

PLANNING & ZONING
COMMISSION
Telephone (203) 563-0185
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TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

MEMORANDUM

April 18, 2022

TO: Wilton Board of Selectman

FROM: Michael E. Wrinn, Town Planner

RE: Parking requirements for multi-family – Opt-Out under Public Act 21-29

CC: R. Tomasetti, Chair, P&Z

Public Act 21-29, which became effective on October 1, 2021, sets the maximum number of parking spaces required on individual dwelling units in a multifamily residence. The Act sets a maximum limit of one parking space for a studio / one bedroom and not more than two parking spaces for each dwelling unit with two or more bedrooms.

The Public Act provides that the Town may opt-out of this law, with approval of both the Planning and Zoning Commission and the Board of Selectman.

The Planning and Zoning Commission has voted to opt-out of this Act and has articulated a number of reasons for that decision in its resolution.

A key reason given was that a change in the parking regulations at this point in time is not warranted based on the amount of ongoing interest and planning for multifamily developments in town. The ability to finish the Wilton Center Master Plan and see the parking recommendations based on actual on the ground study for this unique area are crucial. The decision as to what parking numbers are appropriate for Wilton should be left up to the Commission, based upon local knowledge and input, not a one size fits all regulations.

The following is the resolution to opt-out of the parking requirements under PA 21-29, which was passed unanimously by the Planning and Zoning Commission on Monday, April 11, 2022:

WHEREAS, the Wilton Planning and Zoning Commission (the Commission) held a public hearing to notice its official intent to initiate the process by which a municipality may opt out of the provisions of Section 4 and subdivision (9) of subsection (d) of section 8-2 of the Connecticut General Statutes, regarding the maximum number of required parking spaces for multi-family units.

WHEREAS, the Commission conducted this public hearing electronically on March 28, 2022 to receive comment from the public, and the Commission fully discussed and considered all evidence from this public hearing at its meeting on April 11, 2022,

WHEREAS, the Commission has determined that the proposed parking regulations under this Public Act 21-29 are not appropriate for the Town of Wilton, for the following reasons:

1. The Town is currently engaged in a Wilton Center Area Master Plan, which will be making recommendations for future development and associated parking requirements; it would be premature to change parking regulations until that plan is completed.
2. Wilton Center has no municipal parking, either on street or off street, thereby having correct multifamily parking numbers based on the particular location is critical to the safety and functionality of this unique area
3. That the Commission would like the ability in the future to appropriately change the parking regulations for multifamily, in reaction to any proposed zone change / zoning amendment that would allow multifamily development.
4. In addition to the Wilton Center Area Master Plan, the Commission has a Zoning Regulation rewrite proposed for 2022, which will also be reviewing parking regulations across a larger zoning area. The flexibility to be able to change the parking regulations as a result of that study is also crucial.
5. That the Commission wants to keep the ability to modify its zoning regulations whenever and however they see the need for modifications as appropriate for the town.

NOW THEREFORE BE IT RESOLVED that the Commission takes this action to affirmatively OPT OUT of the provisions of Public Act 21-29 regarding the maximum number of parking spaces required for multifamily units.

BE IT FURTHER RESOLVED that notice of the action be forwarded to the Board of Selectman

Based on this resolution, the Planning and Zoning Commission is asking the Board of Selectman to also take affirmative action to opt-out of PA 21-29, multifamily parking.

In order for the Commission to opt-out of the parking provisions in Public Act 21-29, the following procedure was required:

- A public hearing is held with standard notifications and timelines
- Planning and Zoning Commission affirmatively decides by a 2/3 vote to opt out within 65 days of the close of the public hearing
- State for the record the reasons for its decision
- Publish notice of that decision in a newspaper with substantial circulation in Wilton
- This action must be confirmed by a 2/3 vote of the Board of Selectman in order to complete the process

If the Board of Selectman do not have a 2/3 vote to approve the opt-out, the opt-out fails and the Town must comply with the law as written.

