

“Family” Definitions & Shared Housing for Older Americans

by Patricia Baron Pollak

Low-density residential zoning has supported the “American dream” of each family having its own home. It sets aside parcels of land, safe from industrial or commercial competition, so that families can afford to build those homes. In so doing, however, many zoning ordinances contain a definition of what is considered the typical family. These “family” definitions, often written fifteen or twenty years ago, can have major impacts on housing options. One unfortunate result — which this article will focus on — is that shared housing for older residents is frequently precluded.

Not long ago it was fairly common for older people to live together with their adult children and their grandchildren in extended families. As a result of a number of factors, the extended family living arrangement is no longer common. We now have relatively smaller single family homes, a far more mobile labor force, and increased financial independence for our elders in part due to Social Security and private pension plans.

Yet, many of today’s older population of both homeowners and renters feel severe economic pressure and social isolation as a result of their housing situation. More than eight million elder Americans (30%) live alone, including a majority of the oldest segment of the population (52% of those over 85) and a majority of the poor elderly (51%). And, the percentage of income spent on housing is higher for older households than it is for younger households. In addition, people are living longer and remaining healthier today than they ever have before. Without family, and oftentimes friends, close by, many feel increasingly isolated from the traditional in-


formal social supports they used to enjoy.


Although senior citizen housing and retirement communities have been successful and popular, they simply are not available for many older Americans. Moreover, the current economic climate suggests that significant government funding for new construction of affordable senior citizen units cannot be assured. In addition, although some older people welcome a new and separate life-style, and some

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need special nursing care, most are capable of leading independent lives and do not want to be removed from their homes and neighborhoods.

SHARED HOUSING

Shared housing is one of a number of innovative uses communities across the country are considering to make efficient use of the existing housing stock. A shared home can be either a “match-up”  p. 14 arrangement or a “shared residence.”

 p. 14 Along with accessory apartments and elder cottages, the primary impetus for considering these options comes from the increasing need for community-based housing for older residents. Among the benefits of

shared housing are: a reduction in housing expenses, increasing the disposable income available for other necessities; an increased ability to remain in the community; greater companionship and security; a sense of well-being that comes from an independent life-style; and the ability to live in an area which is not an “age-ghetto.”

Shared housing also benefits the community. Neighborhoods are more stable when long term residents can stay in their homes. At the same time, shared housing results in a reduced demand for social services, including nursing homes and other types of community-provided support services. A benefit both for the family and the community is a more efficient utilization of the existing housing stock.

This is especially true in older neighborhoods having large single family homes that are difficult to maintain for today’s single family household. Shared housing can result in better property maintenance. As a result of reduced housing expenses, householders can better afford to maintain property and have necessary repairs made. The community remains physically attractive and the value of its housing stock is enhanced.

ZONING FOR TODAY’S FAMILY

Reconsideration of the manner in which zoning ordinances allow our housing stock to be used is critical if we are to provide affordable and appropriate housing for our aging population. A zoning definition of “family” requiring a legal or biological relationship and limiting the number of unrelated individuals from sharing a single-family dwelling is often used to prohibit the establishment of shared residences. For example, a zoning defini-

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tion of "family" such as:

Any number of individuals, related by blood, marriage or adoption (or not more than 3 individuals who are not so related), living together as a single housekeeping unit

would prevent a household of four or five unrelated elderly people from sharing a single family home — even though meals were eaten together and the group functioned as a single household. Yet, the same definition of "family" would not prohibit an extended family of any size from living in that same house. It is ironic that many of the new "shared" families have so much in common with traditional extended families, yet fail to satisfy "family" definitions in the zoning ordinance.

The enforcement of family zoning restrictions varies from community to community. It is rare for a code enforcement officer to enforce a restrictive definition to prevent an unmarried couple from cohabiting, but several unrelated people living together seems to be a different matter.

Zoning ordinances, however, can be changed when there is sufficient interest. Change can come through locally initiated revision or amendment to the zoning ordinance or as the result of a court mandate.

 p. 15 Communities should take the initiative to re-examine their zoning code's definition of family, and ask whether it unnecessarily limits housing options, especially for older residents.

Shared housing can be accommodated without changing the character of existing residential neighborhoods. As already noted, by allowing long-term residents to remain in their communities, and by making home maintenance more affordable, shared housing can help stabilize neighborhoods. To alleviate neighborhood concerns, communities can require that shared residences not be commercial operations. In addition, spacing requirements (such as limiting the number of shared residences within a specified distance of each other) may be appropriate in some situations. Similarly, special use permits or

site plan review may be used in those communities wishing to maintain control over the establishment of shared housing. While all these do impose some burdens, they are far preferable to the complete prohibition of shared housing.

