

Staff Report
Planning Department
March 24, 2015

AGENDA ITEM
15-29
Date 3-24-15
Public Hearing 4-7-15

TITLE: Proposed amendments to the Town of Derry Zoning Ordinance. The purpose of the amendments is to address the need for better quality multi-family housing; provide for better lot usage; and to reduce the density requirement by allowing less multi-family units in the Medium-High Density Residential District and Multi-Family Residential District which comprise of some of the town's oldest, most compact neighborhoods.

TOWN ADMINISTRATOR COMMENTS: I support this recommendation

BACKGROUND: In 2014 the Town Council and Planning board held a Goals setting workshop and at the meeting the Town Council requested that the Planning Board review the Derry Zoning Ordinance relating to the multi-family density requirements. During the past seven months the Planning Board held seven workshop and Public Hearing meetings to amend the Zoning Ordinance. The result of these revisions will equate to less dense multi-family projects and will protect the town against legal challenges.

DISCUSSION: The density requirements in the districts with town water and sewer will be reduced so those neighborhoods will see a significant reduction in future multi-family units. Additionally, recreational space cannot be used in the open space requirements and wetlands will need to be excluded and the parking calculations are revised to be more in line with current demands and to enhance access for emergency response vehicles.

FISCAL IMPACT: Less multi-family/apartment/townhouse/condominium developments will provide for less of a financial burden on town services including public safety and school impact.

RECOMMENDATION: Staff would recommend that Town Council approve and adopt the below referenced zoning amendments as unanimously approved by the Planning Board on March 4, 2015.

MOTION: To amend Article II, Section 165-5, Definitions, to add definitions for Green Area/Space, Greenway/Greenbelt, Recreation Area/Space, Active Recreation, Passive Recreation, and Net Buildable Area, to amend Section 165-8 relating to the number of dwelling units on a lot, and to amend Article VI, Section 165-44, Multi-Family Residential (MFR), and Section 165-45, Medium High Density Residential District (MHDR) to revise the density calculations, parking calculations, green space and recreational space requirements for multifamily dwellings within the Town of Derry.

Prepared by: George H. Sioras, Planning Director

Zoning Ordinance

Purpose of the amendments: To revise the density calculations, parking calculations, green space and recreational space requirements for multifamily dwellings within the Town of Derry; address the need for better quality multifamily housing; provide for better lot usage, and to prevent overcrowding. The Town of Derry provides more than its fair share of workforce housing for the region and the amendments will assist in maintaining the character of the existing older, more compact neighborhoods while accomodating the real estate market. In addition, the Board acknowledges the need for better quality multifamily housing.

Article II, Section 165-5 Definitions

GREEN AREA/SPACE – Land area covered by vegetation. Green space or green area may be vegetated with grass, landscape plantings, ground covers, or native vegetation.

GREENWAY/GREENBELT – Passive open space improved only with trails or other pedestrian or bicycle passageways. Greenways link subdivisions to other subdivisions and to activity centers. Greenbelts are located on the edge of a subdivision or community.

RECREATION, ACTIVE –Park, playground, motorized recreation such as on Off-Highway Recreational Vehicles (OHRVs), boats, and the like.

RECREATION AREA/SPACE – Land set aside for the recreational use, passive or active, of residents or community members.

RECREATION, PASSIVE – Activities such as cross country skiing, hiking, birdwatching

NET BUILDABLE AREA – Land equal to the total parcel area, less wetlands, poorly drained and/or very poorly drained soils.

Section 165-8 Number of Buildings Per Lot

Only one residential building or dwelling shall be situated on a lot except as provided elsewhere in the Ordinance specifically for permitted multifamily use consisting of at least 3 dwelling units per building.-

Article VI, Section 165-44 Multi-Family Residential District (MFR)

- A. Permitted uses. The uses permitted within this district shall be limited to the following:
- Single family detached dwellings
 - Two-family dwellings
 - Multi-family dwellings

Accessory apartments (must also comply with the provisions of Section 165-25).

B. Area and dimensional requirements.

1. Single family detached and two-family dwellings:

- a. Minimum lot area
 - i. When served by municipal water or municipal sewer, the minimum lot area required shall be 15,000 square feet per dwelling unit.
 - ii. When served by both municipal water and municipal sewer, the minimum lot area required shall be 10,000 square feet per dwelling unit.
 - iii. When served by a community water system, the minimum lot area required shall be one acre (43,560 square feet) per dwelling unit.
- b. Minimum Frontage (Effective 11/21/03)
 - i. When served by either municipal water or municipal sewer, or by both, the minimum lot frontage required shall be 100 feet.
 - ii. When served by a community water system, the minimum lot frontage required shall be 125 feet.
- c. Minimum lot width.
 - i. When served by either municipal water or municipal sewer, or by both, the minimum lot width required shall be 100 feet at the thirty-five foot front setback line, or 100 feet at the front lot line.
 - ii. When served by a community water system, the minimum lot width required shall be 125 feet at the thirty-five foot front setback line, or 125 feet at the front lot line.
- d. Minimum yard depths.
 - i. Front yard shall be 35 feet;
 - ii. Side and rear yards shall be 15 feet.

