

Background Materials – January 23, 2023– Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 1/20/23

Cable Access Channel 15 –The Cable Studio has indicated that this meeting will be live streamed on Channel 15.

AGENDA ITEM #1 Open Comment Period

This 10-minute period is set aside for the public to offer comments on items not on the posted agenda, in accordance with the adopted policy, as amended 8/8/22, posted on the Town of South Hadley Planning and Conservation Department webpage here:

<https://southhadley.org/DocumentCenter/View/9842/Open-Comment-Period-Policy---As-Adopted-2022-08-08>

Action Needed: Allow members of the public to offer comments to the Board.

AGENDA ITEM #2 Minutes

Planning and Conservation Coordinator Colleen Canning will forward minutes separately.

Action Needed: Vote to approve the minutes.

AGENDA ITEM #3 Correspondence

A list of correspondence received will be sent prior to the meeting and/or is attached.

Action Needed: No action needed.

6:30 PM - AGENDA ITEM #4 Continuation of Illuminated Sign Request filed by Delaney's Market for replacement of an illuminated freestanding sign at 459 Granby Road, Map 31 Parcel 15
Project plans online here: <https://www.southhadley.org/1317/Granby-Road-459---Delaneys-Market>

The meeting was continued to allow the applicant time to seek permission from the abutting property owner for use of the preexisting sign pylon which appears to exist on the abutter's property. I am aware that the applicant has requested permission from the abutter and is awaiting a response however I have not had any further communication from them. Therefore, since the Board's agendas for upcoming meetings are so full, I recommend the Board deny an illuminated sign permit for the freestanding sign due to the location of the sign on the adjacent property and no evidence of property owner permission has been granted for use of the sign. The location of the sign was inaccurately placed on the permit plans and no additional plans have been submitted to correct this information.

If the applicant comes forth with landowner permission in the future, and an updated plan, the Board can schedule the updated application at a later date, with appropriate abutter notification as required.

Action Needed: Motion to deny the freestanding sign for an Illuminated Sign Permit as indicated in the application due to lack of information and property owner permission.

6:30PM AGENDA ITEM #6 Skinner Woods Flexible Development Special Permit
Amendment

Project plans are online here: <https://www.southhadley.org/1241/Amherst-Road---Skinner-Woods-Flexible-De>

The applicant, Thomas Spring, has applied for an amendment to the Skinner Woods Flexible Development Special Permit issued by the Board on December 16, 2019. During review of septic plans by the Public Health Director, Sharon Hart, she identified inconsistencies on the septic plans to the approved Special Permit plans, specifically related to units 5, 7 and 9. Upon further review we identified several violations of the Special Permit, and initiated coordination with the applicant to rectify these violations. The following is a description of the permit violations, proposed mitigation/corrections, and proposed amendments to the Special Permit:

Approved plan set – https://www.southhadley.org/DocumentCenter/View/10226/Amherst-Road---Skinnerwoods---Form-H-Plans---63021_Final?bidId=

As-Built Plan - <https://www.southhadley.org/DocumentCenter/View/10290/AsBuilt-Plan-122722?bidId=>

Violation #1 - Open Space Limit of Work Encroachment

See sheets 5 and 6 of the approved plan set. For an unknown reason, the “limit of work” line on the western part of the site behind units 1-9, was set by the contractor further to the west than it was supposed to be. On the As-Built Plan prepared by PLS Randy Izer, dated 12/27/22, the blue “Existing Silt Fence Line” is what was established by the contractor as the limit of work. Due to this error, the contractor cleared approximately 13,000 SF of trees and other vegetation in the “common open space”



area that was to be left in its existing vegetated condition. Based on the tree inventory dated 9/20/19 conducted at the start of the project, the applicant estimates that 11 trees between 13-24” DBH and 1 tree between 25-36” DBH were removed. The stakes with the orange flags in the image to the left indicate the location of perc tests for the planned septic systems, as set by the surveyor on 12/22/22 prior to my site visit. The approved limit of work line was several feet to the left of each of the stakes. The existing black silt fence is visible at the edge of the cleared area, which was used by the contractor in error as the limit of work.

