

Harwich Planning Board Legal Notice - Proposed Zoning Amendment

In accordance with the provisions of MGL c.40A §5, the Harwich Planning Board will hold a public hearing on Tuesday, March 12, 2019 no earlier than 6:30 pm in the Donn B. Griffin Room, Harwich Town Hall, 732 Main Street, Harwich, to consider amendments to the Harwich Zoning Codes:

ARTICLE: - Zoning Bylaw amendment for single-family dwelling with accessory apartment

To see if the Town will vote to amend the Town's Zoning Bylaw, as follows:

(i) By amending ARTICLE V, Use Regulation, §325.13.A, Paragraph I, Residential Uses, namely Table 1, Use Regulations, Paragraph I – Residential Uses, Use No. 10, Single-family dwelling with accessory apartment, as follows (deletions shown in ~~strike-through~~ and proposed language in **bold underline**):

Table 1, Use Regulations

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
Paragraph IV – Residential Uses													
10 Single-family dwelling with accessory apartment (§325-51.H <u>§325-14.T</u>)	S <u>P</u>	S <u>P</u>	S <u>P</u>	S <u>P</u>	-	-	S <u>P</u>	S <u>P</u>	-	-	S <u>P</u>	S <u>P</u>	S <u>P</u>

and

(ii) By renumbering and repositioning with the Zoning Bylaw ARTICLE X, Administration and Enforcement, §325-51.H, Single-family dwelling with accessory apartment, as and to ARTICLE V, Use Regulation, §325-14.T, Single-family dwelling with accessory apartment; and

(iii) By amending said Article X, Administration and Enforcement, §325-51.H, Single-family dwelling with accessory apartment, now ARTICLE V, Use Regulation, §325-14.T, Single-family dwelling with accessory apartment, as follows (deletions shown in ~~strike-through~~ and proposed language in **bold underline**):

T. Single-family dwelling with accessory apartment.

(1) Purpose. The intent of permitting accessory apartments is to:

- Increase the number of small dwelling units available for rent in Town;
- Increase the range of choice of housing accommodations;
- Encourage greater diversity of population with particular attention to young adults and senior citizens; and
- Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods.

(2) Definitions. **OWNER** One or more individuals holding title to the property.

(3) ~~Criteria, for special permit approval. Special permits for single-family dwellings with a~~ An accessory apartment is allowable within a single-family dwelling, either attached or detached, ~~may be granted upon determination by the Planning Board that~~ provided that the following criteria have been met satisfied:

- a. Only one accessory apartment is permitted for each principal dwelling unit.
- b. The accessory apartment may not be held in separate ownership from the principal use.
- c. Only one of the principal dwelling or accessory apartment may be rented at any given time and, if rented, shall be rented for a term of no less than six (6) consecutive months.
- d. The accessory apartment shall have a net floor area not exceeding 1/2 of the net floor area of the principal dwelling unit and not more than 900 square feet.
- e. The accessory apartment shall have not more than two bedrooms.
- f. At least one off-street parking space shall be provided for the accessory ~~dwelling unit~~ apartment.
- g. The minimum lot area required for a parcel ~~to be eligible for a special permit to allow an~~ accessory apartment shall not be less than 15,000 square feet if the parcel is situated in a RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in a RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District. For parcels existing within an approved Open Space Residential Development or Cluster Subdivision, the lots size shall be consistent with the endorsed plan.
- h. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single-family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.
- i. The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.
- ~~j. The proposed use shall not create traffic hazards or volume greater than the capacity of the streets affected.~~
- ~~k. j.~~ The proposed use shall not exceed the building or site coverage for the zoning district.
- ~~l. k.~~ If an addition is to be built for the proposed use, the addition shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.

The Building Commissioner shall determine compliance with said criteria following receipt of the application for a building permit for a change of use and/or for construction of the said accessory apartment.

(4) ~~The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the special permit decision and the special permit shall lapse if it is not so recorded and if it is not duly exercised within two years as provided for under MGL c. 40A, § 9.~~

(5) ~~Transfer of ownership. The provisions of the special permit may be transferred with ownership of the property provided the provisions of this section and all other provisions of the Zoning Code of the Town of Harwich and the State Building Code are met and the Planning Department has approved a transfer for the special permit. The new owner also may request a~~

~~Planning Board certification for the accessory apartment. To obtain such certification, the owner shall submit a written request with a statement that the conditions at the time of the original special permit approval remain unchanged and with a certification of ownership. The Planning Board certification shall be recorded at the Registry of Deeds.~~

~~(6)~~ **(4)** A final determination that the owner has failed to comply with these **forgoing criteria** provisions or the termination of occupancy by the owner of the subject property shall be evidence that the rights and benefits conferred hereunder the special permit were abandoned or otherwise surrendered and discontinued by the owner and all such rights and benefits shall lapse **are null and void** and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said ~~final~~ determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted; or take any other action thereon.

Any person interested or wishing to be heard on these zoning proposals should appear at the time and place designated. The full text for the proposed amendments can be found on the Town Website <http://www.harwich-ma.gov/planning-board>, and in the Community Development and Town Clerk Offices at Town Hall, at the address noted above, during normal business hours.

