



**Town of Westport
Planning and Zoning
Commission** Town Hall,
110 Myrtle Avenue
Westport, CT 06880
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www.westportct.gov

Hearing: April 8, 2021, April 22, 2021
Decision: April 22, 2021

April 23, 2021

RE: Text Amendment #791, Appl. #PZ-21-00164, Modification to expand opportunities for "Accessory Dwelling Units" (ADUs)

To Whom It May Concern

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on April 22, 2021 it was moved by Ms. Dobin and seconded by Mr. Cammeyer to adopt the following resolution.

RESOLUTION #PZ-21-00164

WHEREAS, THE PLANNING AND ZONING COMMISSION met on April 22, 2021 and made the following findings:

Background

1. The Planning and Zoning Commission, over the course of decades, has developed zoning regulations to create a variety of housing choices and opportunities.
2. The zoning regulations currently allow accessory apartments within homes subject to a zoning permit.
3. While detached single-family homes remain the predominant housing type in Westport, there also exists a diversity of other housing types with various location requirements.
4. In Westport, dwelling units within detached accessory structures have only been permitted if a property is designated historic and receives Special Permit approval under §32-18, Historic Residential Structures or were documented as being in existence prior to 10/1/59 per §11-2.4.13. Widely permitting Accessory Dwelling Units (ADUs) in Westport will diversify the housing available throughout town.

Proposal

5. Text Amendment #791 authored by the Planning and Zoning Commission, dated

3/30/21, proposes modifying §11-2.4.8 in order to permit detached Accessory Dwelling Units (ADUs) on lots in any zoning district, subject in most cases, to only a zoning permit. The ADUs must comply with setback requirements for the zoning district in which they are located.

6. Permitting ADUs in Westport will allow for greater flexibility in housing options for existing and new residents. They have the potential to increase housing affordability by increasing the housing supply, create diversity in housing options within the community and the potential to enable seniors to stay near family as they age.
7. Specifically, Text Amendment #791 dated 3/26/21 proposes:
 - A. To modify §11-2.4.8, Permitted Accessory Building, Structures and Uses, to allow Accessory Dwelling Units in detached structures with the following associated zoning standards:
 - I. Building Area:
 - a. Lots of 1½ acre or less can have up to 650 SF footprint with 350 SF not included within coverage;
 - b. Lots of 1 ½ acres or more can have up to 1,000 SF footprint with no coverage deduction.
 - c. There is no minimum building coverage required for an ADU.
 - II. Height:
 - a. A roof with a slope of at least 6:12 pitch is permitted 26 feet measured to peak.
 - b. A roof with a slope of less than 6:12 pitch is permitted 16 feet measured to peak.
 - c. There is no height relief for ADUs constructed in the flood zone which must comply with the floodplain regulations.
 - d. Existing non-conforming accessory structures that do not comply with the regulations may be permitted to be converted to an ADU if granted Special Permit approval.
 - III. Number of stories: There are no requirements on number of stories as long as the overall height complies. Cellars, basements and crawl spaces shall be permitted in accessory buildings but must be unfinished and may not be used as living space.
 - IV. Coverage: Coverage requirements for zoning district must be complied with except:

- a. For lots 1 ½ acres or less there is a 350 SF deduction for coverage.
 - b. Stairs which access a cellar or basement from outside the building do not count in building coverage, which will be an exception. The regulations in other sections of the zoning regulations do include access stairs when calculating coverage.
- V. Parking: One additional off-street parking spaces, for a total of three, is required when constructing an ADU. This parking can be "tandem" parking.
- VI. Owner Residing on Property: The owner of the property must reside in either the principal dwelling or the accessory dwelling. This is consistent with existing regulations for Accessory Apartments and Affordable Accessory Apartments.
- B. To modify §11-2.4.9 to require if renting either the principal or accessory dwelling unit the term of the lease must be at least (6) months.
- C. To modify §11-2.4.12 to clarify that a single family dwelling may be converted to allow the incorporation of one (1) additional dwelling unit as a detached Accessory Dwelling Unit, and Accessory Apartment or a Pre-1959 apartment subject to a Zoning Permit.
- D. To modify §11-2.4.12A, Accessory Apartments inside principal building, to remove the age requirement, remove the Annual Certification and to increase the maximum size of the apartment from 800 SF to 1,500 SF however the requirement that the apartment not exceed 25% of the floor area of the house will remain.
8. When constructing an ADU, the amendment which provides a 300 SF deduction for building coverage on lots 1 ½ acre or less is consistent with the zoning regulations which permits a 50% deduction in total coverage for tennis courts in order to incentivize their construction.
9. The measurement of building height from average existing grade to peak is different from the current building height measurement to the midpoint of the highest roof. This new measurement is proposed in order to encourage pitched roof accessory structures as opposed to more box-like accessory structures.
10. The regulation will allow greater flexibility in design and easier administration by eliminating a limit on number of stories for an ADU.