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TOWN HALL ANNEX
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MEMORANDUM

April 18, 2022

TO: Wilton Board of Selectman

FROM: Michael E. Wrinn, Town Planner

RE: Accessory Dwelling Units – Opt-Out under Public Act 21-29

CC: R. Tomasetti, Chair, P&Z

Public Act 21-29, which became effective on October 1, 2021, standardizes requirements for accessory dwelling units (ADU's) statewide. It provides that a municipality allow ADU's on any lot that contains a single-family dwelling "as of right". The law allows much different standards for ADU's than are currently in place in the existing Wilton Zoning Regulations.

The Commission has a long history in approving ADU's and, most recently as October of 2020, removed the requirement that a detached ADU required a Special Permit approval. This action was taken in order to expedite the approval process and encourage additional ADU's, seeing them as valuable alternate housing types.

Wilton has long allowed integral, attached and detached ADU's, knowing this provides a variety of choice for homeowners wishing to add an additional unit on their property. While they may not count as affordable housing units under the State requirements, they provide a much-needed diversity of housing, both in size and price point.

The Public Act provides that the Town may opt-out of this law, with approval of both the Planning and Zoning Commission and the Board of Selectman.

The Planning and Zoning Commission articulated a number of reasons for its decision to opt-out in its resolution. A key reason given was that any modification of the Accessory Dwelling Unit regulations should be left up to the Commission, based upon local knowledge and input, not a one size fits all regulation. In addition, the new law would allow an ADU on any size property, even if the property did not conform to the zoning requirements, which is at odds with the current local regulation.

The following is the resolution to opt-out of the Accessory Dwelling Unit regulations under PA 21-29, which was passed unanimously by the Planning and Zoning Commission on Monday, April 11, 2022:

***WHEREAS**, the Wilton Planning and Zoning Commission (the Commission) held a public hearing to notice its official intent to initiate the process by which a municipality may opt out of the provisions of Section 6 of section 8-2 of the Connecticut General Statutes, regarding accessory dwelling units (ADU's).*

***WHEREAS**, the Commission conducted this public hearing electronically on March 28, 2022 and April 11, 2022 to receive comment from the public, and the Commission fully discussed and considered all evidence from these public hearings at its meeting on April 11, 2022.*

***WHEREAS**, the Commission has determined that the proposed accessory apartment regulations under this Public Act 21-29 are not appropriate for the Town, for the following reasons:*

- 1. The Commission has a Zoning Regulation rewrite proposed for 2022, which will also be reviewing the ADU's regulations. The flexibility to be able to change the ADU regulations as a result of that study is needed.*
- 2. That the Commission wants to keep local control and have the ability to modify its ADU zoning regulations whenever and however they see the need for modifications as appropriate for the town.*
- 3. That the Commission has been an advocate for ADU's as evidenced by its recent action to remove the requirement for needed a special permit for a detached unit; the Commission is keenly aware of what works for Wilton and will continue to made any needed changes to its local regulation.*

***NOW THEREFORE BE IT RESOLVED** that the Commission takes this action to affirmatively OPT OUT of the provisions of Public Act 21-29 regarding the maximum number of parking spaces required for multifamily units.*

BE IT FURTHER RESOLVED that notice of the action be forwarded to the Board of Selectman

Based on this resolution, the Planning and Zoning Commission is asking the Board of Selectman to also take affirmative action to opt-out of PA 21-29, Accessory Dwelling Units.

In order for the Commission to opt-out of the Accessory Dwelling Unit provisions in Public Act 21-29, the following procedure was required:

- A public hearing is held with standard notifications and timelines
- Planning and Zoning Commission affirmatively decides by a 2/3 vote to opt out within 65 days of the close of the public hearing
- State for the record the reasons for its decision
- Publish notice of that decision in a newspaper with substantial circulation in Wilton
- This action must be confirmed by a 2/3 vote of the Board of Selectman in order to complete the process

If the Board of Selectman do not have a 2/3 vote to approve the opt-out, the opt-out fails and the Town must comply with the law as written.

