

## **IS IT TIME FOR YOUR TOWN TO TAKE AN ACCESSORY DWELLING UNIT “CHECKLIST TEST”**

Prior to 1980s most town in the Northwest Corner had no zoning provision for an apartment in a single family home in a rural residential zone. Several allowed the conversion of larger older homes to apartment use but this was usually limited to large older residences in the village center where sewers were available. A few allowed a “guest house” but usually only on large “estate” lots.

Even back then the need for affordable housing was beginning to be recognized as an issue in these rural communities. Gradually during the 1980s area towns adopted some form of accessory apartment amendment to their zoning regulations. These same regulations remain on the books today but many have various restrictive requirements that limit the opportunity for creating new accessory apartments.

Today the need for more “affordable” housing has become one of the issues of greatest concern to local officials. Local emergency service organizations have become particularly vocal and concerned that the lack of reasonable cost housing is robbing their ranks of needed young volunteers. Back then and today one of the easiest options for addressing this issue is to find ways to encourage more accessory apartments.

We encourage you to review your accessory apartment zoning regulations to see if your town can make some changes that will broaden the opportunity for home owners to create more accessory apartments. Maybe it is time for your town to take the “checklist test”?

### **WHAT IS AN ACCESSORY APARTMENT?**

An accessory apartment – sometimes call an accessory dwelling unit – is a separate living unit located on a single family residential lot. The accessory apartment includes a kitchen, sleeping, and bathroom facilities, located within the single family residence or within an accessory building on the property. Accessory apartments are by definition subordinate in size, location, and appearance to the primary unit.

### **WHY ENCOURAGE ACCESSORY APARTMENTS?**

Towns throughout the Region are not only losing residents who in the past served as emergency service volunteers but also teachers, town workers, and a host of other vital local service functions. The primary reason cited is the lack of moderate cost housing. A recent survey by the **Regional Collaborative** revealed that “affordable” housing is the number one concern among local officials throughout the eight town service area of the Collaborative pilot project.

We have chosen the subject of accessory apartments as a first report in a series planned on housing options. We have done this for the simple reason that this type of dwelling unit is the least complicated option for expanding housing opportunities in the Region. It is widely accepted that properly regulated accessory apartments can be permitted in residence or an accessory building without negative impacts on surrounding properties and in fact may add value to a residential property. Most importantly this type of housing can be provided by the private sector

without subsidies of any kind. Towns can encourage this type of housing by reviewing and considering some simple changes to its zoning requirements.

### **BUILDING AND HEALTH CODES HOLD BACK ACCESSORY APARTMENTS**

It should be stated at the outset in addition to zoning there other, perhaps even more severe building and sewer requirements, limiting the creation of accessory apartments. Towns can re-examine and change zoning requirements, but there is little room to change these other factors.

Building codes require that all additions meet high (and costly) standards of construction.

Perhaps even more than building costs the expense of meeting the State Health Code septic requirements appears to be holding back creation of accessory apartments. In the Northwest Corner most accessory apartments are created on lots served by on site septic and wells. Both these utilities are regulated by the State Public Health Code which is administered locally either by a local health officer or a health official from a regional health district, such as the Torrington Health District.

If an apartment is proposed within an existing home the health officer must determine there is sufficient excess capacity in the existing septic field. If there is not a new field must be constructed. When an accessory apartment is proposed in an accessory building the Torrington Area Health District requires a complete new septic field and tank for the apartment. This can easily add \$20,000 to the cost of creating an apartment.

### **WHY FOCUS ON ZONING?**

Building code, septic and well rules and requirements must be retained to insure sound construction, prevent pollution and protect water quality. However local zoning requirements for accessory apartments can be re-evaluated and changed.

Most area towns now have almost 20 years of experience regulating accessory apartments. Zoning commissioners and administrators generally acknowledge that existing accessory apartments are not a source of either zoning violations or neighborhood complaints. Based on this experience it appears some of the zoning requirements included in the early accessory apartment zoning amendments can be revised without compromising the necessity of protecting single family residential neighborhoods and property values.

