

Notice of Public Hearing
Proposed Amendments to Town of New Shoreham Zoning Ordinance
Article 2, Section 202 Definitions; Article 4, Section 405 (H) Affordable Housing, Article 5,
Section 513 Accessory Apartments

Wednesday, October 19, 2022
In-Person Meeting at Town Hall, Old Town Road, Block Island RI
7:00 PM

Watch on Youtube: <https://www.youtube.com/channel/UCmvoSBIQ0bsFRg1kxPgNVCA>

The New Shoreham Town Council will consider amendments to the Zoning Ordinance related to Accessory Apartments, as follows. Deletions appear crossed out. The proposed language may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.

Section 202 Definitions

3. ~~ACCESSORY APARTMENT DWELLING UNIT~~ – A residential living unit on the same parcel as a legally established principal use. An Accessory Dwelling Unit provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to, a detached unit; a unit that is part of an accessory structure, such as a detached garage, or a unit that is part of an expanded or remodeled primary dwelling. A unit constructed within the building footprint of a single family dwelling structure or within an existing accessory structure, to be used as a residence.

4. ~~ACCESSORY DWELLING UNIT~~—A dwelling unit: (i) ~~rented to and occupied either by one or more members of the family of the occupant or occupants of the principal residence; or (ii) reserved for rental occupancy by a person or a family where the principal residence is owner occupied and which meets the following provisions:—~~
(a) ~~In zoning districts that allow residential uses, no more than one accessory dwelling unit may be an accessory to a single family dwelling.—~~
(b) ~~An accessory dwelling unit shall include separate cooking and sanitary facilities, with its own legal means of ingress and egress and is a complete separate dwelling unit. The accessory dwelling unit shall be within or attached to the principal dwelling unit structure or within an existing structure, such as a garage or barn, and designed so that the appearance of the principal structure remains that of a one family residence. [Entire definition amended December 6, 2004]—~~

Section 513. – Accessory Apartments. Dwelling Units.

A. Purpose.

~~This Section is intended to provide year round rental housing for year round residents, seasonal rental housing for those deriving income from employment on the Island and at the same time provide supplemental income for homeowners from the rental of an accessory apartment, and to provide property tax incentives for accessory apartments to be voluntarily deed restricted for affordable housing. The purpose of this section is to create housing opportunities through the provision of rental housing for year-round residents while affording the owner of the primary residence with the opportunity to generate supplemental income. The purpose of this section is also to support local businesses by allowing for employee housing in suitable locations for those deriving income from seasonal employment on the island.~~

B. Affordable Accessory Apartments.

~~With respect to any accessory apartment that meets all the standards for accessory apartments set forth below, the following additional provisions shall apply:~~

~~1. With respect to every assessment year for which said apartment is hereinafter duly deed restricted and utilized for affordable housing as defined in this Ordinance, the fair market value of said affordable accessory apartment shall not be included as real estate or improvements upon which real estate taxes are assessed and collected by the Town of New Shoreham provided that, at least thirty (30) days prior to said assessment year, the landowner shall have procured from the Block Island Housing Board and provided to the Tax Assessor documentation that the requirements of this Section have been met. The shall adopt rules and regulations for the administration of the provisions of this Section, including but not limited to the form and content of the required deed restriction, and required language for long term monitoring and verification of eligibility. Once an affordable accessory apartment is deed restricted as provided herein, said restriction shall not thereafter be removed without a certificate being procured from the Block Island Housing Board and filed in the Records of Land Evidence of the Town of New Shoreham attesting that a withdrawal fee has been paid to the Tax Collector equal to ten (10) times the average annual real estate and improvement tax savings the subject property has received the benefit of under the provisions of this Section. This withdrawal fee may be waived in whole or in part for good cause shown by the Town Council on the recommendation of the Board of Tax Assessors. (Section added September 27, 2006)~~

~~2. All of the standards and requirements otherwise applicable to accessory apartments set forth below shall apply to affordable accessory apartments except that the requirement in Section 513D(3) that no accessory apartment shall be permitted if the result would be a residential density of more than two (2) dwelling units per lot may be modified as an affordable accessory apartment by Special Use Permit granted by the Zoning Board under Section 405: (i) the requirement in Section 513(D)3 that no accessory apartment shall be permitted if the result would be a residential density of more than two (2) dwelling units per lot; and (ii) the requirements of Section C(4) regarding accessory apartments in zoning districts without public sewers.~~

