

TOWN OF WEST WARWICK

ORDINANCE

OF THE

TOWN COUNCIL

ORDINANCE NO. 2022 – 15

AN ORDINANCE AMENDING SECTIONS 2, 3 AND 5 OF THE WEST WARWICK ZONING CODE OF THE CODE OF ORDINANCES OF THE TOWN OF WEST WARWICK,

WHEREAS: The General Assembly of the State of Rhode Island has enacted legislation requiring certain changes to the zoning codes of the municipalities of the State of Rhode Island, and

WHEREAS: The Town Council shall enact such amendments to the Zoning Code of the Town of West Warwick to bring the Code into compliance with the Rhode Island General Laws as amended:

NOW, THEREFORE, IT IS HEREBY ORDAINED that the Town Council of the Town of West Warwick hereby amends Sections 2, 3 and 5 of the West Warwick Zoning Code of the Code of Ordinances as follows:

Section 2. - General purposes.

These zoning regulations are developed and maintained in reliance upon the West Warwick comprehensive plan prepared and adopted by the town in accordance with the Rhode Island General Laws and are designed to address the following purposes. The town council recognizes these purposes, each with equal priority and numbered for reference only.

2.17 To satisfy the minimal requirements of the State Zoning Enabling Act as set forth in RIGL §45-24-37(e).

Section 3. - Definitions.

~~3.2 — *Accessory family dwelling unit.* An accessory family dwelling unit is a unit located entirely within or directly attached to a single family owner-occupied dwelling unit, that is clearly a subordinate part of the single family owner-occupied dwelling unit and is designed exclusively as a residence for use of not more than two members of the family occupying the principal single family dwelling unit.~~

3.2 Accessory dwelling unit (ADU). A residential living unit on the same parcel where the primary use is a legally established single-unit or multi-unit dwelling. An ADU 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.

Section 5. - Use regulations.

The Town of West Warwick is divided into the following mapped districts to implement this ordinance and may include, but are not limited to, the separation of residential from nonresidential uses and the division of nonresidential uses into appropriate areas of the town to achieve the purposes stated in section 2 hereinbefore:

5.1 ~~Reserved.~~ Notwithstanding any other provisions of this ordinance, accessory dwelling units (ADUs) shall be permitted only as provided in section 5.6.16.

5.2 Reserved.

5.3 Table of use regulations.

Y = Permitted.

X = Prohibited.

S = Special Use Permit.

~~5.6.16 An accessory family dwelling unit shall be permitted upon application by the owner in an owner-occupied single family dwelling for a special use permit pursuant to section 10- provided the following conditions are met:~~

5.6.16 Accessory dwelling units (ADUs) shall only be permitted as part of an owner-occupied residence as a reasonable accommodation for family members with disabilities or who are sixty- two (62) years of age or older, or to accommodate other family members. When used in this section the terms "family members with disabilities" means a person who has a physical or mental impairment that substantially limits one or more of life activities as defined in R.I.G.L. §42-87-1(7). The intent of this section is to comply with the minimum requirements of R.I.G.L. § 45-24-37(e) and to prohibit the use of accessory dwelling units beyond the minimum requirements of R.I.G.L. § 45-24-37(e). Applications for ADUs shall be reviewed by the town planner.

5.6.16.1 A valid zoning certificate shall be in existence.

~~5.6.16.2 The dwelling to which the accessory family dwelling unit is to be added shall be the only dwelling on the lot.~~

~~5.6.16.3 No more than one accessory family dwelling unit shall be permitted.~~

~~5.6.16.4~~ 5.6.16.2 No violations of any of the town's codes or ordinances shall exist on the lot at the time of the application.

~~5.6.16.5~~ 5.6.16.3 The accessory family dwelling unit ADU shall not contain more than two bedrooms.

~~5.6.16.6~~ 5.6.16.4 At least one additional off-street parking space shall be provided for on the lot for the ~~accessory family dwelling unit~~ ADU. Additional parking on the side of side of the main residence shall be prohibited.

~~5.6.16.7~~ 5.6.16.5 The ~~accessory family dwelling unit~~ ADU shall be constructed in accordance with the plans approved by the ~~zoning board of review~~ Building Official.

