



NAUGHTON
& TORRE LLP

ATTORNEYS AND COUNSELORS
AT LAW

KELLY M. NAUGHTON*

ASHLEY N. TORRE**

ROBERT M. MIELE**

* Admitted in New York & Massachusetts

** Admitted in New York & New Jersey

June 14, 2023

Via Email: assistant@townofnewpaltz.org

Town of New Paltz Town Board

Town Hall

P.O. Box 550

52 Clearwater Road

New Paltz, New York 12561

Re: Proposed Accessory Dwelling Units Local Law
Planning Board Comments/Recommendations

Dear Hon. Bettez and Town Council Members:

The Planning Board reviewed the proposed Accessory Dwelling Units (“ADUs”) Local Law at its meeting on June 12, 2023 and asked me to convey the following comments and recommendations to you.

First, the Planning Board recommends that the requirement for the Ulster County Department of Health to approve the on-site sanitary septic system as adequate for ADUs in an existing one-family dwelling or existing accessory structure (*see* Section 140-17.2(3)(h)) also apply to ADUs attached to an existing one-family dwelling, detached residential accessory structure or newly created accessory structure. Stated differently, the Planning Board recommends that the requirement for Ulster County Department of Health approval of the septic system set forth in Section 140-17.2(3)(h) also be added as a requirement in Section 140-17.3.

Second, the Planning Board agrees that there should only be one front entrance and that any new entrance for an ADU be located at the side or rear of the structure, but thought that an ADU should have the option of sharing a front entrance with the principal dwelling unit. The Planning Board thus recommends that ADUs be permitted to share a front entrance with the principal dwelling. Stated differently, the Planning Board recommends that the proposed definition of ADU in Section 140-17.1 be amended to eliminate the requirement for an ADU to have its own exterior entrance.

Third, the Planning Board questioned the type of concerns that may trigger the need for referral to the Planning Board under Sections 140-17.2(2) or 140-17.4(1)(a). Since the Planning Board would be applying the same ADU standards as the Code Enforcement

Officer, the Planning Board felt that any potential concern related to compliance with the ADU law should instead be referred to the Zoning Board of Appeals for a variance. Relatedly, it appears that Section 140-17.3 should indicate that the ADU permit for ADUs attached to an existing one-family dwelling, detached accessory structure or newly created accessory structure may be issued by the Code Enforcement Officer similar to Section 140-17.2(1) that applies to ADUs in an existing one-family dwelling or existing accessory structure.

Fourth, the Planning Board questioned how the owner-occupied requirement would apply in the case of property owned by a corporation, limited liability company, trust, or similar type of entity and recommends that this be clarified in the law.

Fifth, the Planning Board thought that the owner occupancy requirement should be more flexible and suggests that the law allow for waivers of this requirement for temporary absences of the record owner for a period of up to two years.

Sixth, the Planning Board thought that the length of residency required to establish owner-occupancy should match New York State's time frame for establishing residency under the Tax Law. Thus, the Planning Board recommends amending the proposed definitions of owner-occupied and primary residence in Section 140-17.1 to reduce the length of residency required from nine months to "more than 183 days" or "at least 184 days."

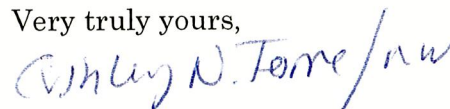
Seventh, the Planning Board recommends that the law eliminate the restrictions on maximum size of ADUs for ADUs proposed entirely within an existing one-family dwelling that exists at the time the law is enacted. Stated differently, the Planning Board recommends that the size restrictions in Section 140-17.3(e) – *i.e.*, that the ADU not contain greater than 45% of the total legally finished area of the principal dwelling unit nor more than 900 sq. ft. – not apply for an ADU proposed entirely within an existing one-family dwelling that exists at the time the law is enacted.

Eighth, the Planning Board was concerned that the minimum 30-day rental term in Section 140-17.6 was restrictive and suggested that this period be decreased to allow greater flexibility.

Last, the Planning Board opined that the annual review fee requirement in Section 140-17.4(2)(b)(ii) and proposed penalties for offenses, including, but not limited to, that each day the violation continues be deemed a separate violation (Section 140-17.8(3)), may be prohibitive.

Please do not hesitate to contact me should you have any questions or comments.

Very truly yours,



Ashley N. Torre

cc: Town of New Paltz Planning Board (via email)
Joseph Moriello, Esq. (via email)