

COUNTY OF YORK

MEMORANDUM

DATE: May 20, 2013 (PC Mtg. 6/12/13)

TO: York County Planning Commission

FROM: J. Mark Carter, Assistant County Administrator 

SUBJECT: Application No. ZT-142-13, York County Board of Supervisors: Proposed amendment of Section 24.1-271 (Residential Accessory Uses) pertaining to *family health care structures*

ISSUE

In the 2013 Session, the General Assembly adopted House Bill 1419, the effect of which is to make several changes in Section 15.2-2292.1 of the Code of Virginia which mandates that all localities provide matter-of-right opportunities for the location of *temporary family health care structures* on single-family residential properties. The mandatory changes will expand the provisions to allow occupancy of such structures by a married couple and also extend the time limit for removal from the property from 30 days to 60 days.

CONSIDERATIONS

The *Temporary Family Health Care Structure* provisions were added to the Code of Virginia, effective July 1, 2010 as Section 15.2-2292.1, the terms of which require that local zoning ordinances allow *temporary family health care structures* on single-family residential lots. The required provisions were added to the York County Zoning Ordinance through the adoption of Ordinance No. 10-24 on December 21, 2010. Temporary family health care structures are defined as follows:

Temporary family health care structure. A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, and which has been primarily assembled at a location other than the site of installation.

In addition to adding the definition, the 2010 Zoning Ordinance amendments incorporated various performance standards established in and allowed by Section 15.2-2292.1 of the COV into Section 24.1-271 (Residential Accessory Uses). Included among those performance standards are provisions that:

- limit occupancy of the temporary family health care structure to a maximum of one (1) resident, who shall be mentally or physically impaired; and
- require removal from the site within 30 days of the time the mentally or physically impaired person is no longer receiving or no longer needs the assistance of a caregiver.

The 2013 State Code revisions require that changes be made to these standards to:

- allow occupancy by a married couple (2 occupants), one of whom is mentally or physically impaired and requires assistance with one or more activities of daily living, as defined in section 63.2-2200 of the COV; and
- extend, from 30 to 60 days, the time allowed for removal of the structure from a property once the need for it ceases (i.e., for whatever reason, the person who occupied it no longer needs the assistance of a caregiver).

These mandatory revisions are shown in the attached proposed resolution.

To date, no temporary family health care structures have been located on any residential property in York County.

RECOMMENDATION

As noted above, the state Code requires localities to include opportunities for such structures in their zoning ordinances and mandates the performance standards that must be used. Accordingly, the amendments shown in the attached resolution must be approved to remain in compliance with the state Code. Adoption of proposed Resolution No. PC13-10 will forward the proposed amendments to the Board of Supervisors with a recommendation for approval. Adoption is recommended.

Carter/3337

Attachment

- Proposed Resolution No. PC13-10__

PLANNING COMMISSION
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of ____, 2013:

Present

Vote

Richard M. Myer, Jr., Chair
Mark B. Suiter, Vice Chair
Alexander T. Hamilton
Christopher A. Abel
Timothy D. McCulloch
Todd H. Mathes
Melissa S. Magowan

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

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-142-13 TO AMEND SECTION 24.1-271 OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) PERTAINING TO TEMPORARY FAMILY HEALTH CARE STRUCTURES

WHEREAS, Application No. ZT-142-13 has been sponsored by the Board of Supervisors to allow consideration of amendments to the accessory use provisions pertaining to temporary family health care structures, as required pursuant to legislation adopted by the 2013 General Assembly; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

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

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ___ day of _____, 2013, that Application No. ZT-142-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate the following amendments:

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (q) shall be deemed not allowed as residential accessory uses:

- (p) Temporary family health care structures for use by a caregiver in providing care for a mentally or physically impaired person on property that is zoned for single-family residential use and that owned or occupied by the caregiver as his residence, subject to the following performance standards.
- (1) occupancy of the structure shall be by a mentally or physically impaired person who, for the purposes of this section, shall be deemed to be a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Section 63.2-2200 of the Code of Virginia and as certified in writing by a physician licensed by the Commonwealth of Virginia;
 - (2) a maximum of one (1) resident occupant, who shall be the mentally or physically impaired person, shall be permitted; or, in the case of a married couple, two (2) occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in Section 63.2-2200 of the Code of Virginia, as certified by a physician licensed in the Commonwealth;
 - (3) the structure shall not exceed 300 square feet in gross floor area;
 - (4) the structure shall comply with all applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code;
 - (5) placement on a permanent foundation shall not be required or permitted;
 - (6) only one such structure shall be permitted on a lot;
 - (7) the structure shall comply with all setback requirements applicable to principal structures in the district in which located;
 - (8) such structure shall be connected to all necessary public and/or private utilities and shall comply with all applicable requirements of the Virginia Department of Health;
 - (9) no signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property;
 - (10) prior to placement of such a structure on a residential property, the property owner shall obtain a permit, available from the office of the zoning administrator; the zoning administrator shall require submission of a sketch plan and such other documentation as deemed necessary to ensure compliance with the standards set forth herein;

- (11) any temporary family health care structure installed pursuant to this section shall be removed within ~~30~~ 60 days of the date on which the temporary family health care structure was last occupied by a occurrence of the mentally or physically impaired person ~~no longer receiving services or no longer in need~~ ing of the assistance of a caregiver;
- (12) for the purposes of this section, the term caregiver means an adult who provides care for a mentally or physically impaired person within the Commonwealth and the caregiver shall be either related by blood, marriage, or adoption to, or shall be the legally appointed guardian of, the mentally or physically impaired person for who care is being provided; and,
- (13) on an annual basis, at least 30 days prior to the anniversary date of the initial permit issuance, the caregiver shall be required to provide evidence of compliance with the terms of this section and to grant zoning and code enforcement personnel the opportunity to conduct an inspection of the property and the structure at a time mutually acceptable to the caregiver and the inspection personnel.
