

Application No. ZT-153-14, York County Board of Supervisors: Application No. ZT-153-14, York County Board of Supervisors: Consider amendments to Section 24.1-407, Standards for Accessory Apartments in Conjunction with Single-family Detached Dwellings, of the York County Zoning Ordinance (Chapter 24.1, York County Code) to modify the standards to increase the opportunities for establishment of accessory apartments as a by-right use rather than requiring Special Use Permit approval.

Mark Carter, Assistant County Administrator explained that the Board sponsored this application to amend the Zoning Ordinance to allow accessory apartments as a matter of right in more instances, noting that the vast majority of those that have gone through the use permit process in the past fifteen years have been approved. Mr. Carter stated that at the staff's request, the Commission tabled this application at its July 9 meeting after it was discovered that there was a minor problem with the proposed zoning text that would require some additional time to correct. Since then, he stated, staff has revised the proposed language to eliminate the possibility of an accessory apartment that is larger than the principal dwelling. He stated that under the proposed amendments, there would be an absolute upper limit of 1,000 square feet of habitable space for accessory apartments, and the building footprint of the apartment would not be allowed to exceed 75% of the footprint of the principal dwelling. He added that there would still be a Special Use Permit opportunity for accessory apartments that are between 35% and 49% of the size of the principal dwelling. In addition, Mr. Carter stated that there are a few additional proposed changes in response to concerns raised by Mr. Suiter. Specifically, he stated that with the proposed amendments, there is no longer a need to distinguish between attached and detached apartments. In addition, he recommended that since the group home provisions of the Code of Virginia define the term "family" to include up to four unrelated people living together, the reference to family members should be modified to specify that it includes only those related by blood, marriage, or adoption.

Mr. Mathes asked if it is really necessary to include the family definition when the ordinance allows accessory apartments to be occupied by not just family members but also by guests of the owner/occupant of the principal residence.

Mr. Carter responded that it might not be essential, but that such a change would help to clarify the intent of the accessory apartment provisions.
The Commissioners discussed the definition of "guest."

Mr. Suiter stated that he thinks the family definition should be specified for clarity.

James Barnett, County Attorney, added that the proposed change could help the County having to make a legal argument at some point in the future.

Chair Magowan expressed concern about the vagueness of the term "guest."

Mr. Barnett responded that the customary meaning is fairly well understood as someone who is not being charged.

Mr. Jons asked how other localities treat accessory apartments.

Mr. Carter responded that York County is probably more permissive than most other localities, a number of which, he noted, prohibit accessory apartments altogether.

Chair Magowan said she does not like the work "guest."

Mr. McCulloch asked if the word “guest” should be removed.

Mr. Carter said the term “guest” means someone whose permanent address is not where the accessory apartment is located. He suggested that Chair Magowan’s concern can be addressed by deleting the reference to non-family members and non-guests and simply stating that accessory apartments cannot be offered to the general public.

Chair Magowan opened the public hearing.

There being no one present wishing to speak on this matter, **Chair Magowan** closed the public hearing.

Mr. Jons moved adoption of proposed Resolution No. PC14-21(R-1).

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-153-14 TO AMEND SECTION 24.1-407 OF THE YORK COUNTY ZONING ORDINANCE, CHAPTER 24.1 – YORK COUNTY CODE, TO MODIFY THE REQUIREMENTS PERTAINING TO ACCESSORY APARTMENTS TO INCREASE THE BY-RIGHT OPPORTUNITIES FOR THEIR ESTABLISHMENT IN THE RC, RR, R20, AND R13 RESIDENTIAL ZONING DISTRICTS

WHEREAS, based on previous case records, the York County Board of Supervisors has determined that it would be appropriate and consistent with good zoning practice to consider expanding the opportunities for establishment of accessory apartments as a by-right, rather than Special Use Permit, use in conjunction with single-family residences located in the RC, RR, R20, and R13 zoning districts; and

WHEREAS, the Board has sponsored Application No. ZT-153-14 to allow formal consideration of proposed amendments and has forwarded the application to the Planning Commission in accordance with applicable procedures; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments with respect to this application; and

WHEREAS, the Commission has determined that the proposed amendments would appropriately expand the by-right opportunities for accessory apartments in a manner consistent with the approvals granted through the Special Use Permit process over the course of the past 15 years;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the _____ day of _____, 2014, that Application No. ZT-153-14 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation for approval of amendments to Section 24.1-407 of the York County Zoning Ordinance, Chapter 24.1-York County Code, as set forth below:

Sec. 24.1-407. Standards for accessory apartments in conjunction with single-family detached dwellings.

