



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-2205 • Fax (207) 829-2214

To: Steve Moriarty, Planning Board Chairman

From: William Shane, Town Manager

Date: September 13, 2017

Re: Accessory Dwelling Units

The Ordinance Committee has been working on Accessory Dwelling Unit (ADU) Ordinance language, also known as “Conversions § 315-45”

Originally, the intent of the ADU’s was to allow in-law type structures on lots which could not conform to our Town standards. Those lots were typically the minimum lot sizes in their districts. While additions onto these structures is allowable, separate, independent structures would be prohibited without this ordinance.

To date, the spirit of the ordinance has been respected. Over the past 10 years, we have had approximately a dozen of these types of requests. Originally, ADU’s were heard through the Board of Appeals. When we updated our ordinances, they were handled by staff review.

The proposed ordinance tightens the current language as follows:

1. Requires owner occupancy in one of the units
2. Requires one parking space per bedroom
3. Allows for up to 2 bedrooms (only 1 was allowed previously)
4. Adds clarifying language related to lot size, frontage, review authority and variances

The bulk of the original language is intact.

The Yarmouth ordinance was utilized for comparison and several of their restrictions were added to this ordinance.

One element that was discussed, but never incorporated, was the recording of the ADU in the Registry of Deeds so future sales would reflect the lot needed to be sold as one unit with the primary house and the ADU. There was some concern that an owner may try to sell the ADU.

Current Ordinance Language

To Be Repealed and Replaced

§ 315-45 Conversions.

- A. Accessory dwelling units. Any single-family dwelling or an accessory structure which is either attached to or detached from the primary dwelling unit may be constructed, altered or expanded to include one additional dwelling unit, in accordance with site plan review requirements and the following standards.
[Amended 11-26-2012]
- (1) The unit to be added shall include no more than one bedroom and shall not exceed 40% of the total living area of the primary dwelling unit.
 - (2) The district lot size requirements may be waived by the Planning Board, Staff Review Committee or the Town Planner in accordance with the Site Plan Ordinance; provided that the local Plumbing Inspector indicates adequate capacity and conformity with the State Plumbing Code, but in no case shall such conversion be allowed on a lot smaller than 20,000 square feet unless connected to public sewer.
 - (3) This provision shall not prohibit the conversion of a single-family dwelling to a duplex or multiplex dwelling or the conversion of a duplex dwelling to a multiplex dwelling, so long as said conversion complies with all district and other zoning standards, including but not limited to the minimum lot size per dwelling unit.

Proposed Ordinance Language

8-28-17

§ 315-4. Word Use and Definitions.

ACCESSORY DWELLING UNIT (ADU)

A secondary dwelling unit to be used as a single family dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

§ 315-45 Conversions.

- A. **Accessory dwelling units.** One Accessory Dwelling Unit may be constructed as an attached or detached structure that is accessory to a primary single family dwelling unit on any lot in any zoning district. An accessory dwelling unit may be part of the same structure as the primary dwelling unit; however, basement or attic living spaces within the primary dwelling unit shall not be considered accessory dwelling units. An accessory dwelling unit may also be a detached dwelling unit on the same lot as the primary dwelling unit provided that it is constructed as a permanent structure that is located within 100 feet of the primary dwelling unit.

(1) **Occupancy.** Either the primary dwelling unit or the accessory dwelling unit must be occupied by the owner of the property.

(2) **Review and Approval.** All accessory dwelling units must satisfy the applicable requirements of the Site Plan Review Ordinance, Section 229-5, minor staff review procedure, and the standards set forth in this Section.

(3) **Performance Standards.**

(a) The Accessory Dwelling Unit shall include no more than two bedrooms and shall not exceed 40% of the total living area of the primary dwelling unit.

(b) An Accessory Dwelling Unit shall not result in excessive noise, traffic or parking congestion on the lot or within the neighborhood within which the property is located.

(c) One parking space per bedroom shall be required.

(4) **Lot Standards.**

(a) An Accessory Dwelling Unit shall not be required to independently meet the minimum lot size requirements of the zoning district within which it is located provided that the primary dwelling unit conforms to such requirements and that the local Plumbing Inspector indicates adequate capacity and conformity with the State Plumbing Code for the Accessory Dwelling Unit in addition to the primary dwelling unit. Unless connected to public sewer, no ADU will be allowed on a lot smaller than 20,000 square feet.

(b) An Accessory Dwelling Unit shall not be required to independently meet the lot frontage requirements of the zoning district within which it is located, but shall be required to meet all setbacks of the zoning district within which it is located.

(c) An existing primary dwelling that is a nonconforming structure or building may be expanded to incorporate an Accessory Dwelling Unit subject to the requirements of 315-74 for the expansion of nonconforming buildings or structures, or 226-14 if located within a Shoreland Zoning District. An Accessory Dwelling Unit shall not be permitted on a lot with a nonconforming use.

(d) Notwithstanding the provisions of Section 315-77, no variances may

be granted with respect to the dimensional requirements related to size and height of structures, setback distances, lot coverage, or lot frontage required for Accessory Dwelling Units.

- (5) This Section shall not prohibit the conversion of a single-family dwelling to a duplex or multiplex dwelling or the conversion of a duplex dwelling to a single-family or multiplex dwelling, so long as said conversion complies with all district and other zoning standards, including but not limited to the minimum lot size per dwelling unit.

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