

**William G. Hodgson**  
**13 Central Avenue N.**  
**Nyack, NY 10960-1901**  
Telephone: 845-353-1307  
e-mail: [bhodgson@optonline.net](mailto:bhodgson@optonline.net)

July 29, 2008

To: Building Department, Village of Nyack  
From: William G. Hodgson *WGH*  
Re: Comments on Working Draft for Revised Zoning Code

With this memorandum I am submitting my comments and suggestions for The Working Draft of the Village of Nyack Zoning Code.

I would be happy to provide an electronic copy by e-mail if this would be helpful

RECEIVED  
RECEIVED  
AUG - 1 2008  
JUL 29 2008  
NYACK BUILDING DEPARTMENT  
NYACK BUILDING DEPARTMENT

**Comments by Bill Hodgson on Proposed Code Revision in June 2008 Version**

Direct quotes from the proposed code are in italics.

Suggestions for specific revisions to the draft code wording are double underlined.

**Page 52. 59-3.2E(1)(h) Accessory Buildings**

*No accessory building shall exceed 300 square feet in gross floor area.*

This is in direct contradiction to the Table of Dimensional Standard (Table 4-1, Page 61) which shows a maximum building coverage of 7% for accessory buildings. We can't have two contradictory rules. I feel that an absolute limit is excessively restrictive if applied to lots of all sizes. We need to decide which limit to promulgate

For a 5,000 square foot lot 300, square feet is 6%, but only 3% of a 10,000 square foot lot. The absolute limit discriminates against owners of larger lots.

A limit of 300 square feet would restrict all lots to a single car garage. A two car garage needs more than 500 square feet and surely should be allowable for larger lots and two-family in TFR. The proposed fixed area limit applied to lots of all areas is excessively restrictive.

**59-3.2E(1)(h)** My suggestion is to abandon the single numerical limit for accessory buildings for all lots by deleting this note and go with the percentage limitation of 7%, in Table 4-1.

**Page 62 Notes to Table 4-1 Dimensional Standards**

Listed Footnotes (b), (c), (m), and (n) do not appear in Table 4-1.

We need to be sure that we don't lose the point being made by these footnotes if they are removed.

**Page 62, Notes to Table 4-1** Remove Footnotes (b), (c), (m), and (n)

**Page 62 Footnote (q)A.(1)**

*Patios shall be excluded from the calculation of FAR.*

There should be an overall limit on patio coverage. This note seems to allow full coverage by a patio of the all the area not in the required yards. This area for rectangular lots is 35% of lot area which is excessive for a patio.

My suggestion is to limit patio area not counted in FAR to a fixed percentage of permitted floor area. Thus the percentage of a lot for a patio would increase with increasing lot area but with decreased proportions of larger lots allowed for patios because permitted floor areas decrease as a proportion of lot size with increasing lot size. Above this percentage limit the extra patio area would be counted at 50%..

Below are examples of allowed patio areas not counted in FAR when patios are limited to 10% of permitted floor area. This percentage limit should be decided in discussion.

All areas below are in square feet

<u>Lot Area</u>	<u>FAR</u>	<u>Permitted Floor Area</u>	<u>Patio Area excluded from FAR<sup>1</sup></u>
5,000	0.4300	2,150	215
7,500	0.3980	2,985	299
10,000	0.3500	3,500	350
12,500	0.3265	4,081	408

<sup>1</sup>10% of Permitted Floor Area.

**Footnote (q)A.(1)** Patios up to 10% of the permitted floor area shall be excluded from the calculation of FAR. Other square footage shall count as 50% in the calculation of FAR

**Page 62 Footnote (q)A.(3)**

*The first 400 square feet of the roofed, but unenclosed, front porch do not count in the calculation of the FAR. Other square footage of unenclosed porches count as 50% in the calculation of the FAR.*

