

## PROPOSED ACCESSORY DWELLING UNIT BYLAW

### Additions to Section 2

#### New Section 4.2.4

To see if the Town will vote to amend the Zoning Bylaw of the Town of West Newbury, Massachusetts by striking the language below in italics and shown as struck through and adding the language in bold and underlined as follows, and further to authorize the Town Clerk to make any non-substantive, ministerial changes to numbering and formatting to ensure consistency with the remainder of the Zoning Bylaw, or take any action relative thereto:

### Section 2. Definitions

**ACCESSORY DWELLING UNIT – A subordinate Dwelling Unit within, attached to, or detached from, an existing Single-Family Dwelling and as further defined in Section 4.2.4.**

**SINGLE-FAMILY DWELLING – A building designed or used exclusively as a residence and including only one principal Dwelling Unit.**

#### **Section 4.2.4. Accessory Dwelling Unit subject to and incompliance with the following:**

- a. **Purpose: This section authorizing the provision of Accessory Dwelling Units is intended to:**
  - o **Increase the number of small Dwelling Units available in the Town;**
  - o **Increase the diversity of housing that may serve the needs of the current and future population of the Town including, but not limited to, young adults and senior citizens;**
  - o **Provide homeowners with a means of obtaining rental income; and**
  - o **Encourage a more economic and efficient use of the Town's housing supply while respecting the residential character of West Newbury's neighborhoods.**
- b. **Use and Dimensional Regulations**
  - i. **The Building Inspector may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within an existing or new owner-occupied, Single-Family Dwelling, or in an existing or new structure accessory to an owner-occupied Single-Family Dwelling,**

**whether attached or detached, provided that it satisfies the requirements of this Section 4.2.4. and dimensional (Intensity of Use) requirements of Section 5.**

- (1) The Accessory Dwelling Unit will be a complete, separate Dwelling Unit that 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 state building code for safe egress.**
- (2) The Floor Area of an Accessory Dwelling Unit shall be no greater than ½ the floor area of the principal dwelling or nine hundred (900) square feet, whichever is smaller.**
- (3) There shall be no more than one Accessory Dwelling Unit on a Lot.**
- (4) The owners(s) of the Single-Family Dwelling must continue to occupy at least one of the Dwelling Units as their primary residence, except for temporary absences per 4.2.4.b.iii.**
- (5) Any new separate outside entrance serving an Accessory Dwelling Unit shall be clearly secondary to the entrance of the principal Single-Family Dwelling.**
- (6) No new curb cuts shall be allowed for an Accessory Dwelling Unit.**
- (7) Adequate off-street parking shall be provided for the Accessory Dwelling Unit**
- (8) The Accessory Dwelling Unit is intended to be an accessory use and the Accessory Dwelling Unit, the principal Single-Family Dwelling and the Lot shall be held by the same owner.**

**ii. Prior to issuance of a Building Permit, the owner must submit an affidavit to the Building Inspector stating that they will occupy one of the dwelling units on the Lot as their primary residence.**

**iii. An absence of six months each year will not constitute a violation of this bylaw.**

**iv. When a Lot with an Accessory Dwelling Unit is sold, the new owner, if they wish to continue use of the Accessory Dwelling Unit, must within sixty (60) days of the sale, submit an affidavit to the Building Inspector stating that they will occupy one of the dwelling units on the Lot as their primary residence.**

**c. Special Permit**

**Accessory Dwelling Units exceeding floor area or curb cut limitations may be allowed by Special Permit from the Planning Board per section 11.2. of the West Newbury Zoning Bylaws.**

## ARTICLE 17: Accessory Dwelling Unit (ADU) Frequently Asked Questions

### What is an ADU?

- An ADU is a small residence that shares a single-family lot with a larger primary dwelling/home.

### How was the proposed Bylaw developed?

- Consistently the Town’s long-range plans including Comprehensive Plans, Community Development Plans and Housing Production Plans have called for diversifying the town’s housing stock to create housing that meets local needs, with many specifically identifying ADUs as one strategy for achieving this goal.
- In early 2023, the Planning Board began researching ADU bylaws in Massachusetts as well as the State’s ADU Model Bylaw. We developed a comparison matrix to compare seven community bylaws and the State’s Model Bylaw. Over the course of six months at our regularly scheduled meetings, the Board discussed how ADUs should be permitted, the type or style of ADU to be allowed, minimum lot size, maximum unit size, number of bedrooms, residency and lease requirements, design standards, parking space requirements, among other issues.
- The Board sought input from Town Departments including the Select Board, Health Department, Building Inspector and the Affordable Housing Trust throughout the process to develop a bylaw we consider consistent with West Newbury’s housing and other community goals.
- Having agreed on draft bylaw language, the Board created a project web page where we posted the draft bylaw and information on ADUs, hosted a listening session to gather community input on June 6<sup>th</sup> and on September 19<sup>th</sup> held a Public Hearing on the proposed bylaw.
- The Board revised the draft bylaw based on community input and Town Counsel recommendations.
- At a joint Select Board and Finance Committee Meeting on September 27<sup>th</sup>, both voted in support of the article as proposed.

