

§ 307-45. Accessory apartments.

A. Purpose.

- (1) The purpose of this section is to allow accessory apartments by special permit on single-family properties in zoning districts where single-family dwellings are permitted, except where enforceable deed covenants prohibit the same, in order to provide the opportunity and encouragement for the development of small rental housing units designed, in particular, to meet the special housing needs of single persons and couples of low and moderate income, both young and old, and of relatives of families presently living in the Town of Cortlandt. Further, it is the purpose of this section to allow the more efficient use of the Town's stock of dwellings and accessory buildings; to provide economic support for present resident families of limited income; to protect and preserve property values; and to preserve the character and appearance of single-family neighborhoods.
- (2) To achieve these goals, the following standards and conditions apply.

B. Standards and conditions.

- (1) No more than one accessory apartment per lot may be permitted, nor shall the total number of dwelling units on any lot exceed two.
- (2) No accessory apartment may be permitted in a two-family dwelling.
- (3) No special permit for an accessory apartment within a single-family dwelling shall be issued unless three years have elapsed from the date of issuance of a certificate of occupancy for the dwelling or unless no certificate of occupancy is required pursuant to Local Law No. 6-1992 of the Town of Cortlandt¹ for such dwelling.
- (4) No special permit for an accessory apartment in an accessory building may be issued, except in R-80 and R-40 Districts where such accessory building existed prior to April 21, 1979. (April 21, 1979, is the date of Town-wide aerial photography.)
- (5) The owner of the lot upon which the accessory apartment is located shall occupy one of the dwelling units on the premises as his principal residence.
- (6) The special permit shall be issued to the owner of the premises. The owner/applicant shall be required to file on the subject property a declaration of covenants at the Westchester County Clerk's office prior to the issuance of a special permit for an accessory apartment. This declaration shall be in favor of the Town of Cortlandt and shall state that:
 - (a) The special permit for an accessory apartment or any renewal of said special permit shall terminate upon the death of the owner or upon the

1. Editor's Note: See Ch. 149, Code Administration and Enforcement.

transfer of title to said premises or upon the owner no longer occupying the premises as his principal residence.

- (b) The new owner of the premises shall have to apply to the Zoning Board of Appeals for a special permit to continue the accessory apartment.
- (7) Should there be a change in ownership or a change in the residence of the owner, a new application is required to be submitted to the Department of Technical Services to continue the use of the accessory apartment. **[Amended 11-10-2020 by L.L. No. 4-2020]**
- (8) Dimensional requirements. The following regulations shall apply:
 - (a) Accessory apartments within single-family dwellings:
 - [1] Minimum size of single-family dwelling: 1,600 square feet.
 - [2] Minimum size of accessory apartment: 400 square feet.
 - [3] Maximum size of accessory apartment: 25% of the habitable floor space of the principal dwelling or 600 square feet, whichever is less, unless in the opinion of the Zoning Board of Appeals a greater or lesser amount of floor area is warranted by the specific circumstances of the particular building.
 - (b) Accessory apartments in accessory structures:
 - [1] Minimum size of accessory building to be expanded for an accessory apartment: 200 square feet.
 - [2] Minimum size of accessory apartment: 400 square feet.
 - [3] Maximum size of accessory apartment: two bedrooms.
 - [4] Minimum side and rear yards: as required for the principal dwelling, except that the Zoning Board of Appeals may vary front, rear and side yard requirements.
- (9) Exterior appearance. If an accessory apartment is located in the principal dwelling, the entry to such unit and its design shall be such that, to the degree reasonably feasible, the appearance of the building will remain as a single-family residence. In cases where alterations are to be made to accommodate the accessory apartment, elevation drawings may be required to be submitted with the application for a special permit.
- (10) Off-street parking. Off-street parking shall be provided in conformance with the requirements of Article VIII.
- (11) There shall be no renting of rooms in either the accessory apartment or in the principal dwelling.
- (12) The accessory apartment shall meet the standards of the New York State

Uniform Fire Prevention and Building Code for habitable space.