



PLANNING COMMISSION MEETING

September 14, 2021 at 7:00 PM

Council Chambers – Town Municipal Center

AGENDA

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC PARTICIPATION

AGENDA REVIEW / DISCLOSURES

APPROVAL OF MINUTES

1. Planning Commission Meeting Minutes 08/10/2021

DETACHED QUARTERS

2. Detached Quarters
3. Planning Commission Memo

ANNOUNCEMENTS OR COMMENTS

ADJOURN

**MINUTES OF THE
PLANNING COMMISSION MEETING
TOWN OF CHINCOTEAGUE, VIRGINIA
AUGUST 10, 2021 - 7:00 P.M. – Council Chambers**

Commission Members Present:

Mr. Ray Rosenberger, Chairman
Mrs. Mollie Cherrix
Mr. Michael Dendler
Mr. Robert Shendock
Mr. Stavros Katsetos

Commission Members Absent:

Mr. William T. McComb, Jr., Councilman
Mr. David Britton

Others Present:

Mr. David Landsberger

Staff Present:

Mr. Michael T. Tolbert, Town Manager
Mr. Mark Bowden, Building and Zoning Administrator

Call to Order

Chairman Rosenberger called the meeting to order at 7:00 p.m.

Invocation

Chairman Rosenberger offered the invocation.

Pledge of Allegiance

Chairman Rosenberger led in the Pledge of Allegiance.

Public Participation

Chairman Rosenberger opened the public participation.

- Mr. David Landsberger, 5475 Warren Street, stated that he submitted the original packet at the last meeting. He also stated that as no action was taken by the Commission within 30 days. He then presented the information to Council who referred this matter back to the Commission for a recommendation. He reviewed several points about zoning districts, HOA, the requirements in the proposal, enforcement, and unfair burdens on residents if not approved. He stated that he has proven that he has nothing but the best interest of the Island in mind. He feels this is a need for the Island and intends to pursue this.

Chairman Rosenberger closed the public participation.

Agenda Review/Disclosures

Mr. Katsetos motioned, seconded by Mr. Shendock to approve the agenda as presented. Unanimously approved.

1. Approval of the June 8, 2021, Regular Meeting Minutes

Mr. Katsetos motioned, seconded by Mrs. Cherrix to approve the minutes of the June 8, 2021, regular meeting. Unanimously approved.

2. Detached Quarters

Chairman Rosenberger advised that after their meeting in June they made a non-formal recommendation to Council that the fees be waived, should there be a need.

Town Manager Tolbert explained that he didn't pass this on to Council at that time.

Chairman Rosenberger stated that in lieu of that, Mr. Landsberger went to Council, and they made the decision to return it to the Planning Commission for further discussion.

Mr. Shendock asked if Mr. Landsberger was seeking to change the definition of residence in R1.

Mr. Landsberger advised it was not. He was seeking to build detached quarters. He stated that if he was building anywhere but R1, it would be allowed. He knows he can't do it in Richardson's Landing because of his HOA rules. He feels the solution would be to build a duplex. He commented on enforcement, that it shouldn't be an issue.

Mr. Chuck Ward, 2281 Rudder Court, Greenbackville, VA, who works for the Department of Environmental and consultant for Mr. Landsberger stated that this proposal is to allow someone to put an addition onto their house that is not attached to the house. It allows for having another bedroom for a child returning home or an aging parent to give them privacy. It's an extension of your house without being attached to your house. If it is attached with a breezeway, it would be 1 structure. He feels they shouldn't have to build the breezeway. Instead of getting a permit, people are hiding and building on Saturdays and Sundays renovating the interior of a big home. This ordinance is drafted to keep people more open. It is an opportunity to redevelop a property rather than turning it into something it shouldn't be.

Chairman Rosenberger stated that there was a concern for the fee.

Mr. Landsberger interjected that it wasn't about the fee, there was discussion at the meeting, and it was suggested that if it was for health reasons there shouldn't be a fee. The issue is that they should allow someone to bring a son or daughter home without the medical issue. He explained that if he attached the house to the garage with a 2" x 4" board it would be a legal structure. He stated that there are more and more people like him that are getting older and don't want to stay home alone.

There was discussion, questions, clarifications, and suggested changes.

