



CITY OF CAMBRIDGE

Community Development Department

To: Planning Board
From: Jeff Roberts, Director of Zoning and Development
Date: January 14, 2019
Re: **Accessory Apartments Zoning Amendment Petition**

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Overview

The City Council has proposed amending the provisions of the Zoning Ordinance pertaining to accessory apartments (also referred to in the proposal as “accessory dwelling units” or “accessory units”), contained in Article 4.000 (Use Regulations) and Article 2.000 (Definitions). The following is a summary of the proposed changes:

- Added requirement that only one accessory dwelling unit is allowed on any lot.
- Added provision that the addition of up to 6 inches of height constitutes a substantial enlargement to a building for the purpose of this section.
- Removed requirement that only lots of 5,000 square feet or larger may have an accessory apartment.
- Removed prohibition of accessory apartments in garages.
- Added provision stating, “Subsequent changes in ownership does not remove the requirement for the owner(s) of the accessory dwelling unit to live in one of the dwelling units as their primary unit.” (Currently, owners are required to reside within the principal or accessory unit on the lot.)
- Added provision stating, “Parking requirements are not applicable to accessory dwelling units,” and removed reference to “requirements for off-street parking” in Board of Zoning Appeal conditions. (Currently, parking is not required but the BZA may consider parking as a condition of a special permit.)
- Added provision stating, “The accessory apartment does not count towards determination of lot area per dwelling unit.”
- Added provisions allowing an accessory apartment by special permit in a separate accessory structure on a lot, provided the gross floor area (GFA) of the apartment does not exceed 1,000 square feet and the special permit granting authority determines that the exterior appearance of the accessory structure is compatible with the principal dwelling on the same lot and with dwellings and accessory structures on adjoining lots.
- Modifications to the definition of “Accessory Apartment” for consistency with the proposed new provisions.

This memo provides background information and discussion on the proposed changes.

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Background

In land use planning, the concept of accessory apartments or accessory dwelling units (“ADUs”) refers to residential units that are subordinate to the principal use on a lot, usually a single-family home. These are sometimes referred to as “in-law apartments” because they might be used by relatives of the homeowners, but could be rented to others as well. The exact definition and regulation of ADUs varies across communities, reflecting a particular community’s land use patterns and character. For instance, ADUs might be allowed within a single-family dwelling and/or within a separate structure on the lot, and might or might not be limited to owner-occupied homes. In some instances, but not all, residents of ADUs must be related to residents of the principal residence.

In recent years, ADUs have been discussed as a way for communities with more restrictive, predominantly single-family residential zoning to increase their housing stock. Advocates have noted that allowing ADUs can help add units without substantially altering the character of neighborhoods, while giving homeowners more choices and flexibility in how they use their property. On the other hand, it is unclear how many new units would result from allowing ADUs, and the ability to add market-rate rental units would add property value that could result in higher housing prices. The trend of some owners renting units on a short-term basis (less than 30 days), facilitated by online services like AirBnB, further complicates the issue.

Accessory Apartments in Cambridge

The Cambridge Zoning Ordinance has allowed accessory apartments by special permit from the BZA since 1981. Originally, accessory apartments were allowed in Residence A-1 and A-2 districts, the only districts that allow single-family but not two-family or multifamily dwellings, and only in existing large single-family structures built before 1940 where apartments could be incorporated without substantial exterior alterations. The intent of the original zoning was explained as follows: “Given contemporary life styles, housing needs and energy and maintenance costs, it is beneficial to the City to allow greater flexibility in the use of such [existing large single-family] dwellings without substantially altering the environmental quality of such residential districts.”

In 2016, the City Council adopted the Patrick Barrett, et al., Zoning Petition, which allowed accessory apartments by special permit in single-family or two-family homes in all districts of the city. Minimum requirements for lot area (5,000 square feet) and dwelling size (1,800 square feet of GFA) and maximum limitations on accessory apartment size (lesser of 900 square feet or 35% of the principal dwelling’s GFA) were retained but made less restrictive than the prior zoning, and parking requirements were waived. Accessory apartments remained allowable only in existing structures, but the reference date was deleted so structures could be built at any time. An additional requirement was added that a lot with an accessory apartment must be owner-occupied; previously, it was only required that principal and accessory units remain under common ownership.

