



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7550

PLANNING

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.5, the Needham Planning Board will hold a public hearing on Tuesday, September 17, 2019 at 7:10 p.m. in the Needham Town Hall, Powers Hall, 1471 Highland Avenue, Needham, Massachusetts, regarding certain proposed amendments to the Needham Zoning By-Law to be considered by the October 2019 Fall Town Meeting. Persons interested are encouraged to call the Planning Board office (781-455-7550) for more information. A copy of the text of the proposed article will be mailed on request. Copies of the text and any plans referred to may also be examined in the offices of the Planning Board, 500 Dedham Avenue, Needham, Massachusetts.

The proposed amendment is identified below in terms of subject matter. The article designation given has been assigned by the Planning Board for identification purposes only. An article number will subsequently be established by the Select Board for the Warrant.

ARTICLE 1: AMEND ZONING BY-LAW – HIGHWAY COMMERCIAL 1 ZONING DISTRICT

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

1. Amend Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Industrial:

“HC1 -- Highway Commercial 1”

2. Amend Section 3.2, Schedule of Use Regulations, by adding a new Section 3.2.7 as follows:

“3.2.7 Uses in the Highway Commercial 1 District

3.2.7.1 Permitted Uses

The following uses are permitted within the Highway Commercial 1 District as a matter of right:

- (a) Uses exempt from local zoning control pursuant to M.G.L. Chapter 40A, Section 3.
- (b) Public parks and playgrounds, municipal buildings or uses.
- (c) Retail establishment or combination of retail establishments serving the general public where each establishment contains less than 10,000 square feet of floor area and where all items for sale or rent are kept inside a building.
- (d) Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises.
- (e) Craft, consumer or commercial service establishment dealing directly with the general public.
- (f) Laundry or dry cleaning pick-up station with processing done elsewhere.

(g) Professional, business or administrative office, but not including any of the following: a medical clinic or Medical Services Building or medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of three or more such professionals (hereinafter "Group Practices") or physical therapy, alternative medicine practices, wellness treatments, including but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. "Professional" shall include professional medical, surgical, psychiatric, dental, orthodontic or psychologist practice by a group of two or fewer such professionals ("Non-group Practice").

(h) Bank or Credit Union.

(i) Medical Laboratory or laboratory engaged in scientific research and development and/or experimental and testing activities including, but not limited to, the fields of biology, genetics, chemistry, electronics, engineering, geology, medicine and physics, which may include the development of mock-ups and prototypes.

(j) Radio or television studio.

(k) Light non-nuisance manufacturing, including, but not limited to, the manufacture of electronics, pharmaceutical, bio-pharmaceutical, medical, robotic, and micro-biotic products, provided that all resulting cinders, dust, flashing, fuses, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed of in a manner so as not to create a nuisance or hazard to safety or health.

(l) Telecommunications facility housed within a building.

(m) Other customary and proper accessory uses incidental to lawful principal uses. Further provided, accessory uses for seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Board of Selectmen in accordance with Section 6.9.

(n) More than one building on a lot.

(o) More than one use on a lot.

3.2.7.2 Uses Permitted By Special Permit

The following uses are permitted within the Highway Commercial 1 District upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as it may require:

(a) Light-rail train station.

(b) Adult day care facility.

(c) Private school, nursery, or kindergarten not otherwise classified under Section 3.2.7.1 (a).

(d) Retail establishment or combination of retail establishments serving the general public where any establishment contains more than 10,000 but less than 25,000 square feet of floor area and where all items for sale or rent are kept inside a building.

(e) Equipment rental service but not including any business that uses outside storage.

(f) Grocery store provided it does not exceed 25,000 sq. ft. of floor area.

(g) Eat-in or take-out restaurant or other eating establishment except that a lunch counter incidental to a primary use shall be permissible by right.