~~5.6.16.8~~ The ~~accessory family dwelling shall be located entirely within or be directly attached to the owner occupied single family dwelling and no breeze way shall be allowed between the accessory family dwelling and the principal dwelling.~~

~~5.6.16.9~~ The ~~accessory family dwelling shall occupy no more than 50 percent of the total living space of the total owner occupied dwelling unit, exclusive of a basement, and shall contain no less than 400 square feet and no more than 800 square feet of living space.~~

~~5.6.16.10~~ No ~~accessory dwelling unit shall be allowed above the second floor of the principal single family dwelling unit.~~

~~5.6.16.11~~ The ~~accessory dwelling unit shall have direct access for ingress and egress from the principal single family dwelling and separate access for ingress and egress to the outside.~~

~~5.6.16.12~~ 5.6.16.6 All minimum dimensional and set back requirements of the zoning code must be complied with unless a dimensional variance is granted by the zoning board of review. An ADU shall be permitted in a structure that is a lawfully established pre-existing non-conforming use through a special use permit and no variance shall be required.

~~5.6.16.13~~ 5.6.16.7 The ~~accessory dwelling~~ ADU unit shall not have separate connections to any utilities servicing the ~~accessory family dwelling unit~~ ADU.

~~5.6.16.14~~ A kitchen area of an ~~accessory dwelling unit be not less than 50 square feet and shall not exceed 75 square feet.~~

~~5.6.16.15~~ There shall be no enlargement of the ~~principal single family dwelling unit or of the accessory dwelling unit without prior approval of the zoning board of review. The granting of a special use permit for an accessory dwelling unit shall be subject to the following:~~

~~5.6.16.16~~ 5.6.16.8 The use as an ~~accessory dwelling unit~~ ADU shall automatically cease and no longer be valid upon (1) such ~~accessory dwelling unit~~ ADU being occupied by any person other than the family members with disabilities or who are sixty- two (62) years of age or older, or to accommodate other family members for whom the ADU was created an- immediate family member of the owner occupant of the principal single family dwelling unit or (2) conveyance of the principal single family dwelling unit to any person other than the present owner, whichever shall first occur, provided however, in the event if conveyance of the principal single family dwelling unit to any person other than the present owner and the transferee of such conveyance shall desire to continue that approved ~~accessory dwelling unit~~ ADU without making any changes thereto, such ~~accessory family dwelling unit~~ ADU approval

may be continued, ~~subject to all prior conditions and stipulations and specifically subject to sections 5.6.19.20, 5.6.19.21 and 5.6.16.22~~ such continuation of the approval of the accessory dwelling unit ADU may be approved administratively in the discretion of the town planner.

~~5.6.16.17 Payment of a fee in lieu pursuant to the provisions of section 17-21 of the town land development and subdivision review regulations.~~

~~5.6.16.18 The decision granting approval of the accessory dwelling unit shall be recorded in the records of land evidence.~~

~~5.6.16.19 The owner applicant of the principal single family dwelling shall biennially apply for a certificate of compliance with the provisions of the granting of the special use permit for and accessory family dwelling unit from the building official which shall also include an affidavit of residency stating the relationship of the occupant of the accessory family dwelling unit. Additionally, any owner of a single family dwelling unit granted and/or operating under a special use permit, as an accessory family dwelling unit prior to June 5, 2007, shall biennially apply for a certificate of compliance and affidavit of residency to ensure their continued use as an accessory family dwelling unit.~~

~~5.6.16.20 The building official shall have authority to enter the premises at all reasonable times upon reasonable notice to determine compliance with the provisions of the granting of the special use permit.~~

~~5.6.16.21 Notwithstanding any other provision of this zoning code, an accessory family dwelling unit in an owner occupied, single family residence shall be permitted as a reasonable accommodation for family members with disabilities or who are 62 years of age or older. The appearance of the structure shall remain that of a single family residence and there shall be an internal means of egress between the principal unit and the accessory family dwelling unit. If possible, no additional exterior entrances shall be added. Where additional entrances required, placement should be generally in the rear or side of the structure. When the structure is serviced by an individual sewage disposal system, the applicant shall have the existing or any new system approved by the Department of Environmental Management. The zoning enforcement officer shall require that a declaration of the accessory family dwelling unit for the family member or members and its restrictions be recorded in the records of land evidence and filed with the zoning enforcement officer and the building official. Once the family member or members with disabilities or 62 years of age or older, no longer reside(s) in the premises on a permanent basis, or the title is transferred, the property owner shall notify the zoning officials in writing, and the accessory family dwelling unit shall no longer be permitted, unless there is a subsequent valid application.~~

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POSTED: OCTOBER 5, 2022

FIRST READING AT COUNCIL MEETING ON: NOVEMBER 1, 2022

SECOND READING AT COUNCIL MEETING ON:

COUNCIL PRESIDENT:_____

TOWN CLERK:_____

ADVERTISED IN:

THIS ORDINANCE WILL TAKE EFFECT ON: