

## **SECTION 6. SPECIAL REGULATIONS**

### **6.11 Historic Accessory Building Preservation**

*Note: §6.11 was adopted under Article 31 at the 2009 Annual Town Meeting.*

#### 6.11.1 Purpose

The purpose of this Section is to promote the preservation of unique Historic Accessory Buildings by permitting their adaptive reuse for uses that may not otherwise be permitted under this Zoning By-Law, thereby making their functional preservation and restoration feasible.

#### 6.11.2 Definition

A "Historic Accessory Building" is an accessory building such as a free-standing barn, greenhouse, or carriage house built before 1921, which is located on the same lot as the principal building to which it is accessory, and which is either:

- a) listed on the Inventory of the Historic and Archaeological Assets of the Commonwealth as maintained by the Massachusetts Historic Commission; or
- b) listed on the National Register or State Register of Historic Places; or
- c) specifically designated as a "Historic Accessory Building" by the Belmont Historic District Commission, using the criteria for evaluation established for determining eligibility for the National Register of Historic Places.

#### 6.11.3 Applicability

- a) The Planning Board may grant a Special Permit for the reuse of a Historic Accessory Building in any residential district of the Town, allowing the adaptation of such Building for use as a home occupation, or for one accessory dwelling unit.
- b) If the proposed reuse would be a Protected Use ADU as defined in Section 6.14.2, the reuse shall be governed by Section 6.14 instead of this Section 6.11.

*Note: §6.11.3 was amended by Article 32 at the 2009 Annual Town Meeting.*

#### 6.11.4 Procedure for Special Permit

- a) An Application for a Special Permit under this Section shall comply with the procedures and requirements set forth in Section 7.4 of this Zoning By-law, and the Planning Board's Special Permit Regulations.
- b) Upon receipt of an Application, the Planning Board shall forward a copy of the Application to the Historic District Commission for its review and recommendations concerning the proposed exterior treatments of the Building, including such things as windows, roofing and siding materials, and landscaping. Such recommendations shall include:
  - 1) the Commission's assessment as to whether the proposed reuse and associated exterior alterations would adversely affect the historic landscape

or the architectural and historic integrity of the principal building or the  
Historic Accessory Building itself; and

- 2) specific conditions which the Commission believes should be imposed on the Special Permit in order to prevent any adverse effects.

The Historic District Commission shall hold a public hearing and make recommendations to the Planning Board within thirty-five (35) days of the Commission's receipt of the Application. Otherwise, the Application shall be deemed approved.

- c) The Planning Board may issue a Special Permit under this Section only if it finds that the proposed reuse and any related building alterations and site development meet all of the applicable Special Permit criteria set forth in Section 7.4.3, and
  - 1) are generally in harmony with the neighborhood;
  - 2) will neither generate excessive traffic, parking, noise or density impacts on the abutters, nor create other detrimental effects on the neighborhood;
  - 3) will preserve and/or restore the original architectural features of the Building to the maximum extent practicable;
  - 4) will not adversely affect the historic landscape or the architectural and historic integrity of the principal building or the Historic Accessory Building itself; and
  - 5) will not result in any enlargement or relocation of the Historic Accessory Building.
- d) If the Historic Accessory Building is proposed to be used for a home occupation, the Planning Board must also find that the following criteria are or will be met in addition to the criteria set forth in Section 6.11.4 c):

*Note: §6.11.4 d) was amended by Article 32 at the 2009 Annual Town Meeting.*

- 1) There will be no exterior display or visible storage of supplies or equipment to be used on or off the premises, or other variation from the residential character of the premises;
- 2) Not more than one person who is not a member of the household will be employed on the premises;
- 3) There will be no production of offensive noise, vibration, odors, fumes, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects;
- 4) No articles will be sold or offered for sale on the premises;
- 5) Traffic generated, including pick up and deliveries, will not exceed that normally expected in the residential neighborhood in which the Historic Accessory Building is located; and
- 6) All parking will be provided on-site, and not within a required front yard.

