

APPENDIX A

Accessory Apartments

1. Purpose and Intent

The intent of this section is to allow Apartments in owner-occupied single-family dwellings. Its purpose is to:

- 1.1. Add moderately-priced rental units to the housing stock to meet the needs of small households, both young and old;
- 1.2. Make housing units available to moderate-income households who might otherwise have difficulty finding housing in the town;
- 1.3. Provide older homeowners with a means of obtaining 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.

2. Special Permit Granting Authority

The Zoning Board of Appeals is the Special Permit Granting Authority (SPGA) under this bylaw section.

3. Procedure

Applications to the SPGA for a Special Permit must provide the following:

- 3.1. Be signed by 100% of the record title ownership interest of a single family detached dwelling and shall include a copy of the deed to the applicant. If ownership is held in other than by an individual, applicant shall submit a Schedule of Beneficiaries or other evidence of ownership satisfactory to the SPGA.
- 3.2. Include a floor plan of the Apartment, whether in the main dwelling or a detached structure such as a barn, garage, or other such building on the lot where it is to be located, and all elevations where exterior modifications are proposed. Additionally, a site plan is required to show access, parking, entry, and other essential site features. All plans shall be drawn to scale and identify the existing structure and proposed modifications to create the Apartment.
- 3.3. Include written verification by the Board of Health that the sewage disposal system shall have sufficient capacity to accommodate the Apartment within Title 5 of the State Environmental Code and the Rules and Regulations of the Board of Health.

4. Requirements

- 4.1. Modifications of the exterior of the dwelling shall be completed in a manner that maintains the appearance of the dwelling as a single-family dwelling.
- 4.2. Modifications of the exterior of the detached accessory building intended to house the Apartment shall maintain the appearance and essential character of the accessory structure.
- 4.3. The Apartment will be a complete, separate housekeeping unit that functions as a separate unit from the principal dwelling.
- 4.4. The Apartment shall contain no more than two (2) bedrooms and one (1) bathroom; and the apartment shall not exceed 900 S.F. of gross floor area of the building in which the Apartment is to be located, whichever is less.
- 4.5. Any new outside entrance to serve an Apartment shall be located on the side or in the rear of the building unless the SPGA deems otherwise appropriate given the layout and function of the building.
- 4.6. A landscape plan shall illustrate any new entrances, parking areas and any other added physical development which in the opinion of the SPGA deserves landscape treatment. This provision will not be used as a means to require the pre-existing property to be re-landscaped but will specially focus on the aesthetics of the new site features.
- 4.7. The Apartment shall not be held in, or transferred into separate ownership from, the principal dwelling under a condominium or cooperative form of ownership, or otherwise.
- 4.8. An Apartment shall not be used in any way for any commercial purpose or activity, regardless of other provisions of the zoning bylaw.

- 4.9. At least one (1) off street, on site, parking space must be available for exclusive use by occupants of the Apartment or their invitees.
- 4.10. In the R-1A, R-1B, and RA Districts, accessory apartments shall not be allowed in single-family dwellings located on lots that are non-confirming for lack of required lot area, unless said lot is at least 10,000 S.F. in size unless the SPGA determines that a lot smaller than 10,000 S.F. is capable of accommodating an Apartment which provides on-site, off-street parking and has confirmation from the Board of Health that the site can address its septic system demands.
- 4.11. Alterations to accommodate an Apartment shall be limited to one (1) structure on the lot. If the dwelling is located on a lot smaller than 10,000 square feet, then the alterations shall not expand the footprint or the envelope of the building, as it existed on the effective date of this bylaw section, by more than twenty-five (25) percent, or five hundred (500) S.F., whichever is less.
- 4.12. The Owner of the lot shall reside on the property in either the principal dwelling or the accessory apartment.
- 4.13. The sanitary disposal system for the Apartment and principal structure shall comply with the applicable Hamilton Board of Health and Title 5 regulations, provided that compliance of the sanitary disposal system shall not require the application of Subpart E of 310 CMR 15.00.
- 4.14. Utilities such as water, electric, oil, and gas necessary for the Apartment shall be extensions of the existing utilities serving the principal single-family dwelling. No new utility services or meters shall be installed for the use of the Apartment.
- 4.15. The Special Permit shall be issued to the Owner and shall specify which dwelling unit will be Owner-occupied.
- 4.16. The Special Permit shall be recorded at the Registry of Deeds or registered at the local Registry division of the Land Court. Prior to the issuance of a building permit, the applicant must submit proof of the recording or registration of the Special Permit to the Building Inspector and the Director of Planning and Inspections.
- 4.17. When a structure which has received a Permit for an Apartment is sold, the new Owner, if he or she wishes to continue to exercise the Permit, must within thirty (30) day of the sale, submit a sworn and notarized written statement to the Building Inspector stating that he or she will occupy either the principal dwelling or the Apartment on the premises as their primary year-round residence.
- 4.18. No more than one (1) Apartment shall be allowed on any lot.
- 4.19. The creation of an Apartment within a principal single-family residence must be done so that the Apartment either shares a common floor-ceiling assembly with the principal dwelling or a common wall connector as defined in Section 11.0 of this zoning bylaw.
- 4.20. Violation of any of the above provisions shall be subject to enforcement by the Building Inspector in accordance with the applicable provisions of Section 10.00 Administration and Enforcement of the zoning bylaw.

5. Termination

The Special Permit shall terminate immediately upon any of the following events:

- 5.1. Two Years from the date of the grant of the Special Permit, if a substantial use thereof and has not commenced, or in the case of a permit for construction. If construction has not commenced within one year from the date of the grant of the Special Permit.
- 5.2. Any transfer of title to the premises, except a mortgage.
- 5.3. Violation of any term or condition of the Special Permit that the Owner fails to cure within two weeks' written notice mailed by certified mail, return receipt requested.

DEFINITIONS –

Apartment: An additional dwelling unit, subordinate in size and accessory to the principal dwelling unit on the lot, located in either the principal dwelling or an accessory structure on the lot. An Apartment is constructed so as to maintain the appearance and essential character of the single family dwelling or accessory structure to which it is added.

Owner: The individuals in whom record title ownership is held. If ownership is held in a trust or other non-individual ownership, the beneficiaries as shown on a Schedule of Beneficiaries or other evidence of ownership.