

Posted April 1, 2021 @ 4:30pm by LA

**TOWN OF HARVARD
PLANNING BOARD AGENDA
MONDAY APRIL 5, 2021 @ 7:00PM**

This meeting will be held virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A. S.20. Interested individuals can listen in and participate online and/or by phone by following the link and phone number below.

Written public comments on any of the items listed below is strongly encouraged and can be submitted to lallard@harvard.ma.us until 3:00pm on April 5, 2021.

UpperTH ProWebinar is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/83738557070?pwd=M0QzNUFTZzlzcnhSQVqrNHpmUW5Mdz09>

Meeting ID: 837 3855 7070

Passcode: 369950

One tap mobile

+13126266799,,83738557070# US (Chicago)

+19294362866,,83738557070# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 837 3855 7070

Find your local number: <https://us02web.zoom.us/j/83738557070?pwd=M0QzNUFTZzlzcnhSQVqrNHpmUW5Mdz09>

New Business: a) Approval Not Required Endorsement – Callaghan, 268 Old Littleton Road

Standard Business: a) Board Member Reports

- Representatives & Liaisons Update
- Community Matters

Public Hearing:

7:30pm **Proposed Protective Bylaw Amendments Hearing**

- Add new Section 125-57 Senior Residential Development; and
- Amend Section 125-18.1 Accessory Apartment Use

Old Business: NONE

**NEXT SCHEDULED MEETING:
APRIL 26, 2021**

§125-57 Senior Residential Development

A. Purpose and Intent.

- (1) To address the town's demonstrated need for a variety of housing types, settings, and residential services to meet the needs of people as they age.
- (2) To permit the development of appropriately located, specially designed, and appropriately priced housing for seniors who would otherwise not have such housing opportunities within the town.
- (3) To provide opportunities for Harvard residents to age in place.
- (4) To allow flexibility in land use planning in order to improve site layouts, protect natural features and environmental values, and use land in harmony with neighboring properties;
- (5) To encourage the implementation of "Smart Growth" and sustainable development techniques to reduce land consumption and sprawl, provide for open space preservation, expand housing options, and encourage re-use of existing structures;
- (6) To reduce the typical costs of providing municipal services to residential developments;
- (7) To protect Harvard's rural New England character by permitting the development of residential housing in clusters and village-like settings, in a manner which is in harmony with Harvard's historic development pattern, preserves and protects its natural resources, and is pedestrian friendly.

B. Applicability.

- (1) The Planning Board may approve a site plan or grant a Special Permit for a Senior Residential Development project in accordance with this Section 125-57 based on the requirements of the applicable section below.
- (2) A Senior Residential Development is one that anticipates and is marketed to people age 55 or over or age 62 and older strictly following the U.S. Department of Housing and Urban Development (HUD) requirements (See CRF Title 24, Subpart E, 43 U.S.C. § 3601 *et seq.*, and Massachusetts General Laws Chapter 151B). Specific age-restriction criteria are provided in Section C(2) below.
- (3) Senior Residential Developments are restricted to the criteria and zoning district(s) specified in Section G. below.
- (4) The provisions of this Section are exempt for Accessory Dwelling Units (ADUs), except for Age-Appropriate Design provided in Section E. below.

C. General Compliance.

- (1) A Senior Residential Development proposal must comply with all other applicable Town Bylaws, and the applicable rules, regulations, and requirements of all departments, boards, and commissions, including the special requirements of the Historic District and the Groundwater Protection Overlay District. For development proposed as part of this Bylaw, the provisions of

Chapter 125, shall apply in full, except where inconsistent with this section. In the latter case, the provisions of this section shall supersede any such inconsistent provisions.

- (2) Age Restriction - A Senior Residential Development may impose an older persons age restriction set forth in a deed, deed rider, restrictive covenant, or other document that shall be recorded at the Registry of Deeds or registered in the Land Court. The age restriction threshold shall meet the requirements of the Housing for Older Persons Act of 1995 (HOPA). In addition:
- (a) For communities or units intended to be marketed to and occupied by residents age 62 or older, the age restriction may be comprehensive and applied to all units.
 - (b) For communities or units intended to be occupied by residents age 55 and older
 - [1] At least eighty (80%) percent of units shall be occupied by at least one (1) person who is 55 years of age or older.
 - [2] The facility must publish and adhere to policies and procedures that demonstrate the intent to operate as "55 or older" housing.
 - [3] The facility must comply with the U.S, Department of Housing and Urban Development (HUD) regulatory requirements for age verification of residents.
 - (c) The age restriction shall run with the land in perpetuity and shall be enforceable by any or all of the owners of dwelling units in the senior residential development or by the Building Commissioner of the Town of Harvard.
 - (d) Projects that intend to include a strict over-62 restriction are not eligible for inclusion in the Local Initiative Program (LIP) and shall not be eligible for the Inclusionary Housing density bonus.
 - (e) Projects that propose LIP units shall not exclude persons under 18 years of age from occupying the affordable units as long as at least one occupant is over the age of 55.

