PU-ADU Compliance Amendment

LUC/PB Joint Hearing

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Kortney Cena, Senior Planner
Strategy and Development Department (SDD)
Planning Division

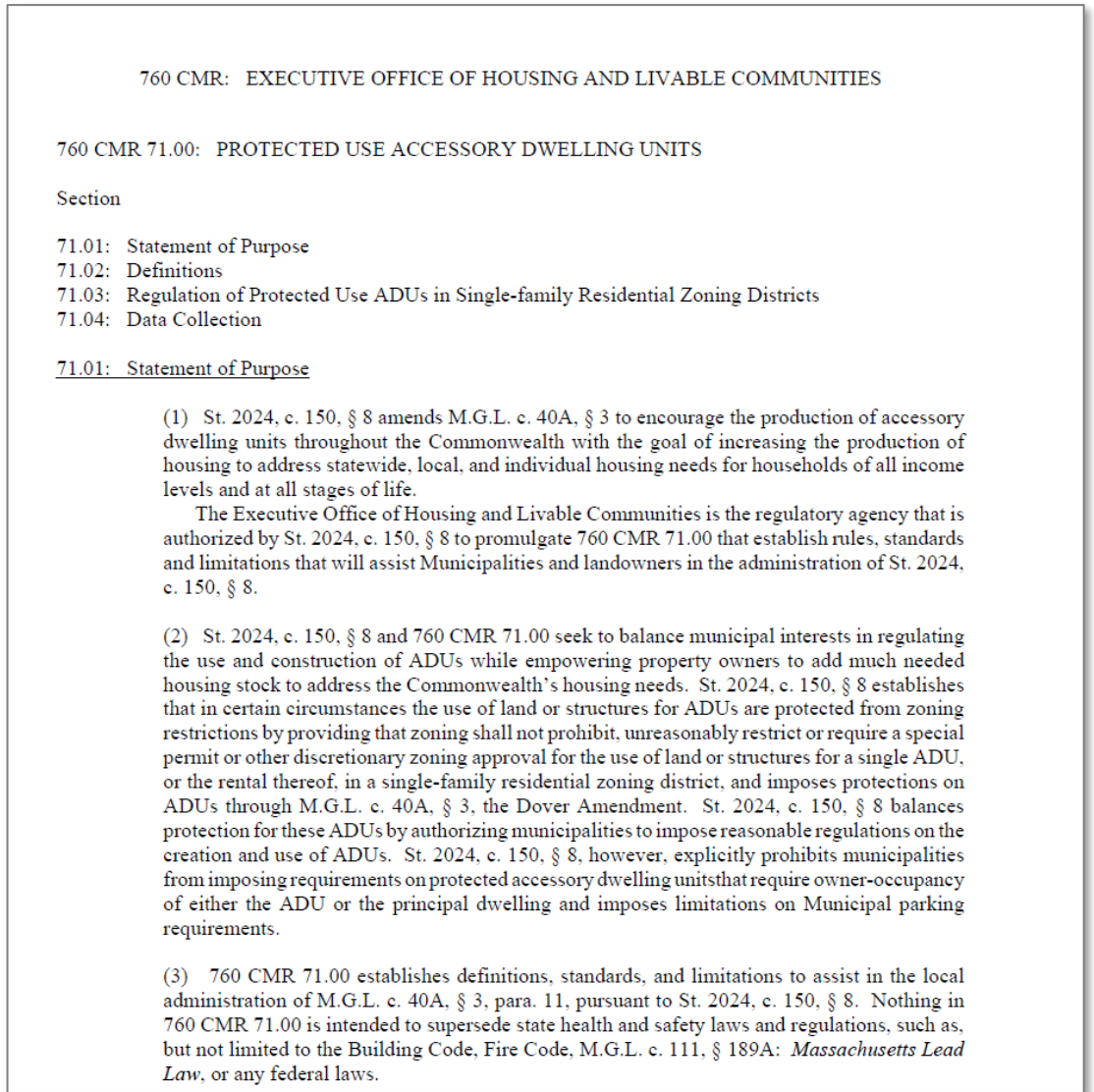
Review 760 CMR 71.00

How the Protected Use Accessory Dwelling Unit (PU ADU) Law Applies to Somerville

- Somerville **must allow** a PU ADU to be developed and used in any zoning district which allows a Single-Family Residential Dwelling
  - NR and UR

