

TOWN OF STONY POINT
LOCAL LAW NO. 3 OF THE YEAR 2024

A LOCAL LAW AMENDING SECTION 215-92.2 OF THE ZONING LAW OF THE TOWN OF STONY POINT, TO FURTHER CLARIFY STANDARDS FOR RESIDENTIAL MIXED-USE DEVELOPMENTS IN THE BU ZONING DISTRICT.

Be it enacted by the Town Board of the Town of Stony Point, County of Rockland, State of New York as follows:

Section 1. Title.

This local law shall be known and may be cited as the Mixed-Use Zoning Amendments Local Law No. 3 of 2024.

Section 2. Legislative Purpose.

The purpose of these changes is to attempt to accomplish the goals for “Upper Story Residential Units in the Business (BU) Zoning District (Route 9W Corridor),” as detailed in the 2013 Amendment to the 1995 Master Plan. More specifically, the 2013 Plan Amendment recommended:

Upper Story residential units over ground floor commercial uses should be permitted in the BU zoning district as a means of giving owners of commercial properties a stable, non-seasonal source of revenue. Residential units added to the commercial structures will have the added benefit of providing a supply of legal rental or condominium units that will likely be more affordable than other residential offerings in the Town. The introduction of these types of uses will require several protections to insure that quality residential units are developed and maintained and that impacts to parking do not occur.

The zoning provisions for “Mixed-Uses in the BU Zoning District,” were intended on implementing this plan recommendation intended on allowing owners of existing commercial properties to add apartments on upper floors. However, the manner in which the zoning language was crafted left certain ambiguities that required action by the Town’s Zoning Board of Appeals to interpret. These ambiguities allow for development applications that go beyond the intent of the provisions in several respects:

1. New construction mixed-use development is allowed when the principal purpose of the provisions was to retrofit existing commercial buildings.
2. No limits on the number of units were established other than minimum apartment square footage and parking requirements. While this works for adding residential stories above existing commercial buildings, it may lead to excessive residential density when applied to new construction.
3. The simple language of the provisions intended to allow the placement of residential units above existing commercials was subject to creative grading and design measures. These allow a new construction building that (1) places only a

token amount of non-residential floor area on the “ground floor” and (2) proposes residential uses at grade with no uses below or over parking, utility, and non-commercial storage areas.

4. While it was originally intended that the provisions would primarily be subject to the height limitations of the underlying use group (in most cases 25-35 feet), use group H which was intended to allow Class A office buildings could be interpreted to allow mixed-use buildings up to 45 feet.
5. While the one-size-fits all minimum apartment size and parking requirements were intended to control density in coordination with existing building footprints and zoning height limitations, they favor the construction of two- and three-bedroom units which tend to have greater impacts on the school district when applied to new construction. The original policy’s intent was to provide more affordable options, which generally are achieved by also encouraging efficiencies and one-bedroom units which are underserved in the Town. These provisions generally discourage smaller more affordable units.
6. Provisions allowing for the possibility of rooftop recreation were intended to allow owners of existing buildings on tight sites to pursue mixed-uses. They were not intended for new construction to encompass more ground area and not provide usable green recreational areas.
7. While it was understood that relief from FAR standards may be appropriate for existing buildings that were already constructed close to FAR limits, it was not envisioned that the Mixed-Use provisions would be a way for new construction buildings to get around established FAR standards.

Section 3. Enabling Authority.

The adoption of this Local Law is in accordance with Section 10 of the New York Municipal Home Rule Law.

Section 4. Amendment of § 215-5 Definitions

The following shall be added as new terms in § 215-5 Definitions of the Local Zoning Law:

RESIDENTIAL MIXED-USE BUILDING

A building containing both a residential use and one or more non-residential uses.

STORY ABOVE GRADE PLANE

Any story having its finished floor surface entirely above grade plane as defined by the latest edition of the New York State Building Code, or in which the finished surface of the floor next above is:

1. More than 6 feet above grade plane; or
2. More than 12 feet above the finished ground level for at least 25% of the perimeter of the story. This second provision intentionally varies from the New York State Building Code’s definition of “Story above grade plane.”

Section 5. Amendment to § 215-92.2 Residential mixed-use in the BU Zoning District.

The existing Section 215.92.2 is hereby repealed in its entirety and replaced as follows:

§ 215-92.2 Residential mixed-use buildings.

