

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Special Meeting

January 26, 2022

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Town Clerk

Chairman Domenic Pane called the Special Zoom meeting of the Newington Town Plan and Zoning Commission to order at 6:30 p.m.

- I. **PLEDGE OF ALLEGIANCE**
- II. **ROLL CALL AND SEATING OF ALTERNATES**

**Commissioners Present**

Chairman Domenic Pane  
Commissioner Bryan Haggerty  
Commissioner Garrett Havens  
Commissioner David Lenares  
Commissioner Jonathon Trister  
Commissioner Stephen Woods  
Commissioner Thomas Gill-A

**Commissioners Absent**

Commissioner Anthony Claffey  
Commissioner Hyman Braverman-A

Commissioner Gill was seated for Commissioner Claffey

- III. **PUBLIC PARTICIPATION** (For items not listed on the agenda; speakers limited to two minutes.)  

None
- IV. **NEW BUSINESS**

- A. Presentation and Discussion of Section 6.13 Accessory Apartments and PA-21-29

Renata Bertotti: I will start by explaining, first of all I want you to know that tonight, this meeting is informational. There will be no decisions that are required of you and there is really a need to just introduce this subject so that we can further consider what we will do with regards to how we regulate the accessory apartments in the Town of Newington. What triggers this is, as you may or may not remember, and the new members will not know this, but you can visit some of the old recordings in July, two meetings in July, I presented to this Commission some of the new state law that changed this past summer that, a number of provisions in the general statutes changed in regards to zoning and planning and in particular regulations that impacted zoning enabling statutes. Those are the statutes that actually give you the right to have zoning regulations and sets the way in which you are to set your standards which give you the right to

write the zoning regulations. There are two provisions in these changes that deal with ability of towns to have the opt out provisions, and those included parking for apartments, parking calculations for apartments, and accessory apartments. Accessory apartments in particular opting out provision has a deadline which is by the end of this year which is why I wanted to do this early so that we can have a discussion early on, figure it out and have this process completed in plenty of time, so we don't struggle at the deadline, if that means if we end up deciding to opt out.

Just as a big sort of picture, with that in mind, how I am going to do this is I'm going to explain what our regulations have, how we regulate this right now which Newington is actually good. At least we allow accessory apartments, we have the regulations on how we do it, which some communities don't allow them at all, period. Our regulations, and how we do it, there are certain provisions that violate this new now law. I will go section by section and show provisions that are problematic and then from there we will talk on how we will want to deal with this.

The first part is, we start with. The first section is under Section 6.13, we allow accessory apartments in R-20 Zone and R-12 Zone which is good because it designates a specific zone and areas which is required under this new law, where the accessory apartments are allowed, but we require a special permit. Under the new state law, that is not allowed, so what the new state law says, community policy is to designate areas, designate zoning districts, in which accessory apartments will be allowed, but they must be allowed as of right. Shall be allowed as of right.

Next, an accessory apartment shall contain at least 500 square feet in area, and then we talk about additions may be made to the size, so we imply that an accessory apartment must be essentially an attached unit. It has to be either within a single family home, or it has to be an attached unit. Again, the public act says that pursuant to this new section, the way that the zoning regulations are to be written, they cannot establish a minimum floor area that is larger than whatever is required by the building code, so we cannot set the minimum floor area that are specific numbers, it has to be decided by the building code, we can't have that in our zoning regs.

The second part is, it can also not be just an attached unit. If we allow it, it needs to be attached and detached. The other area where we are out of compliance again, and this one is kind of confusing to me, in that first section there is this language where it says, the accessory apartment shall not exceed thirty percent of the gross livable floor area of the entire structure, excluding garages and basements. The main living area shall not be less than 900 square feet. The statutes talk about how regulations shall affect a maximum floor area, but it's not floor area, to be not less than 30 percent. So I think we are okay here, but then they say, or 1,000 square feet whichever is less, so I think we need to fix that.

It's all a little bit confusing, between the net and the garage and basement and whatever, so we should definitely have some kind of conversation about what we do with this particular provision. This is our definition of accessory apartments, we define them as to have at least one internal doorway, again we are talking about a separate living unit within a single family dwelling, so again, we are talking, we're assuming that it is attached. It's inside.

This is a separate section again where we talk about an outside access door and an inside door connection, and then in the state law now, there are these provisions that say that zoning regulations will be prohibited from requiring any passageway between accessory apartments and the units, so you can't have interior doorway, you can require an exterior doorway and you, the other section where we are out of compliance is the requirements of permits, subsection G, at the very bottom.