D. Basic Development Requirements.

- (1) Maximum Number of Senior Housing Dwelling Units in Harvard – The maximum number of housing units within all permitted senior residential developments in the Town of Harvard shall be limited to a number equivalent to 15% of the existing total residential housing units located in the Town of Harvard. For the purpose of this section, the number of residential housing units shall be as established by the Board of Assessors as of January 1 of the calendar year. The Planning Board may waive this limitation if the Board finds that the proposed development fulfills a critical senior housing need for the Town of Harvard or the surrounding region.
- (2) Pace of Development – A maximum of 100 units may be approved by special permit on an annual basis but no more than 30 units may be permitted in any one year. The only new Senior Residential Development units permitted over this cap period shall be accessory dwelling units.

E. Age-Appropriate Design.

A Senior Residential Development shall be designed to provide housing options in a setting that encourages and supports aging in community. Units for seniors shall be "visitable" and designed for

people as they age. At minimum, these terms mean that a Senior Residential Development shall have the following features:

- (1) At least one (1) zero-step entrance,
- (2) Doorways with a 36-inch clear passage space,
- (3) Master bedroom and an accessible en-suite bathroom located on the same floor as the kitchen, living room, and dining room, all being on the same floor as the zero-step entrance,
- (4) Master bedroom and en-suite bathroom designed and equipped for seniors and people mobility impairments, and
- (5) For developments with three or more units, the following provisions must apply:
 - (a) Covered, indoor or structured parking shall be provided.
 - (b) Compliance with the applicable accessibility requirements of the Massachusetts Architectural Access Board.
 - (c) Outdoor facilities, such as walkways, gardens, and recreation areas, shall be designed for universal access as provided in the Federal Fair Housing Act and the Americans with Disabilities Act, as amended.

F. Development Standards.

As part of the Planning Board's site plan and special permit review process, the Board shall evaluate the proposed Senior Residential Development for conformance with design standards as they may be applicable.

Development design shall conform to the requirements of the applicable section of the Harvard Protective Bylaw for the type of development described in Section G. below.

G. Senior Residential Development Types.

This bylaw provides for two (2) Senior Residential Development types as follows. General provisions covering all developments shall be provided in Sections D through F above. Applicants should also refer to Chapter 125, Sections 38, 39 and 46, as they may be applicable to the application as well.

- (1) Accessory Dwelling Units (ADUs) – Accessory Dwelling Units shall be permitted as per §125-18.1
- (2) Assisted-Living Facility – Communities that offer a multi-faceted residential setting that provides personal care services, 24-hour supervision and assistance, and activities and health-related services for seniors, located within ARV-SP districts, §125-52(L). Requirements for Assisted Living Facility developments are provided in §125-52(I).

§ 125-18.1 ~~Accessory dwelling units-apartment use.~~

[Added 3-27-1982 ATM by Art. 37; amended 4-5-1986 ATM by Art. 33; 3-25-2006 ATM by Art. 10; 11-6-2017 STM by Art. 1

Intent. The intent of this bylaw is to provide the owner of a single-family residence the ~~possibility of establishing a single and separate opportunity~~ to establish an accessory apartment dwelling unit (ADU) in a section of the residence or in an accessory building with no change in the principal use of the premises. The establishment of such ~~an accessory apartment~~ ADU will be by special permit issued by the Zoning Board of Appeals, unless otherwise specified below. The outside appearance of the premises shall remain that of a single-family residence. The ~~apartment unit~~ is for the use of a limited number of persons, with no restriction on the relationship of the occupants to the owner. To be considered a separate-apartment-unit, the apartment ADU must have its own kitchen, sleeping, and interior toilet and bath facilities, as well as a separate entrance. To be considered accessory, the apartment shall be restricted in size relative to the primary residence, and must be clearly accessory and subordinate to the principal use of the premises as a single-family residence. ~~The apartment will~~ Any such unit shall provide adequate privacy, safety, and convenience for the occupants. Establishment of ~~such an ADU accessory apartment is~~ shall be as follows:

A. Requirements. ~~By special permit from the Board of Appeals, one accessory apartment~~

- (1) Number and approach: One (1) ADU on a premises can be established, provided the applicant demonstrates that adherence with the provisions of this section:
 - (a) By special permit from the Zoning Board of Appeals, or
 - (b) By right, provided the unit is designed and constructed according to the Age-Appropriate Design Criteria as defined in §125-57E of the Protective Bylaw.
- (2) Dimensional requirements: The unit or units shall meet the following dimensional limitations:
 - (a) The ADU, whether located in a detached accessory structure or in the primary residence structure, shall occupy a maximum of 1,500 square feet, but in no case shall the total square footage of the ADU exceed one-half (1/2) of the total habitable floor area of the primary residence.
 - (b) Consistent with Minimum Square Footage (State Sanitary Code, Chapter II,105 CMR 410.000).
- (3) Design: Accessory dwelling units shall be designed and constructed as follows:
 - (a) The outside appearance of the residence and premises shall remain that of a single-family home.
 - (b) The ADU shall have its own separate entrance from the outside.
 - (c) The ADU shall have its own kitchen, sleeping, interior toilet, and bathing facilities.
 - (d) The rooms in the ADU shall have adequate ventilation and shall have heat that is adequately supplied and controlled.

(e) The ADU shall comply with all health and safety requirements for residences.

(4) Water and wastewater: The creation of any ADU must comply with 310 CMR 15.000: Septic Systems ("Title 5") and its successors and standard Board of Health regulations for any increase in bedrooms being served by the system.

~~(1) The outside appearance of the residence and premises shall remain that of a single family premises.~~

~~(2) The apartment, whether located in a detached accessory structure or in the primary residence structure, shall occupy a maximum of 1,200 square feet, but no more than 1/3 of the total usable floor area of both the apartment and the primary residence.~~

~~(3) The apartment shall have its own separate entrance from the outside.~~

~~(4) The apartment shall have its own kitchen, sleeping, interior toilet and bathing facilities.~~

~~(5) The rooms in the apartment shall have adequate ventilation and shall have heat that is adequately supplied and controlled.~~

~~(6) The apartment shall have smoke and/or fire detectors.~~

~~(7) If the creation of the accessory apartment involves an increase in the count of the number of bedrooms, the addition must comply with standard Board of Health regulations for such an increase.~~

B. Limitations. The special permit and/or building permit shall be issued only if it the application contains the following limitations and conditions:

(1) The premises owner(s) shall continue to be used reside on the property as a their principal residence by its owner.

(2) The number of residents of the apartment occupancy of any ADU shall be is limited to three, but no more than the number which the Board of Appeals finds to be is consistent with the adequacy of the facilities provided. consistent with the requirements of 105 CMR 410.000.

(3) All turnaround and parking areas shall be provided on the lot. As viewed from the street, turnaround and parking area should be that of a single-family premises home.

C. Site plan standards. A special permit and/or building permit issued under this section, by itself, does not require separate site plan review under §-125-39. However, if any ADU results in new building area on the lot, an engineered site plan shall be required showing the addition and all relevant zoning dimensions to determine compliance with this section.

D. Review and approval. Accessory dwelling units shall be reviewed based on whether the unit includes age-appropriate design features as follows:

(1) For accessory dwelling units that are not designed according to the Age-Appropriate Design Criteria provided in §125-57(E). Age-appropriate design, applicants are required to apply to the Zoning Board of Appeals for a Special Permit. Applications shall include an application form.

filing fee, engineered site plan as applicable, and building plans and elevations showing sufficient detail to determine compliance with this section.

- (2) For accessory dwelling units that are designed according to the Age-Appropriate Design Criteria provided in §125-57(E), Age-appropriate design, applicants are required to apply to the Building Commissioner for a building permit. Applications shall include an application form, filing fee, engineered site plan as applicable, and building plans and elevations showing sufficient detail to determine compliance with this section.
- (3) A copy of the application packet shall be provided to other interested Town boards, officials and departments for advice and recommendations. Board of Health approval shall be required.

