

Overview

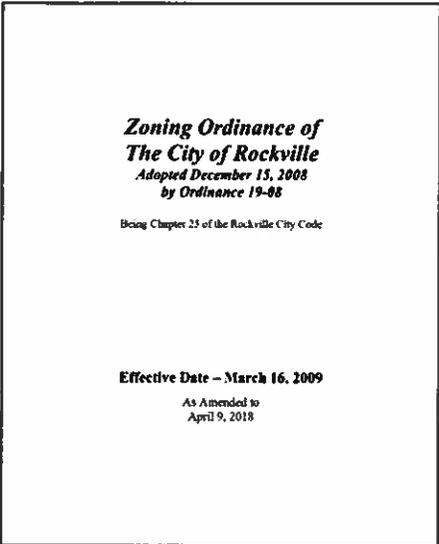
Case: TXT2019-00254, to revise the development standards for accessory buildings in residential zones, and for accessory buildings that are located in both the MXT (Mixed-Use Transition) and HD (Historic District) zones.

Location: City-Wide

Staff: Nicole Walters
Planning and Development Services
240-314-8215
nwalters@rockvillemd.gov

Applicant: Mayor and Council

Filing Date: April 9, 2019



Executive Summary

The proposed text amendment proposes revisions to the development standards for accessory buildings in residential zones, and for accessory buildings located in both the MXT (Mixed-Use Transition) and HD (Historic District) zones (see Attachment 1).

The Mayor and Council authorized the filing of the text amendment on April 8, 2019. In accordance with the Zoning Ordinance, the Planning Commission may review the proposed amendment and provide a recommendation to the Mayor and Council. The Mayor and Council public hearing is scheduled for July 15, 2019.

At the June 12, 2019 meeting, the Planning Commission considered the recommended changes to the regulations for accessory buildings. Based on the feedback at that meeting, the Planning Commission needed more information from staff prior to making a recommendation. Specifically, several members needed information on the effects of this text amendment and the related Zoning Text Amendment TXT2019-00255, which addresses accessory apartments and accessory dwelling units (ADUs) on single-family residential lots. The July 10th Planning Commission work session will provide additional information regarding recommended changes, the reason for them, and provide staff feedback/comments.

The changes proposed are intended to do several things:

- Address concerns expressed by the public on the size and height limitations for a single accessory building, which many felt were restrictive;

- Reduce or simplify the number of calculations required for accessory buildings;
- Include accessory building limitations for the larger lot zones that do not presently exist;
- Impose new standards for accessory buildings on properties in the both MXT and HD zones to approximate those of residential properties in order to maintain their residential character, as most were initially built as single-family dwellings; and
- Allow for a second story on accessory buildings where it can be determined that a second story would not be contrary to the public interest.

The related Text Amendment Application (TXT2019-00255) associated with Accessory Dwelling Units (ADUs) has been delayed to prepare drawings and images that illustrate the proposed ordinance. The delay is also needed to provide time for staff to gather feedback on the proposed changes from neighborhoods organizations and residents.

Recommendation

Staff recommends that the Planning Commission receive a presentation by staff and discuss the text amendment in preparation for a recommendation at its August 7 meeting following receiving the feedback from the July 15th Public Hearing by the Mayor and Council.

Background

At its October 29, 2018 work session, the Mayor and Council considered possible changes to the regulations for accessory buildings, accessory apartments, and accessory dwelling units. Following the discussion, the Mayor and Council directed staff to develop proposed changes that would provide more opportunities for accessory apartments and separate accessory dwelling units on existing single-family lots. In addition, the Mayor and Council wanted to consider more flexibility in the size of accessory buildings (i.e., garages) for single family homes based on public feedback. This text amendment is intended to address accessory buildings in the residential zones and on properties in both the MXT and Historic District zones. The text amendment associated with accessory dwelling units has been delayed to allow time to have drawings and images prepared to illustrate the proposed ordinance and to provide time for staff to gather feedback from neighborhoods throughout Rockville.

The Mayor and Council indicated at the time that these text amendments were authorized that the primary intent was to help increase the range of affordable housing options in the city. To that end, accessory apartments would be allowed as a conditional use (administrative approval), rather than via the expensive and time-consuming process of acquiring a special exception. Free-standing ADUs would also be allowed as conditional uses and could be solely residential or combined with another accessory use such as a garage.

Accessory Apartment and ADU Text Amendment

Although not the subject of this text amendment, information on the accessory apartment and ADU text amendment is provided as background. The size limit on accessory buildings in residential zones will also limit the size of an ADU. Staff believes it is important to understand this connection; however, the text amendment for accessory buildings in residential zones can separately move ahead of the ADU text amendment.

The associated Zoning Text Amendment TXT2019-00255 proposes to allow accessory apartments and detached accessory dwelling units as conditional uses in the residential zones. In the case of accessory apartments, they must be contained within or as an addition to the main dwelling, so this aspect of the proposed text amendment is not related to the residential accessory building provisions. The text amendment proposes to allow accessory apartments as a conditional use rather than by special exception approval. A conditional use is permitted by right, provided that all specific conditions that address potential impacts are met.

The text amendment also proposes to allow free-standing accessory dwelling units (ADUs) within accessory buildings that are not connected to the main dwelling. The dimensional standards for these units must comply with the regulations for any other accessory building. ADUs are also proposed to be permitted as a conditional use, provided that specific impacts are addressed through such things as design, parking, size, height, and setbacks requirements. The following conditions must be met in order to construct an ADU:

1. The design of the building must be compatible with the architectural style of the main dwelling and generally compatible with the design and style of single unit detached dwellings in the immediate neighborhood.
2. The building must be permanently attached to the ground.
3. The maximum gross floor area of an accessory dwelling unit must be less than 50% of the total floor area of the main building.
4. There must be two off-street parking spaces on the lot. This requirement may be waived by the Chief of Zoning if the applicant demonstrates that sufficient on-street parking capacity is provided in the same block where the property is located.
5. An accessory dwelling unit is prohibited on a lot that has an accessory apartment.
6. The owner of the lot on which the accessory dwelling unit is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12-month period.

In summary, ADUs must comply with the design requirements for other accessory buildings, be compatible with the main dwelling and surrounding houses, and be permanently attached to the ground. Their floor area will be limited by the footprint limit for accessory buildings and/or the gross floor area of the main house. The proposal to allow accessory buildings to be as tall as 20 feet is related to the possibility of adding a full second story to an accessory building such as a garage to accommodate an ADU. This additional height must be approved by the Board of Appeals to ensure compatibility with adjacent existing homes.

History of Accessory Building Regulation in Rockville

Standards for accessory buildings were included in the 1957 Zoning Ordinance. At that time, they were required to be located in the rear yard.

In 1988, the Zoning Ordinance was revised to limit accessory building floor area to 10 percent of the minimum lot area of each residential zone. This meant that, in the R-60 Zone, the total

amount of accessory building floor area was limited to 600 square feet, as the minimum lot area is 6,000 square feet.

In 2005, the code was revised to further limit the size of accessory buildings, adding a different percentage limitation related to the zone of the property. The limit was still tied to the minimum lot area of the zone, but with 10 percent allowed in the R-40 and R-60 zones, 9 percent in the R-75 Zone, and 8 percent in the R-90 Zones. The larger lot zones remained 10 percent of the minimum lot area in the zone.

The 2005 revision also included a change to the height measurement provisions. Buildings taller than 12 feet had to be set back two feet for each additional foot of height, up to the limit of 15 feet, measured to the mid-point of the gable. The amendment also included a “grandfather” provision allowing accessory buildings installed under previous standards to be conforming, allowing them to be repaired or replaced per the standards in effect at the time they were built.

