



**TOWN OF WEST NEWBURY  
PLANNING BOARD  
Tuesday April 4<sup>th</sup>, 2023 7:00 p.m.  
AGENDA**

***For Remote Participation (see below)***

1. Update on Tree Removal at Grant Farm
2. MBTA Communities Update
3. ADU Bylaw Discussion
4. Town Meeting
5. Planners Report
6. General Business:
  - Minutes – February 21, 2023; March 7, 2023; others, if any
  - Correspondence
  - Administrative Details
  - Placement of Items for Future Planning Board Agendas
  - Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting

*The Planning Board reserves the right to take Agenda items out of order*

Addendum to Meeting Notice Regarding Remote Participation

Pursuant to Chapter 22 of the Acts of 2022 (parts of which were extended on July 15, 2022) An Act Extending Certain COVID - 19 Measures Adopted During the State of Emergency," this meeting of the West Newbury Planning Board will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at [www.wnewbury.org](http://www.wnewbury.org). Members of the public who wish to view and/or listen to the meeting may do so using Zoom, by calling the telephone number or using the VideoLink listed below:

Zoom Meeting Instructions:

Phone: 1+(646) 558-8656

VideoLink: <https://us06web.zoom.us/j/88462781729?pwd=a240NG9ITkRvZExqQ0o1djZiN2Fsdz09>

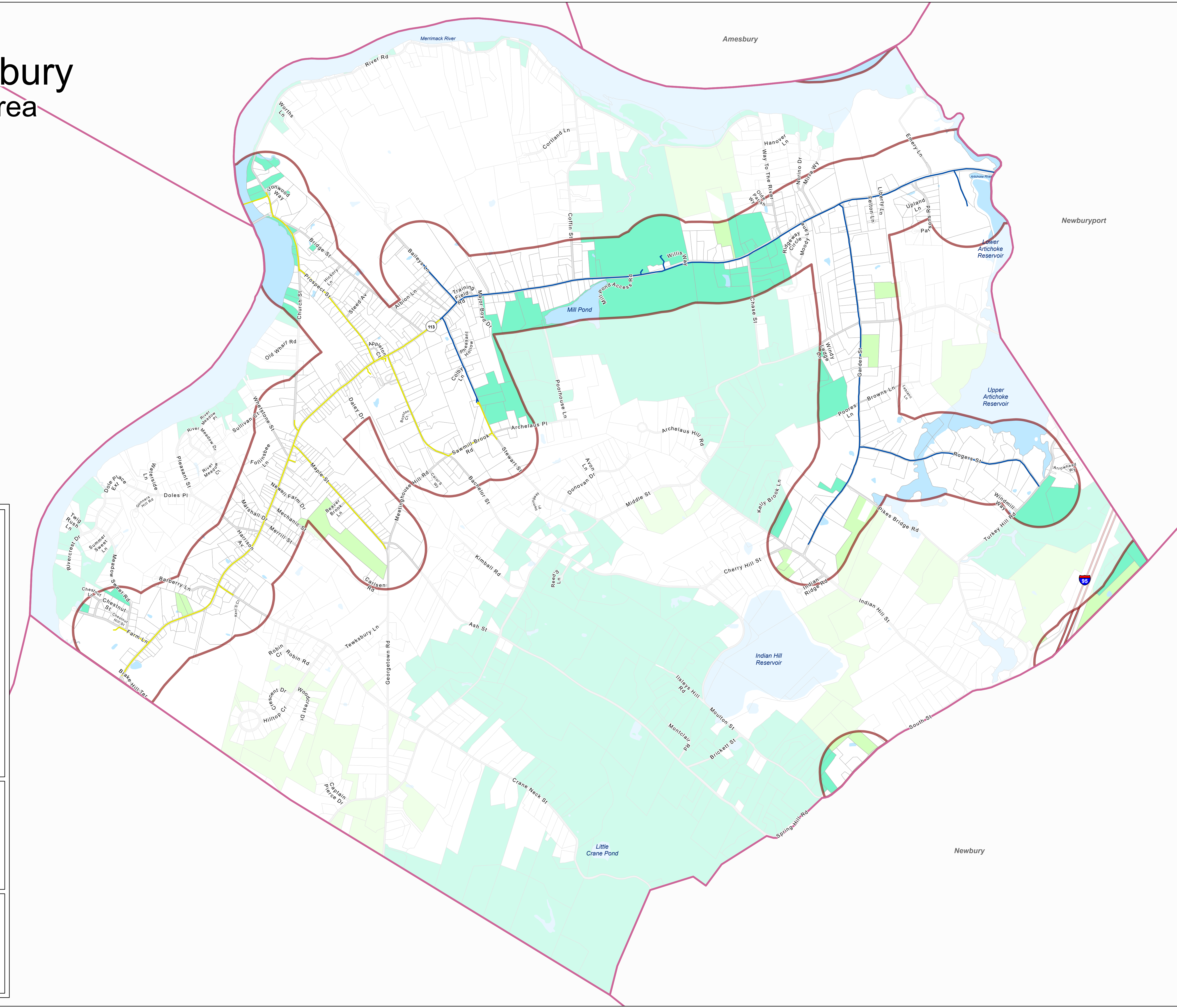
Meeting ID: 884 6278 1729

Passcode: 960733

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.

