

5.6 Accessory Apartments

5.6.1 Purpose

To increase the availability of moderately priced housing for town employees, the young, the elderly, people of low and moderate income, and dependent relatives of town residents by permitting the creation of accessory apartments by:

- 5.6.1.1 Providing an opportunity for homeowners who can no longer physically or financially maintain their single-family home to remain in homes that they might otherwise be forced to leave;
- 5.6.1.2 Making housing units available to low and moderate income households who might otherwise have difficulty finding homes within the town;
- 5.6.1.3 Provide a variety of housing to meet the needs of its residents;
- 5.6.1.4 Protect stability, property values, and the single-family residential character of a neighborhood;
- 5.6.1.5 Legalize conversions to encourage the Town to monitor conversions for compliance with the State Building Code; and
- 5.6.1.6 Create incentives and modify regulations to encourage the creation of affordable accessory apartments that will count towards meeting the Town's Planned Production goals under the provisions of MGL Chapter 40B.

5.6.2 Considerations

The Town has limited water resources, lacks a significant aquifer, does not have municipal water and sewage systems, and as a result, must be sensitive to the burden and impact of any increase in housing density. Limiting the number of the accessory apartments is intended to minimize the impact on those finite resources, although the scope of the impact hereunder is believed to be offset by the public benefit afforded by this permitted use.

5.6.3 Definitions

5.6.3.1 An "accessory apartment" ("AA unit") is a distinct portion of a single-family dwelling or a unit in an accessory structure on a single-family lot, having its own kitchen and bathroom facilities, and subordinate in size to the principal part of said dwelling or, if an accessory structure, subordinate in size to the principal structure.

5.6.3.2 An "affordable accessory apartment" ("AAA" unit) is a distinct portion of a single-family dwelling, a unit in an accessory structure on a single-family lot, or a unit accessory to a non-residential use, in all cases having its own kitchen and bathroom facilities, being subordinate in size to the principal part of said dwelling or structure, and meeting the affordability requirements under the provisions of MGL Chapter 40B.

5.6.4 Special Permits

An owner or owners may apply to the Planning Board for a special permit for the construction and occupancy of one (1) AA unit or AAA unit (as defined in Section 5.6.3) in a single-family or in a non-residential structure, the accessory apartment thus created being hereinafter referred to in this subsection #5.6 as an apartment.

5.6.5 Procedure

The Planning Board shall notify the Board of Health of the application for a special permit hereunder and allow them a reasonable time to inspect and comment upon said application. The Planning Board may grant a special permit under this Section upon findings that the request is compatible with the purpose of this Section, meets the minimum requirements hereunder.

After notice and public hearing as may be required by the General Laws of the Commonwealth, the Planning Board may grant such a special permit for the creation of an accessory apartment provided that:

5.6.5.1 no more than 75 special permits for accessory apartments shall be issued, of which no more than 25 may be in accessory structures;

5.6.5.2 the apartment is accessory to the principal residence and will be a complete, separate housekeeping unit that functions as a separate unit from the original single-family dwelling;

5.6.5.2.1 An AA unit may be placed in an accessory structure provided that the lot conforms with all generally applicable dimensional requirements for new lots in Residence District B, the accessory structure conforms to street, side and rear setback requirements established in Sections 4.2 and 4.3.2 of these bylaws.

5.6.5.2.2 Any addition less than ten (10) years old shall be deemed to be part of the structure(s) provided that the addition does not increase the floor area of the original structure(s) by more than 10% and provided further that the addition does not alter the character of the structure.

5.6.5.2.3 An AAA unit may be placed in an accessory structure, including a pre-existing structures and a new structures, providing the new structure is appropriate to the single-family character of the neighborhood and complies with all other provisions of the zoning bylaws.

5.6.5.3 the floor area of the apartment does not exceed 1200 square feet. In cases where an AA unit is proposed to be located in an accessory structure that has greater than 1200 square feet of gross floor area, including without limitation basement and attic area, the special permit shall include a condition requiring periodic inspections by the Building Commissioner to confirm that there has been no unauthorized expansion of the AA, or an alternate method of confirming the same that is satisfactory to the Planning Board;

