

ORDINANCE NO: 13-0-01
SPONSOR: MAYOR BOLLAS
INTRODUCED: JUNE 5, 2013 (AMENDED 7/17/2013 & 8/21/2013)
(ATTACHMENT AMENDED 7/17/2013)
(ATTACHMENT AMENDED 8/21/2013)
(ATTACHMENT AMENDED 11/6/2013)

AN ORDINANCE TO AMEND NEW FRANKLIN ZONING CODE SECTION 800.01 (SUPPLEMENTAL LAND USE REGULATIONS), SECTION 600.03 (SUPPLEMENTAL DISTRICT STANDARDS, AND TO AMEND THE DEFINITION OF STRUCTURE, ACCESSORY FOUND IN ARTICLE 14 OF THE NEW FRANKLIN ZONING CODE AND DECLARING THAT THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON PASSAGE.

WHEREAS, the New Franklin Zoning Code currently contains supplemental land use regulations in Section 800.01 regarding the construction of accessory buildings and accessory structures in New Franklin; and

WHEREAS, THE NEW FRANKLIN ZONING CODE CURRENTLY CONTAINS SUPPLEMENTAL DISTRICT STANDARDS IN SECTION 600.03 REGARDING THE RESIDENTIAL YARD REQUIREMENTS OF ACCESSORY BUILDINGS AND ACCESSORY STRUCTURES IN NEW FRANKLIN; AND

WHEREAS, due to a recent Summit County Common Pleas Court decision, there is some clarification needed regarding the inclusion of both accessory buildings and accessory structure requirements in Article 8, ARTICLE SIX, and the definitions of those terms found in Article 14; and

WHEREAS, it is necessary to adopt amendments to Section 800.01 AND SECTION 600.03 of the New Franklin Zoning Code and amendments to the definition of structure, accessory found in Article 14 of the New Franklin Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE:

Article 8, Section 800.01, of the New Franklin Zoning Code is amended in accordance with the attached revisions found in Exhibit A.

ARTICLE 6, SECTION 600.03, OF THE NEW FRANKLIN ZONING CODE IS AMENDED IN ACCORDANCE WITH THE ATTACHED REVISIONS FOUND IN EXHIBIT A.

SECTION TWO:

The definition for structure/accessory found in Article 14 of the New Franklin Zoning Code is amended in accordance with the attached revisions found in the Exhibit A. A DEFINITION OF RAISED PATIO IS ADDED TO ARTICLE 14.

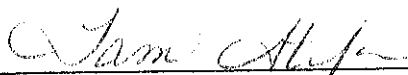
SECTION THREE:

The City of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION FOUR:

Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of New Franklin. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: November 6, 2013



Tami Stefan, Clerk



David Stock, President

APPROVED: November 6, 2013



Al Boliás, Mayor

ENACTED EFFECTIVE: November 6, 2013

ON ROLL CALL: Adamson, Yes. Harget, Yes. Jones, Yes.
Gehm, Yes. Kalapodis, Yes. Parsons, Yes.
Stock, Yes.

Publications in the Leader on November 15, 2013 and November 22, 2013.



Tami Stefan, Clerk

ARTICLE 8 SUPPLEMENTAL LAND USE REGULATIONS

800.01 ACCESSORY BUILDING AND ACCESSORY STRUCTURE REQUIREMENTS AND/OR USES (EXCEPT AGRICULTURE. SEE SECTION 800.03)

- A. General Accessory Building and ACCESSORY STRUCTURE Requirements AND/OR USES.
Accessory buildings AND ACCESSORY STRUCTURES which are not attached to the principal building, on a lot, shall be:

(1) Permitted in Conservation Subdivisions on a lot of less than 3/4 acres in size with a size limitation of 144 square feet. Otherwise, all accessory building AND ACCESSORY STRUCTURE regulations shall apply.