Violation #2 – Failure to Seek Review or Amendment for Changes to Building Footprints and Locations – Units 5, 7 and 9

In addition to the incorrect limit of work delineation, the building foundations for units 5, 7 and 9 were installed further back from the road/closer to the approved limit of work line. The building footprint for each building was also in a slightly different configuration. Refer to the As-Built Plan for illustration of this issue – as-built buildings are outlined in red and yellow. As a result of these changes, insufficient space is available to locate the septic systems for units 7 and 9 outside of the common open space. Therefore, the applicant is seeking to relocate the limit of work line further to the west and utilize approximately 5,000 SF of the previously approved common open space (which has now been cleared in error) for the septic systems for units 7 and 9.

Proposed Special Permit Amendments for Violation #1 and #2

- A. Relocate the limit of work line behind units 7 and 9 as indicated on the proposed septic system plan, reducing the common open space by 5,000 SF.
- B. The applicant has requested that the 13,000 SF cleared area be planted and maintained as a pollinator meadow, with the exception of the 5,000 SF area requested to be removed from the common open space. Thus, total pollinator field would be 8,000 SF. See the SP Amendment Narrative at the “project plans” link above.
- C. In addition, I have recommended they pay a voluntary mitigation payment to address the trees cut, the payment to be based on the Town of South Hadley’s Policy for the Removal of Non-Hazardous Shade Trees (see Tree Cutting Mitigation Proposal).
11 trees between 13-24” DBH removed = 2 replacement trees pre tree cut = 22 trees
1 tree between 25-36” DBH were removed = 3 replacement trees per tree cut
In lieu of planting the replacement trees, the policy requires a \$125/replacement tree payment, which for 25 trees = \$3,125
- D. In addition, the approved Planting Plan Sheet L1:01 would need to be amended, shifting the required landscape plans to the outer edge of the cleared area to create the required landscaping buffer behind units 1, 3, 5, 7 and 9. [Note, on the approved plan set sheet L1:01, the buildings in this area are numbered 10, 9, 8, 7 and 6.]
- E. As a condition of the Amendment, I recommend that the revised limit of work line be marked with monumentation to be set by a Professional Land Surveyor.

Tree Cutting Mitigation Proposal

<https://www.southhadley.org/DocumentCenter/View/10595/Tree-Cutting-Mitigation-Proposal>

Septic System Design Units 7 and 9 – Proposed Limit of Work Change

<https://www.southhadley.org/DocumentCenter/View/10597/Septic-System-Design-Units-7and-9---Proposed-Limit-of-Work-Change>

Violation #3 – Incorrect Orientation of Unit 10

Per the 255-31 Flexible Development Section (J)(1)(a) structures shall be oriented toward the street serving the premises and not the required parking areas. Unit 10 was constructed with the rear of the building facing the street. The front of the building, with the front porch is located on the left side of the building so that it overlooks a view of the Holyoke Range.



Unit 10 – Back of building facing the street



Front of Units 5 and 7 facing the street.

To address this violation, the applicant has proposed to add a front porch to Unit 10. See Unit 10 Front Porch Plans: <https://www.southhadley.org/DocumentCenter/View/10596/Unit-10-Front-Porch-Plans>

Proposed Special Permit Amendments for Violation #1 and #2

- A. Require a front porch as proposed in the submitted plan set be constructed on Unit 10.

Action Needed: The Board should open the public hearing, discuss the information presented, and decide on the proposed Amendment to the Approval of the Skinner Woods Condominiums, Amherst Road. The Board should also authorize the Director of Planning & Conservation to sign any modified Form H plans on the Board's behalf.