Chairman Rosenberger stated that they have had a lengthy discussion about concerns. He feels they have some work to do. He added that this isn't something they will decide on this evening. He thanked Mr. Landsberger and Mr. Ward for their input for laying out a well thought out proposal.

Mr. Ward stated that Mr. Landsberger wanted to have this prepared he created a foundation to build on. He hopes they can help smooth the path moving forward.

Mr. Landsberger offered to help Mr. Shendock.

Mr. Shendock commented further.

3. Commission Members Announcements of Comments

There were none.

4. Adjourn

Mr. Shendock motioned, seconded by Mr. Katsetos to adjourn. Unanimously approved.

Chairman, Mr. Ray Rosenberger

DETACHED QUARTERS – TOWN OF CHINCOTEAGUE

INTRODUCTION

The incorporation of the term “Detached Quarters” is proposed as a legislative tool to allow for the expansion of enclosed living space of a residential property without the need for structural renovations of the existing principal structure. Such quarters would allow independent living for caregivers, family members, or domestic employees.

The adoption of such an ordinance would provide an option for our residents to age in place. It would also afford an option to those who wish to offer a dignified, safe means of providing care to a loved one needing assistance. Lastly, it could extend the living space of a residential property to accommodate what the US Census refers to as “shared households.”

According to the US Census Bureau, shared households consist of at least one additional adult who is not the householder or the householder’s spouse or cohabiting partner. Individuals who are ages 18 to 24 and enrolled in school do not count as additional adults. Examples of shared households include adult children living with their parents, married couples living with a parent, and roommates living together. Individuals live in shared households for a variety of reasons, such as caregiving needs, benefits from pooling financial resources or short-term social and economic support during periods of acute hardship.

In 2019, there were 25.5 million shared households, making up 19.8% of all U.S. households. The number of adults ages 18 and older living in shared households increased in 2019 to 81.2 million, representing about a third (32.2%) of all adults ages 18 and older. This proposed ordinance is designed, in part, to address the impact that shared households have in our community.

Virginia Law establishes the purpose of Zoning in § 15.2-2283, which states, “*Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public... such ordinances shall be designed to give reasonable consideration to each of the following purposes...to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality.*”

This proposed ordinance change is supported by the Virginia Code, as it would “create and preserve affordable housing” to meet the “current and future needs” of Chincoteague residents.

DRAFT ORDINANCE – CHINCOTEAGUE ZONING CODE

PROPOSED DEFINITION OF “DETACHED QUARTERS”

A habitable, detached structure designed to serve as additional living space for the enjoyment and convenience of the occupants of a principal residential structure located on the same lot. Such space shall be a structure not physically connected to the principal structure and is to be utilized to provide additional living space for either the immediate family, the domestic employees, or the caregivers of the occupants of the principal residential structure on the same lot. Detached quarters are designed with provisions for living, sleeping, eating, cooking, and sanitation.

PROPOSED TYPE OF USE

Detached Quarters” is proposed to be added as a “Use Permitted by Right” in ARTICLE III, R-1 through R-4 Residential Zoning,

PROPOSED ZONING AMENDMENT

APPENDIX A ZONING

ARTICLE VI. GENERAL PROVISIONS

SECTION H. DETACHED QUARTERS

SEC. 6.17 Purpose. The purpose of this section is to:

- (1) Provide adequate and accessible housing for seniors and persons with disabilities or other medical needs;
- (2) Allow for property modifications in response to changing family needs, smaller households, and increasing housing costs;
- (3) Permit environmentally friendly housing choices with less average space per person and smaller associated carbon footprints;
- (4) Promote the ability for residents to age in place; and
- (5) Provide for affordable housing options for caregivers and domestic employees.

6.17.1 Applicability. The requirements set forth in this section shall be used to regulate the placement, construction, and use of Detached Quarters, as defined in Article II Sec. 2 Definitions. Unless otherwise provided for elsewhere in this zoning ordinance, permitted detached quarters shall be limited to the restrictions described below and shall not be used as a separate family residence, rental unit, place of business, or other use not described herein.

6.17.2 Location. Unless otherwise specified in other provisions of this ordinance, detached quarters shall be presumed to be permitted accessory structures in the R-1, R-2, R-2, and R-4 Zoning Districts, as defined in Article III. The placement of such structures shall be subject to the setback, lot coverage, height, and other related requirements set out elsewhere in this ordinance. In the event that the regulations herein conflict with other applicable provisions of this ordinance, the more restrictive requirement shall apply. Detached quarters which normally

are otherwise permitted on a property shall not be permitted if they are used to support a use other than a residential use as described in this section.