Department Comments

11. Text Amendment #791 was referred to Town Officials for comments. No objections were received.

12. Text Amendment #791 was also referred to regional planning agencies and CT Department of Energy and Environmental Protection (DEEP).
13. Comments dated 3/31/21 from WestCOG conclude the amendment is of local interest and with minimal intermunicipal impact.
14. Comments dated 4/21/21 from CT DEEP conclude by recommending that the proposed text amendment be modified to remove Special Flood Hazard Areas from the zones where ADUs are allowed. The Commission has determined this recommendation will not be included in the amendment language.

Public Participation

15. A hearing was held on April 8, 2021 and April 22, 2021 to receive testimony from members of the public as required pursuant to State Statutes.
16. The public hearing was held remotely using electronic means due to the COVID-19, as Town Hall remains closed. The public hearing was broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer "live" testimony.
17. All application materials, and public comments received prior to the public hearing were posted on the Town's website consistent with the Governor's Executive Order to maintain transparency while conducting remote meetings.

NOW THEREFORE, BE IT RESOLVED that Text Amendment #791: Appl. #PZ-21-00211 submitted by the Planning and Zoning Commission to modify Section 11-2.4, Permitted Accessory Building, Structures and Uses, to allow Accessory Dwelling Units in detached structures with associated zoning standards, Section 11-2.4.12A, Accessory Apartment, to increase allowable floor area and to remove requirement for Annual Certification. Language is proposed to be removed limiting any accessory building or structure to 300 SF in size, one-story in height, or limited to two water use fixtures is **ADOPTED as MODIFIED**. A copy of the adopted text amendment is on file in the Town Clerk's Office, is on file in the Planning and Zoning Office, and is attached herein.

MODIFICATION

1. The Planning and Zoning Commission determined the language in §11-2.4.8a should be clarified to identify for lots under 65,430 SF the maximum Building Area of the ADU is 650 SF.

REASONS

1. The Commission finds this amendment is consistent with the Comprehensive Plan (Zoning Regulations and Zoning Map), and the *2017 Plan of Conservation and Development* that states:

"Maintain the preponderance of single-family home, increase housing diversity as to size of units and promote housing affordability." Pg. 85

VOTE:

AYES	-6-	{Dobin, Lebowitz, Cammeyer, Olefson, Cohn, Laskin}
NAYS	-0-	
ABSTENTIONS	-0-	

The effective date of this amendment is May 7, 2021.



Very truly yours,

Danielle Dobin, Chairman
Planning & Zoning, Commission

Attached
Adopted Text Amendment #791

- cc: First Selectman
- Conservation Director
- Fire Marshal
- Parks and Rec. Director
- Police Chief
- RTM P&Z Committee Chairman
- RTM Moderator
- Tax Assessor
- Town Engineer
- Town Attorney
- Assistant Town Attorney
- WWHD Direct

Text Amendment #791

Submitted: 3/26/21

Revised: 4/22/21

Received: 4/8/21

Public Hearing: 4/8/21 and 4/22/21

Adopted as Modified: 4/22/21

Effective date: 5/7/21

Deleted language is [~~struck out and in brackets~~]; New language is underlined.

§11 RESIDENCE AAA DISTRICT

11-2 Permitted Uses

11-2.4 Permitted Accessory Buildings, Structures & Uses

The following buildings, structures and uses are permitted:

11-2.4.1

Docks, landings and boathouses. Such structures shall not accommodate more than two wet slips or moorings and shall be exempt from rear yard setback requirements. No boat shall be occupied or used as a dwelling or dwelling unit.

11-2.4.2

Swimming pools. The setbacks for swimming pools shall be measured from the edge of any deck, pool apron or platform structure adjacent to the pool or otherwise from the exterior lip of the pool to the nearest property lines. The surface area of a swimming pool as measured from the inside face of the exterior walls shall be used in computing Total Coverage.

11-2.4.3

Outdoor recreational uses, paddle tennis courts and tennis courts except that only 50% of the surface area of the tennis court shall be used in computing total lot coverage. Tennis courts and paddle tennis courts accessory to a dwelling shall not be lighted. Any tennis court or paddle tennis court located closer than 50 feet from a side or rear property line shall be screened along said property line in accordance with §35-2.4 (Buffer Strip), herein.

11-2.4.4

Detached private garages shall not exceed one story and a height of 16 feet unless they also contain an accessory unit that meets the requirements of Section 11-2.4.8 below, in which case, the garage shall be subject to the height limitations set forth in Section 11-2.4.8c below.