When the comprehensive revisions to the Zoning Ordinance were adopted in 2008, further limitations were imposed on accessory buildings. The percentage of floor area to minimum lot area was retained, but the regulations related to height were substantially changed. Height was then measured to the peak of the roof, rather than the gable mid-point. Height at the minimum setback of 3 feet was limited to 12 feet measured to the peak, with an additional 3 feet of setback for each additional foot of height, up to a maximum of 15 feet. Also, any single accessory building became limited to a maximum of 500 square feet of gross floor area, with accessory buildings limited to one story.

The chart below is a summary of the changes indicated in the previous paragraphs. The chart captures the incremental changes that have been made to the accessory building standards over time.

| Accessory Buildings Standards - Changes made over the years | | | | |
|---|--|---|---------------------------------|--|
| | 1988 Code Regulations | 2005 Code Regulations | 2008 Code Regulations (Current) | Proposed Code Revisions |
| Lot Coverage Percentage | Accessory Building were limited to 10% of the minimum lot area of each residential zone. | Accessory Buildings were limited to 10% of the minimum lot area but with the 10% in the R-40 and R-60 zones, 8% in the R-75 zone and 9% in the R-90 zone. The larger lots zones remained 10% of the minimum lot area in the zone. | Same as 2005 | Same as current code, but accessory buildings in the R-150 zone limited to 6%. The R-200 and R-400 zones limited to 1,000 square foot footprint. |

| | | | | |
|-----------------------------|----------------------------|---|--|--|
| Height Measurement | 15 feet to gable mid-point | -15 feet to the midpoint of the gable. | Height Measurement Change - Measured to the peak of the roof. | Height Measurement Change - Measurement to the midpoint of the gable. |
| Setback Requirement | 3 feet | 3 feet. Setbacks for heights over 12' had to be setback 2' for each additional foot of height up to 15' | 3 feet. Setback - heights over 12' to be setback 3' for each additional foot of height up to 15' | Setbacks for height over 12' to be setback 2' for each additional foot of height up to 15' |
| Gross Floor Area Limitation | None | None | Single accessory building limited to 500-square foot limitation | Eliminate the 500-square foot gross area single accessory building limitation |
| Grandfather provision | None | Added | Deleted | Reinserted |
| Other | | | | Height Waiver to allow for heights up to 20' if approved by the BOA |

Accessory Building Standards in Other Jurisdictions

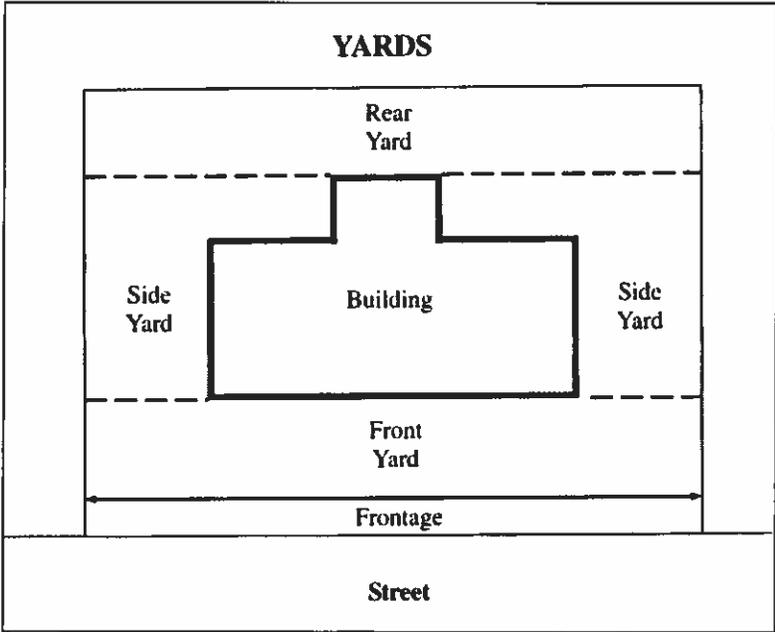
Staff has reviewed the accessory building standards in adjacent jurisdictions, including Montgomery County, the City of Gaithersburg, and the District of Columbia (see chart below) to compare the standards for accessory buildings with the standards for Rockville. The accessory buildings standards in these jurisdictions are not as restrictive as the current standards in Rockville, particularly regarding height and floor area.

| | Location | Side Yard Setback | Rear Yard Setback | Max. Height | Yard Coverage | Other |
|--------------------------|-------------------|-------------------|--|---|--|--|
| Washington, DC | Side or rear yard | 10' | If adjoining an alley, 12' from the alley centerline | 2 stories/20' to roof peak | 30% of rear yard or 450 sq. ft., whichever is greater | Must be subordinate to and secondary in size to main building |
| Montgomery County | Rear yard | 5' | 5' | 20' to mid-point of roof. If height is greater than 15' setback must be increased by 2' for each additional foot | 50% of footprint of main building or 600 sq. ft., whichever is greater | If a wall exceeds 24' long, setback must be increased by 2' for each added 2'. |

| | | | | | | |
|---------------------|-----------|---|---|------------|--------------------------------|---|
| | | | | of height. | | |
| Gaithersburg | Rear yard | Less than 144 sq. ft., 3' setback. Greater than 144 sq. ft., 10' setback | Less than 144 sq. ft., 3' setback. Greater than 144 sq. ft., 10' setback | 15' | 50% of main building footprint | Accessory garages must be set back 10' from lot line. May be connected to main house with a breezeway. Limited to 50% of main house footprint or 575 sq. ft., whichever is greater. Height is limited to 15' |

Current Requirements

The development standards in Rockville’s residential zones include minimum lot area and lot width, minimum front, side and rear yard setbacks, maximum height limitations, maximum lot coverage limitations, and maximum front yard impervious area, among others. These are delineated in Article 10 of the Zoning Ordinance, and are different for each residential zone. The development standards for accessory buildings are found in Article 9.



Per Article 3 in the Zoning Ordinance, a “Building, Accessory,” is a building subordinate to, and located on the same record lot with a main building, the use of which is clearly incidental to that of the main building or to the use of that land, and which is not attached by any part of a common wall or common roof to the main building.

Accessory buildings include sheds, garages, small open structures such as gazebos, swimming pools, and potentially accessory dwelling units (if and when allowed). Accessory buildings must be in the rear yard.

Section 25.03.02 defines “rear yard” as:

The open space extending across the full width of the lot between the rear line of the lot and the nearest of the building porch, or project thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the point. Where the rear lot line is less than 10 feet (10) long or if the lot comes to a point in the rear, the depth of the rear is measured to an assumed rear lot line, as defined under lot line, rear.

The regulations for accessory buildings in residential zones are found in Sec. 25.09.03 of the Zoning Ordinance. For accessory buildings in the residential zones (R-40, R-60, R-75, R-90, R-150, R-200, R-400 zones), the code specifies the following:

- Accessory buildings must be located in the rear yard
- Accessory buildings are limited to one story and 12 feet in height (measured to the roof peak from the finished grade at the front of the building)
- Accessory buildings have a minimum setback of three feet.
- Accessory buildings have an additional setback requirement for structures that exceed the 12-foot height limitation up to the maximum of 15 feet (an additional three feet in setback for each additional foot in height).
- Accessory buildings have a maximum rear yard building coverage based on zone of the property is:
 - 15% for the R-150, R-400 zones
 - 25% for the R-40, R-60, R-75, R-90, and R-200 zones

Since the adoption of the Zoning Ordinance in 2008, staff have received complaints about the maximum floor area limitation of a single accessory building being only large enough to construct a small two-car garage. Four variances have been applied for over the years to exceed this limitation, and all have been approved by the Board of Appeals. As a result, the Board has recommended that the square footage and the height limitations be changed. A number of property owners have modified their plans to comply with the requirements.

