

MEMORANDUM

TO: Vergennes Township Planning Commission
FROM: Brian Wegener, AICP
DATE: September 2, 2009
RE: Accessory Buildings on Vacant Parcels

At the August 31, 2009 meeting, the Planning Commission reviewed proposed changes to the Zoning Ordinance that would permit a property owner to erect an accessory building on a vacant, adjacent parcel. The Planning Commission discussed several revisions to that language, all of which should be included in the amended text, below. A summary of the major revisions include:

- Differentiating between accessory buildings and minor accessory buildings, and allowing the latter to be processed administratively and with slightly less stringent requirements.
- Adding a “hardship” standard that provides some parameters for when an accessory building could be approved on a vacant, adjacent parcel without undermining the role and authority of the ZBA.
- Including clear setback requirements.

201.402 Accessory buildings, construction timing and location limitation.

4.02.

- A. Except as provided in Section 3.04, C, 10, in Sections 4.02, B. and 4.02, C, below, and in this paragraph, no accessory building or use shall be used or engaged in prior to the establishment of the principal building or use upon the premises except as a construction facility for the principal building or buildings upon the premises. An accessory building may not be constructed prior to the principal building unless a surety bond approved by the Township Board is posted prior to the issuance of a building permit. Accessory buildings, other than minor accessory buildings, shall be subject to the same setback requirements as the principal building and shall be a minimum of ten (10) feet from any other building.

Accessory buildings shall be stick-built or the equivalent new building construction. No mobile home, tank, junk object, or salvage materials, semi-trailer, vehicle or similar item shall be utilized as an accessory building or storage structure, provided, however, that such requirement shall not be applicable to tool sheds, or similar temporary storage structures utilized pursuant to the

construction of a building as long as the period of construction does not exceed one year.

B. In the R-A District, one (1) accessory building may be permitted as a special exception use on a vacant parcel adjacent to a parcel with an existing residence as the principal use, subject to Section 5.02 and the following standards:

1. The applicant shall document that the two parcels under consideration cannot be permanently combined so as to form one parcel due to ordinance, statutory or other legal constraints.
2. To be considered adjacent, the two parcels shall share a common boundary extending not less than one hundred (100) feet or be directly across a public street, private street, access easement or right-of-way; such that the side lot lines of both parcels under consideration are aligned or off-set by no more than fifty (50) feet, measured perpendicular to the side lot line.
3. The applicant shall demonstrate that placement of the accessory building on the parcel with an existing residence as the principal use is physically impractical; or that physical or other constraints exist on the adjacent vacant parcel that limit the use of that parcel. In addition, the applicant shall demonstrate that approval of the special exception application will not have an adverse impact on adjacent lands.
4. The two parcels must be and must remain in common ownership and a deed restriction, satisfactory to the Township Attorney, shall be recorded for the two parcels, stipulating that the two parcels shall be conveyed jointly so long as the accessory building is in existence.
5. The provisions of this Section 4.02, B. shall be limited to two (2) parcels, so as to prohibit more than one (1) vacant adjacent parcel from having an accessory building. Only one vacant adjacent parcel shall include an accessory building.
6. The accessory building shall comply with the minimum setback requirements for a principal building, except the Planning Commission or Township Board may require greater or lesser setbacks to preserve rural views or to position the accessory building so that any future dwelling built on the parcel would meet minimum setback requirements.
7. Other applicable provisions pertaining to accessory buildings shall be met.

C. In the R-A, R-1, R-2, R-3, FR, R-L, and Court Ordered Districts, up to two (2) minor accessory buildings may be permitted on a vacant parcel adjacent to a parcel with an existing residence as the principal use, subject to the following standards:

1. Minor accessory buildings shall not require a building permit or site plan approval by the Planning Commission; however, a sketch detail must be

provided showing the proposed location, existing buildings on adjacent parcels, setbacks and lot lines. Approval shall be required by the Zoning Administrator.

2. The applicant shall document that the two parcels under consideration cannot be permanently combined so as to form one parcel due to ordinance, statutory or other legal constraints.
3. To be considered adjacent, the two (2) parcels shall share a common boundary.
4. The two (2) parcels must be and must remain in common ownership so long as the minor accessory buildings exist and the minor accessory buildings shall be removed prior to a change in ownership, unless a dwelling is constructed on the secondary adjacent parcel.
5. The provisions of this Section 4.02, B. shall be limited to two (2) parcels, so as to prohibit more than one vacant adjacent parcel from having minor accessory buildings. Only one vacant adjacent parcel shall include minor accessory buildings.
6. Minor accessory buildings shall comply with the minimum setback requirements for a principal building.
7. Other applicable provisions pertaining to accessory buildings shall be met.

D.B. Accessory buildings may be permitted in the front yard where the Zoning Administrator finds the following:

1. Where the accessory building is used exclusively for a permitted agricultural use in the RA District, as specified in Sections 201.304 (B) (1) (4), and also 201.304 (C), (2a., 2b., 2c.); and 201.402 (C B), 201.404 (B).
2. Where the accessory building is used for any other permitted purpose, the front yard setback is at least one hundred fifty (150) feet. However, the setback may be less than one hundred fifty (150) feet when:
 - a. The accessory building's furthest most point from the principal residence is no more than seventy-five (75) feet in front of the residence; and
 - b. The accessory building is constructed of similar exterior materials and is similar in design and roof pitch with the principal residence, and shall not exceed the height of sixteen (16) feet or the height of the principal residence, which ever is taller.
3. The accessory building complies with all other setback requirements of the district.
4. In the R-2 and R-3 Districts, the square footage shall not exceed nine hundred (900) square feet.

5. Any accessory building located in the front yard which cannot comply with the standards of this subsection (B) may be approved as a Special Exception Use. In consideration of the Special Exception Use, the Planning Commission shall consider the following standards, in addition to those in Section 201.502 (E):
 - a. The size, location, and intended use of the accessory building is consistent with adjoining properties;
 - b. That there are extraordinary or exceptional circumstances or conditions applying to the property which limit the applicant's ability to otherwise comply, such as topography and other developmental limitations;
 - c. Whether the proposed building will affect the views, light, and air circulation of any adjoining buildings or properties.

E.G. In all zoning districts, up to two (2) minor accessory buildings shall be permitted per lot. Minor accessory buildings may be located in the side and rear yards but not closer than five (5) feet from existing lot lines. Minor accessory buildings shall not be located in the front yard. Minor accessory buildings shall not require a building permit; however, a sketch detailing placement must be provided showing location of existing buildings and lot lines.

F.D. School Bus Stop Exception: Minor accessory buildings that function as school bus stop shelters shall be exempt from the provisions of this section. However, such shelters are not permitted to be located in the road right-of-way without a permit from the Kent County Road Commission. School bus stop shelters shall not require a building permit.