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# APPROVED

**New Castle Planning Board**  
**Wednesday, October 26, 2016**  
**7:00 PM New Castle Town Hall**

**Members Present:** Kate Murray, Geof Potter, Margaret Sofio, Rich Landry

**Members Not Present:** Chair Darcy Horgan, Tom Hammer, Bill Stewart

**Others Present:** Anne Miller, Secretary, Tom Smith, Holly Biddle, Rita Fusco, Michael McAndrew, VJ Strehl, Ken McDonald, Dave McGuckin, Ann McAndrew

Acting Chair, Kate Murray called to meeting to order; announced that the meeting was being recorded; asked guests to sign-in; noted the four voting members present, herself, Geof Potter, Margaret Sofio and Rich Landry; and rearranged the agenda to accommodate the public interest in the accessory dwelling unit (ADU) discussion.

1. Discussion of accessory dwelling units

Kate Murray described this as a work session rather than a public hearing however the Board will open the session for public input for the benefit of the Board.

Geof Potter led the discussion, confirming that members have had the opportunity to review Senate Bill (SB) 146. The intent behind the bill is to create more affordable housing, to accommodate the demographic trends of more adult children living with parents and more elderly parents living with children. The bill amends RSA 674 by adding three paragraphs to describe and set a minimum guideline for ADUs. It takes effect on June 1, 2017. Towns that currently address ADUs within their zoning ordinance will benefit by complying with SB 146. New Castle zoning ordinance does address ADUs in section 6.6 which will have to be modified accordingly. It is the job of the Planning Board to ensure that the ordinance is both compliant, and serves the community needs to properly protect the town while accommodating the residents who want to implement ADUs. The Board will work on the ordinance to be passed at Town Meeting in May to meet the June 1, 2017 deadline. Between now and then, the ordinance needs to be agreed upon, public hearings need to be held, and language needs to be worked out to meet public needs and legal standards before the town vote in May. This is the first opportunity for public input.

Goal for this meeting: to identify the areas that need to be addressed in order to become compliant and what needs to be added to expand on the basic requirements. The Board identified some areas where the town will need to makes decisions:

1 Attached v. detached: State law pertains only to attached ADUs which require a common wall or  
2 roof and a door that connects to the primary unit. If the town decides to also allow detached  
3 ADUs, regulations are needed to cover them.

4  
5 Bedrooms: The state says ADUs cannot be limited to one bedroom. The town's ordinance does  
6 impose a one bedroom limit, therefore the town is not in compliance. However, the town could  
7 impose a two bedroom limit.

8  
9 Parking: An ADU requires two parking spaces in addition to the two spaces required for the  
10 primary residence. Clarification is needed about whether stacked parking is allowable. For many  
11 residences, parking may be barrier to an ADU.

12  
13 Size limits: New Castle describes allowable ADU square footage as a percentage of overall square  
14 footage with a minimum (300) and a maximum (800). The state does not allow for a maximum  
15 size less than 750 square feet. There is a concern about the proportionate size of the accessory  
16 unit v. the principle unit.

17  
18 Permitting process: SB 146 allows for options in the permitting process. Most towns seem to be  
19 avoiding the by-right option in favor of either a Conditional Use permit from the Planning Board  
20 or a Special Exception from the Zoning Board. The town currently employs Special Exception.  
21 Since the state seems to establish this use as allowable by-right, the special conditions  
22 accompanying it are planning conditions. The Board discussed the potential volume of permit  
23 applications and speculated that town demographics and a small number of dwelling units will  
24 keep applications to a manageable number.

25  
26 It was noted that the ground rules still apply to an ADU, they need to have sufficient water and  
27 septic or add capacity accordingly. Additionally owner occupancy is required. A familial  
28 relationship cannot be required.

29  
30 The concern that the ADU may end up in use as an Air BnB was answered by the expectation  
31 that the state is working on separate provisions for Air BnB and VRBO. Additionally, there  
32 doesn't appear to be language from the state that prohibits the town from requiring longer term  
33 occupancy of the ADU.

34  
35 Kate Murray opened floor to the public for their comments.

36  
37 Tom Smith, 254 Wentworth Road, described his current situation. They anticipate a near term  
38 need to care for aging parents in their home. While the acreage is sufficient to allow additional  
39 square footage, the wetlands setback prohibits an addition to their main dwelling unit. He  
40 requested that the Board consider allowing detached ADUs--which would accommodate his  
41 anticipated need and further, that the Board recognize that although there is a concentration of  
42 small-lot homes, there are other lots with different profiles that shouldn't be held to a one-size-  
43 fits-all ADU policy. He noted that he submitted a letter to Geof Potter in September stating his  
44 concerns which **he hopes will become part of the public record.**