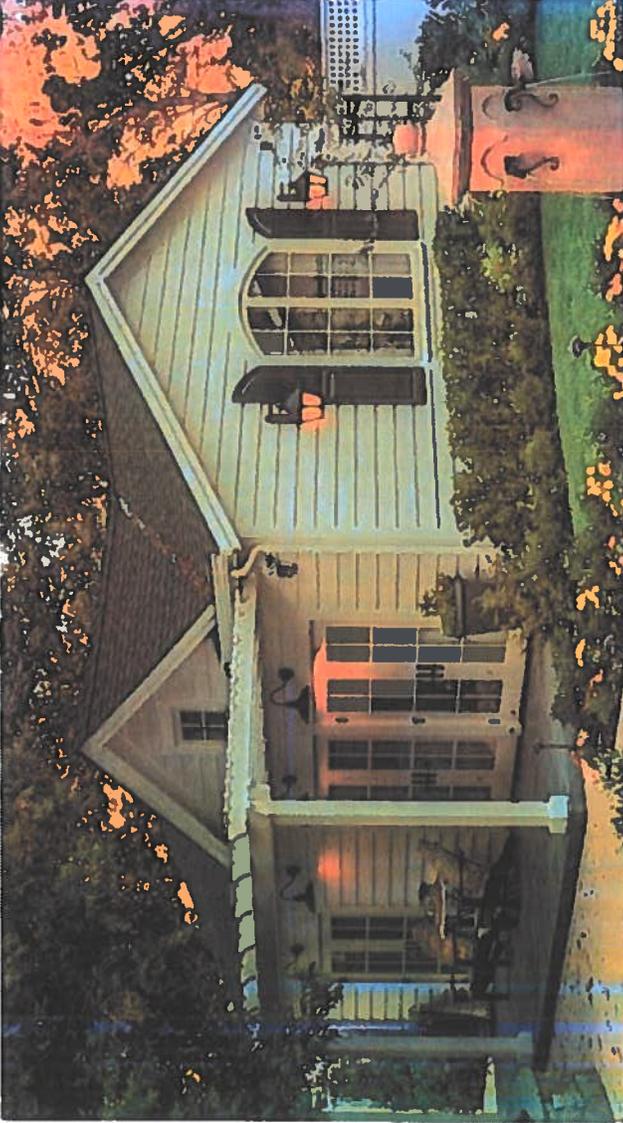
6.17.3 Regulations. Detached quarters shall be permitted pursuant to the following conditions:

- (1) The property is zoned for single-family residential use, has a lot area of at least 15,000 square feet, and is improved with a single family residential structure.
- (2) The detached quarters shall provide for the occupancy of: (i) immediate family members of those residing in the principal structure; (ii) domestic employees whose principal employment is to provide services to the occupants of the principal structure; or (iii) caregivers providing services to one of more occupants of the principal structure.
- (3) The detached quarters shall not be used as a rental unit and such quarters will not be assigned a separate street address.
- (4) The detached quarters shall meet residential building code requirements with respect to ventilation, natural light, means of ingress/egress, electrical safety, plumbing, and livability standards.
- (5) Detached quarters shall not be served by a dedicated water meter from the Town, and shall not be permitted to have a dedicated septic disposal system.
- (6) The detached quarters shall consist of a structure containing indoor living space not less than 200 square feet and not greater than fifty (50) percent of the living space of the principal structure.
- (7) Construction of detached quarters shall be subject to review and shall require the approval of the Virginia Department of Health regarding adequate septic treatment and disposal.
- (8) Conversion of an existing structure to a detached quarters, or the construction of new detached quarters, shall require conformance to the Town's building and zoning regulations in place at the time application is made.
- (9) Detached quarters shall be set back from the front property line a distance equal to or greater than the principal structure.
- (10) Detached quarters shall meet side yard setbacks equal to or greater than those required for principal structures within the zoning district.
- (11) Detached quarters shall meet rear yard setbacks equal to or greater than those required for accessory buildings within the zoning district.
- (12) Detached quarters shall share the same general vehicular means of ingress/egress as the principal structure.

