

Proposed amendment to the Zoning Code

Adding a new special permit for a “Community Care Facility”

Note: This proposed amendment to the Zoning Code is being referred out for comment so that the Town Board can get feedback before finalizing the text of a local law and scheduling a public hearing. When the local law is drafted, it will include any required related changes to other sections of the Zoning Code.

Rationale for the new special permit

Given the recent experience with an application for a special permit for a “convalescent home,” it is the opinion of some board members that the current definition in the Zoning Code of the term “convalescent home” is not applicable for certain types of residential care facilities and that:

1. A new term should be added to the Code that more adequately reflects certain types of facilities that were not in existence when the original “convalescent home” term was incorporated into the Code
2. There should be a separate and distinct special permit for this new type of facility over and above the general conditions for a special permit found in Section 300-36 of the Code
3. The new special permit should regulate certain land use issues in order to preserve the residential character of single family neighborhoods.

Definition: Community Care facility

A facility, located in a single family dwelling unit, that provides temporary transitional housing to adults recovering from a disease, illness or disability after completing treatment in a licensed health care facility and before returning to their previous living arrangement, and which does not provide any medical or other health related services, is staffed seven days a week, 24 hours a day and is not licensed by the state or any other governmental entity.

Legislative intent

This section is intended to preserve the residential character of single family residential neighborhoods while at the same time making provision for the temporary housing needs of persons with special needs and disabilities and in accordance with the federal Americans with Disabilities Act and the Fair Housing Law.

Approval authority

The approval authority for this special use permit shall be the Planning Board.

Application

The written approval of the property owner to operate a Community Care Facility on the property shall be required if the applicant for the permit is not the property owner.

General standards

When considering an application for a special permit for a Community Care Facility, the Planning Board shall apply the following standards in addition to those general standards found in Section 300-36 of this Chapter

1. In order to retain the single family character of neighborhoods and to avoid an undo concentration of Community Care Facilities in a single neighborhood, a Community Care Facility shall be located at a distance of at least one half (½) mile from another Community Care Facility.

2. A special use permit for a Community Care Facility shall not be granted for any single family dwelling unit currently under construction or proposed to be constructed.
3. The maximum occupancy of a Community Care Facility at any given time shall not exceed fifteen (15) residents.
4. In determining the maximum number of bedrooms on the property that can be used to house residents, all the legal single family dwelling units on the property shall comply with the Schedule of Regulations for residential properties in the applicable zoning district.
5. The lot size shall be at least 20,000 square feet.
6. The property must be in full compliance with all state building and fire codes and all town codes. If the property is serviced by an onsite wastewater sewage treatment system (septic system), the applicant shall comply with the requirements of Chapter 873.726 of the Laws of Westchester County.
7. In the event the Planning Board approves a special use permit under this section and subsequently the state or any other governmental entity enacts a licensing requirement for the type of use covered by the permit, the Community Care Facility shall be required to obtain the required license.
8. No signs announcing the name of the Community Care Facility shall be permitted.
9. Any changes to the exterior of the single family dwelling unit/s on the lot shall be such as to maintain the residential character of the structure/s.
10. No medical, health related services, or individual or group counseling conducted by a licensed professional shall take place on the premises

Parking

1. One space for each employee, whether full time or part time, and one space per resident, although the latter requirement may be waived or modified if the residents are prohibited by the applicant from operating their own vehicles while residing in the facility.
2. Additional parking spaces may be required if the facility has passenger type vans designed to transport residents.
3. Visitor parking shall be one space for every five residents, but this requirement may be waived to reflect the facility's visitation policy.
4. The site plan shall show an additional area reserved for future parking spaces as may be deemed appropriate by the Planning Board.
5. The required parking area, other than the area reserved for possible future spaces, shall be permanently improved.
6. No parking shall be located within the required front yard.
7. Parking spaces shall be at least five (5) feet from all other property lines.
8. Parking areas shall be screened from neighboring properties and from the street by fencing and/or landscaping as deemed appropriate by the Planning Board.
9. No vehicles larger than a suburban vehicle, as defined in Section 300-62 of this Chapter, shall be parked on the premises on a regular basis.

Outdoor recreation areas

Active outdoor recreation facilities for use by residents may be permitted provided that such facilities are located at least ten (10) feet from all property lines and provided that the Planning Board shall find that such facilities would not be a nuisance to surrounding properties. Fencing and landscaping of the active recreation facilities shall be required where the Board deems appropriate.

Length of permit

1. The special use permit shall be granted for a maximum of three years to the owner of the property whose name is on the application, or with the owner's written approval, the name on the application of the operator of the facility, and, shall be subject to renewal.
2. The provisions of Section 300-30 notwithstanding, in the event there is a change in the ownership or the operator of the facility within the three year period of the permit, the new owner and/or operator shall apply not less than 90 days before assuming ownership and/or operation for a renewal of this special use permit. Any new owner and/or operator shall be bound by the conditions of the permit and any additional reasonable conditions that the Planning Board deems appropriate after the holding of a public hearing. If the new owner or operator fails to obtain a renewal of the current special use permit, the special use permit shall be considered null and void and the use of the facility shall be discontinued within 30 days from the change or ownership or operation.

Site Plan

1. The applicant shall provide a site plan in compliance with Section 300-29 of this chapter.
2. The site plan shall be referred to appropriate town advisory boards, commissions and committees as deemed appropriate by the Planning Board for their review and recommendations.
3. The Planning Board may require additional screening, fencing and landscaping as it deems necessary to preserve the residential character of the neighborhood and to minimize any potential negative impact on adjacent land or buildings or which would impact the value thereof.

Operation of the Facility

The owner/operator of the facility shall provide an Operation Plan that shall include the following information

1. The maximum number of persons to be housed in the facility at any one time.
2. The anticipated length of stay of the residents.
3. The number of full time and part time staff members.
4. Contact information (phone and email) for the operator the facility.
5. A copy of the facility's House Rules if the residents will be required to adhere to a series of house rules as a condition of their residence in the facility.
6. A written visitation policy.

Waiver

The Planning Board may, for good cause shown, and to provide reasonable accommodation where required by state or federal law, impose less restrictive requirements.

Revocation of special permit

Pursuant to Section 300-33 of the Zoning Code, a special use permit granted by the Planning Board pursuant to this section may be revoked by the Planning Board if said Board finds and determines, after a public hearing held in the manner provided for by law, that there has been a substantial failure, or repeated failures, of compliance with any one of the terms, conditions, limitations and requirements imposed by said permit.