



Staff Report

Intro information

Case Number: Case #4/14/20- 1
Type: Administrative Decision Appeal
Applicant: Sandra Gallo
Noticing: Abutter Letters sent 04.03.20
Public Notice Posted 04.03.20
Newspaper Notice: 04.09.20

Summary

Sandra Gallo has appealed a decision of the Wilton Building Inspector, pursuant to sections 3.1.1-a, 3.1.7, 5.5, and 25.4 of the Wilton Zoning Ordinance, that a finished basement in her home at Lot D-40, 120 Holt Road, is a second dwelling unit and should be subject to impact fees as such.

Lot Background

Map & Lot: D-040
Lot size: 2.96 acres
Frontage: 123 ft
Zone: Res/Ag

Building Background

- Single Family home – building permit (4302 expired, renewed to permit 112718-1)
- Certificate of Occupancy for New Single Family, one story 1424 sq ft home with unfinished basement 9/3/19
- Building Permit for finishing the basement 10/14/19 – lists small fridge, small sink, full bath and no stove

List of Exhibits

- XX Timeline from Building Inspector (below)
- 10.14.19 Building Permit 101419-1
- 10.14.19 Foundation Plan
- 10.28.19 Electrical Permit
- 11.04.19 Plumbing Permit
- 11.05.19 Inspection Report
- 11.14.19 Inspection Report
- 01.07.20 Mechanical Permit
- 01.27.20 LTrudeau notes for CO
- 01.27.20 Inspection Report
- 01.27.20 Impact Fee Invoice
- 02.20.20 NDitri notes
- 02.27.20 Letter from NDitri to SGallo
 - International Code Council and Town of Wilton Definitions (below)
 - Impact Fee Schedule (attached)
 - Invoice (attached)



Land Use Department

- Wilton Zoning Ordinance Sections Applicable to the case
- DES Approval for Construction of Individual Sewage Disposal System (attached)
- 03.28.20 Email between NDitri and KKeeverney
- 03.28.20 Septic Plan

Review of Criteria

Section 3.1.1-a: Accessory Use.

A use of a [lot](#) or [building](#) which is occasioned by and subordinate to the permitted primary use of that [lot](#) or [building](#), and is customarily or habitually associated with it. (Adopted March 2005); (Amended March 2009)

3.1.7, Dwelling Unit.

One or more living or sleeping rooms arranged for the use of one or more individuals living as a single [family](#) housekeeping unit, with cooking, living, sanitary and sleeping facilities. (See also "[Lodging Unit](#)".)

5.55.5 Accessory Dwelling Units. (Adopted March 2017)

This section implements the requirements of [RSA 674:72, "Accessory Dwelling Units."](#)

5.5.1 Existing Dwellings.

A second [dwelling unit](#) may be added to any legally existing [single family dwelling](#) located in a zoning district where residential uses are permitted, subject to the requirements set forth below. The second [dwelling unit](#) may be created in existing space in the [dwelling](#) or in a newly constructed addition to the [dwelling](#).

5.5.2 New Construction.

A [two-family dwelling](#) may be constructed on any [lot](#) where a [single family dwelling](#) may legally be constructed, subject to the requirements set forth below.

5.5.3 Requirements.

The following requirements apply only to development which would not be permitted other than by this section.

1. The two [dwelling units](#) must have independent means of ingress and egress, or have ingress and egress through a common space such as a shared hallway to an exterior door.
2. The two [dwelling units](#) must share a common interior wall, and there must be an interior door between the two [dwelling units](#).
3. At least one of the two [dwelling units](#) must be the principal residence of at least one owner of the [dwelling](#). The two [dwelling units](#) must remain in common ownership. Transfer of either [dwelling unit](#) to condominium ownership is not permitted. Violation of the requirements of this paragraph will result in the revocation of the Certificate of Occupancy for the two-family use of the [dwelling](#).
4. At least one of the two [dwelling units](#) must have no more than two bedrooms, and a living area of no more than 800 square feet.
5. Requirements for water supply and sewage disposal are the same as for any [two-family dwelling](#). Addition of a second [dwelling unit](#) to an existing [single family dwelling](#) under [section 5.5.1](#) shall be subject to [RSA 485-A:38, "Approval to Increase Load on a Sewage Disposal System."](#)
6. Off-street parking shall be provided for one car for each one-bedroom [dwelling unit](#) in the [dwelling](#), and for two cars for each [dwelling unit](#) having two or more bedrooms, and shall satisfy any [setback](#) requirements pertaining to parking in that Zoning District.



