



Town of Brewster
Zoning Board of Appeals
2198 Main St., Brewster, MA 02631
brewplan@brewster-ma.gov
(508) 896-3701

ZBA MEETING AGENDA
2198 Main Street Room B
July 11, 2023 at 7:00 PM

Zoning Board

Brian Harrison
Chair

Jeff Carter
Vice Chair

Patricia Eggers

Bruce MacGregor

Trish Metz

Department Assistant
Ellen Murphy

This meeting will be conducted in person at the time and location identified above. This means that at least a quorum of the members of the public body will attend the meeting in person and members of the public are welcome to attend in person as well. **As a courtesy only, access to the meeting is also being provided via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or affect remote attendance or participation, unless otherwise required by law.** Members of the public with particular interest in any specific item on this agenda, which includes an applicant and its representatives, should make plans for in-person vs. virtual attendance accordingly.

Members of the public who wish to access the meetings may do so in the following manner:

1. **Phone:** Call (929) 436-2866 or (301) 715-8592. **Zoom Meeting ID:** 880 7666 8068 **and Passcode** 047258
To request to speak: Press *9 and wait to be recognized.
2. **Zoom Webinar:** <https://us02web.zoom.us/j/88076668068?pwd=b3lXWnMwM2tybTk4SzlKMk5vT3NTUT09>
enter Passcode 047258

To request to speak: Tap Zoom "Raise Hand" button, then wait to be recognized.

When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by accessing the meeting remotely, as noted above. **Additionally, the meeting will be broadcast live, in real time via Live broadcast** (Brewster Government TV Channel 18), **Livestream** (livestream.brewster-ma.gov), or **Video recording** (tv.brewster-ma.gov).

Please note that the ZBA may take official action, including votes, on any item on this agenda.

1. Call to Order
2. Declaration of a Quorum
3. Meeting Participation Statement
4. **Recording Statement:** As required by the Open Meeting Law we are informing you that the Town will be video and audio taping as well as broadcasting this public meeting. In addition, if anyone else intends to either video or audio tape this meeting they are required to inform the chair.
5. **Public Announcements and Comments:** Members of the public may address the ZBA on matters not on the meeting's agenda for a maximum of 3-5 minutes at the Chair's discretion. The ZBA will not reply to statements made or answer questions raised during public comment but may add items presented to a future agenda
6. Approval of Meeting Minutes
7. Applications:
Continued Applications:
ZBA Case #22-15 Owner/Applicant: Remington's Trust; Peter T. Lomenzo & Kerry Barton, Trustees, 61-63 A. P. Newcomb Road, Map 25, Lot 75, in the RM zoning district. The applicant seeks a special permit for a Bed & Breakfast use in an existing accessory building.
8. Discussion on Accessory Dwelling Unit (ADU) provisions of the zoning bylaw including comments on potential bylaw amendments
9. Matters Not Reasonably Anticipated by the Chair
10. Next Meeting: August 8, 2023
11. Adjournment

Date Posted:
6-22-2023

Date Revised:

Received by Town Clerk:

BREWSTER TOWN CLERK
123 JUN 22 10 29AM

TOWN OF BREWSTER ZONING BOARD OF APPEALS
MEETING MINUTES
Town Hall Room A
Tuesday, June 13, 2023, at 7 PM

Brian Harrison, Chairman, convened the Brewster Zoning Board of Appeals with members: Jeff Carter, Patricia Eggers, Bruce MacGregor and Trish Metz.

Also present: Attorney Peter Freeman, Judi Barrett (virtual), Vida Shklovsky, POAH (virtual), Dave Quinn, HAC, Joe Henderson and Brain Kuchar, Horsley Witten Group (virtual), (representing ZBA #23-04), Scott Kafker, co-applicant and Walter Jacob, Walter Jacob Architects, LTD (representing ZBA # 23-12), Donna Kalinick, (Assistant Town Manager), Jon Idman (Town Planner), and Jill Scalise, (Housing Coordinator), Ellen Murphy (Department Assistant)

The Chair read the Recording or Taping Notification: This meeting will be conducted in person at the time and location identified above. This means that at least a quorum of the members of the public body will attend the meeting in person and members of the public are welcome to attend in person as well. As a courtesy only, access to the meeting is also being provided via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or affect remote attendance or participation, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda, which includes an applicant and its representatives, should make plans for in-person vs. virtual attendance accordingly.

To submit public comment or questions to the Zoning Board of Appeals, please email: zbameeting@brewster-ma.gov.

Review and Approval of May 9th meeting minutes:

Brian asked the Board if there were any changes to the minutes. There being none, a motion was made by Pat to approve the May 9th meeting minutes, Trish seconded the motion, a vote was taken, and the minutes were unanimously approved.

Continued Applications:

- **ZBA case #22-15 Owner/Applicant: Remington's Trust; Peter T. Lomenzo & Kerry Barton, Trustees. 61-63 A.P. Newcomb Road, Map 25, Lot 75.**
Members present and voting: Brian Harrison, Bruce MacGregor, Jeff Carter, Pat Eggers, and Trish Metz.
Brian informed the Board of the request to continue ZBA case #22-15 until the July 11th hearing.
Trish made a motion to continue, Pat seconded the motion and the Board voted unanimously to continue ZBA case #22-15 until July 11th.
The Chair informed the Board that he would be taking cases out of order and will be hearing ZBA case #23-12 next.
- **ZBA case #23-04 Owner/Applicant: Preservation of Affordable Housing, Inc./Housing Assistance Corporation, 0 Millstone Road, Map 98, Lot 12-0.**
Members present and voting: Brian Harrison, Jeff Carter, Bruce MacGregor, Pat Eggers, and Trish Metz.
Jon Idman, Town Planner addressed the Board sharing thoughts on the draft decision that was provided in the hearing packet. He stated that at the last hearing the Board unanimously voted to close the hearing for ZBA case #23-04 and within that time a draft decision was submitted. The draft decision included review from Town staff, Judi Barrett, consultant, Town attorney and the applicant. The draft addresses and reflects various concerns by the Town, and the applicant, including matters brought up by the ZBA during the public hearing. Jon thanked the consultant for her guidance and expertise during the process. He stated that, if approved it would be subject to the conditions in the decision. He stepped through the proposed decision, highlighting certain conditions. He stated he believes the Board has all the information to approve the decision. Bruce asked how Local Preference was determined. Donna Kalinick, Assistant Town Manager and Jill Scalise addressed the Board. Donna informed the Board the Select Board was updated on the Millstone project at their last meeting. During the meeting the Select Board was informed they would have 90 days from issuance of an approval from the ZBA to make a decision on Local Preference. Donna and Jill are drafting a document that explains Local

Preference and will be presented at a joint meeting with the Select Board, Housing Partnership, Housing Trust, CPC and Finance Committee. Donna indicated that there was a 70% request for local preference for Brewster Woods and 50% for Serenity Brewster. Since the Town donated the land it is likely the Select Board will request between 50-70%. Jill Scalise, Brewster Housing Coordinator stated that Local Preference is very specific. The applicant must either live, work or have a child in the school system in Brewster.

