APPLICATION FOR AMENDMENT OF ZONING MAP OR ZONING REGULATIONS

Petition: The undersigned applicant hereby petitions the Town Plan and Zoning Commission for amendment of the Zoning Map.

Present Zoning District

Proposed Zoning District

Description of Property

Area Assessor’s Map No. Parcel No.

Record owner of property:

Signature of Record Owner of Property

Address:

Signature of Applicant:

Address:

Zoning Regulations: The undersigned applicant hereby petitions the Town Plan and Zoning Commission for amendment of the Zoning Regulations.

Present Zoning Regulations: Sect. # 6.0 Accessory Apartments

Proposed Zoning Regulations: Sect. # 6.0 Accessory Apartments

Signature of Applicant:

Address: Affordable Housing Committee, 611 Old Post Road, Fairfield, CT 06824

Instructions: See Reverse Side
Memorandum

To: Town Plan & Zoning Commission
From: Mark Barnhart on behalf of the Affordable Housing Committee
Date: September 2, 2020
Re: Accessory Apartments

On behalf of the Affordable Housing Committee (AHC), I am pleased to enclose herewith proposed amendments to Section 6.0 of the Town Plan & Zoning Regulations with regard to Accessory Apartments. This application is being made with the assistance and support of Fairfield Senior Advocates, who did much of the work on these proposed amendments, as well as FairPlan.

The purpose of these proposed amendments is to provide greater flexibility and to facilitate the creation of new accessory units. Much of the case that was made by the Affordable Housing Committee in its prior effort in 2009 to update these regulations is still true today. To briefly recap those arguments, there are several benefits to encouraging the development of additional accessory dwelling units, namely:

- Accessory dwelling units make good affordable housing. While home prices have moderated somewhat, housing is still expensive. In 2019, the median sales price of a single family home was $585,000. Accessory units are a relatively simple and inexpensive way to provide more affordable housing without the need for governmental subsidies. Accessory units can contribute to affordability for both the tenant as well as the homeowner.

- Accessory dwelling units tend to be better integrated within a community as they are dispersed within single-family neighborhoods rather than clustered together in a set-aside development.

- Accessory apartments allow the elderly to stay in their homes and continue to live independent and productive lives. Many elderly live in homes that have excess space. While most prefer to stay in their own homes, often they do not need, and in some cases, can no
longer afford or care for a larger home. Nearly thirty percent of Fairfield households have at least one member over the age of sixty-five. Nearly one-third of all elderly homeowners in Fairfield experience housing cost burdens of more than 30% of their income.

- Accessory apartments make efficient use of existing housing. Nationally, the average household size has declined from 3.3 persons per household in 1960 to 2.6 persons per household in 2010. Paradoxically, during this same time period, houses have gotten larger. Fairfield mirrors these trends. For example, according to recent census data, the average household size in Fairfield was 2.8 persons. At the same time, more than three-quarters of homes in Fairfield have at least three bedrooms, and nearly 40% have four or more bedrooms. Accessory apartments make use of extra space while providing separate living quarters. Accessory units, which make use of existing housing resources, can be viewed rightfully as a component of any smart growth strategy.

A more detailed explanation of the changes being sought as well as a statement of need and additional supporting documentation is attached hereto.

We would welcome the opportunity to discuss these proposed changes with you and/or to respond to any questions that Commission members may have. Thank you again for your consideration.
Statement of Need

Fairfield needs to diversify its housing options. The Town's residential stock is dominated by single family homes of varying sizes. Recently, multifamily buildings with a range of capacities have been proposed and are in the development process, primarily in areas near downtown and in transit districts. Most of these multifamily residences respond to consumer demand for "downsized" housing with less occupied space and at a lower cost of living than is available in most single family housing in Fairfield. However, these recent approvals have been rentals - with few new options for residents who wish to retain an ownership stake in their community.

There is an increasing interest in multigenerational living as economic and health concerns cause families to consider living with or near aging parents and younger adult children. Accessory Apartments, which are generically referred to as Accessory Dwelling Units (ADUs), are a desirable and viable option for diversifying the Town's housing stock to meet the emerging consumer demands for both downsizing and multi-generational living.

