

For:

Introduction: 8/5/19

Re-introduced/Referral to PC: 9/9/19

PC review/recommendation : 9/30/19

Public Hearing 11/4/19

Adoption 11/4/19

THE TOWN OF MOUNT AIRY, MARYLAND

ORDINANCE NO. 2019-9

AN ORDINANCE TO AMEND PART II OF THE CODE OF THE TOWN OF MOUNT AIRY ENTITLED "GENERAL LEGISLATION", CHAPTER 112 ENTITLED "ZONING"; SECTION 112-38 ENTITLED "NP NEIGHBORHOOD PROFESSIONAL DISTRICT"

PROPOSED TEXT AMENDMENT

WHEREAS, an application for text amendment was received by the owner of improved property (hereinafter "Applicant") within the NP Neighborhood Professional District looking to demolish the existing improvement on the property, which is vacant, and construct a new building to be used as a professional office; and

WHEREAS, the plans for the professional office call for space larger than the current structure; and

WHEREAS, Applicant requires the extra space for his proposed eye doctor's office; and

WHEREAS, this proposed text amendment was introduced at the regular Town Council meeting held on July 1, 2019 and referred to the Planning Commission for a recommendation; and

WHEREAS, pursuant to the Town Code, Section 112-67, the Town Planning Commission took up and considered the application for text amendment and this proposed ordinance at its regular meeting on September 30, 2019, and made a favorable recommendation to the Town Council; and

WHEREAS, pursuant to the Town Code, Section 112-66A and the Land Use Article of the Maryland Code, Section 4-203(b), a public hearing was held before the Town Council on November 4, 2019 to receive public comment on this proposed ordinance change and the application for text amendment; and

WHEREAS, the Town Council has determined it to be in the best interest of the Town and its citizens, and that a change to the zoning regulations respecting the NP District to allow more flexibility in the rehabilitation of vacant properties within the NP District will promote

economic activity while at the same time cause a reduction in blighted properties or property vacancies.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:

Section 1. That Part II of the Town Code is hereby amended to repeal and reenact with changes Chapter 112, Section 112-38 of the Code as follows:

§112-38. NP Neighborhood Professional District.

* * *

F. Construction requirements. The NP District is intended to encourage use of existing structures, but these requirements apply to any construction within the District. All development plans for new construction or those additions seeking to enlarge the ground floor building footprint of existing construction are subject to site plan approval. Construction requirements include:

- (1) Principal structure. Although the NP District encourages use and adaptation of existing structures, new principal structures may be built to replace those which are torn down or removed as long as the new principal structure is built with a footprint that does not exceed the size of that of the structure it replaces. Notwithstanding this limitation, the Planning Commission may grant a variation as a part of the site plan approval process of up to an additional 25% of the existing ground floor building footprint for the new structure if:
 - (a) The existing principal structure has been vacant and the property has otherwise been unused for a period of 3 continuous years;
 - (b) Where it is established by a preponderance of the evidence that the additional space is necessary or economically desirable, in consideration of the ground floor foot prints of buildings on properties in the NP District with similar and/or competing uses at the time of the Planning Commission's consideration of the site plan;
 - (c) If the proposed new structure with the additional space meets set back requirements (subject to the waiver provisions set forth in Subsection F(3) below), parking standards, and all other development requirements applicable to the proposed use; and
 - (d) If the proposed development complies with any reasonable condition to granting the variation imposed by the Planning Commission, such as requirements for screening.

- (2) Additions to existing structures. An addition of up to 25% of the existing ground floor building footprint will be permitted to an existing structure that remains on the property as the principal structure. Additions which result in increased height of the existing structure shall be permitted subject to the requirements of § 112-38F(5). Notwithstanding the general requirement for site plan approval, additions to accessory structures shall not require site plan approval, provided that the addition to such structure will not:
- (a) Generate an increase in water consumption of more than 10% beyond the existing water consumption for the lot upon which such structure is located as certified by a licensed professional engineer; and
 - (b) Generate more than 25 additional average daily trips to the subject site as determined by a traffic consultant of the town's choosing.
- (3) Waiver of setback and development requirements. In order to allow an addition and/or continued reasonable use of an existing building or structure, setback may be waived but only to the extent necessary to permit use of the property and structure within the NP District.
- (4) Size limitation for vacant lots. Principal structures shall not be permitted on new lots without existing principal structures which have a footprint in excess of 2,000 square feet.
- (5) Height restriction. No building or structure shall exceed the height of the existing principal structure or, for vacant lots, 20 feet in height, not including the roof structure. No building or structure shall contain more than two stories, not including the attic.
- (6) Lighting shall not reflect or spill over upon adjoining or nearby residential property or on roadways; all lighting shall be equipped with full cutoff, fully shielded fixtures, and pole heights shall not exceed 15 feet at the perimeters. High-density sodium lighting shall be used for all outdoor lighting.
- (7) Buffers protecting nearby residential areas shall be required and shall consist of fencing and/or natural barriers such as vegetation and trees of sufficient height.
- (8) All other requirements for commercial development shall apply unless waived under Subsection F(3) above.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that
this Ordinance shall take effect on the ____ day of _____, 2019.

Introduced on the 5th day of August, 2019, and reintroduced on the 7th day of September, 2019.

Enacted this _____ day of _____, 2019 by a vote of _____ in favor and _____ opposed.

ATTEST:

Jason Poirier, Secretary

Larry Hushour, President of the Town Council

Approved this _____ day of _____, 2019.

ATTEST:

Jason Poirier, Secretary

Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This _____ day of _____, 2019.

Thomas V. McCarron, Town Attorney