




**TOWN OF
BRADLEY, MAINE**
Office of Code Enforcement,
165 B Main Street
Bradley, Maine 04411



To: Melissa Doane, Town Manager
 From: Dean Bennett, Code Enforcement Officer 
 Date: March 26, 2024
 Subject: Affordable Housing/Appeals Amendments

The State of Maine recently enacted the following laws:

Title 30-A M.R.S. §4364

“An Act to Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions”.

Title 30-A M.R.S. §4364-A

“An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units”

These laws require municipal governments to review current land use regulations to determine consistency with the new law provisions. If found inconsistent, the laws require that appropriate amendments to local land use regulations be made in order to comply with the provisions of these laws.

Housing Amendments:

In short, these laws have established density allowances throughout Maine communities, circumventing Home Rule authority, in the interest of providing more housing unit availability within Maine communities. In addition, these laws contain provisions that limit Home Rule authority over dimensional setbacks and per unit parking provisions.

In response, the Planning Board has completed these actions:

- The Bradley Planning Board has reviewed the above legislation and conducted a review of the Bradley Land Use Ordinance to determine an appropriate course of action.
- The Planning Board identified some amendments that are necessary to bring the current Land Use Ordinance into compliance.

- The Code Enforcement Officer prepared the necessary Ordinance changes.
- The Planning Board held a public hearing on the proposed (included) amendments on Wednesday March 20, 2024. There was no public comment.

Appeals Amendment

In addition to the amendments associated with the Affordable Housing Legislation, the Planning Board, at the request of the Code Enforcement Officer, has included an amendment to the Appeals Section of the Ordinance.

Recently, I was the subject of an Administrative Appeal. The Appeal was in regard to the issuance of a Building Permit in another community. My decision and action was upheld by the Zoning Board of Appeals.

The Appeal was initiated for reasons outside of the focused discussion and motivated by reasons not within the land use realm. However, the process was time consuming and expensive due to the necessity of the hiring of municipal attorneys. A six month Appeal process commenced involving multiple meetings, thousands of dollars in legal fees, and which could very well still be ongoing, as the objective of the appeal had very little to do with land use decisions.

Fortunately, the town had an updated Appeals section in the ordinance which prevented the Appeal of decisions not made, such as “the town didn’t initiate a violation” or “why didn’t the town verify x and y”, etc. It also prevented an appeal of non-action. In short, the standard language for Appeals sections of Land Use Ordinances no longer adequately protects the taxpayer.

The adoption of this recommended Appeals language could prove potentially valuable in the future in that it limits and directs Appeals actions by targeting specific issues raised, rather than opening up a “Pandora’s box”, of what if’s and why’s being litigated.

Recommendation:

The Planning Board and the Code Enforcement Officer recommend the passage of the attached amendments to comply with State Law obligations and to better protect the taxpayer from fraudulent or unnecessarily expensive litigation.

SECTION IV: SCHEDULE OF USES (Cont.)

<u>ACTIVITIES</u>				
3. RESIDENTIAL	VD	RD	MD	RRD
a) Single-Family Detached Dwelling;	C	C	C	C
b) Single-Family Mobile Home, in Park;	C	C	C	N
c) Single-Family Mobile Home;	C	C	C	C
d) Two-Family Dwelling: Two Unit or Duplex;	C	C	C	C
e) Multi-Family Dwelling: 3 or more	P	P	P	N
f) Mobile Home Park;	P	P	P	N
g) Nursing Home/Boarding Care;	P	P	P	N
h) Home Occupation;	C	C	C	C
Accessory Dwellings/Apartments i) Maximum of 3 in Growth Areas* j) Maximum of 2 in Rural Areas* *Pending Subsurface Compliance); *Planning Board Review if Subdivision	C/P*	C/P*	C/P*	C/P*
k) Accessory uses or structures that are essential for the exercises of uses listed above.	C	C	C	C

SECTION V: LAND USE STANDARDS (Cont.)

A. DIMENSIONAL REQUIREMENTS

All structures and uses shall conform to the following dimensional requirements:

Village District (VD)

Dimensional Requirements

	<u>Public Sewer or Water</u>	<u>Septic & Well</u>
Minimum Lot Size	½ Acre	1 Acre
Minimum Lot Size Per Dwelling <i>Unit</i>	½ Acre	1 Acre
Minimum Road Frontage	50 Feet	50 Feet
Minimum Setback from Property Line to Nearest Point of any Structure, including eaves, porches, decks, steps, ramps, etc., but not including patios or patio-like structures at ground levels:		
Front Yard	30 Feet	50 Feet
Side & Rear Yard		
Principal Structure	15 Feet	20 Feet
Accessory Structure	10 Feet	10 Feet
Maximum Building Height	35 Feet	35 Feet

SECTION V: LAND USE STANDARDS (Cont.)