1 Kate Murray clarified that ADUs cannot become condos in order to sell them as separate units.  
2 The requirements to condo a unit remain in place.  
3  
4 Michael McAndrew, 77 Steamboat Lane, asked about the owner occupancy requirement in the  
5 event the owner dies.  
6  
7 Geof Potter reported that Building Inspector, Don Graves, suggested that concern could be dealt  
8 with by maintaining a record of each ADU as an attachment to its primary dwelling unit so that  
9 after the sale of the dwelling, the new owner would be obliged to maintain the unit as an ADU. It  
10 may already be a matter of record but that should be investigated.  
11  
12 Michael McAndrew asked what recourse the town has for non-compliance.  
13  
14 Kate Murray described that the Select Board could impose a fine of \$275 per day, however  
15 revoking a Certificate of Occupancy is probably not an option.  
16  
17 VJ Stehl, 62 Main Street, questioned how the stated intent for the ADU during the approval  
18 process would survive long term with the property. Rich Landry responded that that issue is not  
19 within the jurisdiction of the Board. The Planning Board responsibility is to make sure ADUs are  
20 done in an appropriate way. Further, the condo requirements would still apply.  
21  
22 Holly Biddle, 7 Piscataqua Street, sought and received confirmation that the owner occupant  
23 could inhabit the ADU.  
24  
25 Ann McAndrew, 27 Steamboat Lane, requested clarification about who could move in if the  
26 tenant dies. Margaret Sofio responded that neither the state nor the town requires that the  
27 tenants have a familial relationship.  
28  
29 Holly Biddle asked whether the two additional parking spaces could be stacked, specifically with  
30 one space being inside a garage. Rich Landry believes that required residential spaces are  
31 allowed to be stacked.  
32  
33 Geof Potter asked for comments about size limits. The group agreed that the language is  
34 confusing but believes that the state intended that the maximum size could be no less than 750  
35 square feet. Kate Murray suggested that a percentage of total area preserves scale with the  
36 principle dwelling so proposed the idea of a maximum size of **either** one-third of total living  
37 area **or** 750 square feet, whichever is greatest.  
38  
39 Holly Biddle asked for the Board to consider expanding the maximum living space requirements  
40 to allow for an ADU, possibly in added height, if the building stayed within the height allowance.  
41  
42 Kate Murray noted that there is an additional requirement for a separate entrance and exit  
43 which has to be managed as well as a door between the two units.  
44  
45 Kate Murray closed the public comment session.

1  
2 Geof Potter walked the Board through elements of the ordinance to solicit their specific input.

3  
4 SB 146

5 674:71- The town’s definition needs to be compliant.

6 674:72, I- Pertaining the permitting process, the Board’s consensus is for the  
7 Planning Board to have jurisdiction. Rich Landry asked whether there could be a set of  
8 conditions to an allow an ADU by-right and permitted by the Building Inspector with the  
9 Planning Board process reserved for waivers. This should be considered at a later time, once the  
10 uncertainties are determined. Pertaining to number of ADUs per dwelling, Rich Landry  
11 explained that some properties may be allowed to add an accessory building which may be used  
12 as an ADU even without employing the ADU ordinance. Holly Biddle asked whether a residence  
13 with a guest house could also have an ADU. The state allows for the town to limit each dwelling  
14 to one ADU. This should be discussed in more detail with Chair Darcy Horgan and the Building  
15 Inspector. Members preferred a one ADU limit.

16 674:72, II- This section does not apply since it pertains to towns without an ADU  
17 ordinance.

18 674:72, III- Pertaining to an interior door, this section doesn’t necessitate a change for  
19 the town.

20 674:72, IV- This section allows municipality to require adequate parking, which is two  
21 spaces. Holly Biddle asked whether the two-space limit is set in stone. Rich Landry responded  
22 no, but the members suggested that parking could act as a limiting factor, if desired. Kate  
23 Murray questioned whether stacked parking was a safety issue.

24 674:72, V- The language confirms that the water and sewer capacity need to be  
25 adequate; and if it is not, the town can require that they add capacity.

26 674:72, VI- The issue of owner occupancy enforcement will need discussion.

27 674:72, VII- Pertaining to the aesthetics, the Historic District Commission (HDC)  
28 requirement would still be applicable. Pertaining to size of ADU, the town’s ordinance addresses  
29 size but Kate Murray would like to revisit the town’s wording.

30 674:72, VIII- There are no concerns with this section.

31 674:72, IX- Pertaining to number of bedrooms, language will need to be changed  
32 because currently the town limits ADUs to one bedroom which is not allowed, but limiting to  
33 two bedrooms is allowed. The Board would like to impose a two bedroom limit.

34 674:72, X- Larger municipalities have some level of requirement for workforce  
35 housing but this is not relevant in New Castle.

36 674:73- While discussion will continue, Kate Murray thinks it makes sense to  
37 allow detached ADUs.

38 6:3- This section represents an administrative modification of Innovative Land  
39 Use Controls to remove ADUs from that section.

40  
41 Geof Potter concluded that this input is a first round of consensus, enough to build a draft. Kate  
42 Murray will forward the discussion points to Darcy Horgan and determine how to move forward  
43 with town ordinance changes.

44

1 Holly Biddle asked when ADUs will next be discussed. Kate Murray indicated that the next  
2 Planning Board meeting date would be decided later in this meeting, but that the agenda isn't  
3 set. Possibly additional meetings will be required for public input.

4

5 2. Decide next meeting date

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7 Because the meeting date falls the evening prior to Thanksgiving, the Board chose to re-schedule  
8 the November meeting for Wednesday, November 30, 2016.

9

10 3. Review and approve minutes to the meeting on August 24, 2016

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12 *Margaret Sofio MOVED to approve the August 24, 2016 minutes as revised. Geof Potter*  
13 *SECONDED. Motion APPROVED unanimously.*

14

15 4. Review and approve minutes to the meeting on September 28, 2016

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17 *Margaret Sofio MOVED to approve the September 28, 2016 minutes as written. Geof Potter*  
18 *SECONDED. Motion APPROVED unanimously.*

19

20 5. Adjourn

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22 *Rich Landry MOVED to adjourn the meeting. Margaret Sofio SECONDED. Motion*  
23 *APPROVED unanimously.*

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25 Meeting adjourned at 8:21 pm.

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27 Attachment: Chapter 6 SB 146-Final Version

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