

*Town of Ossining, NY
Monday, March 21, 2022*

Chapter 200. Zoning

Article V. Supplementary Regulations

§ 200-31.2. Accessory apartments on single-family lots.

[Added 11-13-2018 by L.L. No. 4-2018]

- A. Purpose. It is the purpose of this section to legalize and control existing accessory apartments on single-family lots and to regulate new conversions. It is also the intent of this section that neighborhoods zoned as single-family maintain their single-family character. This section will further the Town's goal of providing a diversity of housing in Ossining without changing the low-density, predominately single-family character of the Town. This section is intended to ease the financial burden of homeowners, particularly those with moderate or fixed incomes. It is the further purpose and intent of this section to provide for the health, safety and welfare of the inhabitants of the Town of Ossining and of the occupants of accessory apartments and to ensure that said accessory apartments meet minimum health, fire and safety standards.
- B. Required standards. The Zoning Board of Appeals of the Town of Ossining may permit the construction of an accessory apartment within an existing single-family home or within a detached accessory building on a single-family lot pursuant to the following standards. It shall be unlawful to use, establish, maintain, operate, occupy, rent or lease any portion of any premises as an accessory apartment for residential occupancy in the Town of Ossining without first having obtained an accessory apartment special permit. Failure or refusal to procure an accessory apartment special permit shall be deemed a violation of this chapter.
- (1) Location. An accessory apartment shall be located only in that portion of a building for which there has been a valid certificate of occupancy in place for at least two years prior to the application for an accessory apartment special permit or where there is proof, as determined by the Building Inspector, that said portion of the building was built prior to the requirement for a certificate of occupancy.
 - (2) Size of lot. The lot on which the accessory apartment is proposed shall be no less than the size required by the zoning district in which it is located.
 - (3) Architectural treatment. The architectural treatment of the structures on the lot shall be such as to portray the character of a single-family lot. Only one main entrance will be permitted on the front side of the principal building; all other entrances shall be at the side or in the rear of the building(s). In addition, no more than one meter for each utility provided to the lot (i.e., gas, water, etc.) shall be permitted. Notwithstanding the above, if an accessory apartment is located in an accessory building on the lot, said accessory apartment may have its own metering.
 - (4) Floor area. The habitable floor area of the accessory apartment shall be a minimum of 300 square feet and a maximum of 800 square feet, and the area of the accessory apartment shall also not exceed 33% of the habitable floor area of the principal building on the lot.
 - (5) Bedrooms and occupancy. There shall be a maximum of two bedrooms in the accessory apartment in a single-family home. An accessory apartment in a detached accessory building

shall be limited to an efficiency or studio housing unit, as defined in this chapter, and shall be limited to a maximum of two occupants.

- (6) Parking. Adequate off-street parking spaces in accordance with § **200-29** of this chapter shall be provided to prevent the parking in public streets of vehicles of any persons residing in the accessory apartment.
- (7) Ownership. Either the main dwelling or the accessory apartment must be owner-occupied as the owner's primary residence. The owner shall not rent out the owner's dwelling unit.
- (8) Number of accessory apartments per lot. There shall be no more than one accessory apartment nor more than a total of two dwelling units permitted per lot.
- (9) Permits. A building permit shall be obtained as otherwise required, and a certificate of occupancy must be issued prior to utilization of an accessory apartment. No permit shall be issued until the Building Inspector, Town Engineer and/or the Westchester County Department of Health, whichever is appropriate, has issued written approval indicating that all applicable health, fire, building and safety requirements, including those relating to adequate sewage disposal capacity, have been met.
- (10) Renewal permit. Prior to the issuance of any renewal permit, the Building Inspector, or his designee, shall inspect all areas of the building housing the accessory apartment to determine that there is compliance with all applicable laws, rules and regulations. No renewal permit shall be issued until the Building Inspector, or his designee, determines that there is full compliance with said laws, rules and regulations.
- (11) Garage space. Garage space may not be used for an accessory apartment unless the required parking on the lot can otherwise be provided.
- (12) Minimum term of rental. The rental term of an accessory apartment shall be for at least three months.

C. Application for special permit; public hearing; term; renewal.

- (1) Application for a special permit for an accessory apartment shall be made to the Zoning Board of Appeals in accordance with the procedures set out in this section. The application shall consist of the following:
 - (a) A site plan indicating existing building and lot conditions and a dimensioned floor plan of the principal dwelling, any pertinent detached accessory building, and the proposed accessory apartment.
 - (b) A location map showing the applicant's property and adjacent property and streets, the location of existing and proposed off-street parking, water supply and sewage disposal facilities, ingress and egress to the site and such other information as may be required by the Zoning Board of Appeals to determine compliance with the provisions of this section.
 - (c) Application fee(s) as set forth in the Schedule of Fees promulgated by the Town Board.^[1]

[1] *Editor's Note: The Schedule of Fees is on file in the office of the Town Clerk.*
- (2) Upon receipt of the application, the Board shall conduct at least one public hearing for every application for a special permit for an accessory apartment. The Board may, at its discretion, conduct a public hearing in connection with any renewal application. Legal notice of such hearing shall be published in the official newspaper of the Town of Ossining at least 10 days prior to the public hearing. In addition, the Town shall forward written notice of the date, time and place of the hearing and a brief statement describing the application to every owner of property within a radius of 500 feet from the property lines of the lot which is the subject of the application at least 10 days prior to the date of such hearing.
- (3) The term of an initial permit shall be one year. Renewals shall be for three years. Applications for the renewal of special permits shall be made at least 90 days prior to expiration of the

permit being renewed.

