

Town of Windham

Planning Department
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Windham, ME 04062

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MEMO

DATE: January 26, 2017

TO: Windham Town Council

THROUGH: Tony Plante, Town Manager

FROM: Amanda Lessard, Planner *ALL*

Cc: Ben Smith, Director of Planning

RE: Planning Board Recommendation - Ordinance Amendment – Accessory Apartments

At the Planning Board's meeting on January 9, 2017, a public hearing was held on the proposed ordinance changes to the Accessory Apartments standards of Section 501 of the Land Use Ordinance.

No members of the public spoke for or against the proposed amendment.

During Planning Board discussion the Board expressed concern that allowing accessory apartments in new accessory buildings would create little cottages on properties and would be a loophole to not complying with density requirements. This was specifically the reason that they were required to be attached to a principal dwelling during the original consideration of accessory apartments. Some members felt that accessory apartments located in a detached accessory building would be acceptable if a portion of the structure was maintained for an accessory use of the single family dwelling.

Following discussion of the proposed changes, the Board made the following motion:

To recommend to the Town Council not to approve the proposed amendment to the Land Use Ordinance, Chapter 140, relating to accessory apartments.

Motion: Margaret Pinchbeck
2nd: Keith Elder

Vote: 6-0

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MEMO

DATE: December 28, 2016

TO: Windham Planning Board

FROM: Amanda Lessard, Planner *AL*

Cc: Ben Smith, Planning Director
Code Enforcement Department

RE: Accessory Apartments ordinance revisions

At the Town Council meeting on December 13, 2016, the Council voted to send the attached draft ordinance language that makes changes to Section 501 Accessory Apartments to the Planning Board for review and recommendation. The proposed change allows accessory apartments to be attached to a principal dwelling unit or contained within an accessory building to a single-family detached dwelling. Currently accessory apartments must be attached to a principal dwelling unit.

The attached ordinance language contains underlined text for new wording.

A public hearing is scheduled for the Planning Board meeting on January 9, 2017. After the public hearing and discussion by the Board, the Planning Board may vote on a recommendation to the Town Council similar to the following:

MOTION: To (~~recommend~~/~~recommend with comments~~/~~not recommend~~) approval of the proposed amendment to the Land Use Ordinance, Chapter 140, relating to accessory apartments.

The following shows current language of the Land Use Ordinance marked up with possible changes to allow accessory apartments to be located in an accessory building.

Section 300 – DEFINITIONS

Accessory Apartment. An independent dwelling unit that has been added onto, or created within, a single-family ~~house~~detached dwelling- or accessory building to a single-family detached dwelling.

Building, Accessory. A subordinate building detached from but located on the same lot as the principal building, the use of which is incidental to that of the principal building.

Building, Principal. A building in which is conducted the principal use of the lot on which it is located.

Dwelling, Single-Family Detached. A freestanding building containing one (1) dwelling unit.

Dwelling Unit. One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family.

Section 500 – PERFORMANCE STANDARDS

501 Accessory Apartment

The following standards shall apply to accessory apartments created after November 23, 2012:

- A. Shall be attached to a principal dwelling unit or contained within an accessory building to a single-family detached dwelling.
- B. The owner(s) of the principal dwelling must reside in the principal structure or the accessory apartment.
- C. The accessory apartment shall have a maximum cumulative floor area of six hundred (600) square feet.
- D. The accessory apartment shall have its own entrance.
- E. The maximum number of occupants of the accessory apartment is three (3).
- F. All necessary building or occupancy permits shall be obtained from the Code Enforcement Officer. Compliance with all building codes applicable to the construction of an accessory apartment is required.

1) The permit shall be issued to the property owner and not run with the land. The transfer or sale of the property to a new owner shall require the issuance of a new permit for the current property owner. If the Accessory Apartment does not meet the performance standards of this ordinance at the time of transfer, the new owner shall have thirty (30) days to bring the Accessory Apartment into compliance. If the Accessory Apartment is not brought into compliance with the standards of this ordinance, the Code Enforcement Officer shall cause the use of the accessory apartment to be discontinued. The Accessory Apartment owner may at any time rectify the deficiencies identified by the Code Enforcement Office and re-apply for use of said apartment. All permits shall be recorded at the Cumberland County Registry of Deeds.

G. Only one (1) accessory apartment shall be permitted per lot.

H. Accessory apartments shall not count towards the zoning district's maximum residential density standard.

I. A property on which an accessory apartment is located shall require the installation and use of a septic system that is approved to accommodate the waste water volume from two (2) dwelling units. All applications for an accessory apartment shall include an HHE-200 form that documents the capacity of the existing or proposed system. Following review and approval by the Code Enforcement Officer, the HHE-200 form shall be recorded at the Cumberland County Registry of Deeds. Sec. 500 Performance Standards Land Use Ordinance Town of Windham

J. The accessory apartment shall meet the parking requirements in Section 537 Parking and Loading and Section 812(C) Parking and Loading Requirements.