PUBLIC ACT 21-29 ACCESSORY DWELLING UNITS (ADU'S) AND PARKING REGULATIONS

- Planning and Zoning Commission February 14, 2022

P & Z Staff - MEWrinn

PUBLIC ACT 21-29 --ADU'S AND PARKING REGULATIONS

- Public Act 21-29 “An Act Concerning The Zoning Enabling Act, Accessory Apartments, Training For Certain Land Use Officials. Municipal Affordable Housing Plans And A commission On Connecticut's Development And Future”.
- The Act, in regards to **ADU'S**, requires that the zoning regulations in each municipality allow an ADU on properties where a single family dwelling is located. Both detached and attached units must be allowed, even on non-conforming lots. There is a provision that allows the Municipality to “opt out” using a specific procedure but the municipality must opt out before Jan 1, 2023 or the state requirements will govern.
- The Act, in regards to **parking**, states that the zoning regulations in each municipality shall require no more than one parking space for each studio or one bedroom dwelling unit or more than two parking spaces for each dwelling unit with two or more bedrooms. As with the ADU regulations, there is an opt out provision

WILTON ZONING REGULATIONS: Section 29-4.D. USES PERMITTED IN ALL DISTRICTS

1. **Accessory Dwelling Units in Single-Family Residences:** A single-family dwelling unit in any district may be converted to allow the inclusion of one additional dwelling unit per lot, subject to the issuance of a zoning permit in accordance with 29-12D; and the following conditions:
 1. a. **Maximum Size:** The floor area of the accessory dwelling unit may not exceed one-fourth of the gross floor area of the building or 750 square feet, whichever is greater. No more than two bedrooms are permitted in the accessory dwelling unit.
 2. b. **Occupancy:** One of the dwelling units shall be owner-occupied at all times.
 3. c. **Location of Units:** At least one side of each dwelling unit must be at or above grade. Each unit shall have separate entrances, which can be from a common hall. Both units may be contained within one building, attached by a common wall, floor or ceiling. The accessory unit may also be within an accessory building, or attached to the principal structure by a breezeway or porch.
 4. d. **Adequacy of Facilities:** Certification shall be required from the Town Sanitarian that the sewage disposal system is adequate to serve both dwelling units.
 5. e. **Outdoor Stairway:** No outdoor stairways serving the accessory unit on any floor other than the ground floor shall be visible from a public street.
 6. f. **Driveways:** No additional driveways shall be created for the purpose of serving an accessory unit.
 7. g. **Minimum Lot Size and Yard Requirements:** Accessory units shall be located only in structures on lots which are in conformance with minimum area and dimensional requirements of the zoning district within which they are located with the exception that accessory dwelling units may be located on any undersized lot within a two-acre zone that was approved for subdivision or re-subdivision by the Planning and Zoning Commission at a time when lot averaging was permitted under the zoning regulations and the lot was created as a result of lot averaging. The structure which contains the principal accessory unit shall meet all current applicable setback, coverage and bulk requirements. Said exception shall not apply to conservation subdivisions or undersized lots created by way of variance. The undersized lot must be at least 1.8 acres.*
 8. h. **Certification of ownership:** The owner of the property shall certify to the Commission, in the form of an affidavit that the owner is in residence in one of the dwelling units on the property. Such certification shall be made at the time of the initial application for the Zoning Permit and subsequently on an annual basis.

PUBLIC ACT 21-29 --ADU'S

- Under the Act, an “accessory apartment” (also referred to as an accessory dwelling unit (ADU), means a separate dwelling unit that:
- 1 – is located on the same lot as the principal dwelling unit of greater square footage
- 2 – has cooking facilities
- 3 – complies with or is otherwise exempt from any building code, fire code and health and safety regulations
- The Act requires that they be allowed “as of right”, without requiring a public hearing, a variance, special permit or special exception or other discretionary zoning action (other than a determination that a site plan conforms to the applicable zoning regulations). As of right permit shall be approved within 65 days. There are a number of other requirements which must be met.