- (4) If any of the provisions set forth in this chapter are not met, and/or if ownership changes, the special permit shall be null and void.

D. Additional standards of Zoning Board of Appeals.

- (1) When considering an application for a special permit for an accessory apartment, the Board shall apply the following standards, in addition to those general standards found in this chapter.
 - (a) The use will not restrict the use of adjacent properties.
 - (b) The use and the traffic generated by the use will not adversely affect the character of the neighborhood.
 - (c) The use will not endanger the health, safety or general welfare of the neighborhood or the community.
- (2) It is the Town's intent that neighborhoods zoned as single-family retain their single-family character. The Town recognizes that there may come a time when the number of accessory apartments in a single-family-zoned neighborhood will adversely affect the character thereof. The Zoning Board of Appeals shall therefore deny a special permit for an accessory apartment should it find that the number of accessory apartments in a neighborhood, including the one proposed, will adversely affect the character of a single-family-zoned neighborhood. This criteria for denial shall include, but not be limited to the circumstance where three other such permits or approvals for accessory apartments have been issued within a radius of 500 feet of the property lines of the lot containing the proposed accessory apartment.
- (3) The standards and provisions of all special uses as provided for in § **200-45C** of the Code of the Town of Ossining shall be applicable to this special permit procedure to the extent that the same are not inconsistent therewith. Further, if any of the provisions of this section are found to be in conflict with § **200-45C**, the provisions of this section shall be controlling.
- (4) As a condition to the issuance of an accessory apartment permit, the Zoning Board of Appeals may impose such conditions as deemed proper and necessary upon the accessory apartment, the principal single-family dwelling, any pertinent detached accessory building, and/or the property to preserve the character of the neighborhood and/or the health, safety and welfare of neighboring residents.

E. Reinspection. Accessory apartments which have been approved by the Zoning Board of Appeals shall be reinspected by the Building Inspector one year after issuance of the permit and every year thereafter. In the event the inspection discloses any noncompliance with or violations of the terms of this section, any condition of the permit, any state or local law, regulation or ordinance or, in the discretion of the Building Inspector, any condition which does or could pose a hazard to the health, welfare and safety of either the occupant(s) of the accessory apartment, the main building or any other members of the public, the Building Inspector shall report such findings, in writing, to the Zoning Board of Appeals. The Zoning Board of Appeals shall thereupon schedule a public hearing with due notice to determine whether the permit should be revoked based upon such noncompliance, violations or other condition(s) noted by the Building Inspector. Refusal to allow reinspection by the Building Inspector shall be a basis for revocation of the permit by the Zoning Board of Appeals after a public hearing.

F. Sale of dwelling unit; renewal of special permit. In the event that a lot with a valid special permit for an accessory apartment is sold, the special permit shall lapse unless, within 90 days after the transfer of title, the new owner shall apply for renewal of the previous special permit under this section. If such application is timely made, the new owner shall not be deemed in violation of this section so long as the renewal application is pursued with due diligence. If such renewal application is granted, the new special permit shall run three years from the date of transfer of title.

If, after transfer of title, a renewal application shall not be made within 90 days, any application thereafter made shall be treated as an initial application and any permit issued pursuant to said application shall be for a period of one year.

- G. Boarders prohibited. No boarders shall be permitted in either the principal dwelling unit or the accessory apartment. A dwelling may not receive an accessory apartment special permit for a tourist home, rooming house or boardinghouse.
- H. Special permit required for preexisting units. All owners of accessory apartments who have not previously obtained special permits for such accessory apartments located on their lots shall apply to the Zoning Board of Appeals for a special permit within six months following the effective date of this section. If application is so made within said six-month period, the owner of the accessory apartment shall not be deemed in violation of this section. If application to the Zoning Board of Appeals is not made within said six-month period, the owner of the accessory apartment shall be deemed in violation of this chapter and shall be subject to the penalties provided herein.
- I. Penalties for offenses. Any owner or builder, or any agent of either of them, who fails to secure a special permit for an accessory apartment, who allows occupancy of an accessory apartment, or who constructs or causes to be constructed an accessory apartment in violation of the provisions of this chapter shall be subject to § **200-43** of this chapter.