AGENDA ITEM #5 Discussion on Developing an Accessory Dwelling Unit Bylaw with Building Commissioner Damian Cote

Discussions about a framework for an ADU Bylaw have been conducted on 11/21, 12/19 and 1/9. Based on these discussions, a draft bylaw was discussed at the 1/9/23 meeting. Attached is an updated version of the bylaw based on the Board's discussion.

The Board requested the opportunity to ask questions of the Building Commissioner related to ADUs and how Building and Fire Code standards would impact site planning and design considerations for attached and detached accessory dwelling units. Damian has been provided with the current draft of the ADU Bylaw.

The following has been provided by Brad Hutchison, Planning Board Chair and Architect at Kuhn Riddle, in response to building and fire code design considerations for attached and detached ADUs:

"R-302.3 Dwellings shall be separated from each other by wall and floor assemblies having not less than a 1-hour fire-resistance rating where tested in accordance with ASTM E 119 or UL 263. Fire-resistance-rated floor/ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend from the foundation to the underside of the roof sheathing.

Exceptions:

- 1. A fire-resistance rating of 1/2 hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13.*
- 2. Wall assemblies need not extend through attic spaces where the ceiling is protected by not less than 5/8-inch (15.9 mm) Type X gypsum board, an attic draft stop constructed as specified in Section R302.12.1 is provided above and along the wall assembly separating the dwellings and the structural framing supporting the ceiling is protected by not less than 1/2-inch (12.7mm) gypsum board or equivalent.*

R302.3.1 Supporting construction. Where floor assemblies are required to be fire-resistance rated by Section R302.3, the supporting construction of such assemblies shall have an equal or greater fire-resistance rating.

My own thoughts about this [B. Hutchison]:

- Sprinklering will cost-prohibitive for most potential applicants
- It's fairly easy to construct wall and floor assemblies that meet the 1 hour requirement in new construction but getting the details right in existing construction is a bit more complicated. The parts about continuity from foundation to roof and protection of supporting construction can be tricky, particularly since most single-family residences do not have 5/8" type x gypsum wallboard on their ceilings. None of this is insurmountable but I just think folks need to understand that it's not as simple as throwing up an addition – and the cost per square foot will reflect this.

For the case of detached ADU's I believe the fire separation can be achieved by distance. There is a table in the IRC (302.1(1)) that indicates that, in unsprinklered buildings with non-fire resistance rated exterior walls (the case that most existing single family residences we be), the required distance is greater than 5'. My interpretation of this is that if the ADU is more than 5'-0" away from the primary residence, no fire-rated exterior walls or sprinklers are required. I haven't actually permitted anything like this in the single-family world so I would be curious to know if this is also Damian's interpretation.

There are no definitions of "detached" in the residential code that I can find."

Accessory Dwelling Units Bylaw Virtual Public Hearing

Monday, February 27, 2023 @ 6:30PM

Login information on the posted agenda here:

Click the link to join the webinar:

<https://us02web.zoom.us/j/88961380594?pwd=OGNGNk5MMmpGcmNsNEFObi9iTlZFdz09>

Or Telephone: +1 309 205 3325

Webinar ID: 889 6138 0594

Passcode: 628069

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- A. Zoning Bylaw Framework and Parameters
- B. ADU Resources
- C. Draft Zoning Bylaw (pgs. 9-13) **UPDATE**

A. Zoning Bylaw Framework and Parameters

The following are key parameters for a zoning bylaw framework, a summary of information presented thus far, and feedback from Board discussions through 1/9/23.

1. Permitting

By right, special permit or site plan review – This would include discussion on zoning districts for this use. Please see Existing Chapter 255 Zoning Use and Dimensional Regulations Summary at the end of this section. Although no decision was made by the Board, a strong argument was presented for by right attached ADUs in all districts where single and multifamily dwellings are currently allowed. For detached units, the Board decided to regulate by Site Plan Review.

