

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Special Meeting

February 9, 2022

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

Commissioners Present

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

Commissioners Absent

Commissioner Hyman Braverman-A

Staff Present

Renata Bertotti, Town Planner
Erik Hinckley, Asst. Town Planner/ZEO

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

None

- IV. **OLD BUSINESS**

- A. Discussion of Section 6.13 Accessory Apartments and PA 21-29 (Continued from 1-26-22)

Renata Bertotti: Lat week, last meeting I presented this to you and we started discussing this public act that was passed summer and comparing some of the provisions of the public act to the, our existing regulations that currently exist as regulated accessory apartments in the Town of Newington. Just briefly, not to repeat everything that I said last meeting, there are a few sections that I identified as sections of conflict. We require a special permit which state statutes now prohibit that that be required by the regulations, the limited occupancy to two persons, that

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is not in the statute as specifically prohibited however, I mentioned this to you as being really impractical to enforce and also I believe that this is out of character. This really doesn't need, because the intent of the public act was to treat accessory dwelling units the same as the single family homes are treated. We do not limit occupancy, number of people in single family homes, and therefore I think it is, if this were brought to court, it probably would be challenged. We also have minimal floor area which is not allowed, we only allow accessory apartments if they are attached, that again is against the state statutes now. We require provisions for internal and external access doors, as well as time limits and then we require renewals. None of this is allowed, and lastly there is language in our regulations that talks about the character of the neighborhood. This is not defined in our regulations, and we have to do that as a part of the next step. Not necessarily related to this particular conversation directly, but indirectly also is part of where we can have some issue, because we cannot deny an application based on the character of the neighborhood, if that character of the neighborhood is specifically defined. Commissioner Woods asked me to provide state definition for the accessory apartments, so this is the definition of the public act. It essentially says it is a separate dwelling unit, it is located on the same lot of the principal dwelling unit, it has square footage, it has cooking facilities, it complies or is otherwise exempt from any applicable building code, fire code or health code. Lastly in closing I talked about how this provision to have and to allow accessory apartments in our zoning regulation isn't enforceable, and we have to keep this and we may want to make it a little bit better than it is, what we have now and the reason for that is that it is really supported by our Plan of Conservation and Development. Several sections of the Plan talk about a need to have the accessory apartments and other accessory dwelling units, to provide affordable housing, to allow for dimensional flexibility, in appropriate areas to again result in affordable housing units, and throughout our POCD, and we all have talked about this, there is a recognized need in the community for aging in place. Accessory apartments provide that kind of housing that is really lends itself to aging in place. So, in our option, like I had said, are to revise the zoning regulations and this is what I suggest that we do, I can provide revised zoning regulations to the planning commission that meets the state statutes. I recognize that some sections of the revised regulations will probably meet some resistance in the community. I recognize that there will be probably residents in the town that will not like certain areas of the proposed revisions. I also believe that there are several sections that will really improve the regulations and will not bother people. For example, elimination of the interior and exterior doorway connections, those types of regulations are, exist to limit who lives in the accessory apartment which is really not appropriate and I believe that in our community people care about that. It is not intended to regulate that a family member must be next door. I don't think that is necessarily the intent. I think the intent is perhaps not to create a bulk, so if we are perhaps talking about a detached unit, I can see some resistance on that so if I come back to the Commission with revised zoning regulations, we have a public hearing, and then we can see which provisions are really a problem, and we then can hold a hearing to opt out of the state provisions, which we must do, because otherwise if we don't opt out, we by default have the state regulations. Then we having the hearing on the opt out by the Commission, we have to go to the Council, have an opt out hearing there as well. Both agencies, the Commission and the Council must vote to opt out, and then we can adopt revised regulation minus whatever we chose to opt out for, and we will have better regulations that are local, we will opt out which is

something where perhaps we will not be looked upon favorably by the State, but we will end up having better regulations and we will have a clear reason to the State as to, the Town of Newington does not like this particular thing, or these particular two sections of the state statutes, and we are saying we found that they were not good for us. So, that is what I would recommend that we do.