# Town of West Newbury

## LGSPI Allowed Use Area



### Legend

- Infrastructure Availability (1000 Foot Buffer)
- Parcels of High Conservation Priority\*
- Protected Open Space\*
- Feeder Level Data 3 Phase**
- Less than 0.30 kV
- 0.30 - 0.49 kV
- 0.50 - 0.99 kV
- 1.00 - 1.49 kV
- 1.50 - 1.99 kV
- Coming Soon
- Interstate
- Major Road
- Property Parcels
- Hydrographic Features
- Town Boundary
- 2.00 - 2.99 kV
- 3.00 - 4.99 kV
- Greater than 5.0 kV

\*Parcel areas depicted with muted colors are outside the infrastructure availability area.

1:12,840 Feet

1,070 535 0 1,070 2,140



Merrimack Valley Planning Commission does not make any warranty, expressed or implied, nor assume any legal liability or responsibility for the accuracy, completeness, or usefulness of the Geographic Information System (GIS) Data or any other data provided herein. The GIS data is illustrative only material and should not be considered for any other purpose. The data does not take the place of a professional survey and has no legal bearing on the true shape, size, location, or existence of a geographic feature, property line, or political representation. Merrimack Valley Planning Commission requests that any use of this information be accompanied by a reference to its source and the Merrimack Valley Planning Commission's caveat that it makes no warranties or representations as to the accuracy of said information. Any use of this information is at the recipient's own risk.

File: \\P:\merrill\Map\WestNewbury\2023\LGSP\Proposed\backus Revised: 3/20/2023 JB

## Notes on possible addition to Proposed Solar Bylaw

Our current solar bylaw does not include a requirement for removal of installations following discontinuance. The following language is from the State's model solar bylaw, along with commentary why a bond may not be needed. And followed by Cape Cod Commission's model solar bylaw language that requires Surety.

State Model bylaw:

### ## Abandonment or Decommissioning

##.1 Removal Requirements Any large-scale ground-mounted solar energy system which has reached the end of its useful life or has been abandoned consistent with Section X.X.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

### X.X.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Site Plan approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.

Commentary: Recognizing that other remedies, such as a tax lien, are available to communities in the event an abandoned facility is legitimately putting public safety at risk this model zoning does not require the provision of surety to cover the cost of removal in the event the municipality must remove the installation and remediate the landscape. Communities can, however, require surety in circumstances where a valid planning purpose for doing so exists.

## Notes on possible addition to Proposed Solar Bylaw

### The Cape Cod Commission Model Solar Bylaw

#### Surety

Proponents of Large-Scale Ground-Mounted Solar Photovoltaic Installation projects shall provide a form of surety, either through cash, certified bank check, escrow account, bond, or otherwise held by and for the Town of [X], to cover the cost of installation removal and stabilization of the site in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for town- or state-owned facilities.

The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. Such estimate shall be reviewed by the Town of [X] and adjusted as needed to reflect the opinion of the town as to fair costs. The amount shall include a mechanism for prorating removal costs as costs may be affected by inflation and/or changes to disposal regulations. Salvage for solar panels and/or for other components of the installation may be included at the discretion of the Planning Board.

This surety will be due and payable at the issuance of the building permit. Proof of payment in the form of a receipt from the Town Treasurer will be shown to the Building Inspector before the permits are issued. The financial surety shall be maintained by the proponent for the lifespan of the facility, with annual certification notices from the surety company or bank for surety bonds submitted to the Planning Board. As a condition of approval, an applicant shall bind itself to grant the necessary license or easement to the town to allow entry to remove the structures and stabilize the site. The town shall have the right but not the obligation to remove the facility.

## ATM Article ###

### ZONING BYLAW

Article ###. Proposed amendments to the West Newbury Zoning Bylaw Sections 3.A.1, 3.B.1, 4.C.3 and 5.G.

#### Editing Notes:

- Text with no underline, strike though, or italics: Language has not changed.
- ~~Text with Strikethrough~~: Language that is being changed or deleted.
- Double-Underlined Text: Proposed new language.

#### **Section 3.A.1 –~~“Large Scale Ground Mounted Solar Photovoltaic Installations Overlay Districts”~~**

**Section 3.B.1** - Said districts are hereby established as shown, located, defined and bounded on a map entitled “Town of West Newbury Zoning Map, based on Zoning Map dated September 1, 1967, adopted at Special Town Meeting of October 25, 2010”, amended at the 2023 Annual Town Meeting, filed with the office of the Town Clerk, which map, together with all explanatory matter thereon, and amendments thereto, is hereby incorporated and made a part of this by-la

**Section 4.C.3.** – “Large-Scale Ground Mounted Solar Photovoltaic Installations subject to and consistent with the requirements of Section 5.G.”