2. Dimensional requirements/Unit size

This would take into consideration parcel size as well as dwelling unit size. New Housing Choice Legislation (Chapter 358 of the Acts of 2020) provides for majority vote at Town Meeting, rather than supermajority, for bylaws that create new housing units with a maximum of 900 SF floor area. Town Counsel Lisa Mead has issued an opinion stating that the simple majority vote is mandatory not optional. This applies for attached ADUs by right and detached ADUs by right or by Special Permit. In consultation with Town Counsel, she said that Site Plan Review is a form of by right permitting and would meet the simple majority voting threshold.

A. Dwelling Unit Size –

MGL c.40A Sec 1A – Accessory Dwelling Unit:

There have been discussions on whether or not a maximum of 900 SF was too large for an ADU. Below is the definition from MGL c.40A Sec 1A which also states that the unit *cannot be more than ½ the floor area of the principle dwelling or 900 SF, whichever is smaller*. I recommend the Board retains the MGL definition, with the edit as noted in (iii) below.

Town of South Hadley Zoning Bylaw – Minimum Floor Area:

At a past meeting it was stated that the zoning bylaw restricts the minimum dwelling unit size to 420 SF. The bylaw actually only applies this standard to “multifamily” dwelling units. Under MGL c40A, the first part of the first sentence of paragraph #2 of Chapter 40A, Section 3 prohibits regulating the interior space of a single family residential building: *“No zoning ordinance or by-law shall regulate or restrict the interior area of a single family residential building . . .”*

Further, “multifamily dwelling units” are principle uses, and as such, each unit could be as large or small as desired, and must comply with the state sanitary code (cited below). An Accessory Dwelling Unit would be an accessory use, diminutive in size to the principle dwelling. Thus, the 420 SF minimum floor area does not apply to the ADU discussion. And since it is the opinion of the building commissioner that an ADU would be a single-family dwelling under the building code, the ADU bylaw could not set a minimum floor area, per MGL c40A.

§ 255-90 Minimum floor area.

Each dwelling unit in a two-family (new or converted), three-family, or multifamily structure shall contain a minimum floor area of 420 square feet. In computing the required minimum floor area, only the area devoted to the exclusive use of the dwelling unit for living purposes shall be considered. Storage areas, hallways, breezeways, balconies, foyers, and other areas in common with other tenants shall not be included.

Further, the Building Commissioner states: “I do not believe we can impose a minimum size on a dwelling unit. This is an opinion based on case law. The building code being a state regulation is above and beyond local authority. The state [sanitary code] already dictates a minimum floor area. It also is not permitted to regulate the interior of a structure by 40A. Meaning, we can probably regulate a minimum and maximum footprint for exterior impact, but not the interior habitation. With that, I would keep that language or expansion of it out of the consideration.”

The following provided by Brad Hutchison, Planning Board Chair and Architect at Kuhn Riddle Architects:

State Sanitary Code is 105 CMR 410.400:

410.400: Minimum Square Footage (A) Every dwelling unit shall contain at least 150 square feet of floor space for its first occupant, and at least 100 square feet of floor space for each additional occupant, the floor space to be calculated on the basis of total habitable room area. (B) In a dwelling unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant. (C) In a rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 80 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 60 square feet for each occupant.

Interestingly, the 2015 residential code (780 CMR 51.00) stripped the requirement for a dwelling unit to have at least one room that is 120 min. square feet. The new code is as follows:

R304.1 Habitable rooms shall have a floor area of not less than 70 square feet

R304.2 Habitable rooms shall be not less than 7 feet in any horizontal direction.

It should be noted that the building code defines habitable space as "a space in a building for living sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces".

The code requires the provision of a toilet, sink and bath or shower for every dwelling unit (R306.1) and the provision of a Kitchen area with a sink (R306.2).

There does not seem to be a requirement that these areas would need to be separate rooms.

My interpretation of this is that, from a building code standpoint, you could built a very small dwelling unit that would meet the building code. The sanitary code is more stringent with respect to minimum floor area. In both cases, they are much less stringent than the Town's 420 s.f. minimum.