Our other option is, we like our current accessory apartment regulations, we say that, and we hold public hearings to opt out at the Commission level and the Council level, we opt out and we leave our regulations as they are. Now, for me, that is an easier thing. For me, that is like less work, and less conflicts and less just less stuff, so you know, we can do that if you wish. But I just think in the long run that is not the best way to go. I still recommend the harder way, the first way.

Chairman Pane: What is the deadline on this Renata?

Renata Bertotti: We must opt out, we must complete the opt out process by the end of this year, so that means to the Planning Commission and to the Council by the end of this year, and you know, once we start doing these public hearings, they may be one, two, three in front of each agency, so I really want us to start this like right now because I don't know how long this will take, I don't want to be put in a position where anybody is pressured.

Chairman Pane: Okay, so if we go back to those things, like the special permit. They don't want us to allow by special permit, they want us to be allowed by right, is that correct?

Renata Bertotti: That is correct, yes. So, one of the sort of negotiated points could be that we allow, as of right, attached accessory apartments, and we perhaps limited them to a certain size, so if they are attached and they are up to this much coverage, they can be allowed as of right. If that exceed that, then they may require the special permit, or we can just allow accessory attached apartments to be as of right, but then anything that is detached may be either prohibited altogether, or only allowed by special permit. I would suggest that even detached units could be okay in some instances such as to obtain special permit, sometimes you can have a larger property where it is completely appropriate to have a detached unit on top of a garage somewhere or someplace where it is okay.

Chairman Pane: Where it is a deep lot of something like that.....

Renata Bertotti: Or on top of somebody's garage, detached garage, there are circumstances where a detached structure could be okay. That might require a special permit.

Chairman Pane: The existing regulation, 6.13, do we have somewhere in there where it is for family or, how did we do that?

Renata Bertotti: No, we do not limit to families, but I think the way that we regulate it is, because we require it to be attached and we require that there is an interior door connection, that is how you, by default, managed who lives there, because the interior doorway connection.....

Chairman Pane: And you are saying that is not allowed?

Renata Bertotti: You are not allowed to require it by regulation. People can do these things if they want to, we just can't require it by regulation. So in many instances, these units will still have doors, that connect outside and inside, we just can't demand it.

Chairman Pane: I think we designed it that way because we wanted it more for families or cousins, whatever, somebody ageing.

Renata Bertotti: I understand that, but honestly, if someone's twenty-eight year old entitled child, may have just was much right in the neighborhood as somebody who rents.

Chairman Pane: I'll open it up to the other Commissioners.

Commissioner Woods: I think if I remember right, I believe originally you are correct, it was for family members only, but I remember it being changed, we kind of relaxed it, and allowed it for non family, because I believe it either was challenged or was going to be challenged, the Commission then took that out of the regulation and it didn't actually say that it needed to be a family member. Renata, thank you for getting the definition, I don't know if that actually helps me a lot, again I reasonably understand it, but if you want vague, it's definitely vague and wide open. All it really says is that the accessory unit has to be smaller than the main unit, and then it goes on to say that it needs to have a kitchen. Does it need to have a bedroom, a bathroom, it doesn't say any of those things. It is interesting, I do think we need to do something and I'm leaning towards that we accept your recommendation to your first choice of opting out, but re-write our regulations and try to get it right, see what the public is looking for, re-write them again, and then still opt out with our own regulations down the road. That is what I would recommend. Thank you.

Commissioner Twister: The current regulation states that the accessory apartment can have no more than one bedroom. If we eliminate the maximum amount of occupancy provision like that state wants, can we still keep the provision for having only one bedroom. Would that be an issue?

Renata Bertotti: I believe so, I don't believe there is anything, I don't remember seeing anything in the statute that talks about bedrooms, period. I don't think they limit number of bedrooms.

Commissioner Claffey: I have a few items that I want to get out there for us to think about. One is, I agree with Commissioner Woods that we need to opt out and re-write and make our own, I don't think we want to have our community dictated by what the State wants us to do, unfortunately I don't agree with them, and the reason that I don't is, the zoning laws have been set, that certain areas of town can have multi-family homes, so do and some don't They have

been zoned that way for as long as I can remember in the world, if you want to have an accessory apartment, the definition here is very vague, like Commissioner Woods said, the way I see it, if the town allowed this, you could take a single family neighborhood, because our town doesn't have lot coverage requirements and literally put two houses with separate egresses and ingresses on the same lot, as long as they fit the setback requirements that we do have. In my neighborhood, I think I'm an R-12, I could have a house the size of mine right behind my house as long as.....

