



City of New Bedford Department of City Planning

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MAYOR
JON MITCHELL
DIRECTOR
JENNIFER CARLONI

PLANNING BOARD

September 10, 2024

Councilor Naomi Carney, City Council President
133 William Street
New Bedford, MA 02740

RE: WRITTEN MOTION – ORDINANCE AMENDMENT ACCESSORY DWELLING UNITS

Dear Councilor Carney:

This is to advise you of the Planning Board's action on Wednesday, September 4, 2024, regarding the request by the City Council for the Planning Board to review and make a recommendation for its consideration relative to amending Chapter 9 of the Code of Ordinances Section 2340 and associated definitions in Section 1200 pertaining to the zoning of Accessory Dwelling Units (ADUs). **The Planning Board sends a favorable recommendation for the ordinance amendment.**

At the hearing, Planning Board Chair Arthur Glassman read the request and asked if there was anyone present to speak on the matter. City Planner Jennifer Carloni explained this is one of many ordinance amendments the Department of City Planning has been working on to modernize New Bedford's Zoning regulations.

City Planner Carloni explained the existing ordinance is overly burdensome and doesn't allow as many types of ADUs as the proposed amendment would. She indicated the proposal also brings the City into compliance with the recently passed State legislation on ADUs. She then reviewed the details of the proposed amendment for the benefit of the Board and general public.

Chair Glassman inquired about enforcement relative to short term rentals given the essence of the ordinance to provide housing. City Planner Carloni indicated that the amendment also defined short term rentals and prohibits the use of ADUs for short term rentals. Therefore any property owners who used the units for as such would be in violation of the ordinance.

Board member Duff noted her support of the amendment.

Chair Glassman asked if there was anyone from the public who would like to speak in favor or opposed to the recommendation. Hearing none, he asked the Board to speak further on the matter.

Board member Khazan noted her support of the amendment and inquired whether the Department had considered ADUs for two-family and three-family properties, and owner-occupied use only.

City Planner Carloni noted that these ideas were considered but ultimately not included in this amendment due to other complexities. She indicated that subsequent zoning amendments may address some of Board member Khazan's concerns, but at this time the proposed amendment before the Board was the most appropriate first step measure for meeting the city's needs.

Board members Cruz and Kalife expressed support for the proposed amendment.

Hearing no more comments from the Board or the public, Chair Glassman asked for a motion.

Board member Kalife made a motion, seconded by Board member Duff, to favorably recommend the amendment of Section 2340 and associated definitions in Section 1200 pertaining to the zoning of Accessory Dwelling Units (ADUs).

The motion was approved on a vote of 5-0, with members Alexander Kalife, Peter Cruz, Kamile Khazan, Kathryn Duff, and Arthur Glassman recorded in favor and no member recorded in opposition.

As such, the **Planning Board sends a favorable recommendation for the ordinance amendment**. Please find enclosed a copy of the Department of City Planning Staff Report.

Sincerely,



Jennifer Carloni
Director, Department of City Planning

encl.

- Department of City Planning Staff Report, dated 8/28/24

cc. Jon Mitchell, Mayor
Danny Romanowicz, Building Commissioner

Eric Jaikes, City Solicitor
Dennis Farias, City Clerk



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PLANNING BOARD

STAFF REPORT

REPORT DATE
August 28, 2024

PLANNING BOARD MEETING
September 4, 2024

Case #24-32: Ordinance Amendment – Accessory Dwelling Units

Petitioner: Mayor Jon Mitchell, referred by City Council
133 William Street, Rm 215 New Bedford, MA

Proposal: Request by the City Council that the Planning Board make a recommendation relative to Chapter 9 of the Code of Ordinances to adopt a new section pertaining to the zoning of any establishment performing microblading.

The proposed amendment **1)** updates the definition for accessory dwelling units (ADUs), **2)** defines short-term rentals, and **3)** establishes the creation of and standards for accessory dwelling units.

The current ordinance reads as follows:

Current Ordinance Text

1200. Definitions

Accessory dwelling unit: A dwelling unit, subordinate to the dwelling unit in a single-family structure, whether located within the principal structure or in a detached structure on the property.

2340. **Accessory Dwelling Units.** For the purpose of enabling owners of single-family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, the Board of Appeals may grant a special permit in accordance with the following requirements:

2341. Accessory dwelling units may be allowed on special permit, which shall lapse every two (2) years, in accordance with Section 5300, and provided that each of the following additional criteria are met.

2342. A plot plan, prepared by a registered land surveyor, of the existing dwelling unit and proposed accessory dwelling unit shall be submitted, showing the location of the building on the lot, proposed accessory dwelling unit, location of any septic system and required parking. A mortgage inspection survey, properly adapted by a surveyor, shall be sufficient to meet this requirement;

2343. Certification by affidavit shall be provided that while said accessory dwelling unit is occupied, the primary dwelling until shall be occupied by the owner of the property;

2344. Not more than one accessory dwelling unit may be established on a lot. The accessory dwelling unit shall not exceed one thousand (1,000) square feet in floor space and shall be located in the existing residential structure on the premises;

2345. The external appearance of the structure in which the accessory dwelling unit is to be located shall not be significantly altered from the appearance of a single-family structure, in accordance with the following:

2345.a. Any accessory dwelling unit construction shall not create more than a fifteen (15) percent increase in the gross floor space of the structure existing as of date of enactment, December 23, 2003.