B. Parcel Size

The Board discussed parcel size considerations related to ADUs with no conclusions reached. I am not in favor of limiting parcel size for attached or detached ADUs as it seems arbitrary and has nothing to do with other existing site conditions and good site design which very well may allow for a perfectly nested detached ADU on a small parcel. It also becomes exclusionary to only allow ADUs on larger lots since the objective is to create new housing units for people and families of low and moderate income levels.

3. Attached and Detached Accessory Dwelling Units –

At the last meeting, the Board accepted the recommendation for detached ADUs to meet the zoning district setback requirements for principle uses. This is because people will be living in them, and it is the presence of people and their daily activities that are the most likely to be noticed by abutters. Thus, if the dwelling unit is required to meet the setbacks of the principle dwelling unit, it adds additional buffer space with the abutting neighbor. However, the conversion of an existing accessory structure (i.e. garages, barns, etc.) to an ADU that doesn't meet principle use setbacks, could possibly be permitted via waiver from this requirement, through Site plan Review.

4. Limitations on tenancy/occupancy (age, duration, family member, # of occupants)

Board discussions on this thus far appear to be in favor of the property owner occupying one of the dwelling units on the property. I do not recommend any restrictions on age, familiar relation, etc. tied to occupancy of the ADU. Town Counsel as well as planners in other communities have said this can be an administrative nightmare to track over time, and creates issues when the property transfers ownership if the new owner doesn't have the same needs, i.e. a senior family member in need of assisted living arrangements.

5. Form of Ownership

I recommend that the zoning bylaw does not allow for the conversion of the ADU to a condominium form of ownership, or to be subject to a subdivision, or new parcel creation through Approval Not Required (ANR). It is the intent that an ADU will be accessory to the principle use and thus by allowing legally separate ownership of the ADU, it becomes a principle use.

6. Preexisting, nonconforming ADUs

How to treat grandfathered ADUs; illegal apartments that seek to apply for an ADU permit. So-called "Amnesty Provisions". I need to discuss the concept of pre-existing ADUs with Town Counsel and how they would be addressed. Generally, if/when pre-existing ADUs are identified, they would need to be compliant with the bylaw to remain.

7. Adequacy of Water and Sewer Services

I recommend that the ADU must be in conformance with Title V of the State Sanitary Code if not on public sewer, the State Building code, and other local bylaws and regulations.

8. Other Standards and Design Considerations

This could include parking requirements, screening, orientation of entrance, etc. At the 1/9 meeting, the majority of the Board was not in favor of restricting the entrance to an accessory dwelling unit to the rear or side of the unit, nor limiting the front face of the building to one entrance door. It was noted by several members that it is typical for existing single-family dwellings to have two doors on the front of the building.

B. ADU Resources

I've spent a fair amount of time looking for "empirical studies" in support of the belief that ADUs are a tool to address housing shortages for middle- and lower-income households, seniors seeking to downsize, and the whole host of other stated benefits for homeowners, renters, families, neighborhoods and the community. Here is more of what I have found:

EOEEA Smart Growth Toolkit – Accessory Dwelling Units

<https://www.mass.gov/service-details/smart-growth-smart-energy-toolkit-modules-accessory-dwelling-units-adu>

The State of Zoning for Accessory Dwelling Units, the Pioneer Institute, 2018

<https://pioneerinstitute.org/pioneer-research/economic-opportunity/the-state-of-zoning-for-accessory-dwelling-units/>

New Hampshire – ADU Guides

As of June 1, 2017, NH law requires local zoning ordinances to allow Accessory Dwelling Units nearly everywhere single-family houses are permitted. The following link provides access to several publications sponsored by the State of New Hampshire on ADU permitting and development.