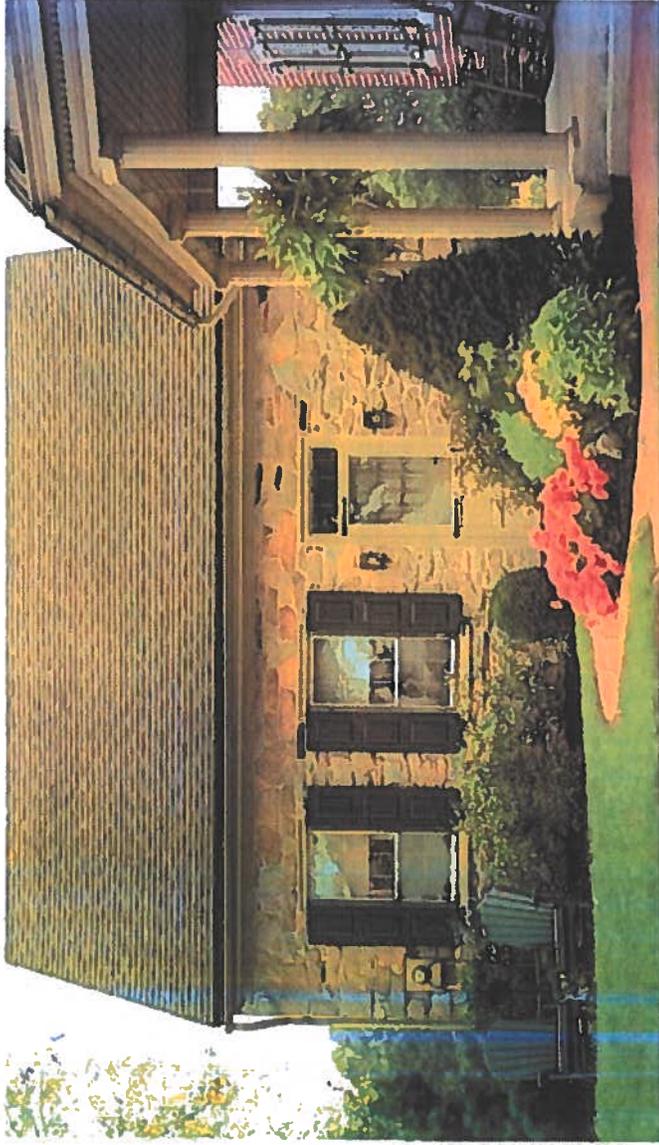
(13) Detached quarters shall be located in close proximity, and shall have adequate, improved, hard-surface pedestrian access to the principal structure.

(14) Detached quarters shall require a permit from the Town to ensure conformance to this section and to ensure adequate notice is provided to the property owner regarding the provisions of this section.