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- (a) Not more than one (1) accessory apartment may be permitted in conjunction with a single-family detached dwelling.
- (b) Accessory apartments, whether attached to the principal structure (the single-family dwelling unit) or in a detached accessory structure, ~~shall may be subject to considered and authorized in accordance with the following requirements and schedule/procedures:~~

1. Accessory apartments not exceeding ~~1,000~~ 600 square feet or ~~35%~~ 25% of the floor area of the principal structure, whichever is less, ~~and attached to the principal structure (the single-family detached dwelling unit), shall be permitted as a matter of right in the RC, RR, R33, R20 and R13 zoning districts. Attached accessory apartments in excess of the 600 square feet/25% limitation, but not exceeding 800 square feet or 35% of the floor area of the principal structure, whichever is less, may be authorized by special use permit in the RC, RR, R20 and R13 zoning districts.~~

~~1. Accessory apartments proposed in detached structures in the RC or RR zoning districts shall be permitted as a matter of right if the subject property meets the following minimum area requirements and the size of the accessory apartment does not exceed the 600 square feet or 25% of the principal structure floor area:~~

<u>District</u>	<u>Minimum Area</u>
<u>RC</u>	<u>5 acres</u>
<u>RR</u>	<u>1 acre</u>

~~In addition, detached accessory apartments may be authorized in the RC, RR, R20, and R13 zoning districts by special use permit up to a maximum floor area limit of 800 square feet or 35% of the principal structure floor area, whichever is less.~~

~~2. Notwithstanding the above limitations, on property in the RC or RR zoning districts which is at least twice as large as the applicable conventional development (i.e., not a "cluster" development) minimum lot size for that district/property, or on property in the R20 zoning district which is at least four times as large, an attached or detached accessory apartment shall be permitted as a matter of right provided that it does not exceed 800 square feet or 35% of the principal structure floor area, whichever is less. and uUpon authorization by special use permit, the maximum size of an accessory apartment, whether attached or detached, on properties meeting the above noted minimum area thresholds may be increased to 1,000 square feet or 49% of the floor area of the principal structure, but in no case shall it be greater than 1,000 square feet whichever is less.~~

~~3. In no event shall the lot coverage (i.e., footprint) of a detached accessory apartment structure exceed 75% of the lot coverage of the principal structure.~~

- (c) Access to an accessory apartment, whether in the principal structure or in a detached accessory structure, shall be designed so that the premises continues to have the appearance from the principal street frontage of one single family detached dwelling unit and its customary accessory structures. No new entrance to accommodate an accessory apartment shall be installed on the front façade (facing the street) of an existing or proposed principal structure. The applicant shall be responsible for submitting sketches and/or plans to demonstrate compliance with this condition.

- (d) For the purposes of determining allowable floor area for an accessory apartment, all "habitable space," as defined and determined under the terms of the Building Code, shall be included in the calculation and shall be considered a part of the apartment. Space which does not meet the "habitable" criteria shall not be counted in floor area calculations for the accessory apartment.

~~(e) Notwithstanding the provisions of Section 24.1-273(c) of this chapter, for the purposes of this section, the term "attached" shall be construed to require connection by enclosed, heated, habitable space. Structures which are merely attached by a wall or roof construction, or which are within ten (10) feet of the principal structure shall not be considered "attached."~~

- ~~(ef)~~ The maximum number of bedrooms in an accessory apartment shall be one (1).

- ~~(fg)~~ Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.

- ~~(gh)~~ Approval of accessory apartments shall be contingent upon prior certification by the health department

that any on-site water supply and sewage treatment facilities are adequate to serve the total number of bedrooms proposed on the property (principal and accessory).

- (i) The accessory apartment shall be occupied only by family members (related by blood, marriage or adoption) or guests of the occupant of the single-family dwelling or by a bona fide medical/health caretaker or domestic employee of the occupant of the single family dwelling. The apartment shall not be offered to the general public ~~(i.e., non-family members/ non-guests)~~ for rental or other occupancy arrangements.
- (j) All utilities serving the accessory apartment (e.g., electric, water, sewer, gas) shall be registered to the occupant of the principal residence. Registration/billing of utility accounts to different parties (e.g. the occupant of the principal residence and the occupant of the accessory apartment) shall be prohibited, even if separate meters for the principal residence and accessory apartment are used.
- (k) Prior to issuance of a Building Permit for the accessory apartment the property owner shall prepare and record with the Clerk of the Circuit Court, at his expense, a deed restriction on the property stipulating that the accessory apartment will be used, occupied and maintained in accordance with the above-noted restrictions and such others as may be prescribed by the York County Board of Supervisors in approving the special use permit. A copy of any resolution authorizing the accessory apartment shall be attached to the deed restriction as an exhibit. Such restrictions shall not be voided, in whole or in part, unless specifically authorized by the County Administrator in recognition of some subsequent change in the zoning restrictions applicable to accessory apartments or upon removal of the accessory apartment through demolition or alterations to the structure.

(Ord. No. 03-8(R), 3/4/03; Ord. No. 06-20(R), 8/15/06; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-24, 12/21/10)

On roll call, the vote was:

Yea:	(6)	Jons, McCulloch, Mathes, Myer, Suiter Magowan
Nay:	(0)	
