



Planning & Development
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Memo

Date: February 27, 2025

To: Planning Board

From: Michael G. Livingston, Town Engineer/Planner

Re: Ordinance Changes – Accessory Dwelling Units & Affordable Housing Development

Background

The Town Attorney has recommended changes to be proposed to sections of the ordinance pertaining to Accessory Dwelling Units (ADU's) and Affordable Housing Developments in order to be in compliance with State Statute LD2003. The Planning Board has also worked on ordinance changes for that purpose but with other changes to enhance those land use requirements.

The Board of Selectmen conducted a workshop on 2-18-25 and scheduled a joint public hearing with the Planning Board on 3-17-25.

See attached ordinance drafted by the Town Attorney which includes changes recommended by the Board of Selectmen to incorporate some of the draft elements from both Boards.

The goal is to present the voters with ordinance changes that comply with LD2003 for the June Town Meeting, but with the acknowledgement that other changes are to be worked on for the November Special Town Meeting which will incorporate Short Term Rental (STR) regulations and licensing.

The Planning Board conducted a workshop on 2-24-25 and two issues of concern were raised on allowing detached ADU's and on parking requirements. The Planning Board requested the Town Attorney to be present at the 3-3-25 meeting to discuss these items.

Considerations and Recommendations:

The Planning Board should consider the proposed ordinance changes as drafted by the Town Attorney and comment on them. Questions should be asked and issues discussed prior to the public hearing and final workshop with the Board of Selectmen. The two following items were of concern:

Detached ADU's

The Town's current ordinance does not allow detached units.

The LD2003 Guidance document published by the Maine Department of Economic and Community Development states the following:

This section allows any lot with a single-family dwelling in an area where residential uses are permitted, including as a conditional use, to have one accessory dwelling unit (ADU) as well, effective on a municipality's implementation date. That ADU can be within the existing home, attached to it, or in a new structure. Municipalities may also allow existing accessory structures to be converted into an ADU.

The Statute states the following:

§4364-B. Accessory dwelling units

1. Use permitted. Except as provided in [Title 12, chapter 423-A](#), a municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit in any area in which residential uses are permitted, including as a conditional use.

2. Restrictions. An accessory dwelling unit may be constructed only:

A. Within an existing dwelling unit on the lot; [PL 2021, c. 672, §6 (NEW).]

B. Attached to or sharing a wall with a single-family dwelling unit; or [PL 2021, c. 672, §6 (NEW).]

C. As a new structure on the lot for the primary purpose of creating an accessory dwelling unit. [PL 2021, c. 672, §6 (NEW).]

Even though the term "or" is used when identifying the 3 types of ADU construction, the Guidance document and general legal opinions have been that all three, A, B and C must be allowed. The term detached ADU is not used. The term "new structure" is used. Town's appear to be able to restrict the use of existing structures as ADU's.

Parking

The Guidance document states the following:

ACCESSORY DWELLING UNIT PARKING

Additional parking requirements for the ADU beyond those required for the single-family dwelling are not permitted.

The Statute states the following:


C. An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located. [PL 2021, c. 672, §6 (NEW).]

The Guidance document goes further to describe with the following diagram:

Parking for ADUs

Example Parking Requirement


NOT PERMITTED



Single Family Home
2 spaces minimum

Single Family Home + ADU
3 spaces minimum

PERMITTED



Single Family Home
2 spaces minimum

Single Family Home + ADU
2 spaces minimum

This example applies to towns with minimum parking requirements.
For towns without parking restrictions, no additional restrictions would be imposed.

The Town's ordinance is the following per 145-39.D.

The following off-street parking standards shall be provided and maintained for each use on a lot except as specified in Subsection **E** below. The reviewing authority may permit a reduction in the number of spaces provided, based on documentation from the applicant as to the particular needs of the proposed uses, or may require additional parking based on the characteristics of the particular application for approval. The reviewing authority may also permit a reduction in the number of spaces provided based on the availability of mass transit to a lot and its potential use by pedestrians or cyclists, or based on a mixed use and the establishment of restricted operating hours. [Amended 4-26-1996; 4-19-1997; 11-2-2010; 11-5-2013; 6-10-2014; 11-5-2024]

Use	Required Parking Spaces
Dwelling	2 per each dwelling unit, plus 1 per bedroom in excess of 2 bedrooms per dwelling unit

The parking requirement is based on the number of bedrooms, not whether from an ADU. This appears to meet Statute and can require more than two parking spaces for a dwelling. The guidance document is flawed. A Town could already require 3 or more parking spaces for a dwelling.

The Planning Board to consider voting to schedule a joint public hearing with the Board of Selectmen on March 17, 2025 on the proposed changes.