

2009 ANNUAL TOWN MEETING ARTICLE 20

TITLE: ACCESSORY DWELLING UNITS

To see if the Town will vote to amend Article IX, the Zoning Bylaw, section 5500 by deleting that section in its entirety and substituting the following:

**5500. ACCESSORY DWELLING UNITS IN RESIDENCE DISTRICTS.**

**5510. Purpose.** The purpose of this bylaw is to increase housing opportunities in Sudbury by allowing the utilization of the existing housing stock to offer different housing styles reflective of a more diverse population, in terms of age, family size and income. The type of housing allowed under this bylaw may benefit several sectors of the population - current residents whose lifestyles no longer fit into the usefulness of a larger single family dwelling will be able to supplement their income by renting a portion of their home, and those not financially capable of home ownership may be able find suitable housing in these units – without adding to the number of buildings in Town or substantially altering the appearance of the Town. This type of diverse housing is in accordance with the 2001 Master Plan and the 2005 Community Housing Plan, and ensures compliance with zoning standards, regulations regarding building design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

**5520. Conditions and Requirements.** An owner or owners of a single family dwelling in Single Residence District "A", "C" or Wayside Inn Historic Preservation Zone may apply to the Board of Appeals for a Special Permit for the creation and occupancy of an Accessory Dwelling Unit. Such application shall be accompanied by the application fee established by the Board of Appeals. After such notice and public hearing, and after due consideration of the report of the Board of Health, the Board of Appeals may grant such Special Permit provided that each of the following conditions and requirements is met:

5521. Such Accessory Dwelling Unit shall be occupied by not more than four persons.

5522. The Accessory Dwelling Unit shall contain no more than 850 square feet, and shall occupy no more than 30% of the floor area of the single family dwelling. Floor area, for the purpose of section 5522, is defined as the actual heated living area and does not include unfinished basements, attics, or storage spaces. On request of the applicant, the Board of Appeals may waive the provisions of section 5522 due to the physical constraints of an existing structure (but not for a new structure).

5523. An Accessory Dwelling Unit may be built in a detached accessory structure separate from the main dwelling provided: (1) the detached structure has existed at its current size for no less than five (5) years prior to the date of the application for creation of an Accessory Dwelling Unit; (2) the lot meets the current minimum zoning requirement for lot area in the district in which the lot is located, (3) the detached structure meets the same minimum setback requirements that apply to the principal

residence in the district in which the structure is located, (4) the Accessory Dwelling Unit occupies no more than 50% of the floor area of the detached structure, and (5) the Accessory Dwelling Unit is not greater than 850 square feet.

5524. There shall be no more than one Accessory Dwelling Unit per building lot.

5525. The owner of the dwelling in which the Accessory Dwelling Unit is created shall reside in the dwelling, either in the principal dwelling unit or the Accessory Dwelling Unit. For the purpose of this subsection, the "owner" shall be one or more individuals who constitute a family, who hold title to the dwelling, and for whom the dwelling is the primary residence. If the lot on which the Accessory Dwelling Unit is to be located is owned by the Town of Sudbury or the Sudbury Housing Authority, the owner occupancy requirement of this subsection shall not be applicable. If the owner of the dwelling resides in the Accessory Dwelling Unit, the occupancy of the principal dwelling shall comply with the requirements of section 5521 above.

5526. Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of the Accessory Dwelling Unit in accordance with all requirements of the Board of Health.

5527. The Accessory Dwelling Unit shall be designed so that the appearance of the structure remains that of a single family dwelling and its associated accessory structures.

5528. Off-street Parking. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking for the Accessory Dwelling Unit. No parking spaces shall be located within the boundary of a street right of way. In no case shall parking spaces which are more than two spaces deep be considered in computing the required parking.

5529. All the Special Permit Criteria of section 6220 of the Zoning Bylaw shall be met.

### **5530. Reports.**

5531. In order to ensure compliance, the applicant shall obtain and submit to the Board of Appeals prior to the hearing, a written report of the Board of Health certifying that the conditions of subsection 5526 have been met.