- 7. A newly constructed addition under [section 5.5.1](#) shall satisfy the [setback](#) requirements of the zoning district.

25.4 Assessment Methodology

The amount of any impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by new development, and to the benefits accruing to new development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees. (Amended March 2011)

Appendix VIII – Wilton Land Use Laws

IMPACT FEE SCHEDULE
 (Adopted March, 2004, Amended December, 2014)

WILTON IMPACT FEE SCHEDULE 2014

Land Use Category	Impact Fee Schedule			Total Fees
	Public Schools	Fire Department	Town Roads	
Residential Per Dwelling Unit				
Single Family Detached	\$3,507	\$1,011	\$891	\$5,409
All Other Structure Types	\$2,434	\$779	\$585	\$3,798
Commercial-Industrial Per Square Foot				
Retail & Restaurant	n.a.	\$0.45	\$1.00	\$1.45
Office & General Commercial	n.a.	\$0.45	\$0.52	\$0.97
Industrial & Warehouse	n.a.	\$0.45	\$0.33	\$0.78

Public Comments

No written comments were received prior to 04.13.20



Timeline from Building Inspector

Oct. 14, 2019	Building Permit application submitted by San-Ken Homes. Scope of Work: Finish living space of 764 sq feet in basement. BI wrote also: 1 full bath, office, living room & kitchenette (small sink and small refrigerator). No stove. Per contractor.
Oct 28, 2019	Dean Lakanen Master Electrician applied for Electric Permit. Scope of work: Basement remodel, adding switches for mechanical room, office, storage and refrigerator, countertop outlets & new bathroom. BI asked about appliances: Answer Microwave and refrigerator. Kitchen to have 4 circuits.
Oct 31, 2019	Nikki from San-Ken emailed BI to schedule rough inspections. Tentatively scheduled for 11/5/19. Email from Norma to Nikki: "Can you clarify what the scope of work is being done? The permit states "764 sq ft finished off in basement. The drawing shows a living room, an office, a full bath. What is in the hall LVP section? I can't read the little squares. The electrician's permit includes a refrigerator and countertop outlets. I don't have a plumbing permit from Les. I left him a message asking for him to submit one. He mentioned a "kitchenette" in the basement. I need to have the scope of this work clearly defined before I can go inspect. Don't' hesitate to call me with any questions."
Nov. 5 2019	San-Ken Homes paid for the permit.
Nov. 5 2019	Rough Electric was inspected & approved.
Nov. 5 2019	Les Somero applied for Plumbing Permit. Scope of work Basement plumbing for bathroom, kitchenette. States: Kitchen sink, lavatory, tub/shower, water closet. BI asked what size the kitchen sink would be. Response "Just a small 1-foot square size, like a vegetable washing sink."
	Rough Plumbing inspected and approved.
Jan 6, 2020	HVAC. Mechanical & gas piping permit submitted by Ciardelli Fuel Co. Scope of work: 40' iron piping above ground. New Empire heater direct vent.
Jan 7, 2020	Gas piping inspected & passed.
Jan 27, 2020	Leo T. did final inspection at 120 Holt Road. "The finished basement is complete and inspected." Space has every appearance and can easily function as an ADU No C.O. shall be issued until matter is resolved.
Jan 27, 2020	Invoice generated by Town Clerk for \$3.798 Impact Fee



DWELLING UNIT PER INTERNATIONAL RESIDENTIAL CODE AND TOWN OF WILTON NH

PROPERTY OWNER: GALLO, SANDRA

PROPERTY LOCATION: 120 HOLT ROAD, PO BOX 119 WILTON, NH 03086

February 20, 2020

IRC DEFINITIONS CHAPTER 2

Dwelling Unit: A single unit providing complete independent living facilities for one or more persons, including provisions for living, sleeping, eating & cooking and sanitation.