Residences shall be permitted by conditional use permit of the Planning Board subject to the following conditions:

- A. The lowest story above grade of all horizontal areas of the building must be used for a nonresidential use which is permitted as-of-right or by conditional use permit within the zoning district in which the mixed-use is proposed. A residential entry area containing a lobby, elevator banks, mail room, bicycle room, and other residential accessory uses shall be permitted in the lowest story above grade, but shall be limited to no more than 1,200 square feet or 40% of the building footprint, whichever is less.
- B. Residential units shall only be located over nonresidential uses or residential entry areas as permitted in paragraph A. Residential units shall only be permitted above structured parking, where the applicant demonstrates to the satisfaction of the Planning Board that:
 - (1) The structured parking will not result in more residential units or floor area than would be provided if all parking were provided outside of the structure.
 - (2) That if all parking were provide outside of the structure, all requirements of this section and all bulk requirements including development coverage would be met.
 - (3) The purpose of providing structured parking is to improve the quality of development by way of reducing impervious surfaces, increasing green space, and avoiding areas of the site with environmental constraints such as steep slopes, wetlands, and forested areas.
- C. The maximum number of residential units shall not exceed 12 units per acre.
- D. A parking requirement shall be met as indicated hereafter in addition to the parking requirement of the ground floor nonresidential use(s). No credit for joint or shared parking shall be permitted for the residential dwelling units and no adjustment in required parking shall be granted by the Building Inspector as may be otherwise permitted by the Zoning Local Law.
 - (1) 1.5 parking spaces per efficiency or one-bedroom unit.
 - (2) 0.5 additional parking spaces per unit per bedroom beyond the first.
- E. At least 200 square feet of unpaved outdoor recreational area shall be provided per unit except that such area may contain block paver areas serving as a patio. Balcony space shall not count towards the unpaved outdoor recreational area. The Planning Board may consider allowing outdoor recreational area to be provided on a roof if the following conditions are met to the satisfaction of the Planning Board:

- (1) At least 50% of the first story above grade of the structure was in existence prior to September 12, 2013.
 - (2) The recreational area could be provided elsewhere outside the footprint of the building, while meeting all other requirements of this section and all bulk requirements.
 - (3) The purpose for rooftop recreation is to improve the quality of the development by way of preserving natural open space areas, buffers to existing residential neighborhoods, or avoiding areas of the site with environmental constraints such as steep slopes, wetlands, and forested areas.
- F. Residential units shall be accessed by separate entrances from nonresidential units.
- G. In order to serve a market of young families, young singles, and empty nesters that are not otherwise served by the Town's single-family detached zoning districts, the following limitations on the number of bedrooms are imposed:
- (1) All units proposed within a building will average no more than two bedrooms per unit – for purposes of meeting this requirement, efficiencies will be considered as having zero bedrooms.
 - (2) No more than 25% of units shall contain three or more bedrooms.
 - (3) In order to encourage housing available to mobility-limited persons, no unit above the second story above grade shall contain a unit with more than one bedroom unless an elevator is provided.
- H. In order to prevent excessively small apartments, and in order to present the addition of so-called "dens", "offices" and "bonus rooms" for the purposes of circumventing limitations of the number of bedrooms, each proposed unit shall be limited in floor area as follows:
- (1) Efficiency unit: 400 to 700 square feet livable floor area
 - (2) One-bedroom unit: 600 to 900 square feet livable floor area
 - (3) Two-bedroom unit: 750 to 950 square livable floor area
 - (4) Three-bedroom unit: 900 to 1,200 square livable floor area
 - (5) Each bedroom above three shall add 100 additional square feet to both the minimum and maximum square footage requirement.
- I. Residential units shall be made available by covenant or deed restriction to periodic inspection by the Building Department and Fire Inspector upon demand.
- J. No uses are permitted that involve the storage of toxic or flammable chemicals over 10 gallons, emit a day or night noise level over 55 dBA perceptible in the residential dwelling unit, or emit any unreasonable odor or vibration.
- K. The leasable floor area of residential units shall not exceed 2.5 times the leasable floor area of non-residential units. Structured parking shall not be considered leasable non-residential floor area for the purpose of this requirement.
- L. The Planning Board may issue a waiver of the floor area ratio requirement where the following conditions are met:

- (1) At least 50% of the first story above grade of the structure was in existence prior to September 12, 2013.
 - (2) The waiver shall authorize no more than double the floor area ratio otherwise required under code for the use group.
- M. The bulk requirements of the zoning district shall be met by the entire principle building and its site. Bulk requirements shall not be imposed separately on component uses.

Section 6. Changes to Table of General Use Requirement - Part II: Nonresidential Districts - BU District

The following shall be added to the Table of General Use Requirement for the BU District:

Column C:

“11. Residential mixed-use building”

Column C-1:

“B”

Section 7. State Environmental Quality Review Act.

Pursuant to 6 NYCRR 617.4 (b)(2), this Local Law is classified as a Type I action under the State Environmental Quality Review Act and the Town Board determined that there would be no significant adverse environmental impact.

Section 8. Severability.

If a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 9. Inconsistency.

All other local laws and ordinances of the Town of Stony Point that are inconsistent with the provisions of this local law are hereby repealed; provided, however, that such repeal shall be in addition to such other local laws or ordinances regulating and governing the subject matter covered by this local law.

Section 10. Code Preparation.

The Town’s Code preparation contractor is authorized, without further action of the Town Board, to correct typographical errors, numbering and other related technical changes that do not affect or alter the substantive provisions of this local law.

Section 11. Effective date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the New York Municipal Home Rule Law.