

Justification for Amendments of Accessory Structures outside RLD

TITLE OF LL:

An act to amend Chapter 220-9, Regulations Applicable to all districts, regarding the siting requirements and size requirements for accessory buildings outside of the RLD.

PURPOSE OR GENERAL IDEA OF BILL:

The purpose of this local law is to amend Town Code Chapter 220-9, Subsection B to provide greater freedom to homeowners in their ability to place accessory buildings and remove existing, unnecessary or over burdensome restrictions.

SUMMARY OF SPECIFIC PROVISIONS:

See Redline version, last edited 10/02/2018. Also attached illustrations of potential alternatives.

JUSTIFICATION:

The Ordinance Committee is suggesting allowing structures within the front yard of rural or agricultural zoning districts because:

- During a review of Variances granted over the last 3 years, the requests for a structure within Front Yards are frequent and, within certain districts, nearly always granted. Between 2016 and 2018, it has been requested within the AR-1, AR-2 or RR-3 12 times and denied only once, a 92% success rate. These applications comprise the second largest variance request type annually. In, *A Better Way to Zone*, the author states that zoning should be flexible to adjust regulations that give rise to the most variances.
- In the experience of the Development Office speaking with potential applicants, there is a high demand for people to place an accessory building within their side yard or front yard.
- In an effort to reduce the costs of the ZBA process on property owners and to greater allow property owners the greatest ability to enjoy their property.
- Our Town Code is more restrictive than many neighboring and similar communities.
- Within Agricultural and Rural zoned areas, the character of the community includes accessory buildings in the front yard. For example, see the many barns fronting on roads.

Whereas residential areas have developed largely around the existing code where accessory buildings are in the rear.

- The suggested change may allow a reduction in impervious surface as Accessory Buildings may be built off of existing driveways instead of additional driveways built to rear.
- The applicant must still meet the minimum front yard requirement for principle buildings of 60 ft.
- The RR-3, AR-2, and AR-1 Zoning districts are more constrained by steep slopes, wooded areas, streams, wetlands, valuable farmland, etc. that the Town has stated its desire to protect. By allowing applicants the flexibility in siting structures we may reduce the desire to build near/within these resources.

Additionally, the Ordinance Committee is suggesting additional revisions to 220-9B(7)(d) to reduce current setbacks from the principle building for accessory buildings that are larger/taller because:

- Such restrictions burden the poor to a greater degree.
- The existing large setback causes greater disturbance to natural land area and increased impervious surface area.
- The Development Office has spoken to numerous residents impacted by this section who have ultimately abandoned their proposal.
- The Ordinance Committee has considered the comments from the ZBA and ECB regarding the character of certain parts of the Town, and provided additional protection to residential areas.
- While the Ordinance Committee could understand the aesthetic impact of such buildings and intent of existing code, the Committee could not see justification for such a large setback.
- No other communities have restrictions such as this.

Further, there are a number of through lots with multiple "Front Yards." These have also required - and received - variances in the past. For the same reasons as the previous change, language currently used for Through Lots within the RLD was used to rectify this.

Other Communities:

Town of Victor does not have these restrictions.

Town of Farmington does have similar restrictions. See [165-58](#)

Town of Gorham does not have these restrictions. See [31.8.5](#)

Town of Bristol does not have these regulations. See [34a,d](#)

Town of South Bristol does not have them. See [170-60](#)

Town of East Bloomfield does not have them. See [135-11](#)
Town of Geneva does not have them. See [165-20](#)
Town of Phelps: Detached Buildings in rear yard. See [145-22](#)
Town of Macedon: No restrictions found.
Town of Walworth: Limited restrictions. See [180-21](#)
Town of Manchester: In rear yard. See [325-24](#)
Village of Fairport: Setback equal to Principle Building. May be
in front. See [Schedule](#)

DRAFT:
THROUGH LOTS / FRONT YARD STRUCTURE
REVISION

LAST REVISED 11/28/2018

Deleted: 11/5/201811/5/20186/4/20182/26/2018

§ 220-9. Regulations applicable to all districts.

[Amended 2-13-2012 by L.L. No. 1-2012; 4-8-2013 by L.L. No. 2-2013; 2-10-2014 by L.L. No. 1-2014; 10-17-2016 by L.L. No. 9-2016]

A. Preservation of natural features.

XXX

B. All accessory buildings and accessory structures, not including agricultural structures and except

as otherwise specified in this chapter, shall be subject to the standards in this section.

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(1) An accessory building attached to a principal building shall be considered a part of the principal building and is required to comply with the yard requirements of this chapter for the principal building. For the purposes of this section, "attached" shall mean physical connection by way of a common wall or foundation and not separated by an unenclosed exterior space. [Amended 7-17-2017 by L.L. No. 16-2017]

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(2) No detached accessory building shall be closer to the street or right-of-way line than the minimum front yard setback for the principal building.

(3) Accessory buildings and structures for multiple-family dwellings, manufactured home parks, public uses, commercial uses and industrial uses may be allowed in rear or side yard(s) of the primary building(s).

(4) Detached accessory buildings and structures may be required to be fenced and/or buffered from adjacent properties, consistent with approved site plans, in order to protect the value of adjacent properties.

(5) Except as otherwise stated in this chapter, a nine-hundred-square-foot accessory building shall be allowed on vacant lots with no primary building or use and may be used for storage of materials, equipment, and other personal property in the AR-1, AR-2, RR-3 and SCR-1 districts. Such accessory building shall be subject to the setback and height requirements

contained in the Zoning Schedule (Schedule I).¹⁰ [1]Editor's Note: Schedule I is included as an attachment to this chapter.

[6] Accessory buildings shall not be used as habitable space.