Recommended Changes:

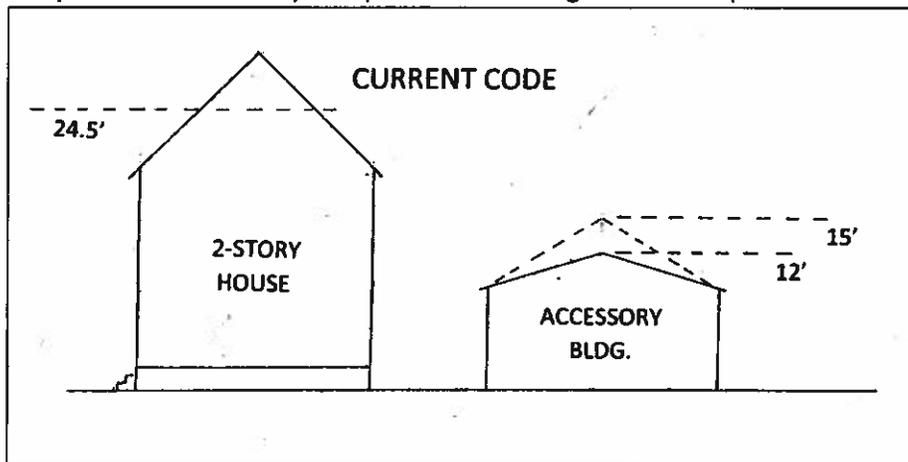
The following describes staff’s recommended changes and reasoning by Zoning Ordinance section, beginning with Section 25.09.03, “Accessory Buildings and Structures.” The proposed

text which contains the precise wording is attached.

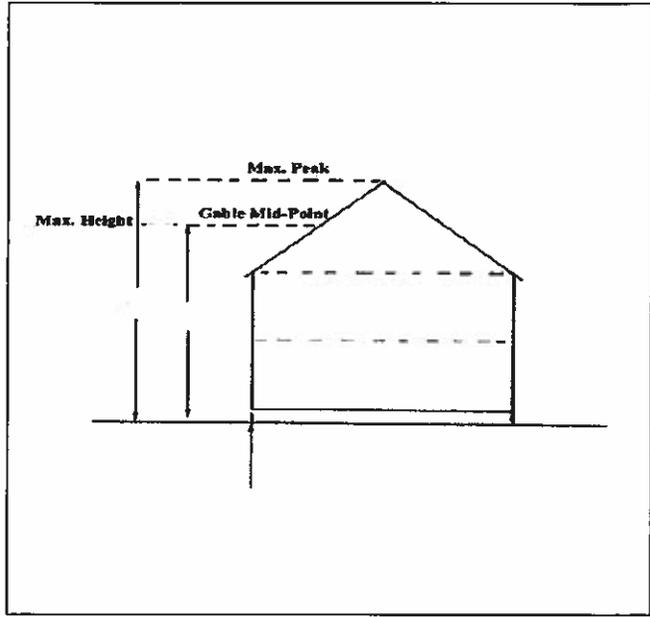
Subsection 1: Residential Accessory building and structures development standards table:

Delete the rear lot coverage limitation for accessory buildings: The amendment will delete the maximum rear lot coverage limitation for accessory buildings. At present, residential properties are subject to an overall lot coverage limitation based on the residential zone, and a rear lot coverage limitation for accessory buildings, also based on the zone. This latter calculation can be complex for the applicant to determine compliance, and has very little effect on the size of the accessory building in most cases. To simplify compliance for applicants as well as for staff, the text amendment proposes to retain the overall lot coverage limitation that applies to all roofed structures in each zone, but to eliminate the maximum rear lot coverage requirement. Given the limitations on overall lot coverage as well as the limitation on the size of accessory buildings, there does not seem to be a reason for a third limitation for regulating accessory buildings.

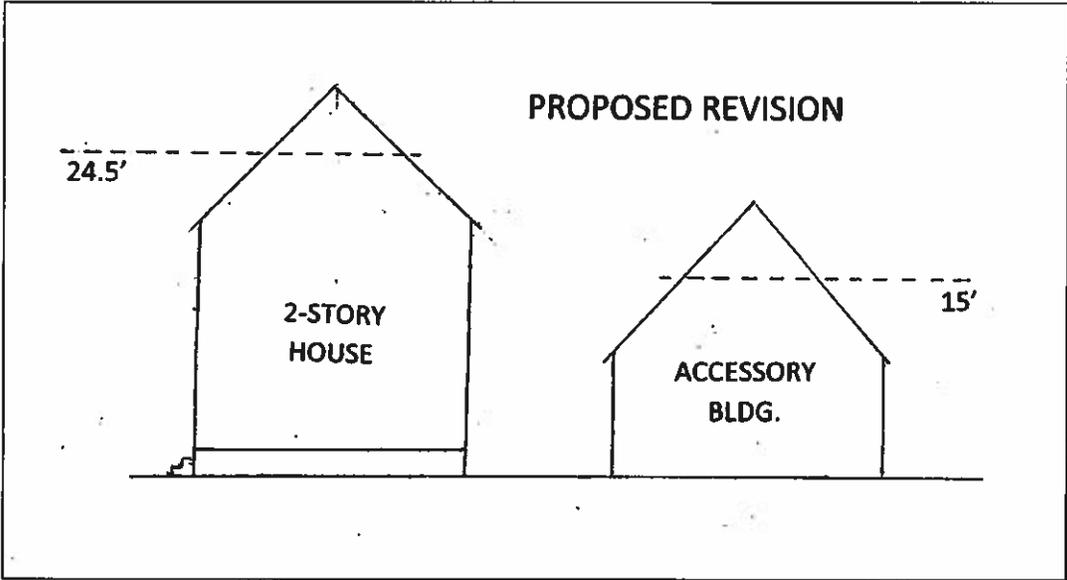
Modify how the height of accessory buildings is measured: Currently, the height of an accessory building is measured from the finished grade at the front of the building to the peak of the roof. The amendment proposes to measure the height from the finished grade at the front of the accessory building to the mid-point of the gable, hip, or mansard roof. Prior to 2008, the height of accessory buildings was measured in this way. Changing the measurement point from the peak to the mid-point is likely to increase the possible height by 2-3 feet. However, the height limit will still be significantly less than the maximum allowable height of the principal structure on the property, and also will allow for greater roof pitch of an accessory building. This provides for a potentially more aesthetically compatible roof design. See examples below:



Measurement Point to the Peak



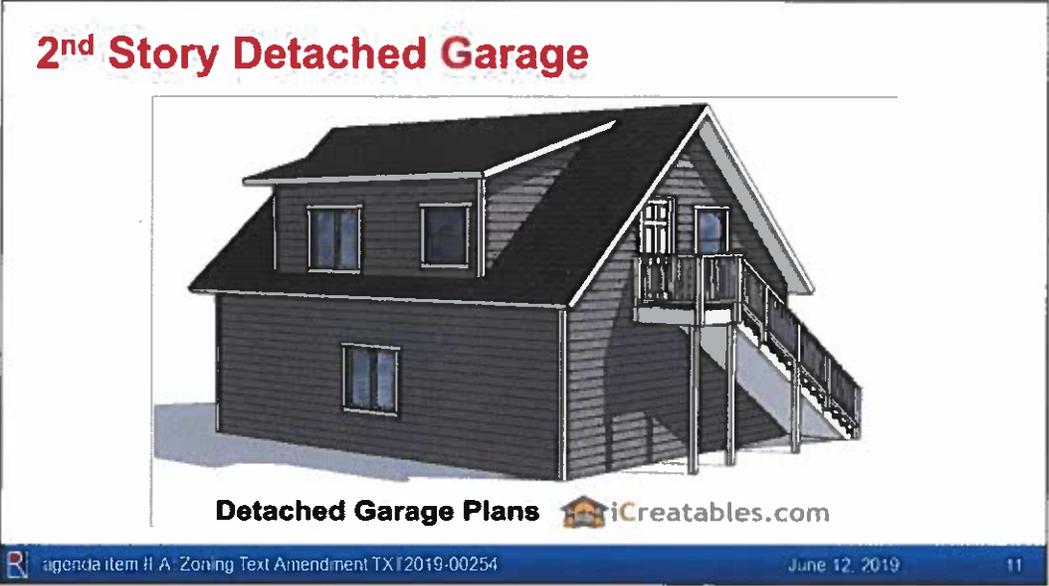
Measurement Point to the Peak/Midpoint



Height Measurement of the Accessory Building to the Midpoint of the Roof

Subsection 2, Residential accessory buildings:

Delete the limitation on stories: The amendment proposes to remove the one-story height limitation to allow for an additional story. This would allow for a half-story with a 15-foot tall accessory building. It will also potentially allow for a full second story for accessory buildings, if the Board of Appeals grants the increase in height up to 20 feet as proposed in this amendment. See example below:



Subsection 2(a), Accessory Buildings and Structures Greater than 12' High:

Modify the additional setback required for accessory buildings taller than 12 feet: Staff has found that changing the measurement point from the peak to the mid-point between the eave and the gable would likely increase the maximum height of the building by approximately 2-3 feet. Increasing the height of an accessory building up to 15 feet requires additional setback, and therefore the proposed amendment includes an additional setback of two feet per each additional foot of height, up to 15 feet, as was the case prior to the 2008 comprehensive revisions. The intent of having to provide additional setbacks when the height is increased is help reduce the possible impact on adjacent properties from large buildings at the minimum setback.

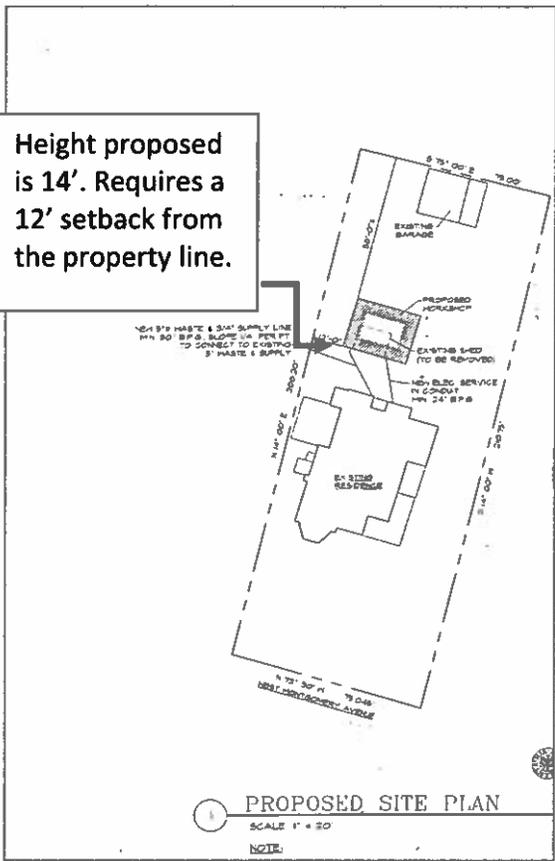
Current Accessory Building Setbacks –

- Height to 12' = 3' setback required
- Height 12'-13' = 6' setback required
- Height 13'-14' = 9' setback required
- Height 14'-15' = 12' setback required

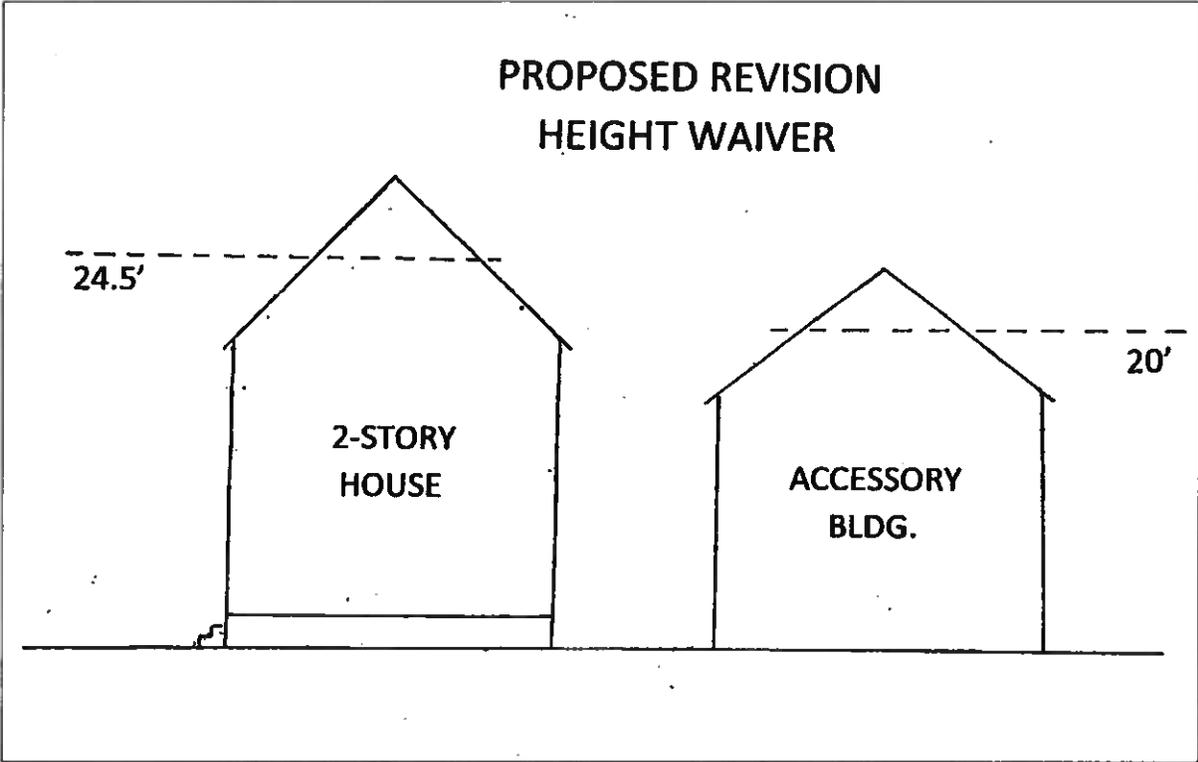
Proposed Accessory Building Setbacks – buildings and structures must be set back 2' for each additional foot of height over 12', up to 15'.

- Height to 12' = 3' setback required
- Height 12'-13' = 5' setback required
- Height 13'-14' = 7' setback required
- Height 14'-15" = 9' setback required

The example below depicts set back required for buildings greater than 12' in height.



Increase the potential height of accessory buildings up to 20 feet: As mentioned above, the text amendment is being proposed to allow an accessory building height up to 20 feet. The additional height would allow for an additional story if found appropriate for a property and is determined to be compatible with the neighborhood. This extra height is being proposed to aid in accommodating a second-story ADU, if that concept is approved under pending text amendment TXT2019-00255, or other usable space. Staff recommends a waiver provision that gives the authority to the Board of Appeals to grant the additional height, up to 20 feet, if the waiver is found by the Board to not be contrary to the public interest. Staff recommends that an additional criteria be added so that a new accessory building cannot exceed the height of the main dwelling.



