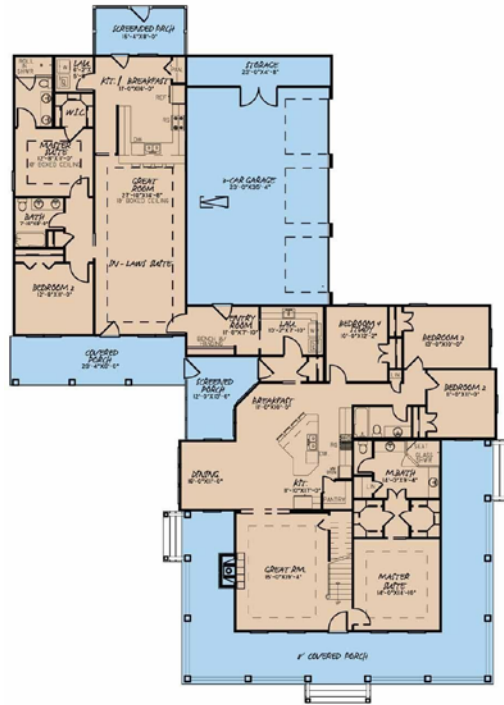
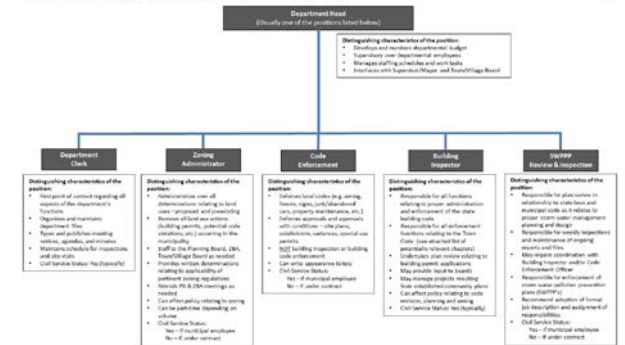


Zoning for Secondary Dwellings & Effective Approaches to Administration & Enforcement

October 4, 2018



Typical Model for Department of Building and Code Compliance



Presenting Today

Jim Martin, AICP Senior Planner and Project Manager



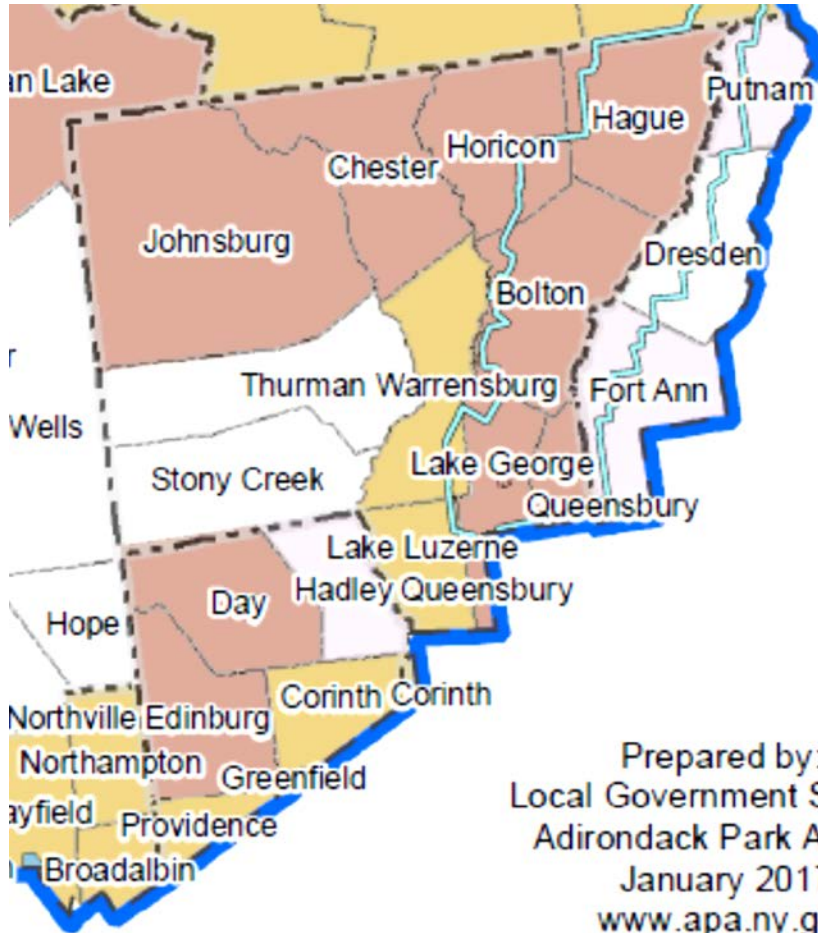
- 35 Yrs Experience
- Serve as Zoning Administrator for the Towns of Moreau and Corinth and the Village of Corinth
- Consulting on zoning law development – both revision of selected sections and complete zoning law development
- Served as municipal zoning administrator, planner, community development director and economic development director
- Worked with towns and villages across the Adirondack Park

