

**PROPOSED CHANGES TO THE TEMPLE ZONING ORDINANCE
FOR PUBLIC HEARING VIA ZOOM ON DECEMBER 15, 2020**

In order to bring the Temple Zoning Ordinance in Compliance with State Law, the Planning Board is proposing the following changes to the Zoning Ordinance (edited text in **Bold**, deleted text ~~struckthrough~~).

First Change

7A.30 The accessory dwelling unit shall have a minimum floor area of 400 square feet, but in no case shall the floor area comprise more than 40% of the floor area of the combined residences **or 750 square feet, whichever is greater.**

Reason: The Accessory Dwelling Unit section of the ordinance is not consistent with state law, as our ordinance sets the maximum size of an accessory dwelling unit at “40% of the floor area of the combined residences,” whereas RSA 674:72:VII requires “size may not be restricted to less than 750 square feet.” This would create a conflict in a case where the combined square footage of the combined residences was less than 1,875 square feet, as then the 40% area would be less than 750 square feet. The proposed change will have the least impact on the spirit of the existing ordinance.

Second Change

7B:30 The accessory dwelling unit shall have a minimum floor area of 400 square feet, but in no case shall the floor area comprise more than 67% of the floor area of the primary residence **or 750 square feet, whichever is greater.**

Reason: Same as first change above, as applied to detached accessory dwelling units.

Third Change

7A.90 Accessory Dwelling Units shall not be allowed in Planned Residential Developments **with multiple single-family dwellings attached to each other, such as townhouses, and with manufactured housing as defined in RSA 674:31. Subsequent condominium conveyance of any Accessory Dwelling Unit separate from that of the principal dwelling shall be prohibited.**

Reason: Accessory Dwelling Units may not be more restricted in Planned Residential Developments than in the underlying zoning (such as for a single-family residence built on the same parcel of land).

Currently, Accessory Dwelling Units are authorized under Section 7.30:

7:30 Accessory dwelling units are permitted in all residential districts.

But specifically prohibited in Planned Residential Developments under Section 7A:90:

7A:90 Accessory dwelling units shall not be allowed in Planned Residential Developments.

The proposed change above will bring the Zoning Ordinance into compliance with state law while adopting the most restrictive option allowed under RSA 674:72, which salvages as much of the spirit of the current ordinance as allowed.

Fourth Change

19:5 Minimum lot size, frontage, setback and other dimensional requirements specified in the Zoning Ordinance and/or Subdivision Regulations may be modified or waived by the Planning Board within the Planned Residential Development provided that the Planning Board after review of the required application materials find that the proposal is consistent with the objectives outlined in paragraph A and other provisions of this Article. A Planned Residential Development may provide for private road access within the Planned Residential Development provided that a waiver of Town responsibility for municipal services in a form acceptable to Town counsel is delivered with any approval of the Planned Residential Development and further, provided that notice of private roads within the Planned Residential Development is suitable recorded in any document or instrument concerning the creation of the Planned Residential Development at the Hillsborough County Registry of Deeds **and otherwise meets the requirement of RSA 674:41.**

Reason: This section of the Planned Residential Zoning ordinance does not fully embrace the language of RSA 674:441-I(d) which deals with private roads (see text below). This proposed language is the simplest way to capture the provisions of RSA 641-41-I(d).

Fifth Change

19:6 (2002) All land in the Planned Residential Development which is not covered by buildings, septic systems, wells, paved areas, parking and service areas, and which is not set aside as private yards, patios, or gardens for the residents shall be treated as open space. The area of the open space shall be at least forty percent (40%) of the total area of the Planned Residential Development tract. At least fifty percent (50%) of the land required to be set aside as open space shall be land that is ~~not~~ ~~undevelopable~~ land as defined in Article IV: Section 19 (a). The open space area shall have a shape, dimension, character and location suitable to assure use for park, recreation, conservation or agricultural purposes by at least all of the residents of the Planned Residential Development. To the extent possible, as much open space as possible shall be contiguous. Such provisions shall further hold that all the open space shall be readily accessible to all residents of the Planned Residential Development and that such open space shall be retained in perpetuity, and a note to this effect shall be placed on the final plat, for one or more of the following uses: conservation, agriculture, recreation or park. No building construction or substantial alteration of terrain or topography, whether it is to be structures or septic systems, shall take place in the open space. Where the Planning Board feels that it is in the best interests of the Town, this land may be conveyed to the Town (subject to the approval of the homeowners association and the voters at Town Meeting). Timber harvesting in the open space shall be conducted only consistent with good timber stand management practices pursuant to a timber management plan prepared by a qualified licensed forester.

Unless determined to be owned by the Town, pursuant to the above language, the open space shall be conveyed to a homeowners association, whose membership includes all the owners of lots or units contained in the tract. The developer shall be responsible for the formation of the homeowners association of which the developer or owner shall be a member until a majority of lots of record are sold. The homeowners association shall be structured so as to provide that the membership and obligation of unit purchasers in the homeowners association will be automatic upon the conveyance of title of lease of dwelling units.

Reason: Improved consistency of language between the two paragraphs; elimination of double-negative language to improve clarity.