



Annual Town Meeting
April 28, 2025

ARTICLE 29: ZONING BYLAW AMENDMENT – ACCESSORY DWELLING UNITS (ADUs)

To see if the Town will vote to amend the Ayer Zoning Bylaw, Section 320-5.3, Accessory Uses by deleting the ~~striketrough bold text~~ and inserting the underlined bold text as follows:

§ 320-5.3 Residential Accessory uses.

The following shall be deemed accessory residential uses under this Bylaw:

5.3.1 General.

A. An accessory use shall be incidental and subordinate to the principal use on the lot.

B. An accessory use shall be located on the same lot as the principal residential or nonresidential use to which it is accessory, and shall not alter the character of the premises on which it is located or impair the area proximate to its location.

5.3.2 Residential accessory uses. The following shall be deemed accessory residential uses under this Bylaw:

A. An accessory building, such as a garage for parking and storage of up to three vehicles, not more than one of which shall be a commercial vehicle; or a barn, shed, or greenhouse.

B. An accessory structure, such as gazebos, tennis courts or above-ground or below-ground swimming pools.

C. Accessory ~~apartment~~ dwelling units, subject to the following requirements:

~~(1) An accessory apartment is allowed only by special permit from the Zoning Board of Appeals;~~

(1) An accessory dwelling unit is allowed by-right in all Single-Family Residential

Zoning Districts as defined in 760 CMR 71.02 Definitions.

~~(2) There shall be not more than one accessory apartment on a lot;~~

(2) All accessory dwelling units shall be governed by all requirements set forth in 760

CMR 71.00: Protected Use Accessory Dwelling Units including the following:

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 large in Gross Floor Area than ½ the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller;

iii. Is subject to such additional restrictions as may be imposed by a municipality, including, but not limited to, additional size restrictions and restrictions or prohibitions on Short-term Rental; provided, however, that no Municipality shall unreasonably restrict the creation or rental of an Accessory Dwelling Unit (ADU) that is not a Short-term Rental.

~~(3) The owners of the dwelling or property with the accessory apartment shall occupy one of the units as their principal residence, except for temporary absences of not more than six months. For the purposes of this bylaw, "owners" shall be one or more individuals holding title to the property, and "principal residence" shall mean the owner's residence for voting and tax purposes;~~

(3) Accessory dwelling units shall only be subject to the building permit process.

~~(4) The gross floor area of the accessory apartment shall not exceed 25% of the gross floor area of the existing dwelling to a maximum of 750 square feet;~~

(4) Multiple Accessory Dwelling Units (ADUs) on the same lot shall require a Special Permit in a Single-Family Residential Zoning District as set forth in 760 CMR 71.03

~~(5) The accessory apartment shall be designed so as to preserve the appearance of the existing single-family dwelling on the lot;~~

~~(6) There shall be provided at least one off-street parking space for the accessory apartment in addition to parking for the principal dwelling. Off-street parking shall be located in a garage or carport, or in the driveway. In~~

~~order to be eligible for an accessory apartment, the principal dwelling must be able to provide the required number of off-street parking spaces as required in Section 9.1.2A of the Ayer Zoning Bylaw. In no event shall off-street parking for an accessory apartment be located within a required yard area;~~

~~(7) The accessory apartment shall not be held in or transferred into separate ownership from the principal residence under a condominium form of ownership or otherwise;~~

~~(8) Owners of accessory apartments approved under this section must file an affidavit with the Building Commissioner each year stating that the requirements of any special permit issued under this section, and any conditions of approval issued by the Zoning Board of Appeals, are still being met. Such affidavit is due within one month of the anniversary date of the decision of the Zoning Board of Appeals; and~~

~~(9) Accessory apartments shall be discontinued and reincorporated into the principal residence if the property owner dies or transfers ownership of the principal dwelling, or when the accessory apartment ceases to be occupied; unless the Zoning Board of Appeals (ZBA) grants a new special permit for the changed circumstances.~~

~~(10) Prior to submitting a special permit application with the ZBA, applicants must consult with the Building Commissioner to show that they have the ability to install an accessory apartment in conformance with this section. The letter of the Building Commissioner to the ZBA shall be considered part of the necessary application package for a special permit application.~~

Or take any action thereon or in relation thereto.

Planning Board: To report at Town Meeting

Select Board: Recommends

Required

Two-Thirds Majority Vote

Commented [GJC1]: This requires only a majority vote based on recent amendments to G.L. c. 40A, s. 5.

Explanatory Note: This Article would amend the Town's Zoning Bylaw Section 320-5.3, Accessory

Uses to provide for Accessory Dwelling Units (ADUs) to be consistent with recent State Law which

permits Accessory Dwelling Units (ADUs) by-right in all Single-Family Residential Zoning Districts

as defined by 760 CMR 71.00. The Bylaw Amendment provides that all ADUs are governed by all the requirements of 760 CMR 71.00; ADUs shall only be subject to the building permit process; and multiple ADUs on the same lot shall require a Special Permit from the Planning Board in a Single-Family Residential Zoning District as set forth in 760 CMR 71.03. The Planning Board held a public hearing on March 11, 2025. Brief presentation to be made at Town Meeting.

Christopher Tavares: I move that the Town vote to amend the Ayer Zoning Bylaw, Section 320-5.3, Accessory Uses contained in Article 29 and printed in the Warrant. Seconded. Jonathan Kranz, Planning Board Chair reported the Planning Board voted in favor of this article. Brief presentation from Town Planner, Daniel Ruiz. Brief discussion. Moderator declared article passed unanimously by 2/3 majority vote.

Susan E Copeland
Ayer Town Clerk
May 6, 2025