

Date: November 4, 2020

To: Stuart Kahan, Village Counsel
Jaime Martinez, Village Planner

Cc: Village of Ossining
16 Croton Avenue
Ossining, New York 10562

From: Frank Fish, FAICP, Principal

Subject: Proposed Zoning Changes: T-District & New MF-3 District

Dear Mr. Kahan and Mr. Martinez,

Please find below draft text and tables for proposed zoning changes as part of the Village of Ossining 2020 Comprehensive Plan Update, BFJ is examining and evaluating three significant zoning areas: (1) Updates to T-District, (2) Text for a proposed new multifamily zoning district (MF-3), and (3) Form-based Code Overlay for downtown (VC-District) and Croton Avenue (NC-2 District). This memo provides draft text and tables for the T-District and new MF-3 District for your review.

The proposed changes below respond to substantive zoning issues raised throughout the Comprehensive Plan Update the planning process. The suggestions presented below seek to resolve those issues in an efficient manner with a focus on ease of implementation. For example, in Section V below that discusses allowing limited parking in the front yard in the T-District, we propose amending existing text in the code to expand the authority of the Building Inspector to grant such parking rather than proposing a new section to Zoning Code. We feel this approach achieves the objectives discussed more efficiently and will reduce confusion going forward.

Several text styles are used throughout this memorandum to depict proposed changes. These are as follows:

- Black Text = Commentary
- Grey Text (*Italic*) = Existing Code Text
- Red Text (*Italic*) = Proposed Text Changes (Additions)
- Blue Text (~~Strikethrough~~) = Proposed Text Change (Deletions)

I. Two-Family Residential Units in T-District

The Village’s “Two-Family Residence District” presently allows two-family residences as a conditional use. As discussed with Village staff and the Comprehensive Plan Steering Committee, the T-District, we suggest allowing two-family residences as a principal permitted use in the T-District. This would alleviate some existing non-conforming parcels and allow for future infill residential development to meet market demand.

Action – amend Table A-3: Permitted, Conditional, and Special Permit Principal Uses in Residential Districts [Amended 8-2-2011 by L.L. No. 3-2011; 1-20-2016 by L.L. No. 1-2016] to permit (P) “Dwellings: Two-Family Detached.”

§270-4.B(2) Definitions: Use Group Classifications defines a two-family dwelling as “a detached building containing two dwelling units only in which the units are separated by vertical or horizontal partitions and not by a party wall.” This prohibits side-by-side two-family (townhouse) structures. We recommend removing this restriction in the T-District.

Action – Amend definitions of two-family detached dwelling units in §270-4.A (Definitions) and §270-4.B(2) (Use Group Classifications) to remove references to party wall.

II. Three-Family Residential Units in T-District

The Village’s “Two-Family Residence District” should allow three-family units as a conditional use. This would allow existing three-family units to legalize and provide a legal pathway for future new construction or conversions provided the Planning Board deems such a development appropriate. Provision of sufficient off-street parking will likely be an issue of interest that the Planning Board could examine during site plan review process under such circumstances.

Action – Define three-family dwelling in §270-4.A (Definitions) and §270-4.B(2) (Use Group Classifications). And amend Table A-3: Permitted, Conditional, and Special Permit Principal Uses in Residential Districts [Amended 8-2-2011 by L.L. No. 3-2011; 1-20-2016 by L.L. No. 1-2016] to allow three-family dwelling units as a conditional use (C) in the T-District.

III. Undersized Non-Conforming Lots in the T-District

Presently, the minimum lot width in the T-District is 75 feet. Side yard requirements are 12 feet for one side, and a total of 28 feet for both. For a conforming 75’ wide lot, the side yards would consume approximately 37 percent of the lot width. The Zoning Code provides a provision (adjustment) for lots that exceed the minimum of 75’ as follows:

“Lots with a greater width than the minimum lot width must have both side yard setbacks equal to 40 percent of the lot width with each side yard equaling a minimum of 45% of both side yard setbacks.

The Zoning Code, however, presently provides no side yard provision (adjustment) for lots less than the minimum lot width of 75 feet. A cursory review of parcels in the T-Zone suggest that many are far narrower, and therefore non-conforming. Alteration or renovation to the property therefore requires the property owner to seek a variance before the Zoning Board of Appeals (ZBA), which incurs burdens in time and money for the property owner and adds workload to the ZBA’s agenda. Our analysis of Westchester County GIS suggests that there are 1,214 parcels in the T-District and 843 (or 69 percent) are undersized with an average lot area of 4,581 square feet.