Renata Bertotti: It has to be a little smaller, but yes.

Commissioner Claffey: A little, I mean I could have another, a 1600 square foot house and a 1400 square foot house if I can make the rear setbacks and the side setbacks. I know I can do the side setbacks, the rear would be a little tough, but point being is, you just took a single family neighborhood and potentially make them into two separate homes on the same lot. The other thing is, basically you could say, well, I don't want a pool in my backyard, but I want to have another single family home. I think this is the way that the state has been trying to push their zoning rules and regs that they want us all to adhere to, so I'm not in favor of it, I'm in favor of opting out and re-write our own regulations and let the people decide at a public hearing. That's where I stand on this.

Commissioner Haggarty: I have a question for the Planner, what is driving this, why is the State doing this? I mean, is this, somebody was bored one day and was going through regulations, or what problem has the State identified for which this is the solution? We have a choice, but they are forcing us to make a decision one way or the other and I'm just curious what is the motivation for making the town do that.

Renata Bertotti: The way I understand, it is the lack of affordable housing and that lack of affordable housing has been related to zoning restrictions in the State of Connecticut, so the way zoning is done in the State of Connecticut is that each community has its own zoning. Many, many, many towns have had restricted zoning regulations where they prohibit multi-family, they prohibit accessory dwelling, they were very restrictive, they required large lots, that kind of thing which contributed significantly to our housing problems, and that is what my understanding is triggering these recent revisions.

Commissioner Haggarty: I think, echoing Commissioner Claffey, I mean people just throwing up huts on their yard, just sounds like a terrible idea. Thank you.

Commissioner Havens: I also concur with Commissioners Woods and Claffey and Commissioner Haggarty, I don't think the cookie cutter approach that the State is pushing is correct for Newington. I don't think that approach is to opt out and write our own interpretation of this.

Renata Bertotti: This is not to just clean up our regulations, I want to make it look like the statue, which I know will not be what people in Newington will want and will agree to, so when I

bring this to a hearing, I can imagine that it will be pretty contentious because people will not understand that this is not my proposal, this is the proposal to sort of eke out what is they problematic part from the community, so that I don't say, from my perspective, the detached unit is a problem and therefore, this is why we are opting out. We can actually have a public hearing and people tell us, the detached units are the problem, that is why we want to opt out. That is I guess what I am getting at.

Chairman Pane: Okay, I think that is probably the best method to do, even though it is a lot more work, I agree with you.

Commissioner Gill: Besides the detached unit, what was there about the utilities? Was there something that they were not going to have separate utilities?

Renata Bertotti: Our regulations, our existing regulations comply with state statutes with regards to detached and attached. So I believe that currently in the statute, they are not allowed to require separate connections by regulations, and that is the same as it is in our regulations. We don't require that currently, so we are in compliance. Our regulations were originally designed for families, so I think in our regulations, you shall not have separate connections, because we wanted this to be like a family situation. As I was saying, you cannot require that there is separate connections, now people can have separate connections or together connections, we just can't require it.

Commissioner Gill: The state regulations, do they talk about setbacks, or

Renata Bertotti: In all, only to the effect that the policy establishes setbacks and they proposals must meet them. It's a zoning permit, so let's say somebody comes in, wants to have an accessory apartment, if they meet front, side, rear setbacks, if they meet the height requirement, the bulk requirement, we sign the zoning permit and they go on their merry way. That's it.

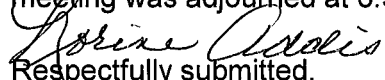
Chairman Pane: I think you have your answer Renata, I think that we're going to have to re-write and then have a public hearing, and then go from there.

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

None

VI. **ADJOURN**

Commissioner Claffey moved to adjourn the meeting, seconded by Commissioner Havens. The meeting was adjourned at 6:57 p.m.


Respectfully submitted,
Norine Addis, Recording Secretary