B. DIMENSIONAL REQUIREMENTS (Cont.)

All structures and uses shall conform to the following dimensional requirements:

Residential District (RD)

Dimensional Requirements

Minimum Lot Size	1 Acre
Minimum Lot Size Per <u>Unit</u> Dwelling	1 Acre
Minimum Road Frontage	150 Feet

Minimum Setback from Property Line to Nearest Point of any Structure, including eaves, porches, decks, steps, ramps, etc., but not including patios or patio-like structures at ground levels:

Front Yard	50 Feet
Side & Rear Yard	
Principal Structure	20 Feet
Accessory Structure	10 Feet
Maximum Building Height	35 Feet

SECTION V: LAND USE STANDARDS (Cont.)

B. DIMENSIONAL REQUIREMENTS (Cont.)

All structures and uses shall conform to the following dimensional requirements:

Mixed District (MD)

Dimensional Requirements

Minimum Lot Size	1 Acre
Minimum Lot Size Per Dwelling <i>Unit</i>	1 Acre
Minimum Road Frontage	150 Feet

Minimum Setback from Property Line to Nearest Point of any Structure, including eaves, porches, decks, steps, ramps, etc., but not including patios or patio-like structures at ground levels:

Front Yard	50 Feet
Side & Rear Yard	
Principal Structure	20 Feet
Accessory Structure	10 Feet

Maximum Building Height	35 Feet
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SECTION V: LAND USE STANDARDS (Cont.)

B. DIMENSIONAL REQUIREMENTS (Cont.)

All structures and uses shall conform to the following dimensional requirements:

Rural Resource District (RRD)

Dimensional Requirements

Minimum Lot Size 10 Acres

Minimum Lot Size Per Dwelling Unit 10 Acres

Minimum Road Frontage 250 Feet

Minimum Setback from Property Line to Nearest Point of any Structure, including eaves, porches, decks, steps, ramps, etc., but not including patios or patio-like structures at ground levels:

Front Yard 50 Feet

Side & Rear Yard

Principal Structure 20 Feet

Accessory Structure 10 Feet

Maximum Building Height 35 Feet

SECTION VII: DEFINITIONS (Cont.)

B. DEFINITIONS (Cont.)

Accessory Dwelling/Apartment: *Living area within a home, addition to a home, or contained in a detached or accessory structure, that contain plumbing and cooking facilities which serves the purpose of providing living space.*

Structural Terms:

Building: Any structure, maintained, or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. This term is inclusive of any use thereof. Where independent units with separate entrances are divided by walls, each unit is a building.

Building, Accessory: A building which (1) is subordinate in area, extent and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

Building, Principal: A building (structure) in which is conducted or in which is intended to be conducted, the main or primary use of the lot on which it is located.

Dwelling: A building or portion thereof, used exclusively for residential occupancy, including single-family, two-family and multiple family dwellings.

Dwelling Unit/Apartment: A room, *building,* or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating. *Considered to be accessory to a primary dwelling.*

Dwelling, Single Family Detached: A dwelling designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

Dwelling, Two Family: A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.

A. APPEALS

A. ADMINISTRATIVE APPEALS

The Board of Appeals shall hear and decide appeals where it is alleged that there is *an error in any erroring any* order, requirement, decision, or determination made by, *or failure to act by,* the Code Enforcement Officer or the Planning Board in the administration of this Ordinance. When errors of administrative procedures or interpretation are found, the case shall be remanded to the Code Enforcement Officer or Planning Board for correction.

When hearing an Appeal of a decision made by the Planning Board or the Code Enforcement Officer that did not require a butter notification or a public hearing, the Board shall act in a "de novo" capacity, the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of the evidence and the law, make findings of fact, and reach its own decision.

When hearing an Appeal of a decision made by the Planning Board or Code Enforcement Officer that required either a butter notification or a public hearing, the Board of Appeals shall act in an appellate capacity and shall make its decision based on the record presented to it from the Planning Board or Code Enforcement Officer.

Enforcement decisions made by the Code Enforcement Officer are not appealable.