

ORDINANCE RO-10-23

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING CHAPTER 217 OF THE CODE OF THE TOWNSHIP OF WASHINGTON TO CLARIFY PROVISIONS RELATED TO SECTION 217-108.1 “NONCONFORMING LOTS”, SECTION 217-31.A. “PREEXISTING LOTS OF RECORD” AND SECTION 217-43 “ACCESSORY USES IN RESIDENTIAL AREAS”

WHEREAS, the Township of Washington recognizes that there are benefits and economies of scale that are attainable by clarifying certain ordinance requirements and provisions that pertain to nonconforming lots; and

WHEREAS, the Township of Washington believes that amending ordinance provisions pertaining to nonconforming lots may considerably reduce the need for residents and landowners of such lots to seek Zoning Board of Adjustment variances for usual and customary changes, additions, development and redevelopment of buildings and structures on nonconforming lots and streamline local approvals through the Township’s Zoning Office; and

WHEREAS, the Township of Washington recognizes that there are situations in many residential neighborhoods where principal buildings are developed in a location on a lot that is situated within the required setback and that ordinance limitations and prohibitions on the location of certain accessory structures within required “yards” prevent the reasonable use of yard areas in a manner that is consistent with residential use of residential property, and such accessory structure development may be accommodated without harm or detriment to neighborhood character; and

WHEREAS, the Township of Washington is desirous of amending ordinances to establish uniform development standards to be applied to nonconforming lots and to update accessory use provisions to provide flexibility in the location of certain residential accessory structures and buildings with the intent that these ordinance amendments will facilitate residents’ reasonable expectations to use and enjoy property in a manner that is consistent with good civic design and arrangement;

NOW, THEREFORE, BE IT ORDAINED, that Chapter 217, of the Code of the Township of Washington is hereby amended and supplemented, as follows:

Section 1. Chapter 217, Article X, Nonconforming Uses and Structures, Section 217-108.1 Nonconforming lots, is hereby amended and supplemented by deleting the following existing text identified with strikethrough text, “~~thus~~”, and inserting new text identified with underlined text, “thus”, as follows:

§ 217-108.1 Nonconforming lots.

Any existing residential lot, conforming to zoning as of October 15, 2001, has been made nonconforming as a result of an amendment to this chapter, including the lots rezoned to the R-5 Conservation Zone by Section 1.b and 1.c. of Ordinance No. RO-01-10,[1] on which a building or structure is located and which lot does not meet the minimum lot size or which building or structure violates any yard requirements may have additions to the principal building and/or construct an accessory building in accordance with the provisions of this section without an appeal

to the Board of Adjustment, provided that the total permitted building coverage is not exceeded and/or the accessory building and/or addition does not violate any other requirement of this chapter, such as but not limited to height, setback and parking. For any existing nonconforming lot, a new dwelling unit or addition(s) to existing dwelling units or accessory buildings may be constructed on such lot, without an appeal to the Zoning Board of Adjustment, according to the following schedule.

	Existing Lot Size				
	Up to 20,000 square feet	20,000 square feet or more but less than 40,000 square feet	40,000 square feet or more but less than 80,000 square feet	80,000 square feet or more but less than 120,000 square feet	120,000 square feet or more but less than 200,000 square feet
<u>Principal Building</u>					
Minimum lot frontage (feet)	75	75	75	75	75
Minimum yards:					
Side yard (feet)	15	25	25	25	30
Front yard (feet)	35	50	75	75	75
Rear yard (feet)	50	50	100	100	100
<u>Accessory Building</u>					
Minimum distance to:					
Side line (feet)	15	20	25	25	25
Rear line (feet)	10	20	25	25	25
Maximum percentage of improved lot coverage	25%	25%	15%	15%	15%

Section 2. Chapter 217, Article V, Supplementary Lot, Height and Yard Regulations, Section 217-31. Lot Regulations is hereby amended and supplemented by inserting new text identified with underlined text, “thus”, as follows:

A. Preexisting lot of record. Notwithstanding any of the provisions of this chapter, any existing lot in a residential zone under separate ownership and not adjoining any other land owned by the owner of said lot shall be considered a conforming lot under this chapter, provided that setback and yard requirements shall be in accordance with this chapter for any new development, except that new development on a residential lot that does not conform to the minimum lot area

for the zone in which it is located shall conform to the area, yard and building requirements found at Section 217-108.1.

