



MEMORANDUM

City of Watertown Planning Office

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Watertown, New York 13601

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TO: Planning Board Members

FROM: Kenneth A. Mix, Planning and Community Development Coordinator *KAM*

SUBJECT: Amending the Zoning Ordinance, §310-1, Definition of Family and §310-34, Accessory Uses in Residence Districts

DATE: May 2, 2013

A copy of the Ordinance that was proposed by Mayor Jeffrey E. Graham and presented to the Planning Board at last month's meeting is attached. Also attached is a memo from the City Engineer providing context to the proposed change. He is advising that the Planning Board discuss the changes separately, so the issues with each do not get confused.

ORDINANCE

Amending the Code of the City of Watertown, §310-1, Definition of Family and §310-34, Accessory Uses in Residence Districts

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Introduced by

- Council Member BURNS, Roxanne M.
- Council Member BUTLER, Joseph M. Jr.
- 2 Council Member MACALUSO, Teresa R.
- Council Member SMITH, Jeffrey M.
- 1 Mayor GRAHAM, Jeffrey E.

Total

YEA	NAY

WHEREAS it has been proposed to amend Chapter 310 of the Code of the City of Watertown, New York, by altering the definition of “family” and adding the taking of not more than four non-transient roomers as an allowed accessory use in Residential Districts, and

WHEREAS the City Planning Board reviewed the proposed amendments to §310-1 and §310-34 of the Code of the City of Watertown and made its recommendation on adoption, and

WHEREAS the Jefferson County Planning Board reviewed the proposed amendment pursuant to General Municipal Law Section 239-m, and

WHEREAS a Public Hearing was held on the proposed Zoning Ordinance Amendment after due Public Notice, and

WHEREAS the City Council has determined, pursuant to the State Environmental Quality Review Act that there will not be any significant environmental impacts caused by the adoption of this Ordinance, and

WHEREAS the City Council of the City of Watertown believes that it is in the best interest of the residents of the City of Watertown to make the following changes to Chapter 310 of the City Code,

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Watertown, New York, that §310-1. B. of the Code of the City of Watertown is hereby amended by deleting the sentence: “To distinguish a “family” from a club, fraternity or boarding house, not more than four members of a family shall be other than blood relatives” from the definition of family, and

BE IT FURTHER ORDAINED by the City Council of the City of Watertown, New York, that the following is added to §310-34.B: “(7) The taking of not more than four non-transient roomers, provided that no sign is displayed”, and

BE IT FURTHER ORDAINED that this Amendment to the City Code shall take effect as soon as published once in the official newspaper of the City of Watertown, New York, or printed as the City Manager directs.

Seconded by



CITY OF WATERTOWN
ENGINEERING DEPARTMENT
MEMORANDUM

1869

DATE: 19 April, 2013

TO: Planning Board Members

FROM: Kurt Hauk, City Engineer

SUBJECT: Zoning Changes in Residence Districts

The purpose of this memorandum is to put into context the various issues surrounding the recent changes made and subsequent changes proposed for the definition of family and the subject of roomers as an allowed accessory use in the zoning ordinance.

As the City Official charged with administering zoning under paragraph 310-60, I thought it important to bring certain aspects of the discussion to light so that they can be properly deliberated by members of the Planning Board. The emphasis here will be placed on the role of zoning, the practical application of the ordinance and the day to day administration of the various items. The topics to follow are a compilation of extensive discussions between, Mr. McWayne, Mr. Mix, Attorney Burrows and me.

I think it important upfront to separate the two issues from what has in certain forums been combined into one single issue. It is important to understand that the definition of "family" is separate and distinct from an allowed accessory use. The issue to focus on is the ability to mitigate the disruptions from the Accessory Uses to the neighborhood that can be addressed through zoning. The Zoning Ordinance cannot enforce conduct.

The more difficult issue to tackle is Accessory Uses in residence districts precisely because it involves a lot of gray area. These accessory uses have nothing to do with the definition of family and unfortunately been used to fuel that part of the discussion. The accessory uses all involve economic/business activities allowed within residential districts.