- e) If the Historic Accessory Building is proposed to be used for an accessory Dwelling Unit, the Planning Board must also find that the following criteria are or will be met in addition to the criteria set forth in Section 6.11.4 c):
- 1) The accessory Dwelling Unit use will be incidental to the ownership and use of the principal Structure on the same lot; and
  - 2) The accessory Dwelling Unit or the principal Structure will be occupied by the owner of the subject premises, except for bona fide temporary absences.

*Note: §6.11.4 e) was amended by Article 32 at the 2009 Annual Town Meeting.*

#### 6.11.5 Conditions of Approval

In granting a Special Permit under this Section, the Planning Board shall require that a perpetual preservation restriction on said Building and its landscape context be granted to the Town or other appropriate body or preservation organization under the provisions of Massachusetts General Laws, Chapter 184, Section 31. The form of such preservation restriction shall be subject to review and approval by Town Counsel.

In addition, the Planning Board may impose such other conditions, safeguards and limitations on time or use that it determines to be appropriate to assure compliance with the applicable criteria set forth in Section 6.11.4 including, but not limited to conditions:

- a) prohibiting the Special Permit from being transferred to a subsequent owner without the approval of the Planning Board;
- b) specifying the required number of on-site Parking Spaces and their location;
- c) limiting the business operations of a home occupation, such as the number of patrons/clients visiting the premises, hours of operations, and hours and location of deliveries;
- d) requiring installation of additional landscaping;
- e) requiring continuing maintenance of landscaping;
- f) requiring a restrictive covenant to be imposed on the subject property, prohibiting the division or reduction in size of the lot on which the Historic Accessory Building is located.

#### 6.11.6 Nonconforming Historic Accessory Buildings

Any exterior or interior alteration to a preexisting nonconforming Historic Accessory Building made pursuant to a Special Permit issued under this Section shall be deemed not to constitute an "alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent" requiring consideration and a Special Permit by the Board of Appeals under Section 1.5.3.

6.11.7 Compliance with Applicable By-Laws

Except as expressly provided in this Section, the grant of a Special Permit for the reuse of a Historic Accessory Building shall not relieve the applicant from the need to comply with all other applicable Town By-laws and Regulations.

Text Some text may be change-tracked subject to further discussion by the Planning Board.

Highlighted text also indicates an issue for further Planning Board discussion.

There also may be comments in the margin to elicit further discussion.

## 6.14 Accessory Dwelling Units

*Note: §6.14 was adopted under Article \_\_\_ at the 2025 Special Town Meeting on February 10, 2025.*

### 6.14.1 Purpose

This section governing Accessory Dwelling Units (“ADUs”) is intended to:

- a) Increase the number of small Dwelling Units available in the Town;
- b) Increase the range of choice of housing accommodations to meet the needs of households;
- c) Increase the supply of housing and the diversity of housing options;
- d) To ensure compliance amend this By-law to comply with the portions of Chapter 150 of the Acts of 2024 applicable to Accessory Dwelling UnitsADUs.

### 6.14.2 Definitions

In this §6.14, the following terms shall have the following meanings and a capitalized term shall have the meaning in § 1.1.3 unless a contrary meaning is required by the context.

- a) Allowable Building Envelope - For the purposes of a Section 6.14.2 Building Envelope, that amount of lot Area inside of the existing Setbacks.
- b) Building Code - The Massachusetts Sstate bBuilding eCode, 780 CMR.
- c) Bus Station – A location serving as a point of embarkation for any bus operated by a Transit Authority.
- d) Commuter Rail Station – Any commuter rail station operated by a Transit Authority with year-round service with trains departing at regular time intervals, rather than intermittent, seasonal, or event-based service.
- e) Fire Code - The Massachusetts sState fFire eCode, 527 CMR 1.00.
- f) Historic Building – Any Building on the List governed by §60-320 of the General Bylaws.
- g) Historic District – A district established pursuant to M.G.L. c. 40C or other state law that is characterized by the historic or architectural significance of Buildings, Structures, and sites, and in which exterior changes to and the construction of Buildings and Structures are subject to regulations adopted pursuant to M.G.L. c. 40C or other state law.
- h) Modular Dwelling Unit – A pre-designed Dwelling Unit assembled and equipped with internal plumbing, electrical, or similar systems prior to movement to the site where such Dwelling Unit is affixed to a foundation and connected to external utilities; or any portable Structure with walls, a floor, and a roof, designed or used as a Dwelling Unit, transportable in one or more sections and affixed to a foundation and connected to external utilities.
- i) Protected Use ADU – An attached or detached ADU located that is located, or is proposed to be located, on a Lot in a Single-Family Residential Zoning District and is protected by M.G.L. c. 40A, §3, provided that only one ADU on a lot may qualify as a Protected Use ADU. An ADU