#### **Section 5.G. LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS ~~OVERLAY DISTRICT~~**

*[Section 5.G. adopted by Amendment effective May 3, 2012 by vote of Annual Town Meeting, Article 18, and approved by the Attorney General on August 30, 2012, and posted according to law on September 7, 2012]*

##### 5.G.1. Purpose

The purpose of this ~~Bylaw Section 5.G~~ is to ~~regulate~~ allow for the development of Large-Scale Ground-Mounted Solar Photovoltaic Installations (LGSPI) in an established district(s) where they are allowed. while balancing the needs of the Town to protect public health, safety and welfare by ensuring that LGSPI are sited in reasonable proximity to necessary infrastructure and by protecting biodiversity. To that end, this Section ~~The Bylaw~~ provides standards for the placement, design, and construction of LGSPI ~~such installations.~~ The standards aim to address public safety, and minimize impacts on scenic, natural, and historic resources.

##### 5.G.2. Definitions

**Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI):** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

**~~Large Scale Ground Mounted Solar Photovoltaic Installation (LGSPI) Overlay District:~~**

~~The location[s] designated by a Town Meeting vote in accordance with Massachusetts General Laws Chapter 40A, §5., where LGSPI are a permitted use. Any designated location[s] [is/are] shown on the Town of West Newbury Zoning Map pursuant to Massachusetts General Laws Chapter 40A §4. A plan of an approved Overlay District delineated by metes and bounds shall be recorded at the Southern Essex Registry of Deeds. These plans shall also be filed in the Office of the Town Clerk.~~

**On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**Rated Nameplate Capacity:** The nominal rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**Solar Photovoltaic Array:** an arrangement of solar photovoltaic panels.

### 5.G.3. Applicability

~~This Section applies to LGSPI proposed to be constructed after the effective date of this Section. This Section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. The provisions set forth in this Section shall apply to the construction, operation, and/or repair of LGSPI as well as to any physical modifications that materially alter the type, configuration, or size of an LGSPI or related equipment.~~

### 5.G.4. General Requirements for all Large-Scale Ground-Mounted Solar Photovoltaic Installations

The following requirements are common to all LGSPI to be sited in designated locations:

- a. Location: A LGSPI may be constructed as of right on any Lot that any portion of is located within one thousand (1,000) feet of necessary supportive infrastructure as mapped by the electric utility company servicing the town so long as that Lot is not a High Conservation Value parcel defined as having 50% or more of the parcel identified as BioMap Core Habitat or Critical Natural Landscapes as mapped by MassWildlife and the Nature Conservancy at the time of application.
- b. Adequate Access: A LGSPI may only be constructed on a Lot shown to have adequate physical and legal access for the construction and operation of the installation, as determined by the Planning Board
- c. ~~a.~~ Compliance with Laws, Ordinances and Regulations. The construction and operation of all LGSPI shall be consistent with all applicable local, state and federal requirements, including, all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code. Acting pursuant to G.L. c. 44, §53G, the Planning Board may require an applicant to pay the cost of peer review services to inspect the installation of any LGSPI.
- d. ~~b.~~ Building Permit and Building Inspection. A Building Permit is required for construction, installation, or modification of LGSPI as provided in this Section. An Application for a Building Permit for LGSPI must be submitted with all documents required by the Building Inspector's Office and the requirements of the Site Plan Review Decision.
- e. ~~e.~~ Site Plan Review. LGSPI are subject to Site Plan Review Zoning Bylaw Section 8.B., by the Planning Board prior to construction, installation or modification as provided in this

Section. In addition to the requirements of Section 8.B., Site Plan Review, and Planning Board Regulations, the Applicant shall submit the following:

- i. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property Owners, if any
- ii. The name, address, contact information and signature of any agents representing the project proponent, and
- iii. Documentation of actual or prospective access and control of the project site. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation
- iv. Zoning district designation for the parcel(s) of land comprising the project site, Street Address, Assessors’ Map and Lot Number, North Arrow, and Locus Map
- v. An aerial photograph showing the existing property and structures, abutting properties, structures and streets. The proposed LGSPI, appurtenant structures, driveways and other proposed improvements shall be superimposed upon the aerial photograph.
- vi. Blueprints or drawings of the solar photovoltaic installation signed by a Registered Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.
- vii. A description of the type of mounting system.

Waiver Authority. The Planning Board may waive documentary requirements of Site Plan Review as it deems appropriate.

e. In addition to that set forth in Section 8..., the following standard shall apply to a LGSPI:

5.G.5. Dimensional Requirements.

- a. All LGSPI and Appurtenant Structures shall conform with the Table of Dimensional Control below.