<https://www.nhhfa.org/housing-challenges-solutions/accessory-dwelling-units/>

Accessory Dwelling Units in New Hampshire – AARP

<https://www.aarp.org/livable-communities/housing/info-2017/adu-accessory-dwelling-units-law-new-hampshire.html#:~:text=The%20New%20Hampshire%20law%20defines%20an%20ADU%20as,same%20parcel%20of%20land%20as%20the%20principal%20dwelling%E2%80%A6%22>

AARP – All About Accessory Dwelling Units

Website with links to numerous resources on ADU regulation and development.

<https://www.aarp.org/livable-communities/housing/info-2019/accessory-dwelling-units-adus.html?CMP=RDRCT-CSN-OTHER-LIVABLEADU-012819>

The ABCs of ADUs – AARP

[ABCs of ADUs-web-singles-082222.pdf](#)

Jump Starting the Market for ADUs: Lessons Learned from Portland, Seattle and Vancouver, San Francisco Chapter of the Urban Land Institute 2018

https://turnercenter.berkeley.edu/wp-content/uploads/pdfs/Jumpstarting_the_Market_-_ULI.pdf

Posted on September 17, 2014 by [Martin John Brown](#) in [Policy & Trends](#)

<https://accessorydwellings.org/2014/09/17/summing-up-adu-research-are-accessory-dwelling-units-as-great-or-as-horrible-as-people-say/>

ADU Companies

The following companies either sell prefabricated Accessory Dwelling Units or construct them. These links are provided to show examples of various types of ADU structures that are commercially available, including different sizes by square feet to offer visuals to help ground our discussions around these structures can be integrated into a residential property.

Note – I am in no way endorsing any particular company or product by providing these links but rather offer it as an example of the market that exists for these structures.

prefabADU

<https://www.prefabadu.com/backyard-homes/micro-units/micro-150>

<https://www.theprefablist.com/location/new-hampshire-prefab-cabins-cottages-adus>

<https://buildgreennh.com/prefab-adus/>

DRAFT ADU Zoning Bylaw

I. GENERAL PROVISIONS

A. Purpose and Intent

- (1) The Town of South Hadley finds and declares:
 - (a) Our community faces a severe housing crisis, with home prices and rents unaffordable by families and households of middle and moderate incomes.
 - (b) The community is falling far short of meeting current and future housing demand with serious consequences for the state's economy and the well-being of our residents, particularly lower-income and middle-income earners.
 - (c) The Town of South Hadley can play an important role in reducing the barriers that prevent homeowners from building accessory dwelling units.
 - (d) There are many benefits associated with the creation of legal accessory dwelling units on lots in single-family zones and other zoning districts. These include:
 - a. Increasing the supply of smaller housing stock types to meet the needs of smaller households of all ages;
 - b. Helping older homeowners, single parents, young home buyers, and renters seeking a wider range of homes, prices, rents and locations;
 - c. Increasing housing diversity and supply, providing opportunities to reduce the segregation of people by race, ethnicity and income that resulted from decades of exclusionary zoning;
 - d. Providing homeowners with extra income to help meet rising homeownership costs;
 - e. Creating a convenient living arrangement that allows family members or other persons to provide care and support for someone in a semi-independent living situation without the latter leaving his or her community;
 - f. Providing an opportunity for increased security, home care and companionship for older and other homeowners;
 - g. Reducing burdens on taxpayers while enhancing the local property tax base by providing a cost-effective means of accommodating development without the cost of building, operating and maintaining new infrastructure;
 - h. Promoting more compact urban and suburban growth, a pattern that reduces the loss of farm and forest lands and natural areas and resources and limits increases in pollution that contributes to climate instability; and
 - i. Enhancing job opportunities for individuals by providing housing nearer to employment centers and public transportation.
- (2) Accessory dwelling units are, therefore, an essential component of housing choices and supply in the Town of South Hadley.