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that is non-conforming to Zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

j) **Short-Term Rental** -- Short-Term Rental, as defined in M.G.L. c. 64G, § 1.

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k) **Single-Family Residential Zoning District** – Any Zoning District where Single-Family Residential Dwellings are a permitted or an allowable use, including any Zoning District where Single-Family Residential Dwellings are allowed as of right or by Special Permit.

l) **Subway Station** – Any of the stops along the Massachusetts Bay Transportation Authority Red Line, Green Line, Orange Line, Silver Line, or Blue Line, including any extensions or additions to such lines.

m) **Transit-Adjacent Lot Area** – Any Lot, any portion of which is area within a the 0.5-mile straight line from the center of a Transit Station, radius around a Transit Station. Note that the 0.5-mile distance shall be measured as a straight line from the center of the Transit Station to the closest edge of the ADU.

n) **Transit Authority** – The Massachusetts Bay Transportation Authority established by M.G.L. c. 161A, s. 2 or other local or regional transit authority established pursuant to M.G.L. c. 161B, §. 3 or M.G.L., c. 161B, §. 14.

o) **Transit Station** – A Subway Station, Commuter Rail Station, or Bus Station.

#### 6.14.3 General Requirements

Only one ADU is permitted by right in accordance with § 3.3 as an accessory use to another Dwelling Unit subject to the following:

a) [REDACTED]

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b) The ADU shall not be required to be served by any separate utility meter. Electricity, water, oil, heat, gas, and sanitary sewer may be provided by a single service to both the ADU and the principal dwelling provided that a separate connection may be required by a Municipal or regional utility, investor-owned utility; by state law; by a local, regional, or state board or commission; or by court order.

#### 6.14.4 Prohibitions

a) The ADU may not be sold or title transferred separate and apart from the principal dwelling to which it is an accessory use. The principal dwelling and the ADU shall remain in common/single ownership and shall not be severed in ownership.

b) Short-term rentals, as defined in Section 6.14.2 above, are prohibited in both the ADUs and the Principal Dwelling Unit.

#### 6.14.5 Dimensional Requirements

a) A Protected Use ADU may is not be larger in Gross Floor Area than 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller.

b) The proposed ADUs shall be subject to the height and Setback requirements applicable to the Structure in which the principal Dwelling Unit is located.

c) Unless located within a pre-existing structure, No ADU shall be sited closer to the front lot line than the Principal Dwelling Unit.

- d) Any Lot containing a new detached ADU, any ADU created by adding Gross Floor Area to the Principal Dwelling, a Single-Family Dwelling, or any ADU created by adding Gross Floor Area to an existing detached Accessory Building or Structure shall meet the Lot Coverage and be in accordance with the Open Space and building coverage requirements of as established by Table 6.14.5(d) below. The Principal Dwelling, and any driveway, parking space, or accessory structure other than an ADU on the Lot shall still be subject to the Lot Coverage and Open Space requirements of Section 4.2.1.
- ~~d) Proposals seeking to exceed Maximum Lot Coverage or Minimum Open Space may seek a Special Permit from the Planning Board.~~

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Table 6.14.5(d) – New ADU Dimensional Requirements