**MAKING
LIFE MORE
“LIVABLE”
ON OUR
ISLAND**



DETACHED QUARTERS

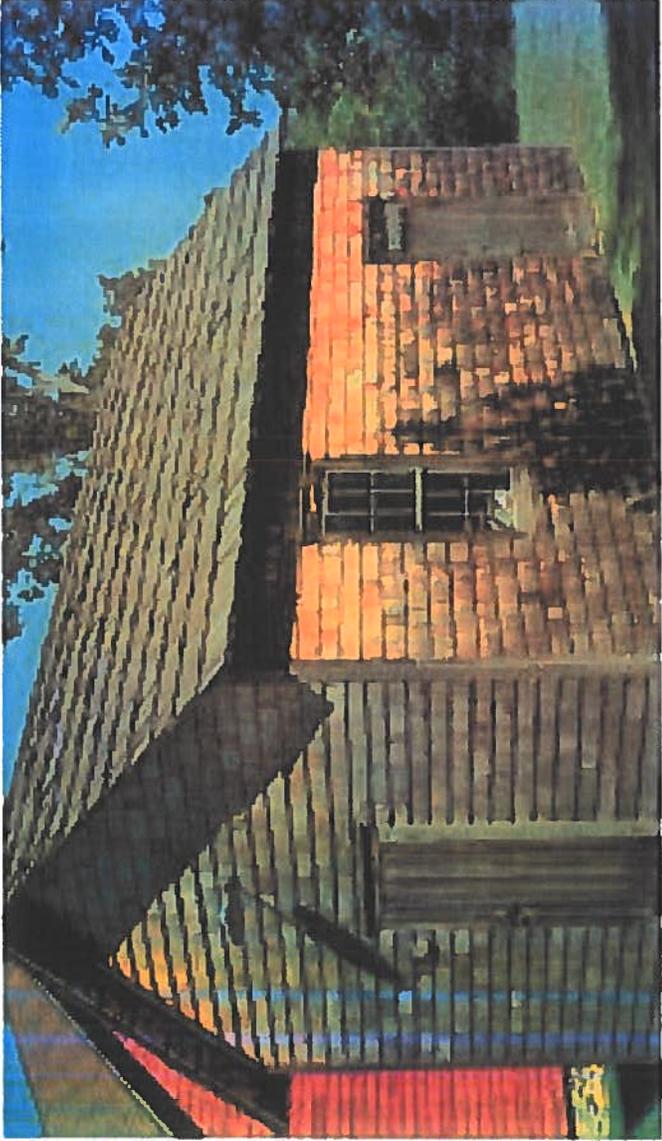


**PRIOR TO ZONING, A “HOME”
CONSISTED OF MORE THAN
ONE STRUCTURE**

Historically, guest houses were a customary feature throughout the country.

They provided transient occupancy for overnight or long-term visitors in an era when hotels and motels were not readily available.

Many residential codes currently allow “granny-flats” and other detached residential uses.

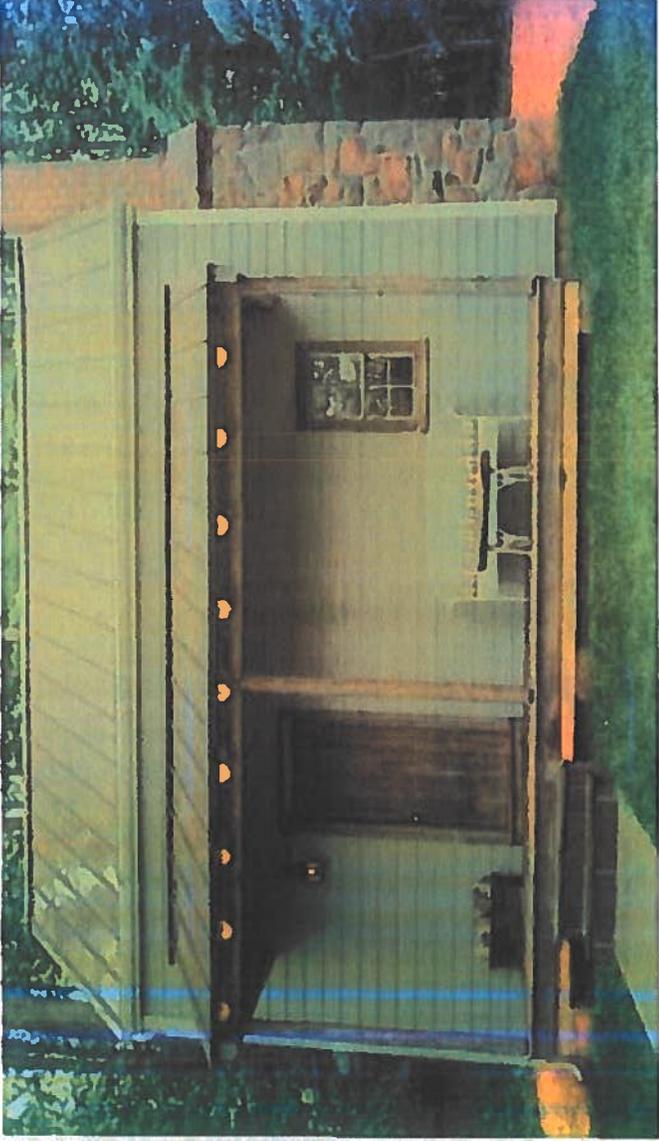


**PRIOR TO ZONING, A “HOME”
CONSISTED OF MORE THAN
ONE STRUCTURE**

Summer kitchens were once an important part of residential development.

These detached structures allowed food to be prepared without overheating the primary living space.

They also served as a fire safety measure, separating potential source of fire from the primary living quarters.



Servant quarters provided affordable living options.

