

Local Law No. ___ of 2020

(Omnibus Town Code and Zoning Map Amendments to Facilitate Economic Development and Enhance Residential Property Usage)

Section 1: Legislative Intent

While enforcing the Town Code, Town staff discovered issues that routinely arise. In order to help Cortlandt get back to work from the effects of the COVID-19 Pandemic, Town staff have proposed ways to simplify zoning for both residents and potential economic development applicants. The Town has also hired an economic development consultant who has spoken with numerous potential applicants about ways to streamline the approval process. The Town has determined that there are certain applications before the Planning Board and Zoning Board of Appeals, which are effectively pro forma, and are generally approved without many comments from the Board members due to the nature of the applications. While still subject to staff review, these applications will no longer need to appear before the various Boards. This will reduce the time and costs needed to bring these projects to fruition, and will promote economic development.

Section 2: Modification to Lot Line Adjustment Provisions

Lot line adjustment are when applicants seek to move a property boundary with a neighboring parcel, but do not propose to create a new lot. Currently, lot line adjustments must appear before the Planning Board. To streamline the process, the following changes are made to Section 265-13(D) of the Town Code (additions in **bold**, deletions ~~stricken~~):

Upon receipt of a proper application, ~~and fee for subdivision approval,~~ and a survey illustrating existing and proposed lot lines, a lot line adjustment between two (2) lots **shall be reviewed internally by the Department of Technical Services, the Town Assessor's Office, and the Town Attorney's Office. Planning Board review shall only be required if any lot increases or decreases in size by more than five (5) acres.** ~~may be exempted by resolution of the Planning Board from all other procedures and standards otherwise required by this chapter if such adjustment neither creates any additional lot, results in any lot's becoming substandard nor increases or decreases any lot area by more than twenty percent (20%) or twenty thousand (20,000) square feet of its original lot area.~~

Section 3: Modification to Accessory Apartment Provisions

Section 307-45 provides the Special Permit requirements for accessory apartments in the Town. Each time there is a change in ownership or a change in the residence of the owner, there must be a new application before the Planning Board. It is in the community's best interest to have a public hearing on an initial special permit application. Requiring subsequent public hearings on previously approved applications has not proven to be meritorious. Thus, the following changes are made to Section 307-45(B)(7) of the Town Code (additions in **bold**, deletions ~~stricken~~):

Should there be a change in ownership or a change in the residence of the owner, ~~the special permit use for the accessory apartment shall become null and void~~ **a new application is required to be submitted to the Department of Technical Services to continue the use of the accessory apartment use.**

Section 4: Modification to Which Applications Must Receive Planning Board Approval

Due to business cycles, the Town has noticed that stores, such as those in the Cortlandt Town Center, have new tenants from time to time. Currently, whenever a new use is proposed, an applicant must appear before the Planning Board, even if the only changes are internal configurations. These applications are still reviewed by Code Enforcement in addition to the Planning Board. In most communities, these types of internal changes are not reviewed by the Planning Board unless actual changes to the site itself are occurring or there is an increase in demand for parking.

Through smart planning, the Town has historically had several thriving shopping centers, primarily located on the Route 6/Cortlandt Boulevard corridor. The Town has a vested interest in maintaining the strength of these shopping centers, and this goal is in conformance with the Town's 2016 Sustainable Comprehensive Plan.

The following changes are made to Section 307-66(A) of the Town Code (additions in **bold**, deletions ~~stricken~~):

Site development plan approval by the Planning Board shall be required for the erection or enlargement of all buildings other than one- or two-family residences in all districts; **and** for all commercial, industrial and other nonresidential uses of land where no building is proposed, ~~for changes of use from one manufacturing use to another and for changes in use as defined by this chapter.~~

Changes of use with respect to plans previously approved by the Planning Board do not need to obtain amended site plan approval unless site work is necessary pursuant to the New York State Uniform Fire Prevention and Building Code, the applicant proposes discretionary site work, the proposed application will result in a shortage of parking spaces, or a committee composed of representatives of the Town's engineering, planning, and legal staff believe that amended site plan approval is necessary based on any factors listed in § 307-73 of the Town Code.

Section 5: Modification to Non-Conforming Lot and Use Provisions

Residents of single-family homes on non-conforming lots have often needed to appear before the Zoning Board of Appeals for minor changes to their properties. This led the Town Staff to re-examine the relevant Town Code provisions to assist residents with completing minor work, such as adding decks, which create no additional nonconformities. In addition, the Town Board now

wishes to clarify non-conforming use provisions. The following changes are now made to Article XII “Nonconforming Uses and Structures” of the Zoning Ordinance:

§ 307-77. Nonconforming use of land.