### **TAKE THE “CHECKLIST TEST”**

Take a look at your town’s accessory apartment zoning regulations. Please review them in reference to the following “Checklist Test”. In the first column we provide a list of the common zoning regulation requirements that limit creating an accessory apartment. In the second column we have offer suggestions for modifying these requirements.

If area local accessory apartment zoning regulations are revised and local housing organizations begin promoting accessory apartment they could begin to play a much more meaningful part in relieving the shortage of affordable housing in the Region.

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| <b>ZONING REGULATION REQUIREMENTS LIMITING ACCESSORY DWELLING UNIT OPPORTUNITIES</b>  |
| <i>Minimum Lot Area</i>   |
| Do your zoning regulations require a minimum lot area greater than the minimum for the zone?  |
| <i>Minimum Floor Area</i>   |
| Do your regulations specify that an accessory apartment must have a minimum floor area of over 300 sq. ft.?   |
| <i>Maximum Floor Area</i>   |
| Do your regulations set a maximum square footage limit on the size of the accessory apartment? The range of home floor area in NWCT is very wide.   |
| <i>Allows Apartment in Primary Residence Only</i>   |
| Do your regulations allow accessory units only in the primary residence? The option of allowing an apartment in an accessory building greatly expands the potential for more of these units without jeopardy to neighbor property values. |
| <i>Permit in Existing Structures Only</i>   |
| Do your regulations allow accessory units only in existing structures or structures established before a certain date?  |
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| <b>ZONING REGULATION AMENDMENTS TO IMPROVE OPPORTUNITIES FOR ACCESSORY APARTMENTS</b>  |
| <b>Amendment:</b> Drop this requirement for a unit in the primary dwelling. Also consider allowing an apartment in an existing home on an undersized lot as a Special Permit.  |
| <b>Amendment:</b> 300 sq. ft. is the minimum needed for a one bedroom unit any thing more than this is not necessary. Drop or reduce this requirement.   |
| <b>Amendment:</b> Revise the regulation to permit a maximum percent of the total floor area of the dwelling (e.g. 40%) with a generous cap (e.g. 1,200 sq. ft.) and allow which ever is less. Consider a higher allowance of floor area for an accessory apartment in an accessory building as a Special Permit.   |
| <b>Amendment:</b> Allow an accessory unit either in the residence or in an accessory structure. Especially in this region apartments over garages or in a barn or other out buildings are a primary potential source of additional apartment opportunities and can be permitted without harm to neighbors  |
| <b>Amendment:</b> Most towns have allowed accessory apartments for over 20 years many in both the residence and an accessory structure with no adverse results. Drop this requirements allow an accessory apartment as part of new construction. Both first home owners and retired owners – persons with the greatest need - are likely to use this option. |
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**ZONING REGULATION REQUIREMENTS LIMITING ACCESSORY DWELLING UNIT OPPORTUNITIES**

***Requires Owner Occupy the Primary Residence***  
 Do your regulations require that the property owner live in the primary residence? Most towns believe an “owner occupancy” requirement is necessary. But this can be achieved by requiring that the owner live either in the main home or the accessory apartment

***Limits to Family/Elderly Disabled***  
 Early accessory apartment regulations often allowed only family members; most have been changed to delete this limitation.

***Requires Connection to Public Water and/or Sewer***  
 This requirement is common in city or sewer towns. There are sufficient protective septic system requirements for accessory apartments in Northwest Corner towns.

***Parking Requirements***  
 Do your regulations require two off street parking spaces regardless of the size of the accessory unit?

**ZONING REGULATION AMENDMENTS TO IMPROVE OPPORTUNITIES FOR ACCESSORY DWELLING UNITS**

**Amendment:** Require the property owner to live in either the primary residence or the accessory unit. Especially first time home owners and retired home owners will utilize the option to live in the accessory apartment. Renting out the primary residence provides needed income, reduced home care and flexibility for the home owner while retaining the requirement that the land owner reside on the premises.

**Amendment:** This is most restrictive requirement is generally not found in the Northwest Corner. Regulations that retain this requirement provide little opportunity for additional accessory units.

**Amendment:** Typically not required in Northwest Corner regulations. Towns in the Region should require sewer connection only for an apartment proposed where sewers are available.

