



UNIVERSITY HILL FARMS

5 Waushara Circle
Madison, WI 53705
608-233-8471

May 21, 2008

Re: Proposed Revision to Zoning Ordinance: Comment on sec. 28.08.08(2)(b)11
(community living arrangements)

To: Zoning Code Re-write Committee:

I write this letter on behalf of the 750 families who are members of the Hill Farms Neighborhood Association. Last year, we encountered an interpretation of the zoning code by the City of Madison which essentially permits the unregulated proliferation of community living arrangements in residential areas. Thus we ask that the ambiguity in the code be eliminated.

Section 28.08(2)(b)11 provides that community living arrangements for not more than eight (8) persons being served by the program are a permitted use provided:

c. That no other community living arrangement is within two thousand five hundred (2,500) feet of the proposed facility **except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans With Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero. (0)** (emphasis added)

As indicated by this section, the code envisioned that community living arrangements are a permitted use but such facilities should be sprinkled within a neighborhood. Thus, if an operator of such a facility wants to open one within 2500 feet of an existing facility, the operator must obtain a conditional use permit. (CUP) The CUP process permits notification and input from the neighborhood.

The problem is with the distance exception highlighted in bold. That exception provides that the distance requirement is zero if “the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA) and are living in the adult family home because of their disability...” (emphasis added)

An “adult family home” is a defined term under sec. 28.03(2) and provides in pertinent part:

Adult Family Home. An adult family home is a private residence, licensed, operated, certified or permitted under the authority of the Department of Health and Family Services of the State of Wisconsin, where care and maintenance above the level of room and board but not including nursing care, are provided for three (3) or four (4) developmentally disabled adults....

Thus it would appear that what was intended by the distance exception is that an adult family home serving three (3) or four (4) developmentally disabled adults is a permitted use and not subject to the distance requirement even if it is located within 2500 feet of another community living arrangement.

Unfortunately, in our experience, the City has not limited the distance requirement exception to adult family homes serving three (3) or four (4) developmentally disabled adults. In our case, we had an individual seeking to operate a community living arrangement serving eight (8) persons located within 2500 feet of another community living arrangement serving eight (8) persons. The city held that the second facility did not need a conditional use permit because the owner represented that her population was “disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans With Disabilities Act (ADA).” The City basically did not acknowledge the rest of the text that refers to the “adult family home” and three (3) or four (4) developmentally disabled adults.

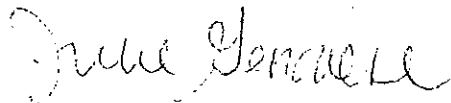
If section 28.08(2)(b)11c is not re-written, then the City will as it has before interpret that section to permit an unregulated proliferation of community living arrangements serving up to eight (8) unrelated individuals so long as the operator says that population is handicapped or disabled. There will be no requirement for a conditional use permit and no notice or input from the neighborhood.

We believe that such an interpretation could destroy the residential character of neighborhoods. Our association is not opposed to community living arrangements and there are a number of well-run facilities in our neighborhood. However, such facilities should be sprinkled not concentrated in residential neighborhoods. Under the city’s interpretation, there could be a row of community living arrangements serving eight (8) unrelated individuals, with no requirement for conditional use permits, so long as the operator says the population is disabled or handicapped. This is especially troubling

because many of these community living arrangements are owned by individuals who do not live in the neighborhood, who have no experience in servicing handicapped or disabled individuals, and who are operating these facilities for a profit. Because of HIPA and other privacy laws, there is also no way to confirm that the individuals served are indeed handicapped or disabled.

Thus we ask that the exception to the distance requirement be eliminated. This does not mean that community living arrangements will not continue. Rather it means that if an individual seeks to open a facility within 2500 feet of another such facility, then that individual must apply for a conditional use permit, and neighborhood residents must be afforded notice and an opportunity for input.

Sincerely,

A handwritten signature in cursive script that reads "Julie Genovese".