[7] The following shall apply to lots with one or more single- and two-family dwellings outside of the Residential Lake District:

[a] A lot of 20,000 square feet or less may have:

[1] One detached private garage;

[2] One additional detached accessory building not exceeding 200 square feet plus 1% of the subject lot's area in square feet and rounded to the nearest fifty; and

[3] A total combined building footprint for all detached accessory buildings not exceeding 1,300 square feet.

[b] A lot of greater than 20,000 square feet may have, in addition to attached accessory buildings:

[1] A maximum of five detached accessory buildings; and

[2] A total combined building footprint for all detached accessory buildings not exceeding 1,300 square feet plus 1% of the subject lot's area in square feet and rounded to the nearest hundred or 3,000 square feet, whichever is less.

[c] Height allowances:

[1] Detached accessory buildings with a building footprint of less than 1,000 square feet shall not exceed 16 feet in height.

[2] Detached accessory buildings with a building footprint of 1,000 square feet or greater shall not exceed 22 feet in height.

[d] Except within the AR-1, AR-2, and RR-3, detached accessory buildings that are taller than the principal building or have a footprint greater than that of the principal building, not including attached private garages, porches, decks, and patios, shall be separated from

Comment [Z11]: Our current language does not allow us to regulate. Removed to be clear.
Deleted: or attached

Comment [Z12]: Detached private garages must be less than 900 sq. ft. Changed to accommodate previous revision.
Deleted: 1,200

Comment [Z13]: Changed to accommodate revision to allowable building footprint for lots less than 20k ft².

~~the principal building by a distance equal to the side setback required for an accessory building.~~

~~(e) Except within the AR-1, AR-2, and RR-3, detached accessory buildings, with the exception of detached private garages and storage sheds, shall be located in the rear yard and subject to the setback requirements for the district in which it is located.~~

~~(f) Except within the AR-1, AR-2, and RR-3, detached private garages and storage sheds shall be located to the rear of the front building line of the principal building and may be located in the side yard.~~

~~(g) Except within the AR-1, AR-2, and RR-3, on corner lots, detached accessory structures shall be located in a side yard~~

~~(h) If a lot is divided by a street and the principal building is located on one portion of the lot, then the accessory building/structure may be permitted on the portion of the lot opposite the principal building. In this instance, the minimum setbacks for the zoning district shall apply.~~

(i) Accessory buildings may have electrical, gas, and water service but no other utilities. ^a [2] Editor's Note: Former Subsection B(7)(j), regarding decks or porches on accessory buildings, which immediately followed this subsection, was repealed 9-18-2017 by L.L. No. 17-2017.

(8) Lots located within the NC, CC, RB-1, LI, and I districts that accommodate one or more existing agricultural uses and/or single- and two-family dwellings shall be allowed the same accessory uses, buildings, and structures specified in Town Code § 220-14, AR-1 Agricultural Rural Residential District, but subject to the lot and setback requirements applicable to their respective zoning district, except that accessory buildings and accessory structures used for the sale of agricultural and nursery products shall not be allowed along State Route 332.

(9) Additional requirements for detached accessory buildings and structures in the Residential Lake District are in Town Code § 220-21.

Comment [ZI4]: In response to comments by the ZBA and ECB, the Ordinance Committee attempted to address issues of character by requiring greater separation distance within the residential areas

Comment [ZI5]: Again, in response to comments by the ZBA and ECB regarding character impacts, the existing rules in residentially zoned areas are maintained.

Comment [ZI6]: Removed to provide greater flexibility to property owners. Unknown justification for its existence. Would require greater wasted space within a parcel. Potentially would create greater impervious landcover and disturbance. Less convenient to applicants to use on property to be setback potentially 80 ft. from homes. NYS code separation still req'd.

Comment [ZI7]: To allow Front/Side Yard Accessory Buildings that meet the setback requirement. Requirement to place in rear may create greater disturbance area. May cause greater impervious area.

Deleted: (d) Detached accessory buildings that are taller than the principal building shall be separated from the principal building by a distance greater than twice the rear setback required for a principal building on the subject lot.¶

Deleted: (e) Detached accessory buildings that have a footprint greater than that of the principal building, not including attached private garages, porches, decks and patios, shall be separated from the principal building by a distance greater than twice the rear setback required for a principal building on the subject lot.¶

Deleted: (f) With the exception of detached private garages, all detached accessory buildings shall be located in the rear yard and subject to the setback requirements for the district in which it is located.¶

Deleted: (g) Detached private garages shall be located to the rear of the front build... [1]

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Comment [ZI8]: To allow building on corner lots in front yards, subject to front setback requirements.

Comment [ZI9]: To create Through Lot regulation. Language taken from previously approved RLD Section of Code.

Article II. Definitions and Word Usage

§ 1-17. Definitions

STORAGE SHED

A detached accessory building not used for the storage of vehicles. A storage shed shall not exceed 400 square feet in area.

Comment [Z110]: As there is a great desire for sheds; their size and visual/environmental impact is minimal; and, applicants can easily go around rules; this will allow them to put sheds within side yards.

(d) Detached accessory buildings that are taller than the principal building shall be separated from the principal building by a distance greater than twice the rear setback required for a principal building on the subject lot.

(e) Detached accessory buildings that have a footprint greater than that of the principal building, not including attached private garages, porches, decks and patios, shall be separated from the principal building by a distance greater than twice the rear setback required for a principal building on the subject lot.^[Z11]

(f) With the exception of detached private garages, all detached accessory buildings shall be located in the rear yard and subject to the setback requirements for the district in which it is located.

(g) Detached private garages shall be located to the rear of the front building line of the principal building and may be located in a side yard.