- (h) Veterinary office and/or treatment facility and/or animal care facility, including but not limited to, the care, training, sitting and/or boarding of animals.
 - (i) Indoor athletic or exercise facility or personal fitness service establishment, which may include outdoor pool(s) associated with such facilities.
 - (j) External automatic teller machine, drive-up window or auto-oriented branch bank accessory to a bank or credit union permitted under Section 3.2.7.1(h) hereof.
 - (k) Group Practices as defined in Section 3.2.7.1 and alternative medicine practices, physical therapy, and wellness treatments facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. Such uses may have customary and proper accessory uses incidental to the lawful principal uses, including but not limited to, pharmacies.
 - (l) Live performance theater, bowling alley, skating rink, billiard room, and similar commercial amusement or entertainment places.”
3. Amend Section 4.7.1, Specific Front Setbacks, by deleting the following provisions:

“(b) On the easterly side of Gould Street from Highland Avenue northerly to land of the New York, New Haven and Hartford Railroad Company, there shall be a fifty (50) foot building setback line;

(c) On the northerly side of Highland Avenue from Gould Street northeasterly to the property of the Commonwealth of Massachusetts, there shall be a fifty (50) foot building setback line.”

4. Amend Section 4, Dimensional Regulations, by adding a new Section 4.11 Dimensional Regulations for Highway Commercial Districts as follows:

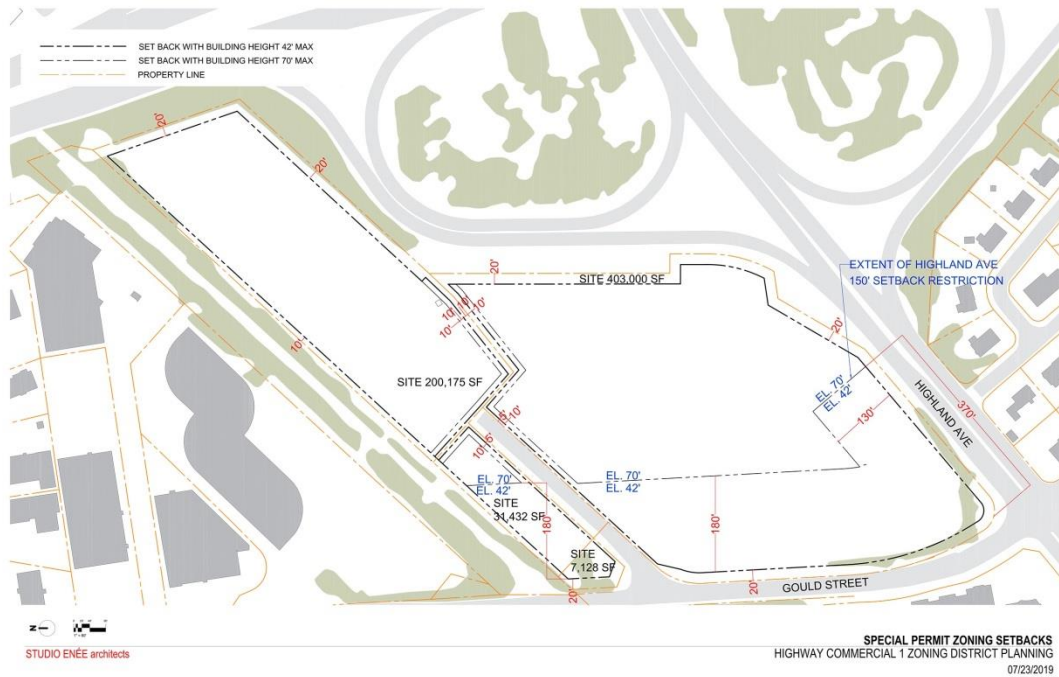
“4.11 Dimensional Regulations for Highway Commercial Districts

4.11.1 Highway Commercial 1

Minimum Lot Area (Sq. Ft.)	Minimum Lot Frontage (Ft.)	Front Setback (Ft.) (1)	Side Setbacks (Ft.) (1) (3)	Rear Setback (Ft.) (3)	Maximum Height (Ft.) (1)	Maximum Lot Coverage (2) (4) (7)	Floor Area Ratio (5) (6)
20,000	100	5	10	10	70	65%	1.00

- (1) All buildings shall be limited to a height of 70 feet, except that buildings within 150 feet of Highland Avenue and buildings within 200 feet of Gould Street shall be limited to a height of 42 feet unless the additional height is contained under a pitched roof or recessed from the face of the building in a manner approved by the Planning Board but not to exceed 48 feet in height. Notwithstanding the foregoing, the Planning Board may allow by special permit a maximum height of up to 84 feet except within 150 feet of Highland Avenue and 200 feet of Gould Street. If the height of a building is increased above the height of 42 feet, or 48 feet if under a pitched roof or recessed as aforesaid, the front setback shall be increased to 15 feet and the side and rear setbacks to 20 feet except that, along the MBTA right-of-way the side and rear yard setbacks shall be 10 feet. Buildings and structures abutting Highland Avenue, Gould Street and/or the layout of Route 128/95 shall be set back at least 20 feet from said streets and said layout. Notwithstanding the location of any building and structures, a 20 foot landscaped, vegetative