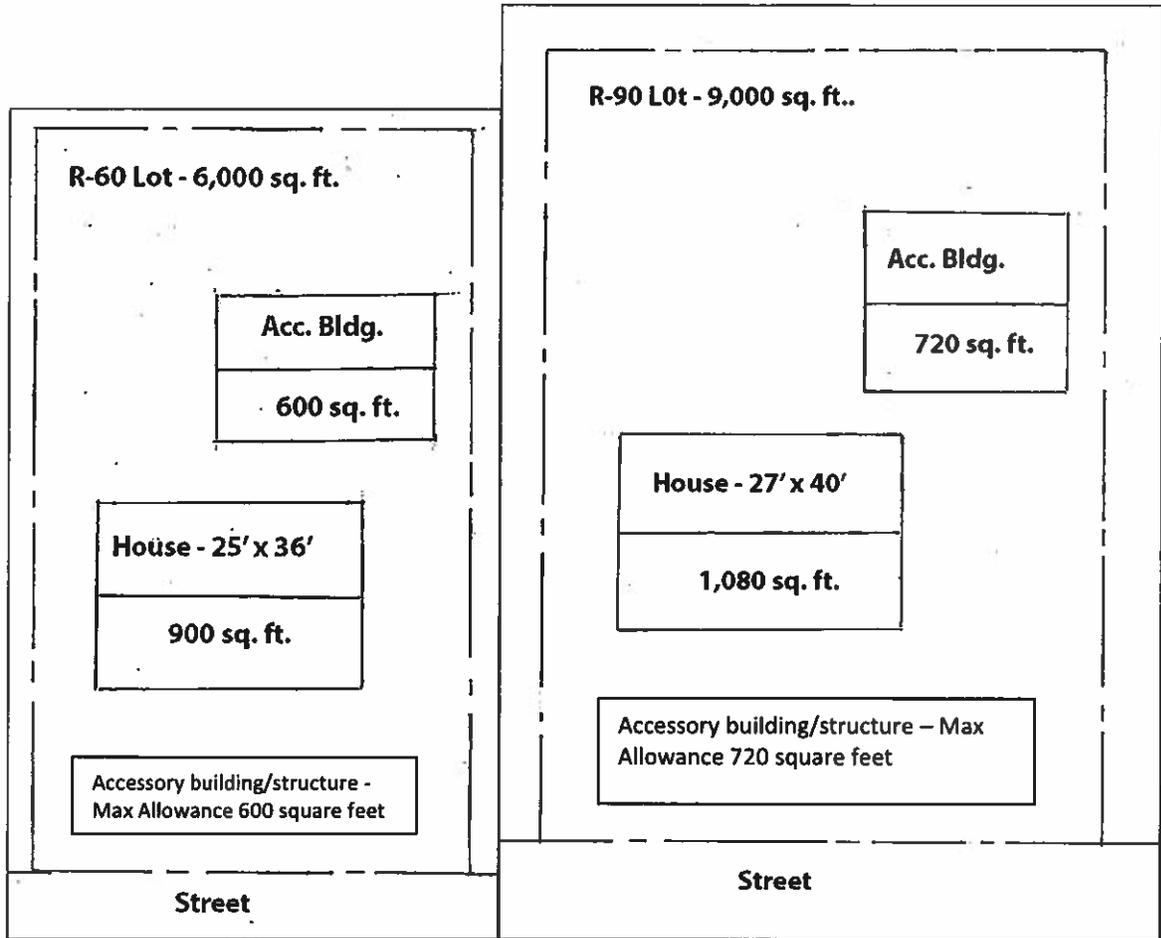
20' Height Waiver Example if Approved the Board of Appeals

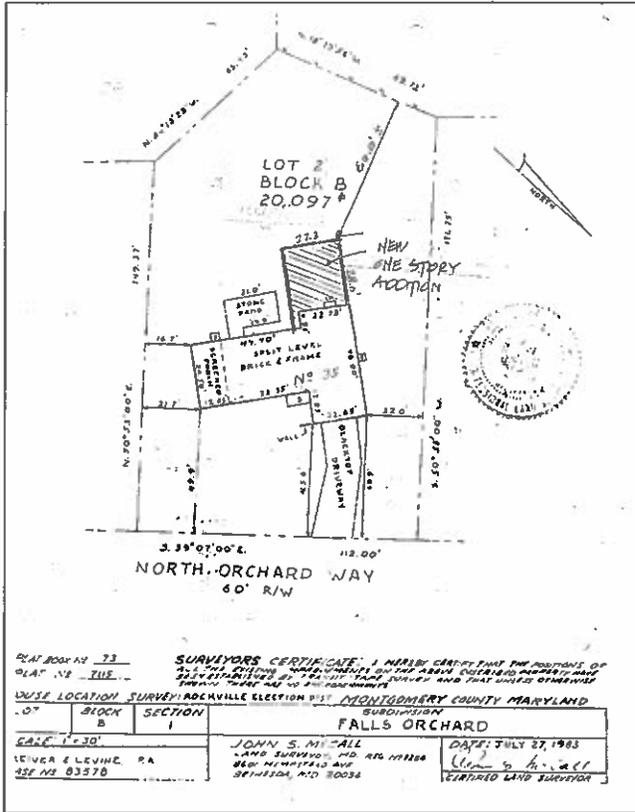
Subsection 2(b), Gross Floor Area:

Modify the size limitation standard from gross floor area to footprint: To allow for larger accessory buildings than is currently permitted, while also retaining neighborhood character. Staff proposes to change the area measurement standard from gross floor area to building footprint. Staff believes this is a more precise indication of building size and is an easier standard to administer and achieve compliance.

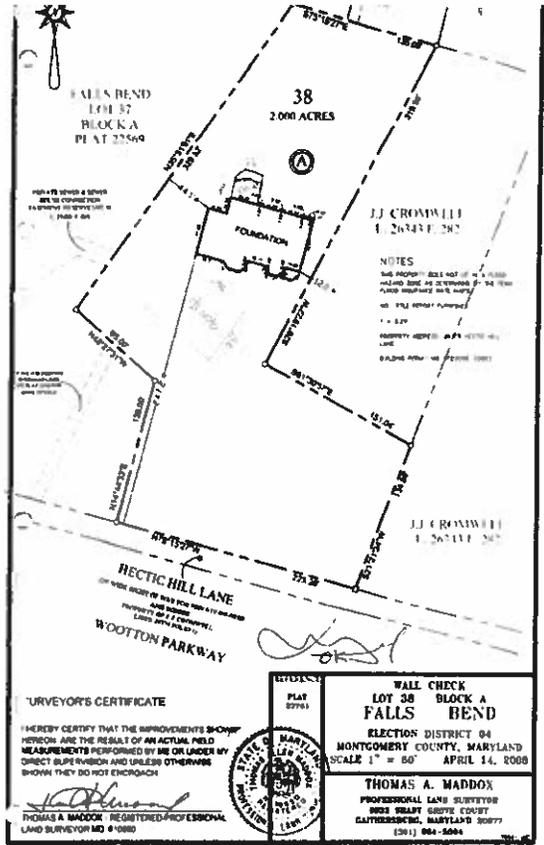
Modify the limitation on building footprint: The amendment proposes to continue to base the cumulative building footprint of all accessory buildings on the minimum lot area in the zone, with some adjustments. The maximum building footprint is limited to the following percentages:

- 10 percent of the minimum lot area in the R-40 zone and R-60 zones (600 square feet),
- 9 percent in the R-75 Zone (675 square feet);
- 8 percent in the R-90 Zone (720 square feet);
- 6 percent in the R-150 Zone (900 square feet), and
- R-200 and R-400 Zones (1,000 square feet)





R-150 -Accessory Building/Structure-Max Allowance 900 Square feet



R-200 – Accessory Building/Structure-Max allowance 900 square feet

To allow for an increase in the size of a single accessory building, the 500-square foot single accessory building limitation is being eliminated. As previously noted, this size was chosen as it is the maximum floor area that could accommodate a two-car garage, but has proven to be too limiting for homeowners, who also like to have storage and sufficient maneuvering area within their garages.

Subsection 2 (c), In no event can accessory buildings collectively occupy more than 25 percent of the rear yard:

Eliminate the rear yard coverage limitation: As indicated in subsection 1, the amendment proposes to eliminate the rear lot coverage requirement for accessory buildings for the reasons set forth above.

Reinstate the grandfather provision: The text amendment also proposes to reinstate the “grandfather” provision that had been in the code between 2005 and 2008. This puts less

burden on the homeowner that would like to replace accessory buildings that were legal when built, as it allows for their replacement in-kind, subject to the standards in effect at the time of construction, except that they must maintain a minimum setback of three (3) feet from any property line. This allows or an accessory building to be replaced, regardless of the standards to which it was built, and is potentially less disruptive to neighborhood character if the accessory building is replaced with the same-sized structure in the same location.