We actually are in compliance with C, D and E and F. We don't have any problems with this in between, we are out of compliance with A, B, and G. They are talking about the style of the single family residence that shall contain exterior stairs for the second floor living, shall not be visible from the street, this is not strictly out of compliance with the new law, it is a little out of keeping with, I think the intent of the law, and I don't know what to say about this, I little bit worry about the intent of this act I believe is to have accessory dwelling units, similar or the same as the single family home, so if you allow stairs for a single family home to be visible from the street, I think some lawyer in some court, will probably argue that you should allow the same for the accessory units. But again, strictly speaking, you are not out of compliance with this particular requirement, it may be out of context, out of spirit of the public act.

There was one other slide where in one of our provisions we limit the number of occupants in the accessory dwelling units to two. There is also no language in the public act that prohibits that, per se, but that too is unenforceable. I think it really is impractical to enforce the number of occupants of a dwelling by zoning. That is more often occupancy standards that belongs in the fire and building code health element. That should not be something that zoning is in charge of. Again we are talking about an interior doorway connection, it's like I said, it's not allowed. This one, we are actually good with and I like this, because this sets a maximum standard for parking for accessory units, so it says essentially for these additional dwelling units you cannot have, you know, a million parking spaces, or small additional units.

This one has quite a few issues. Here we require for reference a requirement for special permit, we're talking about conditions. These conditions are based on the character of the neighborhood and at the next slide you will see you know, one of the regulation amendments, the very next one, and the next important one that I will bring to you once we are finished with this work will be, we need to define the character of the neighborhood because you are not allowed as a Commission to deny an approval for a certain type of permit based on character if your character is not defined based on certain issues from this new law. We can't require renewals of permits for the accessory apartment, we can't require public hearings, just a number of things in this provision are out of compliance. This is the part where I just mentioned about the character of the neighborhood, so if you read the zoning regulations, subsection B, zoning regulations adopted pursuant to this subsection shall not be applied to deny any application, etc., etc., etc. on the basis on character unless the character is expressly stipulated in by clear and physical standards for site of construction, so we will have to, our next step will have to come up with text amendments to define that.

So, after looking at our regulations, looking at the new State law, and then I looked at our POCD and our POCD actually supports having or allowing accessory apartments. They are included in our community and they are really supported by the POCD. They provide for accessory apartments and accessory dwelling units. They allow dimensional flexibility and provide for smaller units, they are appropriate in areas where we can zone them as such and they will resolve in affordable housing stock. They are also supported in POCD under action steps on page 66, this is similar to, I think this action step actually is related to this strategy, so the strategy created in action step on page 66, and then throughout the POCD there is this talk about aging in place and how is that important to this community and how, and I mean, ever since I came to Newington that has been a recurring theme around how much of a need in this community that is. Accessory apartments are or will provide a good solution for aging in place. So with all this in mind, we have options. Our options are to revise our regulations to match the state statutes. I propose that at least as my preferred option. I will bring the proposal to you and we would have a public hearing and have a community review that proposal together with you. We can see from there how that resonates with people. How much of an issue some of

these changes would present to people? If we have a provision, or two provisions that people do not like, let's say I come back to you with a regulation proposal that meets everything in the new State law. But people simply do not like the fact we also now allow detached structures or accessory apartments units in detached structures as of right. Then, that is a good enough clue for us to hold a hearing, opt out. Propose the zoning regulations that adopts everything so we have our accessory apartments very flexible, proposed detached accessory apartments as a special permit, and we are in compliance with State law, we have good regulations that deal with how we want it, how our community wants it, and yet we relaxed the rules, that we are okay to relax.

Our second option is to just say, you know what, we as a community don't believe that changing any of these rules is a good idea. It's a waste of our time, and let's just put a stop to all this and let's instead of even trying this, schedule a hearing to do an opt out. So, those are our two options and you can decide tonight, you can decide at the next meeting, I would just advise that we do this at some point soon, because there will be two opt outs. We have to, if we hold a hearing, on the opting out, we have to do it from the Planning Commission end, on the Town Council end, I believe in each, it's a two thirds vote that is required, and you don't know how long the public hearings will take in each and we don't want to be constrained for time on any of that.

That is my presentation, and I have six minutes, I can't believe I got it all in time.