In 1984, Fairfield's Planning Director stated, "In recent years there have been increased numbers of requests for in-law type apartments. The demand for in-law apartments has become more acute due to the high cost of housing, need for companionship and childcare, and single parent households." Those insights endure in 2020. As the American Planning Association notes, ADUs provide "the potential to increase housing affordability (both for homeowners and tenants), create a wider range of housing options within the community, enable seniors to stay near family as they age, and facilitate better use of the existing housing fabric in established neighborhoods." Our POCD stresses the need for "diversification of housing accommodations" and innovative housing options for seniors.

Fairfield's current Accessory Apartment regulations have not been revised in many years, and the existing regulations do not adequately meet the Town's current housing needs. At a recent Fairfield Zoning Board of Appeals for a variance to construct a kitchen for an Accessory Apartment, one of the members asked why the five-year rule was in place. The members all chuckled, and nobody could answer with the reason. Clearly, revisions are needed to the regulations so that homeowners can more reasonably create Accessory Dwelling Units as additions to existing single family dwellings without applying for a variance. Public meetings with Fairfield residents, with Fairfield Senior Advocates, with FairPLAN and with the Affordable Housing Committee have emphasized the need for revision of ADU regulations.

Accessory Apartment development is currently defined in Section 6 of the Fairfield Zoning Regulations. The following is a summary of proposed changes to Section 6:

6.2.1 Definition of the term "accessory apartment" to clarify that an ADU must contain a kitchen and a bathroom. This means that if someone only needs a coffee counter with a sink and small fridge, and does not want or need a private entrance for an apartment, they may be able to do that by a simple conversion of one or two existing rooms within the house.

6.3.2 Slight revisions to the minimum and maximum Floor Area of the ADU to accommodate more needed flexibility.

6.3.4 Elimination of the current prohibition of any extension of the building, except for access. We believe this to be an unreasonable and unnecessary condition. A reconfiguration meeting lot coverage, setbacks and height requirements should be permitted in the regulations. An entrance to an ADU should be allowed on the front facade, provided that it is separated from the front door of the residence by at least 10 feet.
6.3.6 Limitations on rental use, either by the owner or the tenant, so that it cannot be rented for a period of less than thirty days.

6.3.10 Language specific to accessory apartments to be used for affordable housing

6.3.11 A new section to allow free-standing structures to be used for an accessory apartment.

The proposed changes will:

- enable homeowners to provide needed housing with a degree of independence for their parents, adult children, grandchildren or other loved ones,
- provide a way for older adults to downsize on their own property while a tenant or family member resides in the larger portion of the house,
- allow homeowners to legally rent out an ADU, affording an often-essential income source,
- provide "Naturally Occurring Affordable Housing" (NOAH) for those renting an Accessory Apartment and increased diversity of Fairfield's housing stock without changing the physical character of the neighborhood,
- create less burden on the environment than construction of a new residence.

BACKGROUND INFORMATION AND DEMOGRAPHICS

In 2009, the Affordable Housing Committee submitted an application to the Town Plan and Zoning Commission to amend the existing regulations for Accessory Apartments. Jim Wendt’s comments (see attached) as to why Accessory Apartments are needed are as valid today as they were in 2009. As listed in 2009, the reasons were:

1. Accessory Apartments make good affordable housing without the need for governmental subsidies;
2. Accessory Apartments allow the elderly to stay in their homes and continue to live independent and productive lives;
3. Accessory Apartments make efficient use of existing housing resources.

The regulations did not pass at that time because of concerns about college students moving into the accessory apartments.

Now, in 2020, the need for Accessory Apartments has taken on new urgency. There is an increasing desire to house our own extended family members in the face of an ongoing pandemic, whether they are adult children no longer attending college, aging parents, or other relatives.

As of 2015, Connecticut was the 7th oldest state in the nation, in terms of median age, with the third longest lived constituency. A 2018 Pew Research Center survey found that nearly 79 million adults in the United States, or 31.9 percent of the adult population, live in a “shared household,” meaning one in which two or more adults not intimately attached live in the same home. 9.3 million seniors live with children or grandchildren.