(1) Lot Type and Zoning District	(2) Max Lot Coverage*	(3) Min. Open Space*
Transit-Adjacent Lot in Single Residence A	25%	45% – TA Zone 43% – Non-TA Zone
Other Lot in Single Residence A	25%	43%
Transit-Adjacent Lot in Single Residence B	30%	45% – TA Zone 43% – Non-TA Zone
Other Lot in Single Residence B	30%	43%
Any Lot in Single Residence C	30%	45%
Transit-Adjacent Lot in Single Residence D	25%	45% – TA Zone 43% – Non-TA Zone
Other Lot in Single Residence B	25%	43%
Any Lot in General Residence	35%	35%

\* Maximum Lot Coverage includes the coverage requirement under Section 4.2.1 plus a fixed additional percentage, as applicable and as provided in column 2 above. Correspondingly, Minimum Open Space has been reduced by the proportional amount of land area allowed as additional Maximum Lot Coverage with an additional reduction if outside of the TA. Note that these dimensions are only applicable for the establishment of an ADU as a (or part of) a new accessory Building or a new Building addition.

- ~~e) Proposals seeking to exceed the Maximum Lot Coverage or Minimum Open Space requirements of Section 6.15.4(d) may seek a Special Permit from the Planning Board in accordance with Section 7.4.~~

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6.14.6 Parking Requirements

- a) One (1) additional Parking Space shall be required for an ADU unless the property is located on a Transit-Adjacent Lot, within 0.5 miles from a Transit Station, in which case no additional Parking Space is required.
- b) If there are multiple driveway openings serving different Dwelling Units on the lot, the ADU may use any of those driveway openings. Otherwise, ADUs shall use the same driveway opening and curb cut as the principal dwelling.
- c) Any Parking Spaces shall conform to Section 5.1.3(b) and shall be constructed of material consistent with the existing driveway, except that permeable pavers or asphalt may be utilized for a secondary driveway intended to serve the ADU whether or not consistent with the existing driveway.

~~d) Any increase in the provision of any new parking or driveway area to on a lot to serve an ADU shall not result in a violation of as part of the establishment of an ADU shall be within the limits of required minimum required Open Space as per pursuant to Table 6.14.5.(d)4 above.~~

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#### 6.14.7 Design Requirements

- a) ~~A detached ADU shall be no less than 5' from other Structures on the lot.~~
- b) ~~Unless located within a pre-existing structure, a detached ADU shall not be located between a roadway and the Principal Dwelling.~~
- c) ~~When an ADU has a separate exterior entrance from the Principal Dwelling, the ADU's entrance shall not be located on the same Building facade as the entrance to the Principal Dwelling.~~
- d) ~~An exterior staircase serving an ADU shall not be visible from the Street and must be fully enclosed.~~
- e) ~~When an ADU has a separate exterior entrance from the Principal Dwelling or is a separate Building, the ADU shall be accessible by path or walkway.~~
- f) ~~The ADU shall be located on the Lot so as not to impede vehicular access to and circulation on the Lot, Streets, or sidewalks.~~
- g) ~~ADUs located in a Historic District, proposed in a historic Building that requires exterior renovations or additions, or located in a Historic Accessory Building, shall require a Certificate of Appropriateness from the Historic District Commission in addition to any Design and Site Plan Review applicability that may be required as per Section 6.14.7 below.~~

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#### 6.14.8 Application

~~The application for a building permit and/or occupancy permit for an ADU or an application for a Special Permit for an ADU shall include the following:~~

- a) ~~A plot plan of the principal Dwelling Unit with square footage, proposed ADU with square footage, showing the location of all existing and proposed Buildings on the lot, zoning matrix and required parking.~~
- b) ~~A certified plot plan, stamped by a professional land surveyor registered in the State of Massachusetts.~~
- c) ~~When the creation of an ADU requires the alteration of the exterior of a Structure, the application shall include elevation plans showing the sides of the Building affected by the construction both prior to and after completion of construction.~~
- d) ~~Design and Site Plan Review shall be required for any ADU that meets any of the following criteria:~~