**Table of Dimensional Control for Large- Scale Ground-Mounted Solar Photovoltaic Installations ~~Overlay District~~**

<b>Structures</b>	<b>Minimum Lot Area In feet</b>	<b>Lot Frontage In feet</b>	<b>Percent of Required Lot area as Contiguous and Buildable (6.A.2)</b>	<b>Distance from <del>Overlay District</del> Parcel Boundary In feet</b>	<b>Maximum Lot Coverage %</b>	<b>Maximum Building Coverage %</b>	<b>Maximum Height in feet (6.A.3.)</b>
<u>Solar Photovoltaic Array PV Array</u>	<u>n/a As per District</u>	<u>n/a*</u>	<u>n/a As per District</u>	50	<u>n/a As per District</u>	<u>n/a As per District</u>	15
Appurtenant Structures	<u>n/a As per</u>	<u>n/a *</u>	<u>n/a As per district</u>	40	<u>n/a As per District</u>	<u>n/a As per District</u>	35

\* See 5.G.4.b

b. Appurtenant Structures. All appurtenant structures, including equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or fencing, and/or joined or clustered to avoid adverse visual impacts.

#### 5.G.6. Design Standards

a. Lighting. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

b. Signage. Signs on LGSPI shall comply with Section 7.C. of the Zoning Bylaw. A sign consistent with the Zoning Bylaw shall be required to identify the Owner and provide a 24-hour emergency contact phone number. Reasonable identification of the manufacturer or Operator of the solar photovoltaic installation may be provided.

Solar photovoltaic installations shall not be used for displaying any advertising.

c. Utility Connections. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

d. Safety and Security. Appropriate measures shall be proposed to secure the facility from unauthorized entry.

#### 5.G.7. Environmental Standards

a. Wetlands. LSGPI shall comply with the requirements of M.G.L. Chapter 130, as amended as well as the Town's local wetland Bylaw.

b. Stormwater Management. Stormwater Management shall comply with the Town's Stormwater Management Bylaw and Regulations and the Department of Environmental Protection Stormwater Management Policy, as amended.

c. Noise. LSGPI and equipment shall comply with Section 7.A.4. of the Zoning Bylaw, and the provisions of the Department of Environmental Protection's Division of Air Quality Noise Regulations, (310 CMR 7.10., as amended).

d. Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the facility or otherwise prescribed by applicable laws, regulations, and bylaws.

#### 5.G.8. Monitoring and Maintenance.

The Large-Scale Ground-Mounted Solar Photovoltaic Installation Owner or Operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.

#### 5.G.9. Modifications



The Building Inspector shall determine if a proposed Modification to an LGSPI made after issuance of the required Building Permit shall require the filing and approval of a new Site Plan and Application with the Planning Board.

5.G.10

In the event of a conflict between any requirement or provision of this Section 5.G. and any other requirement or provision of this Zoning Bylaw, this Section 5.G shall control.

### **MBTA Community Multi-Family Zoning District**

Contract has been fully executed.

Dillon and I are working on a draft Public Engagement Plan for the Board's review and will forward as soon as it is complete.

Project kick-off meeting will be April 18<sup>th</sup>. It will serve as a brief primer on Chapter 3A and DHCD Requirements, will outline the planning process including public engagement and will provide an opportunity to begin discussing local concerns and opportunities.

### **Housing Production Plan**

The HPP first stakeholder working group meeting was held on March 24<sup>th</sup>. We reviewed the scope and schedule of the planning process and discussed the goals and strategies of the 2018 Housing Production Plan to identify what has been accomplished, what recommended strategies or actions are on-going, what strategies should be removed, and what strategies should remain. This is an initial look at the strategies which are likely to evolve as we go through the planning process, evaluate the data and receive community input.

Information on the HPP planning process will be kept up to date on the [HPP Project Page](#).

### **Solar Facilities Bylaw**

I am working on identifying language regarding decommissioning and surety..

MAPC has submitted a revised map (included in packet).

### **Housing Initiatives**

I have adjusted the Housing Initiatives Summary document based on comments received.

The intent is for the information to live in various places on the Town's website. The information can also be used on handouts whenever helpful.

A draft handout is included in packet.

### **Stormwater Management Regulation**

The Stormwater Working Group last met on March 30<sup>th</sup> with consultant Lori Kennedy of Horsley Witten. A final draft of revised regulations will be submitted as soon as possible and Lori will present the proposed Regulations at the April 18 Meeting. The Board will then need to schedule a hearing before approving the Regulations.

### **Massachusetts Land Conservation Conference**

I attended the Massachusetts Land Conservation Conference on March 25<sup>th</sup> that featured three sessions and a keynote panel discussion on Land Preservation and Community Housing.

The case studies shared varied in size and complexity and were informative and inspiring.

[Twin Brooks Hyannis](#)

[Stow Acres](#)

[Red Acre Road Stow PPT Presentation](#)

**Other Bylaws under consideration for amendments:**

ADU Bylaw – Board is continuing its work on Draft Bylaw.

Wireless Bylaw – Town Counsel will begin review following Annual Town Meeting in preparation for Fall Town Meeting.

Adult Use Marijuana Bylaw – Board is determining best time to bring before Town Meeting.