James Joyce, Chair

Cape Cod Chronicle Print Dates: 2/21/19, 2/28/19

PLEASE NOTE: On the following pages please find the existing bylaw language and the proposed bylaw language.

EXISTING BYLAW

ARTICLE V, Use Regulation, §325.13.A, Paragraph I, Residential Uses

Table 1, Use Regulations

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
Paragraph IV – Residential Uses													
10 Single-family dwelling with accessory apartment (§325-51H)	S	S	S	S	-	-	S	S	-	-	S	S	S

§325-51

H. Single-family dwelling with accessory apartment.

(1) Purpose. The intent of permitting accessory apartments is to:

- Increase the number of small dwelling units available for rent in Town;
- Increase the range of choice of housing accommodations;
- Encourage greater diversity of population with particular attention to young adults and senior citizens; and
- Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods.

(2) Definitions.

OWNER One or more individuals holding title to the property.

(3) Criteria for special permit approval. Special permits for single-family dwellings with an accessory apartment, either attached or detached, may be granted upon determination by the Planning Board that the following criteria have been met:

- Only one accessory apartment is permitted for each principal dwelling unit.
- The accessory apartment may not be held in separate ownership from the principal use.
- Only one of the principal dwelling or accessory apartment may be rented at any given time.
- The accessory apartment shall have a net floor area not exceeding 1/2 of the net floor area of the principal dwelling unit and not more than 900 square feet.
- The accessory apartment shall have not more than two bedrooms.
- At least one off-street parking space shall be provided for the accessory dwelling unit.
- The minimum lot area required for a parcel to be eligible for a special permit to allow an accessory apartment shall not be less than 15,000 square feet if the parcel is situated in a

RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in a RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District.

- h. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single-family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.
- i. The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.
- j. The proposed use shall not create traffic hazards or volume greater than the capacity of the streets affected.
- k. The proposed use shall not exceed the building or site coverage for the zoning district.
- l. If an addition is to be built for the proposed use, the addition shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.

(4) The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the special permit decision and the special permit shall lapse if it is not so recorded and if it is not duly exercised within two years as provided for under MGL c. 40A, § 9.

(5) Transfer of ownership. The provisions of the special permit may be transferred with ownership of the property provided the provisions of this section and all other provisions of the Zoning Code of the Town of Harwich and the State Building Code are met and the Planning Department has approved a transfer for the special permit. The new owner also may request a Planning Board certification for the accessory apartment. To obtain such certification, the owner shall submit a written request with a statement that the conditions at the time of the original special permit approval remain unchanged and with a certification of ownership. The Planning Board certification shall be recorded at the Registry of Deeds.

(6) A final determination that the owner failed to comply with these provisions or the termination of occupancy by the owner of the subject property shall be evidence that the rights and benefits conferred under the special permit were abandoned or otherwise surrendered and discontinued by the owner and all such rights and benefits shall lapse and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said final determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted.

PROPOSED BYLAW

ARTICLE V, Use Regulation, §325.13.A, Paragraph I, Residential Uses,

Table 1, Use Regulations

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
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10 Single-family dwelling with accessory apartment (§325-14.T)	P	P	P	P	-	-	P	P	-	-	P	P	P

ARTICLE V, Use Regulation, §325-14.T, Single-family dwelling with accessory apartment:

T. Single-family dwelling with accessory apartment.

- (1) Purpose. The intent of permitting accessory apartments is to:
 - a. Increase the number of small dwelling units available for rent in Town;
 - b. Increase the range of choice of housing accommodations;
 - c. Encourage greater diversity of population with particular attention to young adults and senior citizens; and
 - d. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods.
- (2) Definitions. **OWNER** One or more individuals holding title to the property.
- (3) Criteria. An accessory apartment is allowable within a single-family dwelling, either attached or detached, provided that the following criteria have been satisfied:
 - a. Only one accessory apartment is permitted for each principal dwelling unit.
 - b. The accessory apartment may not be held in separate ownership from the principal use.
 - c. Only one of the principal dwelling or accessory apartment may be rented at any given time and, if rented, shall be rented for a term of no less than six (6) consecutive months.
 - d. The accessory apartment shall have a net floor area not exceeding 1/2 of the net floor area of the principal dwelling unit and not more than 900 square feet.
 - e. The accessory apartment shall have not more than two bedrooms.
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 - g. The minimum lot area required for a parcel to allow an accessory apartment shall not be less than 15,000 square feet if the parcel is situated in a RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in a RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District. For parcels existing within an approved Open Space Residential Development or Cluster Subdivision, the lots size shall be consistent with the endorsed plan.
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materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.

- i. The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.
- j. The proposed use shall not exceed the building or site coverage for the zoning district.
- k. If an addition is to be built for the proposed use, the addition shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.

The Building Commissioner shall determine compliance with said criteria following receipt of the application for a building permit for a change of use and/or for construction of the said accessory apartment.

(4) A determination that the owner has failed to comply with these forgoing criteria shall be evidence that the rights and benefits conferred hereunder are null and void and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted.