

Draft Accessory Apartments revision for Town Meeting 2021

02/02/2021

Additions are in red, deletions are crossed out.

14.3 Accessory Apartments in an R-1 District.

14.3.1 Definitions

(a) Accessory Apartment: a distinct portion of a single-family dwelling, or a unit in an accessory structure on a single-family lot, having its own kitchen, sleeping, and bathroom facilities, and subordinate in size to the principal part of the dwelling or structure.

(b) Affordable Accessory Apartment: An Accessory Apartment that is affordable to low and moderate income households, as defined by the Massachusetts Department of Housing and Community Development ("DHCD"), and that meets DHCD requirements for accessory apartments under the Local Initiative Program ("LIP") and for inclusion in the Town's Subsidized Housing Inventory.

(c) Multiple Accessory Apartments: More than one accessory apartment per lot.

14.3.2 Requirements for an Accessory Apartment

The Board of Appeals may grant a Special Permit for an Accessory Apartment, provided that the **existing number of accessory apartments (not including any Affordable Accessory Apartments as defined in Section 14.3.4 below) does not exceed 5% of the number of residential units as stated in the most recent Federal Census and the** unit meets the following requirements:

(a) Floor Area: the Accessory Apartment shall not exceed 1200 square feet, and (for a unit included in a single-family dwelling) shall not exceed 35% of the floor area of the principal dwelling unit and Accessory Apartment combined.

(b) Lot Size: the lot on which the Accessory Apartment and principal dwelling unit are located shall contain at least 40,000 square feet.

~~(c) Age of Structure: The residential dwelling or the accessory structure in which the Accessory Apartment is to be located shall have been constructed at least ten (10) years prior to the date of application for the Special Permit. Any addition less than ten (10) years old shall be deemed to be part of the building(s), provided that the addition does not increase the floor area or volume of the original building(s) by more than 10% and does not alter the character of the building.~~

~~(d-c)~~ Occupancy: either the Accessory Apartment or the principal residence is occupied by the owner of the lot on which the Accessory Apartment is to be located, except for bona fide temporary absences. If the lot on which the Accessory Apartment is to be located is owned by the Town of Lincoln, the owner-occupancy requirement of this paragraph shall not be applicable as long as the lot and the structures thereon continue to be owned by the Town of Lincoln.

(e **d**) Sewage: Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of such Accessory Apartment in accordance with the requirements of the Board of Health, as certified by a written report from the Board of Health, submitted to the Board of Appeals before or at the public hearing.

(f **e**) Access and Parking: adequate provision has been made for ingress and egress to the Accessory Apartment from the outside of the structure, and for off street parking of motor vehicles in such a fashion as is consistent with the character of a single family residence.

(g **f**) Number of Units: There shall be no other apartment on the lot on which the apartment is to be located except as provided under Section 14.3.5, "Multiple Accessory Apartments".

~~(h-g)~~ Appearance: The principal structure, after the creation of the Accessory Apartment, shall retain the appearance of a single-family structure. In general, any new external entrances shall be located on the side or rear of the building.

(† **h**) Effect on Adjacent Properties and the Neighborhood: the Board of Appeals shall find that the construction and/or occupancy of the Accessory Apartment will not be detrimental to the neighborhood in which the lot is located or injurious to persons or property.

(i) Where the accessory apartment or the principal dwelling is occupied as a rental unit, the minimum occupancy or rental term shall be 30 days.

14.3.3 Procedures

(a) The applicant shall consult with the Planning Board prior to the hearing and the Planning Board shall submit, in writing, prior to the hearing, its recommendation and report to the Board of Appeals. The report of the Planning Board shall include as a minimum:

(i) a determination of the area of the lot on which the apartment is located;

(ii) a general description of the neighborhood in which the lot lies and the effect of the proposed apartment on the neighborhood;

(iii) the Planning Board's recommendations as to the advisability of granting the Special Permit and as to any restrictions which should be imposed as a condition of such permit.

(b) The applicant shall obtain and submit to the Board of Appeals a written report of the Board of Health, certifying that the conditions of Section 14.3.2(e) have been met.

(c) The Board of Appeals shall hold a public hearing on the application, in accordance with the procedures specified in MGL Chapter 40A.

(d) The Board of Appeals shall give due consideration to the report of the Planning Board and, where its decision differs from the recommendation of the Planning Board, shall state the reasons therefor in writing.

