



ELLEN C. GABOURY, CMC/CMMC
TOWN CLERK & ELECTIONS ADMINISTRATOR
104 CENTRAL STREET
AUBURN, MA 01501
508-832-7701
Fax 508-832-7702
egaboury@town.auburn.ma.us

TOWN MEETING ACCEPTANCE MAY 1, 2012
In effect unless overturned by the Attorney General

Article 31. I move that the Town Meeting vote to adopt an amendment to the Town of Auburn Zoning By-Law, by adding additional language for Section 9.3, specifically subsection 9.3.12 Accessory Apartments, to read as printed in the May 1, 2012 Annual Town Meeting Warrant.

Motion by Dennis Natoli

Seconded by Charles Olson

Vote on Article 31, YES 50, NO 3, in favor

Proposed Accessory Apartment Bylaw

9.3.12 Accessory Apartments

Accessory Apartments shall be permitted only upon issuance of a Special Permit from the Zoning Board of Appeals and in accordance with the additional requirements specified herein.

9.3.12.1 General Description

An accessory apartment shall mean a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is substantially contained within the structure of a single-family dwelling, but functions as a separate unit, including ingress/egress to the unit without requiring passage through the primary dwelling unit.

9.3.12.2 Purpose

The purpose of the Accessory Apartment Bylaw is to:

- (a) Provide older homeowners with a means of obtaining, through tenants in accessory apartments, rental income, companionship, security, and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- (b) Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;
- (c) Protect stability, property values, and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this

bylaw; and

- (d) Legalize conversions to encourage compliance with the State Building Code.

9.3.12.3 Accessory Apartment Standards

The Zoning Board of Appeals may authorize a Special Permit for a use known as an Accessory Apartment in Owner-Occupied, Single-Family Dwellings, provided that the following standards and criteria are met:

- (a) The apartment will be a complete, separate housekeeping unit that functions as a separate unit from the original unit, including ingress/egress to the unit without requiring passage through the primary dwelling unit.
- (b) Only one apartment will be created within a single-family dwelling.
- (c) The lot in which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.
- (d) The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.
- (e) The accessory apartment shall be designed so that the appearance of the building remains that of a single family residence as much as feasibly possible. Where feasible, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform to the single family character of the neighborhood.
- (f) An addition to the original building is permitted provided that the addition does not increase the floor area or volume of the original building by more than twenty (20) percent, and the addition will not alter the character of the building.
- (g) The accessory apartment shall be clearly a subordinate part of the single family dwelling. It shall be no greater than seven hundred (700) square feet nor have more than one (1) bedroom.
- (h) At least 2 off-street parking spaces are available for the main unit and 1 off-street parking space is available for the accessory unit. Parking spaces shall be located to the side or the rear of the structure, to the extent feasible.
- (i) A Sanitarian or Professional Engineer, registered in the Commonwealth of Massachusetts, has certified that the existing or proposed improvements to new or existing sewage disposal systems are adequate and in accordance with 310 CMR 15.000, The Station Environmental Code, Title 5.
- (j) The construction of any accessory apartment must be in conformity with the State Building Code.

9.3.12.4 Application Procedure

- (a) The procedure for the submission and approval of a Special Permit for an Accessory Apartment in Owner-Occupied, Single Family Dwellings shall be the same as prescribed in Section 9.3 of the Auburn Zoning Bylaw, except it shall include a

notarized letter of application from the owner(s) stating that he/she will occupy one of the dwelling units on the premises. A non-refundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 40A, Sec. 11 must be notified.

- (b) Upon receiving a Special Permit, the owner(s) must file for the subject property a Declaration of Covenants at the Worcester District Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title or if the residence is not occupied by the owner. A time-stamped copy of the recorded Declaration shall be provided to the Zoning Board of Appeals.
- (c) In order to provide for the development of housing units for disabled and handicapped individuals, the Zoning Board of Appeals will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

9.3.12.5 Transfer of Ownership of a Dwelling with an Accessory Apartment

- (a) The temporary Special Permit for an accessory apartment in an owner-occupied, single family dwelling shall terminate upon the sale of property or transfer of title of the dwelling, unless the Zoning Board of Appeals has approved a transfer of the Special Permit to the new owner.
- (b) The new owner(s) must apply for transfer of a Special Permit for an accessory apartment in an owner-occupied, single family dwelling and shall submit a notarized letter of application stating that he/they will occupy one of the dwelling units on the premises and a written request to the Zoning Board of Appeals stating that conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing.
- (c) Upon receiving the transferred Special Permit, the new owner(s) must file for the subject property a Declaration of Covenants at the Worcester District Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title or if the residence is not occupied by the owner. A time-stamped copy of the recorded Declaration shall be provided to the Zoning Board of Appeals.

9.3.12.6 Accessory Apartments in Existence Before the Adoption of Accessory Apartment Bylaw

(a) Statement of Intent:

To ensure that accessory apartments or conversions in existence before the adoption of this Accessory Apartment Bylaw are in compliance with the State Building Code.

(b) Application Procedure

The Zoning Board of Appeals may authorize, under a Special Permit and in conjunction with the Building Inspector, an Accessory Apartment in an Owner-Occupied, Single Family Dwelling. The Board will review each existing use on a case-by-case basis to determine if the dwelling conforms to the State Building Code.

The applicant must follow the same procedures described in this Accessory Apartment Bylaw including the submission of a notarized letter declaring owner occupancy and a Declaration of Covenants.

ZONING BYLAW AMENDMENTS ALSO REQUIRED:

Amend Section 3.1 Table of Principle Uses to add “Accessory Apartment” to the Residential Uses section of the Table and adding the “SP” notation for Special Permit under the RA; RB; RC; RR & RO Districts

Section	Land Use Classification	Standards and Conditions	Zoning Districts											
			RA	RB	RC	RR	RO	LB	HB	GI	IA	IP	OS	RM
3.2.2.10	Accessory Apartment		SP	SP	SP	SP	SP	N	N	N	N	N	N	N

3.2.2.10 Accessory Apartment: A separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is substantially contained within the structure of a single family dwelling, but functions as a separate unit.