

ORDINANCE AMENDING SECTIONS 331-4, SPECIFIC TERMS DEFINED; 331-13(C), PROVISIONS GOVERNING LOTS; 331-117, APPROVAL REQUIRED; 331-136, BUILDING PERMITS, PERFORMANCE BOND; AND SCHEDULE OF DIMENSIONAL REGULATIONS RESIDENCE DISTRICTS, OF CHAPTER 331, ZONING, OF THE NEW ROCHELLE ZONING CODE.

BE IT ORDAINED by the City of New Rochelle, as follows:

Section 1. Section 331-4, Specific Terms Defined, of Chapter 331, Zoning, of the New Rochelle Zoning Code, is hereby amended as follows:

§ 331-4. Specific Terms Defined.

For the purpose of this Chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING [STRUCTURE] – Building(s) [or structure(s)] detached from the Principal Buildings located on the same lot and customarily incidental and subordinate to the Principal Buildings or uses, whose Building Area, in the aggregate, does not exceed 25% of the Building Area of the Principal Building(s) on the lot.

ACCESSORY USE — A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building located on the same lot with the principal use, the Gross Floor Area [square footage] of which accessory use(s) shall not occupy, in the aggregate[:1) more than 25% of the Gross Floor Area of the Principal Building(s) on a lot, and 2)], whether enclosed or not, more than 48% of the Gross Floor Area on the lot [total lot area, exclusive of surface area dedicated to off-street parking]. Examples of accessory uses include the following:

- A. Offices for building management.
- B. Recreation and playrooms.
- C. Laundries for the use of tenants and occupants.
- D. Maintenance and workshops.
- E. Garages within a residential building or on the premises thereof used primarily for the storage of motor vehicles, boats, camper trailers, motor homes, pickup coaches and travel trailers.

FLOOR AREA (GROSS) — The sum of the horizontal area of each story of a building, measured from the exterior faces of exterior walls or, in the case of a common wall separating two buildings, from the center line of such common walls, but excluding 1) unenclosed porches, balconies, raised platforms, roof overhangs, gutters and chimneys; 2) any interior space with less than five feet of vertical clearance; 3) unfinished and nonhabitable space in a basement, attic, or storage area, provided that such unfinished and nonhabitable space, if having windows or exterior doors, shall not have any individual window of a greater area than 5.6 square feet, nor exterior sliding doors, nor other exterior doors qualifying as exits under the New York State Building Code except for bulkhead doors; 4) mechanical spaces; 5) unenclosed parking garages; or carports; [and 6) parking spaces] 6) enclosed parking garage space in one-family residential districts, except that any such space in excess of 600 square feet shall not be so excluded; and 7) enclosed parking garages in other than one-family residential districts. If any basement, attic, or storage area has any individual window of a greater area than 5.6 square feet, or exterior sliding doors, or other exterior doors which are not bulkhead doors but which qualify as a safety exit under the New York State Building Code, such area shall be included in the gross floor area calculations.

Section 2. Section 331-13(C), Provisions Governing Lots, of Chapter 331, Zoning, of the New Rochelle Zoning Code, is hereby amended as follows:

§ 331-13. Provisions Governing Lots.

Any change of lot line, whether in conjunction with the creation of a street or a new lot, or a simple exchange of land, shall be considered to be a subdivision and shall be subject to Planning Board review and approval per Chapter A361. A plat indicating such change shall be filed with the Office of the Westchester County Clerk prior to such change taking effect. A copy of the filed plat shall also be submitted to the City Assessor. No building permit shall be issued for the use or development of any lot which has not been so created subsequent to the effective date of this Chapter.

