



# STAFF REPORT

## MORGAN COUNTY PLANNING COMMISSION

### PETITION FOR: TEXT AMENDMENT

Applicant: Morgan County Planning & Development  
Applicant's Agent: N/A  
Zoning Ordinance: Morgan County Zoning Ordinance Chapter 7.2 Accessory Dwellings

#### Summary

Morgan County Planning Staff requested changes to the Accessory Dwelling ordinance twice in 2019. The changes were requested to address issues related to accessory dwellings including, but not limited to, construction of accessory dwellings before a primary dwelling and the rampant use of accessory dwellings as rental structures. The language that was passed regulated Accessory Dwellings by making an accessory dwelling a conditional use and limiting the size allowed.

In the 15 months since the more restrictive language was approved, Staff has continued to encounter issues related to Accessory Dwellings. Staff estimates that 40% of new primary dwelling permits and 100% of new pool house permits have contained accessory dwellings. When informed of the regulations, permit applicants have reacted with everything from indifference ("I'll do what I want anyway") to hostility and threats against Staff. The former situation has created issues for the Building Inspector, who must confront builders and property owners when he discovers efforts to construct accessory dwellings without approval or permits. In addition to permit applicants, Staff spends a considerable amount of time attempting to explain the regulations to prospective Morgan County property buyers, many of whom are incredibly unpleasant when told they cannot simply build whatever they want. Due to the excessive amount of time spent by multiple employees attempting to handle questions, aggression and dishonesty related to Accessory Dwellings, Staff presents the following language as a compromise.

#### Current and Proposed Language

Existing language is attached. Proposed language is below.

#### Chapter 7.2 Accessory Dwellings

##### Section 7.2.1 General Provisions

- No more than one accessory dwelling unit shall be permitted on a single deeded lot in conjunction with the principal dwelling unit. An accessory dwelling may be located within the principal dwelling, as an addition to the principal dwelling or in a separate structure. Even if included within or as an addition to the principal dwelling, there shall be only one accessory dwelling per lot.

Each accessory dwelling shall have an exterior entrance that does not require the accessory dwelling resident to access the unit through the primary dwelling.

- An accessory dwelling may be built in conjunction with the principal dwelling if included within or attached to the principal dwelling, or if conditional use approval for a separate structure has already been given at the time of construction. Accessory dwellings located within or as an addition to a primary dwelling shall be a permitted use.
- The accessory dwelling unit shall be owned by the same person as the principal dwelling.
- Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit without meeting the requirements associated with the zoning district classification.
- The accessory dwelling shall comply with all requirements of the county health department for on-site sewerage and well regulations.
- An accessory dwelling unit shall not be served by a driveway separate from that serving the principal dwelling.
- Accessory dwellings shall adhere to the parking and setback requirements and height restrictions for the district in which they are to be located.
- Accessory dwellings shall share an electrical meter and address with the principal dwelling.

#### Section 7.2.2 Separate Structures

- If located in a separate structure, accessory dwelling units shall be a minimum of three hundred (300) square feet and a maximum of eight hundred (800) square feet for heated square footage and a maximum of 1000 square feet total (including unheated square footage under roof, such as porches and carports). An accessory dwelling in a separate structure may be an individual dwelling or may be located in an accessory building such as a barn, pool house or garage. Accessory dwellings shall not have basements. Crawlspace or slab foundations are allowed. Accessory dwelling units located in accessory buildings are limited to 800 square feet. No accessory dwelling in a separate structure shall be constructed prior to the principal dwelling.
- Accessory dwellings in separate structures must be stick built. Manufactured homes, storage containers, metal buildings or pre-built wood framed structures shall not be used as accessory dwellings.
- Accessory dwellings located within a separate structure shall be a Conditional Use in all zoning districts where single family detached homes are allowed. If an existing structure meets or exceeds the maximum square footage specified above and an additional separate dwelling exceeding the maximum square footage for an Accessory Dwelling is desired, the property must be split to allow for a second principal dwelling, or a Variance must be requested in addition to the Conditional Use.

#### Section 7.2.3 Connectivity

Accessory dwellings constructed as an addition to the principal dwelling must be attached by a common wall and have common conditioned space. The purpose of the interior connectivity is to create one dwelling instead of two completely separate dwellings. An accessory dwelling shall not be connected by a breezeway.

## Staff Comments

This language will not resolve issues with accessory dwellings in separate buildings, such as cottages, barns and pool houses. The compromise is that the proposed wording will allow accessory dwellings in basements, bonus rooms and additions. The language does require an addition to be connected to the house by conditioned space. The goal of the conditioned space is to create two living spaces in one house instead of two completely separate houses attached by a wall or roof. This is also the reason for the prohibition on breezeways. The breezeway creates two separate houses attached by minimal roof space. The common space between the two living spaces would also minimize the chances of the second dwelling being used as a rental space. The proposed language continues to enforce the limited size of separate accessory dwellings, but would not limit the size of an addition or an accessory dwelling contained within a primary dwelling, such as a basement.