King County
Department of Development
and Environmental Services
900 Oakesdale Avenue Southwest
Renton, WA 98055-1219

FINAL CODE INTERPRETATION
L05CI001

Background

By letter dated February 15, 2005, Mr. Bill Williamson filed a code interpretation request on behalf of Ms. Alene Barton. Ms. Barton owns an approximately 2.5 acre parcel zoned RA-5. The Department of Development and Environmental Services (DDES) has initiated a code enforcement action alleging that Ms. Barton has an illegal accessory dwelling unit. Code Enforcement Case E0001018. Mr. Williamson requests an interpretation of K.C.C. 21A.08.030B.7.a. which establishes standards for accessory dwelling units.

Discussion

K.C.C. 21A.08.030 establishes the permitted residential land uses for the different zoning designations. Accessory dwelling units are a permitted use, subject to Condition 7, in all residential zones. K.C.C. 21A.08.030A. Condition 7.a. provides:

> 7.a. Accessory dwelling units:
> (1) Only one accessory dwelling per primary single detached dwelling unit;
> (2) Only in the same building as the primary dwelling unit on an urban lot that is less than ten thousand square feet in area, on a rural lot that is less than the minimum lot size, or on a lot containing more than one primary dwelling;
> (3) The primary dwelling unit or the accessory dwelling unit shall be owner occupied;
> (4)(a) One of the dwelling units shall not exceed a floor area of one thousand square feet except when one of the dwelling units is wholly contained within a basement or attic, and
> (b) When the primary and accessory dwelling units are located in the same building, only one entrance may be located on each street side of the building;
> (5) One additional off-street parking space shall be provided;
> (6) The accessory dwelling unit shall be converted to another permitted use or shall be removed if one of the dwelling units ceases to be owner occupied; and
> (7) An applicant seeking to build an accessory dwelling unit shall file a notice approved by the department of executive services, records, elections and licensing services division, which identifies the dwelling unit as accessory. The notice shall run with the land. The applicant shall submit proof that the notice was filed

before the department shall approve any permit for the construction of the accessory dwelling unit. The required contents and form of the notice shall be set forth in administrative rules. If an accessory dwelling unit in a detached building in the rural zone is subsequently converted to a primary unit on a separate lot, neither the original lot or the new lot may have an additional detached accessory dwelling unit constructed unless the lot is at least twice the minimum lot area required in the zone.

(8) Accessory dwelling units and accessory living quarters are not allowed in the F zone.

(9) In the A zone, one accessory dwelling unit is allowed on any lot under twenty acres in size, and two accessory dwelling units are allowed on lots that are twenty acres or more, provided that the accessory dwelling units are occupied only by farm workers and the units are constructed in conformance with the State Building Code.

K.C.C. 21A.08.030B.7.a. At issue in this interpretation is subsection (2) relating to whether an accessory dwelling unit must be located in the same building as the primary residence. Subsection (2) sets forth three separate circumstances when an accessory dwelling unit is required to be in the same building as the primary dwelling unit. The first is "on an urban lot that is less than ten thousand square feet in area." The second is "on a rural lot that is less than the minimum lot size." The third is "on a lot containing more than one primary dwelling." The second of these circumstances is the only one of the three that has potential applicability to the property in question.

Ms. Barton's property is zoned RA-5 and is approximately 2.5 acres in area. In the RA-5 zone, the minimum lot area is 3.75 acres, except in the case of a clustering proposal. K.C.C. 21A.12.030. At approximately 2.5 acres, Ms. Barton's lot is significantly under the minimum lot size. Therefore, the second circumstance in Subsection (2) applies and any accessory dwelling unit on this property must be located in the same building as the primary dwelling unit.

Mr. Williamson appears to have misread this provision, because he states that Ms. Barton's property does meet the criteria because it is on a lot less than the minimum lot size. This appears to result from reading the second clause of Subsection (2) out of context. Under this reading, on rural lots, accessory dwelling units would only be allowed on lots smaller than the minimum lot size. This is not consistent with the first circumstance in Subsection (2), which requires the accessory dwelling unit to be in the same building as the primary unit on small urban lots. It also ignores the introductory phrase of subsection (2), which states "Only in the same building as the primary dwelling unit." The rest of Subsection (2) has a parallel structure, with each of the different circumstances beginning with the phrase "on a lot."

Mr. Williamson also suggests that the definition of "single detached dwelling unit" supports his interpretation. That term is defined at K.C.C. 21A.06.365 to mean "a detached building containing one dwelling unit." He notes that K.C.C. 21A.08.030B.7.a.(1) allows "only one accessory dwelling unit per primary single detached dwelling unit." Since a single detached dwelling unit contains only one dwelling unit, by definition, he argues that to give meaning to

both subsection (1) and subsection (2), subsection (2) has to be read to allow the accessory dwelling unit to be in a separate structure.

This interpretation would lead to ignoring a clear part of subsection (2) – the introductory clause that states that the accessory dwelling unit is allowed "only in the same building as the primary dwelling unit." Adopting Mr. Williamson's interpretation would render this provision meaningless.

The better reading of the ordinance is to recognize that the definition of single detached dwelling unit does not preclude the addition of an accessory dwelling unit in the same building. This gives meaning to all of the provisions of the code.

Mr. Williamson also suggests that DDES staff applied the standards for "living quarters" to Ms. Barton's case rather than the provisions applying to "accessory dwelling units." Other than making a reference to this point, Mr. Williamson provides no additional detail. This code interpretation does not address that issue since there is no specific request to interpret those provisions. In addition, based on the facts as stated by Mr. Williamson, the zoning code provisions applicable to accessory dwelling units do appear to apply to Ms. Barton's property.

Decision

K.C.C. 21A.08.030 establishes permitted uses for residential zoning designations. In all residential zones, accessory dwelling units are a permitted use, subject to meeting Condition 7. On a rural residential lot that is smaller than the minimum lot size, Condition 7.a.(2) requires the accessory dwelling unit to be located in the same building as the primary dwelling unit. In the RA-5 zone, the minimum lot size is 3.75 acres. K.C.C. 21A.12.030. Therefore, with respect to Ms. Barton's property, any accessory dwelling unit would need to be located in the same building as the primary residence.

Appeal of Final Code Interpretations

This code interpretation does not relate to a development proposal. Under K.C.C. 2.100.040, if a code interpretation does not relate to a development proposal, the director issues a final code interpretation. For purposes of appeal, this code interpretation is the final agency action.

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Stephanie Warden
Director
Development and Environmental Services

Date