- C. New building on lots smaller than required. A building permit may be issued for the erection of a one-family residential building on a lot in a one-family residential district which was located in the R1-7.5 or the R1-10 District prior to May 19, 2005, notwithstanding that the lot frontage or lot area of such lot is less than that required for the district in which such lot is located at the time of issuance of the building permit, provided that 1) such lot met the lot frontage and lot area requirements in effect for such lot in the R1-7.5 or R1-10 District, as the case may be, prior to May 19, 2005, and 2) such lot was in different ownership than any other lot or lots contiguous thereto on May 19, 2005, and still is in different ownership as of the date of issuance of the building permit. In addition, a permit may be issued for the erection of a building for a permitted use on a lot for which a valid conveyance has been recorded prior to April 18, 1955, notwithstanding that the area or dimensions of such lot are less than that required for the district in which such lot is located, provided that:

- (4) The lot is not shown on a subdivision plat filed in the Westchester County Clerk's Office.

Section 3. Section 331-117, Approval Required, of Chapter 331, Zoning, of the New Rochelle Zoning Code, is hereby amended as follows:

§ 331-117. Approval Required.

Site plan approval is required prior to the issuance of a building permit for the construction or enlargement of any principal use, other than a one- or two-family dwelling[,], where such dwelling is permitted by right and the grade is not changed by more than four feet at any point on the site[,], except for the one-family dwellings specifically regulated in this subsection below, and prior to the issuance of a certificate of occupancy for any change of use or occupancy which would result in an increase in the requirement for off-street parking or loading spaces and for any parking lot created or altered in accordance with the provisions of Article XIV of this Chapter, and for a new Active Recreational Use or an Expansion of Active Recreational Use located in an ROS zoned district which requires alteration by grading, drainage systems, Structures, and/or the creation of artificial or non-natural playing surfaces. The Planning Board shall be the approving agency for all site plan applications.

A one-family dwelling located in other than the R1-HIST, One-Family Historic Residence District, shall require site plan approval including architectural review in accordance with Section 331-117.1, prior to the issuance of a building permit, when either of the following conditions apply:

- a. if such one-family dwelling is to be constructed on a lot that is currently vacant, which lot is not included on a subdivision plat filed in the Westchester County Clerk's Office since January 1, 2005; or
- b. if such one family dwelling is an existing building located in a One Family Residence District which is i) proposed to be expanded (either by additions and/or by replacement of portions or all of the existing building) by 40% or more of the Gross Floor Area (including all principal and accessory buildings) currently existing on the lot, and ii) when expanded, shall have a Gross Floor Area (including all principal and accessory buildings) not less than 4000 sq. ft.

Section 4. Section 331-136, Building Permits; Performance Bond, of Chapter 331, Zoning, of the New Rochelle Zoning Code, is hereby amended as follows:

§ 331-136. Building Permits; Performance Bond.

Except under written authorization of the Board of Appeals as provided in Article XV of this Chapter, no building permit shall be issued for any land, building or structure where said action would be in violation of any of the provisions of this Chapter.

- A. Every application for a building permit as required by the Building Official, except for single- and two-family dwellings which are not subject to review and approval by the Planning Board pursuant to Section 331-117, shall be accompanied by a site plan as required in Article XIII of this Chapter. The application shall be made in duplicate. The Building Official, in acting on such site plan, shall be guided by the standards as set forth in § 331-120 of this Chapter. On issuance of a building permit, the Building Official shall return one copy of all documents filed to the applicant.

- B. If a building permit is denied, the Building Official shall state in writing the reason for such denial.
- C. [In accordance with General City Law § 27-a(7) t]The applicant's engineer or architect, prior to the issuance of any type of building permit for construction requiring site plan approval, shall submit to the [Building Official] City Engineer an estimate of the costs of all required on and off site infrastructure and improvements associated with such site plan approval, which estimate shall be verified by the [Building Official] City Engineer as adequate to cover such on and off site infrastructure and improvements required as part of such site plan approval. Thereupon, the applicant shall provide to the City [Bureau of Buildings] performance bond or other security acceptable in form and amount to Corporation Counsel, in an amount and for a period of time acceptable to the [Building Official] City Engineer, all in accordance with [§ 27-a, Subdivision 7, and § 33, Subdivision 8,] Article III of the General City Law.

Section 5. The Schedule of Dimensional Regulations Residence Districts, of Chapter 331, Zoning, of the New Rochelle Zoning Code, is hereby amended as shown on the attachment.

Matter in [brackets] omitted.

Matter underlined added.