7/5/2022

PA 21-29

Consideration of Section 6 and Possible Rationale for Opting Out

Sec. 6 a. Any zoning regulations adopted pursuant to section 8-2 of the general statutes, as amended by this act **SHALL**: (*my emphasis) (Therefore, if Washington does not legally opt out, we will be required to comply with all of the following provisions.)*

1. Designate locations or zoning districts within the municipality in which accessory apartments are allowed, provided at least one accessory apartment shall be allowed as of right on each lot that contains a single-family dwelling and no such accessory apartment shall be required to be an affordable accessory apartment. (*Washington Zoning Regs already comply – We already allow attached accessory apartments by regular permit in every zoning district and we do not require them to be affordable.)*

1. Allow accessory apartments to be attached to or located within the proposed or existing principal dwelling, or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling. (*Zoning Regs already comply. In fact, we allow two accessory apartments, one attached and one detached, on each lot with a principal dwelling.)*
2. Set a maximum net floor area for an accessory apartment of not less than thirty per cent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less, except that such regulations may allow a larger net floor area for such apartments (*This section is troubling – 1. With the very large size of many houses built in Washington, “not less than 30 per cent could be over the current 1200 sq. ft. maximum allowed. 2. Wouldn’t setting a minimum size of 1000 sq. ft. prevent studio apartments; do we want to prohibit studio apartments? 3. Doesn’t setting it at not less than 30 percent or 1000 sq. ft, whichever is less, mean there would be cases where we could not permit a 1200 sq. ft. apartment as we do now? Example: Thirty per cent of a 2500 sq. ft. house is 750 sq. ft., so if it’s got to be not less than 30 per cent or 1000 sq. ft, whichever is less…. This is confusing, but it looks to me like a 1200 sq. ft. apartment would not be OK. ?? 4. Washington tried in the past to vary the maximum size allowed for accessory apartments by using a percentage of the size of the primary dwelling. It was confusing and complicated and the regs were subsequently revised back to the current language; minimum 400 sq. ft – maximum 1200 sq. ft. as long as the apartment is secondary to the main dwelling. I think this #3 alone is enough reason to opt out.)*
3. Require setbacks, lot size and building frontage less than or equal to that which is required for the principal dwelling, and require lot coverage greater than or equal to that which is required for the principal dwelling (*We currently require setbacks, lot size, and building frontage for accessory apartments that is equal to that for primary dwellings. Would we want to reduce these as it seems this #4 would allow? It doesn’t seem logical to me that if you are going to increase the development of and activity on a lot that you should be able to decrease setback, lot size, and frontage requirements. I’d opt out on the basis of #4 also.)*
4. Provide for the height, landscaping, and architectural design standards that do not exceed any such standards as they are applied to single-family dwellings in the municipality. (*Zoning currently limits the height of new accessory buildings to 26 feet, lower than what is allowed for primary dwellings. Would we really want to change this? I’d opt out on the basis of #5 also.)*
5. Be prohibited from requiring (A) a passageway between any such accessory apartment and any such principal dwelling, (B) an exterior door for any such accessory apartment, except as required by the applicable building or fire code, (C) any more than one parking space for any such apartment, or fees in lieu of parking otherwise allowed by section 8-2c of the general statutes, (D) a familial, marital, or employment relationship between occupants of the principal dwelling and accessory apartment, (E) a minimum age for occupants of the accessory apartment, (F) separate billing of utilities otherwise connected to, or used by, the principal dwelling unit, or (G) periodic renewals for permits for such accessory apartments (*The Zoning Regs currently comply with all listed here except the number of required parking spaces, which we currently base on the number of bedrooms in the accessory apartment – I think the general reason is to keep parking off the street. No matter how many bedrooms an apartment might have, most couples and/or families these days have at least two vehicles so I would hesitate to limit accessory apartments to one off street parking space. For this reason, I’d opt out on the basis of #6, too.)*

1. Be interpreted and enforced such that nothing in this section shall be in derogation of (A) applicable building code requirements, (B) the ability of a municipality to prohibit or limit the use of accessory apartments for short term rentals or vacation stays, or (C) other requirements where a well or private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld *(Washington already complies)*

b – d) These sections refer to time limits for application approval, not being able to make approval of accessory apartment applications dependent of the correction of non conforming situations on the property, fire sprinkler requirements, and utility fees and hook ups, which look to address more city type water and sewer hook ups (*Too lengthy language to include in its entirety. We would already comply should we not opt out.)*

e) If a municipality fails to adopt new regulations or amend existing regulations by January 1, 2023, for the purpose of complying with the provisions and subsections (a) to (d), inclusive, of this section, and unless such municipality opts out of the provisions of said subsection (f) of this section, any noncompliant existing regulation shall become null and void and such municipality shall approve or deny applications for accessory apartments in accordance with the requirements for regulations set forth in the provisions of subsections (a) to (d), inclusive, of this section until such municipality adopts or amends a regulation in compliance with said subsections. A municipality may not use or impose additional standards beyond those set forth in subsections (a) to (d), inclusive, of this section (*First, this section states if the Town does not opt out, it must comply with* ***all*** *of the provisions in Section 6. Also, this states the municipality may not impose additional standards. The current Zoning regs have additional standards. Soil based zoning requirements currently limit lots to one primary dwelling. Accessory apartments are permitted by making sure they are secondary to the primary dwelling with limitations on size, height of accessory building, driveway access, and the requirement that the owner reside on the premises for the duration of the permit. If we want to continue to ensure accessory apartments are secondary to the primary dwelling per the current regs and maintain the right to require additional standards, I think we should opt out.)*

f. This section describes the legal process for opting out.

*Conclusion:*

*I think the Zoning Commission should opt out of Section 6 because the following sections of PA 21-29 are either ambiguous, contain confusing language, would not permit Washington to set any additional standards regarding building height, parking spaces, access, etc., could impact accessory apartment size currently allowed by further restricting both the maximum and minimum size allowed, or could otherwise over turn general zoning standards such as lot size, coverage, and setbacks in regards to accessory apartments:*

*6.a.3, 6.a.4, 6.a.5, 6.a.6(C), 6.a.7.e.*