

October 1, 2004

**Nantucket Zoning/Excerpts on Secondary Dwellings and Affordability Provisions**

1972 Adoption of Zoning By-law

Sec IV. Use Regulations

IV-A-1a: Single family detached dwelling containing one housekeeping unit only, together with accessory buildings not containing a housekeeping unit.

1973 ---

1974 Planning Board Amendment to add secondary dwellings

IV-A-1a: A single family dwelling containing one dwelling unit, together with accessory building (s), attached or detached, one of which may contain another such dwelling unit to be located if detached, so that such accessory building is located at least 25 feet behind the rear building line or 25 feet in front of front building line of the principal building and in conformance with all other requirements of this by-law, with a maximum of 2 dwelling units per lot; one dwelling unit may be over an attached garage.

Notes of meeting show no discussion on the secondary dwelling provision.

Rate of Development Article on warrant; voted by Meeting to defer for further study.

1975 ---

1976 (haven't researched meeting; year is missing from Binder)

1977 ---

1978 ---

1979 Nantucket Planning & Economic Development (NP&EDC) amendment to secondary dwelling provisions

IV-A-1b: (Permitted Uses) A secondary dwelling shall be permitted under the following conditions.

1. Dwelling shall be a single family dwelling.
2. Dwelling shall be detached and shall be located at least 12 feet behind the rear building line of the principal dwelling or at least 12 feet in front of the

front building line of the principal dwelling. Dwelling shall not be located within the required front yard.

3. The total ground cover of both the principal dwelling and the secondary dwelling shall not exceed the ground cover ratio maximum stipulated in Section V – Intensity Regulation.

4. Dwelling shall comply with all other Zoning By-Law regulations.

5. The ground cover of the dwelling shall be at least 20 percent more or at least 20 percent less than the ground cover of the principal dwelling.

c) A secondary dwelling shall be permitted over a garage under the following conditions.

1. If detached, the garage shall be located at least 12 feet behind the rear building line of the principal dwelling or at least 12 feet in front of the front building line of the principal dwelling.

2. If attached, the garage shall be at least 12 feet from the closest wall of the principal dwelling. Access shall not be permitted between the secondary dwelling and principal dwelling except at grade level. Attached shall mean connected to the principal dwelling by means of a breezeway, porch, deck or the like.

1980 Academy Hill District added (note: Academy Hill is affordable senior housing today, but no mention of affordability in 1980 or current zoning)

1981 NP&EDC adds provision allowing “Two-family dwellings in R-10 district, provided that lots on which two family dwellings are located shall not contain any additional secondary dwellings”

1982 NP&EDC adds definition for time share/interval ownership - - Planning Board notes that “use of a structure for time sharing is very similar to the intensity, type and degree of use normally associated with transient residential facilities as hotels, motels, and guest houses. For that reason, the Board feels that time sharing or interval ownership use should be permitted in districts which now allow transient resident facilities – Residential Commercial and Limited Commercial.

NP&EDC submits two-family amendment, Planning Board notes that “if the Town is serious about doing something about the year-round housing problem, it must begin to allow attached housing.” text added to IV.B.1.:

c. A dwelling containing two dwelling units in R-1 and R-10 districts only (one of which shall be a secondary dwelling unit) provided that any lot on which the dwelling units are located shall not contain any additional dwellings or dwelling units and that the access to the units is by way of a common front door.

d. Dwelling units shall be under the same ownership as the principal dwelling.

1983 ---

1984 Building Cap/Phased Development: Article 12 adds provision that Phased Development “shall not apply to a building permit issuing to a natural person who is or is about to become domiciled in Nantucket if that person executes a covenant running with the land and in favor of the Town for a period lasting not less than 5 years from the date of issuance of an occupancy permit for the dwelling. The covenant shall provide that the dwelling shall be used only as that person’s owner-occupied residence, year-round, and that it may not be offered for seasonal rental during the period when the covenant is in force. . . .

<<Leedara’s note: need to find first instance of Building Cap/Phased Development>>

Year-Round Accessory Apartments: Planning Board recommends adding new section to IVA3:

3. Exception for Accessory Apartments

a. It is the purpose of this section to provide an owner of an existing single-family home the opportunity to install one year-round accessory apartment unit within the exterior walls of his or her home by special permit, issued by the Board of Appeals, in lieu of the right to construct or install a detached secondary dwelling or garage apartment on the property, provided the owner is willing to limit the unit to year-round occupancy. This provision is intended to help provide affordable, year-round rental housing for families and the elderly within the context of the Island’s predominantly single-family home character. It is also intended to provide an opportunity for supplemental income for homeowners, particularly senior citizens, who might otherwise find it difficult to remain in their own homes due to increasing energy and maintenance costs, and concerns about security and health

(more details follow in code, covering unit size, bedrooms, parking, age of principal structure, architectural treatment, ownership (“The entire structure in which the accessory apartment is installed shall be held in single ownership”), year round occupancy

1985 - - -

1986 Michael Angelastro for the Nantucket Island Chamber of Commerce submitted, Planning Board recommended,

“Zoning Two-Family Dwellings (R-C) “(a) A dwelling containing two (2) dwelling units (one of which shall be a secondary dwelling unit), provided that any lot on which the dwelling units are located shall not contain any additional dwellings or dwelling units; and further provided that access to the units is by way of a common front door, except in cases where both units are

located on the second floor.”

wording change to 139-7c(2)(e) on accessory apartments; previously read “The entire structure in which the accessory apartment is installed shall be held in single ownership” changed to read “the same ownership”

1987 “Major Commercial Development, Housing Effort Required.”