Steep Slopes Bylaw – Board will be reviewing and determining best time to bring before Town Meeting

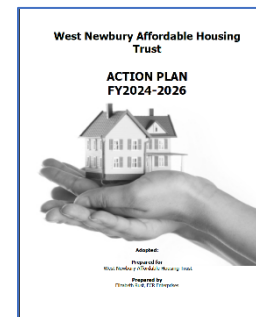
## West Newbury Housing Initiatives

There are a number of planning processing underway in West Newbury that focus on housing. Following is a brief introduction to each and a comparison table that highlights their differences.

**Affordable Housing Trust Action Plan** is being prepared by Housing Consultant, Liz Rust on behalf of and guided by the West Newbury Affordable Housing Trust (AHT).

The anticipated completion date of this project is June 2023.

For more information contact AHT Chair, Wendy Reed: [wreed@wnewbury.org](mailto:wreed@wnewbury.org) View at: [Draft Action Plan - 2023](#)



**West Newbury Housing Production Plan (HPP)** is being prepared by the Merrimack Valley Planning Commission (MVPC) with guidance by Town Staff, Board and Committee members and a resident representative.

The anticipated completion date of the project is April 2024.

For more information contact Town Planner, Sue Brown: [townplanner@wnewbury.org](mailto:townplanner@wnewbury.org) Or visit: [HPP Project Page](#)

**MBTA Communities Multi-Family Overlay Zoning District Study** funded by a State Grant (\$67,500), is being led by planning and design consultant Dodson and Flinker, guided by the Planning Board and managed by Town Planner.

This study is being undertaken to help the Town comply with a new State Law (MGL 40A Section 3A) that requires 175 municipalities within the MBTA service area to adopt a Zoning District that allows the production of multi-family housing (3+ units per building). Communities that fail to comply will lose access to substantial state funding programs.

The scheduled completion date for the study is April 2024. For more information contact Town Planner, Sue Brown: [townplanner@wnewbury.org](mailto:townplanner@wnewbury.org) Or visit: [MBTA Communities Study Project Page](#)



**Accessory Dwelling Unit (ADU) Bylaw Study** is being led by the Planning Board to assess community support for a Zoning Bylaw that would allow homeowners to create Accessory Dwelling Units, also called accessory apartments or in-law apartments on residential lots. The impetus for the study is to create more diverse and affordable housing options.

The Board anticipates proposing a bylaw change for Town Meeting consideration in Fall 2023.

For more information contact Town Planner, Sue Brown: [townplanner@wnewbury.org](mailto:townplanner@wnewbury.org)

Housing Initiatives Comparison Table

Lead	Project & Purpose	Primary Messages-Focus	Motivation	Approval Process
Affordable Housing Trust	<b>AHT Action Plan - Local Initiative</b>			
	<i>Identify housing goals and 3-yr work plan for AHT</i>	Goals Identified: <ul style="list-style-type: none"> <li>• Increase housing opportunities for low and moderate-income households</li> <li>• Help residents afford housing they are in</li> <li>• Increase racial, economic and generational (life stage) diversity</li> <li>• Increase community support and understanding of need</li> </ul>	Supports AHT Mission to “Create and Preserve housing to support low and moderate-income households”	Requires adoption by AHT
Select Board, Planning Board	<b>Housing Production Plan – State Recommended Initiative</b>			
	<i>Document existing conditions, assess current and projected needs, identify goals/strategies for affordable housing production</i>	<ul style="list-style-type: none"> <li>• Focus is housing needs assessment to justify recommendations</li> <li>• Production of income restricted housing is principal goal</li> </ul>	State requirement for potential “safe harbor”. Goals /identified potential projects required to show how Town can reach 10% SHI <sup>1</sup> within 5 years	<ul style="list-style-type: none"> <li>• Requires approval by PB, SB and DHCD<sup>2</sup></li> <li>• Update required every 5 years</li> <li>• Is being led by MVPC with Community Input</li> </ul>
Planning Board, Select Board	<b>MBTA Communities Multi-Family (MF) Overlay District Study – State Required initiative</b>			
	<i>Identify and draft regulations for an Overlay District that <u>allows</u> MF Housing by right with a minimum capacity of 87 units, and min density of 15 units/acre</i>	<ul style="list-style-type: none"> <li>• MF housing is needed to meet local and regional housing needs</li> <li>• Housing density preserves land, helps create walkable neighborhoods, promotes sustainability, reduces building costs and can create more affordable housing</li> </ul>	If the Town does not comply with new law by 12/31/2025 it is not eligible for certain state funding	<ul style="list-style-type: none"> <li>• New State Law ch40 Sec 3A requires 175 municipalities to develop MF Zoning District</li> <li>• Zoning change requires State and Town Meeting approval (50%)</li> </ul>
Planning Board	<b>ADU Bylaw – Local Initiative</b>			
	<i>Create regulations that allow ADUs by right in Single-Family residences provided they meet identified criteria</i>	<ul style="list-style-type: none"> <li>• ADUs are needed to meet family and community needs</li> <li>• ADUs are privately funded and managed (require no monetary support from other residents)</li> </ul>	Local choice, directly benefits local homeowners	Requires Town Meeting approval (>50%)