Jeff questioned condition #5 Parking in the decision. He asked when the 3-year parking overflow determination starts and what is the rationale behind the 3 years. Jon Idman, Town Planner replied the 3-year is after the issuance of the final Certificate of Occupancy. The Building Commissioner can determine if additional parking spaces are needed. Jeff asked if the final landscaping plan was submitted. Jon confirmed exhibit A in the decision addressed the final landscaping plan reflecting the fencing and additional plantings.

Judi Barrett, the consultant, informed the Board she had been listening to the discussion and confirmed the staff has covered the decision and any questions or concerns. There being no additional discussion, Pat made a motion to approve the comprehensive permit for ZBA case #23-04, 0 Millstone Road and adopt the draft decision, Bruce seconded the motion. Brian expressed a concern regarding the parking. Trish stated she would like to defer to the ZBA for the decision, she experienced a lot of concern on the presentation, however there is a great need for housing in Brewster. A vote was taken, Bruce MacGregor, Yes, Brian Harrison, Chair, Yes, Pat Eggers, Yes, Trish Metz, Yes, Jeff Carter, Vice Chair, Yes. The Board unanimously voted to approve the comprehensive permit for ZBA case #23-04.

New Applications:

- **ZBA Case #23-12 Owner/Applicant: Lea Anne Copenhefer, (represented by Walter Jacob Architects, LTD.) 8 Shepherds Quay, Map 74, Lot 78, in the RR zoning district.**

Members present and voting: Brian Harrison, Bruce MacGregor, Jeff Carter, Pat Eggers, and Trish Metz.

Scott Kafker, co-owner and Walter Jacob, Architect addressed the Board. Walter Jacob provided background on the project informing the Board they are requesting a balcony built on the second floor of the garage off the side of the existing house. This will provide enough space to install a wide door in order to hoist a piano up to the second floor and access to enjoy the surroundings. He stated the existing garage has a 12.5 ft. setback. Jon Idman, Town Planner clarified in the case of a cluster subdivision the setback requirements are half, therefore a 25ft setback is 12.5ft for a cluster subdivision. Walter Jacob stepped through an oversized display of the proposed plan indicating the current setback is non-conforming at 10ft. There will be enclosed storage underneath the balcony where trash barrels will be stored. He informed the Board that the applicant has discussed the proposed plan with the abutting neighbors. Pat made a motion to open to public input, Trish seconded the motion, a vote was taken, and the Board unanimously approved to open to public input. There being no public input, Pat made a motion to close to public input, Bruce seconded the motion, a unanimous vote was taken. Jeff made a motion to grant ZBA case # 23-12 a special permit for a second story balcony with storage below, Trish seconded the motion, the Board unanimously approved a special permit for ZBA case #23-12.

Reorganization of ZBA

- Brian Harrison's term will expire on June 30, 2023. Pat nominated Brian Harrison as ZBA Chair, Bruce seconded it, a vote was taken and the Board unanimously approved Brian Harrison as ZBA Chair for another year. Brian Harrison nominated Jeff Carter as ZBA Vice Chair, Pat seconded the motion, a vote was taken and the Board unanimously approved Jeff Carter as ZBA Vice Chair.

Matters Not Reasonably Anticipated by the Chair:

- Jon Idman, Town Planner addressed the Board stating the Planning Board voted to pursue potential Accessory Dwelling Unit (ADU) amendments to present at Fall Town Meeting. He requested a discussion and input from the ZBA at the next ZBA Hearing with Amanda Bebrin, chair of the Planning Board, Jill Scalise, Housing Coordinator, Donna Kalinick, Assistant Town Manager and himself. Jon will provide information prior to the hearing to be included in the hearing packet for the ZBA's review. The Board agreed.

The next meeting of the Brewster Zoning Board of Appeals is scheduled for July 11th, 2023.

Trish made a motion to adjourn the meeting, Pat seconded the motion, the vote was taken, and the Board unanimously voted to adjourn. Vote: 5-0-0. The hearing adjourned at 7:50 pm.

#22-15 Applicant:
Remington's Trust;
Peter T. Lomenzo

&

Kerry Barton, Trustees

Represented by:

Attorney Marian S. Rose
61-63 AP Newcomb Road

Ellen Murphy

From: msrose@singer-law.com
Sent: Tuesday, June 27, 2023 11:51 AM
To: Ellen Murphy
Cc: Jonathon Idman; Lynn St. Cyr
Subject: Lomenzo 61-63 AP Newcomb

Good morning.

Peter would like to withdraw the special permit application from the ZBA without prejudice to consider other options for the property. He would not like the hearing to be continued. Please let me know if you need me to confirm this in some other form- I did not see a withdrawal form on the Town's web site.

Thank you.

Marian

Marian S. Rose
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Discussion on
Accessory Dwelling Unit (ADU)
Provisions
of the Zoning Bylaw



ADU LISTENING SESSION

Brewster Planning Board

June 28, 2023



MEETING TOPICS/ PUBLIC INPUT

- Discuss Existing Zoning Bylaw
- Discuss General ADU Criteria
- Discuss potential amendments
- General observations, experiences, comments & suggestions





WHAT IS AN ADU?

- Regulated by zoning
- Accessory single- family dwelling unit
- Accessory use to main home- not independent
- Self-contained living (cooking, sanitary, sleeping) facilities
- Same lot as main dwelling



EXISTING ADU ZONING



- Size: lesser of 40% main home or 900 sq ft
- Can be attached, within or detached
- Owner occupancy req'd- 12 mos.
- Lease term 12 mos.
- Additional parking spaces req'd
- No more than 2 bedrooms
- Max 2 dwelling units per lot, incl. ADU
- Annual ADU permit cap- 20
- No boarding/ lodging
- Design subordinate to main house
- ZBA approval req'd in water protection overlay districts and on lots >30,000 sf





TYPICAL CONSIDERATIONS-ZONING

- "Purpose" clause (intent)
- Owner occupancy
- Tenancy
- Lot size/ dimensional regulations
- ADU Size
- Design requirements
- Special permit?
- Enforcement/ administration
- Annual permit cap
- Reference to related laws and regs (health, bldg, etc)

"PURPOSE" CLAUSE

- Brewster ADU Zoning does not currently have one
- Inclusion could bolster year-round housing intent



OWNER OCCUPANCY

- Required currently for continuous 12 mo. period (either unit)
- No express bona fide absence clause
- Part time residents can't have an ADU under current language



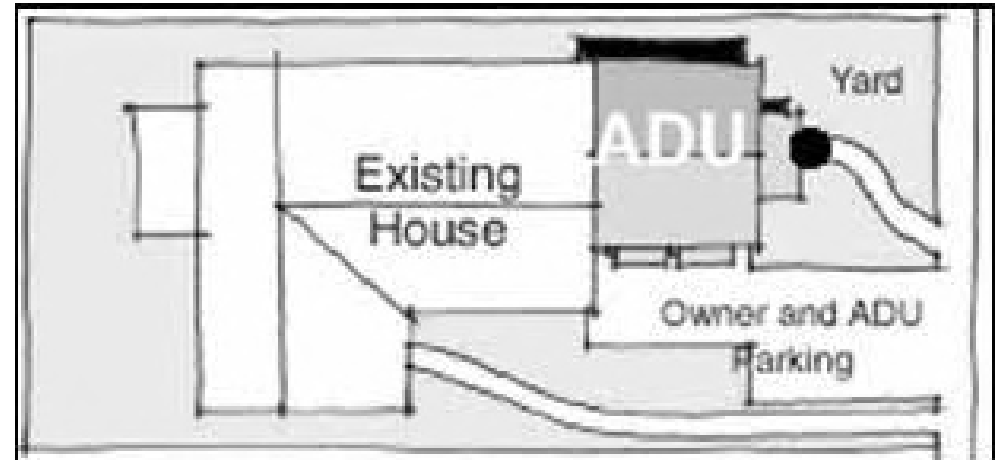
TENANCY

- Must be 12 mo. lease currently
- Does year-round housing = 12 mo. lease?