(2) Not Permitted in the R-L Lakefront Residential District **IN ACCORDANCE WITH THE FOLLOWING:** This also includes a private boathouse that is situated on property adjacent to and bordering upon a body of water. However, a variance may be granted by the Board of Zoning Appeals for an accessory building OR AN ACCESSORY STRUCTURE if the following conditions are met: ~~IF SUCH STRUCTURES ARE NO GREATER THAN FOUR (4) FEET IN HEIGHT, FOUR (4) FEET IN WIDTH AND FOUR (4) FEET IN LENGTH. DUE TO THE UNDULATING CHARACTER OF THE SHORELINE, ALL OTHER ACCESSORY BUILDINGS AND ACCESSORY STRUCTURES SHALL BE SUBJECT TO REVIEW AND APPROVAL BY THE BOARD OF ZONING APPEALS. THE BOARD SHALL REVIEW SUCH STRUCTURES WITH REGARD TO THE FOLLOWING STANDARDS:~~

~~(a) It should not be located within the required front yard setback ON THE PARCEL. However, at no point shall an accessory building OR AN ACCESSORY STRUCTURE be permitted to be closer than the adjoining parcels' main structure current setback from the lake.~~

~~(b) It must not be located in the rear yard. IT SHOULD NOT BE LOCATED CLOSER TO THE SHORELINE THAN THE ADJOINING PARCEL'S PRINCIPAL BUILDING.~~

~~(c) It must be located in the side yard, or the remaining distance between the required front yard setback and the front of the PRINCIPAL building.~~

(a) DUE TO THE UNDULATING CHARACTER OF THE SHORELINE, ALL ACCESSORY BUILDINGS AND ACCESSORY STRUCTURES IN THE R-L LAKEFRONT RESIDENTIAL DISTRICT SHALL BE SUBJECT TO REVIEW AND APPROVAL BY THE BOARD OF ZONING APPEALS. THE BOARD OF ZONING APPEALS SHALL REVIEW THE ACCESSORY BUILDINGS AND STRUCTURES WITH REGARDS TO THE FOLLOWING CONSIDERATIONS:

(1) WHETHER THE ACCESSORY BUILDING OR STRUCTURE IS IN HARMONY WITH THE GENERAL PURPOSE, SPIRIT AND INTENT OF THE ZONING CODE.

(2) THE ACCESSORY BUILDING OR STRUCTURE WILL NOT ADVERSELY AFFECT THE DELIVERY OF GOVERNMENT SERVICES.

- (3) WHETHER THE ACCESSORY BUILDING OR STRUCTURE WOULD REQUIRE A VARIANCE IN ANY OTHER RESIDENTIAL ZONING DISTRICT.**
- (4) ALLOWING THE ACCESSORY BUILDING OR STRUCTURE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE LOCALITY OR SUBSTANTIALLY IMPAIR ENVIRONMENTAL QUALITY, PROPERTY VALUES OR PUBLIC SAFETY OR WELFARE IN THE VICINITY.**
- (5) WHETHER THE ACCESSORY BUILDING OR STRUCTURE IS NECESSARY FOR THE APPLICANT TO ENJOY A SUBSTANTIAL PROPERTY RIGHT POSSESSED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT AND DOES NOT CONFER A SPECIAL PRIVILEGE ORDINARILY DENIED TO OTHER PROPERTIES IN THE DISTRICT.**
- (6) WHETHER THE ACCESSORY BUILDING OR STRUCTURE IS NECESSARY, NOT BECAUSE IT WILL INCREASE THE APPLICANT'S ECONOMIC RETURN, ALTHOUGH IT MAY HAVE THIS EFFECT, BUT BECAUSE WITHOUT A VARIANCE THE APPLICANT WILL BE DEPRIVED OF BENEFICIAL USE OR ENJOYMENT OF, OR REASONABLE ECONOMIC RETURN FROM THE PROPERTY.**

(b) THE ABOVE GUIDELINES ARE MEANT TO ASSIST THE BOARD OF ZONING APPEALS AND ARE NEITHER EXCLUSIVE, NOR ALL INCLUSIVE. EACH REQUEST IS TO BE VIEWED IN TERMS OF ITS OWN CIRCUMSTANCES.

(c) NOTWITHSTANDING THE FOREGOING, AN R-L PROPERTY OWNER IS PERMITTED TO HAVE ONE ACCESSORY BUILDING OR STRUCTURE NO GREATER THAN FOUR (4) FEET IN HEIGHT, FOUR (4) FEET IN WIDTH, AND FOUR (4) FEET IN LENGTH WITHOUT REVIEW BY THE BOARD OF ZONING APPEALS. THE PERMITTED STRUCTURE DOES REQUIRE A ZONING DEPARTMENT PERMIT.

