

that contains four stories, the front, side, and rear setbacks would be increased to two (2) times the standard district requirements, to provide that a taller building will be placed at a greater distance from neighboring lots.

The amendment also increases the maximum F.A.R. from 0.30 to 0.42 and the maximum lot coverage from 15% to 20% specifically for a municipal middle school in the Single Residence B District. These limits are measured based on new construction plans and any site plan associated with that new construction, exclusive of any existing buildings or site improvements that are planned for removal as part of a phased construction project. This provision is intended to allow the new middle school to be constructed on the same lot as the current Pollard Middle School, while that school remains in active use. Therefore, the two buildings are expected to coexist temporarily on the same lot before the current Pollard Middle School is demolished and site work for the new school is completed.

Additionally, the amendment establishes new parking requirements for middle schools: one space per full-time equivalent staff (FTE) plus 20% of that FTE count for visitor parking.

Overall, this amendment is designed to allow for construction of a modern middle school capable of containing the educational spaces and programming to serve the Town’s middle school student population on the same lot as the current Pollard Middle School, with increased building setbacks to be required in connection with the increased permissible building height.

ARTICLE 18: AMEND ZONING BY-LAW—ACCESSORY DWELLING UNITS

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

1. By deleting the existing definition of Accessory Dwelling Unit (ADU) in Section 1.3.
2. By amending the line for Accessory Dwelling Units in Section 3.2.1 (Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial and Industrial 1 Districts) to read as stated in the bottom line below:

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2 &</u> <u>3</u>	<u>I</u>	<u>IND</u>	<u>IND-1</u>
Protected Use Accessory Dwelling Unit	Y	Y	Y	Y	Y	Y	Y

3. By amending the line for Accessory Dwelling Units in Section 3.2.2 (Uses in the Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts) to read as stated in the bottom line below:

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Protected Use Accessory Dwelling Unit	Y	N	N	Y	Y

4. By inserting a new subsection (k) in Section 3.2.3.1 as stated below, to list Protected Use ADU as a use allowed by right in the Neighborhood Business District, and to re-letter the remaining subsections in alphabetical order to account for the new subsection:

“(k) Protected Use ADU”.

5. By deleting existing Subsection 3.2.3.2(c), which lists Accessory Dwelling Unit as a use allowed by special permit in the Neighborhood Business District, in its entirety, and re-lettering the remaining subsections in Section 3.2.3.2 in alphabetical order to account for this deletion.
6. By inserting a new subsection b) in Section 3.12.3 as stated below, to list Protected Use ADU as a use allowed by right in the Elder Services Zoning District:

“b) Protected Use ADU”.

7. By deleting existing Section 3.17 (Accessory Dwelling Units (ADUs)) in its entirety, and adding a new Section 3.18 (Accessory Dwelling Units (ADU)) to read as follows:

“3.18 Accessory Dwelling Units (ADUs)

- 3.18.1 Definitions. For the purpose of this Section 3.18, the following words and terms shall be defined as follows:

Accessory Dwelling Unit (ADU) – 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:

- (a) 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 Building Code for safe egress;
- (b) is not larger in Gross Floor Area than ½ the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller; and
- (c) is subject to such additional restrictions as may be imposed by the Town.

Bus Station - A location serving as a point of embarkation for any bus operated by a Transit Authority.

Commuter Rail Station - Any commuter rail station operated by a Transit Authority with year-round service with trains departing at regular time intervals, rather than intermittent, seasonal, or event-based service.

Ferry Terminal - The location where passengers embark and disembark from a ferry service with year-round service with ferries departing at regular time intervals, rather than intermittent, seasonal, or event-based service.

Principal Dwelling – A structure, regardless of whether it, or the Lot it is situated on, conforms to Zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.

Protected Use ADU – An attached or detached ADU that is located, or is proposed to be located, on a Lot in a Single-family Residential Zoning District and is protected by M.G.L. c. 40A, § 3, provided that only one ADU on a Lot may qualify as a Protected Use ADU.

An ADU that is nonconforming to Zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

Single-family Residential Zoning District – Any Zoning District where Single-family Residential Dwellings are a permitted or an allowable use, including any Zoning District where Single-family Residential Dwellings are allowed as-of-right or by Special Permit.

Subway Station - Any of the stops along the Massachusetts Bay Transportation Authority Red Line, Green Line, Orange Line, Silver Line, or Blue Line, including any extensions or additions to such lines.

Transit Station – A Subway Station, Commuter Rail Station, Ferry Terminal, or Bus Station.