Kitchen: Kitchen shall mean an area used or designated to be used for the preparation of food.

R306.2 Notes a Kitchen shall have a sink.

Bathroom: A group of fixtures consisting of a water closet, lavatory and a tub or shower. These fixtures are located together on the same floor level.

Sleeping Unit: A room or space in which people sleep which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

TOWN OF WILTON DEFINITIONS:

3.1.1-a Accessory Use. A use of a lot or building which is occasioned by and subordinate to the permitted primary use of that lot or building, and is customarily or habitually associated with it. (Adopted March 2005); (Amended March 2009)

3.1.7 Dwelling Unit. One or more living or sleeping rooms arranged for the use of one or more individuals living as a single-family housekeeping unit, with cooking, living, sanitary and sleeping facilities. (See also "Lodging Unit".)

5.1 Permitted Uses – Residential District:

A building may be erected, altered or used and a lot may be used or occupied for:

Single family and duplex family dwellings and accessory uses.

Multi-family dwellings containing three dwelling units with site plan approval by the Planning Board.

A maximum of three (3) dwelling units per lot is allowed for any new construction on Town water and sewer and a maximum of two (2) dwelling units per lot in the remainder of this district.

Only one dwelling per lot is allowed except as provided by the Cluster Development Ordinance. The number of dwelling units per building shall be determined by the density provisions of this section.

5.5 Accessory Dwelling Units. (Adopted March 2017)

This section implements the requirements of **RSA 674:72, "Accessory Dwelling Units."** In file



Land Use Department

5.5.1 Existing Dwellings. A second dwelling unit may be added to any legally existing single-family dwelling located in a zoning district where residential uses are permitted, subject to the requirements set forth below. The second dwelling unit may be created in existing space in the dwelling or in a newly constructed addition to the dwelling.

5.5.2 New Construction. A two-family dwelling may be constructed on any lot where a single-family dwelling may legally be constructed, subject to the requirements set forth below.

5.5.3 Requirements. The following requirements apply only to development which would not be permitted other than by this section.

The two dwelling units must have independent means of ingress and egress, or have ingress and egress through a common space such as a shared hallway to an exterior door.

The two dwelling units must share a common interior wall, and there must be an interior door between the two dwelling units.

At least one of the two dwelling units must be the principal residence of at least one owner of the dwelling. The two dwelling units must remain in common ownership. Transfer of either dwelling unit to condominium ownership is not permitted. Violation of the requirements of this paragraph will result in the revocation of the Certificate of Occupancy for the two-family use of the dwelling.

At least one of the two dwelling units must have no more than two bedrooms, and a living area of no more than 800 square feet.

Requirements for water supply and sewage disposal are the same as for any two-family dwelling. Addition of a second dwelling unit to an existing single-family dwelling under section 5.5.1 shall be subject to RSA 485-A:38, "Approval to Increase Load on a Sewage Disposal System."

Off-street parking shall be provided for one car for each one-bedroom dwelling unit in the dwelling, and for two cars for each dwelling unit having two or more bedrooms, and shall satisfy any setback requirements pertaining to parking in that Zoning District.

A newly constructed addition under section 5.5.1 shall satisfy the setback requirements of the zoning district.

25.5.4 Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy. (Amended March 2011)

25.10 Appeal of Impact Fee Assessment (Adopted March 2011)

A party aggrieved by a decision made by the Building Inspector or other Town official relating to an administrative decision in the assessment or collection of impact fees authorized by this Article may appeal such decision to the Zoning Board of Adjustment as provided by RSA 676:5, as amended.