Section 3. Chapter 217, Article VI, Supplementary Regulations Governing Certain Uses, § 217-43 Accessory uses in residential zones, is hereby amended and supplemented by replacing existing Section 217-43 with the following new § 217-43 Accessory uses in residential zones.

§ 217-43 Accessory uses in residential zones.

The following uses shall be permitted in all residence zones as accessory uses to principal permitted uses and under the following requirements. In no case shall any accessory use or structure occupy the minimum front yard setback for a principal building:

Accessory Use ^(a)		Lighting ^(b)	Site Plan Required	Front Yard	Rear Yard	Side Yard
1.	Swimming pool ^(c)	In pool only	As required by Zoning Officer	X ^(c)	X	X
2.	Sports court ^(d)	Not permitted	As required by Zoning Officer		X	
3.	Patios	Yes	As required by Zoning Officer		X	
4.	Storage sheds	Yes	As required by Zoning Officer		X	X
5.	Detached garages ^(d)	Yes	As required by Zoning Officer	X	X	X
6.	Horse barns ^(e)	Yes	As required by Zoning Officer	X	X	X
7.	Outdoor utility	n/a	As required by Zoning Officer	X	X	X
8.	Fuel tanks ^(f)	n/a	As required by Zoning Officer	X	X	X
9.	Dish antenna ^(g)	n/a	As required by Zoning Officer	X	X	X
10.	Solar Array ^(h)	n/a	As required by Zoning Officer		X	
11.	Fences ⁽ⁱ⁾	n/a	As required by Zoning Officer	X	X	X
12.	Other accessory ^(j)	n/a	As required by Zoning Officer		X	X

NOTES:

^(a) Specific minimum dimensions from lot lines are based on the zone, where located and noted in the Schedule of Area, Yard and Building Requirements^U as may be modified by these and individual use regulations.

^(b) Usual and customary outdoor lighting, such as walkway, security or post lights, are permitted for use in all zones except as noted above. Such lighting shall be downward directed and not result in unreasonable off-site glare visible from adjoining uses, public areas, public open space and the public traveled way. The Zoning Officer may require light fixture side-shielding to prevent off-site glare.

^(c) A single row of evergreen landscaping at least 6' in height at the time of planting shall be required. A swimming pool, associated patio, walkways, deck, fence, etc., shall be setback not less than 1-1/2 times the

[\[1\]](#)

Editor's Note: The Schedule of Area and Yard Requirements is included at the end of this chapter.

Section 4. Chapter 217 Zoning, Article II Zoning Districts, § 217-9, R-5 Washington Township Conservation District, § 217-9 B. Permitted Accessory Uses, § 217-9 B. (4), and § 217-9. C. Conditional uses, § 217-9. C. (8); and § 217-13, R-20, Single Family Residential Zone, § 217-13. B. Permitted accessory uses, § 217-13. B. (4), are hereby amended and supplemented, as identified in the following underlined and strikethrough text, to read as follows [Note to the Codifier: (1) underlined text: thus, is text to be added, and (2) strikethrough text: ~~thus~~; is text to be removed]:

§ 217-9. B. (4) Home occupations in compliance with ~~§ 217-41A~~ § 217-41B of this chapter.

§ 217-9. C. (8) Home occupations in compliance with ~~§ 217-41B~~ § 217-41A of this chapter.

§ 217-13. B. (4) Home occupations in compliance with ~~§ 217-41A~~ § 217-41B of this chapter.