We submit two options to provide property owners of undersized lots in the T-District. The first is to grandfather in the undersized lots. The second suggests reducing the minimum dimensions for required side yards as follows:

Options to address undersize non-conforming lots in the T-District:

- (1) Grandfather nonconforming undersized lots in the T-District thus eliminating the requirement to appear before the ZBA when minor remodels are undertaken. The text could look as follows added to §270-30 Parking and Loading Regulations:

§270-30. A (13) When a residential lot in the T-District has less than the required minimum

width for an allowable, legally conforming side yard, and said residential lot was originally legally constructed pursuant to this Zoning Code, such a lot shall be deemed to comply with the minimum required side yard requirement.

- (2) Reduce the required minimum side yard dimensions to eight (8) feet for one side yard and 20 feet for the sum of both side yards. This would provide relief to many existing non-conforming parcels in the T-District.

Action – amend side yard minimum dimensions from 12 feet to 8 feet for one side yard and from 28 feet to 20 feet for both side yards for T-District in *Appendix B, Bulk Requirements Table B-2: Bulk Requirements in Single-Family and Two-Family Residence Districts*

IV. Allowing Parking in the Front Yard in the T-District

As discussed with Village staff and the Comprehensive Plan Steering Committee, a lack of sufficient off-street parking throughout many parts of the T-District has resulted in an abundance of on-street parking. These conditions were observed on a walking tour conducted in June 2020 with BFJ Planning and the Village Manager and Village Planner. The overcrowded on-street parking condition was viewed as unsightly and, in some instances, illegal according to Village parking regulations. To relieve this situation, it was suggested and has been discussed at several meetings to allow limited parking within the required front yard in the T-District provided the parking does not block the front entrance and screened with landscaping where appropriate.

Presently, Village Code prohibits parking in the required front yard except in the PC District (see §270-30.A(5) below). Property owners in the T-District who seek relief must apply for a zoning area variance. Often, such applications are further complicated by the fact that a majority of lots in the T-District are presently non-conforming due to lot width or by other parameters. That said, we understand through conversations with Joseph Agostinelli, Building Inspector, that the BZA often provides such variances.

To provide relief to such property owners, help alleviate crowded on-street parking and reduce non-conformity we propose the following text amendments/changes to expand the Building Inspector’s authority to allow for limited parking in the required front yard of detached residences in the T-District.

Proposed supplemental text for §270-30 Parking and loading regulations

A. Off-street parking, Off-street parking spaces, open or enclosed are subject to the following provisions:

(5) Prohibited parking areas. Except in the PC District and T-District, parking shall not be permitted in the required front yard except as set forth in Subsection A(1). In addition, except as provided in Subsection A(1), parking shall not be permitted anywhere in the front yard of any single- or two-family dwelling, except that where the Building Inspector finds that, due to unique conditions, compliance with this limitation will cause practical difficulties and tend to increase on-street parking by residents, he may authorize parking anywhere in the front yard of such dwellings, except for that portion thereof which is directly in front of the principal building, exclusive of garage structures. Except in the T-District where the priority for placement of one parking space in the front yard allowed by Special Permit to the Planning Board and that it is not in front of the building’s primary pedestrian entrance, is within 14 feet of side lot line, and adjacent to an existing drive where one exists.

To facilitate the change above, the Village may consider amending §270-30(3) to reduce the minimum distance a driveway must be from a parcel’s property line in the T-District from four (4) to two (2) feet at the Building Inspector’s discretion. This section presently reads:

All driveways, blacktop or loading docks must be at least four feet away from the property line in residential districts (S-50, S-75, S-100, S-125, T, MF-1, MF-2, PRD), and all driveways, blacktop or loading docks must be at least two feet away from the property line in nonresidential districts (PW-a, PW-b, PW-c, SP-N, SP-S, CDD, RDD, IR, O-R, VC, PC, NC-1, NC-2, GB and P-O) unless otherwise noted in Appendix B.

Reducing the minimum distance that parking may be placed relative to the property line would provide more space to the side of the building, thus minimize parking in front of the building should the Building Inspector decide to allow parking in the front yard. If the Village decides to follow this, an amendment to the text could be made to §270-30 (3) Parking and Loading Regulations and/or a note could be added to Appendix B in the zoning code.

