



TOWN COUNCIL
Committee to Review Zoning and Permitting Regulations
Selectmen's Conference Room
Thursday October 8, 2020 – 6:30pm

Councillors:

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

All members present

2 Members from the Planning Board joined the meeting this evening. Steve Costello:
Arden Cadrin also was in attendance

Chair of Committee asked for a motion to approve the meeting minutes of October 8, 2020
Councilor Gordon Starr made the motion to approve the meeting minutes as amended of June 11, 2020,
Councilor Clark seconded the motion, and a Roll Call Vote was taken.

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

Submitted by Elizabeth Jenkins, Director, Planning and Development

By-law change to ordinance in the DRAFT

The following explained by Elizabeth id designed to increase the housing stock in Barnstable Chair of the Committee wanted to go through each section to make sure that we have the correct language for policy.

Chapter 240: Zoning

ARTICLE V: Accessory Uses

240-47.2: Accessory Dwelling Units (ADUs)

A. Purpose and Intent.

The intent of permitting Accessory Dwelling Units is to:

Councilor Starr had concerns with the first (a) Are we adding septic's to accommodate these dwellings. Chair of the Committee stated that no you can't add bedrooms or people onto an already established system. Steve Costello from Planning Board asked about the word SMALL Units, the Committee may choose to strike the word SMALL

- a. Increase the number of small dwelling units available for year-round rental in Town while remaining within our current wastewater capacity limitations;
- b. Adapt single-family residential properties so they are supportive of residents at a variety of stages in their life cycle;
- c. Encourage greater diversity and support of all populations with particular attention to young adults and senior citizens; and
- d. Encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
- e. 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.

COMMENT: Definitions of Dwelling Unit and Owner need to be considered and reviewed for consistency with the remainder of the Zoning Ordinance.

Chair of Committee Councilor Schnepf asked about accessory dwelling to a commercial building, do we need language inserted for this? Elizabeth Jenkins stated it would be worth a discussion with the Committee members. Steve Costello mentioned that in Chatham they allow living in their ordinance in Commercial areas. The Cape Cod Commission he believes their intent was residential areas only.

C. Procedural Requirements/ Administration and Enforcement:

Elizabeth stated she removed the words by right because she believes the internal application process needs a little more scrutiny and did not want the public to think that by right meant they could do anything.

- a. An ADU, either attached or detached that conforms to the dimensional requirements of the town's Zoning Ordinance and the requirements contained herein **shall be permitted as an accessory use to a lawful single family dwelling use.**

b. 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.

c. The Building Commissioner shall administer and enforce the provisions of this section.

COMMENT: Further discussion of internal review process for ADU applications is needed.

d. 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.

e. The construction of any accessory dwelling unit must be in conformity with the Federal, State, and local laws and regulations, including all historic, and Old King's Highway requirements if applicable.

COMMENT: Enforcement and Penalty provisions need further review by the Building Commissioner.

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.

g. 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 or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure 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.

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.

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. *COMMENT: Further discussion of internal review process for ADU applications is needed.*

e. The ADU shall contain no more two bedrooms and be 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.

f. 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.

g. All parking for the ADU shall be off street.

h. 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. If the property is served by municipal sewer, the Department of Public Works shall certify adequate capacity is available to serve the additional unit. *COMMENT: NEEDS REVIEW BY HEALTH & DPW*

i. 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.

j. An ADU or the principal dwelling to which it is accessory may be rented. Renting of both units simultaneously is prohibited.

k. An ADU or principal dwelling to which it is accessory shall be rented for a period not shorter than 12 months at a time and are prohibited from any use as rental units on a weekly or daily basis.

l. Boarding and lodging [defined], [or any rental], or any commercial use [excluding home businesses?] shall not be allowed at a property containing an ADU.

m. ADUs are subject to the dimensional requirements of the zoning district in which they are located.

(Staff inserted (n) from the by law, needs discussion, Elizabeth would strike it completely from the Town of Barnstable)

n. 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.

COMMENT: This section should be reviewed. It appears inconsistent with the manner in which our Ordinance is written.

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 or Occupancy Permit 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.

The Town has not seen a large uptake in applications for this program, so the concerns of investors coming in and buying these types of homes and turning them into short term rentals is

unlikely, the program is cumbersome. Councilor Schnepf asked about Duplexes, and whether the owner should be in one half and the other half rented out, or can the homeowner rent both sides in this program. Councilor Levesque has concerns that if we become too restrictive this will not help out homeowners give the opportunity for others to work and stay here. It is worth a discussion amongst the Committee to get feedback. Is there any negative to renting both? Councilor Starr suggested we move slowly on this. Councilor Clark was leaning towards investor owned houses, but respects the comments made by Jake Dewey and his concerns about investor owned properties.

Chair of the Committee asked that all the suggestions made tonight be incorporated into this document and then bring it back at our next meeting. Chair Schnepf is also going to invite others from the Public to look at this document at our next meeting.

Councilor Clark asked about any feedback from the information Arden sent regarding the by-laws from other Towns as far as what worked and did not work, Arden answered that Harwich was the only town but the information gathered from them was too new to make any suggestions as to what worked and what did not.

Chair of Committee asked for a motion to adjourn, Councilor Gordon Starr made the motion, this was seconded by Kristine Clark, and Administrator took a Roll Call vote

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

NEXT MEETING: October 8, 2020

ADJOURN: 7:54pm