



To: Town of Waterboro, Select board
From: Lee Jay Feldman, Director of Planning
Date: 11/3/2023
Re: Zoning Ordinance Amendments for LD 2003 Compliance

At the November 1st Planning Board meeting a Public Hearing was held to go over the LD 2003 Affordable Housing amendments.

Prior to the Public Hearing, the board held several workshops to specifically discuss the Accessory Dwelling Unit portion of the changes. During the workshops the board focused on the minimum unit size and the maximum unit size. Based on these discussions as well as a site visit to a home in town who was adding an accessory unit, the board determined that the minimum unit size should be established at 410 square feet in order to not allow Tiny homes to be used as an ADU and a maximum size of 800 square feet which they felt would be comfortable for living space and a 1 or two bedroom unit with a full bath.

The other portions of the amendments as proposed are standard language straight out of the law which requires the town to accommodate 2-4 full size homes on lots under certain circumstances as well as Affordable Housing Developments under certain circumstances as well.

During the Public Hearing, no one spoke for or against. The planning board did receive 1 email from a citizen who was concerned that if an ADU was vacant for 2 years and unkept that it should be torn down. Mike Gilpatrick, the town Code Officer spoke to this issue and indicated that once a permit has been issued it could not be revoked unless the building as a whole were considered dangerous or derelict under the building code requirements.

The planning board voted 5-0 to pass on a favorable recommendation to the select board for passage of the proposed amendments.

4.15 ACCESSORY DWELLING UNIT

Accessory Dwelling Units are a permitted use in the residential districts, subject to the review of the Code Enforcement Officer and adherence to the following standards:

1. The owners of the principal structure must reside on the property either in the principal structure, or the Accessory dwelling unit.
2. The Accessory Dwelling unit shall not be greater than 800 square feet of living area. The minimum ADU size shall be 410 square feet.
3. The Accessory dwelling unit may be located either in the principal dwelling unit, attached to the existing Dwelling unit or as a separate structure. The accessory dwelling unit may share the septic system with the principal dwelling unit or provide a sperate septic system that meets the requirements of the State Subsurface Wastewater rules Title 30-A Section 3428. on-site well may be shared with the principal dwelling unit or provide a separate well for the Accessory Dwelling unit where public water is not available. Said new septic system must only be used to service the proposed accessory dwelling unit and not for the purpose of serving any other independent dwelling. Subject to the terms above, the septic system on the property in question shall be functioning properly at the time of application for the permit approval by the Code Enforcement Officer. In addition, the applicant must submit a newHHE-200 form as documentation that suitable soil exists on the property to be used for septic system repair or replacement in the event of failure of the original system. If a combined system is proposed the main system must demonstrate that it is functioning properly prior to permitting the expansion for the ADU.
5. The parking requirements of the Waterboro Land Use Ordinance shall not be considered when adding an accessory dwelling unit.
6. Proper ingress and egress shall be provided to the accessory unit.
7. Should the owners of the principal structure be found in non-compliance of the standards contained in this section, the non-compliance shall be considered a violation of this ordinance and subject to fines and penalties and the accessory unit shall be discontinued and the Certificate of Occupancy revoked.
8. An accessory dwelling unit which complies with the requirements of this subsection shall not be considered an additional dwelling unit when calculating lot area per family under the dimensional requirements of the ordinance.
9. Only one accessory dwelling unit shall be permitted on a lot.
10. The HHE-200 form, after review and approval by the Code Enforcement Officer, shall be recorded at the York County Registry of Deeds when the system is designed but not established in case of failure to the current system occurs.
11. The Town shall require an applicant to place a deed restriction on the main parcel and enter into a consent agreement assuring that the lot will not be split in the future separating the dwelling unit and the ADU. Ownership of the ADU shall also remain in the same ownership as the principal structure.
12. ADU's Shall not be used as a Short-Term rental unit and must have a lease agreement for no less than 6 consecutive months with the same party.

4.16 Affordable Housing Developments & Density Allowances

- A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and
- B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.
- C. **Density requirements.** A Waterboro shall allow an affordable housing development where multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in in the Village, General Purpose and Agriculture/Residential zones from 1066 Main street north to the intersection of Route 5 and west on Route 5 to John Smith Way and may not require more than 2 off-street parking spaces for every 3 units. The development must be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system provided 51% of the units will be designated as affordable housing as defined in 4.16 A & B above. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423- A, as applicable.
- D. **Water and wastewater.** The owner of the affordable housing development shall provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection must include:
1. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
 2. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit
- E. **Subdivision requirements.** This section may not be construed to exempt a subdivider from the requirements for division of a tract, parcel of land or residential living unit.

2.11 Administration

L. In all zones where Single-family homes are allowed, No more than 2 dwelling units shall be allowed on a parcel unless the minimum lot size per home can be met in the base zone. In the vicinity of Village, General Purpose and Agriculture/Residential zones from 1066 Main street north to the intersection of Route 5 and west on Route 5 to John Smith Way up to 4 homes may be allowed on vacant land provided the lot can meet the minimum lot size per unit for that zone.

Definitions

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ACCESSORY-APARTMENTDWELLING UNIT: A separate dwelling unit that has been added on, or created within, a single-family house or a separate standalone structure for the purpose of providing ~~separate~~ living accommodations accessory to the primary residence.

AFFORDABLE HOUSING: Decent, safe and sanitary dwelling units that can be afforded by households in the following two categories:

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.