

# *Town of Derry*

*"Derry, New Hampshire's Place to Be"*

## **LEGAL NOTICE**

The Planning Board for the Town of Derry will hold a public hearing on **Wednesday, May 17, 2017, at 7:00 p.m.** at the Derry Municipal Center, 14 Manning Street, to review the following proposal(s).

Thomas & Sherry Dunne  
Steven & Patti Ricker  
15 & 17 Elwood Road  
PIDs 14029-033 & 014029-034  
Acceptance/Review, Lot Line Adjustment

The Planning Board for the Town of Derry will also review the following proposed amendments to the Town of Derry Zoning Ordinance.

### Relating to Accessory Dwelling Units

Article II, Section 165-5, Definitions to add a definition for Accessory Dwelling Unit and Article III, General Provisions, Section 165-25 to revise the provisions regarding the creation of an Accessory Dwelling Unit.

The purpose of the changes is to conform to recent changes in the State RSAs.

Full text of the proposed amendments are available at the Office of the Town Clerk, 14 Manning Street, the Derry Public Library at 64 East Broadway, and the Planning Department at 14 Manning Street. The proposed amendments may also be viewed on line at <http://www.derrynh.org/planning-board>

POSTED: MAY 02, 2017

Derry Municipal Center  
Derry Public Library & Taylor Library (by e-mail)  
Union Leader for publication, May 05, 2017

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*Website: [www.derry-nh.org](http://www.derry-nh.org)*

## ARTICLE II WORD USAGE AND DEFINITIONS

### **Section 165-4 Word Usage**

For the purpose of this chapter, certain terms or words herein shall be interpreted as follows:

- A. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.
- C. The words “shall” and “will” are mandatory; the word “may” is permissive.

### **Section 165-5 Definitions**

For the purpose of this chapter, certain terms or words herein shall be interpreted as follows:

**ABUTTER** — Abutter means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration.

**ACCESS DRIVE** – A private vehicular right of way providing access from an approved public street to a single multifamily residential or nonresidential building lot. (Effective 7/15/07)

**ACCESSORY DWELLING UNIT** – A residential living unit that is within or attached to a single family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

**ACCESSORY USE** — A building or use subordinate and customarily incidental to the main building or use on the same lot. The term "accessory building" when used in connection with agriculture shall include all buildings customarily used for farm purposes.

**ADVERTISING DEVICE:** Shall include any billboard, sign, notice, poster, display figure, painting, message, placard card or any other device which is designated or intended to attract or which attracts the attention of operators of motor vehicles and/or pedestrians and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in conjunction therewith. (Effective 2/07/2014)

**AGRICULTURE** — Any area of land, including structures thereon, that is used for agricultural purposes, including forestry. This includes the raising of cows, horses, poultry, and other livestock; horticulture and orchards; logging of a forest, woodland, or plantation; selling of products primarily grown or raised directly on such land; and the building, altering or maintaining of woods roads, agricultural roads, skidways, landings, fences, drainage systems, and farm ponds. Any such use shall be deemed to be a permitted use only if it is conducted in accordance with the restrictions of the current Town of Derry and State Health

and Sanitary Codes and the Best Management Practices for Animal Husbandry, as published by the New Hampshire Department of Agriculture, Markets and Food, most recent edition. (Revised 06/14/2012)

### ARTICLE III GENERAL PROVISIONS

#### **Section 165-25 Accessory ~~Apartment~~Dwelling Unit**

The creation of an accessory ~~apartment-dwelling unit~~ in an existing single family detached dwelling shall be subject to all of the following conditions:

- a. The lot on which the existing single family detached dwelling is situated must have the minimum area required for the zoning district in which it is located.
- b. ~~Where municipal sewer is not provided, the owner shall have written approval from the Water Supply and Pollution Control Division of the New Hampshire Department of Environmental Services stating that the septic system meets the requirements for the combined use. Adequate provisions for sewer discharge disposal shall be required in accordance with state law.~~
- c. Off-street parking shall be provided for at least four vehicles.
- d. ~~The total floor area of the existing structure cannot be increased by more than 10% to accommodate the accessory apartment.~~
- e. ~~The floor area of the accessory dwelling area shall not exceed 800 square feet of living space. The floor area of the accessory apartment cannot exceed 600 square feet, nor can the floor area of the existing dwelling unit be decreased to less than 800 square feet. (Effective 11/17/05)~~
- f.d. The accessory ~~apartment-dwelling unit~~ must be contained within or be attached to the existing dwelling or be within a structure which is attached to the existing dwelling, and include an interior door which shall be provided between the principal dwelling unit and the accessory dwelling unit.
- g.e. The conversion of an independent free-standing accessory structure for the purpose of creating an accessory ~~apartment-dwelling unit~~ is prohibited.
- h.f. The accessory ~~apartment-dwelling unit~~ shall be composed of ~~and limited to~~ a kitchen, a living room, ~~one bedroom, and a bathroom. a bathroom, and one or two bedrooms.~~
- i.g. Room sizes ~~in the primary dwelling unit and~~ in the accessory ~~apartment-dwelling unit~~ must conform to the minimum requirements of the International Residential Code. (Effective 11/17/05, Rev.)
- j.h. Once an accessory ~~apartment-dwelling unit~~ is created under this section, no further conversion of the structure will be allowed for purposes of creating an additional dwelling unit.

~~k. An accessory apartment shall not be permitted in conjunction with any special exception.~~

~~l. An accessory apartment shall not be permitted if a variance has already been granted or would be needed for the lot with respect to the provisions of Section 165-7, subsections A and B, or of Sections 165-8, 165-9, 165-10 or 165-12.~~

i. The structure and the lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single family dwelling.

j. The design of any addition required to facilitate the construction of an accessory dwelling unit shall maintain continuity with the look of the primary dwelling unit.

m.k. Owner occupancy must occur in either the primary or accessory dwelling unit.