Figure 2:



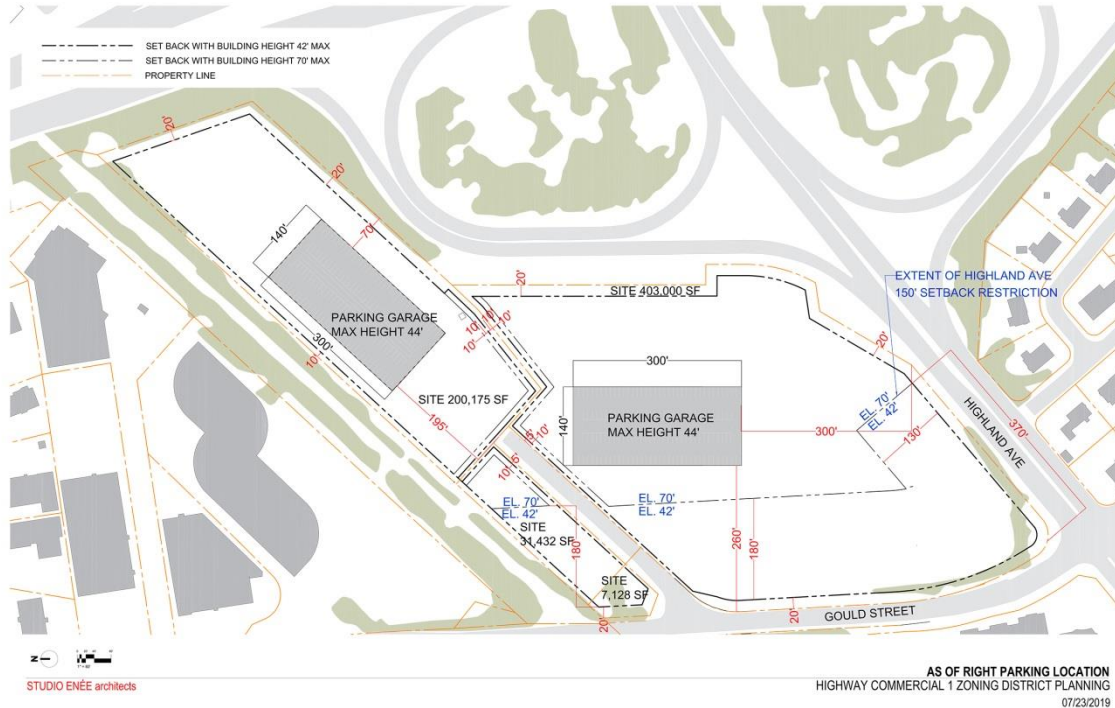
- (2) Maximum lot coverage shall be 65% for all projects. However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet, the maximum lot coverage may be increased to 75%.
- (3) No side or rear yard setback is required for shared parking structures between adjoining properties, but only on one side of each lot, leaving the other side or rear yards open to provide access to the interior of the lot.
- (4) A minimum of 20% of total lot area must be open space. The open space area shall be landscaped and may not be covered with buildings or structures of any kind, access streets, ways, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. Notwithstanding the preceding sentence, open space shall include pervious surfaces used for walkways and patios. (Pervious surfaces shall not preclude porous pavement, porous concrete, and/or other permeable pavers.)
- (5) A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board. In granting such special permit, the Planning Board shall consider the following factors: the ability of the existing or proposed infrastructure to adequately service the proposed facility without negatively impacting existing uses or infrastructure, including but not limited to, water supply, drainage, sewage, natural gas, and electric services; impact on traffic conditions at the site, on adjacent streets, and in nearby neighborhoods, including, but not limited to, the adequacy of the roads and intersections to safely and effectively provide access and egress; the environmental impacts of the proposal; and the fiscal implications of the proposal to the Town. In granting a special permit, the Planning Board shall also consider any proposed mitigation measures and whether the proposed project's benefits to the Town outweigh the costs and adverse impacts, if any, to the Town.