LOT SIZE/ DIMENSIONAL REGS

- ZBA Special Permit for less than 30000 sq ft lot- (historical zoning in Brewster was 25k or 15k)
- ZBL currently only references setbacks for attached ADUs (not other dimensional reqs. like coverage, height, etc. or detached buildings)
- Refers to 'conforming' setback for district (ZBL Table 2)
- Brewster Zoning has unique setbacks- "per lot" not district- back to when lot was created



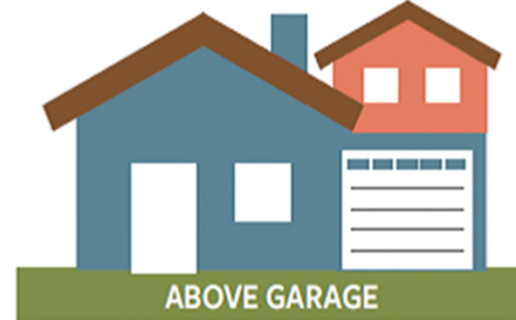
ADU SIZE

- 40% habitable space of main house or 900 sq ft, whichever is less
- 'Habitable' not defined under the ZBL- under SBC excludes bathrooms, halls, closets, utility spaces
- % approach advantages a) larger existing homes, and b) can be confusing and difficult to calculate.
- Examples:
 - 40% ADU WITHIN an existing 1500 sq ft dwelling= approx. 400 sq ft ADU allowed
 - 40% ADU within a DETACHED building accessory or ADDITION to an existing 1500 sq ft dwelling= approx. 600 sq ft ADU
 - Existing 2250 sq ft home necessary to get max 900 sq ft ADU based on 40% rule (if ADU proposed as an addition or detached building)



DESIGN

- “Clearly subordinate” to main house
- Is this a use or design provision?
- Focus on single-family residential character of property?



ADU SPECIAL PERMIT

- Zoning Board of Appeals (ZBA) approval req'd:
 - Lots less than 30,000 sq ft
 - Herring River Watershed
 - DCPC (Zone II & Pleasant Bay Watershed)
 - Water overlays occupy entire south part of Town
 - See GIS map:
<https://www.mapsonline.net/brewsterma/index.html>
 - DCPC zoning includes groundwater protection provisions re: Nitrogen
- Planning Board SPGA?
- Adopt unique Special Permit standards for ADUs?
- 15k & 25k sq ft historic lot sizes under zoning



ENFORCEMENT/ ADMINISTRATION

- Building Commissioner
- Annual affidavit required (currently ZBL prescribes content)
- No existing tracking or registration mechanism
- In some rare cases, a CO or construction permit under the SBC might not be required
- Existing permit cap of 20/ year
 - Haven't been close to approaching
- Other laws and regulations are referenced in the ZBL (Title 5, SBC, etc.)



GENERAL OBSERVATIONS, EXPERIENCES, COMMENTS & SUGGESTIONS



- THANK YOU! YOUR INPUT IS VALUED!





Town Of Brewster
2198 Main Street
Brewster, Massachusetts 02631-1898
(508) 896-3701 x1133

Office of:
Planning Department

Date: April 27, 2023
To: Planning Board
From: Jon Idman, Town Planner
Re: ADU provisions revisited- Talking Points and Considerations
ZBL Sections 179-2, 179-42.2, Table 1, Table 2

A. Policy Considerations

- a. Whether to consolidate ADUs and “accessory apartment” uses
- b. Owner Occupancy
 - i. Allow part-time residents/ not principal residents to have ADU?
 - ii. Recognize bona fide temporary absences of owner?
 - iii. Offer a ZBA special permit to rent both units? Condition to year-long lease?
- c. Add ‘Purpose’ statement, underscoring year-round housing opportunities.
- d. Clarify further that ADUs are not commercial uses, not for short term rentals, and that properties w/ ADUs remain single family residential properties.
- e. 12 mo. lease ADU vs year-round housing: allow 6 mo. lease term as consistent with year-round housing purpose?
- f. Should there be an annual building permit cap on ADUs/ ACDUs (which the ZBL currently contains-20)?
- g. ADUs: ‘subordinate to...’ vs ‘consistent with single family residential use’
- h. Eliminate % size approach of ADUs to main dwelling.
- i. Introduce new concept of not severing ‘ownership’ or use between principal dwelling and ADU.

B. Administrative Considerations

- a. Difficulty/ fairness of administering ADU size as a percentage of principal dwelling.
 - i. Unfairly advantages large main dwellings.
 - ii. May require an addition to main dwelling to achieve reasonably-sized ADU.
 - iii. “Zeno’s Paradox” problem of ADUs in main dwelling- size of ADU must be deducted from main dwelling but size of ADU is based on existing floor area of main dwelling.
- b. Replace “Habitable Area”- not a defined term and has a special meaning under the SBC.
- c. Special Permits
 - i. Zone II and PB Watershed- there are already flow and nitrogen controls on development?
 - ii. There is no Herring River Watershed map in the ZBL.
 - iii. Is 30,000 sq ft the right threshold for a ‘small lot?’ Look at historical zoning?
- d. Difficult enforcement: ADU vs. Residential Accessory Building w/ Bedrooms. Allowable in same structure?
- e. New ADU zoning permit/ registration program to document compliance.

- f. Clarify “Dirt Road Special Permits” and ADUs.
- C. Mechanical Drafting Issues
- a. ADU definition: Substantive terms should be moved to main provisions of ZBL.
 - i. Align definition for consistency with other existing related definitions (“dwelling unit”) (“habitable area” vs. “net floor area”) and ADU provisions in body of ZBL.
 - b. Clarify that all ADUs are subject to ZBLs dimensional requirements (not just setbacks).
 - i. Recognize that setback analysis for buildings in R districts is complicated (e.g. nonconforming structures; pre-existing developed lots).