PUBLIC ACT 21-29 --ADU'S

- The Act requires that ADU's:
- Be allowed on each lot that contains a single family dwelling and designating other areas where they are allowed
- Be allowed to be attached, detached or located within the dwelling
- Have max net floor area: (a) at least 30% of the principal dwellings net floor area or (b) 1,000 SF, which ever is less
- Require setbacks, lot size and building frontage less or equal to what is allowed for the principal dwelling
- Require lot coverage greater or equal to what is required for the principal dwelling
- Have height, landscaping and architectural standards that do not exceed those required for the principal structure
- CANNOT REQUIRE:
 - More than one parking space, a familial, marital or employment relationship with the owners and the ADU occupants, minimum age of occupants, passageway between the principal dwelling and the ADU, exterior door unless required by Fire or Building code, separate billing of utilities, periodic ADU permit renewal, correction of non-conforming use or structure for approval.
- Does not prevent the prohibition or limiting the use of the ADU for short term rentals or vacation stays.

Wilton Zoning Regulations – Areas of Compliance:

- Regs allow the same setbacks and building frontage as for the principal dwelling
- Regs allow the same coverage as for the principal dwelling
- Regs allow ADU'S both attached and detached as of right
- Regs do not require a Special Permit, public hearing or other P&Z action

Wilton Zoning Regulations – Areas of Non-compliance:

- Parking - Require 2 parking spaces per unit
- Require a conforming lot before a unit is allowed (certain exceptions for lot averaging)
- Size of unit – maximum of 25% of main building or 750 SF maximum, which ever is greater.
- Maximum of 2 bedrooms are allowed
- Outdoor stairways not allowed
- No additional driveways shall be created

PA 21-29 - PARKING REGULATIONS

Similar to ADU's, PA 21-29 also changes the required parking regulations effective October 1, 2021.

Public Act 21-29 states that the zoning regulations in each municipality shall require **no more than one** parking space for each studio or one bedroom dwelling unit or **more than two** parking spaces for each dwelling unit with two or more bedrooms. As with the ADU regulations, there is an opt out provision

The provision for opting out is the same as for the ADU's previously described herein.

STATE REQUIREMENT UNDER PA 21-29

- Regulations require not more than 1 space per studio or 1 bedroom
- Regulations require not more than 2 spaces per 2 bedroom or larger

Wilton Zoning Parking Regulations

- Regulations for Multifamily Dwellings:
 - Studio (efficiency) dwelling units and detached units in multifamily developments require minimum 1.5 spaces per dwelling unit
 - One, two and three bedroom dwelling units: require 2 per dwelling unit plus 1 visitor space per 2 dwelling units
- Senior Citizen Housing – 1.1 per dwelling unit
- Nursing or convalescent homes – 1 per 2 beds
- Accessory Dwelling Unit – 2 per unit
- Congregate Housing – 1 per unit
- Assisted Living – 0.65 per unit

OPTIONS available to the Commission on ADU's:

- 1 - **Do nothing** and the State Regulations would become effective January 1, 2023 and any current ADU zoning regulations that do not comply with these would become null and void. Any approval or denial of ADU's would be in accordance with the new state regulations. This would be the route if the Commission feels that the proposed regulations would be suitable for Wilton.
- 2 – **Modify** the portions of the zoning regulations which do not comply with PA 21-29. Schedule a public hearing, hear from the public and amend the zoning regulations which do not comply as required
- 3 – **Opt out** of the ADU provision in PA-21-29 before January 1, 2023, using the following procedure:
 - A public hearing is held with standard notifications and timelines
 - P&Z affirmatively decides by a 2/3 vote to opt out w/i 65 days of the public hearing
 - State for the records the reasons for its decision
 - Publish notice of that decision in the newspaper
 - This action must be confirmed by a 2/3 vote of the Board of Selectman in order to complete the process.

Options are same for parking opt out, however no opt out deadline was set.

CONSIDERATIONS / QUESTIONS

- A rewrite of the Zoning Regulations is anticipated to be started this year. Can consider the ADU's regs and parking regs as part of that process
- Non-conforming lots – Zoning regulations currently require complying lots before a ADU can be established, possibility of having an ADU on a very small lot
- Which regulation would allow the greater number of correctly sited ADU's in Town?
- Parking - Wilton Center Master Plan underway, parking will be a important issue for inclusion
- No ability to change regulations after the opt out period ends