

Village of Waite Hill

Frequently Asked Questions RE: Waite Hill Zoning Code Update November 2, 2011

1. What prompted the need for the Zoning Code update in the first place?

We needed to make our regulations clear and defensible. The existing zoning text is outdated and, it could be argued, is confusing and vague. Our zoning map is also outdated and in several locations the existing zoning designation is uncertain.

2. Because of this update are we apt to lose our large lot zoning?

No, the opposite is the case. The proposed amendments make our most predominant zoning district - the R-10 Single Family Residence District with a 10-acre minimum lot size - as defensible as reasonably possible. Most of the Village retains this 10-acre minimum lot size.

3. If the 10-acre minimum does not apply everywhere, what's happening to these "other" locations?

There are three other Zoning Districts.

The **R-3 Single Family Residence District** – with a 3-acre minimum lot size – is being applied in one location only, on Gardenside Drive and Mountainview Drive, to reflect the prevailing lot sizes along that street.

The **Open Space and Natural Area Preservation District** combines two existing districts– the Park and Recreation District and the Conservation Preserve District - into one. The combined name better reflects the “natural area” and “open space” purposes of the district and the limited range of uses permitted.

Previously, land approved according to the **Building Zone Development District** was not reflected on the zoning map. The amendments clarify that those prior projects, and new proposals, that are approved with more units than the residential zoning permits is a rezoning – a separate zoning classification - and from here on will be reflected on the zoning map. As valuable as the Building Zone Development concept has been and continues to be, more units will be clarified as a rezoning and subject to a **legislative process** for approval. This is the intent of the current regulations. This clarification further reinforces the defensibility of the prevailing R-10 Zoning District. (See also Question #5.)

4. What happens to the other Single Family Residence Districts?

The other existing single family districts (R-5, R-2, R-1, and R-1A) are being deleted for two reasons. Firstly, the zoning map is unclear how these districts (and properties with corresponding lot sizes) have been recently treated. Secondly, if the intention was (is) to make lots smaller than 10-acres “conforming,” then these smaller lot zoning districts would be sprinkled widely throughout the Village. Such a random zoning pattern would make future defense of the 10-acre zoning far more difficult. However, any existing lot less than 10-acres in the R-10 District (or less than 3-acres in the R-3 District) becomes non-conforming. For the most part, even as non-conforming lots, a new home can be built on these parcels. However, the proposed zoning prevents new lots from being created that are less than the zoning requires.

5. The Building Zone Development has been working quite well; so, what happens when flexibility in the arrangement of the dwellings is desired but the number of units is not increased?

The current Building Zone Development regulations permit two development possibilities - (1) the flexible arrangement of the units when **more units** are requested than currently permitted – as addressed in Question #3; and (2) the flexible arrangement of the **same number** of dwellings permitted.

The flexible arrangement of the **same number of units** is now removed from the Building Zone Development process and is **separately permitted by right as a Conservation Development** in the R-10 and R-3 Districts. Since it’s the same density, a Conservation Development can be **administratively** approved by the Planning and Zoning Commission and Architectural Board of Review. In return for the “flexible arrangement” of the units, the Conservation Development requires that a high percentage of the property be dedicated as common open space – 40% in the R-3 district and 50% in the R-10 District.

6. What happens to our existing regulations and procedures which promote environmentally sensitive development?

All the existing maps, regulations, and criteria for reviewing development plans remain in place. In fact, the Environmentally Sensitive Areas Map and the Building Zone Development Map, which are the hallmark of the Village’s zoning policy, will become part of the zoning map. With this change these two maps will have more reliability for the Village as it makes the environmental decisions.

7. Why does the Code delete the option for accessory living quarters?

This provision is not defensible as written. The current code limits “accessory living quarters” to the occupancy of house-keepers and gardeners. These occupants in today’s society do not necessarily have less impact on the community than any independent “unrelated”

tenant/occupant. Therefore, it is difficult from a zoning perspective to permit living quarters for house-keepers and gardeners while prohibiting living quarters for others – whether relatives or unrelated persons.

Additionally, if the accessory living quarters were built for “limited occupancy,” it is difficult for the Village to later say “when the facts of the occupancy change” that the capital investment can no longer be utilized. The effect of the current provision is to permit two homes or duplexes on a single lot. This is contrary to the Village’s objectives. As a non-conforming use, however, existing accessory living quarters can continue to be occupied but new ones are not permitted.

8. What happens if I already have a second building on the property?

Well, there are several possibilities which depend on the specific facts of the property. For example:

- If your second building is currently occupied as “living quarters” (i.e. for a caretaker) it may continue to be so occupied – indefinitely – as a non-conforming use. However, in the future a second building – such as a garage or barn with a loft - cannot be converted to or used as living quarters if such use has not been previously established.
- A second building, may however, be used for a legal home occupation – for example, the second floor of a garage - as long as no one lives in it. In this example the second building could only be used as a living quarters if it were also a pre-existing non-conforming living quarters (similar to the first example).
- A second kitchen may be permitted, for example, as part of a “pool house” (whether in the main house or a second building) when it is clearly demonstrated to the Village that it’s not intended to create a separate living quarters.

Lastly, if you have sufficient land – more than 20 acres in an R-10 District – you always have the right to sub-divide the land and create two homes on two separate conforming lots.

9. Is that it?

Well, not exactly. There are numerous other changes that are minor in nature. They are related to definitions, terminology, clarity, eliminating inconsistencies, etc. They do not change or undermine the Village’s objectives, but are made to assure that the regulations are as clear and defensible as possible.