- (6) In approving any special permit under this Section 4.11, the Planning Board shall consider the following design guidelines for development: (a) The proposed development should provide or contribute to providing pedestrian and neighborhood connections to surrounding properties, e.g., by creating inviting buildings or street edge, by creating shared publicly accessible green spaces, and/or by any other methods deemed appropriate by the Planning Board; (b) Any parking structure should have a scale, finish and architectural design that is compatible with the new buildings and which blunts the impact of such structures on the site and on the neighborhood; (c) The proposed development should encourage creative design and mix of uses which create an appropriate aesthetic for this gateway to Needham, including but not limited to, possible use of multiple buildings to enhance the corner of Highland Avenue and Gould Street, possible development of a landscape feature or park on Gould Street or Highland Avenue, varied façade treatments, streetscape design, integrated physical design, and/or other elements deemed appropriate by the Planning Board; (d) The proposed development should promote site features and a layout which is conducive to the uses proposed; and (e) The proposed development shall include participation in a Transportation Demand Management program to be approved by the Planning Board as a traffic mitigation measure, including but not limited to, membership and participation in an integrated or coordinated shuttle program.
- (7) The calculation of floor area in determining floor area ratio shall not include parking areas or structures.

4.11.2 Supplemental Dimensional Regulations

- (1) Parking structures shall be set back at least 100 feet from Highland Avenue and/or Gould Street.
- (2) Parking structures may have an active ground floor use, such as retail, office, institutional, or display. Structured parking must be located at least 20 feet from adjacent buildings, but may be attached to the building it is servicing if all fire and safety requirements are met.
- (3) Buildings abutting Highland Avenue and/or Gould Street must have a public entrance facing one street on which the building fronts.
- (4) Maximum uninterrupted facade length shall be 200 feet.
- (5) Notwithstanding any other provision of this Section 4.11 to the contrary, a parking garage, even if it is for an as-of-right development, may not exceed the parameters, bulk, and location requirements without the issuance of special permit by the Planning Board as shown on the following drawing.

Figure 3



The location may, however, be modified as of right if the parking garage is moved easterly or northeasterly towards Route 128/95.

(6) All setback, height, and bulk requirements applicable to this Section 4.11 are contained in this Section and no additional requirements occasioned by this district abutting Route 128/95's SRB district shall apply.

4.11.3 Special Permit Provision

The Planning Board may, by special permit, waive any or all dimensional requirements set forth above in this Section 4.11 (including sections 4.11.1 and 4.11.2), by relaxing each by up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, and that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law. This section does not authorize the Planning Board to waive the maximum height regulations, reduce the 20 foot landscaped buffer area requirement along the streets and layout of Route 128/95 specified, reduce the 100 foot garage setback requirement along the streets specified, or reduce the 20% open space requirement of Section 4.11.1(4), except as specifically provided in Section 4.11.1(1) for pitched or recessed roofs. (By way of example, a 15' front yard setback could be waived to 11.25' or the 20,000 sq. ft. minimum lot area could be waived to 15,000 sq. ft.)"

5. Amend Section 5.1.3, Parking Plan and Design Requirements, by adding at the end of the second sentence of subsection (j) which reads "Such parking setback shall also be twenty (20) feet in an Industrial-1 District" the words "and Highway Commercial 1 District."
6. Amend Section 7.2.5 of Section 7.2 Building or Use Permit, by adding after the words "Industrial-1 District," in the first sentence, the words "Highway Commercial 1 District,".

7. Amend Section 7.4.2 of Section 7.4 Site Plan Review, by adding in the first sentence of the last paragraph, the words “Highway Commercial 1 District,” after the words “Highland Commercial-128,”.
8. Amend Section 7.7.2.2, Authority and Specific Powers (of Design Review Board) by adding after the words “Industrial-1 District,” in the first sentence of the second paragraph, the words “Highway Commercial 1 District,”.