### How would ADUs help West Newbury?

- An ADU can enable homeowners to provide housing for their parents, adult children, or other loved ones.
- An ADU can provide older adults a way to downsize on their own property while a tenant, family member, or caregiver resides in the larger primary home.
- An ADU can generate often-essential income for the primary home-owner.
- An ADU is typically less expensive to rent, thereby helping to improve housing affordability and diversity.
- An ADU is most often created within an existing building, such as within an existing home, garage, or other outbuilding, thereby new housing is created without changing the general physical character of a neighborhood and without developing additional land.

### How does an ADU compare to a two-family home which is already allowed by right throughout town?

	<b>Two-Family</b>	<b>ADU</b>
<i>Size (sq ft)</i>	Unrestricted	No larger than 900 Sq Ft (By-right)
<i>Septic</i>	Leach field sized to the total number of bedrooms on the lot	Leach field sized to the total number of bedrooms on the lot
<i>Ownership</i>	Separate owners allowed and typical	Primary and ADU cannot be sold separately
<i>Rental</i>	Allowed	Allowed, provided the homeowner lives in either the primary home or ADU
<i>Building Type</i>	Must be attached/share a living space wall	May be within, attached to, or separate from the primary home

### Are ADUs subject to West Newbury’s zoning, wetland, septic and other requirements?

- Yes, ADUs are subject to all applicable dimensional requirements of the West Newbury Zoning Bylaw, parking requirements, Conservation Commission/Wetland regulations, Stormwater Management regulations and Title V Septic regulations. ADUs would require a building permit and must meet all applicable building codes.

### **Why allow ADUs as of right?**

- Allowing ADUs as of right would treat ADUs in the same way as any other addition or change to an existing residence (i.e., the addition of an ADU would be subject to the same rules as an expansion to build an additional bedroom or in-home office or garage). Requiring a special permit would generally depress the creation of many worthwhile ADUs because it would mean that even before the owner knows whether an ADU will be allowed, he or she must incur thousands of dollars upfront to engage a design professional and/or attorney, and undergo a public discretionary approval process. Based on the experience of other Massachusetts cities and towns that allow ADUs, we expect the number of ADUs permitted each year to be modest (approx. 2-5 units/year).<sup>1</sup>
- The proposed bylaw treats ADUs similar to two-family developments – a by right use if the ADU meets all other requirements of the ADU Bylaw and other requirements of the Zoning Bylaw. An ADU is a residential use in a residential zone – it allows no more density than a by-right two-family and is focused on creating smaller, less expensive housing options.

### **How do we assure ADUs are for West Newbury homeowners and not developers?**

- Under the Planning Board’s proposal, someone seeking to build an ADU would need to certify to the Building Inspector that they will reside in either the principal dwelling unit or the ADU. State building code defines homeowner in an effort to limit the possibility of developers from flipping properties.

### **Who enforces ADU requirements?**

- ADUs do not pose any special enforcement challenges and based on the experience of other Massachusetts municipalities we expect only a modest number of ADUs to be created each year. West Newbury’s Building Inspector will review all ADU permit applications and inspect all ADUs prior to issuing a certificate of occupancy, in the same manner as all other home improvements and other work in town, to ensure compliance with zoning, building code and fire safety requirements.

### **Septic requirements**

- Septic requirements for an ADU are the same as for any dwelling unit. The total number of bedrooms on the property dictates the size of the leaching area required on the property, whether a single-family, two-family or a single-family with an ADU.
  - If a home has three bedrooms and the owner wants to add a two-bedroom ADU to the property, the septic system would be required to be sized for five bedrooms.
  - If a home has three bedrooms and the owner wants to convert part of the house and reduces the bedrooms of the primary dwelling to two, the ADU could include one bedroom without a change in the septic system, provided that all other aspects of Title V are adhered to.

### **Are Short Term Rentals (STRs) allowed in an ADU?**

- ADUs would be regulated the same as any other home in West Newbury. If Short Term Rentals are allowed in single family homes, they would be allowed in an ADU. If they are prohibited, that prohibition would also cover ADUs.
- The Select Board is asking voters at the 2023 Fall Town Meeting to establish that Short Term Rentals are NOT allowed in residential districts in West Newbury by deleting Section XXXIX of the West Newbury Town Bylaw. Note that in 2021, the Massachusetts Supreme Judicial Court affirmed a prior Land Court decision finding that, if not specifically permitted, STRs are not a permitted use in residential zoning districts.

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<sup>1</sup> The report, “The State of Zoning for Accessory Dwelling Units,” written by Amy Dain and published by the Pioneer Institute for Public Policy Research in July 2018, can be found at the following link: [The State of Zoning for Accessory Dwelling Units | Economic Opportunity Latest News \(pioneerinstitute.org\)](https://pioneerinstitute.org/research/the-state-of-zoning-for-accessory-dwelling-units/) This report indicates that, while the number of ADUs varies across jurisdictions, on average, only approximately 2.5 units are permitted in each municipality each year.