2. Multi-family dwellings (More than two units per building).

- a. Minimum lot area. The minimum lot area required shall be ~~3,630 square feet per dwelling unit~~ 5,000 square feet per dwelling unit. The density calculation of 5000 square feet per dwelling unit shall be calculated based upon the net buildable area of land. Calculations resulting in less than a whole number should be rounded down to the nearest whole number. (For example: 27.2 or 27.9 should be rounded down to 27 units.)
- b. Minimum lot frontage. The minimum lot frontage shall be 150 feet ~~per dwelling unit.~~ (Effective 11/21/03)
- c. Minimum lot width. The minimum lot width required shall be 150 feet at the 35 foot setback. (Effective 11/21/03)
- d. Minimum yard depths. The minimum front, side and rear yards shall be 30 feet each.
- e. Building height: Multi-family dwellings shall not exceed ~~60 feet in height~~ one hundred ten percent (110%) of the average building height of other residential dwellings within a 500 foot circumference of the lot.

C. Additional multi-family requirements.

1. The maximum length of a multi-family dwelling shall not exceed 200 feet.
2. The minimum distance between multi-family dwellings shall not be less than 35 feet.
3. All multi-family dwellings shall be connected to the municipal water and the municipal sewer systems.
4. At least 15% of the gross-net buildable lot area shall be provided for recreation space. Green area on non-residential site plans may not be applied toward the recreational space calculation.
5. Off-street parking shall be provided in accordance with Chapter 170, Land Development Control Regulations.
6. Multi-family dwellings shall be constructed in accordance with the provisions of the (Effective 11/17/05)
 - International Building Code as amended by the State of New Hampshire and the Town of Derry;
 - International Plumbing Code as amended by the State of New Hampshire;
 - International Mechanical Code;
 - International Energy Conservation Code;
 - National Electrical Code (NFPA 70);
 - All codes as may be currently adopted by the State of New Hampshire Fire Marshall's Office and as contained in Chapter SAF-C6000-State Fire Code;

~~In addition the following codes and/or amendments are adopted by reference:~~

- ~~• International Residential Code;~~
- ~~• International Property Maintenance Code.~~

Article VI, Section 165-45 Medium-High Density Residential District (MHDR)

- A. Permitted uses. The uses permitted within this district shall be limited to the following:
- Single family detached dwellings.
 - Two-family dwellings.
 - Multi-family dwellings.
 - Accessory apartments (must also comply with the provisions of Section 165.25)
 - Private schools. (Effective 5/10/02)

B. Area and dimensional requirements

1. Single family detached and two-family dwellings:
 - a. Minimum lot area.
 - i. When served by municipal water or municipal sewer, the minimum lot area required shall be 15,000 square feet per dwelling unit.
 - ii. When served by both municipal water and municipal sewer, the minimum lot area required shall be 10,000 square feet per dwelling unit.
 - iii. When served by a community water system, the minimum lot area required shall be one acre (43,560 square feet) per dwelling unit.
 - b. Minimum lot frontage (Effective 11/21/03)

- i. When served by either municipal water or municipal sewer, or by both, the minimum lot frontage required shall be 100 feet.
 - ii. When served by a community water system, the minimum lot frontage required shall be 125 feet.
- c. Minimum lot width
 - i. When served by either municipal water or municipal sewer, or by both, the minimum lot width required shall be 100 feet at the 35 foot front setback line, or 100 feet at the front lot line.
 - ii. When served by a community water system, the minimum lot width required shall be 125 feet at the 35-foot front setback line.
- d. Minimum yard depths.
 - i. Front yard shall be 35 feet.
 - ii. Side and rear yards shall be 15 feet.
- 2. Multi-family dwellings.
 - a. Minimum lot area. Minimum lot area required shall be ~~3,630 square feet per dwelling unit~~5000 square feet per dwelling unit. The density calculation of 5000 square feet per dwelling unit shall be calculated based on the net buildable area of land. Calculations resulting in less than a whole number should be rounded down to the nearest whole number. (For example: 27.2 or 27.9 should be rounded down to 27 units.)
 - b. Minimum lot frontage shall be 150 feet. (Effective 11/21/03)
 - c. Minimum lot width. Minimum lot width required shall be 150 feet at the front lot line.
 - d. Minimum yard depths. Side and rear yards shall be 30 feet each
 - e. Building height. Multi-family dwellings shall not exceed ~~60 feet in height~~one hundred ten percent (110%) of the average building height of other dwellings within a 500 foot circumference of the lot.
- 3. Private schools.
 - a. Minimum lot area: One acre (43,560 square feet)
 - b. Minimum lot frontage: 125 feet. (Effective 11/21/03)
 - c. Minimum lot width: 125 feet at the front lot line and 125 at the thirty foot front setback line
 - d. Minimum yard depths.
 - i. Front yard: 30 feet;
 - ii. Side and rear yards: 20 feet
 - e. Building height. Building height shall be subject to the review and approval of the Planning Board.
 - f. Buffer zones. Before any building, parking lot, or driveway can be constructed that is non-residential in nature and abuts a residence or residential district, a buffer zone will be established with the following minimum characteristics:
 - i. It shall be a minimum of 50 feet wide.
 - ii. It shall be landscaped and maintained with the purpose in mind to diminish the effect of lighting, sound and odor created by the nonresidential use.
 - iii. Minimum plantings for the buffer zone shall be three rows of coniferous type trees running parallel with the residential district.

