



DEPARTMENT OF PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Mark Wujtewicz, Planner

DATE: April 25, 2023

TITLE: Staff Report: Zoning Regulation Amendment – Application PL-23-4
Proposed Accessory Dwelling Unit Regulations

EXECUTIVE SUMMARY

The Connecticut General Assembly passed legislation in 2021 through Public Act (PA-21-29) that established default provisions allowing for the construction of Accessory Dwelling Units on parcels that contain a single family home. PA-21-29 also provided that a municipality may choose to “opt out” of the provision by January 1, 2023 by a vote by both the Planning and Zoning Commission and the Legislative Body of the Town, which for Waterford is the RTM. The Planning and Zoning Commission held Public Hearings on January 25, 2022 and continued to March 8, 2022. The Commission took action on April 26, 2022 to approve an ‘opt-out’ of the provisions by 2/3 vote. The RTM took a similar action and voted unanimously to ‘opt-out’ of the provisions of PA-21-29 at its June 6, 2022 meeting.

As a result of the actions by both the Commission and the RTM, the Waterford Planning and Zoning Commission undertook the process of amending the Zoning Regulations in order to enable the construction of Accessory Dwelling Units within certain requirements and criteria. The Commission deliberated for several months in creating draft regulations that would allow for the construction and use of Accessory Dwelling Units with consideration of the intent and purpose of the State Legislation.

BACKGROUND

Pertinent Regulations

Public Act 21-29 ADU’s allowed by default, with ability to opt out.

Connecticut General Statutes

CGS 8-3(a)

Waterford Zoning Regulations

Section 1 – Definitions – Accessory Dwelling Unit

Section 3.9 – Accessory Uses in Residential Zoning Districts

Section 3.36 – Accessory Apartments

Section 3.39 – Accessory Dwelling Units

All Sections for Specific Zone Districts that reference Accessory Apartments

Section 28 – Amendments

DISCUSSION

Pursuant to Section 8-3a of the Connecticut General Statutes, before the Commission acts upon an application to amend the Zoning Regulations of the Town of Waterford, it must find whether or not the amendments being proposed are consistent with the goals, policies and objectives contained in the 2012 Waterford Plan of Preservation, Conservation and Development, herein after called the Plan.

A goal stated in the Residential Development chapter of the Plan is to “*Encourage a variety of housing types and densities to meet the housing needs of current and future residents.*”(pg. 54) The Plan recognized the evolving housing needs of Waterford and that the community should continue to address the housing needs of its current and future residents. The Plan also recognized that residents supported the concept of diversifying the types of housing in Waterford. (pg. 55) The proposed regulations are consistent with the above stated goal in the Plan by providing for another housing type option in support of a more diverse housing portfolio in Waterford.

A strategy in the Community Character chapter of the Plan is to encourage the preservation of undeveloped land. (pgs. 32 & 37) The proposed regulations allow an ADU to be located on a parcel that contains a single-family dwelling. This provides for the construction of an additional housing unit on a developed parcel while encouraging the preservation of undeveloped land.

While the proposed regulations do not require that ADU’s be affordable as defined by State Statute, they do have the potential of providing an affordable alternative of housing based upon the intent of the use of an ADU as accessory to the principal dwelling. This is consistent with Section 4.7.3 of the Towns recently adopted Housing Plan. This Plan identified the task of updating the Zoning Regulations relative to Accessory Dwelling Units.

The proposed language incorporates design elements and regulatory language that would allow property owners of Waterford to construct and maintain Accessory Dwelling Units while still considering the residential character of neighborhoods and providing additional housing options. The proposed language also includes modifications to other impacted sections of the Zoning Regulations that specifically use the term “Accessory Apartments” to reflect the updated term of “Accessory Dwelling Units”.

Existing Section 3.39 will be repealed. This section is being replaced by the language proposed for Section 3.36. In addition, there are currently sections in the Zoning Regulations that refer to the former use of Accessory Dwelling Units as specially permitted uses in accordance with the repealed section 3.39 of the Zoning Regulations. These sections of the regulations will be removed with Section renumbering implemented as appropriate.

RECOMMENDED ACTION

Based on the information provided, staff recommends the Planning and Zoning Commission find that:

Findings:

1. The Planning and Zoning Commission took action on April 26, 2022 to approve an ‘opt-out’ of the provisions of PA-21-29.

