

# FW: Basement Apartments

Ross Seavey <rseavey@tisburyma.gov>

Tue 3/23/2021 1:41 PM

To: Alex Elvin <elvin@mvcommission.org>;

See below regarding the wrinkle I mentioned regarding the basement use at 75 Main.

We can discuss this over the phone, but this illustrates my hesitancy of mixing the building code with zoning bylaws. While they share some elements, one does not dictate the outcome of another. The Planning Board, through the Special Permit process can categorize the floors as they wish as long as they act reasonably and support their decision with findings.

Thanks,  
Ross

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**From:** Ross Seavey  
**Sent:** Tuesday, March 23, 2021 1:36 PM  
**To:** samdunn@rcn.com  
**Cc:** Pat Harris <pharris@tisburyma.gov>  
**Subject:** Basement Apartments

Hi Sam,

I'm following up on the discussion about the basement of the main bank building at 75 Main Street. With all the conversation about first floor residential and how the building code would categorize the levels of the structure, other provisions of 05.12.01 are being overlooked.

.01 Private dwelling use and apartments provided that:

- no private dwelling or apartment use sited in a business structure shall be permitted on the first (1st) floor of any structure where such use did not exist during the proceeding two (2) years;
- there are two separate exits to the outside;
- each sleeping room has at least one window on each of two different outside walls;
- the Board of Health and the Fire Department approve; such approval may be conditional;
- hazardous materials and commercial inventories of foodstuffs are not kept on a floor, or floor level used for habitation purposes;
- commercial processes creating hazardous (toxic, flammable or explosive) vapors shall not take place in any structure, or

on any lot where there is a habitation use;

**- all commercial uses shall occur at a floor, or level, below habitation uses.**

Since the Main Street side of the main bank building would most likely be considered the first floor, it must have a commercial use to comply with bullet one of 05.12.01. If you put apartments in the basement of this building, the commercial use on the first floor would now be above the habitation use, thus violating the last bullet of 05.12.01.

Sorry to be the bearer of bad news but I think you will need to revisit the layout in this building based on the final bullet of 05.12.01.

Please let us know if you have any questions.

Thanks,

Ross

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