Julie Genovese
President, University
Hill Farms Neighborhood
Association

Subject: Re: Whitney Lodge II zoning application


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Thank you for your brief response,
Another question I have is if the facility decides to care for Alcohol and drug dependent (ADA) residents at any time-would I need to apply for a CUP at that time.
Do ADA classify as a disability?

I understand that I need a license to run the facility. It is against the law to run it otherwise.

Thank You

Eumijah

On 2/8/07, Tucker, Matthew <MTucker@cityofmadison.com> wrote:

Eumijah-

I think you are confusing the fact that you need a license (State of Wisconsin) from the fact that certain CLA's may need a local (City of Madison) Conditional Use Permit. The type of approval required will depend on the nature of the license you receive.

You do not need a Conditional Use Permit (CUP) if you met all of the following:

- there are eight or fewer residents in the home,
- a state license/certification has been obtained for the home
- no other community living arrangement within 2500 feet, however, if the residents are living in the home because of a disability (under fair housing act or americans with disabilities act), then there is not a distance requirement.
- the number of residents in such homes in any one aldermanic district is not more than 25, or 1% of the district population, whichever is greater. as above, if the residents are in the home because they share a disability, this limitation does not apply.

Only if there are more than eight, or the residents are not living in the home based on a particular disability and the population and distance test are not met, is a conditional use required.

This is why we need to verify that a license will be issued for the facility to serve residents because of a disability (under fair housing act or americans with disabilities act) only. I believe this is what you are looking at doing here.

The previous owners operated an existing facility, that since closed. This facility was originally approved when the zoning rules for CLA's were different (the ordinances were changed in January 2005). The old CLA closed, and you now wish to reintroduce a CLA in the same building, which must now meet current requirements. It is my understanding that the old ordinance provisions required a CUP, but the new ordinance provisions give a pass for distance and population percentage when the facility is to serve residents because of a disability (under fair housing act or americans with disabilities act).

We have a 2:00 staff meeting to go over the applications. I will have an answer for you after this meeting.

Matt Tucker

From: Eumijah Miller [mailto:eumijah@gmail.com]

Sent: Thursday, February 08, 2007 11:35 AM

Zoning Code Rewrite Committee folks,

As our city has seemingly said yes to high density housing I have some thoughts. Up till now this increased density happens in large scale apartment/ condo towers on the edges of neighborhoods or along major arteries. This growth offers some disadvantages. These residents don't often join neighborhood groups, support schools, get to know their neighbors, etc. I want to propose an alternative to this concentrated density.

Many cities across America are modifying their zoning codes to allow "granny flats" in neighborhoods that up till now consist of single family dwellings. These small "granny flats" or Additional Dwelling Units usually have restrictions on size, appearance and number of tenants. All enabling ordinances I have seen require an owner occupied home. I envision one looking like a carriage house to blend with the neighborhood architecture.

There are good reasons to support changing city ordinances to allow "granny flats". These include increasing the city's tax base, reducing pressure to sprawl, improving neighborhood stability, increasing Madison's affordable housing stock as well as providing additional environmental benefits. I have been especially sad to see many widows leave our neighborhood when their house become too much. Several have claimed that they miss their old neighbors. Keeping older folks nearby is good for neighborhoods.

While such a flat would arrive too late for our family's grannies, I would hope to find older neighbors looking to downsize. And I can see a day when I might want to rent to a younger person willing to exchange yard/ snow work for a reduced rent and maybe someday a tenant with nursing skills would be advantageous. Many communities are adopting ADU ordinances, Madison even allows them in those sprawling subdivisions outside the beltline. I would rather see them close to bus lines and city services rather than having their tenants add to the rush hour traffic.

Check out this link to see what hundreds of other communities are doing.

