
LD 2003 - ADU/AirBnB Founder Article - WSJ Nov. 16, 2022

Thomas Egan <egan.thomas.m@gmail.com>

Wed, Nov 16, 2022 at 8:30 AM

To: TownCouncil@capeelizabeth.org, HDSC@capeelizabeth.org

Cc: Matthew Sturgis <matthew.sturgis@capeelizabeth.org>, Jeremy Gabrielson <jeremy.gabrielson@capeelizabeth.org>, Deb Lane <Debra.lane@capeelizabeth.org>

Members of the HDSC:

I attach three .pdf documents related to pending consideration of Zoning Ordinance amendments driven by LD 2003. Two of them are one-page comments that I sent recently to the Town Council on point. The third is a .pdf of a November 16, 2022, article in the Wall Street Journal about the AirBnB founder's new venture to manufacture small ADU dwellings for "affordable housing" required by new, state-legislated ordinance amendments such as LD 2003.

Cape Elizabeth's proposed Zoning Ordinance amendment explicitly states that an ADU cannot be used for Short Term Rental occupancy. However, as my November 12, 2022, submission to the Town Council states, the owner of a lot upon which a separate ADU is built will be incentivised to carve out the land upon which the ADU sits. After that happens and according to the draft amendments, the owner of the previous ADU property next door to the Primary Residence could be rented short term because it is a "Short Term Rental Adjacent" property. Also, if the owner sold the "hived-off" separate-dwelling ADU, its new owner could put it into Short Term Rental for a time, under the current STR Ordinance.

This scenario will happen unless the amendments prohibit breaking up a lot with a separate ADU dwelling on it, into two distinct single family dwellings.

Please help the Town Council protect our older, built-up neighborhoods. Cape residents in the areas not served by the sewer system, need help to protect their neighborhoods from becoming more densely populated by rental properties and in particular, Short Term Rental businesses.

Thank you for your work and dedication to your worthwhile mission.

Tom Egan

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3 attachments



WSJart ADUblngs 11.16.2022 .jpg
1441K



TomEganComment LD2003 10_12_2022.pdf
51K

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To: Cape Elizabeth Town Council

November 12, 2022

Re: November 15, 2022 Workshop - LD 2003

Email Addressees: Matt Sturgis, Debra Lane, Maureen O'Meara, Jeremy Gabrielson,
Penny Jordan, Caitlin Jordan, Nicole Boucher, Tim Reiniger (Gillis/Noonan missing)

Preliminary: On October 11, 2022, I submitted comments about LD 2003 for consideration at your October 12, 2022, meeting. The points remain valid so please revisit them. My Comments here apply to the RA Zone only and not to HOA's or covenanted lots.

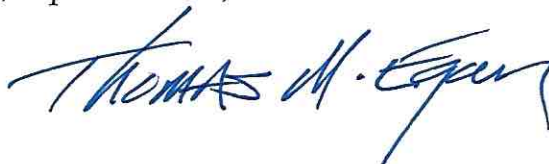
§19-7-5 Creation of Accessory Dwelling Unit/§19-7-17C Small Multifamily Development
Please focus attention on the type of occupancy in a new, separate-structure Accessory Dwelling Unit ("ADU") on an existing undeveloped lot or on a lot with a primary dwelling already. The separate-structure ADU occupants will either be family of the primary dwelling owner or they will be renters.

The draft amendments enable and encourage affordable housing, i.e. "...expand the diversity and affordability of housing stock..." §19-7-5 A. Housing stock comes in just two varieties: ownership or rental. In existing, built-out neighborhoods with empty lots and single family dwellings, a new separate-structure ADU will be owned by the primary dwelling owner of the lot upon which the unit is built, not a new family. LD 2003 will increase transient rental occupancies in the old single-family homeowner neighborhoods. Contrast the LD 2003 growth plan future with the 2019 Comprehensive Plan High Priority: "Preserve the predominant single family nature of the town's residential areas." (Rec. #26).