Standards

- The standards for this PU ADU cannot be more restrictive than they are for the principal building
  - Applies to Dimensional Standards
  - Applies to Design Standards
  - Somerville MAY regulate the size of the PU ADU
- PU ADUs can be internal OR external
- No requirements for occupants (including income / affordability requirements) allowed



760 CMR: EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES

760 CMR 71.00: PROTECTED USE ACCESSORY DWELLING UNITS

Section

71.01: Statement of Purpose
71.02: Definitions
71.03: Regulation of Protected Use ADUs in Single-family Residential Zoning Districts
71.04: Data Collection

71.01: Statement of Purpose

(1) St. 2024, c. 150, § 8 amends M.G.L. c. 40A, § 3 to encourage the production of accessory dwelling units throughout the Commonwealth with the goal of increasing the production of housing to address statewide, local, and individual housing needs for households of all income levels and at all stages of life.

The Executive Office of Housing and Livable Communities is the regulatory agency that is authorized by St. 2024, c. 150, § 8 to promulgate 760 CMR 71.00 that establish rules, standards and limitations that will assist Municipalities and landowners in the administration of St. 2024, c. 150, § 8.

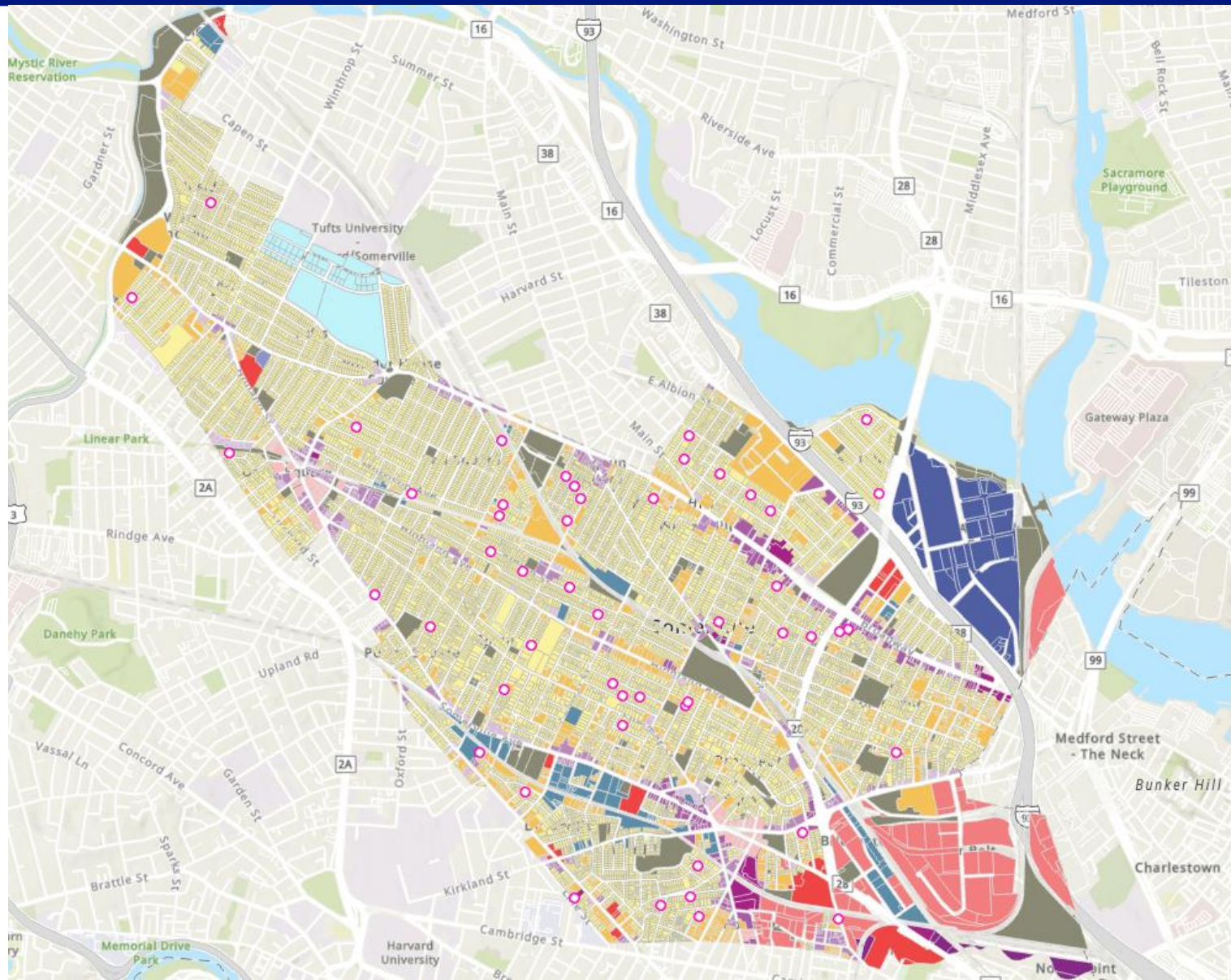
(2) St. 2024, c. 150, § 8 and 760 CMR 71.00 seek to balance municipal interests in regulating the use and construction of ADUs while empowering property owners to add much needed housing stock to address the Commonwealth's housing needs. St. 2024, c. 150, § 8 establishes that in certain circumstances the use of land or structures for ADUs are protected from zoning restrictions by providing that zoning shall not prohibit, unreasonably restrict or require a special permit or other discretionary zoning approval for the use of land or structures for a single ADU, or the rental thereof, in a single-family residential zoning district, and imposes protections on ADUs through M.G.L. c. 40A, § 3, the Dover Amendment. St. 2024, c. 150, § 8 balances protection for these ADUs by authorizing municipalities to impose reasonable regulations on the creation and use of ADUs. St. 2024, c. 150, § 8, however, explicitly prohibits municipalities from imposing requirements on protected accessory dwelling unitsthat require owner-occupancy of either the ADU or the principal dwelling and imposes limitations on Municipal parking requirements.