2. The RTM took action on June 6, 2022 and voted unanimously to ‘opt-out’ of the provisions of PA-21-29.
3. Application PL-23-4 meets the requirements of Section 28 of the Waterford Zoning Regulations.
4. Application PL-23-4 meets the requirements of Connecticut General Statutes Chapter 124 §8-3 governing changes of zoning regulations and districts.
5. The proposed Regulation Amendments are consistent with the 2012 Plan of Preservation Conservation and Development in meeting the stated goals of the Residential Development Guide by encouraging a variety of housing types and densities to meet the housing needs of current and future residents.
6. The proposed Regulation Amendments are consistent with a defined strategy in the Community Character chapter of the Plan by allowing an ADU to be located on a parcel that contains a single-family dwelling, thereby encouraging the preservation of undeveloped land.
7. The proposed Regulation Amendments are consistent with Section 4.7.3 of the Towns recently adopted Housing Plan by updating the Zoning Regulations relative to Accessory Dwelling Units.

and that the Commission approve Application PL-23-4 to amend Zoning Regulations for Accessory Dwelling Units and to adopt the findings 1 thru 7 of the Staff Report.

Effective Date: May 24, 2023

ENHANCE

Community Character

ENHANCE

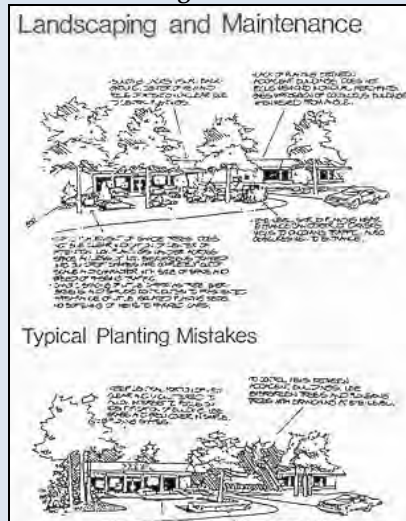
Maintain and enhance the overall character and ambience of Waterford.

The telephone surveys of Waterford residents found that many residents moved to Waterford because of its overall character and ambience. While the features that contributed to this perception varied, there is little doubt that the overall appearance and feeling of the community are important attributes to people.

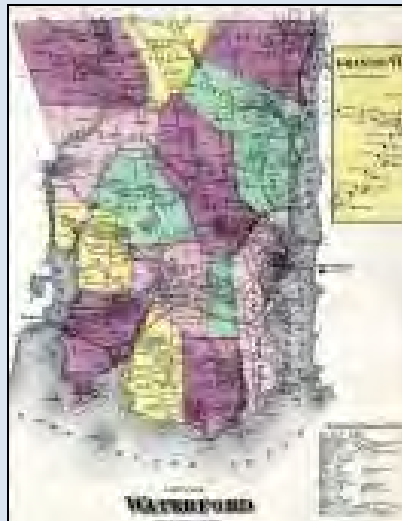
Based on comments from public meetings and feedback from the telephone surveys, the Plan recommends four main strategies for protecting and enhancing community character:

- establishing an advisory design review process
- preserving historical and archeological resources
- preserving and enhancing key scenic vistas and areas
- encouraging the preservation of undeveloped land (PA 490)

Design Review



Historic Character



Scenic Resources



See the "Implementation Element" of the Waterford Plan of Preservation, Conservation and Development for information on tasks and actions currently programmed for implementation of these Community Character strategies.

D. Encourage Preservation of Undeveloped Land

Undeveloped land adds to the overall ambience of Waterford and enhances community character. Most everyone likes undeveloped land since it looks like “open space”. However, if the land is not protected, the contribution to community character and ambience may be lost if the property is developed. One of the reasons why property might be developed is due to the high costs of ownership.

In recognition of this, the Connecticut legislature established a “use assessment” program in the 1960s for land that is essentially undeveloped. This program (commonly referred to as PA-490 and codified in CGS 12-107) contains four components:

- Forest Land (based on State criteria),
- Farm Land (based on State criteria),
- Maritime Heritage (waterfront land used exclusively for commercial lobstering purposes), and
- Open Space Land (based solely on local criteria).

Properties that participate in the program receive a reduced assessment (based on “use” rather than market value) and this makes the property less expensive to own. If the property is sold within 10 years of its enrolment in the program, there is a recapture provision for the unpaid taxes.

Waterford should consider whether to adopt an open space assessment program. This program can make undeveloped land less expensive to own and this undeveloped land will contribute to the overall character and ambience of the community.

To establish an open space assessment program, the program needs to be recommended in the Plan of Preservation, Conservation and Development and the program needs to be adopted by the local legislative body (the Representative Town Meeting).