Chairman Pane: Thank you Renata. I'll open it up to questions from the Commissioners.

Commissioner Woods: Renata, thank you for the presentation. A couple of questions, early on when you started we, I believe in our regulations now, want a minimum of 500 square feet and the new state doesn't allow that minimum square footage, but you did say it would be by code. What is the minimum square footage by code, you didn't say what that was. Do you know, or does it depend?

Renata Bertotti: I do not know, I think that depends, I think that depends on the occupancy.

Commissioner Woods: Okay, and then if we establish these accessory apartments, is it perpetuity, are they there forever? What happens if the house sells, and ownership changes? Is there a reapplication, do we know?

Renata Bertotti: So I would like to have some kind of ownership registration. I think it is a smart thing to have at least one property owner on the property so that it doesn't become like a rental unit.

Commissioner Gill: Renata, as far as the utilities, I don't need this right now, but if you can get to us what the regulations are going to be in regards to the utilities?

Renata Bertotti: You cannot have separate utilities, so our current regulation stays the same. The State regulation says you cannot require that an accessory apartments have separate utilities, and that is what we say too, so we are in compliance. So they just need to be together, like you cannot have separate, and in your regulations, in your zoning regulations, we can't require separate meters, separate installation of utilities. People can do it if they want, but we can't require.

Chairman Pane: Are there any other questions?

Gail Budrejko: Basically this really, the terminology apartment, to me is misleading. Isn't this allowing little houses?

Chairman Pane: I'll have Renata confirm that for you, but my understanding is that you could add an apartment, detached or attached, by right for every single family home in town, so every house could be turned into a two family, and that is basically what the State wants, is that correct Renata, or am I wrong.

Renata Bertotti: In the zoning districts where you allow them.

Chairman Pane: Well, we only have a couple of zoning districts, R-20 and R-12. R-12 is kind of small, so if we allow it in R-20, that's like the majority of the town.

Gail Budrejko: Then you can put little cabins out there, I mean, if they are detached you need to have like a sewer hookup, water, electricity, an apartment normally has a bedroom and kitchen and if there are no size limits, you are basically allowing two houses on a lot, or more. Is it limited to one accessory apartment per amount of land? Can you have two, can you have little cabins like you see driving down the highway down south?

Renata Bertotti: So if we go by this, our regulations will allow one. Whether we choose to allow four, or five, or fifteen that's up to us, but we are only required to allow one, unless we opt out, and again, like I said, I suggest that we come back with a regulation proposal and then, because my sense is, honestly once the community looks at this, there may be things, and I think perhaps a detached provision will be the one that people will be perhaps more sensitive to than some other things that could trigger potentially opting out. But, if that is the thing that you are opting out for, then we still have accommodated a number of other things that make our existing regulation much better than it is right now. That still in my mind is a plus. I still would recommend that we do it that way rather than doing an opt out without you know without doing a little bit good on this. Who knows, after we look at some districts and after we map some veracity, maybe the detached won't be that much of a problem as much as I may think.

Chairman Pane: Before we come up with a regulation Renata, would it make sense, and I'll open it up to the other Commissioners, does it make sense maybe to go to the public and ask the public whether or not they would like to have something like this? I mean, I think it's kind of, I don't think the majority of the people want to live next to detached homes by right, or accessory apartments on every house in R-20 or another zone. R-12 zone is kind of small, so I would imagine we would probably want it on the larger lots and, but that is our most protected single family homes, I just don't know if people would like that.

Renata Bertotti: I was just going to say, what you are talking about sounds to me like a public hearing for an opt out provision. That is an option too, you can do that if you want.

Chairman Pane: Are there any other questions from the Commissioners? Is there anyone from the public wishing to speak? Anybody from the public? I think it would be, if you could provide some additional information that the Commissioners asked for and address some of the questions, maybe we could meet again just before our next meeting and talk about it a little

more and see what way we want to go. Is that all right Renata?

Renata Bertotti: Yes, that is perfectly fine, thank you so much.

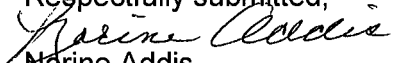
- V. **PUBLIC PARTICIPATION** (For items not listed on the agenda; speakers limited to two minutes.)

None

- VI. **ADJOURN**

Commissioner Woods moved to adjourn the meeting. Meeting adjourned at 7:00 p.m.

Respectfully submitted,

  
Norine Addis,  
Recording Secretary