(3) 760 CMR 71.00 establishes definitions, standards, and limitations to assist in the local administration of M.G.L. c. 40A, § 3, para. 11, pursuant to St. 2024, c. 150, § 8. Nothing in 760 CMR 71.00 is intended to supersede state health and safety laws and regulations, such as, but not limited to the Building Code, Fire Code, M.G.L. c. 111, § 189A: *Massachusetts Lead Law*, or any federal laws.

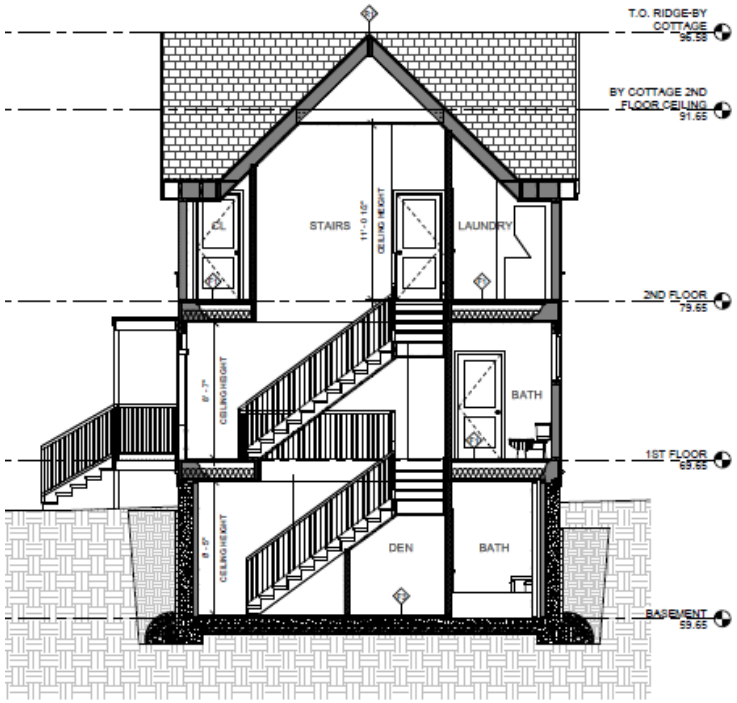
Other Research

Research Conducted in Support of this Amendment:

- Workshops with ISD and other departments
- Analytical Report of Backyard Cottages (and other ADUs) built in Somerville from Feb 2022 - July 2026
- Interviews with Industry Experts (ex. Reframe)
- Focus Groups with Architects and Developers experienced in building Backyard Cottages



The Typical Backyard Cottage



Dimensions:

- 24 ft x 24 ft = 576 sq ft
- Total: About 1,728 sq ft (576 x 3)
  - First Floor
  - Second Floor: “half story”
  - Basement

Type:

- 2 bedrooms

Height:

- 1.5 Stories + a Basement
- ~30 ft

Roof:

- Usually cross gable dormer, covers whole depth

Top Takeaways from Interviews & Focus Groups

Backyard Cottages, of current size, are in high demand

- Frequent inquiries from homeowners and prospective buyers
- Allow multigenerational living, growing families, working couples
- Provide most affordable option for a standalone unit in the City
- Third-bedroom BYCs are particularly marketable because they appeal to young families and shared living arrangements

Dimensional flexibility is often more valuable than increasing maximum square footage

- Important for modular units and for irregular lots
- Construction costs do not decrease proportionally with smaller buildings

Adaptive reuse projects are too challenging at the moment

- Designers would like to more easily convert existing garages and accessory structures into accessory dwelling units

Ambiguity in the zoning ordinance creates legal uncertainty ($$$)

- Ambiguity is a major deterrent for development

Approach

Issue:

- Backyard Cottages have dimensional standards that are largely more restrictive than those for principal buildings
- Creates conflicts between SZO and State PU ADU protections, some grey area and uncertainty about how the two interact

Goals:

- Clearly align the SZO with the requirements of 760 CMR 71.00
- Maintain the feasibility of desirable Backyard Cottage and PU ADU development
- Provide ISD with clear, consistent, and defensible standards for administering the SZO
- Support broader efforts to streamline and clarify the permitting process

Proposed Approach:

- Align Backyard Cottage dimensional standards with the applicable standards for principal buildings, consistent with State requirements for PU ADUs
- Maintain size and purpose of the Backyard Cottage
    - Establish a maximum Gross Floor Area to maintain the intended scale of Backyard Cottages while avoiding dimensional standards that could conflict with State law

Approach

Upcoming Amendments Related to this Amendment:

- Terminology
  - Renames Affordable Dwelling Unit to prevent confusion with Accessory Dwelling Unit
- Accessory Structures
  - Clarify minimum standards for all accessory structures (including those that can be co-opted by the Protected Use ADU)

Proposed Redlines

Summary of the Redlines

3.1 Neighborhood Residence

- 3.1.3 Purpose
- 3.1.6 Building Types
- 3.1.8 Detached House
- 3.1.9 Semi-Detached House
- 3.1.10 Duplex
- 3.1.11 Detached Triple Decker
- 3.1.12 Backyard Cottage
- 3.1.13 Building Components
- 3.1.16 Use Provisions

3.2 Urban Residence

- 3.2.6 Building Types

Adaptive Reuse of Existing Structures into Accessory Dwelling Units

3.1.3 Purpose

a. To permit the development of one-, two-, and three-unit detached and semi-detached residential buildings on individual lots.

b. To permit contextual modifications to existing detached and semi-detached residential buildings.

c. To permit the adaptive reuse of certain existing nonconforming buildings for arts & creative enterprise and retail uses compatible with residential areas.

d. To create dwelling unit types, sizes, and bedroom counts ideal for larger households in houses, Semi-Attached Houses, Duplexes, and Triple Deckers.

e. To create dwelling unit types, sizes, and bedroom counts ideal for smaller households in Cottages and Backyard Cottages.

f. To permit the adaptive reuse of existing accessory structures, including nonconforming structures, for accessory dwelling units.

