

**City of Salem, Massachusetts**



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and  
City Ordinance Sections 2-2028 through 2-2033."**

**The City Council Committee of the Whole**

**met in the Council Chamber on September 8, 2022 at 6:00 P.M.**

**for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on**

**August 25, 2022 at 10:15 AM**

**(This meeting is being recorded)**

**ATTENDANCE**

**ABSENT WERE: None**

**Councilor Dominguez joined remotely.**

**Also in Attendance: Amanda Chiancola, Deputy Planning Director, Dominick Pangallo, Chief of Staff to the Mayor**

**SUBJECT(S)**

**#395 Salem Housing Roadmap**

**#523 Affordable Accessory Dwelling Unit Report to Council**

**Salem Housing Roadmap**

Councilor Morsillo reviewed the Salem Housing Roadmap process, how we got to the development of the document. The Committee of the Whole met first with the Planning Board on July 14 to get an overview of the Roadmap. This second meeting is to go over any outstanding questions or issues.

Councilor Morsillo asks Ms Chiancola for what in her opinion would be a high priority for the City based on the report, and taking into consideration the ARPA funds. Ms Chiancola responds that supply and stability in housing are the priorities as pointed out in the report. Extremely-low and low income levels are always the most affected by the lack of housing options. Middle income levels are also feeling the housing crunch.

Councilor Hapworth asks Ms Chiancola to review what has changed at the State level regarding Inclusionary Zoning. Ms Chiancola states that section 3A of the MGL has been revised, which affects zoning, requiring MBTA communities to have multifamily housing by-right, with specifics varying community by community. By-right means it can't be a special permit process, and it has to allow housing. Updated guidelines state that IZ is allowed at 10% of units at 80% AMI. Requiring deeper affordability or increased percentage of affordable units would not be a by-right use. This is a very high-level look, and there are still outstanding questions. She recommends holding off on any IZ ordinances until we understand the full intent of the law.

Councilor McCarthy asks about the size of the zone around the MBTA station. If we add another MBTA station, does that require another housing district? Ms Chiancola states that each community only needs one housing district.

The city will be receiving technical assistance from MHP to understand if we are in compliance already for housing near the train station.

Councilor McCarthy moves to send the plan to the full council with a positive recommendation for approval, seconded by Councilor Hapworth. The motion carries 11-0.

#### Affordable Accessory Dwelling Unit Report to Council

When the Council approved the AADU ordinance on April 22, 2021, they adopted an order that Planning report back to the Council on the number of ADU's created and a summary of parking issues and other issues.

In 2018 the ADU ordinance was adopted. In 2021 the AADU was adopted. 8 permits were submitted, 6 approved and 2 are under review by the building department. Staff has not received any complaints about problems with parking or other issues. But they have gotten feedback on potential barriers and have some observations on possible barriers, which are in the report.

1. Bedroom Restriction – directly on Housing Roadmap. Purpose was to make sure that ADU was accessory to main home. But it may be discriminatory toward families with children, which is a protected class. Since there are other requirements in the ordinance that make the ADU accessory to the main home, Staff suggests that the bedroom requirement be eliminated. Section 3.2.8.5 f, g, n, o list the other requirements. Health code requirements exist regarding the size of a bedroom.
2. Owner occupancy – At least one owner lives in either the ADU or main home as a primary dwelling. This has created an issue with builders who create a single family home with an ADU because they are not the primary owner. The builder can make it ADU ready, but not build out the ADU. Staff does not have a recommendation on this. Several questions about transfer of a home with an ADU, and if the City knows the ADU is being used. Consensus built around this not being an issue that the Council thinks needs to be changed. Keeping the requirement of owner-occupancy for an ADU permit is a much stronger desire than helping developers build homes with ADU's. Homeowners can apply for a Salem grant to cover 50% of the cost of construction up to \$45,000, and the homeowner would need to put a restriction on the property to limit the rent to 50% of the Fair Market Rent, which is about \$900. The restriction is 20 years.
3. New detached structures are not allowed for ADU's. The purpose was about neighborhood concerns, building another home on the lot. There were calls about constructing granny units, for family members and for general renters, not for a new garage with an ADU. Existing structures are those in existence on the date of passage of the ordinance. A previous version of the AADU ordinance allowed new, separate structures, if it meets the underlying zoning requirements. But the Council passed a version without the allowance of new structures. There are very few areas in the City that would allow new structures that meet the zoning. Councilor Riccardi would also like to look at language to allow ADU's in existing structures that don't comply with current zoning, since so much of Salem accessory structures do not comply with underlying zoning. It is very costly for a homeowner to go before the ZBA: must hire an attorney, it requires two ads in the paper which are lengthy, usually \$700-1000, application fee. There is a 21 day appeal process, public notice, and it all adds up to money and time. Applicants need a plot plan but do not need detailed engineering plans.
4. All utilities must be on a single service, so that the property owner does not charge the renter. Engineering has a requirement that water and sewer must be separately metered for separate buildings. Engineering can merge the two accounts onto one, so we can make that requirement in the ordinance. Councilor McCarthy states that this puts a large cost burden on the owner to bring in these separate water and sewer utilities. Councilor Morsillo inquires whether these are local regulations, Ms Chiancola confirms that these are Salem regulations.

35 applications have been started, but have not been completed. So there is interest, but the applicants are not moving forward, and we need to understand why. Ms Chiancola contacted all those who have started applications to attend this meeting and provide information or ask questions.

Councilor Watson-Felt listed concerns she has heard: increased density in already dense neighborhoods, and impacts on historic neighborhoods. Although the numbers don't point to increased density, the concerns are still there.

Public Comment



Derek Thomas, 48 St Peter St: He is a design builder and contractor of mainly ADU's around the state. They have had 32 contacts from Salem, 5 or 6 site visits, but nothing came of it because of land size, expense, part of a condo association. Three wanted to build a new detached structure. One is in design now. Councilor McClain asks what are the major obstacles that he sees. Mr. Thomas replies that inability to build detached ADU's, and cost to build. Average cost to build is \$100,000. Just because you want to build one doesn't mean the space is appropriate for an ADU.

Steve Kapantais, 23 Wisteria St: Will the \$45,000 grant result in a deed restriction on the property? Ms Chiancola states that the restriction will be recorded on the deed for 20 years. He asks how many ADU's have been allowed since the AADU ordinance that would not have been allowed under the previous version?

Councilor McCarthy asks if the deed restriction can be removed before 20 years. Ms Chiancola states that the payback would be on a sliding scale, but she needs to get back to us on the specific language.

The consensus of the body was to further discuss possible amendments related to number of bedrooms, new detached structures, and separate utilities. The matter will remain in the Committee of the Whole in order to receive and discuss the language for the amendments which will come from the Planning Department.

The presentation materials will be available on Imagine Salem.

Councilor McCarthy moves to accept the report, seconded by Councilor Prosniewski. The motion passes 11-0.

Councilor McCarthy moves to keep the matter in committee, seconded by Councilor Varela. The motion passes 11-0.

On the motion of C. McCarthy the meeting adjourned at 7:39 P.M.

A handwritten signature in cursive script, reading "Patricia Marsala", written in black ink. The signature is positioned above a horizontal line.

(Chairperson)