

Director of
Planning and Inspections
MEREDITH GUNS

Building Inspector
MARTY SHAW
CHARLES THUMAN

Code Enforcement Officer
JORDAN BLYTHE



THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

Assistant Director of
Planning and Inspections
CAMERON RAY

Senior Planner
RYAN LANG

Zoning Administrator
DONNA ELLIOTT

PLANNING DEPARTMENT

October 14, 2024

Memorandum

To: Debbie Diaz, Town Manager

From: Cameron Ray, Assistant Planning Director 

Subject: Zoning Amendment Request – §153.315(B)(4) Accessory Dwelling Units (ADU) —
Modify (ADU) Site Requirements

Attached is a Zoning Amendment request from David Snow to amend Town Code sections 153.315(B)(4) Accessory Dwelling Units (ADU) to modify (ADU) site requirements. The amendment request is to remove the requirement for detached ADU's to be located behind the primary dwelling. This requirement was included in the original Town code amendment for ADU's, which was a common regulation for ADU's in neighboring jurisdictions. Since that time, several other jurisdictions have removed this requirement.

Staff supports the change to remove the requirement as requested, however Staff recommends that the Town include a height restriction for the ADU not to exceed the height of the primary dwelling. This is consistent with the original intent of this section, which was for the ADU to not be the focal point of the site, but be an accessory to the primary structure. The applicant has agreed to the proposed language addition per staff's recommendation and is attached with the packet material.

On September 17, 2024 the Planning Board reviewed the attached amendment to 153.315(B)(4) Accessory Dwelling Units and recommended approval. Staff recommends setting the required public hearing for November 18, 2024.

**AN ORDINANCE AMENDING THE
KILL DEVIL HILLS CODE OF ORDINANCES,
CHAPTER 153, ZONING**

BE IT ORDAINED by the Kill Devil Hills Board of Commissioners that Chapter 153, Zoning of the Kill Devil Hills Town Code of Ordinances, shall be amended by adding the underlined language and deleting the following ~~stricken~~ language to the sections identified below, as follows:

SPECIAL REGULATIONS

§ 153.315 ACCESSORY DWELLING UNITS.

(A) Purpose. The purpose of these provisions for all accessory dwelling units (ADUs) is to allow the efficient use of existing housing stock, parcels of land, and community infrastructure, and to increase the number and variety of residential units while respecting the scale and character of existing neighborhoods.

(B) General provisions. Accessory dwelling units (ADUs) are allowed as permitted uses in Low Density Residential, High Density Residential, Commercial, Light Industrial 1 and Light Industrial 2 Zoning Districts, subject to the following standards:

(1) An ADU can only be located on a property containing one single-family detached dwelling. The property may contain other accessory structures and uses as permitted in this section.

(2) No more than one ADU shall be permitted per residential lot.

(3) ADUs shall not be larger than 50% of the living area of the primary residence, or 800 square feet, whichever is lesser.

(4) An ADU must comply with all applicable minimum building setback requirements and a detached ADU ~~cannot extend beyond the front~~ [exceed the height](#) of the primary residence.

(5) An ADU must be properly permitted, inspected, and comply with all applicable standards of the State Building Code and Kill Devil Hills Town Code.

(6) The owner must obtain a permit from the County Environmental Health Department that the existing wastewater system can accommodate or be improved to accommodate the establishment of an ADU.

(7) ADUs shall be parked in accordance with § 153.076 Off Street Parking and Loading.

(8) Recreational vehicles, travel trailers and/or manufactured homes shall not be used or approved as an ADU.

(9) An ADU shall not be subdivided or segregated in ownership from the principal dwelling unit.

(10) An ADU in Low Density Residential and High Density Residential Zoning Districts shall only be occupied for long-term occupancy as defined in § 153.002. Property owners shall be required to execute and record, with the Dare County Register of Deeds, a long-term use agreement declaring that the dwelling unit shall be used only for long-term occupancy in perpetuity prior to issuance of a building permit.

BE IT FURTHER ORDAINED that it is the intent of the Board of Commissioners that the provisions of this ordinance shall be made a part of the Kill Devil Hills Code of Ordinances; the sections of this ordinance may be re-numbered or re-lettered; and the word “ordinance” may be changed to “section,” “article,” “chapter,” or other appropriate designation to accomplish such intention as needed.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the ____ day of _____, 2024. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the ____ day of _____, 2024, by a vote of ____ in favor and ____ opposed.

SEAL

John Windley
Mayor

ATTEST:

James Michael O’Dell
Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE, CHAPTER 153, ZONING, was placed in the Kill Devil Hills Town Code Book on the ____ day of _____, 2024, at _____.m.

James Michael O’Dell
Town Clerk

PROPOSED Amendment
Chapter 153, Zoning
§ 153.315 Accessory Dwelling Units – to eliminate the
requirement for detached ADUs to be located behind the primary dwelling
Page - 3 - of 3

PLANNING BOARD REPORT

Per NCGS 160D-604(b), Zoning Amendments. – Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

Per NCGS 160D-604(d), Plan Consistency – When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

PLANNING BOARD RECOMMENDATIONS

Proposed Amendment Title: Proposed Zoning Amendment—§153.315(B)(4) Accessory Dwelling Units (ADU) — Modify (ADU) Site Requirements

Approval/Denial: Planning Board finds that the Proposed Zoning Amendment §153.315(B)(4) Accessory Dwelling Units (ADU) — Modify (ADU) Site Requirements is/is not consistent with the adopted Land Use Plan.

Therefore, the Planning Board finds the proposed amendment is consistent/inconsistent with the objectives and policies contained in the Kill Devil Hills Land Use Plan and/ or other officially adopted plans of the Town that are applicable.

This report reflects the recommendation of the Planning Board with a vote of 4 to 0, this the Seventeenth day of September, 2024.

Attest:


Planning Board Chairman


Secretary of Planning Board

Ray, Cameron

From: davidhsnow <davidhsnow@gmail.com>
Sent: Thursday, September 12, 2024 3:09 PM
To: Ray, Cameron
Subject: RE: Zoning Amendment Request - 153.315(B)(4): Staff Requested Language Addition

To whom it may concern,

I agree to all terms.

Sincerely,
David H. Snow

Sent from my Galaxy

----- Original message -----

From: "Ray, Cameron" <Cameron@kdhnc.com>
Date: 9/12/24 12:12 PM (GMT-05:00)
To: davidhsnow@gmail.com
Subject: Zoning Amendment Request - 153.315(B)(4): Staff Requested Language Addition

Good morning David,

Staff has reviewed your zoning amendment request and is prepared to recommend approval of the language you presented, however Staff does have additional language that is recommended to add. Staff would like to restrict the height of the ADU to not exceed the height of the primary structure as to not be the focal point of these developments. Below is the proposed language with Staff's proposed additional language in **BLUE**:

§ 153.315 ACCESSORY DWELLING UNITS.

(B) *General provisions.* Accessory dwelling units (ADUs) are allowed as permitted uses in Low Density Residential, High Density Residential, Commercial, Light Industrial 1 and Light Industrial 2 Zoning Districts, subject to the following standards:

(4) An ADU must comply with all applicable minimum building setback requirements and a detached ADU cannot extend beyond the front exceed the height of the primary residence.

If you agree or disagree to the language additions above, please respond letting me know at your earliest convenience.

As discussed, this item will be reviewed by the Planning Board at their upcoming September 17, 2024 meeting at 5:30pm at KDH Town Hall. Please let me know if you have any questions.

Sincerely,

Cameron Ray, CFM, CZO

Assistant Planning Director

PO Box 1719

Kill Devil Hills, NC 27948

252-449-5311 phone

252-441-4102 fax

www.kdhnc.com





Kill Devil Hills

North Carolina

CODE AMENDMENT APPLICATION

Planning and Inspections Department

(252) 449 – 5318

102 Town Hall Drive

Kill Devil Hills, NC 27948

FEE: \$500.00

The purpose of this application is to *request* a code amendment, or a permanent alteration, to the Kill Devil Hills Town Code.

Required attachments/submittals for an application for a code amendment:

- 1.) A completed application
- 2.) One copy of the code in question (existing Kill Devil Hills Town Code)
- 3.) One copy of your proposed code amendment, with the proposed changes highlighted
- 4.) Application Fee, *which is nonrefundable*

*****Important: If any of the above requirements are not present at the time of submittal, the application will be deemed incomplete and will not be accepted.*****

Town of Kill Devil Hills

Certification:

AUG 15 2024

I (we) hereby acknowledge and say that the information contained herein and herewith is true and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the Town of Kill Devil Hills Planning and Inspections Department.

Petitioner's Name (Please Print):

DAVID H. SNOW

Petitioner's Signature:

Date:

8/13/2024

For Staff Use Only:

Fee Received by:

Cameron Ray

Date:

8/15/2024



Town of Kill Devil Hills
North Carolina

Application for a Code Amendment

(Please Type or Print)

Petitioner

Name:

DAVID A. SNOW

Address:

2018 BAY DRIVE
KILL DEVIL HILLS
NC, 27948

Telephone Number:

252-489-6149

Email:

chuidhsnow@gmail.com

Agent for Petitioner (If Applicable)

Name:

Address:

Telephone Number:

Email:

I hereby request an amendment to the following specific section of the Town Code:

Chapter: 153.315
(B) (4)

Code: ACCESSORY DWELLING UNIT

Title:

To this application, attach:

- One copy of the code in question (existing Kill Devil Hills Town Code)
- One copy of your proposed code amendment, with the proposed changes highlighted



Town of Kill Devil Hills
North Carolina

Application for a Code Amendment

1. Please provide a **detailed** justification for the proposed amendment (*attach additional pages as needed*):

IM ASKING TO KEEP THE ADU UNIT ON
THE ROAD SIDE OF BAY DRIVE AND BUILD
THE MAIN HOUSE ON THE SOUNDSIDE. THIS
SHOULD BE CONSIDERED FOR SOUND FRONT
AND OCEAN FRONT PROPERTIES

2. How does this proposed amendment help to promote the public health, safety, and general welfare? (*attach additional pages as needed*)

THIS WILL PROVIDE A PERMANENT HOUSING
FOR WORKERS, STAFF FOR THE RETAILERS
IN KILL DEVIL HILLS.

§ 153.315 ACCESSORY DWELLING UNITS.

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Town of Kill Devil Hills Planning and Inspections
252-449-5318

NON-REFUNDABLE FEES

Date: 8/15/24

☐ Board of Adjustments

☐ Exempt plat/Subdivision

☐ CAMA

☐ Fines and/or Re-Inspection Fee

☐ Copies

☐ Site Plan Review

☒ Text Amendment

☐ Permit Re-instatement

☐ Other: _____

Amount: \$500.00

Received From: David Snow

Description: Town code amendment - 153.315(A)(4)

Received by: Cameron Ray

PAID

AUG 15 2024

TOWN OF
KILL DEVIL HILLS