The next two decades will bring substantial growth in the number of older adults (defined here as those aged 65 or over). With the leading edge of the large baby boom generation (born 1946-1964) now passing age 70, the US Census projects the 65-and-over population will increase by more than 30 million people by 2035 to reach 79 million, with more than half that growth occurring in the next decade.
The 80-and-over population alone will double between 2015 and 2035 from 12 million to 24 million, with 70 percent of that growth occurring from 2025-2035, the decade during which the leading edge of the baby boomers passes age 80. Overall, this growth will shift the age distribution of the US population so that by 2035, one in five people in the US will be aged 65 and over, up from one in seven today.

Many families are now considering the additional space a suburban home might offer, in order to accommodate extended family members either within the house (if it's large enough) or with an accessory apartment which maintains privacy and independence for both parties. Some Accessory apartments already exist throughout Fairfield, either as ones that have pre-existed zoning regulations, ones that were legally established over the years, and more that fall into a gray area where there is no record of TPZ approval.

Also attached is a table with the existing regulations for Accessory Apartments for nearby towns. Note that no other community has such an onerous provision as the five-year look-back period that we have in Fairfield.

If the changes to Section 6 of the zoning regulations are approved, a pamphlet explaining the regulations and the application process will be prepared for the TPZ to distribute to anyone inquiring about Accessory Apartments.
SECTION 6.0 ACCESSORY APARTMENTS

6.1 Intent and Purpose
The purpose of this regulation is to address the identified need of providing and preserving affordable and secure housing for all the population of the Town, while preserving the appearance and character of the Town’s neighborhoods; by permitting, as an accessory use, the creation of a separate, self-contained living unit within, incidental and subordinate to, an existing single-family residence. The creation of such accessory apartments will promote the general welfare of the Town, without increasing the number of residential buildings, by allowing all the population to continue to live in our Town, either in their present homes or in the accessory apartments permitted hereunder.

6.2 Definitions
6.2.1 For the purposes of this regulation, the term “accessory apartment” shall be defined as a separate, self-contained living unit, and subordinate to, an existing single-family residence.

6.2.2 For purposes of this regulation, the term “primary dwelling” shall be defined as the unconverted portion of an existing single-family residence.

6.2.3 For purposes of this regulation, the term “principal owner” shall be defined as the owner of not less than a fifty (50) percent interest in the residence.

6.3 Conditions and Requirements
A one-family residence located within lawful setbacks and situated in AAA, AA, A, R-3 and R-2 Zones may be converted into a one-family dwelling with a single accessory apartment, subject to the following conditions and requirements:

6.3.1 A principal owner of the residence must reside in either the primary dwelling or the accessory apartment throughout the duration of the permit, referred to in Sect. 6.4.1.

6.3.2 The accessory apartment shall contain not less than 450 square feet— and not more than forty (40) percent or 1000 sq. ft of the floor area of the originally existing residence whichever is less.

6.3.3 The originally existing residence shall have been in existence for a minimum of five (5) years, and shall not have undergone any exterior alterations for a minimum of five (5) years except such alterations as may have been made on the existing foundation, unless the owner of the premises has entered into a contract with the Town of Fairfield

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1 This version incorporates suggestions by the TPZ staff on July 23, 2020
or its designated agent to establish the apartment or primary dwelling as an “affordable housing” unit as defined in Sect. 31.0.

6.3.4 Any exterior alterations to the originally existing residence shall be made on the existing foundation, with the exception that alterations may be made solely for the purpose of providing access and egress need not be made on the existing foundation. No separate access to the accessory apartment from the outside shall be in the front facade of the residence. Access to the accessory apartment may be on the front facade of the residence provided that it is separated from the front door of the existing residence by at least 10 feet and is of a different appearance than the primary entrance. The fire escape or outside stairway, if any, shall be enclosed.