Except as otherwise provided in this chapter, the lawful use of land existing at the time of adoption of this chapter or its predecessor may be continued although such use does not conform to the regulations specified by this chapter for the district in which such land is located; provided, however, that no such nonconforming use shall be ~~enlarged or increased, nor shall any nonconforming use be~~ extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this chapter, nor shall any such nonconforming use be moved, in whole or in part, to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this chapter or its predecessor; provided, further, that if any such nonconforming use of land ceases for any reason for any continuous period of ~~not less than~~ **one year or more**, any subsequent use of such land shall be in conformity with the regulations specified by this chapter for the district in which such land is located.

§ 307-78. Nonconforming use of buildings.

Except as otherwise provided in this chapter, the lawful use of a building existing at the time of the adoption of this chapter or its predecessor or a structure as provided for in § 307-96 of this chapter, although such use does not conform to the regulations specified by this chapter for the district in which such building is located, may be continued. Any such use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption of this chapter, but no such use shall be extended to occupy any land outside such building. ~~If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use which, in the opinion of the Zoning Board of Appeals, either by general rule or on a specific finding in a particular case, is of the same or of a more restricted nature. The Zoning Board of Appeals must find that such change of use is not substantially more detrimental to the neighborhood than the existing nonconforming use. In making the finding that the change in use will not be substantially more detrimental, the Zoning Board of Appeals shall consider, without limitation, impacts upon the following: traffic volumes, parking adequacy, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, shading, visual effects and neighborhood character.~~

§ 307-79. Effect of cessation of nonconforming use of building.

If any nonconforming use of a building ceases for any reason for a continuous period of ~~not less than~~ one year **or more** or if the building in or on which such use is conducted or maintained is moved for any distance, then any future use of such building shall be in conformity with the regulation specified by this chapter for the district in which such building is located. If any building in or on which any nonconforming use is conducted or maintained is hereafter removed, the subsequent location and use of any building thereon shall be in conformity with the regulations specified by this chapter for the district in which such land is located.

§ 307-80. Enlargement or alteration of nonconformities ~~prohibited.~~

The enlargement, expansion, or structural alteration of a dimensionally nonconforming building or structure is prohibited, except in circumstances where the alteration does not change the building coverage and does not create any new nonconformities with the Town Code.

~~No existing building designed, arranged or intended for or devoted to a use not permitted under the regulations specified by this chapter for the district in which such building is located shall be enlarged, extended, reconstructed, structurally altered or moved unless such use is changed to a use permitted under the regulations specified by this chapter for the district in which said building is located; provided, however, that work may be done in any period of 12 months on ordinary repairs or on repairs or replacements of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 25% of the full value of the building as determined by applying to the assessed value thereof (according to the assessment thereof by the Assessor of the Town for the year in which such work is done) the ratio of full to assessed value as determined by the Westchester County Tax Commission for equalized valuation; provided that the cubical content of the building as it existed at the time of the passage of this chapter shall not be increased and provided, further, that nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Director of Code Administration and Enforcement and by him ordered to be strengthened or restored to a safe condition, unless such building has been destroyed to an extent of more than 50% of the full value thereof, determined as aforesaid.~~

Section 6: Amendments to the Table of Dimensional Regulations, Residential District (307 Attachment 3)

Certain residential properties are located on corner lots, which means that they likely will have multiple front yards. This severely limits a property owner's ability to use at least two of its yards due to restrictions as to what can be placed in front yards. Certain types of accessory residential structures could be appropriately sited in front yards without any aesthetic detriment to the property. Amending the Town Code would also eliminate certain logical inconsistencies. For example, a detached garage located in a front yard six feet from the house would require a variance. However, if the same resident were to add a six-foot breezeway to connect the detached garage to the principal structure, then the detached garage would now comply with the Code. To ameliorate recurring issues with corner lots and other uniquely configured lots, the following changes are now made to the Table of Dimensional Regulations, Residential District (307 Attachment 3) (additions in **bold**):

In the area of the table for "*All residential*" the minimum front yard for "*Detached building*" and "*Playground equipment*" shall be changed to "Not permitted **in the front yard setback.**"

Section 7: Denoting Transitional Locations on the Zoning Map

A Transitional Location is defined in Section 307-4 of the Zoning Ordinance as, "[a] lot in a residential district whose side lot line is contiguous for at least one-half (1/2) of its length with a lot in a commercial or industrial district or a lot in a residential district whose front lot line is directly across a street for more than one-half (1/2) its length from a commercial or industrial district." (Town Code, § 307-4). In certain zoning districts, two-family dwellings and business or professional offices are permitted in transitional locations pursuant to a special permit. Town staff often receive questions from potential applicants asking if a property is in a transitional location and believe that adding a special denotation for transitional locations on the Zoning Map would be prudent.

The Town Board approves transitional locations receiving their own designation on the Town Zoning Map.

Section 8:

If any provisions of this local law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the local law shall remain in effect.

Section 9:

This local law shall take effect immediately upon filing with the Secretary of State.

**BY ORDER OF THE TOWN BOARD
OF THE TOWN OF CORTLANDT
LAROUÉ ROSE SHATZKIN, TOWN CLERK**

**Adopted October 20, 2020
At a Regular Meeting
Held at Town Hall**

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