11-2.4.5

The leasing of rooms by the principal owner (owner occupant) to not more than four (4) persons or the taking in of not more than four (4) boarders in a principal building in which the principal owner is a domiciliary subject to the approval of a Zoning Permit. This provision shall not permit the operation of a guest house or tourist home for transient use.

11-2.4.6

Home Office, as defined in 5-2, Home Based Business. A Principal Building, Accessory Building, Two-Family Dwelling Unit or Multi-Family Dwelling Unit may be permitted a Home Office. Pursuant to §33-6 one free standing sign or wall sign not to exceed two (2) square feet in area nor six (6) feet in height, identifying the name and address of the occupant of a Dwelling and/or Home Office. A Zoning Permit is not required for this use. Such occupation shall be incidental and clearly a secondary use of the principal residence.

11-2.4.6A

Home Occupation, Level 1, as defined in §5-2, Home Based Business, subject to a Zoning Permit, and the following conditions:

- a. Resident Occupant - Only one Home Occupation, Level 1 shall be conducted on any premises. Such occupation shall be conducted by one or more residents of the premises.
- b. Location - A Home Occupation, Level 1 shall be located within the Principal Building on the lot, unless approved in an Accessory Building pursuant to §32-18, Historic Residential Structures. Such occupation shall be incidental and clearly a secondary use of the principal residence.
- c. Floor Area – The total interior floor area devoted to a Home Occupation, Level 1 shall not exceed 25% of the floor area of the Principal Building, excluding cellars and basements, and including waiting rooms, file rooms and similar spaces devoted to uses which are supplementary to such occupations. In the case of a Two-Family building, the floor area of the Principal Building shall be interpreted as the floor area of the individual dwelling unit.
- d. Visitors – There shall be no more than ten (10) patron, client, or associate visits a day.
- e. Students or Pupils - No more than four (4) students or pupils at any one time shall be permitted.
- f. Employees – There shall be no more than one (1) non-resident on-site employee or contractor.
- g. Display - No display shall be visible from the outside.
- h. Signs - Pursuant to §33-6 one free standing sign or wall sign not to exceed two (2) square feet in area nor six (6) feet in height, identifying the name and address of the occupant of a Dwelling and/or a Home Occupation, Level 1 is permitted.

- i. Parking - 2 off-street parking spaces are required in addition to the 2 parking spaces required for a single family residence. No parking spaces shall be located within the minimum required front setback.
- j. Prohibition - The use of any Multiple Family Dwelling Unit for any Home Occupation, Level 1, shall be prohibited.
- k. Limitation - Either one (1) Home Occupation Level 1 or Level 2 is permitted per lot.

11-2.4.7

Barns that are designed, arranged and intended to be occupied and used solely for the storage of farm products and equipment, for feed, and/or for the housing of farm animals, or horses. Such barns shall not exceed 1,200 square feet of gross floor area; shall not exceed two stories and a height of twenty-four (24) feet and shall not include any bathroom facilities (toilet, tub or shower), kitchen facilities and/or central heating systems including electric baseboard.

11-2.4.8

Other buildings, structures and uses not listed above, accessory to a permitted principal use, provided that:

- a. ~~The accessory building or structure shall not exceed 300 square feet of gross floor area. The Building Area Coverage of the accessory building or structure shall not exceed the following:~~

<u>Lot Size</u>	<u>Maximum Building Area Coverage of Accessory Building or Structure</u>
<u>Lots up to and including 65,340 sq. ft.</u>	<u>650 sq. ft., provided, however, that for the purposes of calculating Building and Total Coverage:- the first 350 sq. ft. of any such accessory building or structure shall not be counted. The maximum footprint inclusive of 350 sq. ft. bonus is 650 sq. ft.</u>
<u>Lots over 65,340 sq. ft.</u>	<u>1,000 sq. ft.</u>

- b. ~~The accessory building or structure shall not exceed one (1) story and a height of sixteen (16) feet; except for barns identified in §11-2.4.7 above. The accessory building or structure may only have a single interior kitchen.~~
- c. The accessory building or structure shall not exceed the following height limitations:

<u>Roof Type</u>	<u>Maximum Height (measured to the highest point of the roof, excluding a cupola as permitted below)</u>
<u>Any Roof with a slope [of at least 6:12]</u>	<u>Twenty-six (26) feet</u>
<u>Any Roof with a slope [of less than 6:12]</u>	<u>Sixteen (16) feet</u>

Existing non-conforming accessory structures are permitted to be converted into an accessory dwelling unit with Special Permit approval.