6.3.5 The number of off-street parking spaces for the accessory apartment shall be not less than one.

6.3.6 The occupancy of the accessory apartment shall be limited to not more than two persons unless such apartment is contracted with the Town of Fairfield or its designated agent to be an “affordable housing” unit as defined in Sect. 31.0, then such occupancy shall be limited to three persons. Neither the existing house or the Accessory Apartment can be rented for less than a period of 30 consecutive days.

6.3.7 If public water and sewer are not available to the residence, the use of private water and septic systems for the accessory apartment shall be subject to approval by the Department of Health. The accessory apartment shall comply with all applicable housing, building, fire and health code requirements.

6.3.8 The owner of the residence shall file with the Zoning Enforcement Officer on or before January 31st of each year an affidavit on a form to be supplied by the Zoning Enforcement Officer, certifying that the primary dwelling and accessory apartment are in compliance with the conditions and requirements set forth above.

6.3.10 An accessory apartment to be used for affordable housing in accordance with the provisions of Subsection 6.3.6 of this regulation and Section 8-30g(k) of the Connecticut General Statutes, as amended, provided that:

a. The accessory dwelling unit is to be rented pursuant to the affordable housing provisions of CGS 8-30g to a tenant as their primary residence whose income is less than or equal to eighty percent of the State Median Income (SMI);
b. The application shall be accompanied by a proposed deed, which complies with CGS 8-30g, including a ten-(10) year affordable housing use deed restriction.

c. Before an accessory dwelling unit is occupied, the applicant shall submit satisfactory proof to the Planning Director that the aforesaid deed has been recorded in the Town Clerk’s office.

d. Prior to occupancy by the initial “affordable housing” tenant(s) and thereafter, by January 31 each year and upon each change of tenant, the owner shall certify that:

i. The subject apartment is rented at or below the maximum rate prescribed in CGS 8-30g; and ii. The tenant has certified to the owner, under penalty of false statement, that the tenant’s income does not exceed eighty (80) percent of the area median income, as defined in CGS 8-30g.2

(new) 6.3.11 In Res AAA, An free-standing accessory structure may be constructed or converted into an Accessory Apartment under the following conditions:

a. The existing lot shall be at least two acres.

b. The structure must conform to required setbacks and height for accessory structures.

c. The maximum size for the Accessory Apartment within said structure shall be no greater than 1000 sq. ft. of floor area, exclusive of utilities.

6.4 Application Procedure

6.4.1 No conversion contemplated by this regulation shall occur, nor shall any associated Building Permit or Certificate of Occupancy be issued until the owner of the residence to be converted has received a written permit from the Commission or its lawfully authorized designee. The applicant shall first submit such supporting data as the Commission, or its lawfully authorized designee may reasonably request, including the following:

6.4.1.1. An affidavit substantially in the form mentioned in Sect. 6.3.8.

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2 This light yellow highlighted section has been adapted from the Town of Ridgefield Regulations.
6.4.1.2 Sufficient architectural drawings or clear photographs to show the exterior building alterations proposed.

6.4.1.3 Interior floor plans showing the floor area of the proposed accessory apartment and primary dwelling.

6.4.2 The Commission shall have the right to require that any application hereunder be submitted for formal site plan review.

6.4.3. The Town of Fairfield or its designated agent may apply for permits for conversion to create “affordable housing” as defined in Sect. 31.0, provided that a principal owner shall reside in the primary dwelling or apartment upon issuance of a Certificate of Occupancy.

6.5 Duration
The permit and any other form of approval for a dwelling conversion issued hereunder shall be subject to revocation by the Commission upon:

6.5.1 The failure of the Owner of the residence to file with the Zoning Enforcement Officer each year an Affidavit as required in Sect. 6.3.8.

6.5.2 Notwithstanding the filing of such affidavit, a finding by the Commission, or its lawfully authorized designee, that there is in fact non-compliance with the conditions and requirements contained in Sect. 6.3.

6.6 Sale of Residence
Upon sale of a residence containing an accessory apartment, the new owner of said residence shall file with the Zoning Enforcement Officer within thirty days of the transfer of title to such residence, a notice on a form to be supplied by the Zoning Enforcement Officer, stating whether or not such new owner intends to continue the accessory apartment use. Any such use by a new owner will be subject to all provisions of Section 6.0.