C. General Standards-

B. Standards for Accessory Dwelling Units.

(i) General Standards

The following standards shall apply to all accessory ~~apartments~~ dwelling units that do not meet the eligibility criteria of Section 518: ~~except as provided above~~

1. An accessory ~~apartment~~ dwelling unit can be included in any principal residential building, or in an accessory structure.
2. The accessory ~~apartment~~ dwelling unit shall be self-contained with separate cooking and sanitary facilities for the exclusive use of the occupant(s) of the ~~apartment~~ dwelling unit.
3. There shall be a maximum of ~~two (2)~~ three (3) bedrooms in any accessory ~~apartment~~ dwelling unit.
4. Minimum living area for an accessory dwelling unit must be consistent with R.I. Gen. Law 45-24.3-11.
5. The accessory dwelling unit must not exceed dimensional standards established for accessory structures within the applicable Zoning District.
6. An accessory ~~apartment~~ dwelling unit shall not exceed twelve hundred (1,200) square feet of living floor area without a Special Use Permit in accordance with Section E below.
3. ~~7. In any zoning district where the public sewer services the structure in which the accessory apartment is to be located, a~~ An accessory ~~apartment~~ dwelling unit shall be permitted, without regard to the residential density requirements of the zoning district in which the lot is situated.
4. ~~In any zoning district where the public sewer does not service the structure in which the accessory apartment is to be located, an accessory apartment shall be permitted, without regard to the residential density requirements of the zoning district.~~
8. ~~5. In any zoning district where the~~ If public sewer does not service the structure in which the accessory ~~apartment~~ dwelling unit is to be located, an accessory ~~apartment~~ dwelling unit shall be permitted only after the OWTS has been inspected by the Wastewater Management Inspector, or his or her designee, and any necessary repair, modification, alteration or replacement of the OWTS has been made, and all otherwise required State code requirements are met.
9. ~~6. For any lot on which an accessory ~~apartment~~ dwelling unit is located, all structures on the lot, and all areas of all structures on the lot shall be held in single, joint, common or otherwise undivided ownership.~~
10. ~~7. Any property owner maintaining any accessory ~~apartment~~ dwelling unit on the property shall rent that accessory ~~apartment~~ dwelling unit only by a written rental agreement which shall be kept by the owner and made available to the Zoning Official upon request.~~
11. ~~8. Any property owner maintaining any accessory ~~apartment~~ dwelling unit on the property agrees to the inspection of the property by the Building Official and/or Zoning~~

Official upon seventy-two (72) hours' notice of the date, time and purpose of the inspection.

D. (ii) Standards for Residential Zones.

The following standards shall apply to such accessory apartment dwelling units located in the RA Zone, the RB Zone, the RC Zone, the RC/M Zone, and the M Zone.

- ~~1. The floor area of any one bedroom accessory apartment shall not be less than three hundred (300) square feet of living area. The floor area of any two bedroom accessory apartment shall not be less than three hundred forty (340) square feet of living area.~~
- ~~2. An accessory apartment dwelling unit shall not exceed twelve hundred (1200) square feet of living floor area.~~
3. 1. Modifications to the exterior of an existing principal structure resulting from the installation of an accessory apartment dwelling unit, or the design and construction of new homes with an accessory apartment dwelling unit integrated into the design from the start, shall be consistent with the principal building's predominant character as a single-family home. Only one (1) main entrance will be permitted on the front or street side of the building. All other entrances shall be located at the side or rear of the building. The Building Official shall determine to what degree interior or exterior modifications shall be made to conform to the requirements of the state building code for life safety and fire separation.
4. 2. No accessory apartment dwelling unit shall be permitted if the result would be a residential density of more than two (2) dwelling units per lot without a Special Use Permit in accordance with Section E below.
5. 3. As a condition for the issuance and continued validity of an occupancy permit for an accessory apartment dwelling unit, the owner shall execute and record against the deed to said property a restriction, running with the land and in favor of the Town, to the effect that occupancy of the accessory apartment dwelling unit shall be limited to persons residing in the Town year-round (as defined in Chapter 2, Article I, Section 2-2 of the Revised Ordinances of the Town of New Shoreham) and that the accessory apartment dwelling unit may not be offered, nor used, for seasonal occupancy; and the owner shall file with the Town, prior to issuance of an occupancy permit and within thirty (30) days of any change in ownership of the premises, an affidavit, signed under the penalties of perjury by the owner of the premises, attesting to the fact that the accessory apartment dwelling unit is, and will be, limited to occupancy by persons residing in the Town year-round (as defined in Chapter 2, Article I, Section 2-2 of the Revised Ordinances of the Town of New Shoreham) and that the accessory apartment dwelling unit will not be offered, nor used, for seasonal occupancy. The affidavit shall be renewed by the owner of the premises every ~~three (3)~~ two (2) years as a condition for retaining an occupancy permit for the accessory apartment dwelling unit.

E. (iii). Standards for Commercial Zones.

The following standards shall apply to accessory apartment dwelling units located in the SC Zone, the OHC Zone and the NHC Zone:

1. There shall be a maximum of three (3) accessory dwelling units per lot.

2. As a condition for the issuance, and continued validity, of an occupancy permit for any accessory ~~apartment~~ dwelling unit, the owner shall execute and record against the deed to said property a restriction, running with the land in favor of the Town, to the effect that occupancy of the accessory ~~apartment~~ dwelling unit shall be limited to persons resident in the Town year-round (as defined in Chapter 2, Article I, Section 2-2 of the Revised Ordinances of the Town of New Shoreham) or deriving income from employment on the Island and that the ~~apartment~~ dwelling unit may not be offered, nor used, for seasonal occupancy except for seasonal occupancy by persons deriving income from employment on the Island; and the owner shall file with the Town, prior to issuance of an occupancy permit and within thirty (30) days of any change in ownership of the premises, an affidavit, signed under the penalties of perjury by the owner of the principal structure, attesting to the fact that the accessory ~~apartment~~ dwelling unit is, and will be, limited to occupancy by persons ~~resident~~ residing in the Town year-round (as defined in Chapter 2, Article I, Section 2-2 of the Revised Ordinances of the Town of New Shoreham) or deriving income from employment on the Island and that the accessory ~~apartment~~ dwelling unit will not be offered, nor used, for seasonal occupancy except for seasonal occupancy by persons deriving income from employment on the Island. The affidavit shall be renewed by the owner of the premises every ~~three (3)~~ two (2) years as a condition for retaining an occupancy permit for the accessory ~~apartment~~ dwelling unit.
3. A separate affidavit shall be required for each accessory ~~apartment~~ dwelling unit clearly identifying the ~~apartment~~ dwelling unit and distinguishing it from any other accessory ~~apartment~~ dwelling units on the property.

C.E Standards for Town Employee Accessory ~~Apartments~~ Dwelling units.

1. Accessory ~~apartments~~ dwelling units owned by the Town of New Shoreham and constructed principally for the purpose of providing housing for employees serving necessary local government functions shall be exempt from the Standards of ~~D3, D4 and E B.ii.2, B.ii.3, and B.iii.~~ of Section 513.
2. There shall be no more than four (4) accessory ~~apartments~~ dwelling units on a lot owned by the Town of New Shoreham.
3. If, at such time after the construction of the permitted dwelling unit(s) for the purpose of providing housing for employees serving necessary local government functions, there becomes no immediate need for the housing by the Town, it may be rented, on a yearly basis, to a resident qualifying as a low or moderate income person or family.
- 3.4. Procedure. Notwithstanding any other provisions of this Ordinance, no construction of or alterations to buildings or structures for the development of Town Employee Accessory ~~Apartments~~ dwelling units shall be permitted until development plans have been reviewed and approved by the Planning Board as set forth in Section 704, Development Plan Review.
 - 3.a. *Plans Required.* In addition to any applicable submittals required under Development Plan Review, the applicant shall submit:

4.a.1. An existing conditions plan prepared by a registered land surveyor or professional engineer which shows contours at two (2) foot intervals; all structures, travel lanes and parking areas; all street and lot lines, dimensions and property setbacks; and the location of wetlands and water bodies on the property.

4.a.2. A site plan which indicates the intended location of the proposed structures, with all dimensions and setbacks indicated, and all site improvements, including proposed grading, parking areas, fencing, landscaping and lighting.

4.a.3. Architectural plans for any new construction or exterior alterations to any existing structure.

4.b. *Standards of Review.* No final approval of any development plan for building construction or alteration or other site improvements may be granted by the Planning Board until it has reviewed the plans in accordance with, but not limited to, the following:

4.b.1. All applicable general site standards contained in Section 501 A.

4.b.2. The limitations on building footprint, living area, gross area and building volume as delineated in Section 406 for a residential structure, beyond which the issuance of a Special Use Permit would be required.

4.b.3. All other applicable parking, landscaping, signage and utility standards contained in this Ordinance.