ARTICLE 2: AMEND ZONING BY-LAW – MAP CHANGE TO HIGHWAY COMMERCIAL 1

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

Place in the Highway Commercial 1 District all that land now zoned Industrial-1 and lying between the Circumferential Highway, known as Route 128/95 and Gould Street and between the Massachusetts Bay Transit Authority (M.B.T.A.) right-of-way and Highland Avenue. Said land is bounded and described as follows:

Beginning at a stone bound on the northerly layout line of Highland Avenue at the intersection of Gould Street as shown on a plan recorded at the Norfolk County Registry of Deeds, Plan No. 564 of 2001, Plan Book 489; thence turning and running southwesterly, westerly and northwesterly along a radius of 44.00 feet a distance of 80.06 feet to a stone bound on the easterly sideline of Gould Street; thence running northwesterly, northerly, and northeasterly along a curve of radius of 505.00 feet of said sideline of Gould Street a distance of 254.17 feet to a point on the said easterly sideline of Gould Street; thence running N10°49’50”E a distance of 284.29 feet to a point on the said easterly sideline of Gould Street at the intersection of TV Place, a privately owned Right of Way; thence continuing N10°49’50”E a distance of 160.00 feet more or less to a stone bound as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I; thence continuing N10°49’50”E a distance of 84.82 feet to a stone bound located at the intersection of the easterly sideline of Gould Street and the southerly sideline of the M.B.T.A. Right of Way as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I; thence turning and running along said southerly M.B.T.A. Right of Way line northeasterly a distance of 1,219.55 feet as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I, 18430J and 18430H to a point at the intersection of the westerly sideline of the Route 128 Right of Way and said southerly sideline of the M.B.T.A. Right of Way; thence turning and running S4°25’46”E a distance of 292.00 feet to a stone bound as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430H; then turning and running southwesterly along the Route 128 Right of Way a distance of 484.61 feet to a point; thence turning and running S13°34’58”W a distance of 451.02 feet as shown on a plan recorded at the Norfolk County Registry of Deeds, Plan No. 564 of 2001, Plan Book 489 to a point; thence turning and running S76°26’41”E a distance of 35.56 feet to a point; thence turning and running S13°34’58”W a distance of 67.34 feet to a point; thence running southwesterly along a curve of radius 245.45 feet a distance of 136.59 feet to a point; thence running southwesterly along a curve of radius 248.02 feet a distance of 38.04 feet to a point; thence running southwesterly along a curve of radius 1180.00 feet a distance of 140.09 feet to a point; thence turning and running S42°43’47”W a distance of 42.52 feet to a stone bound located in the westerly sideline of the Route 128 Right of Way; thence turning and running S63°56’51”W a distance of 361.46 feet to the point of beginning.

ARTICLE 3: AMEND ZONING BY-LAW – ACCESSORY DWELLING UNIT

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

1. Amend Section 1.3, Definitions, by adding the following term and definition in the appropriate alphabetical order:

“Accessory Dwelling Unit (ADU) – An apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. This unit shall be subordinate in size to the principal dwelling unit on a lot and shall be constructed to maintain the appearance and essential character of the single-family dwelling.”

2. Amend Section 3.2, Schedule of Use Regulations, Subsection 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, by inserting immediately above the row that reads “Café or lecture room associated with a private school” a new entry, which shall read as follows:

<u>“USE</u>	<u>RRC</u>	<u>SRB</u>	<u>GR</u>	<u>A-1,2</u>	<u>I</u>	<u>IND</u>	<u>IND-1</u>
	SRA			& 3			
Accessory Dwelling Unit (See 3.15)	SP	SP	SP	SP	SP	SP	SP”

3. Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.2, Uses in the Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts, by inserting immediately above the row that reads “Café or lecture room associated with a private school” a new entry, which shall read as follows:

<u>“USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Accessory Dwelling Unit (See 3.15)	SP	N	N	SP	SP”

4. Amend Section 3.2.3, Uses in the Neighborhood Business District, Subsection 3.2.3.2, Uses Permitted by Special Permit, by inserting a new paragraph (c) that reads “Accessory Dwelling Unit under Section See 3.15” and by renumbering former paragraphs (c) thru (o) as (d) thru (p) respectively.
5. Amend Section 3, Use Regulations, by adding a new Section 3.15, Accessory Dwelling Units (ADUs), to read as follows:

“3.15 Accessory Dwelling Units (ADUs)

3.15.1 Intent

The intent and purpose of this section is to permit accessory dwelling units (ADUs) in single-family homes for occupancy by (a) an Owner (as defined in this section 3.15.2) or (b) Family of an Owner of the property (as so defined) or (c) Caregivers to an Owner of the property or a Family member of an Owner (as so defined) who resides in the property as his or her primary residence, all subject to the standards and procedures hereinafter set forth. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the accessory unit remains subordinate to the principal use of the living quarters.