Subsection (d), Historic District Buildings:

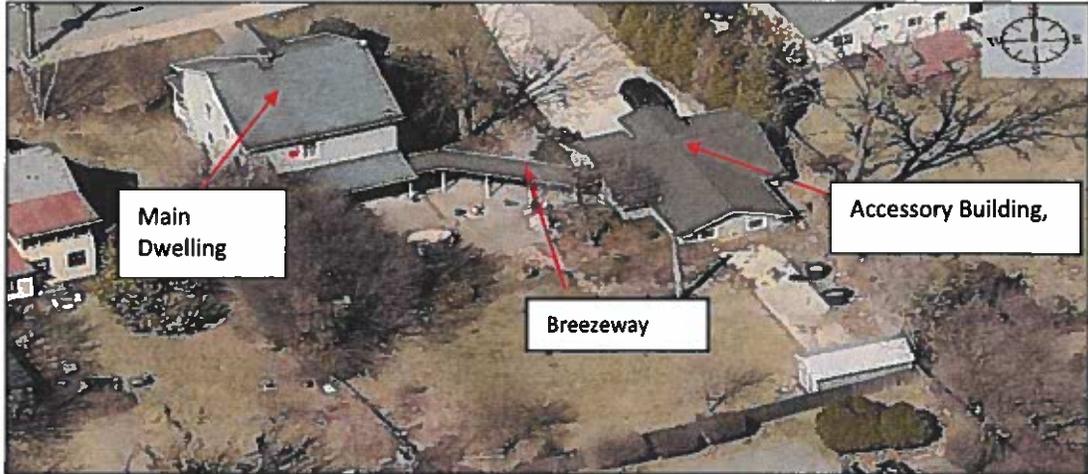
Clarify the status of historic accessory buildings: The amendment will clarify that historic accessory buildings on property in the Historic District zone are exempt from the calculation of cumulative building footprint. It is expected that this will help to preserve existing contributing buildings that are contributing resources to a historic district, but may not meet zoning requirements. It will permit homeowners to construct new accessory buildings for their use, while not being penalized or restricted from doing so because of a large historic accessory building.

Subsection (g), Connection to Main Building:

New regulations on accessory buildings connected to a main structure with a breezeway: The proposed amendment includes a new provision allowing for a breezeway connection between the main dwelling and an accessory building. There is a “loophole” in our current zoning ordinance that allows a very large accessory building to be connected with a breezeway to the main house. Under the current regulations, any connection to the main house makes the structure part of the main house and subject to those setback and height limitations, thereby avoiding the size limitations on accessory buildings.

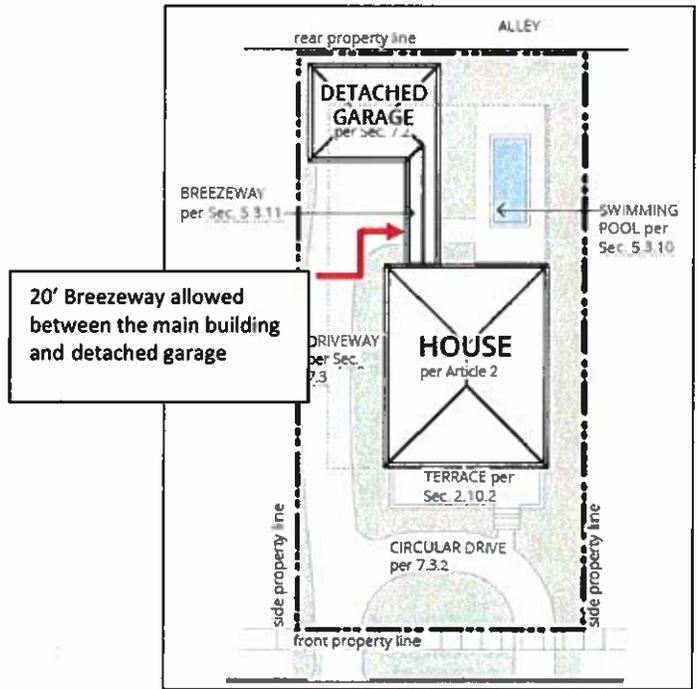
With the proposed regulations, the breezeway must be open, cannot have a common wall, and will be limited to 20 feet in length. This would also allow for a covered connection between a residence and an accessory building, while eliminating the possibility of what appears as a very large accessory building connected to the main building as well as the potential for a very long covered breezeway. Both building types are out of character with Rockville neighborhoods. See examples below.

Breezeway Connection-Loophole- Large Building Attached to the Main Dwelling –



207 Baltimore Road

Acceptable Breezeway Connection Between the Main Building and the Accessory Building (See Drawing Below)



25.10.05, Development Standards

Subsection (b.1), Maximum Lot Coverage, Inclusion of Accessory Buildings:

Clarify that historic accessory buildings are exempt from the lot coverage limitations: The proposed amendment revises the language to clarify that historic accessory buildings that are in a Historic District Zone are exempt from area limitations. This will help aid in the preservation of these buildings. Non-historic buildings are subject to the cumulative building footprint requirements and lot coverage limitations, regardless of whether they are in the Historic District zone.

Based on feedback received at the open house on May 29th, staff finds that clarifications are needed regarding the intent of the exemptions given to historic district properties. The intent is to preserve the existing contributing accessory buildings and allow for new non-contributing buildings to be built subject to overall lot coverage restraints without counting historic accessory buildings in the overall total building footprint. Maintaining the existing historic buildings could prevent the property owner from building simple buildings such as sheds or garages due to the overall lot coverage requirements. To allow for new non-contributing buildings to be built without penalty, staff recommends revising the language to indicate that not only are historic accessory buildings are exempt from lot coverage limits, but that they do not count toward the overall lot coverage. Staff finds that this exemption will further ensure the preservation of contributing buildings but also allow for homeowners to build an accessory structure that is necessary for their needs today (See examples below).



400 W. Montgomery Avenue



409 W. Montgomery Avenue

Section 25.13.08 Accessories

New standards for accessory buildings in the MXT and HD zones. A new provision is proposed to be added that requires accessory buildings both in the MXT (Mixed-Use Transition) Zone and the HD (Historic District) overlay zone to meet the same limitations on setbacks, maximum height, and cumulative building footprint requirements as a residential accessory building in a residential zone.

The intent here is for properties in these zones to follow the residential zone standard that most closely fits the size of their lot, not the residential zone that may be in the surrounding area.

Community Outreach

A public forum was held on May 29 to elicit comments from the community. Twelve members of the public attended. The forum also covered accessory apartments and accessory dwelling units, and most questions and comments were related to them.

For accessory buildings, questions were asked about the origin of the 500-square foot limit, how the provisions for the MXT Zone would work, and clarification about historic accessory buildings not counting toward lot coverage. There were concerns expressed over the fact that

the only finding that the Board of Appeals has to make in order to grant additional height was that it was not “contrary to the public interest.”

In response to a question, the derivation of the 500-square foot limit on a single accessory building was explained as being inserted by the Mayor and Council during the comprehensive zoning ordinance review process in 2008. There had been some testimony received expressing concern about the allowable size of accessory buildings, which resulted in the floor area limitation as well as changing the height measurement from the mid-point of the gable to the peak of the roof.

The bullets below represent additional comments made regarding to ADUs and accessory apartments.

- Concerns over accessory structures being more dominant than the existing smaller homes; Encouraged staff to propose a square footage limit.
- Cautioned claims of providing “Affordable Housing,” when the City does not regulate housing prices
- Possibility of existing smaller homes being expanded in order to be able to construct a larger accessory building?
- What will the requirements be (if any) for water and sewer connections between the main house and the accessory building?
- Encouraged staff to create a policy statement to define what we want when proposing ADUs.
- Concerned with the proposed ADU parking requirement, especially when many areas do not have enough parking to begin with.
- Suggested that we add an incentive for properties that are near a metro station.
- Gross Floor Area vs. Footprint clarified – You could have a basement in your detached accessory unit since we are only measuring footprint.
- Twinbrook neighborhoods want to explore accessory apartments in their basements but due to height requirements, may not be able to due to low ceiling height of existing basements.

