

ARTICLE 03. To see if the Town will vote to amend the Rye Zoning Ordinance in accordance with the recommendation of the Rye Planning Board, as follows:

Amendment 3

Amend Article V, Section 190-5-6: Amendments tot the Accessory Dwelling Units (ADU) apartments and renumbered as follows (Note: New language **emboldened and italicized**. Deleted language struck through.)

§ 190-5.6 Accessory Dwelling Units (ADUs) [Added 3-10-1998; amended 2002; 3-18-2017]

- A. Purpose. The Town of Rye recognizes the public need for the provision of a variety of housing types, including efficient and affordable housing for singles, couples, single parents, elderly and new households. Throughout the Town opportunities exist within under-utilized and/or large single-family dwellings to create small accessory dwelling units to meet these needs, as well as to provide a source of income and other assistance for property owners. To accomplish this purpose and to protect the health, safety and welfare of the existing neighborhoods, ***attached or detached*** accessory units may be permitted subject to the following requirements.
- ~~B. Conditional use permit. The Planning Board may grant a conditional use permit to allow the construction of, addition to, renovation of and use and occupancy of a single family dwelling in the Single Residence District, the General Residence District or the Business District, in order to create one subordinate accessory dwelling unit as an integrated part of said single family dwelling, in accordance with the following performance standards.~~
- B. C. Performance standards. ***Pursuant to RSA 674:71–73, The Planning Board shall determine that an Accessory Dwelling Units (ADU's) complies with are allowed in all zoning districts where single-family dwellings are permitted, subject to the*** following standards.:
- (1) All applicable zoning regulations, including lot dimensional requirements, structural setbacks, lot coverage, and building area requirements imposed on a single-family dwelling shall apply to the accessory dwelling unit.***
- (2) Each ~~accessory dwelling unit~~ ***ADU*** shall have a minimum floor area ***living space*** of 600 square feet and a maximum ***living space*** floor area of 1,200 square feet, ***excluding basements and garages***, and shall contain, at a minimum, a separate cooking area with a kitchen sink ***and a range or stove***, one full bathroom, and not more than two bedrooms.

- ~~(2) Each accessory dwelling shall be limited to a maximum occupancy of three persons. A one-bedroom accessory dwelling unit shall not have more than two occupants.~~
- ~~(3) (3) Two~~ **One** additional off-street parking space shall be provided for the accessory dwelling unit.
- ~~(4) The accessory dwelling shall be constructed and maintained in such a manner as to retain the appearance and character of the structure and site as a single-family dwelling.~~
- ~~(5) After construction of the ADU, the principal dwelling unit on the premises shall comply with the floor area requirements of § 190-2.3C(5) of this chapter. [Amended 3-14-2023 by Art. 3 (Am 6)]~~
- ~~(4) (6)~~ The property owner shall occupy either *the principal dwelling or the ADU*.
- ~~(5) (7)~~ An Approval shall be obtained from NHDES relative to the adequacy of the on-site waste disposal system. As required by RSA 674:72, V, prior to constructing an **ADU** ~~accessory dwelling unit~~, an application for approval for a sewage disposal system shall be submitted in accordance with RSA 485-A as applicable. The approved sewage disposal system shall be installed if the existing system has not received construction approval and approval to operate under current DES rules or predecessor rules, or the system fails or otherwise needs to be repaired or replaced. [Amended 3-13-2018]
- ~~(6) (8)~~ An approval shall be obtained from the applicable supplier of public water or certification of a well of adequate capacity shall be provided.
- ~~(7) (9)~~ Approval of the Rye Sewer Commissioners shall be required for an accessory dwelling unit served by Town sewer.
- ~~(8) (10)~~ There shall be no more than one **ADU** ~~accessory dwelling unit~~ allowed in a single-family dwelling.
- ~~(9) (11)~~ There shall be no more than one **ADU** ~~accessory dwelling unit~~ allowed on a lot.
- ~~(12) If a dwelling unit is rented, it shall be for a term greater than three months.~~
- ~~(13) An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit if the ADU is attached.~~
- ~~(14) An accessory dwelling unit shall not be permitted in a detached accessory building.~~
- ~~(10) (15)~~ An ~~accessory dwelling unit~~ **ADU** shall not be permitted in single-family dwellings attached to each other, such as townhouses. [Added 3-13-2018]

(11) *ADUs shall not be permitted in or associated with multi-family residential uses, two-family uses, duplexes, condominiums, or non-residential structures.*

(12)(16) ~~An accessory dwelling unit~~ *ADU* shall not be permitted with manufactured housing *but may be allowed with modular construction techniques.* [Added 3-13-2018]

(13) *An ADU may be converted from existing structures, including but not limited to detached garages, regardless of whether such structures violate current dimensional requirements for setbacks or lot coverage, provided such conversion does not result in an alteration of the dimensional footprint or volume of the existing structure.*

(14) *A building permit from the Town of Rye shall be obtained prior to the construction of an ADU.*

C D. Applications. All applications for *an ADU*, ~~conditional use permits~~ shall include the following information:

(1) A property layout, including the location of applicable setbacks, lot coverage calculations, existing or proposed septic system, *and required parking.*

~~(2) A parking plan.~~

(2) (3) A floor plan of all rooms ~~on~~ *of the principal structure* ~~the premises~~ and the uses thereof *for an attached ADU, or a floor plan and elevation views of proposed detached ADU.*

~~(4) Plans for access and egress.~~

(3) *Elevation views of buildings whenever exterior changes are proposed.*

(4) *For attached ADUs, the identification of an independent means of ingress and egress or ingress and egress through a common space shared with the principal dwelling.*

(5) Approval of the Fire Chief.

(6) All other necessary approvals required in this § 190-5.6, including, but not limited to, permits and approvals for the provision of water and sewerage/septic. [Added 3-14-2023by Art. 3 (Am 6)]

~~(7) Elevation views of buildings whenever exterior changes are proposed.~~

~~D E.~~ Except as expressly set forth in this § 190-5.6, nothing in this section shall be deemed to modify or alter any of the other requirements under this chapter. [Added 3-14-2023 by Art. 3 (Am 6)]

~~E F.~~ Condominium conveyance. ***The principal dwelling unit and the ADU may not be conveyed separately.*** Notwithstanding the provision of the Condominium Act, ***there shall be no conversion of the ADU and the principal dwelling unit, nor shall there be a*** condominium conveyance of an ADU separate from that of the principal dwelling unit.

~~G.~~ Recertification. Every two years after approval and when the dwelling is sold, the owner of the dwelling and all adult occupants of the accessory dwelling unit shall file an affidavit with the Building Inspector certifying that the owner lives on the premises and that the occupancy of the accessory dwelling unit complies with § 190-5.6C(2).

~~H.~~ Appeal. This is an innovative zoning provision adopted pursuant to RSA 674:21. Appeals of decisions on applications for a conditional use permit may be filed with the Rockingham County Superior Court or the Housing Appeals Board within 30 days of the date of decision. [Amended 3-8-2022 by Art. 3]

Explanation

House Bill 577: Per RSA 674:71, This Change mandates that municipalities permit one attached or detached ADU by right in all zoning districts that allow single-family dwellings and cannot impose additional requirements for lot size, setbacks, or other controls beyond those applicable to single-family homes. Allows for the conversion of existing structures into ADUs, including detached garages.