



## MEMORANDUM

**TO:** Elizabeth Sullivan, Town Administrator  
**FROM:** Paul H. Foley, Town Planner  
**DATE:** January 16, 2025  
**SUBJECT:** Zoning Amendments relative to State Law on protected ADU and Lot Merger

The Planning & Appeals Department is working with the Planning Board and Zoning Bylaw Study Committee to bring new bylaws to the Annual Town Meeting in May to address shortcomings in the new State Law (Ch. 150 of Acts of 2024) that protect certain Accessory Dwelling Units (ADU) “by right” (§7-8) and allows lots that have not been buildable for 50 years to be developed through §10 (Lot Merger).

**To see if the Town of Dennis will amend the Dennis Zoning By-laws** by Amending the following Sections:

- **§2.2.2 (Use Regulation Schedule);**
  - Protected ADU should be added to the Use Regulation Schedule.
- **§2.2.10 (Use Regulation Schedule – Notes – Pursuant to §10 Ch 150);**
  - Lot Merger: New houses proposed on previously non-conforming, non-buildable “remainder” lots, must first provide a title attorneys opinion, to be confirmed by Town Counsel, that at the time of recording or endorsement, the lot conformed to then existing requirements of area, frontage, width, yard or depth before issuance of a Building Permit and the new single-family residential structure constructed on said lot shall have a recorded notice that the structure shall not exceed 1,850 square feet of heated living area, shall contain not less than 3 bedrooms and shall not be used as a seasonal home or short-term rental before issuance of a Certificate of Occupancy.
- **§2.3.2 (Intensity of Use Schedule);**
  - Add Accessory Buildings to §2.3.2 to set max. Building Height for new Accessory Structures.
- **§2.3.3.6 (Accessory Structures);**
  - 2.3.3.6. c. All Accessory Structures
  - Height: The top of the ridge of the roof of an accessory structure may not be greater than Eighteen (18) feet above the top of the lowest floor elevation, except that a maximum height of twenty-five (25) feet shall be allowed for a structure with a roof pitch between 6:12 and 12:12. (*NOTE: Language from §12.8 – Seasonal Cottages*)
- **§2.4.1.2 (Non-Conforming Uses);**
  - Add §2.4.1.2(A)(7): Protected ADU permitted as of right by Building Commissioner.
- **§4.11. A (Protected ADU);**
  - a) Any Protected Use ADU created shall be prohibited from serving as a Short-Term Rental defined in General Laws Chapter 64G, Section 1. The minimum leasing term for the Accessory Dwelling Unit or the Principal Dwelling Unit shall be for a term greater than thirty-one (31) days.
  - b) Any Protected Use ADU shall be subject to all state and local laws, rules and regulations promulgated, enforced, or otherwise within the jurisdiction of the Building Code, Board of

Health Regulations and Conservation Commission and shall be subject to all Lot Coverage, Setback and Dimensional requirements and thresholds in the Dennis Zoning Bylaws.

- c) Protected Use ADU shall be housed in a structure subject to Building and Health Codes.
- d) Any Protected Use ADU may only be created on lots with a Principal Dwelling.
- e) A Protected Use ADU shall be considered an “accessory use” to the principal use on the lot and shall be restricted so that the ADU is never divided by ownership from the principal structure.
- f) For ADU’s not allowed by right, such as more than one (1) ADU 900 square foot or less in a single-family residential zoning district, or an ADU larger than 900 square feet in a single-family residential zoning district, or an ADU in an any district other than a single-family residential zoning district, there shall be a Special Permit for the use of land or structures for an accessory dwelling unit per § 4.11.1 to § 4.11.13 of the Dennis Zoning Bylaws.

- **§ 5 (Definitions)**

- Section 7 of Chapter 150 to be added to Definitions: Accessory Dwelling Units (“ADUs”) By-right Pursuant to G.L. c. 40A, § 3, ¶ 11 and 760 CMR 71.00, one Protected Use ADU is allowed on a lot in the following Zoning Districts: R-40, R-60, Quivet Neck/Crowe’s Pasture Resource Protection District, RR, LL, GC-II, GC-III, DPVC Area A, and DPVC Area BA Protected Use ADU is defined as 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: (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 larger in Gross Floor Area than 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller and is proposed to be located on a Lot in a Single-Family Residential Zoning District and no other Accessory Dwelling Unit is located on said Lot. For purposes of this section, Gross Floor Area shall be the sum of the areas of all floors of the building, including basements, cellars, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior faces of exterior walls or from the centerline of walls separating buildings, but excluding: (i) covered walkways, open roofed-over areas, porches and similar spaces; and (ii) pipe trenches, exterior terraces or steps, chimneys, roof overhands and similar features.
- Section 10 of Chapter 150 to be added to Definitions: New houses proposed on previously non-conforming, non-buildable “remainder” lots, that at the time of recording or endorsement, the lot conformed to then existing requirements of area, frontage, width, yard or depth and the new single-family residential structure constructed on said lot shall not exceed 1,850 square feet of heated living area, shall contain not less than 3 bedrooms and shall not be used as a seasonal home or short-term rental.