

Section 025-090 Accessory Apartments

Consistent with the Plan of Conservation and Development, the purpose of this regulation is to allow a family to create an additional housing option for persons 55 years of age and older by permitting an accessory dwelling unit either within a single family structure or within a permissible accessory building on a lot containing a single family structure, provided said unit is permitted only in accordance with the safeguards and conditions prescribed below, and is designed so as to preserve and maintain the single family residential character of the neighborhood where such apartment may be located.

An accessory apartment is defined as a dwelling unit located on the same parcel of land as a principal single family dwelling which is arranged, designed, used or altered for the use of one family and contains independent living quarters, kitchen/food preparation area and a bathroom with a bathtub and/or shower, a toilet and a lavatory. An accessory apartment may be permitted subject to acquisition of a special permit and site plan approval in accordance with Chapters 175 and 180 and subject to the following conditions:

1. A total of one accessory apartment/dwelling unit may be permitted on a lot and shall be contained within either a single family dwelling, or within a permissible accessory building, but not both.
2. Accessory apartments/dwelling units shall only be permitted on parcels greater than 40,000 square feet, with the exception that if a dwelling is served by public water and sewer the parcel must contain least 20,000 square feet.
3. Additions to existing dwellings for the purpose of constructing an accessory apartment are permitted.
4. Accessory apartments/dwelling units shall only be permitted in accessory buildings if a) the subject parcel of land is greater than 80,000 square feet and b) the accessory building has been issued a certificate of occupancy at least five years prior to application for said accessory apartment/dwelling unit. If said parcel of land contains greater than 160,000 square feet, an accessory apartment/dwelling unit may be constructed in any existing accessory building regardless of the age of the building, or said accessory apartment/dwelling unit may be constructed as a new accessory building.
5. The living area of an accessory apartment/dwelling unit must contain at least 500 square feet, but shall not be greater than 750 square feet.
6. The remaining living area of the single family dwelling after creation of the accessory apartment/dwelling unit must be at least 700 square feet.
7. An accessory apartment/dwelling unit shall contain no more than one bedroom.
8. At least one of the occupants of either the dwelling or the accessory apartment/dwelling must be at least 55 years of age.
9. The owner of the dwelling must occupy either the dwelling or the accessory apartment/dwelling unit. Certification of such occupancy by the owner must be submitted at time of application.

10. There shall be no fewer than four off-street parking spaces (which may include garage parking spaces) to serve both the principal dwelling and the accessory apartment/dwelling unit.
11. No additional curb cuts may be created to serve an accessory apartment/dwelling unit.
12. Prior to the issuance of a zoning permit for an accessory apartment/dwelling unit, the applicant shall submit to the zoning office proof from the New Milford Health Department that the water supply and septic system are adequate to service the additional accessory apartment/dwelling unit.
13. The building containing the accessory apartment/dwelling unit may not be part of a common interest community.
14. The proposed accessory apartment/dwelling unit design shall preserve and maintain the single family residential appearance of the subject lot and be consistent with the single family character of the neighborhood.
15. Annual certification shall be provided by the owner-occupant of the property that the accessory apartment/dwelling unit is being utilized in compliance with these regulations.
16. Affordable Housing Incentive: When an accessory apartment/dwelling unit is to be rented pursuant to the affordable housing provisions of CGS SS 8-30g, the requirement that at least one of the occupants of the dwelling or the accessory apartment be at least 55 years of age may be waived. An application under this section of the regulations shall be accompanied by a proposed deed which complies with CGS 8-30g, including a ten (10) year affordable housing use deed restriction. Before a permit shall be issued for an accessory apartment pursuant to this section, the aforesaid deed must be recorded in the office of the Town Clerk. Prior to occupancy of the accessory apartment by the “affordable housing” tenant, and thereafter, with each subsequent tenant, the owner must provide certification that a) the subject apartment is rented at or below the maximum rate prescribed in CGS 8-30g;; and b) the tenant has certified to the owner, under penalty of false statement, that the tenant’s income does not exceed (80) eighty percent of the area median income, as defined in CGS 8-30g.