F-D. Accessory Dwelling Units by Special Use Permit

1. Applicability

a. An accessory dwelling unit greater than 1,200 square feet of living floor area, up to a maximum of 1,500 square feet of living floor area, is allowed only upon the granting of a Special Use Permit by the Zoning Board of Review.

b. A structure existing as of July 1, 2022, of up to 1,800 square feet of living area, may be converted into an accessory dwelling unit, upon the granting of a Special Use Permit by the Zoning Board of Review.

c. An accessory dwelling unit of up to four (4) bedrooms, is allowed only upon the granting of a Special Use Permit by the Zoning Board of Review.

d. In the RA Zone, the RB Zone, the RC Zone, the RC/M Zone, and the M Zone, two (2) accessory dwelling units may be permitted if the result would be a residential density of not more than three (3) dwelling units per lot, upon the granting of a Special Use Permit by the Zoning Board of Review.

e. In the SC Zone, the OHC Zone and the NHC Zone, more than three (3) accessory dwelling units may be permitted upon the granting of a Special Use Permit by the Zoning Board of Review.

f. For lots less than 120,000 square feet in lot area, a one percent (1%) increase in maximum lot building coverage above the maximum established by the applicable Zoning District is provided for the creation of an accessory dwelling unit. The owner shall execute and record against the deed to said property a restriction that in exchange for the bonus the accessory dwelling unit created remains part of the island's attainable year-round housing stock in perpetuity.

2. Requirements

a. Relief from the living floor area maximum, maximum number of bedrooms, and maximum number of dwelling units per lot, may be granted by a Special Use Permit subject to a finding that the development is consistent with the purpose of this Section and the scale, use, and siting of the proposed accessory dwelling unit or units is harmonious with the surrounding land use and development pattern.

b. An application must be submitted to the Zoning Board of Review for a Special Use Permit. Any such application shall also be subject to Development Plan Review by the Planning Board under the provisions of § 704. Prior to the approval of an application submitted under this section, the Zoning Board of Review shall determine that the application meets the general criteria for a Special Use Permit contained in § 401, General Criteria for a Special Use Permit.

E. G. Termination, Abandonment and Release.

1. Any property owner with an accessory ~~apartment~~ dwelling unit may terminate the use and obtain a written release of the restrictions recorded under Section 513C(4) and/or Section 513D(2) by abandoning the use in accordance with the following procedure (Amended June 19, 2002):

a. The owner of the property shall send a written notice by certified mail of the intention to abandon the accessory ~~apartment~~ dwelling unit use to the Zoning Official expressly abandoning the use, stating the use to which the ~~apartment~~ dwelling unit is to be changed and stating the date of the abandonment.

b. The owner shall convert the ~~apartment~~ dwelling unit from a dwelling unit to another use by, at a minimum, removing all cooking appliances and kitchen plumbing such that any reconversion to a dwelling unit will require a building permit.

c. On, or after, the date of abandonment the Building Official or his or her designee shall inspect the ~~apartment~~ dwelling unit and certify in writing that the ~~apartment~~ dwelling unit has been abandoned stating the date of the inspection, specifically what alterations were made by the owner in converting the ~~apartment~~ dwelling unit and to what use it has been converted. The Building Official shall ~~insure~~ ensure that all alterations have been done according to code requirements.

d. ~~Upon written recommendation by the Zoning Official to the Town Council the Town shall execute and deliver to the owner a written release and discharge of the recorded restrictions.~~

2. If any accessory ~~apartment~~ dwelling unit is not rented or occupied, in accordance with the terms of this Section, for a period in excess of one year, the accessory ~~apartment~~ dwelling unit use may be considered to have been abandoned. The Building Official and/or Zoning Official shall conduct an investigation, document his or her findings, and notify the property owner of his or her determination. In the Notice the Building Official and/or Zoning Official shall advise the property owner that a new application for a Special Use Permit will be required to reacquire the use. If no response is received the Building Official

and/or Zoning Official shall record the Notice on the Land Evidence Records. Thereupon, the owner shall convert the ~~apartment~~ dwelling unit from a dwelling unit to another use by, at a minimum, removing all cooking appliances and kitchen plumbing such that any reconversion to a dwelling unit will require a building permit. This does not preclude the Building Official and/or Zoning Official from pursuing any other violation of the terms of this Section by someone, for example, renting the unit weekly at market rates.

Section 405

~~H. Affordable Accessory Apartments. Affordable Accessory Apartments shall be governed as set forth in 513B.~~

Posted:
Hearing: October 19, 2022
Adopted:
Posted:

Attest: Millicent McGinnes, MMC
 Town Clerk