Think ahead: after a few separate-structure ADU's are built, advocates will come forward to reduce the minimum lot size of already developed lots so the new separate-dwelling ADU's can be sold. Alternatively, the primary dwelling owner will seek a variance to "hive off" the ADU lot. Why? It is far easier and more lucrative to sell two separate homes on separate lots than a primary residence with a rental property on it. Champions will cloak their effort in the flag of affordable housing. So beware of a "nose under the tent flap" risk with the separate-structure ADU concept: *ad hoc* lot reductions permitted by variance.

In order to prevent *ad hoc* reduction of developed lots leading to unplanned, checkerboard re-configuration of built-up RA Zone neighborhoods, consider crafting the Ordinance to 1) prohibit the owner from selling the land under the separate-structure ADU while retaining the primary residence and 2) prohibit the use of variance process that allows one-off subdivision of a lot upon which a separate-structure ADU has been built or is permitted.

LD 2003 didn't have to target all neighborhoods to accomplish its goals. Especially in the older neighborhoods, rentals of separate-structure ADU's in higher density are less likely to lead to stable quality of life. Though the State forces the Town to comply with LD 2003, use your power to protect our neighborhoods with controls like above. Example: the draft Ordinance prohibits use of an Accessory Dwelling Unit as a Short Term Rental. §19-7-5 B (7). Unless you prevent a hived-off, separate ADU, it could next become a STR Adjacent.



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To: Cape Elizabeth Town Council
Re: October 12, 2022 Town Council Meeting Agenda Item - LD 2003
Email Addressees: Matt Sturgis, Debra Lane, Maureen O'Meara, Jeremy Gabrielson,
Penny Jordan, Caitlin Jordan, Nicole Boucher, Tim Reiniger

Date: October 11, 2022

Preliminary: Please consider these comments and add them to the record of the Council's October 12, 2022, meeting. Please distribute them also to Councilors Noonan and Gillis.

Comments: Neighborhoods are worth protecting. That is a statement no one could disagree with and yet it is just so many words. Neighborhoods have continuity, characterized by the fill-in over the years of dwelling types (owned or rented), dimensions, styles, lot sizes, roads or lanes, traffic, open spaces, drainage, vegetation, wildlife and so on. In Cape Elizabeth, our neighborhoods have evolved under a well-found, carefully crafted regulatory scheme of Zoning Ordinances and other rules and regulations that together represent a covenant between Town Government and its citizens.

Since 1980 when I bought my home in the Hannaford Cove neighborhood, the Comprehensive Plan process has been a successful, citizen-based effort in self-governance. Every ten years, volunteers developed Plans studiously and with deliberation, then in committee work, implemented policies and recommendations with new or amended Town codes. This planning and ordinance process effectively altered with the consent of the governed, the covenant between Town Hall and citizens in their neighborhoods. That is, until Augusta enacted LD 2003.

Nothing in the 2007 or 2019 Comprehensive Plans recommended the LD 2003 changes that Augusta dictates to municipalities about multiple, separate or contained dwellings on developed and undeveloped lots in the RA Zone. The Subdivision Ordinance makes such dwellings possible, but I am not talking about planned subdivisions. Those enclaves have their own protective covenants that deflect any impacts of LD 2003. That too, is unfair.

LD 2003-compliant zoning impacts will not be few, benign or short-lived in single family RA Zone neighborhoods in which the vast majority of homes are owned, not rented. It is gratuitous for land use consultants to assert otherwise. Arguably worse than the debacle of Short Term Rentals, a *use* that could be restricted, more dwellings built under LD 2003 on existing developed or empty lots, will *permanently* alter the density, feel, quality, sound and life in RA Zone neighborhoods. The goal of affordable home ownership is misdirected under LD 2003; it perversely incents dense development of rentals in old neighborhoods.

When the State certified the Town's 2019 Comprehensive Plan, it accepted the Plan's recommendations to address affordable housing ownership and the Town's stated goal to protect single family dwellings. Now, Augusta changes its mind and the rules; damn the certification. The Council should suspend its LD 2003 zoning work. The Town, not the State, must determine the best way to create affordable, owner-occupied housing.

Destruction of the Town-neighborhood compact about owner-occupied, single family dwellings in RA Zone neighborhoods is not the solution to unaffordable housing.