2345.b. Any stairways or access and egress alterations serving the accessory dwelling unit shall be enclosed, screened, or located so that visibility from public ways is minimized.

2345.c. Sufficient and appropriate space for at least one additional parking space shall be constructed by the owner to serve the accessory dwelling unit. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway.

2346. The initial term and subsequent terms of a special permit for an accessory dwelling unit shall expire after two (2) years. In the event such special permit is not renewed, the Board of Appeals shall promptly notify the Inspector of Buildings. Subsequent special permit issuances for existing accessory dwelling unit, if any, shall be granted after certification by affidavit is made by the applicant that the accessory dwelling unit has not been extended, enlarged, or altered to increase its original dimensions, as defined in the initial special permit application, and that the need for the special permit still exists and there has been no change in the use or circumstances for which the special permit was originally granted.

2347. Special permits for an accessory dwelling unit may be issued, after a public hearing, upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 5300 herein.

Case 24-32:

Proposes inserting the following new definitions under Section 1200 of Chapter 9 of the Code of Ordinances:

Accessory dwelling unit: a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities, on the same lot as a principal single-family dwelling, subject to otherwise applicable dimensional and parking requirements.

Short-term rental: Any property or portion thereof including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least one room or unit is rented to an occupant or sub-occupant; and (ii) such accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such; and (iii) each such rental is for a period of not more than thirty-one (31) days.

Proposes striking Section 2340 (Accessory Dwelling Units) in its entirety and inserting in place thereof the following:

2340. Accessory Dwelling Units. Accessory dwelling units are allowed by right on all lots in single-family use, subject to the following requirements:

2341. The Inspector of Buildings may issue a building permit authorizing the creation of an accessory dwelling unit.

2341.a. The building permit application shall include a floor plan of the proposed accessory dwelling unit. The floor plan shall be drawn to scale but need not be prepared by a licensed design professional.

2341.b. If the accessory dwelling unit is to be located in a detached accessory structure or in an addition to the existing primary dwelling structure, the building permit application shall also include a plot plan, prepared by a registered land surveyor, showing the locations of all existing and proposed structures, as well as any existing and proposed septic systems, utilities, and parking. A mortgage inspection survey, properly adapted by a surveyor, shall be sufficient to meet this requirement;

2342. Standards for All Accessory Dwelling Units

2342.a. Not more than one accessory dwelling unit may be established on a lot. The lot must contain a single-family home as the principal use and structure.

2342.b. The accessory dwelling unit shall not be larger in gross floor area than one half the gross floor area of the principal dwelling or 900 square feet, whichever is smaller. The Board of Appeals may grant a special permit for an accessory dwelling unit that is greater than 900 square feet and no more than 1,200 square feet.

2342.c. The construction of any accessory dwelling unit must conform to the State Building Code and all other applicable statutes, ordinances and regulations.

2342.d. Except as hereinafter provided, one additional off-street parking space shall be required for an accessory dwelling unit. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway. The Board of Appeals may grant a special permit to waive this requirement if it determines that there is no suitable location on the lot for additional parking or such waiver is otherwise in the public interest. No additional parking shall be required for an accessory dwelling unit on a lot located within one half mile of a commuter rail station or bus station.

2342.e. To encourage the development of housing units for individuals with disabilities and persons with limited mobility, the Inspector of Buildings may allow reasonable deviation from the requirements of this section where necessary to install features that facilitate access and mobility for such persons.

2342.f. The Planning Board may adopt design guidelines for accessory dwelling units in detached structures and additions to principal structures. Adherence to the design guidelines shall not be required for by-right accessory dwelling units but may be required as a condition of approval of any special permit granted pursuant to this section.

2343. Standards for Attached Accessory Dwelling Units.

2343.a. The external appearance of the primary dwelling structure shall not be significantly altered from the appearance of a single-family structure.

2343.b. The accessory dwelling unit shall maintain a separate entrance, either directly to the outside or through an interior entry hall or corridor shared with the principal dwelling.

2343.c. Any stairways or access and egress alterations serving the accessory dwelling unit shall be enclosed, screened, or located to minimize visibility from public ways.

2344. Standards for Detached Accessory Dwelling Units.

2344.a. Detached accessory dwelling units must be located on the lot as follows:

- i. Behind the primary dwelling within the rear yard. A detached accessory dwelling unit may be no closer than eighteen (18) inches from a side lot line or any portion of a fence located along the side lot line; or
- ii. Within a side yard, but at least five (5) feet behind the front facade of the principal dwelling and six (6) feet from the side lot line.

2344.b. The height of the building in which the detached accessory dwelling unit is located may be no higher than the allowable height for an accessory structure.