5532. Planning Board Report. In connection with an application for a Special Permit under this section, the applicant may consult with the Planning Board prior to the hearing and the Planning Board may submit in writing, prior to the hearing, its recommendations and report to the Board of Appeals.

**5540. Number of Accessory Dwelling Units.** The number of Accessory Dwelling Units permitted under this by-law shall not exceed five percent of the total number of dwelling units existing in the Town at the beginning of the **calendar** year in which the application was filed.

**5550. Duration of Special Permit.** The Special Permit for an Accessory Dwelling Unit may be issued for the duration of ownership of the principal structure. Such permit shall require the filing by the owner(s) of a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals, certifying compliance every four years consistent with the Special Permit. Such permit shall automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit, unless a Special Permit to transfer the unit to a prospective new owner, utilizing the same criteria set forth herein, is applied for and granted.

**5560. Other Requirements.**

5561. Building Permit Required. A Building Permit, or inspection by the Building Department, shall be required to create an Accessory Dwelling Unit.

5562. Recording of Permit. Any Special Permit issued under this bylaw shall be recorded at the Middlesex South District Registry of Deeds prior to issuance of a building permit for a new unit, or an occupancy permit for existing units.

5563. No Separate Conveyance. The ownership of the Accessory Dwelling Unit shall not be conveyed or otherwise transferred separately from the principal dwelling.

5564. Removal of Separate Facilities. The Building Inspector may, in addition to other remedies, order removal of the separate kitchen facilities, equipment or fixtures that were made or installed to create such unit, if the unlawful use of such unit is discovered.

5565. Revocation. A Special Permit granted hereunder may be revoked by the Board of Appeals for violation of the terms thereof or occupancy of the Accessory Dwelling Unit in violation of the Special Permit or the Zoning Bylaw.

5566. Provision of Information. The applicant for a Special Permit shall file with the Board of Appeals such plans, specifications and other information concerning the unit and its proposed use as the Board may require by general rule or request to the applicant.

5567. Discontinuation of Accessory Unit. If an Accessory Dwelling Unit is discontinued, the owner shall notify the Zoning Enforcement Agent of removal of the facilities. Upon certification by the Zoning Enforcement Agent, said unit shall be removed from the Town's inventory.

**5580. Rules and Regulations.** The Board of Appeals may adopt, and from time to time amend, Rules and Regulations to implement the provisions of this subsection, and shall file a copy of said Rules and Regulations with the Town Clerk.

And further to amend Section 7000 of the Zoning Bylaw to revise the definition of “Dwelling unit, single accessory” to remove the word “single” from the title of said definition, and to remove the word “attached” from the definition.

or act on anything relative thereto.

#### Planning Board Report:

This revision to the current bylaw is meant to create additional units of diverse housing in Sudbury by utilizing the existing housing stock. The current bylaw has yielded only 17 such housing units since its adoption in 1993. The primary reason for so few units has been the occupancy requirements limiting these units to only 3 groups: (1) family members, (2) domestic help, and (3) low and moderate income households. These revisions will allow a homeowner to create an accessory unit and rent it to anyone they choose. These units present opportunities benefitting both homeowners and those unable to purchase a house in Sudbury. This idea has been promoted by AARP as a means of providing security, companionship and services for older homeowners, as well as a way to offset real estate taxes and other expenses. Bylaws similar to this proposed bylaw have been adopted in the towns of Concord and Lincoln for decades with no apparent negative impacts or deviations to the single family atmosphere of those communities, and with limited numbers of units created. Accessory Dwelling Units are subordinate, self-contained units that are incorporated into single-family dwellings or their accessory structures. They are restricted in size and as a proportion to the principal residence. Each unit has a separate means of egress, but the overall appearance of the structure remains as a single family dwelling. The principal home must be owner-occupied, and the total number of units allowed town-wide is 5% of the current housing stock, or roughly 275 units. Accessory Dwelling Units provide a means of diversifying the housing stock in Sudbury to provide living accommodations across a wide spectrum of the population, which is a stated goal of the 2001 Master Plan and the 2005 Housing Plan. The Planning Board, Board of Selectmen, Council on Aging and the Sudbury Housing Trust support this article.