<http://www.woodentoy.com/ADU/Adu.html>

Thanks for your work on this rewrite effort, john linck

2550 Van Hise Avenue
Madison Wisconsin 53705
telephone 608-231-2808
john@woodentoy.com

Roll, Rick

From: Joan Laurion [joan.laurion@gmail.com]
Sent: Tuesday, May 20, 2008 2:56 PM
To: Roll, Rick
Subject: I want to be able to build an apartment above my garage

Dear Rick, I hope that you will work diligently towards changing the zoning rules to allow homeowners in the Regent Neighborhood to add a so-called "granny flat" to their homes or garages. My garage needs a total rebuild but I would like to be able to put a small apartment above it as a little rental space and more importantly for a caregiver's living space when I get older and need assistance. There are many community benefits in helping those of us who want to stay in our own homes for the next 20 years to do that comfortably. My next door neighbors and I thought that we might even be able to share a caregiver if one of us had the space to rent. Please help us have some options for doing that as we get older.

Yours sincerely,
Joan Laurion
2525 Chamberlain Ave
Madison, WI 53705
608-255-1922

5/22/2008

Roll, Rick

From: Webber, Robbie
Sent: Tuesday, May 20, 2008 2:41 PM
To: Roll, Rick
Subject: FW: [Regent] Granny flats / zoning code rewrite

Forwarded from my neighborhood listserv. There were a number of posts in agreement.

Robbie

From: RegentNeighborhoodAssn@yahoogroups.com on behalf of johnthetoymaker
Sent: Tue 5/20/2008 9:22 AM
To: RegentNeighborhoodAssn@yahoogroups.com
Subject: [Regent] Granny flats / zoning code rewrite

Zoning rewrite Committee,

Jill and I have lived in Madison since 1982 on Van Hise Avenue. We hope to add a garage/carriage house to our property with a small rental apartment above; we currently have no garage. Several of these exist in our neighborhood already and are quite attractive. Ours would fit in the 2 car garage footprint allowed under current zoning and be attached to our house by a screened deck/porch. But after chatting with Madison zoning folks we find that two dwelling units on one lot are not allowed in the Regent neighborhood. We think there are good reasons to support changing city ordinances to allow such "granny flats" or Additional Dwelling Units (ADUs). These include increasing the city tax base, reducing pressure to sprawl, improving neighborhood stability, increasing Madison's affordable housing stock as well as providing additional environmental benefits. We are especially sad to see many widows leave our neighborhood when their house become too much. Several have told us how they miss their old neighbors. Granny flats are already allowed in some Madison neighborhoods.

Some community ADU regulations are more restrictive than others. For example, nearly all communities require homeowner occupancy of the primary residential unit, but the requirement varies widely: Seattle (WA) allows homeowners who can present 'good cause' to live elsewhere for up to three years, while in Sunnyvale (CA) the primary residence must

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be owner occupied for a minimum of 20 years. Certainly any ordinance change would have to prevent these ADUs turning into student housing in neighborhoods close to colleges.

If interested, follow the link below to read an excerpt from the book "Little House on a Small Planet" by Shay Solomon and follow additional links showing that many cities across America are allowing ADUs.

It would be good for Madison to allow "granny flats".

Thanks for your consideration, John Linck

I have posted links to various ADU resources including descriptions, model ordinances, etc at

<<http://www.woodentoy.com/ADU/Adu.html>>

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Roll, Rick

From: Webber, Robbie
Sent: Tuesday, May 20, 2008 7:46 PM
To: Roll, Rick
Subject: FW: [Regent] Granny flats - attend meetings to comment!

From: Joan Knoebel [mailto:noblejoanie@gmail.com]
Sent: Tue 5/20/2008 4:01 PM
To: Webber, Robbie
Subject: Re: [Regent] Granny flats - attend meetings to comment!

Robbie,

We'd like to go on record as opposing "granny flats". It is virtually impossible to park in our neighborhood with the current densities, just to name one reason.