Notice of the Planning Commission meetings and Mayor and Council public hearing have been sent to the civic organizations and homeowners associations via the City’s neighborhood listserv. Notice of the Mayor and Council public hearing was published in a newspaper of general circulation for 2 weeks prior to the hearing date.

Next Steps

A public hearing before the Mayor and Council is scheduled for July 15, 2019. Following the Mayor and Council public hearing, the Planning Commission should formulate and transmit a written recommendation to the Mayor and Council at its August 7, 2019. A Discussion and Instructions to Staff session with the Mayor and Council is scheduled for September 9, 2019.

Attachments

- Attachment 2.A.a: TXT2019-00254, Accessory Buildings (PDF)
- Attachment 2.A.b: TXT2019-00255, Accessory Apartments and ADUs (PDF)



Application for
Text Amendment

City of Rockville

Department of Community Planning and Development Services

111 Maryland Avenue, Rockville, Maryland 20850

Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: Cpds@rockvillemd.gov • Web site: www.rockvillemd.gov

Application Information:

Is this an Amendment to Existing Text ? YES NO

Add New Zone Classes: YES NO Add New Uses: YES NO

Number of new uses: 0 _____ Ordinance # _____

Please Print Clearly or Type

Property Address information N/A

Project Description To revise the development standards for residential accessory buildings in residential zones, and for accessory buildings in both the MXT and HD (Historic District) zones.

Applicant Information:

Please supply Name, Address, Phone Number and E-mail Address

Applicant Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, MD 20850

Property Owner N/A

Architect N/A

Engineer N/A

Attorney N/A

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| STAFF USE ONLY | |
| Application Acceptance: | Application Intake: |
| Application # _____ | Date Received _____ |
| Date Accepted _____ | Reviewed by _____ |
| Staff Contact _____ | Date of Checklist Review _____ |
| | Deemed Complete: Yes <input type="checkbox"/> No <input type="checkbox"/> |

Attachment 2.A.a: TXT2019-00254, Accessory Buildings (2731 : Txt2019-00254 - Accessory Buildings and Structures)

Application is hereby made with the Rockville Mayor and Council for Approval of a change in the text of the Zoning and Planning Ordinance of Rockville, Maryland.

Page _____ Article _____ Section _____

FROM: Which reads as follows see Attached.

TO: Reads as follows see Attached.

By: _____
(Signature of Applicant)

Subscribed and sworn before this _____ day of _____, 20____

My Commission Expires _____
Notary Public

The following documents are furnished as part of the application:

- A Complete Application
- Filing Fee

Comments on Submittal: (For Staff Use Only)

Attachment 2.A.a: TXT2019-00254, Accessory Buildings (2731 : Txt2019-00254 - Accessory Buildings and Structures)

Draft – 4/1/19

ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strikethroughs~~ indicate text to be deleted; * * * indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 9, “Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities” as follows:

25.09.02 – Accessory Structures

Requirements – Accessory structures must be customarily associated with and clearly incidental and subordinate to a legally established principal structure. Such structures cannot be attached to the main building by any part of a common wall or common roof except as set forth in Section 25.09.03.a.2(g). Uses within accessory structures must comply with the applicable provisions of Section 25.09.01, above.

25.09.03 – Accessory Buildings and Structures

a. *Residential Accessory Buildings and Structures*

- 1. Residential accessory buildings and structures are subject to the following development standards:

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| Development Standards for Residential Accessory Buildings and Structures | | | | | | |
|--|---|------------------------|----|------|-------------------------------------|---|
| Zone | Minimum Setback Requirements | | | | Maximum Rear Yard Building Coverage | Maximum Height at Minimum Setback Not to Exceed ¹ (see sub-section 2(a) below) |
| | Front | Side | | Rear | | |
| | | Side - Street Abutting | | | | |
| R-400 | All accessory buildings must be located in the rear yard except as provided in Sec. 25.09.03.a.2(g) | 30' | 3' | 3' | 15% | 12' |
| R-200 | | 25' | 3' | 3' | 15% | 12' |
| R-150 | | 30' | 3' | 3' | 15% | 12' |
| R-90 | | 20' | 3' | 3' | 25% | 12' |
| R-75 | | 20' | 3' | 3' | 25% | 12' |
| R-60 | | 20' | 3' | 3' | 25% | 12' |
| R-60 (Qualifying Undersized Lot) | | 20' | 3' | 3' | 25% | 12' |
| R-40 | | 20' | 3' | 3' | 25% | 12' |

¹ The height of an accessory building or structure is measured from the finished grade at the front of the building to the highest mid-point of the a gable, hip or mansard roof. Additional height may be allowed in conformance with Section 25.09.03.a.2(a), below.

2. Residential accessory buildings are ~~limited to one story and~~ are subject to the following additional provisions:
 - (a) Accessory Buildings and Structures Greater than 12' High - Accessory buildings and structures that exceed 12 feet in height must be set back from all lot lines an additional ~~two three~~ feet for each additional foot (or any portion thereof) of building height up to the maximum allowable height of 15 feet. Accessory buildings may exceed 15 feet in height, up to a maximum of 20 feet, if granted a waiver of the maximum height limitation by the Board of Appeals. The Board of Appeals must find that the waiver will not be contrary to the public interest.
 - (b) Building Footprint Gross Floor Area - The ~~gross floor area cumulative building footprint of all any~~ detached accessory buildings must not exceed ten percent of the minimum lot area in the R-40 and R-60 Zones; nine percent of the minimum lot area in the R-75 Zone; ~~and~~ eight percent of the minimum lot area in the R-90 Zone; and six percent of the minimum lot area in the R-150 Zone. In the R-200 and R-400 zones, the cumulative building footprint of all no single accessory buildings must not exceed can have a gross floor area greater than 500-1,000 square feet!
 - (c) In no event can accessory buildings collectively occupy more than 25 percent of the rear yard Accessory buildings and structures that were constructed in conformance with the standards in effect at the time they were erected are

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considered conforming and may be modified, repaired, or replaced so long as they conform to the standards under which they were built, except that they must maintain a minimum setback of three (3) feet from any property line.

- (d) *Historic Accessory Buildings* – Historic accessory buildings, located in a Historic District Zone are exempt from the calculation of cumulative building footprint rear yard coverage.

- (g) Connection to Main Building - An open, unenclosed breezeway with a length not exceeding 20 feet may connect a main building to one accessory building. No portion of the breezeway may be constructed in a way that could be interpreted to provide a common wall between the main building and the accessory building.

(h) Accessory Structures

- i. Small open structures, such as gazebos, may be permitted with a ten-foot (10') setback in a yard abutting a street.
- ii. An accessory swimming pool must be located in the rear yard. All portions of the pool must be set back at least three (3) feet from any lot line and comply with any provisions of Chapter 5 of this Code. Such a swimming pool is not subject to the maximum rear yard coverage requirements of subsection (e) above.

Amend Article 10, "Single Dwelling Unit Residential Zones"

25.10.05 – Development Standards

b. *Maximum Lot Coverage*

- 1. *Inclusion of Accessory Buildings* – Maximum lot coverage includes accessory buildings; however, historic accessory buildings structures, located in a Historic District Zone, are exempt from the calculation of rear yard coverage pursuant to Section 25.09.03.a.2.

Amend Article 13, "Mixed-Use Zones", as follows:

25.13.08– Accessories

- a. All accessory uses within mixed-use zones must comply with the provisions of Article 9 of this Chapter.

b. New accessory buildings in the MXT Zone located within a historic district are subject to the provisions of:

- 1. Section 25.09.03.a.2(a); and
- 2. Section 25.09.03.a.2(b), with the applicable cumulative building footprint being based on the zone with the largest minimum lot area that does not exceed the existing lot area of the property where the accessory building is located!