<sup>1</sup> SHI – Subsidized Housing Inventory: *The Subsidized Housing Inventory is used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.*

<sup>2</sup> DHCD - Massachusetts Department of Housing and Community Development



**Town of West Newbury  
Planning Board  
Tuesday February 21<sup>st</sup>, 2023  
381 Main Street, Town Office Building  
[www.wnewbury.org](http://www.wnewbury.org)  
**DRAFT Minutes of Meeting****

**Open Session:** 7:00 PM by remote participation (see below)

**Addendum to Meeting Notice regarding Remote Participation:**

Pursuant to Chapter 20 Of the Acts of 2021, “An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency”, Approved by the Governor, June 16, 2021, which extended permissions for boards and commissions to conduct remote meetings, the Planning Board conducted its meeting via remote participation. The meeting agenda included instructions for the public about how to participate remotely. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that it has been unable to do so, despite best efforts, the Board will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.

Chairperson Ann Bardeen called the meeting to order at 7:00 P.M. Members in attendance were Ann Bardeen, Ray Cook, Tim Cronin, Deb Hamilton and Brian Murphey. Town Planner Sue Brown was also in attendance. All participated via Zoom Conference.

**1. 7:00 P.M – Presentation on MBTA Communities Initiative by Potential Consultant – Dodson and Flinker**

- Peter Flinker and Dillon Sussman of Dodson and Flinker, introduced themselves and the company and followed with their presentation to the Planning Board. The presentation highlighted communities where the firm worked closely with town staff and residents to design small mixed-use projects, with the objective of aiming for higher density without disrupting the look of the town. The presentation also focused on how the firm crafts zoning regulations that will guide development consistent with the community’s goals. Planning Board members asked Dodson and Flinker predetermined questions.

**2. 8:00 P.M – Presentation on MBTA Communities Initiative by Potential Consultant – VHB**

- 3.** Luke Mitchell and Regan Checchio introduced themselves and their companies, with a presentation to follow. Mitchell went through the steps in the project approach, and outlined the Team’s technical experience, and Regan focused on civic engagement experience. Planning Board members asked Mitchell and Checchio predetermined questions **Discussion regarding Public Hearing for Bylaw Amendments (March 7)**

- Sue Brown, Town Planner, stated the public hearings will be for amendment changes for the zoning bylaw recodification and the solar bylaw. The first legal notice has been published and information is posted on the Towns website. Brown suggested Sam Joslin, Building Commissioner, present the recodification at Spring Town Meeting and a planning board member present the solar bylaw amendments.

**4. General Business:**

- **Minutes** – There were none.
- **Correspondence:** There were none.
- **Administrative Details:** Planning Board members discussed the option of returning to in-person meetings and would like to have a hybrid-style option.
- **Placement of Items for Future Planning Board Agendas:** There were none.

- **Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting:** There were none.

**Adjournment:**

**Bardeen moved to adjourn the meeting at 8:59 P.M. Seconded by Hamilton. Roll call vote was taken, and the motion passed 5-0.**

Respectfully submitted,

Katelyn Bradstreet, *Administrative Assistant to the Planning Board*



**Town of West Newbury  
Planning Board  
Tuesday March 7<sup>th</sup>, 2023  
381 Main Street, Town Office Building  
[www.wnewbury.org](http://www.wnewbury.org)  
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Pursuant to Chapter 20 Of the Acts of 2021, “An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency”, Approved by the Governor, June 16, 2021, which extended permissions for boards and commissions to conduct remote meetings, the Planning Board conducted its meeting via remote participation. The meeting agenda included instructions for the public about how to participate remotely. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that it has been unable to do so, despite best efforts, the Board will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.

Chairperson Ann Bardeen called the meeting to order at 7:01 P.M. Members in attendance were Ann Bardeen, Ray Cook, Tim Cronin, Deb Hamilton and Brian Murphey. Town Planner Sue Brown was also in attendance. All participated via Zoom Conference.

**1. 7:00 P.M – Public Hearing on Proposed Zoning Changes - Zoning Bylaw Recodification and Renumbering; Large-Scale Ground-Mounted Solar Photovoltaic Installations Bylaw “LGSPI”**

- Building Commissioner, Sam Joslin, discussed that the proposed changes to the Zoning Bylaw were simply a reorganization and renumbering of the bylaws, along with fixing punctuation and spelling errors, no substantial changes were to be made.
- Large-Scale Ground-Mounted Solar Photovoltaic Installations Bylaw “LGSPI” – Tim Cronin, part of the LGSPI working group, discussed the changes to the bylaw which included a change to the overlay district and a reference to a new map that will replace the current map in the bylaw. Ray Cook stated that the changes bring the Town into conformity and reduces legal exposure to the Town. Cook suggested if the map is being modified, it should state why specific areas are excluded. Bardeen and Cook suggested that protected land be a separate color on the proposed use area map. Rick Parker, of the solar working group, suggested that APR land be correctly identified. Cook suggested some additional colors and corrections will help the public better understand the map. Bardeen suggested the Planning Board can look at the map again during the next meeting. Planning Board members went over the Table of Dimensional Control for LGSPI.