Zoning & Secondary Dwellings

Question #1: What municipalities in Warren County have land use (zoning) controls?








Answer:

- 11 of 13 have a zoning law
- Of the 12 municipalities wholly or partially in the Adirondack Park, 8 have an APA approved land use program



Prepared by:
Local Government Services
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Land Use Controls

-  No ALLUP, SD, SPR, or Zoning*
-  Site Plan Review
-  Subdivision Regulations
-  Subdivision & Site Plan Review
-  Zoning
-  Zoning & Subdivision Regulations
-  APA-Approved Local Land Use Program

Question #2: What is a “secondary dwelling”?

Answer: A secondary dwelling is dwelling that is “subordinate” or “incidental” to the principal dwelling

- *Subordinate*¹ means “occupying a lower class”
- *Incidental*² means “minor in significance and bearing reasonable relationship to the primary use”

Practical application of these words

– **as should occur in the regulations** –

Means **smaller** in physical dimension and inherently **less impactful**

Purpose typically served:

- Family-orientation; supplemental revenue
- Terms: Accessory dwelling, guest cottage; in-law apartment

¹Merriam-Webster’s New Collegiate Dictionary

²The Illustrated Book of Development Definitions

Question #3: How do I know there's a “secondary dwelling” or in other words what is it?

Answer: Look towards your ordinance and the definition of a “dwelling”

TOWN OF QUEENSBURY:

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation

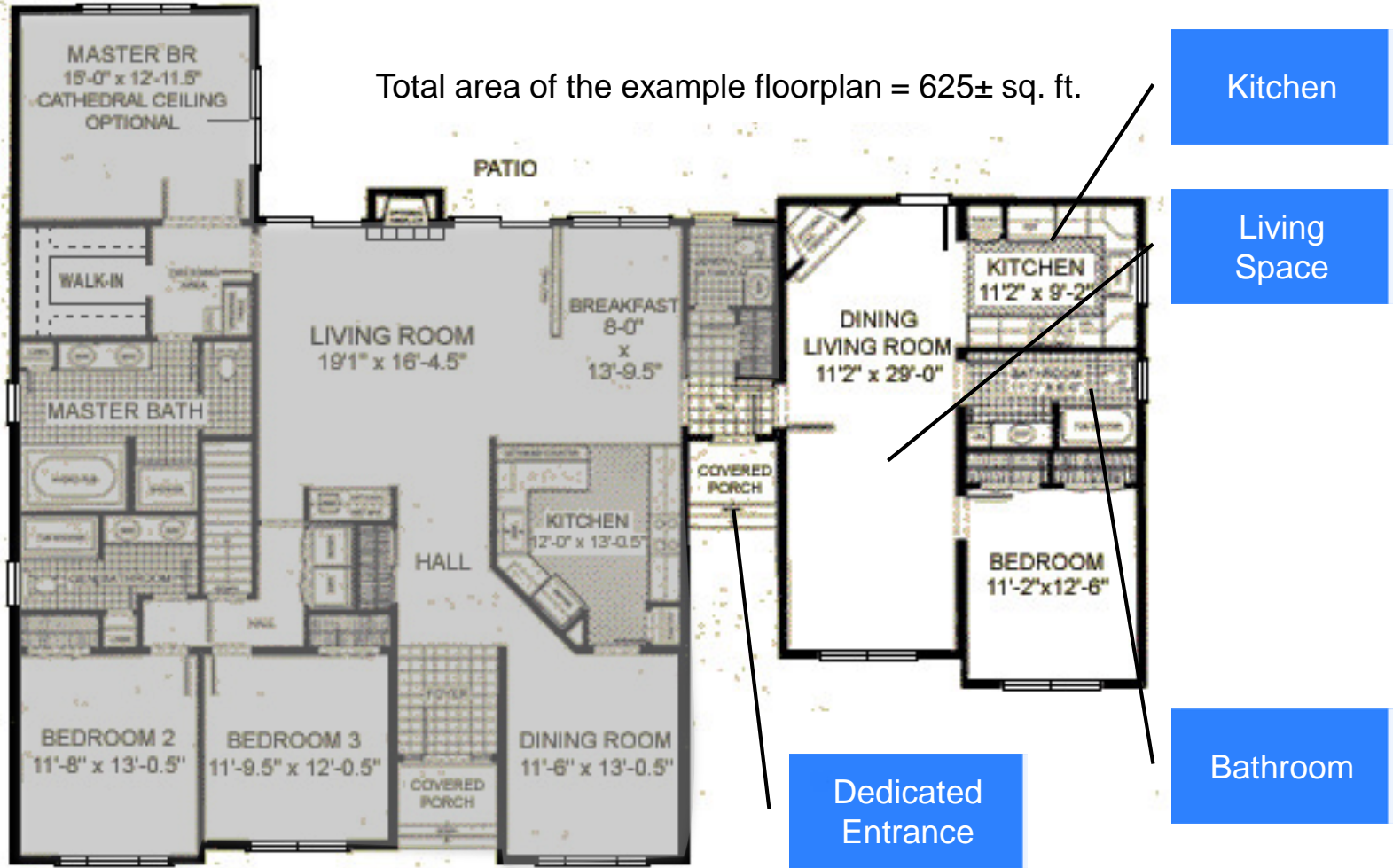
TOWN OF LAKE GEORGE:

SINGLE-FAMILY DWELLING UNITS: One or more rooms designed or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within each unit for the exclusive use by a person or persons of a single household unit or family. This term excludes any units associated with tourist accommodations.

TOWN OF HORICON:

DWELLING UNIT: One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family or household.

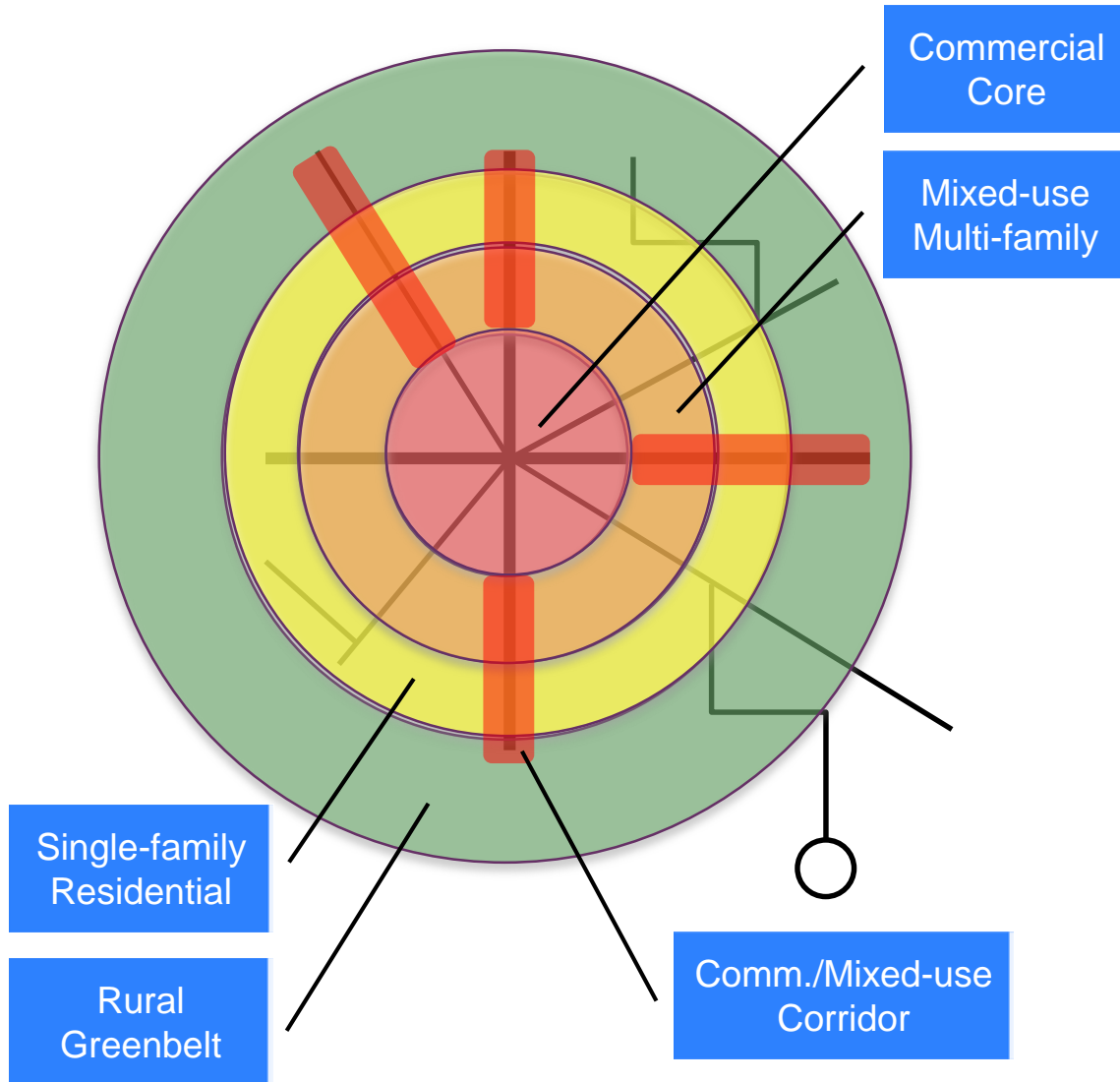
Question #4: What form does a secondary dwelling typically take?



Question #5: Why is a secondary dwelling a concern?

Answer:

- Historic separation of uses
- Differing impacts
- Permanency of buildings
- Integrity of “low impact uses”, single-family neighborhoods
 - Quality of life
 - Low traffic
 - Modest noise
 - Privacy



Question #6: Okay so, what's the answer?

Answer: Part A: Look to the needs and makeup of your community

- Review your comprehensive plan...is it up-to-date?
- Is there a more focused study? e.g. Housing – Senior Housing – Affordable Housing – Housing Needs Assessment in association with a housing grant
- Considerations (or criteria) to gauge the level of acceptance of these types of units
 - Permanency
 - Next generation of use for both the primary and the secondary dwelling – Aging community? Trend towards transient occupancy?
 - Likelihood for maintenance and upkeep
 - Infrastructure to safely and operationally handle more density and greater intensity of this use
 - Is this in conformity with the current *and* future desire of the residents
 - Willingness and capability to enforce the outcome

Question #6: Okay so, what's the answer?

Answer: Part B – Recommended mechanisms to consider

- Accurately and succinctly define the secondary dwelling in terms of size – avoid “*style*” of occupancy (e.g. “in-law” apartment)
- Is the use to be “as-of-right” or permitted, subject to site plan review, or a special use permit
- What existing districts are appropriate in terms of location and makeup to accept these uses?
 - Consider the physical and locational attributes of an area neighborhood – lot size, building stock (condition and size)
- Infrastructure – Are there adequate roads, sewer, water to accommodate the increased demand without negatively affecting existing dwellings?
- Municipal capacity to handle the characteristics of secondary dwellings – e.g. adequate enforcement and accurate means to assess this use in terms of its existence and value

Zoning Administration & Enforcement

Zoning and Local Code Administration – Two basic considerations:

1. Model of a municipal “codes” department – staffing
 - NYS Building Code – in large part among Warren County municipalities this function is provided through the County
 - Zoning Administration/Enforcement
 - Local Code Enforcement – Noise, junk cars, property maintenance, wood-burning, ATV, backyard chickens, signs
2. Structure of the associated boards and code itself
 - Municipal boards – conventional segmentation – Planning Board, Zoning Board of Appeals and town zoning-village zoning
 - Land use regulation elements – zoning, fences, signs, junk cars, fences, stormwater, subdivision, floodplain, manufactured housing, mining, adult entertainment, wetlands, clearing/timber harvesting, etc.