Sincerely,

Joan Knoebel and Michael Cullenward
 1712 Summit Ave
 Madison, WI 53726

On Tue, May 20, 2008 at 3:40 PM, Webber, Robbie <District5@cityofmadison.com> wrote:

The meeting last night was very sparsely attended, and it was clear that the folks from co-ops and co-housing had organized their supporters to attend and make their voices heard. I have always said that a few people at a meeting can make a huge impact, and this was an example. So if you also want to have an impact, the best way is to show up and speak up.

There are two more initial public meetings on Wednesday, one in the Research Park, and the other at Warner Park.

The meetings this week are mostly to explain the process; what a zoning code covers; why ours needs to be rewritten. We also broke into groups to discuss: 1. What has been our experience with the current process, good or bad; 2. What recent development do we like, and why? 3. What would we like to see out of the zoning rewrite process? We then voted on questions 2 & 3 by placing dots on the ones we felt strongly about.

This is only the beginning of the process, but there should be some preliminary recommendations by mid-September. Information on the process and schedule of meetings can be found here:

<http://www.cityofmadison.com/neighborhoods/zoningRewrite/>

I will assume that John's comments were meant to be forwarded to city staff as part of this process. The staff person leading this is Rick Roll, and he can be reached at rroll@cityofmadison.com

As to granny flats, I know that there was a recent change that made them

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possible in some areas, however, there are also rules about the minimum amount of land required and minimum amount of open space for each dwelling unit. Some of our principal houses do not even meet current code!

Someone commented about making sure that granny flats do not turn into student housing. I want to once again point out that not only is there no legal way to distinguish between a "student rental" and a regular rental, but it is illegal to discriminate in housing based on status as a student.

Robbie

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CITY OF MADISON ZONING CODE REWRITE

COMMENTS

Excellent meeting - thank you!

I look forward to following up on how co-ops will be a part of new zoning!

-Jeff



I would like to have the option of putting a tiny apartment above my 1 car garage. This would allow me more options for accomodating my grown children & families, share the cost of my housing and possibly house a caregiver in my dotage.



PLEASE INCLUDE COOPERATIVES IN THE RE-ZONING. TONIGHT WE TALKED ABOUT MADISON'S QUIRKNESSES, A.K.A. ~~AND~~ UNIQUENESS. INCLUDING HOME COOPERATIVES WOULD SATISFY THIS AS WELL AS:

- AFFORDABLE HOUSING
- DENSE HOUSING
- COMMUNITY IDENTITY
- MANY MANY MORE!

- PETER F
AMBROSIA CO-OP
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Roll, Rick

To: john@woodentoy.com
Subject: RE: Zoning Code Rewrite Contact Form

John,

Do you want me to share this e-mail with the Advisory Committee or the letter you gave me last night?

Rick

From: john@woodentoy.com [mailto:john@woodentoy.com]
Sent: Tuesday, May 20, 2008 10:21 AM
To: Roll, Rick
Subject: Zoning Code Rewrite Contact Form

General Information

Name : john Linck
Business :
Address : 2550 Van Hise Avenue
City : Madison
State : Wi
ZIP : 53705
Email : john@woodentoy.com

Message :

Zoning rewrite Committee,

We hope to add a garage/carriage house to our property with a small rental apartment above; we currently have no garage.

Follow the link below to read an excerpt from the book "Little House on a Small Planet" and follow additional links showing that many cities across America are allowing ADUs.

Thanks, John

<http://www.woodentoy.com/ADU/Adu.html>

Roll, Rick

From: Kris Olds [oldskris@yahoo.com]
Sent: Thursday, May 22, 2008 10:50 AM
To: Roll, Rick
Subject: Re: [Regent] Granny flats/drawing lines

FYI

----- Original Message -----

From: Kris Olds <oldskris@yahoo.com>
To: RegentNeighborhoodAssn@yahoogroups.com
Sent: Thursday, May 22, 2008 5:37:33 PM
Subject: [Regent] Granny flats/drawing lines