3.15.2 Definition

(a) Accessory dwelling unit (ADU) is an apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. This unit shall be subordinate in size to the

principal dwelling unit on a lot and shall be constructed to maintain the appearance and essential character of the single-family dwelling.

(b) “Caregiver” shall mean an adult who regularly looks after an elderly, chronically ill or disabled Owner who needs assistance with activities of daily living or a Family member who needs such assistance and for whom the property is such person’s primary residence.

(c) “Family” shall mean other persons who are related to an Owner by blood, adoption or marriage and who are related to such Owner as follows: spouse, parent, sibling, child, or a spouse of any such person.

(d) “Owner” shall mean a person who holds record title to the property directly or indirectly and for whom the property is such Owner’s principal residence. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the membership units of a limited liability company holding record title to the property.

3.15.3. Use Regulations

Such accessory dwelling unit (ADU) shall be permitted upon the issuance of a Special Permit by the Board of Appeals under the following use regulations:

(a) There shall be no more than one ADU on a lot, which ADU shall be located in the single-family detached dwelling and not in an accessory building.

(b) At least one of the units, the principal unit or the ADU, shall be Owner-occupied, except for a temporary absence of the Owner for a period of nine months or less if written notice thereof is made to the Building Commissioner on a form prescribed by him within 60 days of the commencement of the absence.

(c) Occupancy of the unit that is not Owner-occupied shall be limited to a member of the Owner’s Family or a Caregiver and such person’s Family; provided that occupancy of the principal dwelling unit and the ADU combined shall be limited to five persons who are not Family of the Owner.

(d) The size of the ADU shall be limited to 850 square feet of living space and shall have no more than one bedroom.

(e) Off-street parking shall be provided for residents of both units with a minimum of one parking space per dwelling unit.

(f) Adequate provisions for the proper disposal of sewage, waste, and drainage generated by the ADU shall be in accordance with Board of Health requirements.

(g) Compliance with the ingress and egress provisions of the Massachusetts State Building Code, applicable to dwelling units, shall be required. To the extent possible, exterior entrances and access ways shall not detract from the single-family appearance of the dwelling. Where there are two or more existing entrances on the front façade of a dwelling and modifications are made to any entrance, the result shall be that one appears to be the principal entrance and the other appears to be secondary. An interior door way shall be provided between each living unit as a means of access for purposes of emergency response. All stairways to additional floors shall be enclosed within the exterior walls of the structure.

- (h) The owner of record shall be responsible for submitting an ADU application to the Building Commissioner. Floor plans of the accessory unit and principal residence, along with a certified site plan, shall also be submitted with the application to the Building Commissioner. Appropriate fees as established and recorded shall be assessed for the initial application and each renewal of the occupancy permit as determined by the Building Commissioner.
- (i) The installation of the ADU shall require the issuance of a building permit by the Building Commissioner.
- (j) Occupancy of the ADU shall not take place without proof of the recorded Special Permit and an occupancy permit issued by the Building Commissioner. The initial occupancy permit shall remain in force for a period of three (3) years from the date of issue provided that ownership of the premises is not changed. Thereafter, permits may be issued by the Building Commissioner for succeeding three-year periods provided that the structure and use continue to comply with the relevant provisions of the State Building Code and Needham By-laws. Occupancy permits shall not be transferable upon a change in ownership or occupancy.
- (k) In the case that the ADU has violated the terms of the Special Permit or the lawful use of such unit has expired or been terminated, the Building Commissioner may, in addition to other remedies, order the removal of any one or more of the provisions that create a separate dwelling unit, such as living, sleeping, cooking and eating.”

Copies of the articles are available for public inspection at the Planning Board Office, 500 Dedham Avenue, Needham, Massachusetts. Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board. This legal notice is also posted on the Massachusetts Newspaper Publishers Association’s (MNPA) website at (<http://masspublicnotices.org/>).

Needham Times, August 22, 2019 and August 29, 2019.