

CITY OF KINGSTON

Kingston Planning

planning@kingston-ny.gov



Suzanne Cahill, Planning Director
Kyla Dedea, Assistant Planner

Steven T. Noble, Mayor

May 18, 2021

Ald. At Large Andrea Shaut, President
City of Kingston Common Council
City Hall – 420 Broadway
Kingston, New York 12401

Re: ZONING REFERRAL of Common Council to Kingston Planning Board (Resolution #50 of 2021)
Zoning Amendment – Accessory Dwelling Units (ADU's) Requirements

Dear Pre. Shaut:

This is to advise you that at the regular meeting of the City of Kingston Planning Board ("Board"), held remotely on May 17, 2021, the Board addressed the above referenced referral. It was noted by the Board that the recommendations made herein are based only on the original, official referral as made by the Common Council, through the City Clerk. It was further recognized that the Board only just received a revised draft of the zoning text amendment language on the afternoon of May 17, 2021 as transmitted via email by the Assistant Corp. Counsel to all Board members. Neither staff nor Board members had been apprised of the changes in the proposed legislation until that time making a complete review difficult, if not impossible.

However, in light of these issues, the Board discussed the legislation to the best of their ability and ultimately voted unanimously to RECOMMEND DENIAL of the proposed amendments to the Zoning Ordinance as referred, recognizing all comments of staff as provided, and referring them as part of their official recommendation back to the Common Council for consideration. The staff recommendations are as follows:

"RECOMMENDATIONS on current proposal:

- *Staff has no objection to the removal of the building age before January 1, 1982 under sub paragraph (c), however staff would recommend against the second portion of change to this paragraph and would keep the minimum size dwelling requirement. A minimum size of 2,000 SF for a single family, as a primary occupant, would be reasonable to preserve the integrity of the housing stock if an accessory dwelling were to be added within.*
- *Staff recommends against the change proposed for sub-paragraph (d) altogether. The purpose of an accessory dwelling is not to create a duplex in a one family district. An accessory dwelling is meant to be secondary to the primary housing unit, not to exceed it or to be established as a unit which becomes more prominent. The square footage is basic to defining a single family residence and also what truly is an accessory dwelling unit. Without a minimum standard smaller homes may converted into 2 units, each being a studio unit or of equal size and that does not really imply an ADU. The impact of the increase demand for services and infrastructure on existing neighborhoods should be considered.*
 - o *Staff has had conversation with the new City Housing Director and would strongly recommend his input here. In conversation he also expressed concern over removing and/or leaving the square footage out of the regulations.*

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- *Staff would encourage reaching out to the Building Department and obtaining feedback from that agency who would ultimately be responsible for administering and addressing not only the issuance of permits, but also potential complaints which are received.*
- *Staff recommends against the off-street parking amendments as proposed:*
- *Section 405-34 (j) proposed changes would change the requirement for all residential and multifamily proposals. This should not be changed without discussion on what this would mean for all proposals going forward. This section does not impact ADU's and should be addressed separately.*

Staff reminds the Council that they should think about how the removal of on-street parking and the introduction of bike lanes with all of the new infrastructure improvements play into these plans?

Staff has a concern over placing too much weight on making decisions based on laws which have yet to be adopted and are speculative, subject to changes as they go through the process of discussion at the State level. Staff recommends requiring future discussion with acknowledgement that many of these contradict the current NYS legislation which is currently only in committee:

- *Any change to the proposed legislation should be re-referred to the Board for discussion unless the state legislation is passed and the changes are adopted as required under the legislation. The Common Council should consider requesting input from the Building Department, Department of Public Works, and the City Assessor. Changes to zoning often have a direct impact on other departments with regard to permitting responsibility, requirements to issue permits within a certain time, and services to be provided. (i.e. building permit timeframes, inspections, garbage pickup, utilities, etc.)*
- *One of the units on the property should be owner occupied for the life of the ADU (Current proposal for State legislation includes owner occupancy for only the first year and then no ownership requirements after the fact)*
- *Inclusion of a maximum percentage of the structure (i.e. Accessory Dwelling shall not occupy square footage equal to more than 50% of the principal dwelling unit)*
- *ADU's should be (and already are) allowed in all single family zoning districts and on lots that currently have or are proposed to have single family homes. Multifamily districts allow for more than 1 residential unit. Staff would not recommend permitting ADU's in multifamily zoning districts that contain multifamily structures. This would essentially be converting 2 family districts to 3 family, and so on. This would have a greater impact on parking and services.*
- *If the Council pursues permitting without Planning Board approval, this should be limited to ADU's that are created within the principal dwelling unit or above an existing garage. The Board may wish to recommend accessory dwelling units that are constructed as standalone structures to require site*

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plan approval. (as discussed at Laws and Rules Committee) New units may be erected that don't meet other sections of the Code (lot and Bulk requirements)

- ADU's should be subject to Landlord Registration in compliance with current City codes for rental units.*
- Parking requirements for the principal dwelling should be required. The CC may want to consider no additional space required for the ADU, however, staff recommends requiring the minimum 2 spaces for the primary unit. (Parking requirements potentially contradicts State legislation)*
- Any changes that effect properties in Historic Districts should be required to obtain a preservation notice of action from HLPC prior to obtaining a building permit.*
- Set back requirements should be considered and should not be less than the 6ft in the side yard as required for all accessory structures. No Accessory dwelling or other accessory structures should be permitted in the front yard. (contradicts State proposal of 4ft)*
- Legislation should not include a requirement for the Building Department to approve a permit within a certain timeline. This adds a burden on the already overtaxed department. The Building Department processes permits as they come in and should not be required to pass other permits in order to meet requirements. (contradicts state proposal of 60 days) If the Council insists on following the State guideline, the Building Department should be provided with additional staff accordingly.*
- ADU's should be restricted from short term rentals. If the goal is to provide more housing for the current population at affordable or market rate, there are no requirements that are being discussed which will ensure these provisions.*

Additional recommendations not related to ADU's but related to increasing housing stock and affordability.

- Staff and the Board have previously recommended and staff continues to recommend elimination (to allow for uses permitted by site plan)/or expansion of the Mixed-Use Overlay District by allowing for residential in all commercial and manufacturing zones if they meet certain criteria. All commercial properties should be permitted to have residential on the upper floors without being limited by location. Staff would add to this that in certain situations it may be appropriate to allow residential on ground floors or as another structure on the site. This should not be permitted in the business districts but may be considered for properties that are commercial and outside of business districts. MUOD currently requires a Special Permit by the Planning Board. The Council may wish to require site plan only, with a list of requirements to be met prior to issuance.*

On a last note, the City has just engaged a professional zoning consultant to re-write the entire zoning code. Now while that may not get accomplished before the need arises to address the issue of ADU's, at a minimum,

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the Council should reach out to this consultant for opinion. The County has provided an opinion why not utilize our own resources to understand the impacts to this community. The Council is encouraged to seek out surrounding communities as well to question how they are addressing the current situation. The City of Kingston is not alone in facing this housing challenge."

As the Planning Director, I would like to say that both this department and the Board recognize the housing crisis. However, in light of what some might perceive as a flawed referral process, the Board did their best to take a hard look at the issues, but ultimately felt the need to deny the proposal at this time. It is hoped that the Council understands their reasoning why and focuses on the potential impacts of any ultimate legislation which is adopted. I also believe that the Board would be happy to address revisions or future renditions of the language if appropriately referred back.

If there are any questions, please do not hesitate to contact our office to discuss.

Be well and stay safe.

Sincerely,

Suzanne Cahill
Planning Director

CC: S. Noble, Mayor
W. Platte, Chairman Planning Board
Ald. J. Ventura-Morell, W1, Chairman L&R's
E. Tinti, City Clerk
Kingston Common Council
D. Gartenstein, Assistant Corp. Counsel