

Zimbra

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**66 White St. Bathroom**

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**From :** Stephen Shaw <stephen.shaw@saratoga-springs.org>

Thu, Feb 16, 2017 11:21 AM

**Subject :** 66 White St. Bathroom

**To :** Meg Kelly <meg.kelly@saratoga-springs.org>

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Meg,

There has been much discussion about the right of a homeowner to put a bathroom into an accessory structure on their property. I would maintain that the relevant points of this issue hinge on two things, HABITABLE/LIVING SPACE and USE.

An ACCESSORY STRUCTURE (RESIDENTIAL) is defined in our City Zoning Ordinance as "an unfinished and uninhabitable space in a detached structure" which includes private garages. There is no definition in our City Zoning Ordinance for finished or unfinished space. Whereas a finished condition for a garage bay might be untaped/unpainted sheetrock, a three season sunroom might not be considered finished without taping, painting and insulation. Neither of these situations even addresses the question of conditioning. Therefore I believe the consideration of finished space to be situational and subject to my interpretation.

The Zoning Ordinance is not silent however, on habitable living space. HABITABLE/LIVING SPACE is defined as "a space in a

building suitable for living, sleeping, cooking, bathing, washing and sanitation purposes." The key word in this definition is the word "and" which means that space is not considered habitable living space without all of those components. No single or limited combination of these components would constitute habitable space.

Also crucial in the determination for the allowance of a bathroom is the definition of USE. It is clear that a bathroom falls under the definition of USE- ACCESSORY in our City Zoning Ordinance as "a use customarily intended to be incidental and clearly subordinate to the principal uses or buildings on a lot." As I see no inclusion or exclusion of a bathroom in any structure defined in our ordinance, I can only presume that a bathroom is allowed anywhere that it is deemed to be an appropriate accessory use to an allowable principal or permitted use.

Furthermore, the question of use is significant in the determination because the addition of a bathroom does not change the use of a structure. If the addition were to cause a use change which effected the allowed density or character of a neighborhood, or was not deemed appropriate as an accessory use, then it would not be allowed.

In the case of 66 White St., the private garage is a permitted use and therefore a bathroom would be allowed at the garage bay level as an accessory use. It is wholly reasonable and logical that a bathroom in an accessory structure such as a garage would be convenient if not necessary for anyone who would be spending a significant amount of time in the garage bay or yard. However, I would not find it reasonable for such a use at the second floor of this structure as it is not logical for a bathroom to be an accessory use to an uninhabitable, unconditioned, unfinished storage space. If this space had the appropriate approvals for such a use then it would be logical to allow one.

I hope this determination is helpful in clearing up any confusion about the inclusion of bathrooms in an accessory building. There are still parts which are open to interpretation and those would be determined by the Zoning & Building Inspector on a case by case basis.

Steve

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