Brewster's Experience: ADU, ACDU, & Accessory Apartments since 2018 Bylaw

Comments from Brewster Housing Program, Jill Scalise, Housing Coordinator

1. Town Permits since 2018: 29

Accessory Dwelling Units (ADUs)- 16

- 14 by special permit (Zoning Board of Appeals (ZBA))
 - o In water protection area- 10 total, 7 in Zone 2; 3 in DCPC
 - o Lot under 30,000' - 3
 - o Other- 1 (also modifications to a B & B)
- 2 by right (identified by Building Department and included in data)

Accessory Apartments- 7 (all ZBA special permits)

Accessory Commercial Dwelling Units (ACDUs)- 1 (permitted by Planning Board)

Security Apartments- 3 (all permitted by Planning Board)

Affordable Accessory Dwelling Unit (AADU)- 1 (old bylaw, Special Permit 4.10.18; CO 5.17.19)

Pre-existing apartment over retail- 1, Special Permit amended to remove owner occupancy requirement.

2. Town Observations:

- Consistently receive inquiries from Brewster residents about ADUs. Very occasional requests about accessory apartments. Hardly any inquiries about ACDUs.
- While we can record the number of permits issued, it's an administrative challenge to accurately count the number of ADUs created and in use. There is no uniform mechanism to confirm that units are complete and occupied.
- Challenges noticed or expressed by residents:
 - o Septic requirements – number of bedrooms and/or water protection district
 - o Lot size- septic requirements and/or special permit path
 - o Percentage requirement- ADU can't be more than 40% of the habitable area of the principal dwelling.
 - o Principal residency requirement. Part-year residents have been interested in having a year-round ADU.
 - o Cost to design and build ADU.
- The Building Department's guidance, ADU/ACDU information sheet, has been helpful.
- The affidavit process has been difficult to set in place and oversee.
- The ADU and Special Permit process can intimidate people. Concerns include completing forms and representation before the ZBA.
- Regularly refer people to and communicate with ADU resource programs (CDP & HAC). This includes assistance with ADU process and possible funding.

3. Resources now available & their feedback to the Town:

Lower Cape ADU Resource Center: Community Development Partnership (CDP) and Homeless Prevention Council (HPC) [Lower Cape Housing & ADU Resource Center](#)

May 2022– March 2023

- Received approximately 100 inquiries from the Lower Cape
- 17 inquiries from Brewster.
- Over half of Brewster inquiries were from folks aged 60 or older.
- 14 feasibility studies, 3 pending. Almost all require special permits because of Zone 2 or under 30,000’.
- 5 households are still interested.

CDP’s experience of barriers to creating Brewster ADUs

- Cost of ADU
 - High price of construction \$400-\$450/ square foot
- Putting out money before knowing if an ADU can be permitted and/or built.
 - It can cost \$5,000-\$10,000 for site plans and architectural drawings.
- Fear or concern of going before ZBA intimidates people. This also overlaps with the pre-permit financial costs.
- Cumulative impact – cost, lot size or Zone 2, # bedrooms & septic system, ZBA, length of time to wait...it can become overwhelming.
- Part-year residency. Brewster may be the only Town on the Lower Cape that requires owner to be a full year resident.

Housing Assistance Corporation (HAC) My Home Plus One ADU Program

[My Home Plus One ADU Program - Housing Assistance Corporation Cape Cod \(haconcapecod.org\)](http://haconcapecod.org)

16 Brewster inquiries.

The biggest obstacles people are facing include septic capacity, lot size, cost, lack of contractor availability, and wetland restrictions.

4. Next Steps

- Housing Production Plan Strategy #1:
 - Reevaluate the existing ADU and ACDU bylaws and other references to accessory apartments; explore amendments to streamline these provisions and improve their efficacy.
- Continue improving information about the ADU process for Brewster residents.
- Continue internal communication, evaluation, and process improvements with Building, Planning, Health, & Housing Departments.
- Keep open communication with ADU resources and programs.
- Consider Town outreach opportunities regarding ADUs & ACDUs.

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Article I General Provisions

§ 179-1 **Authority; purpose.**

- A. The Brewster Zoning Bylaw, adopted in 1960, and all subsequent amendments thereto, hereinafter called "this chapter," is adopted and from time to time amended as authorized by MGL c. 40A, as amended, herein called the "Zoning Act," and by Article 89 of the Amendments to the Constitution, the Home Rule Amendment.
- B. In conjunction with the purposes stated in the Zoning Act, this chapter shall provide protection for inland and coastal wetlands, as well as existing and potential watersheds, and shall give direction and effect to the development objectives and recommendations contained in the Brewster Master Plan of 1970, as may be amended from time to time.

§ 179-2 **Definitions.**

- A. Words used in the present tense indicate the future; the singular number includes the plural and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered to be used or occupied"; the words "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof," and the word "shall" is always mandatory and not merely directory. [**Amended 5-3-1999 ATM, Art. 29; 11-17-2003 FYTM, Art. 16**]
- B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY COMMERCIAL DWELLING UNIT (ACDU)

A housing unit, complete with its own sleeping, cooking and sanitary facilities, that is located within a structure containing a commercial, wholesale or industrial use, or in a separate structure on the same lot as a commercial, wholesale or industrial use. An ACDU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the commercial, wholesale or industrial unit, whichever is less. Unenclosed additions constructed to serve an ACDU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ACDU.

[**Added 12-3-2018 FYTM, Art. 12**]

ACCESSORY SINGLE-FAMILY DWELLING UNIT (ADU)

A housing unit, complete with its own sleeping, cooking and sanitary facilities, that is accessory and clearly subordinate to a principal dwelling. An ADU may be located within a single-family house containing a principal dwelling, or in a building accessory to a single-family house. An ADU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the principal dwelling, whichever is less. Unenclosed additions constructed to serve an ADU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ADU.

[**Added 12-3-2018 FYTM, Art. 12**]

BUILDING, ACCESSORY RESIDENTIAL

A detached residential structure, customarily incidental to the existing principal residential structure and located on the same lot with the principal residential structure to which it is accessory. Such structures include but are not limited to guesthouse, shed, boathouse, playhouse, shelter for domestic pets, pool

houses, private swimming pools, tennis courts and detached garages. An accessory residential building may or may not contain bedrooms.

[Added 5-7-2012 ATM, Art. 23]

DWELLING, MULTIFAMILY

A building containing three or more dwelling units.

DWELLING, ONE FAMILY DETACHED

A single, separate dwelling unit, designed for occupancy by one family.

[Added 5-7-2012 ATM, Art. 23]

DWELLING, ONE FAMILY SECURITY

One family dwelling unit for owner occupancy or for occupancy by personnel hired by the owner for the protection of property and safe operation of a permitted use.

[Added 5-7-2012 ATM, Art. 23]

DWELLING UNIT

One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.

FAMILY

One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FLOOR AREA, NET

The sum of the areas of the several floors of a building measured from the interior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirement of this chapter or any such floor space intended and designed for accessory heating and ventilating equipment.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Article IX Special Regulations

§ 179-33 **General provisions.** [Amended 5-14-1984 ATM, Art. 110]

The regulations which follow shall apply to the particular use or activity, whether it is permitted by right or by special permit as an exception. In addition, the Planning Board, prior to the granting of a special permit, may also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this chapter, including but not limited to the following: front, side or rear yards greater than the minimum required by this chapter, screening, buffers or planting strips, fences or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation or extent of facilities, regulation of number and location of driveways or other traffic features and off-street parking or loading or other special features beyond the minimum required in this chapter.