These trees shall have a minimum height of six feet, and be planted at a distance of 12 feet to 16 feet on center. They shall be staggered so as to present a more dense buffer zone. Landscaping of the buffer zone shall be approved by the Planning Board.

- iv. When the existing trees and understory vegetation in the buffer zone are sufficiently dense so as to provide screening at least as effective as the minimum plantings specified in paragraph (iii), above, the Planning Board may opt to require the maintenance of the existing vegetative buffer in lieu of cutting it down to accommodate new plantings, or may opt to require a combination of new plantings and existing vegetative buffer. (Effective 12/2/05)
- v. Landscaping of the buffer zone shall be approved by the Planning Board. (Effective 12/2/05)
- g. Off-street parking. Off-street parking shall be provided in accordance with the provisions of Chapter 170, Land Development Control Regulations.
- h. Site plan review. All development or change or expansion of use of land or buildings for non-residential uses, whether or not such development includes a subdivision or resubdivision of the site, shall be subject to review and approval or disapproval by the Planning Board in accordance with the provisions of this chapter and Chapter 170, Land Development Control Regulations

C. Additional multi-family requirements

- 1. The maximum length of a multi-family dwelling shall not exceed 200 feet.
- 2. The minimum distance between multi-family dwellings shall not be less than 35 feet.
- 3. All multi-family dwellings shall be connected to the municipal water and the municipal sewer systems.
- 4. At least 15% of the gross net buildable lot area shall be provided for recreation space. Green area on non-residential site plans may not be applied toward the recreational space calculation.
- 5. Off-street parking shall be provided in accordance with Chapter 170, Land Development Control Regulations.
- 6. Multi-family dwellings shall be constructed in accordance with the provisions of the (Effective 11/17/05)
 - International Building Code as amended by the State of New Hampshire and the Town of Derry;
 - International Plumbing Code as amended by the State of New Hampshire;
 - International Mechanical Code;
 - International Energy Conservation Code;
 - National Electrical Code (NFPA 70);
 - All codes as may be currently adopted by the State of New Hampshire Fire Marshall's Office and as contained in Chapter SAF-C6000-State Fire Code;

~~In addition the following codes and/or amendments are adopted by reference:~~

- ~~• International Residential Code;~~
- ~~• International Property Maintenance Code.~~

D. Special exception uses.

1. A special exception may be granted by the Zoning Board of Adjustment to allow an owner-resident to conduct a home business in her/his dwelling. Such home business shall be limited to the following professions or trades:

- a. Lawyer, doctor, clergyman, real estate agent, insurance agent, or similar recognized profession or business
- b. Artist, artisan or craftsman
- c. Tradesman or repairman

2. A request for only such special exception uses as are specified in sub-section D.1 above may be granted, provided that the Zoning Board of Adjustment finds favorably with respect to each of the following conditions:

- a. The applicant claims the dwelling unit as her/his legal residence;
- b. The residential use was established by the applicant prior to the filing of the request for the special exception;
- c. The proposed home business will not be injurious, noxious, or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke vibration, noise, or other cause;
- d. The home business use will be conducted within the residential structure, or other existing structure, and will not exceed 25% of the finished living area of the dwelling. (eff 9/10/09)
- e. The home business use will not change the residential character of the dwelling, or the property;
- f. Not more than one sign or other advertising device will be displayed on the property, and it will not exceed three square feet in surface area;
- g. Not more than one person not residing in the dwelling unit will be employed on the premises at the same time;
- h. Sufficient off-street parking will be provided for employees, clients, and customers. Where lot size permits, the parking will not be provided within 25 feet of the front lot line, nor within 10 feet of a side or rear lot line;
- i. Not more than one home business use will be conducted on the property;
- and
- j. The proposed home business use will not, in any way, be contrary to any covenants or conditions contained in the deed to the property.

3. Special exceptions granted under this section are intended for use by the current residents and, as such, shall not be transferable to subsequent occupants.
(Effective 10/7/99)

4. Nothing in this subsection D shall be construed to allow sexually oriented businesses within this district.