These structures provided basic living space for domestic employees, and afforded privacy during off-hours for both the employer and employee.

These amenities were needed in an era when aging in place was the only option available to the aged and infirmed. Having caregivers readily available was critical to maintaining a quality of life.

**PRIOR TO ZONING, A “HOME”
CONSISTED OF MORE THAN
ONE STRUCTURE**

WHAT HAPPENED?

Zoning began in 1926, when the Supreme Court wrote in a landmark decision, *Village of Euclid v. Ambler Realty Co**, that “*very often the apartment house is a mere parasite*” on a neighborhood. Zoning Codes were adopted to control how properties were developed.

“Single-family residential” districts were created to prevent unwanted over-development.

“Single structure” or “single unit” references were incorporated into residential codes to prevent saturation of residential neighborhoods.

* Euclidian zoning, the type of zoning Chincoteague enforces, originated from this case.

FAMILY NEEDS ARE CHANGING

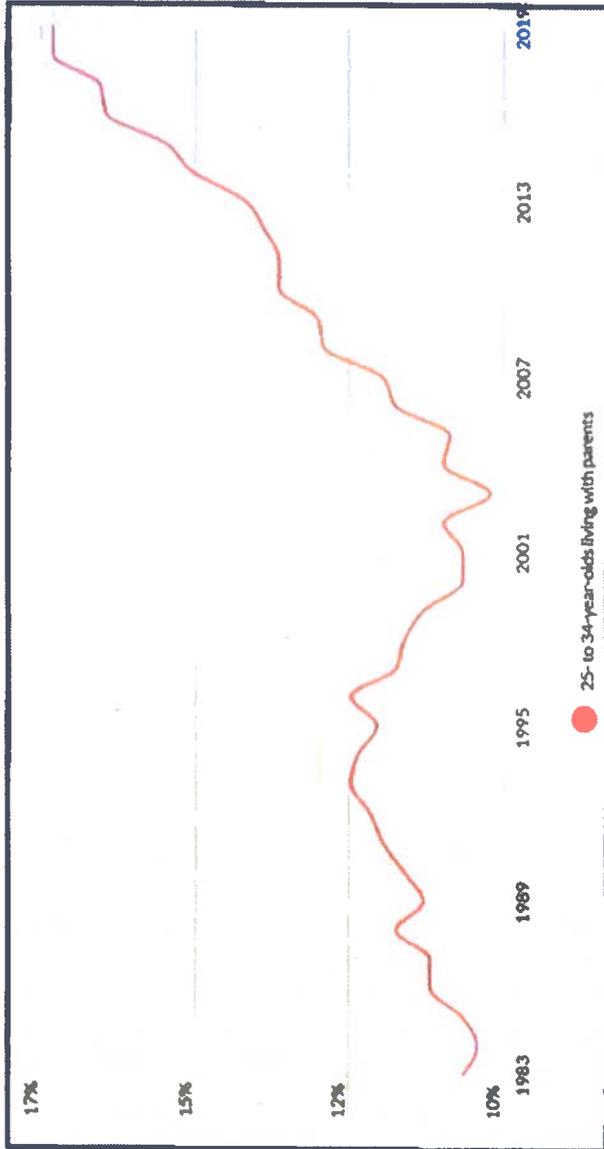
Aging in place often requires the assistance of caregivers.

Affordable housing for caregivers is not readily available.

Detached quarters could provide affordable housing for caregivers and improve the quality of life for aging or infirmed residents.

A family member's age/medical condition may require assisted living. The expense or location present a severe financial and emotional burden. An aging or ill family member could live with dignity and independence in detached quarters.

Chincoteague's median age is increasing, and younger residents are forced to live elsewhere, or return to live with parents, due to the lack of affordable housing here.



US Census data indicates that nearly 18% of adults between 25-34 years old resided in their parents' household in 2019.

Adults continue to return to their parents' homes due to lack of work, financial hardships, or issues related to the COVID pandemic.

CHANGING FAMILY NEEDS

CURRENT CHINCOTEAGUE ZONING

The Chincoteague Zoning Code requires R-zoned lots to be limited to one principal structure.

Zoning Code Definition:

Sec. 2.57. Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

For nearly 100 years, concern for over-development led to exclusionary zoning which prohibited traditional development such as guest houses, servant quarters, and summer kitchens.