(d) OTHERWISE ALL ACCESSORY BUILDING AND ACCESSORY STRUCTURE REGULATIONS SHALL APPLY.

- (3) Located no closer than ten (10) feet from any other building OR STRUCTURE ON THE SAME PARCEL (THIS APPLIES TO DISTANCES BETWEEN ACCESSORY BUILDINGS ONLY).**
- (4) Located no closer to the required front yard setback than the front wall of the PRINCIPAL building.**

- (46) **ACCESSORY buildings AND ACCESSORY STRUCTURES, EXCEPT FENCES** shall be built not closer than five (5) feet of the rear and side lot lines. (REFER TO §800.01G FOR GENERAL FENCE, WALL AND HEDGE REGULATIONS).
- (56) Designed so that storm water does not drain onto adjacent property.
- (67) Subordinate to the principal building in length, width, and height.
- (78) Not to exceed fifteen (15) feet in height. (Refer to definition of "building height" under Article 14).
- (89) A style, siding, color, and roof pitch similar to the principal building.
- (940) Not constructed of canvas, *FABRIC*, tarp or mesh material.
- (1044) Permitted structures shall be securely mounted on a permanent foundation and be engineered to withstand fifty (50) mile per hour winds.
- (1142) On lots of less than 2 acres, a maximum of one detached garage and one storage building may be built according to Section 800.01B.

600.03 SUPPLEMENTAL DISTRICT STANDARDS

B. Required Residential Yards

(1) *Projections into Yard Areas.* Every part of a required yard shall be open to the sky, unobstructed, except as follows:

(a) In a rear yard;

1. Accessory buildings AND ACCESSORY STRUCTURES (SUBJECT TO REQUIREMENTS OF SECTION 800.01).
2. Bay windows and other cantilevered structures may project into the required rear and front yards no greater than two (2) feet.

(b) In a side yard;

1. Terraces, decks and ornamental features which do not extend more than three (3) feet above the level of the ground (first) story, provided they be distant at least two (2) feet from the adjacent lot line.
2. Accessory buildings AND ACCESSORY STRUCTURES (SUBJECT TO REQUIREMENTS OF SECTION 800.01).

(c) In a front yard;

1. An open uncovered porch or paved terrace may project in the required front yard no greater than five-~~(5)~~ TEN (10) feet.
2. Accessory buildings AND ACCESSORY STRUCTURES (SUBJECT TO REQUIREMENTS OF SECTION 800.01).

(d) In any yard;

1. The ordinary projections of chimneys or flues.
2. The ordinary projections of skylights, sills, belt-courses, corbels, cornices, and ornamental features projecting no greater than twelve (12) inches.

ARTICLE 14 - DEFINITIONS

Structure, Accessory - A structure that may be attached to or detached from the principal building or use of the same lot or parcel, and serves a purpose clearly subordinate and customarily incidental to the use of the principal structure or use of land. Accessory structures include, *BUT ARE NOT LIMITED TO* porches, decks, *RAISED* patios, *RAMPS*, *PERGOLAS*, *ARBORS*, gazebos, *PAVILIONS*, ~~storage structures~~, chimneys, *OUTDOOR FIREPLACES*, *RETAINING OR DECORATIVE WALLS*, and fences, signs, *PLAYHOUSES*, *PLAY FORTS* and antennas.

RAISED PATIO - A NON GROUND LEVEL PATIO THAT IS AT LEAST THREE (3) FEET IN HEIGHT ABOVE THE NATURAL GRADE.

**NEW FRANKLIN
PLANNING AND ZONING COMMISSION**

LETTER OF RECOMMENDATION


July 12, 2013

New Franklin City Council
5611 Manchester Road
Akron, Ohio 44319

Dear Council:

Please be advised the New Franklin Planning and Zoning Commission, at their July 11, 2013 meeting, recommended the approval of Ordinance 13-O-01 (text amendments to Section 800.01, Section 600.03(B) and amend the definition of accessory structures) subject to the revisions shown on Exhibit A attached.

Respectfully submitted,



John Perduyn, Chairperson
New Franklin Planning and Zoning Commission