**Bardeen made a motion to close the Public Hearing. Seconded by Cook. Roll call vote was taken, and the motion passed 5-0.**

**2. Stormwater Management Permit Update**

- Brown is still awaiting on a red-lined version of the recommendations from the stormwater working group. Horsley Whitten is working on scope issues with their contract and hopefully will be submitted soon.

**3. Discussion on Accessory Dwelling Unit Bylaw**

- Planning Board members discussed the updates that were made previously to the Accessory Dwelling Unit Bylaw matrix. Planning Board members made updates to the “residency requirements by owner” section, “design” section and “other” section in the matrix.

**4. Town Planner Report**

West Newbury Planning Board Minutes March 7, 2023.



- Brown stated there will be a contract meeting with Dodson and Flinker for the MBTA Communities Initiative in regards to them adjusting their fees. Brown stated the Towns projects webpage has been updated to reflect the selection of Dodson and Flinker. Brown provided update on housing initiatives, stormwater management regulations, and other bylaws being considered.

#### **5. General Business:**

- **Minutes** – February 7, 2023; others, if any  
**Cook made a motion to approved the February 7, 2023 meeting minutes, as amended. Seconded by Bardeen. Roll call vote was taken and the motion passed 5-0.**
- **Correspondence:** There were none.
- **Administrative Details:** There were none.
- **Placement of Items for Future Planning Board Agendas:**
  - Clean up graphics and language on Solar Bylaw
  - Updates on ADU matrix spreadsheet
  - Discuss housing initiatives
- **Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting:** There were none.

#### **Adjournment:**

**Bardeen moved to adjourn the meeting at 8:52 P.M. Seconded by Cook. Roll call vote was taken, and the motion passed 5-0.**

Respectfully submitted,

Katelyn Bradstreet, *Administrative Assistant to the Planning Board*

## PROPOSED ACCESSORY DWELLING UNIT BYLAW

To see if the Town will vote to amend the Zoning Bylaw by (1) adding a definition of “Accessory Dwelling Unit”, “Gross Floor Area” to Section , Single-Family Dwelling and Two-Family Dwelling ??? (2) adding Accessory Dwelling Unit to Section ??, Permitted uses in Districts and (3) adding Section ???? Accessory Dwelling Units, as follows:

### § ?? Definitions (to be added)

~~ACCESSORY DWELLING UNITS - A subordinate Dwelling Unit within, attached to, or detached from a single family dwelling or a detached structure that is accessory to an existing single-family home Dwelling Unit, that is a separate, self-contained housekeeping unit inclusive of sleeping, cooking and sanitary facilities. This unit is subordinate in size to the principal dwelling, and complies with the criteria stated in Section ????.~~

DWELLING UNIT- One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single household.

GROSS FLOOR AREA - The sum of the areas of all floors of a building measured from the outside of all exterior walls exclusive of any attic, basement, cellar, garage, porch, or mechanical storage area.

SINGLE-FAMILY DWELLING - A building designed or used exclusively as a residence and including only one dwelling unit.

TWO-FAMILY DWELLING - A building designed or used exclusively as a residence and including two dwelling units. A two-family dwelling. (may not need)

**Commented [RC1]:** Source for these?

**Commented [TP2R1]:** Smart Growth ADU Bylaw is where I started, but could have used language from other towns” or models as well. For example I didn’t like the term family” so substituted single household.

**Commented [TP3R1]:** If you add “existing” – this eliminates the possibility of building a new home with an accessory dwelling unit. And only allows it for existing units. I think the Board decided it was a good opportunity to create such living space when developing a home.

**Commented [RC4]:** Any reason why we shouldn't just use the existing definition in the bylaw?

**Commented [TP5R4]:** Existing definition is fine

**Commented [RC6]:** Do we really need this? We don't use it and we already have a definition of Floor Area in our bylaw.

**Commented [TP7R6]:** Don't need it. 😊

**Commented [RC8]:** Where from? And do we really need these?

**Commented [TP9R8]:** Don't need. But it may be an opportunity to differentiate between an ADU and a two-family. With the principal difference being that a two family separates ownership.

### ~~Accessory Apartments-~~

## Purpose. This section authorizing the provision of accessory dwelling units is intended to:

1. Increase the number of small dwelling units available in the Town;
2. Increase the potential for rental housing in the Town;

3. ~~Increase the diversity of housing that may serve the needs of the current and future population of the Town including, but not limited to, Better meet the needs of the population with particular attention to~~ young adults and senior citizens;
4. Provide homeowners with a means of obtaining rental income; and
5. Encourage a more economic and energy-efficient use of the Town's housing supply while respecting the residential character of West Newbury's neighborhoods.