Nationwide, “guest houses” and “servant quarters” were not considered in most residential zoning codes.

This was likely due to local legislative bodies being concerned with enforcement and wanted to prevent multiple families from residing on one parcel.

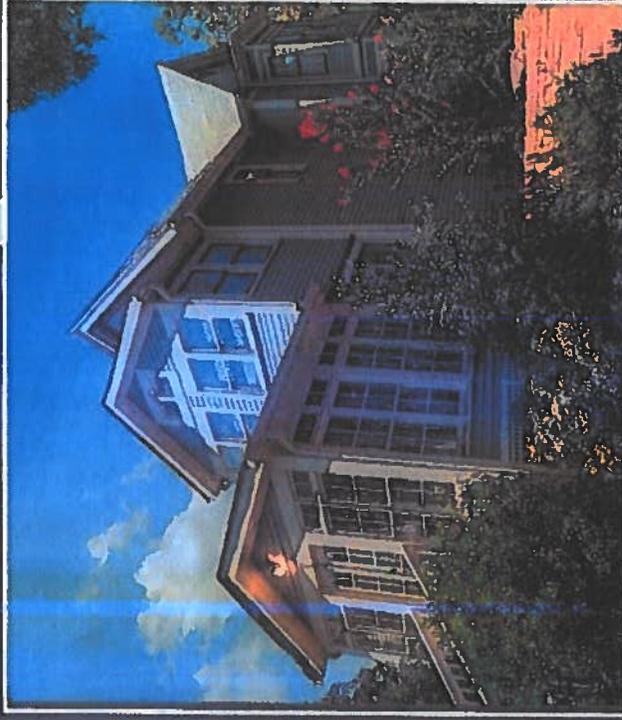
IMPACTS OF CURRENT ZONING

“Hidden” apartments are created above garages or in attics.

Interior spaces are renovated, without permits, to create a separate living space for a returning young adult or for an aging parent or grandparent. These modifications may present life safety issues due to improperly designed ingress/egress in a fire or other emergency.

Citizens are forced to hide their property’s living arrangements due to fear of regulatory action.

“ADDITIONAL” IMPACTS



ADDITIONS DESIGNED TO MEET THE “SINGLE STRUCTURE” REQUIREMENT CAN SIGNIFICANTLY ALTER HISTORIC ARCHITECTURAL FEATURES. (EXAMPLES ARE NOT LOCAL)



79 million adults lived in a shared household in 2019. Family units are changing. This code amendment would address an existing need in our community.

BENEFITS

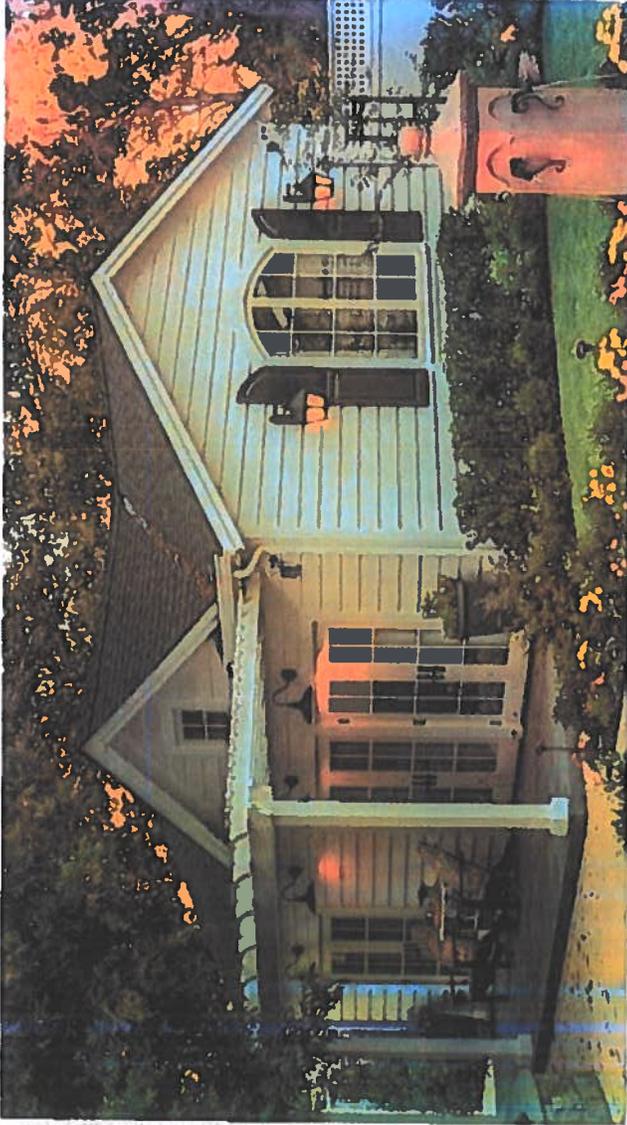
- Reduce turnover of resident families.
- Strengthen relationships in our neighborhoods.
- Allow greater options for aging in place.
- Provide a cost-effective option for caregivers.
- Improve quality of life for those in need of assisted living.
- Promote retention of historic architecture.