2344.c. An accessory dwelling unit may be constructed within an existing non-conforming accessory structure, provided the Inspector of Buildings determines that the nonconforming nature of said structure will not be increased. If the Inspector of Buildings determines that the nonconforming nature of such structure would be increased, the Board of Appeals may by majority vote approve the proposal after a public hearing if it determines that it will not be substantially more detrimental to the neighborhood.

2345. Prohibition of Short-Term Rental. No accessory dwelling unit may be used as a short-term rental, as defined in Section 1200. Definitions. Accessory dwelling units, if rented, shall have a lease term of more than thirty-one (31) days.

Background:

The city of New Bedford is experiencing a housing shortage while at the same time the costs of housing and development are trending upward, addressed in detail in the Mayor’s March 2023 report, *Building New Bedford: Strategies to Promote Attainable Housing for All in a Thriving New Bedford*.¹ In accordance with the *Building New Bedford* plan, the Department of City Planning has been undertaking a series of updates to the Zoning Ordinance in order to facilitate and streamline the development of new housing units. The amendments to the ADU ordinance, which allow for the “by-right” creation of attached or detached ADUs on any single-family lot in the city, regardless of base zoning, are one part of our strategy to enable the creation of new housing units in the city.

While this ordinance was under development, the Massachusetts legislature was updating state zoning regulations to allow ADUs by-right in all single-family zoning districts. Planning staff and monitored this process and worked with our consultant team to draft an ordinance that complies with the Affordable Homes Act, which was signed into law by Gov. Healey on August 6, 2024. Adopting these local zoning reforms to ADUs will make New Bedford a first mover in fulfilling to goals of the new state law.

For Board Member Consideration:

The proposed amendment eases zoning restrictions on ADUs by allowing any attached or detached ADU 900 ft² or less as-of-right on single-family properties, regardless of the zoning district. This will expedite permitting for these types of housing units so long as they meet basic setback, parking, and building code requirements. **See Appendix A for more information.**

The Board may wish to consider the amendment’s consistency with the goals and objectives of the Master Plan as follows:

1. Encourage and maintain a wide range of housing types throughout the city that reflect the historic and cultural character of each area by supporting development that provides for households of all income levels
 - Revise zoning to ensure that a mix of housing choices are allowed by-right in appropriate districts
 - Provide incentives that encourage housing developments to include affordable housing units that are integrated throughout the community

Input from Other City Departments:

The request was distributed to the City Clerk, City Solicitor, Health Department, Inspectional Services, Public Infrastructure, Conservation Commission, Fire Department and School Department. Although no comments have been received as of the production date of these Planning Staff Comments, any such comments subsequently received will be provided at the Planning Board’s public hearing.

¹ Building New Bedford: Strategies to Promote Attainable Housing for All in a Thriving New Bedford, <https://s3.amazonaws.com/newbedford-ma/wp-content/uploads/sites/58/20230329092131/BUILDING-NEW-BEDFORD.pdf>

ACCESSORY DWELLING UNITS (ADUs)

- **Accessory Dwelling Units or ADUs** are small, independent dwelling units located on the same lot as a single-family home.
- **Attached ADUs** are within the existing structure or an addition.
- **Detached ADUs** are on the same lot but separate from the primary building and can be created by converting existing accessory buildings (such as garage or carriage house) or through new construction.

WHAT'S CHANGING?

New Bedford currently allows ADUs, but they are overly restricted and have complicated requirements.

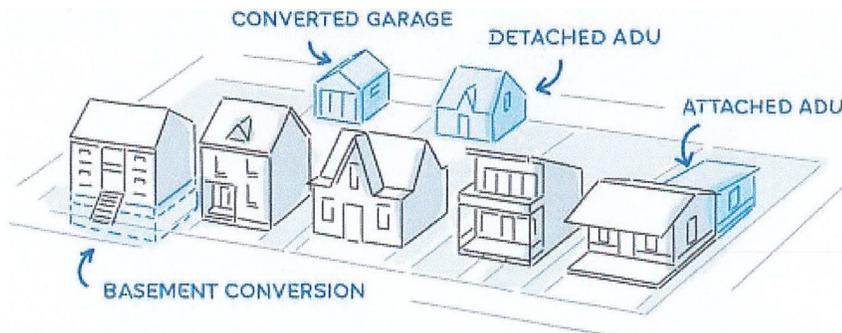
The ordinance today...

1. Requires a Zoning Board special permit, renewed every two years.
2. Only allows for attached ADUs.
3. Lacks design standards.
4. Limits size to 1,000 ft².
5. Is silent on short-term rental of ADUS



Proposed update...

1. Allows ADUs by-right on lots with single-family homes.
2. Allows detached ADUs.
3. Includes a process to adopt more specific standards.
4. Allows by-right up to 900 ft² and by special permit up to 1,200 ft²
5. Prohibits short-term rental of ADUs



- Easing zoning restrictions on ADUs allows for **more housing production** and simplifies the creation of "in-law" units for **multigeneration living**.
- Dimensional and parking requirements ensure **modest increases in housing density without impacting neighborhood character**.
- The proposed changes **align with a new state law** requiring ADUs by-right in single-family zones, and are comparable to ADU zoning in other communities