3.1.16 Use Provisions

b. Adaptive Re-use of Specific Building Types

i. The use of any commercial building type constructed before the adoption date of this Ordinance, as established by permit records or other historical documents accepted by the Building Official, is permitted only as specified in the second column of Table 3.1.16 The following standards apply:

a). Business operations are permitted only between the hours of 7:00am to 9:00 pm.

b). In addition to the review criteria for all Special Permits specified in §15.2.1.e Review Criteria, the review board shall make findings considering the following in its discretion to approve or deny a Special Permit authorizing a Veterinarian or Health Care Services specific use to occupy a commercial building.

i). Compatibility with the level of activity associated with the surrounding properties.

ii). The existing concentration of uses from the same use category within the neighborhood.

iii). The availability of the same services within the neighborhood.

iv). The availability of comparable commercial spaces within the neighborhood.

ii. An existing accessory structure, such as garage or outbuilding, may be adapted for use as an accessory dwelling unit provided that;

a). The conversion does not increase the structure's existing nonconformity

b). The conversion does not create a new nonconformity

c). The minimum front-facing fenestration requirements are met

iii. Any modification that results in greater conformity to this Ordinance is permitted.

Affected Sections:

- 3.1.3 Purpose
- 3.1.16 Use Provisions

Amendment:

- Adds language clarifying that the adaptive reuse of existing structures, including nonconforming structures, into accessory dwelling units is allowed
- Does not allow increase in nonconformity
- Must meet fenestration standards in front

Context:

- CMR 71.00 clearly allows adaptive reuse of existing structures, including non-conforming structures, into accessory dwelling units.

Internal and External Accessory Dwelling Units

3.1.6 Building Types

a. One (1) principal building and one (1) accessory dwelling unit ~~building~~ are permitted on each lot.

b. Unless otherwise specified, the following principal building types are permitted by right in the Neighborhood Residence district:
   i. Cottage
   ii. Detached House
   iii. Semi-Detached House
   iv. Duplex
   v. Detached Triple Decker

c. The following ~~accessory~~ building types for external accessory dwelling units are permitted by right in the Neighborhood Residence district:
   i. Backyard Cottage

d. An internal accessory dwelling unit located within, or as an attached part of, a principal structure is permitted by right in the Neighborhood Residence district provided it:
   i. Complies with all applicable requirements of 760 CMR 71.00.
   ii. Does not create a new nonconformity or increase the extent of an existing nonconformity.

e. Accessory structures are regulated according to Article 10: Development Standards of this Ordinance.

(Ord. 2023-23, 11/21/2023)

3.2.6 Building Types

a. One (1) principal building and one (1) accessory dwelling unit is permitted on each lot.

b. The following principal building types are permitted by right in the Urban Residence district:
   i. Semi-Detached Triple Decker
   ii. Multi-Plex
   iii. Apartment House
   iv. Apartment Building
   v. Row Houses
   vi. Any principal building type or accessory dwelling unit permitted in the NR district, in accordance with the standards of that district.

c. Accessory structures are regulated according to Article 10: Development Standards of this Ordinance.

Affected Sections:

- 3.1.6 Building Types
- 3.2.6 Building Types

Amendment:

- Clarifies the Backyard Cottage is an accessory dwelling unit
- Clearly limits what can be built on a single lot to 1 principal building and 1 accessory dwelling unit
- Clarifies treatment of external and internal accessory dwelling units

Context:

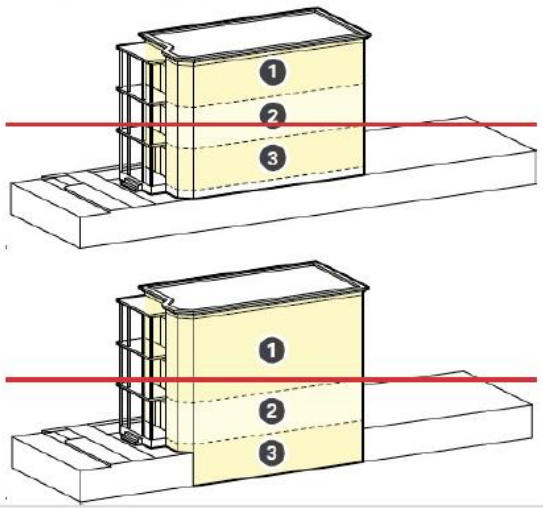
- 760 CMR 71.00 only requires 1 protected use Accessory dwelling unit per lot
- 760 CMR 71.00 applies to both NR and UR

Remove Orientation Restrictions

a. Housing

i. Multiple dwelling units within a Detached Triple Decker building type must be, generally, stacked one over the other. ~~Common examples are shown in Figure 3.1.11. Dwelling units that are side-by-side or front-to-back in orientation are not permitted.~~

~~Figure 3.1.11 DU Orientation Examples~~



Affected Sections:

- 3.1.8 Detached House
- 3.1.9 Semi-Detached House
- 3.1.10 Duplex
- 3.1.11 Detached Triple Decker

Amendment:

- Removes some orientation restrictions

Context:

- CMR 71.00 requires that an internal accessory dwelling unit be allowed within the structure
- The orientation requirements overly restrict how units show up inside a principal building
- The public realm is not impacted by how the units are structured within the building

Simplify Description of Backyard Cottage

3.1.12 Backyard Cottage

A small floor plate, detached~~, accessory~~ building type ~~typically~~ providing space for one (1) ~~small~~ accessory dwelling unit~~, a home occupation, a playhouse for children, or vehicular parking~~ on the same lot as a principal building type.

The following images are examples of the Backyard Cottage ~~accessory~~ building type and are intended only for illustrative purposes.

Affected Sections:

- 3.1.12 Backyard Cottage

Amendment:

- Aligns language with 3.1.6
- Removes example language

Context:

- The example language here has created some grey area, causing confusion in interpretation
- Removing the example language does not change what is allowed, it just removes this grey area

Relax Backyard Cottage Dimensional Standards & Limit the Gross Floor Area Maximum

a. Lot Standards

Lot Dimensions	
A Lot Width (min)	–
No Driveway Access	32 ft
Side or Rear Driveway Access	32 ft
Front Driveway Access	34 ft

Lot Development	
C Lot Coverage (max)	Per Principal Building
D Green Score	Per Principal Building

b. Building Placement

Building Setbacks	
A Primary Front Setback (min~~/max~~)	~~60 ft~~10 ft
B Secondary Front Setback (min~~/max~~)	10 ft
C Side Setback (min)	3 ft
E Rear Setback (min)	3 ft
Alley	3 or 20 ft
No alley	3 ft
E ~~Building Separation (min)~~	~~10 ft~~

c. Massing & Height

Main Massing	
A Width (max)	~~24 ft~~ Per Principal Building
B Depth (max)	~~32 ft~~ Per Principal Building
C ~~Floor plate (max)~~ Total Gross Floor Area (max)	~~576 ft~~ 1,750 ft
D Story Height (max)	~~12 ft~~ Per Principal Building
E Number of Stories (max)	~~1.5 stories~~ Per Principal Building
Roof Type	Flat, Gable, Per Principal Building

d. Uses & Features

Facade Composition	
A Ground Story Fenestration (min/max)	–
Residential Use	15% 50%
Vehicular Parking	0% 50%
B Upper Story Fenestration (min/max)	15% 50%

Use & Occupancy	
Dwelling Units (max)	1

Affected Sections:

- 3.1.12 Backyard Cottage

Amendment:

- Aligns dimensional standards to the least permissive of a principal building
- Limits size via Total Gross Floor Area (max)