RECOMMENDATION

Consider revisions to the Code to allow Detached Quarters.

- Permitted by right in Residential Districts
- Would serve as additional, yet detached, living space
- Lot must be greater than 10,000 square feet
- Must be <50% floor area of the principal structure
- Not to be used as a rental unit
- Occupied by domestic employees or immediate family
- Must meet all residential codes
- Detached quarters shall not have separate 911 address, water meter, or septic system
- Must receive approval of VDH for septic disposal

Change is
the law of
life...
JFK, 1964



DETACHED QUARTERS

QUESTIONS/DISCUSSION

Prepared by:

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TO: Chairman Rosenberger and Commission Members

FROM: Michael Tolbert, Town Manager

DATE: September 14, 2021

SUBJECT: Detached Quarters Proposal

Upon completing our research of the proposed detached quarters addition to the current zoning ordinance, Mr. Bowden I would offer the following comments.

1. The proposal's introduction references the Code of Virginia and quotes the following excerpts of section 15.2-2283.

Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public...such ordinances shall be designed to give reasonable consideration to each of the following purposes...to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality.

A complete reading of this section reveals that the following statement is also contained in the same paragraph.

to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available.

2. The current proposal is to allow detached quarters in all 4 residential zones (R1-R4). While the stated purpose for the addition of this section is admirable, current zoning already allows, by right, methods designed to remedy each of the issues presented in the proposal. The issues are listed here.

- a. *Provide adequate and accessible housing for seniors and persons with disabilities or other medical needs.*
- b. *Allow for property modifications in response to changing family needs, smaller households and increasing housing costs.*
- c. *Permit environmentally friendly housing choices with less average space per person and smaller associated carbon footprints.*
- d. *Promote the ability for residents to age in place.*
- e. *Provide for affordable housing options for caregivers and domestic employees.*

Attached multifamily dwelling units are already permitted by right in R2, R3, and R4. These units effectively permit more than one family to occupy a single lot and would satisfy all of the above stated purposes.

A simple addition to an existing structure is also allowed by right in all zones with the appropriate setbacks and land areas and would in most cases be more economical than both multifamily attached and single family detached quarters to construct.

- 3. The proposal for inclusion in an R-1 district is also in direct conflict with the following statements in the current comprehensive plan.

R-1 Planning Area

Statement of Intent: ...development is limited to relatively low concentration of single-unit dwellings providing homes for the residents.

The Planning Area is intended to provide for the minor infill of existing neighborhoods, consistent with the existing low density residential character of the area.

Implementation Strategies: Zoning provisions for this Planning Area should limit each lot to one principal use.

Limit permitted residential uses to detached single family units.

- 4. Current zoning requires a minimum area, in addition to a minimum lot size, be provided for each additional attached dwelling unit located on a single lot. Zone R-2 requires 5,000 s.f and R-3 and R-4 both require 3,000 s.f. (R-1 does not allow additional dwelling units). However, the model ordinance proposes no such requirement. Moreover, since this proposal is for a detached unit which by definition requires more space than an attached dwelling, it would seem logical to consider any additional required space exceed that of an attached unit.

A search of the available records indicates that this proposal is a solution for which there is not a significant problem and that while the stated purpose is commendable, there exists adequate methods for resolving any foreseeable circumstance.

As stated above, multiple solutions for the stated purposes of the proposal exist in the current code as well as the availability of an appeal before the Board of Zoning Appeals or issuance of a conditional use permit.