



To: Paul A. Croce, Chairman
Planning Board members

From: Ron Wolanski, Town Planner

Date: January 3, 2023

Re: Proposed Zoning Ordinance Amendments – Accessory Dwelling Units

This item was continued to the January 11th Planning Board meeting for a draft ordinance that prohibits ADUs to be prepared by the Town Solicitor's office. This draft, once provided, will be considered as an alternative to the previously provide draft amendments discussed below. I will provide additional information as it becomes available.

During the last legislative session, the Rhode Island General Assembly passed a law which modifies provisions of the state zoning enabling act regarding accessory dwelling units (ADUs). Sections 45-24-73 thru 76 of the act now require the following if a municipality chooses to allow ADUs. Note that towns are not required to allow ADUs, except when proposed for an elderly, disabled, or other family member:

- If the town chooses to allow ADUs, they must be allowed by right in residential zoning districts with minimum lot sizes of 20,000 sq.ft. or larger.
- Occupancy of ADUs cannot be restricted to family members only.
- ADUs must be allowed by right within a principal structure or accessory structure, except that a special use permit may be required if the ADU is proposed within a nonconforming structure.
- ADUs must be allowed in single-family as well as multi-family structures.
- Reasonable regulation of ADUs is permitted.
- The Town could choose to prohibit ADUs, excepted as must be permitted under state law.

For the December meeting staff provided a draft document (attached) identifying proposed amendments to Article 16 of the current zoning ordinance, which if adopted, would result in the following:

- ADUs would be a permitted use in the R-20, R-30, R-40, and R-60 zoning districts.
- Allowed in principal or accessory structures
- ADUs would limited to no more than 35% of the floor area of the principal dwelling, with a minimum floor area of 400 sq.ft.
- Limit of one ADU per parcel.
- ADUs limited to two bedrooms.
- One additional parking space required for each ADU bedroom.
- Short-term rentals on parcels with a ADU would be limited to what was allowed prior to establishment of the ADU.
- If proposed in an accessory structure, the structure must meet setbacks required for a principal structure, except that the rear setback must be a minimum of 15 feet.
- ADUs may be established in a legal pre-existing nonconforming structure with the issuance of a special use permit.

Once the Board has considered the proposed amendments, and determined which version it would like to proceed with, the Board may choose to hold a public workshop meeting to present the proposed

amendments and accept public input prior to taking action. Once forwarded to the Town Council, the Town Council will then hold the required public hearing before the amendments are finally considered for adoption. In support of its recommendation to the Town Council on a zoning ordinance amendment the Planning Board must make the following findings in accordance with the requirements of Section 45-24-52 of the Rhode Island General Laws:

- (1) The proposed amendment is generally consistent with the Middletown Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and
- (2) This recommendation is made in recognition and consideration of each of the applicable purposes of zoning, as presented in § 45-24-30 RIGL

Thank you for your consideration. Please contact me with any questions.

Cc: Town Solicitor

ARTICLE 16 ACCESSORY ~~FAMILY~~ DWELLING UNIT

§ 1600 PURPOSE.

The purpose of this subchapter is to allow establishment of an Accessory Dwelling Unit within the principal dwelling or within an accessory structure located on the same parcel as the principal dwelling, parent(s), grandparent(s), children or grandchildren of owner-occupant of single-family dwellings to live in a separate dwelling unit within the principal dwelling, without converting the principal dwelling into a two-family dwelling from it's classification as a single-, two-, or multi-family dwelling.

§ 1601 REQUIREMENTS.

~~—(A)—~~ No part of any dwelling or parcel shall be used as an Accessory family Dwelling Unit until ~~the Zoning Board of Review has granted a special use permit under Article 9;~~ all requirements of this subchapter are satisfied; and the Zoning Officer has issued a certificate of zoning compliance under § 311.

An Accessory Dwelling Unit may be contained within the principal single-, two-, family or multi-family dwelling structure or in an accessory structure on a parcel that contains a single-, two-, or family or multi-family dwelling structure as the principal use.