Regulating Size by Gross Floor Area Instead of Width & Depth

c. Massing & Height

Main Massing	
A Width (max)	~~24 ft~~ Per Principal Building
B Depth (max)	~~32 ft~~ Per Principal Building
C ~~Floor plate (max)~~ Total Gross Floor Area (max)	~~576 ft~~ 1,750 ft
D Story Height (max)	~~12 ft~~ Per Principal Building
E Number of Stories (max)	~~1.5 stories~~ Per Principal Building
Roof Type	Flat, Gable, Per Principal Building

Impacts:

- Removes barriers caused by uniquely shaped lots
- Allows more design flexibility
- Units cannot go larger than limits for the principal building
- Keeps units at current sizing
  - 1,750 sq ft = size of current Backyard Cottages (576 sq ft *3)
    - Counts all floor area of a half story
    - Counts all basement floor area

Unique Lots with Backyard Cottages

Regulating Height by Gross Floor Area Instead of Stories & Half Stories

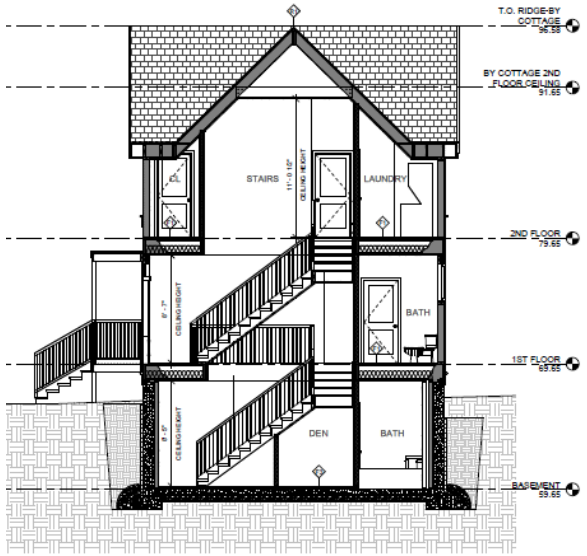
c. Massing & Height

Main Massing	
A Width (max)	~~24 ft~~ Per Principal Building
B Depth (max)	~~32 ft~~ Per Principal Building
C ~~Floor plate (max)~~ Total Gross Floor Area (max)	~~576 ft~~ 1,750 ft
D Story Height (max)	~~12 ft~~ Per Principal Building
E Number of Stories (max)	~~1.5 stories~~ Per Principal Building
Roof Type	Flat, Gable, Per Principal Building

Regulating Height by Gross Floor Area

- With the current Story + Half Story regulations, Developers are incentivized to maximize height in order to maximize usable square footage
- By regulating height with Gross Floor Area, there is no added benefit to using that square footage as a basement or as a second story

33 Cedar St



- Backyard Cottage height still limited to the same number of stories of the principal building
- Roof type can now match that of the principal building

Context for Relaxing Backyard Cottage Dimensional Standards

b. Building Placement

Building Setbacks	
A Primary Front Setback (min~~/max~~)	~~60 ft~~10 ft
B Secondary Front Setback (min~~/max~~)	10 ft
C Side Setback (min)	3 ft
E Rear Setback (min)	3 ft
Alley	3 or 20 ft
No alley	3 ft
E ~~Building Separation (min)~~	~~10 ft~~

Front Setback (min)

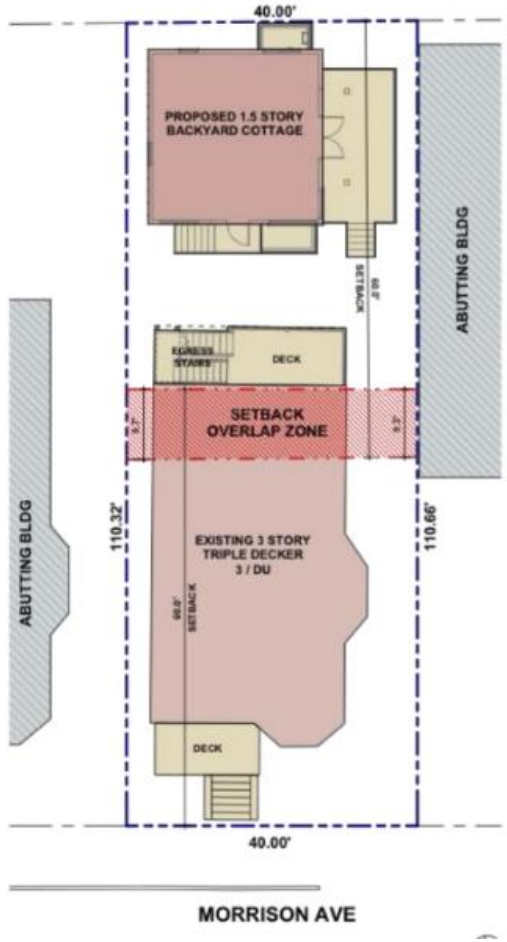
- Issues on lots with multiple frontages
- Issues on uniquely shaped lots

