

## **Attic Regulation Workshop**

November 19, 2013

7:30 PM

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The Rye City Council is considering a local law to amend the City Zoning Code to change how attic space is included in the calculation of gross floor area for single-family residences. The proposed law is intended to address concerns about the bulk, mass, scale of housing. A copy of the law and explanatory memorandum is attached hereto.

This workshop was requested by the City Council and will be a facilitated discussion. The discussion will focus on the following four areas of concern that have been raised by members of the public at hearings conducted last month:

### **Aesthetic Impact on New Construction**

It is anticipated that under the draft local law residences will be redesigned to reduce roof pitch and/or eliminate or reduce the size of dormers to avoid attic space from being included in the calculation of gross floor area. From an aesthetic perspective some stated that steeper roofs and dormers are desirable. Others disagreed noting that treatment of roofed areas can contribute to creating residences that are perceived as, tall, large and out-of-scale. Participants, particularly those with a background in construction or architecture, are encouraged to provide information at the workshop that shows how future construction under the proposed law might look.

### **Creation of Non-Conformities**

During the public hearings there was debate regarding how the local law may impact existing properties by creating structures that become legally non-conforming with respect to the requirements of the City Zoning Code. This will not require any changes to existing structures but may impact future additions or alterations to existing residences. The workshop will explore the impact of creating non-conforming structures and the implications of strategies to minimize this potential impact. Participants are encouraged to come to the workshop with specific strategies or additional information regarding this issue.

### **Economic Considerations**

During the public hearings some raised a concern that the proposed law may reduce development potential and adversely impact property values. Others suggested that the law would preserve neighborhood character thereby preserving property values. There was also a concern that new residential construction generates municipal expenditures that are not offset by increased housing assessments and tax revenue. At the workshop participants (such as those from the real estate brokerage community) are encouraged to contribute to the discussion with information regarding the potential connection between housing value and fiscal impacts and the proposed local law.

### **Alternative House Scale Strategies**

The draft local law builds on the work and analysis contained in a 2003 report entitled, *A Local Law Addressing House Scale Concerns*, prepared by the City-Council-appointed House Scale Subcommittee and the City Planning and Building Departments (available at [www.ryeny.gov](http://www.ryeny.gov)). Some have suggested that other strategies might be effective to address this concern. Those with specific strategies should provide them at the workshop. Those that believe that the existing law is effective and that no change in regulation is necessary are encouraged to provide information that supports that perspective.

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**CITY OF RYE**  
**Department of Planning**

**Memorandum**

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To: Rye City Council

From: Rye City Planning Commission  
Christian K. Miller, AICP

cc: Kristen K. Wilson, Esq., Corporation Counsel  
Maureen Eckman, Building Inspector

Date: August 15, 2013

Subject: **Recommendation to Address House Scale Concerns**

Attached hereto for the City Council's consideration is a draft local law amending the City Zoning Code clarifying the definition of "Story, Half" and changing how attic space is included in the calculation of gross floor area of a residence. This local law was prepared by the City Planner in response to the City Council's discussion at its May 22, 2013 meeting and to address concerns heard by City Council members that some new residential construction is considered potentially out of scale in its size, height and or bulk.

The attached draft local law is supported by the Planning Commission. It will address some of the bulk and height concerns associated with residential attics and provide greater consistency between the requirements of the City Zoning Code and the New York State Building Code.

**Background**

The recommendations contained herein build on work and analysis contained a report entitled, *A Local Law Addressing House Scale Concerns*, prepared by the City-Council-appointed House Scale Sub-Committee and the City Planning and Building Departments<sup>1</sup>. Based on the recommendations of that report the City Council adopted a local law in 2003 amending the City Zoning Code as follows:

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<sup>1</sup> Report is available on the digital documents page of the City's website ([www.ryeny.gov](http://www.ryeny.gov)).

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- *Building Height.* The maximum permitted building height (measured from the average grade to the mid-point between the roof eaves) was reduced in the R-1, R-2 and MC Districts from 35 feet to 32 feet and the height in the R-3, R-4, R-5, R-6, RT and RS Districts was reduced from 35 feet to 28 feet.
- *Reduction in FAR for Oversized Properties.* The maximum permitted floor area was reduced for properties that exceed 150% and 250% of the minimum lot area of the applicable zoning district. This provisions means that significantly oversized properties are subject to an incremental reduction in their maximum permitted floor area as the size of the lot significantly exceeds the minimum required lot area of the zoning district.
- *Attic.* The definition of attic was amended. Under the 2003 local law fifty (50) percent of the attic floor area was required to be counted in the computation of gross floor area where the floor-to-headroom height exceeds seven (7) feet, six (6) inches and the distance between real or theoretical five-foot high knee walls exceeds seven (7) feet. Prior to 2003, no portion of attic space was included in the calculation of maximum permitted gross floor area of a residence.
- *Voids.* The 2003 Zoning Code amendments required the interior floor area, excluding stairways, with a floor-to-ceiling height in excess of fourteen (14) feet shall be counted twice in the calculation of gross floor area. This provision was added to address concerns regarding residences with large bulk or mass.
- *Basements.* Prior to 2003 basements were not counted in maximum gross floor area of a residence. Under the 2003 amendments twenty-five (25) percent of the basement floor area is included in the computation of gross floor area where the pre-existing grade abutting the exterior of the basement wall has been reduced by more than three (3) feet to create an exposed wall more than seven (7) feet in height and five (5) feet in width. This provision was intended to address residential construction with excessive grade manipulation to expose basement facades to construct garages under the first floor. Exposed foundations can contribute to the bulk and mass of a residence.
- *First Floor Elevations.* The 2003 amendments required that new construction can not have a first floor more than three feet above the pre-existing grade. Requiring a maximum elevation above grade helped reduce the height and scale of a residence.
- *Porches.* The 2003 amendments excluded unenclosed porches at or below the first floor elevation from the computation of gross floor area. Porches are a desirable amenity from a streetscape and neighborhood planning perspective and can help break up the mass and scale of a residence. Prior to 2003 any

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roofed structured (including open porches) were included in the calculation of maximum permitted gross floor area.