V. (New) MF-3 District

Several ideas inform the proposed creation of a new multifamily district in the zoning code: Through several meetings with Village staff, issues relating to existing conditions and zoning constraints in particular areas in the T-District were raised that could be relieved by accommodating smaller, multi-family and/or townhouse/rowhouse infill development provided such projects could self-park. In June 2020, a field visit was conducted with BFJ Planning and the Village Manager and Village Planner to observe, document and discuss extant conditions firsthand in one area (Aqueduct Street & Yale Avenue) where such development may be appropriate. Field observations noted a prevalence of absentee landlord conditions and an aged building stock that would require investment beyond what rents would pay to renovate to expected market demand and bring such buildings into code conformance. It is hoped that a creation of a new zoning district would facilitate more local-ownership and on-site landlord occupancy. Therefore, the proposed text below allows for residential accessory unit in a townhome by special permit (see amended text below).

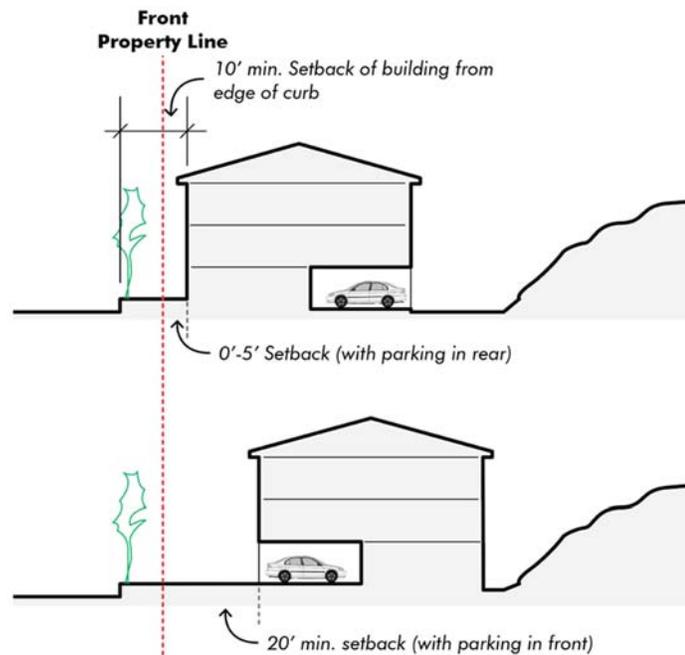
Further, creating a new MF-3 zoning district would allow for smaller, multi-family and/or townhouse/rowhouse development to fill a market niche, the “missing middle,” that is presently unbuildable in the Villages existing multi-family districts (MF-1 and MF-2). It is instructive to note that these two existing MF districts have large lot and setback requirements, and there for appropriate for more traditional, larger apartment projects. The parameters below for an MF-3 District seek to fill residential demand between these two existing zoning districts. Finally, we envision this would be a text change in the code, to be mapped after adoption of the Comprehensive Plan in key areas in adjacent and in proximity to the higher density districts in downtown and/or T-District.

Notes on Table Parameters – see Table 1 (below)

- **Min. Lot Area** and **Min. Lot Width** match existing T-District parameters, where the new MF-3 District is likely to be mapped after adoption of the Comprehensive Plan
- **Min. Side Yard** and **Min. Rear Yard** dimensions are reduced slightly from those specified in the existing T-District so as to better accommodate multifamily/townhouse infill development on small lots common in the T-District. NOTE: these dimensions are consistent with recommendations made elsewhere in this memorandum to reduce side yard minimums in the T-District.
- **Min. Front Yard** is specified at two levels:

1. For projects that park to the rear of the building, the 0-5' setback is contextual to the street conditions in areas examined on the field visit. That setback also requires that the building be no closer than 10' from the curb of the street to provide a more comfortable pedestrian environment. This would also accommodate potential widening of the sidewalk or provide space for residential entrances set slightly off the sidewalk or landscaping along the front of the building;
2. For projects that park in the front of building, along street frontage, 20' minimum would accommodate one car in a driveway without encroaching into the sidewalk right-of-way (see Exhibit A below).

EXHIBIT A – Front setbacks for proposed MF-3 District



- **Min. livable floor area per dwelling unit** maintains standards set forth in other MF Districts in the Village Code.
- **Min. lot area per dwelling unit** is specified at two levels:
 1. For parcels less than 12,000 sq. ft. in area, 2,500 sq. ft. lot area per dwelling unit is consistent with recommendations made elsewhere in this memorandum to allow 3-family homes in the T-District (e.g. 7,500 sq. ft. lot area / 2,500 per dwelling unit = 3).
 2. For parcels 12,000 sq. ft. or larger, a small density bonus is offered by reducing the lot area per dwelling unit to 2,000 sq. ft. This amounts to a 20-percent density bonus to encourage developers to consolidate two or more small lots.
- **Max. Building Height** is proposed to be slightly higher than presently permitted in the T-District so as to better accommodate multifamily/townhouse infill development on small lots common in the T-District.
- Both the **Max. Impervious Surface** and **Max. Building Coverages** are proposed to be increased again so as to better accommodate multifamily/townhouse infill development, including on-site parking, on small lots common in the T-District.

