

**IRVINGTON HOUSING COMMITTEE
RECOMMENDATIONS TO THE BOARD OF TRUSTEES**

ACCESSORY APARTMENTS

Introduction

The Irvington Housing Committee (“IHC”) is charged with identifying opportunities for affordable housing for moderate income individuals and families, with an overall goal of achieving a more diverse and vibrant community while also preserving the unique character of our Village. At the July 21, 2014 Board of Trustees meeting, the IHC presentation included three recommendations designed to increase the stock of affordable housing in the Village. As well as recommending “floating zones” and density bonuses to encourage the development of Fair & Affordable single family and multi-family dwellings that conform to the terms of the County’s settlement agreement with HUD, the IHC recommended that the Board consider expanding the availability of “Accessory apartments.” In response, the Board agreed to these recommendations and invited IHC to provide more specific proposals. Herein is the Committee’s recommendation for a zoning code addressing Accessory apartments.

The Need

Irvington has experienced a significant decline in population of a key demographic: young adults (who are an important source of community volunteers) (see “Study Shows Demographic Decline of Young Adults in Village of Irvington” by Alexander Roberts, The Hudson Independent, March 5, 2014). Our community also includes “empty nesters” who may, now or in the near future, no longer be able to afford or maintain their homes. The present Village Zoning code permits Accessory apartments only in outbuildings, and only for the parents or adult children of the owner of the property with a requirement that the owner occupy the primary unit. (Village Code Article IV, Sec. 224-8 (B) (7) (a)). There are anecdotal reports that Accessory apartments do exist in the Village, but as they are unregulated they may not conform to fire and safety standards. Thus, initiating a process to permit Accessory apartments will increase the stock of dwellings available to younger and less wealthy individuals and families and will also increase our potential volunteer base. Such apartments may also permit “empty nesters” to remain in their homes in the Village by reducing the size of their own portion of a house that may now be too large, while providing a source of income. Finally, permitting Accessory apartments will allow the Village to inspect and regulate these dwellings.

Concerns and Considerations

These recommendations aim to provide a more flexible housing opportunity for the committee’s target populations, while setting parameters for the number of such units, the length of permit periods and the maintenance of appropriate Village Board control of Accessory apartments. The primary concerns related to expanding the potential for Accessory apartments are increased population density, compromise of single family home zoned areas, and parking. The recommended zoning provision addresses the first

two of these concerns, while recognizing that the Board is undertaking a comprehensive review of parking policies that will apply to all residences in the Village.

Model Regulation and Recommendations

The IHC reviewed the Accessory apartment zoning regulations of a number of neighboring communities, and determined that the Hastings code, with modifications, best meets the goals and needs of our Village.

Accordingly, IHC recommends that the Village Board adopt a zoning regulation modeled on Hastings' zoning code section 295-67(b) ("Accessory Apartments"). IHC specifically endorses the following provisions of Hastings' code:

- Accessory apartments may be permitted in existing single family residences, either in the principal building or an outbuilding, as long as the owner occupies one of the dwelling units as a principal residence.
- Permits shall be issued by the Planning Board to the owner-occupant of the residence in which the Accessory apartment is to be located after a Building Inspector report and public hearing; the applicant shall provide a sketch site plan and floor plan to the Planning Board, and pay an application fee as set by the Board of Trustees.
- Accessory apartments shall not include more than two bedrooms.
- No exterior changes shall be made to the building in which the Accessory apartment is to be located that will alter the single-family character and appearance of the residence or the neighborhood.
- The proposed Accessory apartment shall be in compliance with all applicable building, fire, electrical, health and safety codes.
- The number of Accessory apartments in the Village shall be limited to 50, and the Planning Board may deny a permit in the event that the number of such units in one area would adversely affect a particular neighborhood.
- There shall be a ninety day amnesty period after the adoption of the zoning ordinance during which owners of existing but unpermitted Accessory apartments may apply for permits, subject to the relevant inspections, hearings and Planning Board approval. No new applications for Accessory apartments will be considered during the amnesty period. An owner who fails to apply for a permit for an existing Accessory apartment within the ninety day amnesty period is deemed to be in violation of the ordinance.
- Permits shall be issued for a period of not more than three years; reapplication, with inspections and public hearing, must be made at the expiration of the permit term.
- In granting a permit, the Planning Board shall have the authority to impose reasonable restrictions and conditions consistent with the intent of the code provisions, shall establish the rules and regulations necessary to administer the code, and ensure that a record of all Accessory apartment permits is maintained in the Village office.
- Upon change of ownership of the principal residence, or when the owner ceases to reside in the residence, the Accessory apartment permit shall automatically expire. Accessory apartment tenants may remain in the

apartment for sixty days with the owners' consent, unless the Planning Board approves additional extension of time.

- In the event that a residence with a valid Accessory apartment permit is sold or transferred, the new owner may apply for a permit within sixty days and shall not be deemed in violation while the application is pending, even if the permit expires during that time. However, if the new owner fails to apply for a permit, s/he shall be deemed in violation and shall be precluded from applying for an Accessory apartment permit for one year from the date of the transfer of the title.
- A new owner of a residence having no Accessory apartment may not apply for an Accessory apartment permit for a period of five years.
- An owner who fails to obtain a permit, or allows occupancy of an Accessory apartment in violation of the code shall be guilty of an offense punishable by a fine of not less than \$1,000. Each month's continued violation shall constitute a separate offense. In addition, if an owner violates any provision of the code or condition set by the Planning Board, the Planning Board may revoke an Accessory apartment permit.

The IHC recommends that the following provisions of the Hastings Code not be adopted in the manner set forth therein:

- Accessory apartments may be permitted in affordable housing units.
- The maximum size of an accessory apartment must be between 300 and 1000 sq. ft. or a maximum of 25% of the floor area of the principal dwelling.

Rather, the IHC recommends these provisions:

- Newly constructed Fair & Affordable housing units may not include Accessory apartments, unless a waiver is granted by the Planning Board (note: the IHC is committed to working with the Board to determine how to maximize the number of Fair & Affordable units constructed, wherever possible).
- No size restrictions related to the percentage of space within a primary residence should be established, although the Accessory apartment may have a maximum of two bedrooms.

Finally, the IHC recommends including the following provisions in a Village of Irvington Accessory apartment code:

- Accessory apartments may be located in single family residences outside of single family zoned districts, such as residences in the Business district, as long as the single family character of the residence is maintained.
- Accessory apartments may be located within the primary residence or in outbuildings; the owner must be in residence, but does not necessarily have to occupy the larger unit.
- Although in general it is anticipated that Accessory apartments will not be subject to formal lease arrangements between the owner and the renter, permit applicants will be informed that, if they do enter into a lease, it may

be for a period of one year or the remaining period of the permit, whichever is shorter, and will be asked to sign an agreement that they will conform to this requirement as a condition of obtaining a permit. In the event a lease is in force when the house is sold or the owner no longer occupies the house, the new owner may be obliged to allow the tenant to remain in occupancy for the remaining term of the lease whether or not the new owner applies for a permit.

Conclusion

The IHC appreciates the Board's consideration of these recommendations, which we believe are in the best interests of current and potential residents, provide strong Board oversight and control of Accessory apartments, and protect the interests of those who rent these units.