**Amendment:** The requirement for parking should be based on the size of the apartment unit and number of bedrooms. One space is sufficient for a small one bedroom apartment. Amend regulations to permit flexibility in determining the need for additional parking space.

**ZONING REGULATION  
REQUIREMENTS LIMITING  
ACCESSORY DWELLING  
UNIT OPPORTUNITIES**

***Require a Special Permit / Special  
Exception For All Types of Accessory  
Apartments***

Most zoning regulation still require a Special Permit for all types of accessory units although it has become clear that small units in a primary residence are not an issue for neighbors. All Special Permits require public notification, a public hearing and additional expenses. This is a major factor dissuading property owners from applying for an accessory apartment permit.

**ZONING REGULATION  
AMENDMENTS TO IMPROVE  
OPPORTUNITIES FOR  
ACCESSORY APARTMENTS**

**Amendment:** Change the regulations to create the option to allow an accessory unit without a Special Permit where experience shows there will be minimal potential impact on neighbors. A unit created within a residence, especially a small unit fits this category and can be approved with the requirement for submission of a Site Plan. Key requirements: no change in exterior appearance of the residence as a single family residence and there is sufficient off street parking.

## **GOSHEN TAKES THE TEST**

Goshen's Accessory Apartment Zoning Regulations are very friendly to accessory apartment application. Most important, an applicant needs only a Zoning Permit. No Special Permit is needed. Here is how Goshen scored.

### ***TOWN OF GOSHEN ACCESSORY APARTMENT ZONING REGULATION:***

#### **360: Requirements for Permitted Uses and Accessory Uses in Residential Zones:**

360.1: The Zoning Enforcement Officer may require an applicant for a Zoning Permit for a Permitted Use or and Accessory Use in a Residential Zone to submit a plot plan in accord with the requirement of Section 701.

**360.2: Accessory Apartment-Conversion of Single Family Dwelling.** The Commission may issue a Zoning Permit for conversion of a single family dwelling to a multi-family dwelling containing no more than two dwelling units provided:

360.2a: The building is a single family dwelling;

360.2b: The building retains the appearance of a single family dwelling, in that no changes that can be seen from a public street may be made to the exterior of the building except an addition which is finished in the same materials as the building to which it is attached;

360.2c: One of the dwelling units is owner occupied;

360.2d: The floor area of the Accessory Apartment does not exceed 50% of the floor area of the original dwelling unit;

360.2e: The Torrington Area Health District approves the water supply and sewage disposal facilities for both dwelling units;

360.2f: There is no more than one dwelling unit existing on the lot.

(SCORE: This is a good regulation providing with simple and clear requirements without the need for a Special Permit. It easily scores 90 out of 100. It is marked a bit because an apartment can be created only in an existing dwelling. Why not allow an apartment as part of new construction? That would merit a *100 score!*)

**360.3: Accessory Apartment-Conversion of Existing Accessory Building.** The Commission may issue a Zoning Permit for construction of one dwelling unit as an accessory to a single family dwelling through conversion of an existing accessory building, but only if:

360.3a: The exterior of the accessory building is unchanged; or, if it is altered, the Commission finds that its general appearance and scale are similar to buildings devoted to uses permitted of right in that zone,

360.3b: One of the dwelling units is owner occupied,

360.3c: The total floor area of the accessory dwelling unit does not exceed the lesser of 1,200 sf, or 50% of the floor area of the principal residential structure,

360.3d: The lot contains no less than four contiguous acres of buildable land,

360.3e: The Torrington Area Health District approves the water and sewage disposal facilities for both dwelling units, and

360.3f: There is no more than one existing dwelling unit on the lot.

(SCORE: With one exception this is another very favorable regulation. It merits a score of 80. It is marked down as a result of the requirement for 4 "contiguous acres of buildable land" for a lot with an apartment in an accessory structure. Four "contiguous" acres of buildable land is a very tough requirement in our NW "hill" towns and poses a severe limit on the potential for this type of accessory unit in Goshen. Also again the apartment can be constructed only in an existing accessory building.)

**GOSHEN TOOK THE TEST – WHY DON'T YOU!**