The Plan recommends that land be eligible for the open space assessment program if it meets the following criteria:

- residentially zoned,
- more than five acres in area and at least twice the minimum lot size in the zone, and
- the open space assessment would be only for that portion of the parcel in excess of the minimum lot area requirement in the zone.

Forest Land



Farm Land



“Open Space” Land



GUIDE

Residential Development

GOAL

Encourage a variety of housing types and densities to meet the housing needs of current and future residents.

Waterford is, and will continue to be, a predominantly residential community. Since about 78 percent of Waterford is zoned in ways that allow for residential development, planning for appropriate residential development is an important element of the Plan.

Overall, the residential development program for Waterford is to continue the patterns of residential type and intensity that have served the Town well. Single-family residential development is permitted in most areas of town at densities compatible with soil type, terrain, and infrastructure constraints. Multi-family development has occurred in areas near Route 1 that are served by public water and public sewer.

Another key policy objective for the future is to provide for housing options which will continue to meet the needs of present and future residents of Waterford.

A. Protect Existing Residential Neighborhoods

Waterford's residential neighborhoods are key determinants of the overall quality of life for residents. Encouraging the preservation and enhancement of these areas is a continuing strategy for the Town.

Single Family Neighborhood



Multi-Family Neighborhood



B. Provide For A Diverse Housing Portfolio In Waterford

Waterford’s housing “portfolio” consists primarily of owner-occupied, single-family dwellings which were constructed over the years to meet the housing needs of Waterford residents at those times. However, what was built in the past may not be what is needed to meet the housing needs of future residents because:

Conditions and Trends	Possible Housing Result
<ul style="list-style-type: none"> • People are living longer and healthier lives 	<ul style="list-style-type: none"> • There may be more interest in smaller homes, homes with accessory units, and homes with less maintenance • There may be a demand for more assisted living options
<ul style="list-style-type: none"> • The cost of a typical home is exceeding the ability of many people to afford it 	<ul style="list-style-type: none"> • There will be increasing interest in housing options that are less expensive
<ul style="list-style-type: none"> • People are focusing more on housing for shelter and comfort rather than an investment 	<ul style="list-style-type: none"> • This may result in housing units which are smaller but have more amenities
<ul style="list-style-type: none"> • People are considering other housing choices for energy and lifestyle reasons 	<ul style="list-style-type: none"> • There may be interest in newer housing units with lower operating costs and newer technologies

The housing needs of the community are evolving and Waterford will continue to consider ways to address the housing needs of current and future residents. This includes housing options for an aging population as well as housing opportunities for younger persons and families.

In the telephone survey, residents supported the concept of diversifying the types of housing in Waterford. Participants tended to feel that Waterford had the right amount of single family homes and condominiums but that there may be too few other types of housing opportunities.

<i>Issue</i>	<i>Amount Is Too Little</i>	<i>Amount Is Just Right</i>	<i>Amount Is Too Much</i>	<i>Not Sure / Don't Know</i>
Single family homes	17%	63%	5%	15%
Condominiums	14%	49%	21%	16%
Rental housing for young people	51%	22%	1%	26%
Affordable housing for first-time home buyers	47%	30%	1%	22%
Smaller houses for senior citizens	44%	31%	1%	24%
Affordable apartments for senior citizens	40%	30%	3%	27%
Rental housing for families with children	36%	30%	3%	31%

Waterford will seek to encourage the availability of housing for a variety of age and income groups. At the same time though, the Planning and Zoning Commission may seek to moderate the location and or pace of certain proposals in order to ensure that the ability of the community to assimilate such housing is maintained.

4.7 Consider Other Regulation Changes

4.7.1 Consider Encouraging / Allowing Smaller Scale Multi-Family Housing

- Consider encouraging or allowing smaller scale multi-family housing (sometimes referred to as “missing middle” housing) which:
 - Fall in between single-family housing and large-scale multi-family developments
 - Maintain the scale and appearance of residential homes
- Undertake a study to evaluate the applicability of “missing middle” housing in Waterford and identify possible locations



4.7.2 Enable Adaptive Re-Use Of Existing Buildings

- Enable mixed use redevelopment of commercial sites on arterial roads
- Consider allowing adaptive use of homes on collector or arterial roads to multi-family residential or small-scale multi-family use

4.7.3 Update Regulations To Reflect PA 21-29

- Update accessory dwelling unit regulations
- Eliminate living space requirements (rely on the building code, health code, fire code, etc.)
- Revisit local parking requirements for multi-family and mixed-use developments