Typical Model for Department for Zoning, Building and Local Code Compliance

Department Head
(Usually one of the positions listed below)

- Distinguishing characteristics of the position:**
- Develops and monitors departmental budget
 - Supervisory over departmental employees
 - Manages staffing schedules and work tasks
 - Interfaces with Supervisor/Mayor and Town/Village Board

Department Clerk

- Distinguishing characteristics of the position:**
- First point of contact regarding all aspects of the department's functions
 - Organizes and maintains department files
 - Types and publishes meeting notices, agendas, and minutes
 - Maintains schedule for inspections and site visits
 - Civil Service Status: Yes (typically)

Zoning Administrator

- Distinguishing characteristics of the position:**
- Administration over all determinations relating to land uses – proposed and preexisting
 - Reviews all land use actions (building permits, potential code violations, etc.) occurring in the municipality
 - Staff to the Planning Board, ZBA, Town/Village Board as needed
 - Provides written determinations relating to applicability of pertinent zoning regulations
 - Attends PB & ZBA meetings as needed
 - Can affect policy relating to zoning
 - Can be part-time depending on volume
 - Civil Service Status:
Yes – if municipal employee
No – If under contract

Code Enforcement

- Distinguishing characteristics of the position:**
- Enforces local codes (e.g. zoning, fences, signs, junk/abandoned cars, property maintenance, etc.)
 - Enforces approvals and approvals with conditions – site plans, subdivisions, variances, special use permits
 - NOI building inspection or building code enforcement
 - Can write appearance tickets
 - Civil Service Status:
Yes – if municipal employee
No – If under contract

Building Inspector

- Distinguishing characteristics of the position:**
- Responsible for all functions relating to proper administration and enforcement of the state building code
 - Responsible for all enforcement functions relating to the Town Code (see attached list of potentially relevant chapters)
 - Undertakes plan review relating to building permit applications
 - May provide input to boards
 - May manage projects resulting from established community plans
 - Can affect policy relating to code revision, planning and zoning
 - Civil Service Status: Yes (typically)

SWPPP Review & Inspection

- Distinguishing characteristics of the position:**
- Responsible for plan review in relationship to state laws and municipal code as it relates to proper storm water management planning and design
 - Responsible for weekly inspections and maintenance of ongoing reports and files
 - May require coordination with Building Inspector and/or Code Enforcement Officer
 - Responsible for enforcement of storm water pollution prevention plans (SWPPP's)
 - Recommend adoption of formal job description and assignment of responsibilities
 - Civil Service Status:
Yes – if municipal employee
No – If under contract

Alternative Approaches/Structures for Boards and Municipal Codes

Municipal Planning and Zoning Boards

1. Villages within towns – (e.g. Village of Lake George in the Town of Lake George)
 - Alternative Option: Bi-municipal zoning code with joint planning and zoning board of appeals
 - **Advantages:**
 - ✓ Goals achieved through implementation of the land use regulations are coordinated and jointly shared
 - ✓ Cost saving for each municipality
 - ✓ Less burdensome in terms of the number of volunteers required to fill the positions for two sets of boards from one municipality v. one board from two municipalities
 2. Combine boards* – One board provides all functions for review of site plans, special use permits, subdivisions, variances (area and use), and interpretations
 - **Advantages:**
 - ✓ Shortens review times of applications requiring multiple levels of review
 - ✓ Cost saving – Less administrative requirements
 - ✓ Less burdensome in terms of the number of volunteers required to fill the positions for a full planning board and ZBA
- *Requires more diverse knowledge base of review procedures and associated governing laws

Alternative Approaches/Structures for Boards and Municipal Codes

Municipal Codes

1. Support documents – Applications, descriptive instructions and SEQR
 - Applications
 - ✓ User friendly with descriptive instructions
 - ✓ Up-to-date reflecting the review criteria, specifying information needed, review timeframes and review procedure
 - ✓ Available on-line and fillable on the screen
 - ✓ Include SEQR forms in the overall packet and explanation in descriptive material
2. Combine codes – All topics relating to land use are in one location
 - ✓ Easier for residents to understand and more user friendly
 - ✓ Improves the understanding of reasoning and purpose and overall quality of applications received
 - ✓ Improves code administration and enforcement through minimization of errors from omission

One last recommendation – Define, define, define...The definition of words and terms should be robust and thorough – improves applicant



Questions?...Are encouraged!

Contact information:

Jim Martin, AICP – Senior Planner
The LA Group
40 Long Alley
Saratoga Springs, NY 12866

Phone: (518) 587-8100

Email: jmartin@thelagroup.com