- 1) ~~The construction of the ADU will exceed the height of the principal dwelling as to the maximum height allowed in the Zoning District, as measured at the highest finished grade on the lot.~~
- 2) ~~A two-story accessory Building or adds a second Story to an existing accessory Building;~~
- 3) ~~Increases the Lot Coverage above beyond the maximum provided in Section 4.2.1 for a lot without an ADU, without the additional percentages set more restrictive than as provided in Section 6.14.9;~~
- 4) ~~Decreases the Open Space below the minimum provided in Section 4.2.1 for a lot without an ADU, without the 10% reduction provided in Section 6.14.9;~~
- 5) ~~Where Design and Site Plan Review is required pursuant to any additional development of a particular lot is subject to the provisions of Section 1.5.4 of this By-Law but in compliance with Table 1 above; or~~
- 6) ~~A pre-existing Building is being converted or added to in order to accommodate the ADU that does not meet any of the dimensional requirements that the Ordinance requires for conforming.~~

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#### 6.14.9 Other Circumstances Requiring Special Permit-Preexisting Nonconforming Structures

~~In the following circumstances, developing an ADU requires a Special Permit from the Board of Appeals:~~

- ~~a) The conversion of any nonconforming structure or portion thereof to an ADU shall be permitted in accordance with Sections 1.5.3 and 1.5.4, as applicable.~~
- ~~b) Alteration, reconstruction, extensions, or structural changes reasonably necessary to convert a nonconforming structure or portion thereof to an ADU shall not be deemed to increase the nonconforming nature of the structure so long as the structure will continue to be located on the original footprint.~~
- ~~a) n ADU within an existing nonconforming Structure that adds to the particular non-conformity other than increases to maximum Lot Coverage or decreases to minimum Open Space as provided in Table 1 above.~~
- ~~b) Municipalities may require a Special Permit for development of a Protected Use ADU in a floodplain or aquifer protection overlay if required for the Principal Dwelling, provided that the Special Permit is based on clear, objective, and non-discretionary criteria.~~
- ~~c) A Special Permit for an ADU may only be granted upon a finding that the construction and occupancy of the ADU will not be detrimental to the neighborhood in which the subject property is located and after consideration of the factors set forth in this ordinance.~~

Commented [PK3]: This isn't necessary – repetitive of the existing floodplain protection district requirements.

#### 6.14.10 ~~Preexisting ADUs in Existence Before Adoption of this Section 6.14~~

~~The purpose of this Section is to ensure that ADUs or conversions in existence before the adoption of this By-Law are in compliance with the State Building Code.~~

- ~~a) A legally conforming Dwelling Unit created pursuant to Section 6.11 that would be considered an ADU under this By-Law that was granted by Special Permit (formerly "Historic Accessory Building ADU") may be certified and continue as an ADU under in accordance with this Section 6.14.~~
- ~~b) Any other pre-existing Dwelling Unit that would be considered is a Protected Use ADU under this ordinance, including a pre-existing non-conforming units, must apply for and receive a Certificate of Occupancy, become certified and may be subject to inspections and require renovations to ensure compliance with Building, fire and sanitary code.~~

#### 6.14.11 ~~Registration and Certification~~

~~All new and pre-existing ADUs must be registered with the Office of Planning and Building as follows:~~

- ~~a) Newly developed ADUs must keep a registration on file with the Office of Planning and Building and renew the registration every five (5) years.~~
- ~~b) Pre-existing ADUs that seek to become certified by filing an application for Pre-Existing ADU Certification with the Office of Planning and Building where they will initially be inspected to ensure compliance with Building, fire, and sanitary codes. Once certified, such units shall automatically be registered and must renew registration every five (5) years thereafter.~~
- ~~c) ADU certification shall be made by the Inspector of Buildings or their designee.~~

#### 6.14.12 ~~6.14.11~~ Enforcement

~~It shall be the duty of the Inspector of Buildings to administer and enforce the provisions of this Section.~~