- **Min. off-street parking** requirements per dwelling unit for the new MF-3 District are recommended based on BFJ Planning experience and have been employed successfully in other MF and Townhouse projects in Westchester County. These proposed minimum off-street parking requirements closely replicate those presently used in the existing MF-1 and MF-2 Districts in the village. We also recommend that these levels be used to amend parking requirements for the T-District (see Table 2 below).

Table 1: BULK REQUIREMENTS for MF-Districts, Village of Ossining, 2020 (proposed changes/amendments shown in red)

Required Element	DISTRICT			
	MF-1	MF-2	MF-3 (Proposal)	Existing (T-District)
Min. Lot Area (sq. ft.)	40,000	40,000	7,500	7,500
Min. Lot Width (ft.)	150	150	75	75
Min. Front Yard (ft.)	40	40	0 min. – 5 max. from property line provided 10’ minimum setback from curb* 20 if parking in front**	30
Min. Side Yard (one) (ft.)	30	30	12	12
Min. Side Yard (both) (ft.)	60	60	20	28
Min. Rear Yard (ft.)	35	35	20	30
Min. livable floor area per dwelling unit (sq. ft.)	<ul style="list-style-type: none"> 450 (efficiency or studio) 600 (one-bedroom) 750 (two-bedroom) 250 additional for each additional bedroom 	<ul style="list-style-type: none"> 450 (efficiency or studio) 600 (one-bedroom) 750 (two-bedroom) 250 additional for each additional bedroom 	<ul style="list-style-type: none"> 450 (efficiency or studio) 600 (one-bedroom) 750 (two-bedroom) 250 additional for each additional bedroom 	<ul style="list-style-type: none"> 800
Min. lot area per dwelling unit (sq. ft.)	<ul style="list-style-type: none"> 3,600 (one-bedroom) 4,000 (two-bedroom) 4,200 (three-bedrooms) 4,500 (four- or more bedrooms) 	<ul style="list-style-type: none"> 1,000 (one-bedroom) 1,500 (two-bedroom) 3,000 (three-bedrooms) 3,600 (four- or more bedrooms) 	<ul style="list-style-type: none"> 2,500 for lots less than 12,000 square feet 2,000 for lots 12,000 square feet or greater 	
Max. Building Height (stories/ft.)	2.5/35	6.0/70	3.0/38	2.5/35
Max. Impervious Surface Coverage (percent)	60	60	80	40
Max. Building Coverage (percent)	20	20	60	30
USES: Allows for MF apartments, Townhouses/Rowhouses				
* Building Frontage (setback flexibility to allow for entry ways and potential widening of sidewalk)				
** Parking Setback to accommodate parking in the front of building for safety and/or landscaping				
Source: Table B-3: Bulk Requirements in MF Multifamily Districts, Village of Ossining Zoning Code (2010)				

Table 2: PARKING REQUIREMENTS for MF-Districts, Village of Ossining, 2020 (proposed changes/amendments shown in red)

Required Element	DISTRICT			
	MF-1	MF-2	MF-3 (Proposal)	Existing (T-District)
Minimum off-street parking requirements per dwelling unit	<ul style="list-style-type: none"> • 1.25 spaces for efficiency or studio; • 1.5 spaces for units with 1 bedroom; • 2 spaces for units with 2 or more bedrooms 	<ul style="list-style-type: none"> • 1.25 spaces for efficiency or studio; • 1.5 spaces for units with 1 bedroom; • 2 spaces for units with 2 or more bedrooms 	<ul style="list-style-type: none"> • 1.25 spaces for efficiency or studio; • Plus 0.25 spaces per additional bedroom 	<ul style="list-style-type: none"> • 2 spaces
Source: Appendix C - Table C-3: Parking Requirements in S, T and P-O Districts, Village of Ossining Zoning Code (2010) Appendix C - Table C-4: Parking Requirements in MF-1, MF-2 and PRD Districts, Village of Ossining Zoning Code (2010)				

Proposed Text Changes

§ 270-11. MF-1, ~~and~~ MF-2 **and MF3** Multifamily Residence Districts.

A. Purpose.

- (1) To accommodate the need for denser and more compact housing types in appropriate locations within the Village.
- (2) To maintain the character and scale of existing multifamily housing developments in the Village of Ossining consistent with the protection and promotion of public health, safety and general welfare.