Here is a significant problem with using an absolute number (400 square feet) as a "one size fits all" standard. This standard is too generous to small lots. The permitted floor area on a 5,000 square foot lot is 2,150 square feet. A porch area of 400 square feet would represent 18.6% of permitted total floor area and thus more than 35% of the ground floor for a two story residence. For a 50 foot wide residence this allows a porch width depth of eight feet! Quite a porch! It makes sense to exempt an area proportional to the length of the porch by exempting a fixed depth of porch along the total length of the porch from FAR calculations. The exempted depth should be decided with advice from others more knowledgeable than me about porch design. I have used five feet in my suggested note for the revised code

**Footnote (q)A.(3)** For a roofed, unenclosed front porch five feet of porch depth shall not count in the calculation of FAR. Other square footage for unenclosed porches count as 50% in the calculation of FAR

**Page 101 59-5.2C(4) Architectural Review Board Powers and Duties**

*(4) Powers and Duties*

*The ARB shall have the following powers and Duties*

- (b) *To hear and decide requests and impose reasonable conditions pursuant to §59-5.15 for building permits for the construction or alteration of any structure or item within the Village of Nyack that would affect the exterior appearance or would be visible from the exterior, except for site grading and landscaping, but including:*
- (i) New Construction*
  - (ii) Additions*
  - (iii) Alterations*
  - (iv) Mechanical equipment visible from the street or adjacent property*
  - (v) Street furnishings*

- (c) *To review the construction or installation by or for public agencies of structures, facilities and all other items listed above. Such approval or disapproval and all attendant procedures and rules shall apply whether or not an application for a permit for construction or alteration is required or has been submitted.*

The list in (b) covers categories which require approval of Site Development Plans for which the Planning Board has decision-making power while the Architectural Review Board has a review requirement (Table 5-1, page 97). The ARB should recommend conditions to the Planning Board for incorporation in Site Development Plan approval.

(c) is totally incomprehensible to me. There is more confusion here between "reviewing" and "deciding." The first sentence says "review" while the second sentence says "such approval or disapproval." I don't understand what the rest of the clause says or means, so I cannot suggest new wording.

**59-5.2C(4)(c)** I suggest eliminating this clause

Then 59-5.2C.(4)(b) and 59-5C.(4)(c) could be revised to read as below.

**59-5.2C(4)(b)** To hear and decide requests and impose reasonable conditions pursuant to 59-5.15 for Building Permits for alterations of any structure which would only affect exterior appearance. Such permits comprise the category "Building Permits (ARB Review Required)."

**59-5.2C(4)(c)** To hear applications for Site Development Plans and recommend to the Planning Board approval or disapproval and recommend reasonable conditions for inclusion in Site Development Plan approval.

NOTE: ARB responsibility for Sign Permits is included as 59-5.2C(4)(d)  
Procedures for Certificates of Appropriateness are covered in 59-5.11

**Page 104** **59-5.4D(2) General Development Review Procedures**  
**Step Three: Application Referral, Review and Staff Report**

**(2) Applications Requiring Multiple Reviews or Referrals**

- (a) *Development applications that require review by multiple decision-making bodies shall be scheduled for review in the following order, unless a different order is agreed to by both the applicant and the decision-making body with final decision-making authority:*
- (i) *Building Inspector;*
  - (ii) *County Planning Board, as required under New York State General Municipal Law for certain variances, special use permits and amendments;*
  - (iii) *Architectural Review Board;*
  - (iv) *Zoning Board of Appeals;*
  - (v) *Planning Board;*
  - (vi) *Board of Trustees*

Defining a specific order for review of an application serves no useful purpose since the appropriate order depends on the nature of the application.

I would suggest:

**59-5.4D(2)** Development applications that require review by multiple boards shall be scheduled in an order that will best expedite a final decision as agreed by the applicant and the decision making board.

**Page 136 59-5.15.(B)(2) Building Permit(ARB Review Required) Procedures**

- (2) *Step Two: Determination of Application Completeness*  
*Applicable. When Planning Board decision is required for the application, the ARB will provide recommendations to the Planning Board. After the Planning Board decision, the application shall be resubmitted to the ARB*

There is a contradiction here. The meaning of the category "Building Permit (ARB Review Required)" is that the Planning Board is not involved. The procedure for dealing with this category would be in 59-5.2C(4)(b).as described above.

**59-5.15.(B)(2)** Should simply say : "Applicable" with the remaining wording omitted.