§ 179-42.2 **Accessory single-family dwelling units (ADUs).** [Added 12-3-2018 FYTM, Art. 12]

Accessory single-family dwelling units shall be permitted subject to the following standards:

- A. An ADU may be located within or adjacent to a single-family house, or in a building accessory to a single-family house, subject to the Definitions of § **179-2**; the requirements of Table 1, Use Regulations, and Table 2, Area Regulations/Minimum Required Lots; and all standards of this section.
- B. An ADU may be located within a Zone II (Zone of Contribution to a Public Drinking Water Well), in the watershed of the Herring River, or the watershed to Pleasant Bay, subject to approval of a Special Permit by the Zoning Board of Appeals. All ADUs within these areas shall be required to install advanced nitrogen treatment septic systems, if deemed necessary.
- C. All construction in connection with an ADU attached to a principal dwelling shall conform to building setbacks for a single-family house in the Zoning District where it is located.
- D. Either the principal dwelling or the ADU must be occupied by the owner of the property, as defined in § **179-2** and the remaining dwelling unit shall be leased for periods of not less than 12 months. The property owner shall be required to file a notarized affidavit with the Building Department annually, stating that either the principal dwelling or the accessory single-family dwelling unit will be, and/or has been, used as the principal residence of the owner for the next twelve-month period and that the remaining dwelling will be leased for a period of not less than 12 months.
- E. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.
- F. There shall be no renting of rooms or boarding of lodgers in an ADU.
- G. An ADU shall conform to all applicable State and local laws regulating new construction or new residential use including the State Building Code, and applicable plumbing, electrical, fire, health and conservation regulations and bylaws. A Certificate of Occupancy shall be required for any ADU.
- H. There shall be no more than two residential units in total on a lot containing an ADU.

- I. A minimum of one parking space per bedroom of the ADU shall be provided.
- J. An ADU shall be clearly subordinate in use, size and design to the principal single-family dwelling. An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property and the privacy of abutting properties is maintained.

§ 179-42.3 Accessory commercial dwelling units (ACDUs).
[Added 12-3-2018 FYTM, Art. 12]

Accessory single-family dwelling units shall be permitted subject to the following standards:

- A. An ACDU may be located within or adjacent to a commercial building, or in a building on the same lot as a commercial use, subject to the Definitions of § **179-2**; the requirements of Table 1, Use Regulations, and Table 2, Area Regulations/Minimum Required Lots; and all standards of this section.
- B. An ACDU may be located in a Commercial High Density or Village Business District.
- C. An ACDU may be located within a Zone II (Zone of Contribution to a Public Drinking Water Well), in the watershed of the Herring River, or the watershed to Pleasant Bay, subject to approval of a Special Permit by the Zoning Board of Appeals. All ADU's within these areas shall be required to install advanced nitrogen treatment septic systems, if deemed necessary.
- D. All construction in connection with an ACDU shall conform to building setbacks for a commercial building in the Zoning District where it is located.
- E. The property owner shall be required to file a notarized affidavit with the Building Department annually, stating that the ACDU will be, and/or has been, leased for a period of not less than 12 months.
- F. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.
- G. There shall be no renting of rooms or boarding of lodgers in an ACDU.
- H. An ACDU shall conform to all applicable State and local laws regulating new construction or new residential use including the State Building Code and applicable plumbing, electrical, fire, health and conservation regulations and bylaws. A Certificate of Occupancy shall be required for any ACDU.

ZONING

179 Attachment 1

**Table 1
Use Regulations
Town of Brewster**

[Amended 12-10-1979 STM, Art. 37; 5-12-1980 ATM, Arts. 39, 40 and 41; 12-8-1980 STM, Art. 18; 5-11-1981 ATM, Art. 32; 5-11-1982 ATM, Arts. 80 and 81; 5-14-1984 ATM, Arts. 100, 101 and 103; 8-27-1984 STM, Arts. 58 and 59; 5-13-1985 ATM, Arts. 89 and 93; 5-11-1987 ATM, Art. 86; 5-9-1988 ATM, Art. 97; 10-17-1988 STM, Art. 26; 5-8-1989 ATM, Art. 47; 5-14-1990 STM, Arts. 6 and 10; 12-14-1992 STM, Art. 2; 11-15-1993 FYTM, Art. 20; 11-15-1999 FYTM, Art 23; 5-1-2000 ATM, Art. 35 11-17-2003 FYTM, Arts. 19 and 24; 11-18-2001 FYTM, Arts. 17 and 21; 5-3-2004 ATM, Art. 24; 11-15-2004 FYTM, Art. 17; 5-2-2005 ATM, Art. 31; 11-13-2006 FYTM, Art. 25; 5-7-2007 ATM, Art. 24; 11-5-2007 FYTM, Art. 19; 11-17-2008 FYTM, Art. 18; 5-2-2011 ATM, Art. 33; 11-7-2011 FYTM, Arts. 13 and 17; 5-7-2012 ATM, Arts. 24 and 28; 5-6-2013 STM, Art. 6; 5-6-2013 ATM, Art. 23; 5-5-2014 ATM, Arts. 22 and 30; 12-3-2018 FYTM, Arts. 11, 12, and 13]

KEY:

- P = Permitted Use
- S = Special Permit Use
- Use with a dash ("-") = Prohibited Use

	District							
	R-R	R-L	R-M	C-H	V-B	I	MRD	PWS-CF
Residential								
1. Accessory residential building	P	P	P	P	P	-	-	-
2. Accessory commercial dwelling unit "ACDU"	-	-	-	S	S	-	-	-
3. Accessory single-family dwelling unit "ADU" on a lot of 30,000 square feet or more	P	P	P	S	S	-	-	-
4. Accessory single-family dwelling unit "ADU" on a lot less than 30,000 square feet	S	S	S	S	S	-	-	-
5. Affordable multifamily dwelling units "AMFDU"	-	-	-	P	-	-	-	-
6. Cluster residential development	S	S	S	-	-	-	-	-
7. Construction trailer	P	P	P	P	P	P	-	-
8. Major residential development	S	S	S	S	-	-	-	-
9. Multifamily dwelling	-	-	-	S	-	-	-	-
10. One-family detached dwelling unit	P	P	P	-	P	-	-	-
11. One-family security dwelling	-	-	-	P	P	P	-	-
12. Planned residential development	-	S	S	-	-	-	-	-
13. Row or town houses	-	-	-	S	-	-	-	-
14. Subsidized elderly housing	S	S	S	S	-	-	-	-

ZONING

179 Attachment 2

Town of Brewster

Area Regulations

Minimum Required Lots¹

[Amended 12-10-1979 STM, Art. 37; 5-12-1980 ATM, Art. 42; 5-14-1984 ATM, Arts. 104 and 105; 8-27-1984 STM, Art. 57; 5-13-1985 ATM, Arts. 66, 74 and 94; 5-12-1986 ATM, Arts. 35 and 36; 5-11-1987 ATM, Art. 82; 5-9-1988 ATM, Art. 96; 10-17-1988 STM, Art. 26; 11-13-2006 FYTM, Arts. 29 and 33; 11-5-2007 FYTM, Art. 13; 5-5-2008 ATM, Art. 20; 5-7-2012 ATM, Art. 26; 12-3-2018 FYTM, Art. 12]