Obviously, shared housing will not appeal to all older residents. For some, however, it will be a desirable alternative. Relaxing restrictive family definitions is one small way that communities can make more affordable housing options available.

SUMMING UP:

New concepts about the use of the housing stock for the elderly, and for others, offer several features which are important to communities today: they encourage intergenerational neighborhoods where older people can "age-in-place;" they rely on the efforts of families, neighbors, and community organizations, and they make efficient use of the existing housing stock to create appropriate and affordable housing at a fraction of the cost of new construction.

Today's family has changed. Even those of us who do live in a "traditional" family are likely to have relatives, neighbors, or friends who do not. Alternative uses of the existing single family housing stock, including shared housing, have great potential to enrich our communities. Clearly their acceptance requires us to question whether the tradition of the nuclear family or the reality of today's family is more important? Can we — and do we — want to support one at the cost of the other?

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Glossary

- "Match-Up" home sharing is a way for two or three people to share both the space and expense of one home. A "home-provider" with room to spare in his or her home and a "home seeker" who wants to share a home are matched, usually through a third-party agency.

- "Shared residence" is a home in which a group of unrelated people live together in a family-like atmosphere. The number of people in a shared residence varies depending upon the size of the house. Usually about five to eight people live together in this new-style "family." In many shared residences, residents have their own bedrooms. Meals, chores, and sometimes the management of the house, are shared responsibilities. Shared residences are not nursing homes, and do not provide medical care or assistance with the functions of daily living. A shared residence can be set up privately or by a non-profit organization.



Some Observations on the Enforcement of Family Zoning Regulations

By Ken Lerner, Assistant Editor

Enforcing zoning provisions that regulate family living situations is often unworkable, or, at the very least, a headache for planning officials. Attempting to sort out the personal relationships of occupants is highly intrusive and can become discriminatory. An unmarried couple living together has become acceptable in most communities, as Patricia Pollak notes. Neighbors, however, can use family definitions in zoning ordinances to foster their own moral attitudes, and bar from their neighborhood a shared living arrangement that they find personally offensive.

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Such enforcement and resulting litigation can be time consuming and expensive for the community. This leaves a dilemma for a jurisdiction: does it have a definition of family that is limited to blood and marriage relationships to protect against groups of individuals overloading a neighborhood with vehicles and noise, or should zoning not be involved in considering personal relationships in limiting residential occupancy of a structure? If you have any thoughts or experiences on these matters, we would like to hear from you.

[Editor's Note: Ken Lerner has had extensive experience in zoning administration and enforcement, both in his current position as Assistant Director of the Burlington, Vermont, Planning Department, and previously with the Clackamas County, Oregon, Planning Department].

The Judicial Response to "Family" Definitions

In 1974, the United States Supreme Court, in *Village of Belle Terre v Boraas*, 416 U.S. 1 (1974), upheld a definition of family that had been used to prohibit a group of six college students from living together in a single family district. While courts in some states have followed the *Belle Terre* decision, others have not — rejecting zoning limitations on occupancy of single-family housing to legal and/or biologically related persons. Courts choosing not to follow *Belle Terre* have relied on either state constitutional guarantees of privacy and due process, or on the limitations of their state's zoning enabling legislation.

New York's highest court, for example, concluded that "restricting occupancy of single-family housing based generally on the biological or legal relationships between its inhabitants bears no reasonable relationship to the goals of reducing parking and traffic problems, controlling population density and preventing noise and disturbance Their achievement depends not upon the biological or legal relations between the occupants of a house but generally

upon the size of the dwelling and the lot and the number of its occupants This ordinance, by limiting occupancy of single-family homes to persons related by blood, marriage or adoption or to only two unrelated persons of a certain age, excludes many households who pose no threat to the goal of preserving the character of the traditional single-family neighborhood, ... and thus fails the rational relationship test." *McMinn v Town of Oyster Bay*, 488 N.E. 2d 1240 (1985).



Resources

Shared Living Residences: A Step-by-Step Development Guide and Community Matters (Cornell University 1985), and the videotape *Housing Options for Seniors Today* (Cornell Media Services 1989), by Patricia Pollak, can be ordered from Cornell Cooperative Extension, Housing Policy Programs, Dept. of Consumer Economics & Housing, Ithaca, NY 14853; (607) 255-2577.

Community-Based Housing for the Elderly: A Zoning Guide for Planners and Municipal Officials (APA Planning Advisory Service Rept. No. 420, 1989), also by Patricia Pollak, can be ordered from the American Planning Association, (312) 955-9100.

Two useful publications available at no charge from the American Association of Retired Persons are: *Housing Options for Older Americans* (1984) and *Key Issues for Shared Residences for the Older People* (due out early 1992). AARP Publications, 601 E St., NW, Washington, DC 20049.