B. Uses. Permitted principal, accessory, conditional and special permit uses in the MF-1, ~~and~~ MF-2 **and MF-3** Districts shall be as provided in Appendix A.1 **and subject to requirements specified elsewhere in this chapter.**

C. Conditional uses.

- (1) The following conditional uses shall be subject to the requirements set forth in §§ 270-26 and 270-51 and as set forth below:
 - (a) Cemeteries, places of worship, senior living facilities, elementary or secondary educational uses and higher learning educational uses are permitted, subject to the following:
 - [1] The minimum lot size shall be 3.0 acres.
 - [2] No building or part thereof or any parking or loading area shall be located within 75 feet of any street line or lot line.
 - [3] The sum of all areas covered by all principal and accessory buildings shall not exceed 30% of the lot area, and the sum of all areas covered by impervious surfaces shall not exceed 50% of the lot area.
 - [4] The maximum height shall not exceed either 35 feet or 2 1/2 stories.
 - (b) Parking uses, non-accessory, shall meet the minimum lot area requirement for the district. No parking or loading area shall be located within 10 feet of any street line or lot line, and the Planning Board shall ensure appropriate screening of parking and loading areas.¹
- (2) In addition to the conditional uses permitted in Appendix A², cluster development in accordance with § 270-36 shall be a permitted conditional use.

D. Additional accessory uses. In addition to the permitted accessory uses specified in Appendix A³ and the requirements found in § 270-26, the following are permitted accessory uses and requirements:

- (1) Greenhouse, tool shed, subject to the requirements of § 270-27.
- (2) Wading pool or swimming pool incidental to the residential use on the premises and not operated for gain, provided that any swimming pool shall be subject to the requirements of § 270-32 or § 270-33.
- (3) Clubhouses and community centers constructed within a residential community for use by its residents, which shall be operated by a homeowners' association and subject to the requirements of § 270-27.

¹ Editor's Note: Appendix A, Use Tables, is included at the end of this chapter.

² Editor's Note: Appendix A, Use Tables, is included at the end of this chapter.

³ Editor's Note: Appendix A, Use Tables, is included at the end of this chapter.

E. Bulk requirements.

(1) Bulk requirements in the MF-1 and MF-2 Districts shall be as provided in Appendix B⁴ and subject to the additional requirements specified in this section and elsewhere in this chapter. *Bulk requirements in the MF-3 Districts shall conform to standards set forth § 270-11.E(3) below.*

(2) Multifamily dwellings shall be subject to the following requirements:

(a) The minimum distance between principal buildings shall be not less than 1.5 times the height of whichever building has a higher elevation at its highest point, or 25 feet, whichever is more.

(b) There shall be provided on the same lot suitably equipped and active landscaped recreation area(s) which shall constitute at least 25% of the required common open space, as approved by the Planning Board.

(c) No building shall exceed 160 feet in length.

(3) Multifamily and Townhouse dwellings in MF-3 Districts shall be arranged and comply with the following development standards:

(a) Minimum gross site area: 7,500 square feet

(b) This minimum 7,500 square foot lot may be subdivided into smaller, fee simple lots that meet the following standards for townhouse buildings:

[1] Minimum lot area per townhouse unit: 2,500 square feet for parcels less than 12,000 square feet; 2,000 square feet for parcels 12,000 square feet or larger

[2] Maximum building coverage: 35%

[3] Maximum development coverage: 65%

[4] Minimum lot width: 25 feet

[9] There shall not be more than six (6) townhouse units in a row of buildings. To allow for adequate space for driveways onto the site and parking in the rear of townhouse buildings, each group of six units shall be separated from any other separate lot, building, group of buildings, or a differently zoned lot by a minimum of 15 feet.

[6] Residential accessory unit can be allowed in a townhome by special permit.

F. Parking requirements. Parking requirements in MF-1, ~~and~~ MF-2 **and** MF-3 Districts shall be as provided in Appendix C⁵ and subject to requirements specified elsewhere in this chapter. [NOTE: this table will need amendment]

G. Affordable housing. An applicant for a residential use in the MF-1, ~~and~~ MF-2 **and** MF-3 Districts must provide affordable housing pursuant to the Affordable Housing Law of the Village of Ossining, Chapter 62, Affordable Housing.

⁴ Editor's Note: Appendix B, Bulk Requirements, is included at the end of this chapter.

⁵ Editor's Note: Appendix C, Parking Requirements, is included at the end of this chapter.