BREWSTER CODE

District	Use	Area (square feet)	Lot Frontage ² (feet)	Yards ^{3,4,5,6,7}		
				Front (feet)	Side (feet)	Rear (feet)
R-R	Any permitted structure or principal use	100,000 plus 100,000 for the second dwelling unit of a duplex	200	40	25	25
R-L	Any permitted structure or principal use	60,000 plus 60,000 for the second dwelling unit of a duplex	150	40	25	25
R-M	Any permitted structure or principal use	60,000 plus 60,000 for the second dwelling unit of a duplex	150	40	25	25
C-H	Row commercial	40,000	150	30	20	20
	Multifamily dwellings	130,000 plus 10,000 per bedroom	200	100	30	30
	Hotel and motel	130,000 plus 2,000 per unit	200	100	30	30
	Row house or townhouse	130,000 plus 10,000 per bedroom	200	100	30	30
	Any other permitted structure or principal use ¹⁴	15,000	80	30	15	15
V-B	Any permitted structure or principal use	15,000	80	30	15	15
I	Any permitted structure or use, other than those listed above for the CH Zone (footnote 9) ⁹	20,000	100	30	15	40

NOTES:

- ¹ In general, only one principal structure shall be permitted on one lot. The exceptions are planned residential developments, row commercial development, subsidized elderly housing, planned business developments, community facilities, building and construction trade shop or garage uses, public utilities, accessory single-family dwelling units (ADUs), and accessory commercial dwelling units (ACDUs) that comply with all provisions of §§ 179-42.2 and 179-42.3, respectively. ADUs may be permitted by right in the R-L, R-M and R-R zoning districts on lots of 30,000 square feet or greater, by Special Permit in these districts on lots less than 30,000 square feet, and by Special Permit in the C-H, V-B and I zoning districts. Also, residential lots may contain two single-family units if the lot is twice that required by the Table of Area Regulations for single-family residences in that district and if each unit is provided proper street access.
- ² The width of the lot, measured at the front yard setback line, shall be at least 80% of the lot frontage.
- ³ At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- ⁴ No building, except a boathouse or building used for agricultural purposes, shall be within 50 feet of any water body, watercourse or wetland area or, if subject to flooding, within 50 feet beyond its flood line to the higher elevation.
- ⁵ Projections into required yards or other required open spaces are permitted subject to the following:
Balcony or bay window, limited in total length to 1/2 the length of the building, not more than two feet.
Open terrace or steps or stoop, under four feet in height, up to 1/2 the required yard setback.
Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.
- ⁶ Accessory buildings and structures. Any permitted accessory building in any R District shall conform to the following provisions:
It shall not occupy more than 40% of the required rear yard. It shall be not less than 40 feet for R-R and R-L Districts and 30 feet for an R-M District from any street lot line and shall be not less than 25 feet in any R-R or R-L District or 20 feet in the R-M District from any lot line. It shall not exceed 30 feet in height.
A temporary stand for retail sale of agricultural or farm products, where permitted. May be six feet from the front lot line.
Any permitted barn shall be at least 50 feet from any street lot line or side or rear property line and at least 100 feet from any abutter's dwelling.
- ⁷ The front, side and rear yard clearances shown in this table for multifamily dwellings are applicable to each structure containing dwelling units. These distances should be used as though each structure is set on a separate lot. For example, two structures sitting side by side would have side yard clearances each of 30 feet or a total of 60 feet between the structures.
- ⁸ Intensity of use applications to nursing convalescent home. For purposes of interpreting the portion of this chapter, the term "unit" shall mean each bed designed for use by an individual receiving care at such facility. The first three units of a nursing/convalescent home shall require a minimum land area equal to the lot requirements for any

XXXXXX

permitted structure or principal use in the district in which located, with the exception in the C-H District, where 20,000 square feet shall be required for the first three units of a nursing/convalescent home. In all districts where such use is allowed, including by special permit, each additional unit shall require a minimum of 4,000 square feet of land area. Front, side and rear yard requirements within the respective districts where special permits are required may be increased at the discretion of the Board of Appeals, if the size of the project, proximity to incompatible adjacent uses or other factors potentially having an adverse effect on the health, safety or welfare of the persons under care at such facility justifies a more extensive buffer from property lines. The Board of Appeals shall ensure that egress from such facility shall be on a street which should be safe and adequate.

⁹ No building, loading space, parking space or structure, other than a sign, shall be located within 200 feet of the Industrial District boundary line in an Industrial District.
¹⁰ Exception, panhandle lots. This exception shall only apply to a single parcel of land at least three times the area required for a single lot in that residential district, intended to be divided or subdivided into not more than two lots. Such a division or subdivision may be exempt from any or all of the requirements of the Town of Brewster Planning Board rules and regulations, upon the express written approval of the Planning Board. The regulations for lot frontage as set forth in this section may be waived by the Planning Board upon the following conditions:

There shall be no further subdivision of the lot(s).

The lots) shall be used for single-family residential purposes.

The area of the access to the lot as determined by the Planning Board shall not be used in determining lot size.

The access to the lot as determined by the Planning Board shall not be used to provide access to any other lots.

In no event shall the lot frontage and lot width be less than 30 feet.

Multiple use of this section of this chapter shall not be used as a means of accomplishing the subdivision of land without the construction of ways.

¹¹ Cottage colony conversion. An existing nonconforming cottage colony may not be converted to a single-family dwelling use under separate ownership, unless the lot upon which each building is located complies with the minimum requirements for single-family dwellings in the zoning district in which the land is located, and such nonconforming cottage colony may not be converted to a single-family use under condominium-type ownership, unless the lot meets the minimum zoning requirements in which the land is located.

¹² For subsidized elderly housing, see S-I rather than Table 2.

¹³ An owner-occupied building containing two dwelling units, one of which shall be an accessory apartment with a net floor living area not exceeding 600 square feet, and including not more than one bedroom, a kitchen, living room and bath, shall be allowed by a special permit granted by the Board of Appeals. Such dwelling shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year-round basis, except for bona fide temporary absences during which the unit is not rented.

¹⁴ **Editor's Note:** The C-L District which immediately followed was removed at the request of the Town

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Article VIII Nonconforming Uses, Structures and Lots

§ 179-24 **Applicability.**

The provisions of this section apply to nonconforming uses, structures and lots so created by the initial enactment of this chapter or by any subsequent amendment.

§ 179-25 **Extensions and alterations.**

- A. As provided in MGL c. 40A, § 6, a nonconforming single- or two-family dwelling may be altered or extended, provided that the Inspector of Buildings determines that doing so does not increase the nonconforming nature of said structure.
- B. Other pre-existing nonconforming structures or uses may be changed, extended or altered on special permit from the Board of Appeals, if the Board of Appeals finds that such change, extension or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming use.

...