### Recent Experiences and Recommendations

Ten years after the adoption of the zoning code amendments there continues to be concerns regarding the bulk or scale of residential construction. Building activity in Rye is high. Many residential applications involve substantial renovations or demolition of existing residences and construction of new homes that are significantly larger than the homes they replaced. In many cases the proposed gross floor area of the residences are only a few square feet shy of the maximum permitted floor area.

At the time the 2003 amendments were adopted the New York State Building Code (NYSBC) required habitable space to have a minimum ceiling height of 7 feet, 6 inches. In drafting the 2003 amendments the ceiling height for attic space was defined to be consistent with the NYSBC. Each law was separate, but by making the two regulations consistent one would help enforce the other.

The NYSBC has been amended to reduce the minimum ceiling height for habitable space to seven feet. Often new residential construction will provide collar ties (a horizontal member located between the roof rafters) between 7 feet and 7 feet, 5 inches above the attic floor. This strategic placement of collar ties results in a restricted ceiling height that is not counted as floor area under the City Zoning Code, but is now considered habitable space under the NYSBC. From an enforcement perspective, it would be preferred if the two standards were consistent.

The attached local law changes the ceiling height provision in attics to seven feet. Floor area under roof rafters (not collar ties) having a ceiling height of seven feet or greater would be required to be included in the maximum permitted floor area for a residence. Unlike the current law this floor area would be counted at 100%, not at 50% and there would be no seven-foot minimum width requirement for such floor area to be counted. In addition, the floor area under dormers within attics having a ceiling height of five feet or greater would also be required to be included in the maximum permitted floor area. The attached local law is consistent with existing laws in Greenwich, Connecticut. Attached is a copy of the diagram included in the Greenwich Building Zone Regulations illustrating the conditions for attic floor area to be counted.

The attached local law also addresses concerns related to the scale and height of attic spaces associated with some new residential construction. These areas are often cited as contributing to new construction that is out-of-scale with neighboring properties. Other floor area, such as basements, are typically excluded from the calculation of maximum permitted floor area because they are below grade and do not contribute to house scale concerns.

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### **Regulatory Impact**

Under the draft local law attic floor area would be counted in many instances where today it is not. This will result in some existing properties adopted under the current or former law to become legally non-conforming. This often occurs with changes in the zoning code.

More significantly, it is anticipated that under the draft local law residences will be redesigned to reduce roof pitch and/or eliminate or reduce the size of dormers to avoid attic space from being included in the calculation of gross floor area. From an aesthetic perspective some may find steeper roofs and dormers desirable. Others may disagree and find that the treatment of roofed areas can contribute to creating residences that are perceived as, tall, large and out-of-scale. This was debated quite extensively in the discussion of attic regulation in the 2003 amendments.

The draft local law does not regulate use of attic space (i.e. storage vs. bedrooms) but instead focuses on the exterior impact of attic space, which often has little to do with the interior use. The draft local law also does not regulate access to attics, such as whether attics are accessible by pull-down steps or fixed stairs. Staff would discourage such regulations because they are difficult to enforce and may encourage illegal conversions after certificate of occupancies are issued to create habitable attic space that does not meet all the requirements of the NYSBC.

**DRAFT**

**LOCAL LAW  
CITY OF RYE NO. \_\_\_\_\_ 2013**

**A Local law to amend Chapter 197 “Zoning”, of the  
Code of the City of Rye, New York  
to Amend the Definition of “Story, Half” and the  
Calculation of Attics in Gross Floor Area.**

Be it enacted by the City Council of the City of Rye as follows:

**Section 1.** Article I, *Definitions*, Section 197-1, *Definitions and Usage*, of the Code of the City of Rye is hereby amended to amend the definition of “STORY, HALF” as follows<sup>1</sup>:

STORY, HALF — A ~~story space~~ under a gable, hip or gambrel roof, the gross floor area of which (measured between the wall plates of which on at least two opposite exterior walls ~~extending are not more than two (2) or more~~ feet above the floor of such story) does not exceed, when not more than sixty (60) percent% of the floor area is ~~used for rooms, baths or toilets~~ of the next floor area immediately below.

**Section 2.** Article V, *Lot, Floor Area, Height, Yard and Court Regulations*, Section 197-43.2.B, *Attics*, of the Code of the City of Rye is hereby amended as follows:

B. Attics. ~~Fifty percent~~ The area of the finished attic floor that is seven (7) or more feet below the bottom of the roof rafters ~~floor area shall be counted in the computation of gross floor area only where the headroom height exceeds seven feet, six inches and the distance between existing or theoretical five-foot high knee walls exceeds seven feet.~~ In the case of dormers within attics, whether individual or shed type, the area of the finished attic floor that is five (5) or more feet below the bottom of the roof rafters shall be counted in the computation of gross floor area.

**Section 3.** Severability

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

**Section 4.** Effective Date

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

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<sup>1</sup> All changes to the existing code are shown with underline for additions and ~~strikethrough~~ for deletions.

DIAGRAM 2

ATTIC AREA INCLUDED IN GROSS FLOOR AREA (GFA)

