

# Memo

To: Plan Commission, Village Board

Fr: Trevor Fuller, Director of Planning and Community Development

Re: ACTION RE: CONDITIONAL USE REQUEST TO ALLOW FOR A SECONDARY SUITE ON PARCEL AL-1479, LOCATED AT 226 WARREN COURT (9,932 SQ FT MEDIAN HEIGHTS LOT 1 BLK 1) – (from Plan Comm 03/28/2022)

Date: 15 April 2022

A conditional use permit has been requested by Maxwell Prange to allow a secondary suite on the property located at 226 Warren Court, Parcel Number AL-1479, and legally described as: 9,932 SQ FT MEDIAN HEIGHTS LOT 1 BLK 1. The parcel is currently zoned R1-75, which allows for a secondary suite through a conditional use permit.

Below is an exterior picture and aerial photograph of the property. The property owner intends to leave the building footprint by adding the secondary suite to the basement of the home. Guests of the secondary suite would park in the current driveway and utilize an existing door in the rear of the structure for ingress and egress.



Sections 475-1105I and 475-709K of the village ordinances require the following standards for granting a conditional use permit for a secondary suite.

*Section 475-1105I: Review criteria and standards.*

- (1) *To aid in review of and decision making on proposed conditional uses, the Plan Commission and Village Board must, at a minimum, evaluate whether the following criteria are met:*
  - a. *That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;*
  - b. *That the uses, values and enjoyment of surrounding properties for purposes already permitted in the district will be not be substantially impaired or diminished by the establishment, maintenance or operation of the proposed conditional use;*
  - c. *That establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the district;*
  - d. *That adequate utilities, access roads, drainage and other necessary improvements have been or are being provided;*

- e. *That adequate measures have been or will be taken to provide ingress and egress that will minimize on- and off-site traffic congestion; and*
  - f. *That the conditional use complies with all other applicable regulations of this chapter.*
- (2) *The review criteria and standards of this subsection are deemed reasonable and, to the extent practicable, measurable. An applicant's failure to demonstrate, by substantial evidence, that the application and all applicable requirements in this chapter and conditions established by the Village relating to the conditional use are or will be satisfied constitute grounds to deny the conditional use. At all times the burden of proof to demonstrate satisfaction of these criteria remains with the applicant.*

*Section 475-709K: Secondary suites.*

- (1) *Description. Secondary suites are accessory dwelling units contained wholly within the principal dwelling unit on the property (i.e., detached house) and shall comply with all requirements of the Wisconsin Uniform Dwelling Code.*
- (2) *Applicability. All secondary suites are subject to compliance with the regulations of this section.*
- (3) *Where allowed. Secondary suites are permitted by right on lots occupied by a detached house and require a conditional use permit per § 475-1105.*
- (4) *Creation. Secondary suites may be created by:*
  - a. *Converting existing floor area within the interior of a detached house (e.g., attic or basement) to a secondary suite;*
  - b. *Adding floor area to an existing detached house to accommodate a secondary suite; or*
  - c. *Constructing a new detached house that includes a secondary suite within the principal building.*
- (5) *Zoning district regulations. Secondary suites are subject to all applicable regulations of the zoning district in which they are located, unless otherwise expressly stated in this chapter.*
- (6) *Number. No more than one secondary suite is permitted on a single lot. Secondary suites are prohibited on lots occupied by a backyard cottage. (See § 475-205.)*
- (7) *Size. The floor area of a secondary suite may not exceed 25% of the floor area of the principal dwelling unit (excluding any attached garage).*
- (8) *Parking. No additional parking is required for a secondary suite. Any provided parking is subject to the same regulations that apply to the principal dwelling unit.*
- (9) *Location of entrances. Only one entrance to a detached house containing a secondary suite may be located on a facade that faces a street, unless the detached house had an additional street-facing entrance before the secondary suite was created.*
- (10) *Owner occupancy and rental. At least one of the dwelling units on a lot occupied by a secondary suite must be occupied by an owner with at least a 50% interest in the subject property. The owner must occupy either the principal dwelling unit or the secondary suite as their permanent residence for a majority of the time each calendar year.*
- (11) *Deed restriction. Prior to issuance of a permit establishing a secondary suite, the owner of the subject property must file an affidavit with the Planning and Zoning Administrator and record a deed restriction stating that the owners of the subject property agree 1) to comply with the owner occupancy, rental and other applicable restrictions of this chapter; and 2) to notify all prospective purchasers of such requirements. The deed restriction runs with the land, is binding upon the property owner, their heirs and assigns, and upon any parties subsequently acquiring any right, title, or interest in the property. The affidavit and deed restriction must be in a form prescribed by the Planning and Zoning Administrator. Proof of deed restriction recording must be provided to the Planning and Zoning Administrator before any building permits are issued for the secondary suite.*

Staff has reviewed the proposed application and conducted an onsite inspection of the project. Staff recommends approval, assuming the deed restriction requirement is met before occupancy permit is issued.

Plan Commission reviewed the petition at the March 28, 2022 meeting and made a recommendation to approve a conditional use permit for the proposed secondary suite at 226 Warren Court.

**The Village Board is asked whether or not to approve the conditional use permit for 226 Warren Court.**