

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2014:

Present

Vote

Donald E. Wiggins, Chairman
Thomas G. Shepperd, Jr.
Walter C. Zaremba
Sheila S. Noll
George S. Hrichak

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE 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, R33, 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, R33, 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 Commission has conducted a duly advertised public hearing and made a recommendation for approval of the proposed amendments; and

WHEREAS, the Board has conducted a duly advertised public hearing and given careful consideration to the Commission’s recommendation and public comments with respect to this application; and

WHEREAS, the Board has determined that the proposed amendments will establish requirements that appropriately reflect past decisions with respect to accessory apartments;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the ____ day of _____, 2014, that Application No. ZT-153-14 be, and it is hereby, approved to amend 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.

(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 ~~800~~ ~~600~~ square feet or 35% ~~25%~~ of the floor area of the principal structure, whichever is greater ~~less~~, and ~~attached to the principal structure (the single family detached dwelling unit) or in a detached accessory structure~~, shall be permitted as a matter of right in the RC, RR, R33, R20 and R13 zoning districts provided, however, that no accessory apartment authorized as a matter of right shall exceed 1,000 square feet. ~~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.~~

2. ~~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.~~

3. ~~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~~
Upon 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.

3.4. 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.”~~
- (~~e~~f) The maximum number of bedrooms in an accessory apartment shall be one (1).
- (~~f~~g) 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.
- (~~g~~h) 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).
- (~~h~~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.

- (ij) 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.
- (jk) 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.