B. Definitions

Accessory Dwelling Unit (ADU) – definition from MGL c.40A Sec1A

A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) *is not larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller*; and (iii) is subject to such additional restrictions *as described herein*. ~~as may be imposed by a municipality, including but not limited to additional size restrictions, owner occupancy requirements and restrictions or prohibitions on short term rental of accessory dwelling units.~~

Accessory – definition from Zoning Bylaw Chapter 255-10

A structure, building or use which:

- a. Is subordinate in function to and serves a principal building or principal use;
- b. Is subordinate in area or extent to the principal building or principal use served;
- c. Contributes to the comfort, convenience, or necessity of occupants or the principal building or use; and
- d. Is located on the same lot as the principal building or use.

Dwelling Unit – definition from Zoning Bylaw Chapter 255-10

A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include house trailers or recreational vehicles.

Principle Dwelling

Building, Attached – A building have any portion of one or more walls in common or within five feet of an adjacent building.

Building, Detached – A building having five feet or more of open space on all sides.

Other terms to be identified.

C. Procedural Requirements

1. Review to Chapter 255 Attachment 1 Use Regulations Schedule, **Article IX Special Permits, and Article XII Site Plan Review for procedures.** [Permit procedures will depend on the type of permit required, TBD.]

II. USE AND DIMENSIONAL STANDARDS

- A. The Building Commissioner may issue a Building Permit authorizing the installation and use of an accessory dwelling unit within an existing or new owner occupied single-family dwelling, *and the Planning Board by Site Plan Review for detached units* when the following conditions are met:

1. The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
 2. Only one (1) accessory dwelling unit may be created within a single-family house or house lot.
 3. The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence.
 4. The gross floor area of an accessory dwelling unit shall not be larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller.
 5. An accessory dwelling unit shall not be occupied by more than three (3) people nor have more than two (2) bedrooms.
 6. The construction of any accessory dwelling unit must be in conformity with the State Building Code, title V of the State Sanitary Code, and other local bylaws and regulations.
 7. Off-street parking spaces shall be available for the use by the owner-occupant(s) and tenants.
 8. Building setbacks for detached units must comply with that for the principle use structure as identified in the Zoning Dimensional Regulation Schedule for the zoning district where the accessory dwelling unit is to be located.
 - a. For conversion of existing accessory structures to a detached accessory dwelling unit, the Planning Board may waive the principle use setback requirement if the Board determines all other use and dimensional standards are met.
 9. Detached accessory dwelling units are limited in height to 1 ½ stories.
 10. Accessory Dwelling Units are not eligible for short term rentals, as regulated by the Town of South Hadley.
- B. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the permit granting authority may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.
- C. Approval for an ADU requires that the owner must occupy one of the dwelling units. The zoning approval and the notarized letters required in (D) and (E) below must be recorded at the Hampshire County Registry of Deeds or Land Court, as appropriate, in the chain of title of the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.
- D. Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence.
- E. When a structure which has received a permit for an accessory dwelling unit is sold, the new owner(s) if they wish to continue to exercise the Permit, must within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence.

[Note – This may not be possible to implement since by right attached ADUs do not require a “permit”. For new construction of an attached ADU, there would be the initial building permits and possibly a certificate of occupancy issued by the Building Commissioner. Thereafter, if the property was sold, there would not be additional “permits” for this use. Similarly with detached ADUs, the Site Plan Review approval would be a one time issuance, as would any associated building permits.]

III. ADMINISTRATION AND ENFORCEMENT

- A. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this bylaw.
- B. No building shall be constructed or changed in use or configuration until the Building Commissioner has issued appropriate building permits. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained by the Board of Health and the proposed building and location thereof conform with the Town's laws and bylaws. Any new building or structure shall conform to all adopted state and town laws, bylaws, codes and regulations. No building or accessory dwelling unit shall be occupied until a certificate of occupancy has been issued by the Building Commissioner, where required.
- C. The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this chapter or in violation of the conditions or terms of any special permit or variance granted by the Board of Appeals or its agent.
- D. The Building Commissioner shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.
- E. Construction or use according to a building permit or site plan review approval shall conform to any subsequent amendment of this chapter unless the construction or use is begun within a period of not more than six months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.