§ 179-26 **Residential lots of record.**

- B. Certain lots are exempted from current dimensional requirements by MGL c. 40A, § 6. In addition, any increase in lot area, width, depth, yard or frontage requirements shall not apply to erection, extension or alteration or moving of a structure on a lot not meeting current dimensional requirements, provided that, as of June 25, 1978, such lot was a legal building lot and had lot area of at least 5,000 square feet and street frontage of at least 50 feet. Any structure proposed to be located on such lot shall conform to the setback requirements in effect at the time of the recording or endorsement of the deed or plan creating the lot; provided, however, that if there are no applicable setbacks, the front yard setback shall be 20 feet and the side and rear yards setbacks shall be 10 feet. **[Amended 5-2-2005 ATM, Art. 26]**

Commented [J1]: Setbacks for residential buildings can be different than set out in the Zoning Bylaw's dimensional schedule/ Table 2.

STREET #	ADDRESS	TYPE	SHI (Y/N)	Deed Resitriced Program (i.e HOP, BuyDown, etc.)	BUILDING PERMIT ISSUED	CERTIFICATE OF OCCUPANCY	BY RIGHT / SPECIAL PERMIT	ACCESSORY (Bedrooms)	ADU (Bedrooms)	ACDU (Bedrooms)	ZONE 2	AFFIDAVIT REQUIRED	COMMENTS	
23	Blueberry Pond	Accessory	N	Table 2, N 13			SP 11/9/21, #21 - 27	X					No follow-up	
419	Blueberry Pond	ADU	N				By Right		X				ADU over existing garage, BD permit pulled 11/5/20	
404	Harwich Road	Accessory	N	Table 2, N 13		11/19/03	SP 5/14/19, #19-22	1			N	NO	Re-issue to new owners Map 55-Lot 67. Lot 60,000, Home:3,503 net	
	Independence 0 Way	Security Apt / Commercial	N	Security			Planning 6/12/19				Security 1	N	NO	800' Security.
1298	Long Pond	ADU	N	179-11, T1		6/29/2021	SP 7/14/20, #20-10		2		Y	YES	Zone 2, Build garage & 2 bed ADU. Lot 1.93 acres Home: 2,356; 9/28/20 Building permit pulled	
716	Main St.	ADU	N	179-42.2			SP 2/08/22, #22-02		2		N		RM district. Within existing single-family dwelling. 2 bedrooms, for adult child & spouse. <900'. Also modifications to B & B	
774	Main St	ADU	N	179-11, T1			SP 8/11/20, #20-11		X		N		Lot under 30,000', Map 26-41. Lot 22,380' Home: 4,803' mixed commercial	
3643	Main St	Apartment (pre-existing)		179-51, 42.2			SP 8/12/19, #19-25	Pre-exist			N		Amend SP, removed owner occupied restriction. Retail with Dwelling on Upper Level.	
426	Main Street	ADU	N		3/5/2021		By Right						Building Permit 3/3/21. ADU	
159	Millstone Rd	ADU	N	179-51		11/28/2016	SP 9/13/22, #22-11		1		N		Lot under 30,000', RM. Existing habitble space. 576'	
439	Paines Creek Rd	ADU	N	179-42.2B			SP 4/11/23, #23-09		1		N		Raze & replace non-conforming home & build ADU over new garage/cabana. Lot 23,943'. ADU =723'	
157	Pine Bluff Rd	Accessory	N	Table 2, N 13			SP 3/10/20, #20-02	X			N	NO	375' in attached garage. Map 52, Lot 19. Lot: 16,300' Home: 1,996	
16	Quartermaster	ADU	N	179-42.2			SP 5/14/19, #19-16		2		Y		Zone 2, Map4-Lot42, detached garage & 900'ADU, Lot: 52,708; home 2,404, BD permit pulled 4/17/20	
12	Red Fawn	Accessory	N	Table 2, N 13	1/15/2020		SP12/10/19, #19-32	1			N		Re-issuse to new owners, SP 02-02, 480', Lot 43,010, Home 2,109. 10/22/19 Building permit pulled	
9	Sara Ann	Security / Commercial	N				Planning 12/12/18				Security 2	N	NO	2nd floor 2 bedroom security approx. 1080' 3,200' commercial building
291	Satucket	ADU	N	179-42.2			SP 12/10/19, #19-35		2		Y		Zone 2, Lot 60,000 , In existing home. Home: 1,966'	
94	Satucket	ADU	N	179-42.2	8/4/2020		SP 3/12/19, #19-11		1		Y		Zone 2. Need CO. Lot: 60,000' ; Home 2,570'. Detached garage, BD permit pulled 5/20/20	
262	Satucket	ADU	N	179-42.2	12/10/2020		SP 10/8/19, #19-28		1		Y		Zone 2, Lot: 60,000'; above detached garage 864' ADU, home 4,000+	
36	Sheffield Road	Accessory	N	Table 2, N 13			SP 8/10/21 #21-21 MOD	X					Modification of SP, remove condition of family members	
40	Skaket Way	ADU	N	179-42.2		WITHDRAWN 1/20	ZBA continued, #19-33		1		N		amend ZBA 14-15	
585	Slough Rd	ADU	N	179-11 & 42.2			SP 11/12/20, #20-14						867' ADU, ZBA hearing 10/13/20 cont. to 11/10/20	
0	South Orleans Rd	ADU	N	179-51			SP 1/24/23, #23-02		2		N,DCPC		RM/DCPC, ADU above garage- adult children. Residential only, no commercial. Question about 2 bedroom, plans 1 bed/ 1 office. 864'	
111	South Orleans Rd	ADU	N	179-51			SP1/24/23,#23-01		1		N, DCPC		RM/DCPC. ADU above garage, for son. 672'	
115	South Orleans Rd	ADU	N	179-51	App 3/2023		SP 1/24/23, #23-03		1		N,DCPC		RM/DCPC. ADU above garage. 768'	
25	Sumner Lane	ADU	N	179-51			SP 2/7/23, #23-05		1				RL/Zone 2. Detached. Convert 1st floor of garage to ADU. 576'. Upgrade septic.	

7,9	Thousand Oaks	Accessory	N	Table 2, N 13		12/26/06	SP 5/14/19, #19-17	1			Y	NO	Original decision 4/2006, appx. 588". Lot:38705' Home:2552
44	Underpass	Apt / MIXED	N				Planning 4/26/17	New 1			N	NO	78-117.Mixed use building. 3 offices & 1 bedroom on 2nd floor. 1083'
0	Underpass Rd	Security Apt / Commercial	N	Security			Planning 12/18/19			Security 2	N		630' Map76-27. 2 bed security. Above 2 commercial bays
312	Underpass Rd	ACDU	N	179-11 & 42.3		2/4/2021	Planning 12/18/19			2	N		630' Map76-27. 2 bed ACDU. Above 2 commercial bays
36	Wildwood	Accessory	N	Table 2, N 13			SP 3/12/19, #19-10	1			Y	NO	594', Zone 2, approved. Lot size: 19,000. Home: 1,080
193A	Winstead Rd	AADU	N	AADU (old bylaw)		5/17/2019	SP 4/10/18, #18-01				N	NO	AADU, immediate family use only, Map 62-Lot45

