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MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

Metropolitan Historic Zoning Commission
Sunnyside in Sevier Park
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STAFF RECOMMENDATION
1309 Edgewood Place
March 18, 2020

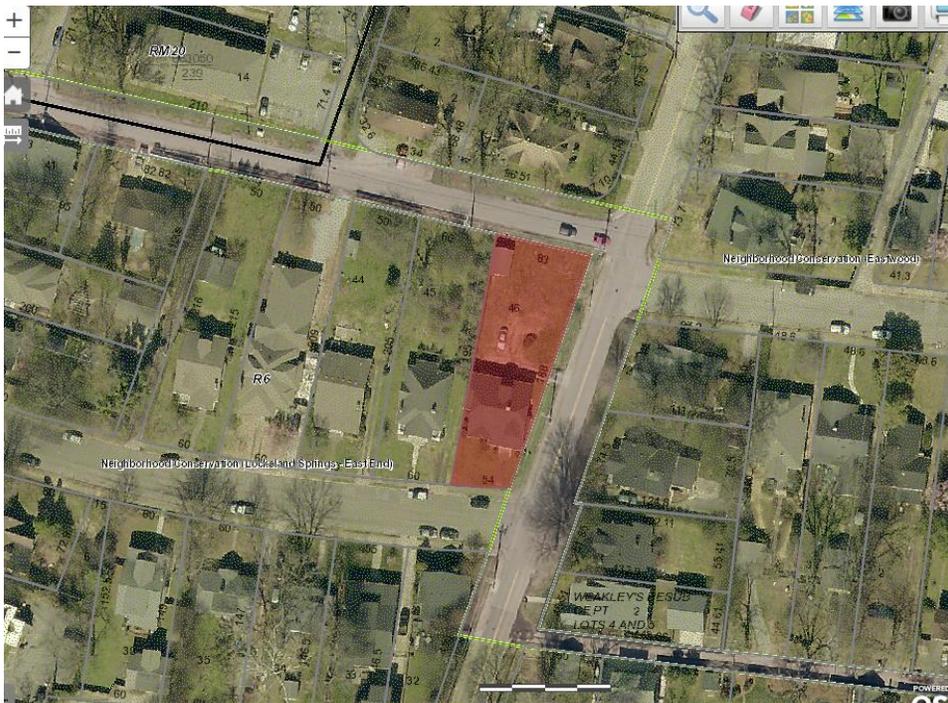
Application: New Construction-Outbuilding
District: Lockeland Springs-East End Neighborhood Conservation Zoning Overlay
Council District: 06
Base Zoning: R6
Map and Parcel Number: 08305026000
Applicant: Karen Wrye
Project Lead: Robin Zeigler robin.zeigler@nashville.gov

<p>Description of Project: The applicant requests a “two-family” use for an outbuilding previously approved as a detached accessory dwelling unit.</p> <p>Recommendation Summary: Staff recommends disapproval of the application to construct a second principal dwelling, detached from the historic house.</p>	<p>Attachments A: History of DADUs</p>
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Vicinity Map:



Aerial Map:



Applicable Design Guidelines:

II.B. New Construction

Chapter 17.04 - GENERAL PROVISIONS AND DEFINITIONS

"Two-family" means:

1. Two attached dwelling units that share the floor of a unit with the ceiling of another unit or a common wall from grade to eave at the front façade which continues for eighty percent of the common side or twenty feet, whichever is greater; or
2. Two detached dwelling units on a single lot which are separated by at least six feet.
3. In historic zoning overlays, the manner or existence of attachment shall be determined by the metro historic zoning commission.

17.16.030 - Article II. - Uses Permitted With Conditions (PC) - Residential uses.

G. Accessory Dwelling, Detached. A detached self-sufficient dwelling unit shall be allowed accessory to a principal structure subject to the following standards:

1. Applicability.
 - a. While the following conditions listed below apply to a detached accessory dwelling they do not counter-act or over-ride the applicable life safety standards found in the code editions adopted by the Metropolitan Government of Nashville.
 - b. No accessory structure shall exceed two hundred square feet when there is a detached accessory dwelling on the lot.
2. Lot Area. The lot area on which the detached accessory dwelling is to be placed shall comply with Table 17.12.020A.
3. Ownership.
 - a. No more than one detached accessory dwelling shall be permitted on a single lot in conjunction with the principal structure.
 - b. The detached accessory dwelling cannot be divided from the property ownership of the principal dwelling.
 - c. The detached accessory dwelling shall be owned by the same person as the principal structure and one of the two dwellings shall be owner-occupied.
4. Setbacks. The setbacks for a detached accessory dwelling shall meet the setbacks found in Section 17.12.040.E. for accessory buildings.
5. Site Requirements. A detached accessory dwelling may only be located behind the principal structure.
6. Driveway Access.
 - a. On lots with no alley access, the lot shall have no more than one curb-cut from any public street for driveway access to the principal structure as well as the detached accessory dwelling.
 - b. On lots with alley access, any additional access shall be from the alley and no new curb cuts shall be provided from public streets.
 - c. Parking accessed from any public street shall be limited to one driveway for the lot with a maximum width of twelve feet.
7. Bulk and Massing.
 - a. The living space of a detached accessory dwelling shall not exceed seven hundred square feet.
 - b. On lots less than ten thousand square feet, the footprint of a detached accessory dwelling shall not exceed seven hundred fifty square feet
 - c. On lots ten thousand square feet or greater, the footprint of a detached accessory dwelling shall not exceed one thousand square feet.

- d. The detached accessory dwelling shall maintain a proportional mass, size, and height to ensure it is not taller than the principal structure on the lot. The detached accessory dwelling height shall not exceed the height of the principal structure as measured to the eave line, with a maximum eave height of ten feet for single-story and seventeen feet for two-story detached accessory dwellings.
- e. The roof ridge line of the detached accessory dwelling must be less than the primary structure and shall not exceed twenty-seven feet in height.

8. Design Standards.

- a. The detached accessory dwelling shall be of similar style, design and material color as used for the principal structure and shall use similar architectural characteristics, including roof form and pitch, to the existing principal structure.
- b. The detached accessory dwelling may have dormers that relate to the style and proportion of windows on the detached accessory dwelling and shall be subordinate to the roof slope by covering no more than fifty percent of the roof.
- c. Detached accessory dwellings may have dormers that are setback a minimum of two feet from the exterior wall.

9. Historic Properties.

- a. Metro Historic Zoning Commission Action. Any existing or proposed detached accessory dwelling in a historic overlay district shall comply with the adopted regulations and guidelines of the applicable historic overlay.
- b. Detached accessory dwellings with a second story dwelling unit shall enclose the stairs interior to the structure and properly fire rate them per the applicable life safety standards found in the code editions adopted by the Metropolitan Government of Nashville.

10. Restrictive Covenant. Prior to the issuance of a permit, an instrument shall be prepared and recorded with the register's office covenanting that the detached accessory dwelling is being established accessory to a principal structure and may only be used under the conditions listed above.

Background: In 2019, the applicant submitted applications for an addition and second home on this “end” lot with three street frontages. Staff advised the applicant that a second unit was not permissible, but they could have a second unit as a detached accessory dwelling unit (DADU). Because the design of the project met the design guidelines for a DADU and was within the parameters of work that can receive an administrative permit, staff issued permit number 2019-061873 for a DADU and permit number 2019-004999 for a rear dormer addition.

A detached accessory dwelling unit has ownership and occupancy requirements that prevent horizontal property regimes, which would not



Figure 1: 1309 Edgewood Place



Figure 2: The proposed outbuilding meets the design requirements of the DADU ordinance.

allow the two units to be sold separately. When the DADU ordinance was first created it was a tool only available in historic overlays. A component of gaining support for the ordinance from councilmembers and property owners within the overlays was ownership and occupancy requirements, specifically that the two units could not be sold separately and that the owner must live in one of the two units. Since then the ordinance has been expanded to areas outside of the overlays and the standards have changed.

The ordinance's definition of "two-family," which is a use allowed in many of the historic overlays, allows for two units that can be completely separate; the two units can be two full-sized homes. However, the ordinance also states that in historic zoning overlays the manner of attachment shall be determined by the MHZC. It has been the policy of the Commission to only allow for a detached second unit, if the building meets all the requirements of the DADU ordinance, that being the expectation of the overlays since the creation of the DADU ordinance in 2011. There have been some exceptions for "full-size" second dwelling units that do not meet the DADU design standards but only for interior lots that have double street-frontage and sufficient depth to accommodate two full units and associated parking and for lots that are wide enough to accommodate two houses side-by-side in a manner that meets the historic rhythm of the street but is not quite large enough to subdivide. In these cases, the MHZC has only approved the design of the buildings, not the use.

Analysis and Findings:

Staff acknowledges that the DADU ordinance, or portions of it, may no longer be relevant, but since the DADU requirements are what property owners have expected with the historic overlays since 2011, staff recommends that the requirement not be changed without hosting community meetings and a public hearing on the attachment issue alone rather than making a decision that has the potential to affect all of the overlays, based on one particular project. During the neighborhood conservation design guideline consolidation project, the issue of ownership and occupancy for outbuildings was discussed, but staff did not hear overwhelming support from property owners to change the current requirements.

The two-family zoning provides for an opportunity for two dwellings but does not necessarily ensure the right to sell the buildings separately. With the current permit, the property owners can realize the base zoning of two units. In addition, the outbuilding could have the dwelling unit removed and the two units could be within the historic building. In that case, the two units could be sold separately.

Recommendation: Staff recommends disapproval of the application to construct a second principal dwelling, detached from the historic house.

HISTORY OF DADUS IN METRO NASHVILLE

Metro Council approved a Detached Accessory Dwelling Unit (DADU) ordinance because the 2008 definition of “two-family” initially did not allow for two detached units in historic overlays. (See Amendment No. 2 to [Bill 2008-115](#).) The ordinance now allows the MHZC to determine the manner of attachment. The DADU ordinance allows for a second unit to be detached but with specific design and use requirements to ensure compatibility. The ordinance was developed by the MHZC and Planning Departments in conjunction with councilmembers. Initially, it was for historic overlays only.

[BL2011-900](#)

Purpose: “To provide a range of housing opportunities in Historic Overlay Districts that have an established base zoning district allowing for mixed housing types” and “to ensure that the detached accessory dwelling is subordinate to the principal structure.”

Introduced 4/5/2011 and effective 5/24/2011

Sponsored by: Kristine LaLonde, Erica Gilmore, Emily Evans, Jason Holleman, Jamie Hollin, Mike Jameson, Sandra Moore

Some features of the ordinance were:

- Only in historic overlays
- Footprint only 700 (1 story) or 500 (2 story) square feet
- Shall not exceed eave line 10’ (1 story) or 16’ (2 story) or ridge or 25’

[BL2014-684](#)

Introduced 2/4/2014 and effective on 3/28/2014

Sponsored by: Walter Hunt

- Allowed DADU in any urban design overlay with development standards for detached accessory dwellings

MHZC was not involved in this ordinance revision.

[BL2014-769](#)

Introduced 5/6/2014 and effective on 6/20/2014

The Planning Department proposed the following changes:

- allowed for 750 square feet footprint on lots less than 10,000 square feet and 1000 square feet footprint on lots great than 10,000 (square footage not based on # of stories)
- allows for max height of 27'

The Commission chose to keep the height maximum at 25' for the historic overlays.

Charrette Series 2014

A charrette on 6/2/2014 focused on garages and outbuildings. It was one of a series of four charrettes addressing the multiple aspects of design review and the design guidelines.

Notes from meeting regarding DADUs:

- The requirement of 10' between buildings should remain
- Wall dormers should be allowed or dormers should be allowed to cover more than just 50% of the roof
- The different requirements between living space and square footage are confusing
- It doesn't make any sense to have different requirements for garages and DADUs
- The current standards are confusing
- The proposed ridge height should be a percentage of the principle

In response to the charrettes, the commission adopted policies in October 2014 for duplexes, additions, outbuildings and DADUs. In terms of DADUs, the policy states that DADUs and outbuildings will follow the same requirements as specified in the ordinance for DADUs. The specific italicized information proposed was outlined for the Commission in memo form and now exists in the design guidelines.

Duplex Definition and HPRs

Occasionally, the duplex definition and the concept of Horizontal Property Regimes (HPR) come up when discussing DADUs, so some background is provided here.

Initially, the code allowed for two dwelling units in any way connected or joined by their construction. To provide some clarity, the Codes Department determined that a minimum of an 8' cube was required to connect the two units. The result was construction often referred to as "umbilical cord" development as it looked like two separate houses with a small connector between them. Therefore, in 2008 Metro changed the duplex definition ([BL2008-115](#), sponsored by Jason Holleman and Charlie Tygard) so that the two units could be attached with a firewall by not less than 8' of continuous floor, roof or walls or could be two separate units with a minimum of 6' between them.

Although the one lot may now look like two lots with a house on each lot, it is technically not a "subdivision" of the original lot; there is still only one lot. If the two units are front-to-back, the rear unit has to have a 20' rear setback, to meet code. If the rear unit is a DADU in a historic district, a 3' or 5' rear setback (depending on garage door location) is allowed.

An HPR is a use reviewed by zoning that has to do with ownership of the lot, like a condominium. An HPR is established by a "master deed" which specifies the parts of the property that are shared by the multiple owners via an homeowner's association, the parts that are limited common, and the parts that are privately owned. An HPR itself is not reviewed by MHZC, Planning, or Codes; however, the current DADU ordinance states that a DADU cannot be sold separately. This means that an HPR is not currently possible when two-units are detached. (Attached units are able to be sold separately as they are not DADUs.)