Existing Chapter 255 Zoning Use and Dimensional Regulations Summary

Accessory Dwelling Unit – FOR DISCUSSION PURPOSES ONLY

Y = by right

SPR = Site Plan Review

SP = Special Permit

N = Prohibited

USE	Residence				AGR	Business				Industrial		
	RA-1	RA-2	RB	RC		BA-1	BA	BB	BC	IA	IB	IG
<i>Base Zoning Minimum Lot Size**</i>	22,500	12,500	7,500	***	30,000	25,000	10,000	12,000	20,000	40,000	none	none
Single-family	Y	Y	Y	Y	Y	N	Y	Y	SP	N	N	N
Single-family to Two-family Conversion	N	SP	Y	N	SP	N	Y	Y	N	N	N	N
Two-family (NEW)	SP	SP	Y	N	N	N	SP	SP	N	N	N	N
Three-family	SP	SP	SPR	Y	N	N	SP	SP	N	N	N	N
Four-family +	SP	SP	SP	SPR	N	N	SP	SP	SP	N	N	N
Mobile Home 255-33*	Y	Y	Y	N	N	N	N	N	N	N	N	N
Mobile Home Parks	N	N	N	N	N	N	N	N	N	N	N	N
Accessory Dwelling Unit - Attached	Y	Y	Y	Y	Y	N	Y	Y	N	N	N	N
Accessory Dwelling Unit - Detached	SPR	SPR	SPR	SPR	SPR	N	SPR	SPR	N	N	N	N

*Chapter 255-33 Mobile Homes <https://ecode360.com/30053192>

**Minimum lot sizes for flag lots and in Overlay Zoning Districts may vary from base zoning.

***Lot size in the RC zoning district depends on number of dwelling units and bedrooms.

Link to Zoning Map at South Hadley Assessor Online Data Viewer: https://www.axisgis.com/South_HadleyMA/

Click on link and takes you to the Online Viewer. Enter site. On lefthand side, click on “Layers”, then click on “Zoning”.

AGENDA ITEM #6 Planning & Conservation Department Report on Planning Projects and Development Updates

Next Meetings

2/6 – Short Term Rentals Zoning and General Bylaw Public Hearing

2/20

3/6

3/20

Short Term Rentals Zoning and General Bylaws – Public Hearing 2/6/23

URL to join:

<https://us02web.zoom.us/j/81859898540?pwd=V0dnbmZzQ2dxZFNEVlpsZE5nanFDdz09> Or

join by phone: + 1(646) 558-8656

Webinar ID: 818 5989 8540

Passcode: 751566

Draft bylaws are online here: <https://www.southhadley.org/1318/ProposedDraft-Bylaws>

Summary of Draft bylaws posted online:

<https://www.southhadley.org/DocumentCenter/View/10194/Proposed-Short-Term-Rental-Bylaws-Summary>

Public outreach and notification –

- Mailer inserts were delivered to both Water Districts for inclusion in their January bills.
- Town Reminder interviewed me on 12/14/22; anticipating article in 12/16/22 newspaper
- Mailer inserts left at the library. To be dropped off at Senior Center.
- Notice posted to Town’s social media accounts and webpage; will be re-posted in January.
- Email notice to be sent to Town Meeting members, Housing Plan Advisory Committee, Housing Plan Community Forum #1 attendees, Planning Board – request to forward notice to your networks.
- Letters mailed to all known Short Term Rental owners (issued cease and desist orders)

Housing Production Plan

The survey closed 1/6/23. Consultant June McCartin will be submitting a draft of the Housing Needs Assessment chapter next week. The information within this chapter was generally presented at the December 12th Community Forum (view presentation here

<https://shhousingplan.org/wp-content/uploads/2022/12/SH-HPP-CF-1-Presentation.pdf>)

I will schedule agenda time on an upcoming meeting to discuss the draft chapter after it is issued.

AGENDA ITEM #8 Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice)

No new business had been submitted to me as of today.