- 5.6.5.4 the floor area of the apartment is less than 35% of the floor area of the principal residence and the proposed apartment combined, as measured after conversion, except that for AAA units, the floor area is less than 50% of the floor area of the single-family structure or non-residential structure and the proposed apartment combined;
- 5.6.5.5 either the apartment or the principal residence is occupied by the owner(s) of the lot on which the apartment is to be located, except for bona fide temporary absences. If the lot on which the apartment is to be located is owned by the Town of Carlisle or used for non-residential purposes, the owner-occupancy requirement of this paragraph shall not be applicable as long as the lot and the structures thereon continue to be owned by the Town of Carlisle or used for non-residential purposes;
- 5.6.5.6 adequate provision has been made for the disposal of sewage, waste and drainage generated by the occupancy of such apartment in accordance with the requirements of the Commonwealth or the Carlisle Board of Health, whichever is applicable;
- 5.6.5.7 in consideration of the neighborhood and the existing access to the street of the single-family dwelling, adequate provision has been made for ingress and egress to the apartment from said street, provided that there shall not be more than one driveway or curb cut providing access to the structure or structures except for existing half circular or horseshoe driveways located in the front of the structure(s);
- 5.6.5.8 the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located or injurious to persons or property;
- 5.6.5.9 the lot on which the apartment and principal residence are located contains at least two (2) acres; except that an AAA unit shall be permitted on any legal building lot provided the owner complies with all other provisions of the zoning bylaw;
- 5.6.5.10 no more than two bedrooms are allowed in an AA or an AAA unit;
- 5.6.5.11 adequate provision has been made for off street parking of motor vehicles in such a fashion as is consistent with the character of a single-family residence;
- 5.6.5.12 there is no other apartment on the lot on which the apartment is to be located;
- 5.6.5.13 the external appearance of said house before or after the creation of the apartment is that of a single-family residence. In general, any new entrances shall be located on the side or rear of the building and all stairways to upper floors shall be enclosed within the exterior walls of the dwelling. Any new additions or structures associated with the AAA unit may be permitted providing they are appropriate to the character of the principal residence;
- 5.6.5.14 the construction of any accessory apartment must be in conformity with the State Building Code requirements; and
- 5.6.5.15 the apartment shall not be held in, or transferred into separate ownership from the Principal Unit under a condominium form of ownership, or otherwise.

5.6.6 No accessory apartment shall be used unless the owner or owners of the building have a permit issued hereunder or as otherwise provided in the Bylaws. The renewal of any accessory apartment permit previously granted shall not be denied by reason of amendments to Section #5.6 after the granting of the original permit, notwithstanding the failure of the apartment to conform to said Section as thus amended.

5.6.7 A special permit granted under this Section #5.6 shall lapse if, within one (1) year from the grant thereof (not including such time as is required to pursue or await the determination of an appeal) a substantial use of the permit has not sooner commenced except for good cause.

5.6.8 The special permit shall not become effective until a copy, certified by the Town Clerk as provided by Chapter 40A, Section 11 of the General Laws, has been recorded with Middlesex North District Registry of Deeds.

5.6.9 For AAA units, a Deed Restriction/Regulatory Agreement (“Agreement”) with the following provisions shall be signed and recorded with the Middlesex North Registry of Deeds by the owner of an AAA unit:

5.6.9.1 The Agreement is for a minimum of 15 years,

5.6.9.2 The Agreement will terminate upon sale of the property,

5.6.9.3 An owner may terminate the Agreement prior to its expiration, which will revoke the special permit. Thereupon, the apartment must be removed unless the owner applies for and receives a new special permit,

5.6.9.4 Upon termination of this Agreement, additional restrictions shall apply regarding repayment to the Town of any funds received from the Town pursuant to a grant or loan agreement,

5.6.9.5 An owner must rent to income-qualified tenants selected through an open process to be defined by the Local Initiative Program (760 CMR 45.03) guidelines,

5.6.9.6 An owner must set the rent according to the methodology prescribed in the Local Initiative Program guidelines.

5.6.10 The special permit authorizing an accessory apartment shall terminate upon the sale of the property or transfer of title of the building; provided, however, that a sale or transfer of title shall not dispossess the then resident(s) of the accessory apartment of their tenancy. The new owner or owners may apply for a reapproval of the special permit which, if the Planning Board finds that conditions at the time of the original application remain substantially unchanged, shall be approved without a hearing. A special permit granted hereunder shall not terminate upon a transfer of title which converts an owner's individual title to a tenancy by the entirety or a joint tenancy for the owner and his or her spouse or to otherwise provide for said spouse to share in the ownership of the property.

5.6.11 The Planning Board shall adopt reasonable rules and regulations for the submission of applications for a special permit hereunder. Said rules and regulations shall be concise, easily understood and will contain a step by step explanation of the procedure to obtain the special permit. In order to assure that such rules and regulations may be easily understood and followed, the Planning Board will submit them to and consult with the Housing Authority, the Council on Aging, the Building Inspector, the Board of Health and the Select Board and allow a reasonable time before adoption by the Planning Board for such boards to comment.

5.6.12 The Carlisle Housing Authority shall adopt reasonable guidelines for administering and monitoring AAA units in accordance with the Local Initiative Program.