- 3.18.2 One (1) Protected Use ADU is allowed by right on a Lot in any Single-family Residential Zoning District, subject to the requirements of this Section 3.18.
- 3.18.3 ADUs may be attached to or detached from the Principal Dwelling.
- 3.18.4 ADUs shall be subject to the setback requirements, maximum story requirement, and maximum height requirement applicable to the Principal Dwelling, to the Single-family Dwelling, or to an accessory structure in the zoning district in which the Lot is located, whichever results in the more permissive dimensional regulation.
- 3.18.5 ADUs may not be used as Short-Term Rentals, as such term is defined in M.G.L. c.64G, §1.
- 3.18.6 ADUs shall remain accessory to a Principal Dwelling, and therefore both must be sited on a single Lot and the ADU must remain in common ownership with the associated Principal Dwelling.
- 3.18.7 Notwithstanding anything contained in Section 1.4, construction of an ADU that involves a change, extension or alteration of a preexisting nonconforming structure in a manner that increases its nonconformity relative to any setback requirement, maximum story requirement or maximum height requirement that may lawfully be applied to the ADU in accordance with M.G.L. c.40A, §3 and 760 CMR 71.00 shall require a finding from the Board of Appeals that such change, extension or alteration is not substantially more detrimental than the existing use to the neighborhood.
- 3.18.8 Notwithstanding anything contained in Section 7.4, construction of an ADU shall not, by itself, be considered a Major Project or a Minor Project for purposes of the requirements of that section.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDED THAT: Recommendation to be Made at Town Meeting

Article Information: This article seeks to establish definitions and regulations for Protected Use Accessory Dwelling Units (ADUs) in order to make the Town’s Zoning By-Law consistent with recent changes to Massachusetts law. The Affordable Homes Act (Chapter 150 of the Acts of 2024) amended M.G.L. c.40A, §3 to specifically state that municipalities may not prohibit, unreasonably regulate, or require a discretionary zoning approval for a single ADU on a lot in a single-family zoning district. The Executive

Office of Housing and Community Development has subsequently promulgated regulations (760 CMR 71.00) that further define what constitutes “unreasonable”—and therefore prohibited—regulation of ADUs. Pursuant to this combination of statutory and regulatory changes, ADUs are allowed as of right in all single-family zoning districts, subject to any permissible “reasonable regulations” that are adopted in a municipality’s zoning bylaw.

Needham’s existing Zoning By-Law already allows for ADUs in some circumstances but is inconsistent with the new regulatory landscape in several respects. For example, ADUs currently require a special permit, and the By-Law limits who can reside in the principal dwelling and the ADU. Under the new Massachusetts law, these By-Law provisions are no longer enforceable.

The amendments offered under Article 18 replace the existing ADU regulations in the Zoning By-Law with a new set of regulations that are consistent with current Massachusetts law. The amendments adopt many of the new regulatory definitions (note: all of the new definitions included in Article 18 correspond to the definitions in 760 CMR 71.00, to ensure consistency with Massachusetts law), and updates the Table of Uses to accurately reflect that ADUs are allowed by right. The article further amends the Needham Zoning By-Law to include “reasonable regulations” that are permitted by State Law, including the following: (a) One ADU is allowed by right on a lot in any single-family residential zoning district; (b) an ADU may be attached to or detached from the principal dwelling; (c) an ADU is subject to the setback requirements, maximum story requirement, and maximum height requirement applicable to the principal dwelling or to an accessory structure in the zoning district in which the lot is located, whichever results in the more permissive dimensional regulation; (d) an ADU shall remain accessory to a principal dwelling, and therefore both must be sited on a single lot and the ADU must remain in common ownership with the associated principal dwelling; and (e) an ADU may not be used as Short-Term Rentals, as such term is defined in M.G.L. c.64G, §1.

Finally, an ADU that involves a change, extension or alteration of a preexisting nonconforming structure in a manner that increases its nonconformity relative to any setback requirement, maximum story requirement or maximum height requirement that may lawfully be applied to the ADU in accordance with M.G.L. c.40A, §3 and 760 CMR 71.00 shall require a finding from the Zoning Board of Appeals that such change, extension or alteration is not substantially more detrimental than the existing use to the neighborhood.

ARTICLE 19: AMEND ZONING BY-LAW – A-2 APARTMENT ZONING DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

1. In Section 1.3, Definitions, to modify the definition of “Independent Living Apartments” by inserting (i) “A-2 District” after “Elder Services Zoning District,” and before “or Avery Square Overlay District”, and (ii) “(including enhanced independent living)”, after “independent living units” and before “for individuals aged 55 years or older”, so that the modified definition shall read as follows:

“Independent Living Apartments – A building in the Elder Services Zoning District, A-2 District or Avery Square Overlay District containing three or more dwelling units, which building houses residential uses and support services accessory thereto, intended primarily as independent living units (including enhanced independent living) for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community; provided, however, that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a