Comment in warrant “Several Town boards and agencies have been working steadily to provide affordable yearround housing to Nantucket residents. This Article represents a recognition that continuing commercial development in Nantucket triggers an increased housing demand both for employees of the particular development and island-wide in general.

Purpose language from article:

In order to further the availability of housing for persons and households of all income levels, to encourage the most appropriate use of land throughout the Town of Nantucket, to preserve and increase the amenities in the Town of Nantucket, to avoid an undue concentration of population, and mitigate the impacts of Major Commercial Developments on the supply and cost of housing in a Town with unique and special qualities, the Planning Board may, as a condition of granting a permit for a Major Commercial Development (MCD), require applicants to provide affordable housing in accordance with the following standards . . .

[from Planning Board Report] NOT ADOPTED: “Article 17, Zoning, Ownership of Second Dwelling Units”. Planning Board recommended unfavorable action on Article 17. Comment: The duplex provisions of Section 139-8 were originally designed as an affordable housing measure, a means for yearround island residents to own a structure that contained both a dwelling for themselves and one for rent (the latter to be used to cover mortgage costs). Without any guarantee that both units would be accessible only to yearround owners, condominiumization of the two units would inevitably lead to seasonal occupancy.

1988 ---

1989 Article 23 - Residential Secondary Dwelling Unit Doors  
article deleted “and the access to the units is by way of a common front door”  
from 139-8, Residential and Residential Old Historic Districts, A. Permitted  
Uses.

Planning Board Comment: This amendment will allow greater flexibility in

design than currently exists. The common-front-door requirement was originally instituted to protect the character of single-family neighborhoods, and its elimination will not affect these neighborhoods so long as the Historic District Commission continues to prohibit the construction of two front doors on the same façade of a structure.

1990 Special Town Meeting - Article 13 – Siting of Secondary Dwellings.

Article replaced language about siting secondary dwellings 12 feet behind rear building line/12 feet in front of front building line with “The secondary dwelling shall be sited with a least a twelve (12) foot scalar separation from the principal dwelling and as shown by the Certificate of Appropriateness . . .”

Planning Board Recommendation: The Planning Board does not recommend the adoption of Article 13 as it removes the provision in the current siting regulations which maintains a staggered appearance of building facades and visually reinforces the secondary position of the secondary dwellings. No provision is made in the article to keep houses from being placed side by side in a straight line on a lot.

Article 18 – MCD Inclusionary Housing Amendments

Planning Board Comment: if approved, the amendments outlined in Article 18 will bring this local bylaw into close conformance with state guidelines for affordable housing; will give developers better ability to project in advance the financial effect of [a] inclusionay unit on a development; will allow some flexibility [assigning] tenancy of units when no eligible household can be [found] for a particular unit; will allow large MCDs which are built [in phases] to build their inclusionary units in phases instead of all at [once] and will allow the Planning Board to require at least one inclusionary unit from all MCDs (including those with substantial or commercial activity) instead of applying the bylaw only to MCDs with indoor floor area.

<note: words in brackets are guesses based on interpretation of a poor photocopy>

1991 ---

1992 Article 47 – Inclusionary Housing

inserted a section relating to monetary contributions in lieu of providing inclusionary units

1993 ---

1994 Article 48 – in Section 139-7 inserted a new sub-section “F. Major Residential Development Special Permit (MRD); article includes a subsection

“Affordable and Moderately Priced Housing Bonus” giving density bonuses.

1995 ---

1996 Article 34 – Permitted Uses, amends Section 139-7A(2) to read:

(2) One detached building constituting a secondary dwelling. The principal purpose of secondary dwellings is to create housing opportunities through the provision of affordable rental housing for year-round residents, including senior citizens, while affording the owner of the primary residence with the opportunity to generate supplemental income. The intent of this section is also that one of the two dwellings be designed and constructed at such scale and bulk so as to be clearly subordinate to the other dwelling in both use and appearance. Secondary dwellings shall be permitted only under the following conditions:” (submitted by Joan S. Barnes)

Article 36 – Permitted Uses, amends Section 139-7A(2) by deleting subsection (f) (read: “Dwelling shall be under the same ownership as the principal dwelling.”)and substituting the following language:

(f) A dwelling shall not be considered “secondary” for the purposes of this Bylaw unless the secondary dwelling in the same legal and beneficial ownership as the principal dwelling. The ownership of a lot by a cooperative housing corporation, land trust, or other common interest ownership entity in which there is a separate beneficial ownership of the principal and secondary dwellings on the lot shall not be deemed to constitute “the same legal and beneficial ownership” for the purposes of the immediately preceding sentence.

1997 and forward have not been included in this chronology

(from 1997 forward; focus on building cap, growth rate, addition of condominium ownership as being not “same legal and beneficial” for purposes of secondary dwelling; creation of NHNC program, creation of Multi-Family Overlay District; etc)