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DRAFT 3/29/19

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TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strikethroughs~~ indicate text to be deleted; * * * indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 3, “Definitions, Terms of Measurements and Calculations”, as follows:

* * *

Accessory Dwelling Unit – A dwelling unit located within an accessory building located on the same lot as a single unit detached dwelling. An accessory dwelling unit must be subordinate to the primary residential dwelling on the lot.

Dwelling Unit – A building or portion thereof providing complete living facilities for not more than one (1) family, including, at a minimum, a kitchen, and facilities for sanitation and sleeping.

- 5. Dwelling, Single Unit Detached – A building designed and intended for use as a single dwelling and entirely separated from any other building or structure on all sides. A single unit detached dwelling may include an accessory apartment approved by special exception.

* * *

Amend Article 9, “Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities” as follows:

* * *

25.09.03 – Accessory Buildings and Structures

* * *

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b. Regulations for accessory dwelling units – No more than one accessory dwelling unit is permitted on a residential lot, and must comply with the following:

1. The design of the building must be compatible with the architectural style of the main building and generally compatible with the design and style of single unit detached dwellings in the immediate neighborhood.
2. The building must be permanently attached to the ground.
3. The maximum gross floor area of an accessory dwelling unit must be less than 50 % of the total floor area of the main building.
4. There must be two off-street parking spaces on the lot. This requirement may be waived by the Chief of Zoning if the applicant demonstrates that sufficient on-street parking capacity is provided in the same block where the property is located.
5. An accessory dwelling unit is prohibited on a lot that has an accessory apartment.
6. The owner of the lot on which the accessory dwelling unit is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12-month period.

c. Non-Residential Accessory Buildings and Structures – Non-residential accessory buildings and structures are reviewed as part of the site plan review and subject to all requirements of the relevant zone and all conditions of the site plan approval.

Amend Article 10, “Single Dwelling Unit Residential Zones”, as follows:

25.10.03 – Land Use Tables

The uses permitted in the Single Dwelling Unit Residential Zones are shown in the table below. All special exceptions are subject to the requirements of Article 15.

| | Uses | Zones | | | | | | | Conditional requirements or related regulations |
|----------------------------|---|---------------------------------|-----------------------------------|--------------------------------------|---|--|--|---|--|
| | | Residential Estate Zone (R-400) | Suburban Residential Zone (R-200) | Low Density Residential Zone (R-150) | Single Unit Detached Dwelling, Restricted Residential Zone (R-90) | Single Unit Detached Dwelling, Residential Zone (R-75) | Single Unit Detached Dwelling, Residential Zone (R-60) | Single Unit Semi-detached Dwelling, Residential Zone (R-40) | |
| a. Residential uses | Dwelling, single unit detached ¹ | P | P | P | P | P | P | C | Conditional use subject to the requirements of the R-60 Zone |
| | Dwelling, semi-detached (duplex) | N | N | N | N | N | N | P | |
| | Accessory ² apartment | SC | SC | SC | SC | SC | SC | N | See. Sec. 25.15.03.a 10.14 |

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| | Uses | Zones | | | | | | | Conditional requirements or related regulations |
|--|--------------------------------------|---------------------------------|-----------------------------------|--------------------------------------|---|--|--|---|---|
| | | Residential Estate Zone (R-400) | Suburban Residential Zone (R-200) | Low Density Residential Zone (R-150) | Single Unit Detached Dwelling, Restricted Residential Zone (R-90) | Single Unit Detached Dwelling, Residential Zone (R-75) | Single Unit Detached Dwelling, Residential Zone (R-60) | Single Unit Semi-detached Dwelling, Residential Zone (R-40) | |
| | Accessory dwelling unit ² | C | C | C | C | C | C | C | See Sec. 25.09.03.b |

²Only one accessory dwelling unit or accessory apartment is permitted on a lot.

25.10.14 – Regulations for Accessory Apartments

An accessory apartment is allowed subject to the following requirements:

- a. Only one (1) accessory apartment may be created or attached to an existing single unit detached dwelling.
- b. The owner of the lot on which the accessory apartment is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12-month period.
- c. Any separate entrance to the accessory apartment must be located so that the appearance of a single unit detached dwelling is preserved.
- d. All external modifications and improvements to the single-unit detached dwelling in which the accessory apartment is to be created, or to which it is to be added, must be compatible with the existing dwelling and surrounding properties.
- e. The accessory apartment must have the same street address (house number) as the main dwelling.
- f. The gross floor area of the accessory apartment must be less than 50 % of the total floor area of the main dwelling.

Amend Article 15, “Special Exceptions”, as follows:

25.15.02 – Additional Requirements for Certain Special Exceptions

- a. ~~Accessory Apartments~~ **RESERVED**

~~1. General Requirements—~~ Accessory apartments must:

- ~~(a) Be contained in the same building as a single unit detached dwelling; and~~

(b) Contain facilities for:

i. Cooking;

ii. Eating;

iii. Sanitation; and

iv. Sleeping;

2. *Specific Requirements*

(a) *Limitation to One (1)*— Only one (1) accessory apartment may be created in, or attached to an existing single unit detached dwelling.

(b) *Lot Requirements*— Accessory apartments may only be created on a lot:

i. Which is occupied by a family of related persons;

ii. Which contains no other rental residential use;

iii. Which does not contain rooms for rent or a boarding house; and

iv. Which does not contain a major home based business enterprise.

3. *Ownership Requirements*— The owner of a lot on which an accessory apartment is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12 month period. The period of temporary absence may be increased by the Board at any time upon a finding that a hardship would otherwise result. Any request for an extension of the period of temporary absence made subsequent to the initial grant of the special exception must be made in compliance with the procedures for a minor modification of a condition of a special exception in Section 25.15.01.b.(1).

4. *Development Requirements*

(a) Both the main dwelling and the accessory apartment must comply with all current development standards, including off-street parking requirements.

(b) No variance may be granted to accommodate an accessory apartment.

5. *Design Requirements*

(a) *Separate Entrance*— Any separate entrance to the accessory apartment must be located so that the appearance of a single unit detached dwelling is preserved.

(b) *External Modifications and Improvements*—All external modifications and improvements to the single-unit detached dwelling in which the accessory apartment is to be created, or to which it is to be added, must be compatible with the existing dwelling and surrounding properties.

(c) *Street Address*—The accessory apartment must have the same street address (house number) as the main dwelling.

(d) *Occupancy Limitation*—The accessory apartment must house no more than three (3) persons and must be subordinate to the main dwelling.

6. *Additional Findings for Special Exception Approval*—The Board must make the following additional findings:

(a) That such use will not constitute a nuisance because of traffic or number of people, and will cause no objectionable noise, odors, or physical activity; and

(b) That such use will not adversely impact the parking or traffic situation in the neighborhood.

7. *Additional Restrictions for Special Exceptions*—The following restrictions on special exceptions for accessory apartments apply:

(a) The owner must comply with the certification requirements of Chapter 5, Article XII of the Code;

(b) The special exception is granted solely to the owner/applicant and does not run with the land;

(c) The special exception automatically expires when either of the following occurs:

i.—The owner/applicant sells the property on which the accessory apartment is located; or

ii.—The owner/applicant no longer occupies any portion of the single-unit dwelling in which the accessory apartment is located; and

(d) The accessory apartment must be removed, dismantled, or otherwise rendered inoperative within 30 days of the expiration of the special exception.

8. *Additional Conditions*—The Board may impose additional conditions deemed necessary to protect and limit any adverse impact on adjacent properties and the neighborhood, including, but not limited to one (1) or more of the following:

(a) Restricting the number of people that may occupy the accessory apartment;

- (b) Prohibiting rental of the accessory apartment;
- (c) Limiting the total number of motor vehicles that may be parked on the lot; and/or
- (d) Limiting the total number of vehicles that may be used and parked on street by the occupants of both the accessory apartment and the main dwelling.

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