Building Separation

- Legal issues deter projects
- Issue already covered by building code requirements

102 Morrison Ave

EXHIBIT A — SETBACK OVERLAP DIAGRAM



Relax Building Components for Backyard Cottages

3.1.13 Building Components

a. Building components are accessory elements attached to the main massing of a ~~principal~~ building.

b. Building components are permitted as specified on Table 3.1.13.

c. Building components that are not identified on Table 3.1.13 are prohibited.

d. Unless otherwise specified, building components may attach to other building components to create assemblies of components.

Table 3.1.13 Building Components

	Cottage	Detached House	Semi-Detached House	Duplex	Detached Triple Decker	Backyard Cottage
Entry Canopy	P	P	P	P	P	P
Stoop	P	P	P	P	P	P
Portico	P	P	P	P	P	P
Projecting Porch	P	P	P	P	P	P
Engaged Porch	P	P	P	P	N	~~N~~ P
Bay	P	P	P	P	P	~~N~~ P
Gable Dormer	P	P	P	P	N	~~N~~ P
Shed Dormer	P	P	P	P	N	~~N~~ P
Cross Gable	P	P	P	P	N	P
Projecting Gable	P	P	P	P	N	~~N~~ P

Affected Sections:

- 3.1.13 Building Components

Context:

- 760 CMR 71.00 ascribes the design standards applying to the principal building to the accessory dwelling unit
- The building components must still comply with other lot and building standards (setbacks, lot coverage, etc)
- Because we are moving away from regulating by story / half story, the dormers / gables are not as impactful

Alternate Approach:

- Replace “P” with “Per Principal Building”

Desired Adjustments to the Redlines

a. Lot Standards

Lot Dimensions	
A Lot Width (min)	–
No Driveway Access	32 ft
Side or Rear Driveway Access	32 ft
Front Driveway Access	34 ft

Lot Development	
C Lot Coverage (max)	Per Principal Building
D Green Score	Per Principal Building

c. Massing & Height

Main Massing	
A Width (max)	~~24 ft~~ Per Principal Building
B Depth (max)	~~32 ft~~ Per Principal Building
C ~~Floor plate (max) Total~~ Gross Floor Area (max)	~~576 ft~~ 1,750 ft
D Story Height (max)	~~12 ft~~ Per Principal Building
E Number of Stories (max)	~~1.5 stories~~ Per Principal Building
Roof Type	Flat, Gable, Per Principal Building

f. Design Standards

i. A three (3) foot wide paved walkway capable of allowing an ambulance cot to be wheeled to and from the Backyard Cottage is required.

ii. Utility services for the Backyard Cottage must be buried underground.

iii. By order of the Fire Prevention Bureau, Backyard Cottages occupied by any permitted Residential principal use must have an automatic sprinkler system unless they are on a corner lot, a lot with a driveway leading to the Backyard Cottage, or a lot abutting an alley.

Adjustments Related to Recent EOHLC Amendments to 760 CMR 71.00:

- Makes Lot Dimensions section void
- Makes utilities requirement void

Outside Feedback:

- Remove the word “Total” from Total Gross Floor Area (max)

PDF Mistake:

- Remove Orientation Restrictions from 3.1.10

Questions? Comments?

Thank you!