- d. Subject to Section 11-2.4.8.(a) and (b) above, the accessory building or structure shall meet all setback, coverage, grading, drainage, and other requirements applicable to the property.
- e. If the property is not on Town sewers, the property owner or their designee must obtain the Westport-Weston Health District approval for the septic system. State approval of the proposed septic systems may also be required pursuant to state statute.
- f. If the property is on Town sewers, proof of the sewer hookup must be submitted to the P&Z Office by the property owner or their designee.
- g. There are at least three (3) off-street parking spaces on the lot and proof of adequate parking must be submitted to the Planning and Zoning Office by the property owner or his designee.
- h. Ground mounted solar panels shall not exceed 16 feet in height and shall be fully screened from any adjacent property line and street line at all times.
- i. Ground mounted satellite dishes or disc type antenna shall not exceed 16 feet in height and shall be fully screened from any adjacent property line and street line at all times. Roof top satellite dishes and roof top disc type antenna are prohibited except for disc type antennas less than two feet in diameter.
- j. Cupolas shall be permitted on accessory buildings provided that: (i) the cupola shall not be higher than 5 feet above the ridge line or highest point of the roof; and (ii) the cupola shall not exceed 5% of the footprint of the roof area of the building on which it is located, or 25 square feet, whichever is less. The cupola cannot be used for human habitation. No accessory building or structure shall be occupied or used as a rooming unit or a dwelling unit.
- k. Cellars, basements and crawl spaces shall be permitted in accessory buildings but must be unfinished and may not be used as living space. Stairs which access a cellar or basement from outside the building do not count in building coverage. No accessory building shall contain a kitchen.
~~No accessory building shall contain more than two (2) water use fixtures (sink, toilet, and tub/shower).~~
- l. The provisions listed above may be modified for applications approved pursuant to §32-18. (Historic Residential Structures).
- m. Permanent and temporary light poles for lighted athletic fields on town owned public school property shall be permitted up to a height of 80 feet for permanent and 50 feet for temporary lights provided that all requirements of §32-19 or §32-19A are in compliance.
- n. Only one accessory dwelling unit shall be permitted per lot.
- o. Any accessory dwelling unit located in the Special Flood Hazard Area must be compliant with the floodplain regulations in §31-11. No additional building height is permitted for an existing or new structure located within the Special Flood Hazard Area when proposed to be floodplain compliant.

11-2.4.9

No accessory building, structure or lot shall include any use or activity conducted for gain or profit, except as otherwise expressly permitted herein. (i) for residential occupancy, including rentals (so long as the term of lease is at least (6) months and so long as the owner resides on the property, and (ii) as otherwise expressly permitted herein.

11-2.4.10

~~The use of any accessory structure for human habitation shall be prohibited except as modified by §32-18. (Historic Residential Structures).~~ Reserved

11-2.4.11

Storage of commercial vehicles in accordance with the provisions of §32, herein.

11-2.4.12

A single-family dwelling may be converted to allow the incorporation of one (1) additional dwelling unit as an accessory apartment ~~or affordable accessory apartment~~ subject to approval of a Zoning Permit and the following conditions:

11-2.4.12A Accessory Apartments.

- ~~a. An accessory apartment must be located within the principal building on the lot.~~ Occupancy – At least one of the dwelling units shall be occupied by the principal owner.
- ~~b. Eligibility – At least one of the dwelling units shall be occupied by a person 62 years of age or older or a person of any age with disabilities who is receiving Social Security disability payments.~~ Reserved
- c. Signatures – All requests shall contain the signature(s) of the owner(s), or a letter of authorization by the property owner.
- d. Floor Area - The additional dwelling unit shall not exceed ~~800~~ 1,500 square feet of floor area or 25% of the total floor area in the dwelling, whichever is smaller. See §5 for definition of Floor Area.
- e. If the property is not on Town sewers, the property owner or his designee must obtain the Health Department approval of the septic system.
- f. If the property is on Town sewers, proof of the sewer hookup must be submitted to the P&Z Office by the property owner or his designee.
- g. ~~Proof of adequate parking must be submitted to the Planning and Zoning Office by the property owner or his designee. One parking space for the converted unit is required.~~ There are at least three (3) off-street parking spaces on the lot and proof of adequate parking must be submitted to the Planning and Zoning Office by the property owner or his designee.
- ~~h. Annual Certification – Prior to the issuance of a Zoning Permit, a certificate in the form of an affidavit to verify that the principal owner is in residence and that one of the occupants of a particular dwelling unit is 62 years of age or older or receiving Social Security Disability payments shall be presented to the P&Z Office. Thereafter, the~~

~~principal owner shall submit such notarized affidavit to the Zoning Enforcement Office by January 31st of each year as a requirement for the continuance of the Zoning Permit. If the accessory apartment is not being used as a separate dwelling unit, the property owner submits a notarized affidavit stating that the apartment is not in use.~~