Section 5. Chapter 217 Zoning, Article VI, Supplementary Regulations Governing Certain Uses, § 217-41 Home Occupations, subsection § 217-41 A. Conditional use home occupation, § 217-41 A. (5), and § 217-41 A. (11), and subsection § 217-41 B. Accessory use home occupations, § 217-41 B. (4), and § 217-41 B. (1) 10 are hereby, are hereby amended and supplemented, as identified in the following underlined and strikethrough text, to read as follows [**Note to the Codifier: (1) underlined text: thus is text to be added, and (2) strikethrough text: ~~thus is text to be removed~~**]:

§ 217-41 A. (5) No more than 25% of the total floor area of the primary residence, including excluding the garage area, is allowed to be devoted to the home occupation. The home occupation may be conducted in an accessory structure on the property provided that the accessory structure is no more than 25% of the total floor area of the primary residence including an attached garage.

§ 217-41 A. (11) Home occupations shall be allowed no more than five commercial two nonpassenger ~~two nonpassenger~~ vehicle deliveries per day, excluding United States mail delivery.

§ 217-41 B. (5) No more than 25% of the total floor area of the primary residence, including excluding the garage area, is allowed to be devoted to the home occupation. The home occupation

may be conducted in an accessory structure on the property provided that the accessory structure is no more than 25% of the total floor area of the primary residence including an attached garage.

§ 217-41 B. (11) Home occupations shall be allowed no more than five commercial ~~two nonpassenger~~ vehicle deliveries per day, excluding United States mail delivery.

Section 6. Chapter 217 Zoning, Article VI Supplementary Regulations Governing Certain Uses, § 217-44 Fences, is hereby amended and supplemented by replacing existing § 217-44 Fences, with the following new § 217-44 Fences and Driveway Entrance Pillars, as follows:

§217-44 Fences and Driveway Entrance Pillars

- A. Fences and driveway entrance pillars shall be allowed in all zones.
- B. Fences shall be located and designed in accordance with the standards established in Chapter 159, Site Plan Review.
- C. Fences and driveway entrance pillars shall be at least 10 feet from the road right-of-way and 25 feet from the intersection of two or more roadways in accordance with §172-43A.
- D. Fences shall be at least 10 feet from conservation easement areas and other area restrictions, such as, but not limited to, driveway easements and rights-of-way, steep slopes, and wetlands. Fences shall not be located within wetland transition areas.
- E. Maximum permitted fence height:
 - 1. Front yard: 4'
 - 2. Side yard: 6'
 - 3. Rear yard: 6', except as provided below.
 - a. Fences shall not exceed 6' feet in height unless surrounding a tennis court, basketball court, other sports court area and when used to control deer, provided, however, that any such fence shall be located in rear yard areas only. A sports court may be surrounded by a fence with a maximum height of 15 feet, provided that such fence shall be setback from any lot line at a distance(s) at least equal to the height of the fence. Any rear yard fence exceeding 6' in height shall be open fencing.
- F. All permitted fences shall be situated on a lot in such a manner that the finished side of such fence shall face adjacent properties and streets.
- G. Fences constructed of barbed wire or electrified, or constructed of any material or in any manner which may be dangerous to persons or animals, shall be setback from any lot line the distance(s) required for accessory buildings in the applicable zoning district and shall not be used as a perimeter fence.
- H. The installation of a fence shall not cause the damming or diverting of water or a change to existing hydrology or stormwater flow conditions.

Section 7. RENUMBERING. This ordinance may be renumbered for codification purposes.

Section 8. SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 9. REPEALER. Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

Section 10. EFFECTIVE DATE. This Ordinance shall not take effect until approved by the New Jersey Highlands Council.

NOTICE OF FINAL ADOPTION

Notice is hereby given that the Ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Committee of Washington Township, in the County of Morris, New Jersey, held on the 18th of September, 2023, and the same came up for final passage at a meeting of said Township Committee on the 16th day of October, 2023 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Township according to law. By order of the Township Committee of the Township of Washington, County of Morris and State of New Jersey.

ATTEST:

**TOWNSHIP OF WASHINGTON
COUNTY OF MORRIS STATE OF
NEW JERSEY**

Township Official

By: _____
Michael A. Marino, Vice Mayor

Adopted:

Attest: I herein certify that the foregoing ordinance was duly adopted by the Washington Township Committee at a regular meeting held by the Township Committee on October 16, 2023.

Denean Probasco, RMC, Township Clerk