

Accessory Dwellings - ATM May 6, 2024

**ARTICLE** \_\_\_\_\_. To see if the Town will vote to amend the **Bourne Zoning Bylaw** as follows or take any other action in relation thereto:

**2/3<sup>rd</sup> Vote**

*Planning Board Sponsored*

Section 2220 Use Regulation Schedule; section 4120-4123 Accessory Dwelling; section 2821 Downtown District Table of Allowable Uses (Table DTD-1); section 2853 Table of Required Parking Spaces (Table DTD-3); and section V Definitions.

Amend the following sections:

## 2220. Use Regulation Schedule

DISTRICT	R-40 R-80	V-B B-1	B-2 B-4	B-3	GD
<b>ACCESSORY USES</b>					
Accessory dwelling (See Section 4120)	Yes BA	Yes BA	Yes BA	No	No

*(BA = Board of Appeals)*

**4120. Accessory Dwelling.** The purpose of the accessory dwelling bylaw is to broaden the range of housing choice by increasing the number of small dwelling units available in Bourne's housing supply. ~~A special permit authorizing one~~ The Building Commissioner/Chief Zoning Enforcement Office shall administer and enforce the provisions of this section. An accessory dwelling may be granted only if consistent with the following:

### 4121. Development Requirements.

- a) **One accessory dwelling is permitted as a by right use to a lawful single-family use on the same lot.** ~~In conformance with Section 2450.~~
- b) **Septic capacity or sewerage deemed satisfactory.** ~~The Board of Health must have documented to the Board of Appeals that sewage disposal will be satisfactorily provided for, including provision for an appropriate reserve area on the site.~~
- b)c) **Parking as required at-per Section 3320 shall be provided either in a garage or designated area on paved surfaces not located within any required yard. One parking space shall be designated per bedroom. Refer to section 2853 for parking requirements in the Downtown District (DTD).**

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- d) Minimum lot size is 5,000 square feet. Less than 5,000 square feet requires conformance with section 2450.
- e) The maximum size of an accessory dwelling is 1,500 square feet and contain no more than two bedrooms.
- e)f) An ADU is attached or detached to the primary structure and designed to maximize the appearance of a single-family residential property. It is subordinate to and no greater than 50% of the existing primary single-family dwelling floor area calculated as first floor, second floor, basements 50% above-grade, attics over 6'6" floor to ceiling height, and garages.

d) -

Lot-Size (square feet)	Maximum-accessory dwelling-gross-floor area (square feet)	Maximum bedrooms
5,000 to 39,999	1,000	2
40,000 to 79,999	1,500	2
80,000 or more	2,000	2

- g) The following types of properties or developments are not eligible for an accessory apartment: deed restricted affordable housing units; all lots developed under a Comprehensive Permit (Chapter 40B); lots with more than one single-family dwelling unit; and lots created under 4600 Open Space Community.
- h) Accessory dwelling units lawfully created prior to adoption of this section may continue to be used, maintained, and occupied.

#### 4122. Occupancy Requirements

- a) Either the principal or the accessory unit must be owner-occupied, except for temporary absences. **Fractional ownership is prohibited.**
- b) An accessory unit authorized under these provisions shall not be used for **short-term rental**, summer rental, boarding and lodging, or other commercial use **except for a home occupation according to Section 4110.**
- c) The ADU and primary dwelling may not be rented for periods no shorter than 90 days at a time, and are prohibited from any use as rental units on a weekly or daily basis.
- b)d) The primary dwelling and ADU must remain in common ownership which cannot be severed.

#### 4123. ~~Procedural Requirement~~



~~a) To approve a special permit for an Accessory Dwelling, the Board of Appeals must make a determination that all of the above requirements have been met, and also that the particular circumstances of the case make such use appropriate, including consideration of whether lot area or other site characteristics assure mitigation of any impacts on the neighborhood, whether there is enforceable assurance that occupancy of the unit will serve significant community purposes, such as facilitating care for the elderly or handicapped, or providing housing at unusually low cost, and whether site and building design will effectively avoid any departure from the character of the neighborhood.~~

~~b) A Certificate of Occupancy for an Accessory Dwelling shall be issued for a period no greater than three years. Continued occupancy beyond that shall require a new Certificate of Occupancy, to be granted only upon documentation to the Inspector of Buildings that the relationships satisfying Section 4122 or on which the decision under paragraph a) was based are still in existence.~~

~~c) Upon termination of occupancy satisfying Section 4122, or a condition of the special permit, separate occupancy of the accessory dwelling shall not be reestablished unless a new special permit is granted, on grounds that either the requirements of Section 4122 and the original special permit will again be satisfied, or that special circumstances of the structure or its occupants would make single family occupancy a hardship, and that the granting of such Special Permit would not be detrimental to the neighborhood.~~

~~d) A Certificate of Compliance with the above paragraph must be provided by the owner to the Inspector of Buildings upon transfer of any beneficial interest in the property, and recorded at the Registry of Deeds.~~

## DOWNTOWN DISTRICT

### 2820. ALLOWABLE USES

#### 2821. Table of Allowable Uses

The Table of Allowable Uses (Table DTD-1) establishes the uses that are permitted by right (P), by Special Permit (SP), or not permitted (N) in the Downtown District (DTD). For all uses allowed by Special Permit in the Downtown Zoning Districts, the Planning Board shall be the Special Permit Granting Authority (SPGA).

TABLE DTD-1: ALLOWABLE USES IN THE DOWNTOWN DISTRICT		
LAND USE CLASSIFICATION	PERMITTED BY:	FUNCTIONAL STANDARDS AND SPECIAL PERMIT CRITERIA
<b>RESIDENTIAL USES</b>		
Accessory Apartment Unit	<b>P</b> <b>SP</b>	See Section 2827 (except subdistrict DTN see Section 4120)

#### 2853. Table of Required Parking Spaces

Where on-site or controlled parking is necessary and required, the applicant shall provide at a minimum the amount required in the table below. This reduced parking requirement compared to Section 3300 of the Zoning Bylaw recognizes the availability and broad distribution of existing public parking and the pedestrian characteristics of the Downtown District.

TABLE DTD-3: REQUIRED PARKING SPACES IN THE DOWNTOWN DISTRICT	
TYPE OF USE	REQUIRED PARKING
<b>RESIDENTIAL USES</b>	
Accessory dwelling or Live/Work Unit	Minimum of 1 space per dwelling unit

## SECTION V DEFINITIONS

In this Bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings.

### Accessory Building

A building devoted exclusively to an accessory use as herein defined, and not attached to a **primary principal** building by any roofed structure.

### Accessory Dwelling Unit (ADU)

A subsidiary dwelling unit ~~created as an extension to an existing single-family dwelling.~~ incorporated within **a lawful primary single-family dwelling or as a detached accessory building and on the same lot as a lawful primary single-family dwelling use. This definition does not include a mobile home trailer, however mounted.**

### Accessory Use

A use customarily incidental to, and on the same lot as, a ~~principal~~ **primary** use and occupying less than 30% of the ~~habitable~~ **gross** floor area on the premises and less than 50% of the lot area. **This definition does not include ADUs.**

### Dwelling Unit

A building or portion of a building suitable for living quarters for a single family, having a single set of kitchen facilities (a stove ~~plus either or both~~ **in addition to either** a refrigerator ~~and/or~~ **a** kitchen sink) not shared with any other unit; or quarters for up to six persons in a lodging house, dormitory, congregate housing, or similar group dwelling.

### Fractional ownership

**The cost of an asset or property is split among individuals, each getting a share.**