Only a small number of special permits were granted for accessory apartments before adoption of the Barrett, et al., Petition. In the three years since, there have been around five applications for accessory apartments. In some cases, since there is no reference date for an “existing structure,” new residential structures have been built in such a way that they could easily be converted to include an accessory apartment after the dwelling is built, provided they receive a special permit.

Some property owners have continued to encounter regulatory impediments, not always related to zoning. For example, owners proposing to add an accessory apartment to a two-family dwelling, resulting in a total of three units in the building, are required to comply with building code requirements for a multifamily structure regardless of how the units are defined in zoning.

In 2017, the City Council adopted a zoning ordinance regulating short-term rental of dwelling units. Under that ordinance, an accessory apartment could potentially be offered as an “owner-adjacent short-term rental,” if it is properly registered with the City and subject to standards and limitations set forth in Section 4.60 of the Zoning Ordinance.

Proposed Zoning

The proposed amendments would relax some current limitations by eliminating minimum lot sizes and excluding accessory apartments from lot area per dwelling unit calculations. These limitations might be impediments for many owners, and removing them would allow nearly any single-family or two-family home with at least 1,800 square feet of GFA to add an accessory apartment if it does not involve significant exterior alterations to the structure. Parking requirements may already be waived under current zoning, but the proposed change suggests that the BZA would not consider requiring parking as a special permit condition. The provisions related to the number of accessory units on a lot and continuing owner-occupancy if a property is sold are clarifications consistent with current zoning; however, enforcement of continuing owner-occupancy could still present a challenge. The reintroduction of a reference date for existing structures (January 1, 2019) would discourage new structures from being built with the expectation of adding an accessory apartment.

The other substantial change is the introduction of the “accessory apartment structure” concept, which would allow detached structures such as garages to be converted to stand-alone apartments (sometimes referred to as “carriage house units”). The proposed zoning might also allow new detached accessory apartment structures to be built, although that it is not an explicitly stated intention. If so, many issues would need to be clarified because the Zoning Ordinance contains other regulations for “accessory buildings,” including the following in Section 4.21:

g. The area occupied by accessory uses shall be subject to the following limitations:

(1) The total area of uses accessory to the principal use may not occupy more than twenty-five (25) percent of the gross floor area of the building in which the principal use is located or twenty-five (25) percent of the area of the dwelling unit when the accessory use is located in a residence.

(2) The total area of uses or buildings accessory to the principal use except for parking facilities and driveways may not occupy more than fifteen (15) percent of the area of the lot.

(3) The area limitations of this paragraph 4.21 g shall be applicable in all zoning districts except the Cambridge Center MXD District; however, if explicitly stated elsewhere in this Ordinance certain accessory uses in specified districts may exceed the foregoing area limitation.

h. In Residence A, B, C, and C-1 Districts an accessory building shall not be located nearer than ten (10) feet to the principal building or nearer than five (5) feet to any side or rear lot line or nearer to the front lot line than the minimum setback in the zoning district.

i. In a Residence District an accessory use shall not involve the maintenance of a stock in trade or the use of signs, illumination, show windows or displays either exterior or interior, except such signs as are permitted by Article 7.000.

j. No accessory building shall be used as a dwelling except in an Industrial District for the accommodation of a night watchman or janitor.

k. An accessory building in Residence A, B, C, C-1, and Office-1 districts shall not exceed fifteen (15) feet in height above the ground level.

l. No accessory building may be converted to a residential use unless it conforms with the district dimensional regulations specified in Section 5.30.

It is also not clear if the petition language intends to allow accessory apartment structures on lots other than single-family or two-family dwellings. A lot with a multifamily residential use, or a non-residential use, could also contain an accessory structure that might be converted to accommodate an accessory apartment.

The potential effects of allowing detached accessory apartment structures are a challenge to assess. It is not entirely clear how the language above might be applied to an accessory apartment structure, and it is difficult to determine how many lots might have an existing accessory structure or lot space that would accommodate such a unit.

If there is a desire to create more opportunities for accessory apartments, the ability to do so within a separate structure could be an attractive option for some homeowners that do not have adequate space within their existing houses. However, experience also suggests that the creation of additional detached dwellings on a lot can raise concerns from neighboring residents due to impacts on privacy and reduction of yard space, particularly in residential neighborhoods where homes are already close to each other.