It is great to hear all of the opinions emerging re granny flats. I do, though, warn that it is a slippery slope trying to finely tune such regulations such that you allow certain people in and keep others out on the basis of their identities, their familial status, and their relationship to property ownership. I recall many a debate about this when Vancouver started adjusting their system and people argued, endlessly, about what a "single family" is (does it include grandparents, uncles, etc...and what happens when some peoples' definition of single family implies extended family, yet other people think single family is what some people call nuclear family). Or what if someone's aunt and uncle want to live in the area near their supportive nephew or niece but rent in a suitably sized unit two blocks away (to get proximity but a little distance). Or what happens when someone needs to rent a unit on their property to afford the mortgage vs move away? Many granny/family/ secondary suites are effectively mortgage helpers, which can make a huge difference for limited or single income house owning families, couples who split up but both want to stay in the area, or people who retire on reduced incomes and then want a foreign student or a young family, or a working niece, out back, etc. And can you designate a housing class (a renter) as less worthy, with less rights, than an owner simply given they have access to capital and a stable enough income to purchase housing. What's wrong with renters? All the people I know in the Regent Neighborhood used to be renters...they didn't seem to be crazed animals when they were younger. :)

In the end, after many lessons learned, Vancouver took the simple route - allow well designed and safe units in appropriately sized houses/lots in all single family areas (including the historic, ritzy,

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and leafy ends of town), though if people want to rent (versus merely bringing "granny" in), then require owners to acquire an annual license and regulate them *intensely* to ensure quality when being designed, and maintenance over time. Implicit in this is a belief that renters have rights and contribute to social life in the city as much as owners do. Explicit in this approach is a belief that greater density helps resolve environmental problems while making neighborhoods more lively, safe, reflective of our changing society, better able to support retail outlets (like cafes and co-ops, bakeries, etc.), schools (which are seeing declining numbers now, which means declining budgets), and so on.

We should all debate, though drawing lines (or supporting existing lines) is a very complicated endeavor (using the tools of zoning), and with huge social and symbolic implications.

My personal view is the fewer lines drawn the better. Feel free to disagree, of course.

Cheers,

Kris
2409 Joss Ct.
Madison, WI 53726

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Roll, Rick

From: Webber, Robbie
Sent: Tuesday, May 20, 2008 7:53 PM
To: Roll, Rick
Subject: FW: [Regent] Granny flats - attend meetings to comment!

As I said, there was quite a bit of discussion on our list.

I will summarize the arguments for and against:

For: Allows families to have a relative - mother-in-law, granny, deadbeat brother in law, returning college student, etc have a separate unit available. Also allows people to have a "guest house."

For: Some people are in favor of more units in the center of the city, more small units, more flexible residential options.

Anti: Already too many people living in the neighborhood. No parking available. More units mean more parking and traffic congestion.

Anti: Don't want granny flats to become student rentals. Need requirement that any house with granny flat to be owner-occupied.

I'll continue to forward messages.

Robbie

From: RegentNeighborhoodAssn@yahoogroups.com on behalf of Karen Carlson
Sent: Tue 5/20/2008 4:12 PM
To: Joan Laurion
Cc: Webber, Robbie; Regent listserv
Subject: Re: [Regent] Granny flats - attend meetings to comment!

I can't attend but maybe Joan (or John, if he attends) could collect the names of those who might agree to this statement:

We support zoning that allows ADUs as long as there are restrictions that make it difficult to convert the main house with its ADU to long term rental units. That is, we see owner-occupied houses as having ADUs, although the owners may temporarily rent their houses.

(Feel free to re-word the above).

I support the above. Others?
 Karen Carlson

On May 20, 2008, at 2:47 PM, Joan Laurion wrote:

I would go to the zoning meeting at Research Park tomorrow eve to speak up about making family suites/granny flats possible in our neighborhood.

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...anyone else want to go?

Joan Laurion
2525 Chamberlain Ave
Madison 53705

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Robbie

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