow the 2021 Master Plan policy recommendation and the 2021 Citizen’s Initiative to recommend to the Town a Zoning Warrant Article to allow familial occupancy in an existing accessory building on the same lot with the appropriate zoning restrictions.

### **Issues Requiring Further review:**

#### **Review Issues: Familial Occupancy in Existing Accessory Buildings:**

Updating and expanding Article Section V-K of the existing Accessory Dwelling Unit Zoning By-Law to allow familial occupancy in existing detached accessory buildings will enable older and disabled and younger family members to remain in place in Hingham. This will support and strengthen the family unit and our Hingham community.

The Commission on Disabilities has commented that “The COD is concerned that removal of the term Familial Occupancy” from the ADU Study Committee proposal, which was the initial focus of the ADU Study, will no longer serve the constituents, the special needs and disabled residents of the Town”.

In presentation to the Planning Board, the stated intent of the Commission on Disabilities and the Council on Aging is to create housing units for familial use that would assist multi-generational families to age in place.

The Massachusetts Attorney General's Office has not cited any case law that would require the deletion of the familial occupancy provision in our 2018 Zoning By-Law.

The Planning Board needs more time to study the proposed deletion of the familial occupancy requirement to allow sufficient time to collect data and fully examine the potential consequences of permitting ADU non-familial ADU rental units in Hingham in existing and new construction.

#### **Review Issues: Occupancy and Neighborhood Character-Non-Familial Rentals:**

The side and back yards are a resident's private family sanctuary and the introduction of non-familial rental ADUs will have consequences that need to be addressed in any by-law discussion and recommendations.

Our single family neighborhood character is representative of the American dream since World War II. The Hingham Zoning By-Law Residential Districts A, B and C has been based on the evolution of single family zoning. The Town infrastructure (roads, safe access, subdivision planning standards and zoning, lot sizes and density in residential districts, Title V septic and storm water standards) layouts are based on single family zoning and not on two family zoning. It is unclear if Hingham residents will accept rental unit in their back yards.

Will Town residents accept a rental unit to strangers in their back yard that can/will result in a negative downside risk of the loss of the peaceful and quiet enjoyment of their property due to an increase in activity, traffic and intensity of use?

Non-familial rental units are a new paradigm. Non-familial rentals mean the commercial use of property to generate income.

This proposal is not about inclusion or affordable housing. Any ADU units offered for rental will be rented at market rates of \$2,500 - \$4,000 or more.

This proposal is an economic development proposal that will create a one-time windfall for current landowners that will not be available to future buyers of Hingham homes. Allowing rentals and two family ADU zoning will result in overdevelopment and overburdening of neighborhoods with more traffic and density while providing market rate housing only.

#### **Review of Benchmark Communities:**

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.

**Suggested 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 (as required in Scituate, Norwell and Concord). Suggested By-Law Provisions as Included in Peer Town By-Law:

(Cohasset) The lot size must comply with the minimum requirements for a one-family dwelling in residence Districts A, B, C and D. In the case of pre-existing lawful nonconforming structures, the ADU shall not increase the square footage of the pre-existing structure and shall not alter the footprint of the pre-existing structure.

(Milton) No ADU shall be separated from the principal dwelling through condominium conversion or be held in separate ownership from the principal dwelling unit on the lot.

(Milton) The ADU shall not be used for boarding or lodging or other commercial use.

Building height (Ipswich-24 feet for ADU)

(Milton) At least one off street parking space per ADU bedroom in addition to the number of spaces required for the single family dwelling is required for the ADU. Each parking space and the driveway serving such space(s) shall be paved or have a gravel surface.

(Milton) Where additional parking spaces are being created for the ADU, there shall be dense evergreen or deciduous plantings, walls, fence or a combination thereof in the area between the parking areas and the nearest side lot line. Screening shall be sufficient to minimize the visual impact on abutters and maintain the single family appearance of the neighborhood.

**Proposed Application Procedure Suggestions:**

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 as his/her/their primary residence.

Ownership duration prerequisite-5 year prior to submitting ADU Application.

Yearly renewable ADU occupancy permit and certification.

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.

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 existing non-conforming 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.

Conversion of existing garage, replacement new garage requirements-all buildings to comply with all zoning requirements and regulations and Lot Coverage Bylaw (FAR).

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).