Comparison of ADU Regulations by Local Towns

	Brewster	Chatham	Dennis	Eastham	Harwich*	Orleans
Year of Bylaw	November 2018	Updated May 2022	October 2022	Updated May 2022	Updated May 2023	Updated May 2021
By right?	Yes	Yes	No	Yes	Yes	Yes
Maximum size	900sf or 40% of pd	900sf	800sf or 40% of pd	1,200sf or 50% of pd	1,000sf	800sf
Maximum bedrooms	2	2, max occupancy 2/bedroom	2	2	2	--
Rental term (minimum)	12 months	12 months^	12 months	12 months	6 months	90 days
Additional off-street parking (minimum)	1 per BR	1	On-site	1	1	0
Owner occupancy requirements	Yes	No	Yes+	No (#)	Yes (Can be part-time residence)#	No
Lot size requirements	SP under 30,000sf	No	15,000sf	No	No	30,000sf CBU
Special Permit (SP) requirements	Zone 2/ Watersheds Under 30,000sf	Detached ADU, Dimensional req. not setbacks	For all, by Planning Board	Zoning District, >50% of pd, > pre nonconforming	Preexisting nonconforming setbacks or lot coverage	--
Compliance mechanism	Affidavit	Copy of rental lease	Affidavit, lease & health rent perm.	Affidavit, health registration	Affidavit, owner in residence	--
Cap/ year	20 (includes ADU & ACDU)	10 by right & 10 special permit	9	No cap	No cap	No cap
Miscellaneous	Max 2 residential units/ ADU lot. Accessory apts.	1/lot, no separation	1/lot. Res. Struct must exist on lot, no separation	1 per pd, 1 rented at a time, no separation	1 per pd, one rented at a time, no separation	Addition, not > 2% increase in lot coverage

Pd= principal dwelling sf=square feet CBU= contiguous buildable upland

* Harwich bylaw passed at Town Meeting but not yet approved by the Attorney General

+ One unit shall be owner occupied on a year-round basis, except for bona fide temporary absences during which the owner-occupied unit is not rented

Primary Dwelling and ADU cannot be rented at the same time.

^ADU shall become the principal residence of the renter within 30 days of occupancy of the ADU.

Special thanks to the CDP Resource Center for assistance in the production of this table. Information is a general summary compiled from local ADU bylaws.

CAPE COD INVENTORY OF ACCESSORY DWELLING UNIT PROVISIONS BY TOWN



	By Right	Income Restriction	Family Restriction	Long-term Deed Restriction	Short Term Rental Restriction	Owner Occupancy Requirement	Minimum Lot Size	Design Standards	Maximum Size	Lease Duration Restriction	Water Protection District Special Restrictions	Off Street Parking Requirement	Approval
<u>CCC MODEL BYLAW</u>	YES	NO	NO	NO	YES	NO	NO	YES	1,000 sf/50%/2 BR	Minimum 3 months suggested	NO	YES, but it can be waived	Building Commissioner
<u>BARNSTABLE</u>	YES	NO	NO	NO	YES (no commercial use allowed)	YES	NO	YES	900 sf/50%/2 BR	Minimum 12 months	NO	YES	Building Commissioner
<u>BOURNE</u>	NO	NO	NO	NO	YES	YES	NO	NO	NO	NO	NO	1 space	Zoning Board of Appeals
<u>BREWSTER</u>	YES	NO	NO	NO	YES	YES	NO ¹	NO	NO	Minimum 12 months	YES	1 space/BR	Building Commissioner
<u>CHATHAM</u>	YES ²	NO	NO	NO	YES	NO	NO	NO	900 sf/2 BR	Minimum 12 months	NO	1 space/BR	Building Commissioner
<u>DENNIS</u>	NO	NO	NO	NO	YES	YES	YES	YES	800 sf/40%/2BR	Minimum 12 months	NO	1 space/BR	Planning Board
<u>EASTHAM</u>	YES	NO	NO	NO	YES	NO ³	NO	NO	1,200 sf/50%/2 BR	Minimum 12 months	NO	1 space	Building Commissioner
<u>FALMOUTH</u>	YES ²	NO	NO	NO	YES	YES, 7 months	YES	YES	800 sf/40%/2 BR	Minimum 6 months	YES	YES	Building Commissioner
<u>HARWICH</u>	YES	NO	NO	NO	NO	NO	YES	YES	900 sf/50%/2 BR	NO	YES	1 space	Building Commissioner
<u>MASHPEE</u>	YES	NO	NO	NO	YES	YES	NO	YES	40%/2 BR	Minimum 30 days	NO	1 space	Building Commissioner
<u>ORLEANS</u>	YES	NO	NO	NO	YES	YES	YES	NO	800 sf	Minimum 12 months	NO	YES, as determined by Building	Building Commissioner
<u>PROVINCETOWN</u>	YES	NO	NO	YES ⁴	YES	NO	NO	NO	600 sf if free standing/40% if within principal residence	NO	NO	NO	Building Commissioner
<u>SANDWICH</u>	YES	NO	NO	NO	YES	NO	YES	NO	900 sf/2 BR	Minimum 12 months/	NO	1 space	Building Commissioner
<u>TRURO</u>	YES	NO	NO	NO	YES	NO	NO	NO	900 sf	Minimum 12 months	NO	2 spaces	Building Commissioner
<u>WELLFLEET</u>	YES	NO	NO	NO	YES	NO	NO	NO	1,200 sf	Minimum 12 months	NO	YES	Building Commissioner
<u>YARMOUTH</u>	NO	YES	YES	YES	NO	YES	YES	YES	800 sf	NO	NO	YES, as determined by Building	Zoning Board of Appeals

***Please note that this table provides only a high-level summary of zoning provisions and may not reflect exceptions, special circumstances, and other nuances contained in the full zoning bylaws. Where available, click on the town name to access the town's zoning bylaw.**

Notes: 1. Except that special permit required for lots less than 30,000 sf. 2. Except detached ADU requires Special Permit authorization. 3. Prohibition on renting both principal dwelling and accessory dwelling at same time. 4. Deed restriction for use as a year-round rental.

ADU ZONING AMENDMENT TIMELINE 2023
&
PLANNING BOARD REGULAR MEETING DATES

JUNE		JULY		AUGUST		SEPT		OCT		NOV
6/14	6/28	7/12	7/26	8/9	8/23	9/13	9/27	10/11	10/25	11/8

PB WORKPLAN
DISCUSSION

LISTENING SESSION/S

Outreach to related committees
(e.g. ZBA and Housing Partnership)
& community organizations

DRAFTING WORKSHOPS/ PB VOTE

*Hrg notice to
newspaper
(3 weeks
advance)*

|-----MGL C. 40A s. 5 Procedures-----|

PB submission to SB
SB referral to PB

Hrg Notice published
(14/7 days in advance)

Public Hearing/s

PB Vote/
Recommendation

SB Vote/ STM
Warrant Closes
(est. 10/13)

STM 11/13
PB Report

|-----INPUT: PUBLIC, STAFF, COMMITTEES, OFFICIALS -----|