### ## Use and Dimensional Regulations

1. 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 ### and dimensional (Intensity of Use) requirements of Section ##.
  - 1.1. The unit will be a complete, separate housekeeping unit containing both kitchen and bath and no more than two bedrooms.
  - 1.2. ~~The gross floor area~~ Floor Area of an accessory dwelling unit shall be no greater than nine hundred (900) square feet and shall never be enlarged beyond the nine hundred (900) square feet allowed by this bylaw, without a Special Permit from the Planning Board.
  - 1.3. There shall be no more than one ~~A~~ accessory ~~De~~ dwelling ~~U~~ unit on a lot.
  - 1.4. The owners(s) of the residence of the principal dwelling must continue to occupy at least one of the dwelling units as their primary residence, except for temporary absences of up to six month per year.
  - 1.5. Any new separate outside entrance serving an ~~accessory dwelling unit~~ Accessory Dwelling Unit shall be clearly secondary to the entrance of the principal dwelling unit.
  - 1.6. No new curb cuts shall be allowed for an ~~accessory dwelling unit~~ Accessory Dwelling Unit.
  - 1.7. Off-street parking ~~should shall be provided for all residents, be available for use by the owner occupants(s) and tenants.~~
  - 1.8. ~~Boarders or lodgers are not allowed within an accessory dwelling unit~~ Accessory Dwelling Unit or within a single-family home with an ~~accessory dwelling unit~~ Accessory Dwelling Unit.

Commented [RC10]: This would be if we can use our existing Floor Area definition (which we think we probably can).

Commented [TP11R10]: We can use existing.

Commented [RC12]: Needs further discussion. Can we refer to the existing bylaws somehow?

Commented [TP13R12]: This may not be necessary as Boarders or lodgers are not defined or addressed in W Newbury Zoning. Boarding and Lodging House however is defined.

- 1.9. No ~~accessory dwelling unit~~ **Accessory Dwelling Unit** shall be separated from the principal dwelling through a condominium or cooperative conversion process, or be held in separate ownership from the principal dwelling unit on the lot.
  
2. Prior to issuance of a Building Permit, the owner of the principal dwelling must submit a notarized letter to the Building Inspector stating that they will occupy one of the dwelling units on the premises as their primary residence, except for allowed temporary absences per 1.4.-
  
3. When a principal dwelling with an ~~accessory dwelling unit~~ **Accessory Dwelling Unit** is sold, the new owner, if they wish to continue use of the ~~accessory dwelling unit~~ **Accessory Dwelling Unit**, must within thirty (30) days of the sale, submit a notarized letter to the Building Inspector stating that they will occupy one of the dwelling units on the premises as their primary residence, except for allowed temporary absences per 1.4.

#### ##. Special Permit

1. ~~Accessory dwelling unit~~ **Accessory Dwelling Units** measuring in excess of 900 square feet of floor area or seeking relief from other criteria in Section 1.1-1.7 may be allowed, subject to a Special Permit from the Planning Board per section ### .

#### ##. Administration and Enforcement

1. It shall be the duty of the Building Inspector to administer and enforce the provisions of this Bylaw.
2. No building shall be constructed or changed in use or configuration, until the Building Inspector has issued a building permit. No building or dwelling unit shall be occupied until a certificate of occupancy has been issued by the Building Inspector.

Notes:

#### Two family houses:

There was a discussion regarding allowing ~~accessory dwelling unit~~ **Accessory Dwelling Units** within two-family structures as well. If allowed by right this could create four units on a single lot by right. I would recommend that a Special Permit be required for an accessory unit within a two-family home due to the potential impact on the other homeowner.

**Commented [RC14]:** More discussion is needed, but as written, with only one ADU on a lot, this would end up maxing out at 3... First one of the two-family units gets it, while the second then cannot.

General, tentative support at this point for requiring a special permit for any ADUs with a two-family unit. (two or more?)

**Temporary Absences:**

A more generous option for temporary absence of owner:

An owner of a property containing an accessory apartment who is to be absent for a period of less than two years may rent the owner's unit as well as the second unit during the temporary absence provided:

- a. Written notice thereof shall be made to the Building Commissioner on a form prescribed by him.
- b. The owner shall be resident on the property for at least two years prior to and between such temporary absences.

**Accessory Apartment or Accessory Dwelling Unit?**  
Is there an advantage to using less technical language?

**Commented [RC15]:** We need more discussion on this. Where did this language come from?

We do want to make sure one person can't buy a bunch of properties, put ADUs on them all, and then rent them all out.

OTOH, not having something like this may abridge an owner's rights.

**Commented [TP16R15]:** This language was from Lexington. AARP bylaw recommends having no residency restriction – just as there isn't on a single family home. This seemed a middle ground option for discussion.

**Commented [RC17]:** Accessory Dwelling Unit is becoming a well-understood, broadly applied, term of art. So it's probably useful to just use it.

DRAFT