The section that was removed from the code recently allowed having up to four non-transient roomers. This was an allowed use for all residence districts not just Residence A Districts. By removing this section, the code is now silent on the number of roomers allowed in all residence districts. My understanding of the zoning law as it relates to Accessory Uses is that what is not expressly limited in the zoning ordinance is therefore allowed. So, as I understand it, by removing the restriction of four roomers as an allowed Accessory Use there is now no restriction in place for the number of roomers allowed. I do not think that was the intent of the Council or the Planning Board when that change was made. I believe the intent was to remove the ability of property owners to take on roomers for economic reasons in residential districts. Instead of the Council and Planning Board now merely reinserting the previous language, it is an opportunity for both bodies to better define the use of roomers in residence districts.

The first action that should be undertaken is to define “non-transient roomer”. Having a firm definition would better allow both the Planning Board and City Council to apply reasonable restrictions

One possibility would be to institute a sliding scale, e.g. up to two roomers in Residence A, three in Residence B, and four in Residence C districts. If the concern is parking, restrictions can be placed in the ordinance to provide adequate parking. If the concern is conduct, this is not the purview of zoning.

I think it is important to not make the ordinance so restrictive that it limits the ability of property owners to rent out a single family residence. I think it is also important to view the issue of roomers in context of other allowed Accessory Uses especially in Residence A districts which seems to be the heart of the issue.

The following are currently allowed Accessory Uses in Residence A districts:

-Resident doctors, dentists, musicians, engineers, teachers, lawyers, artists and architects are all permitted to use their residence for an office.

-Raising and selling produce is allowed.

-Customary home occupations such as home dressmaking, laundering, and cooking occupations are allowed.

-Renting of garage space to non-residents for one vehicle or horse is allowed.

-Separate living quarters over a garage for domestic employees is allowed.

It is obvious that some of the uses are outdated, but they all concern the use of residential property for economic purposes. The board needs to consider a series of questions. Is the use of a portion of a residence to conduct a business office vastly different from renting a portion of residence to a non-transient roomer? Does renting of space in your garage differ greatly from renting space in your home? Does maintaining a separate living area for domestic employees above your garage change the character of the neighborhood more than renting a room long-term? Are Accessory Uses to be strictly limited to recognized professional occupations, homemaking occupations, and domestic employees? If the issues of parking and density are adequately addressed in the ordinance, do any of the above situations differ significantly from each other? These are all questions to be considered and settled.

The Planning Board and City Council should also consider what the Code Enforcement Office is able to enforce. Codes can enforce the layout of structures for a one family, two family or multi-family configurations. Codes can enforce parking and density restrictions. Code Enforcement is not in the position to confirm the veracity of claims concerning relationships and informal economic arrangements. Those are questions they are simply not equipped to find answers to. Whatever the final restrictions are, they should be tangible and able to be easily recognized and verified by Code Enforcement.

As to the definition of family and the proposed change to delete the second sentence of the definition, I believe that is advisable. Not only would it remove any chance of the definition running afoul of the Fair Housing Standards, it would also place the emphasis, as it should, on the term “single housekeeping unit”. A family can be a traditional family, a non-traditional family of various permutations, or it can be a single individual that make up this single housekeeping unit. It is the actual layout and function of the structure as a single unit that is within the ability of Code Enforcement to enforce.

There is another method of defining family known as the “rebuttable presumption” method where Code Enforcement would be required to adjudicate whether a family meets a definition of family. This process would have Code Enforcement wade deeper into the definition of family rather than extricate from it.

I think it is also advisable, further removing our focus from defining what a family is, to define those things referenced as not considered to be a family e.g., boardinghouse, fraternity, rooming house that are proposed to be removed under the family definition. Once these are defined, they can be properly limited to the applicable residence districts.

Finally, I think it should be made clear, should the roomers language be reinstated in some form, that allowed Accessory Uses would not be used as part of a determination as it relates to the definition of family. Domestic employees housed above a garage should no more be counted as part of a family than should a non-transient roomer.

Cc. Sharon Addison, City Manager
Ken Mix, Planning and Community Dev. Coordinator
Justin Wood, CE-II
Shawn McWayne, Code Enforcement Supervisor
Jim Burrows, Slye Burrows