(A) ~~—(B)—~~ Size. The total floor space devoted to an Accessory family Dwelling Unit shall not exceed 35% of the floor area of the ~~entire principal~~ dwelling exclusive of porches, decks or basements, and shall be a minimum of 400 square feet in gross floor area. Only one accessory ~~family~~ dwelling unit is permitted ~~in a principal dwelling unit on a parcel, and the~~ The Accessory family Dwelling Unit shall have no more than ~~one~~two bedrooms and shall not have a separate outside door on the front of the building if contained in a principal dwelling structure. ~~The property containing an accessory family dwelling unit shall retain the appearance and character of a single-family property.~~

(B) Setbacks. Should the Accessory Dwelling Unit be located in an accessory structure, said accessory structure must conform with the setback requirements as that of the primary structure as set forth in § 603 provided, however, that in no case shall the rear setback for an accessory structure used as an Accessory Dwelling Unit be less than 15 feet.

(C) Parking. One off-street parking space must be provided for the Accessory Dwelling Unit, per bedroom, in addition to the number of off-street parking spaces required by this chapter for the principal dwelling and any other uses on the property.

(D) Short-Term Rentals. Where an Accessory Dwelling Unit is established, short-term rentals as defined in Chapter 98 of the Town Code are prohibited on the property beyond that which would be permissible prior to the establishment of the Accessory Dwelling Unit.

~~—(C)—~~ ~~The right to use part of a single-family dwelling as an accessory family dwelling unit shall automatically be terminated when the accessory unit is no longer occupied by parent(s), grandparent(s) children or grandchildren of the primary dwelling occupant.~~

§ 1602 PROCEDURE.

In addition to satisfying the requirements of § ~~305311~~, a certificate of zoning compliance for an accessory ~~family~~ dwelling unit shall not be issued until the following requirements are satisfied:

(A) In the R-20, R30, R-40, and R-60 zoning districts Accessory Dwelling Units are allowed as a permitted use on properties containing a single-, two-, or multi-family dwelling use, and where the property conforms to all use, dimensional, and all other requirements of this chapter.

(B) In the R-20, R30, R-40, and R-60 zoning districts, Accessory Dwelling Units may be permitted by special use permit in primary or accessory structures that are lawfully established, pre-existing, non-conforming structures without a variance.

(A)(C) Accessory Dwelling Units are prohibited in all other zoning districts, except that, an accessory dwelling unit in an owner-occupied residence that complies with §§ 45-24-31 and 42-24-73 shall be permitted as a reasonable accommodation for family members with disabilities or who are sixty-two (62) years of age or older, or to accommodate other family members.-

~~—(A) The owner-occupant shall sign an affidavit stating that the accessory unit will be occupied only by one or both parent(s), grandparent(s), children or grandchildren of an occupant of the principal dwelling unit. The affidavit shall also identify such parent(s), grandparent(s), children or grandchildren by name and identify the principal occupant whose parent(s), grandparent(s), children or grandchildren will occupy the accessory unit. Such affidavits shall be filed in the Town Clerk's records and shall be available for public inspection; and~~

~~—(B) The foregoing affidavit shall be accompanied by a surety deposit of \$100 which shall be refunded if and when the owner-occupant gives proper notice to the town pursuant to § 1603 that the use of part of the principal dwelling for an accessory family dwelling unit has been abandoned. Such security deposit shall be forfeited if the owner-occupant fails to give proper notice to the town pursuant to § 1603 that no parent(s), grandparent(s), children or grandchildren identified in the affidavit continues to occupy the accessory unit. If such notice is not given and the accessory family dwelling unit is occupied by one or more persons who are not parent(s), grandparent(s), children or grandchildren, the owner-occupant, in addition to forfeiting the surety deposit, shall be subject to the enforcement provisions of § 316.~~

§ 1603 CHANGE OF OCCUPANCY.

~~—If an accessory family dwelling unit is no longer occupied by parent(s), grandparent(s) children or grandchildren of an adult occupant of the principal dwelling unit, an adult owner-occupant of the principal dwelling unit shall within 30 days sign an amended affidavit. The amended affidavit shall either identify the current occupants of the accessory unit, in accordance with § 1602, or state that the use of part of the principal dwelling for an accessory family dwelling unit has been abandoned. This division shall not prohibit a transfer of ownership and/or occupancy of the primary dwelling provided that at approximately the same time the accessory unit is occupied by one or both parent(s), grandparent(s), children or grandchildren of the new owner-occupants of the primary unit.~~

