

Narrative Response to Section 290-17.O (A) Requirements, 10/17/2014

§ 290-17.O(A). *Senior citizen housing, subject to the following conditions:*

(1) Certification of corporation. A certified copy of the corporation papers of an applicant proposing to construct housing under this subsection shall be supplied to the Town Attorney's office for review and comments for compliance with the purpose and intent of developing dwelling units specifically designed for the needs of persons age 55 or older, including independent, assisted care living quarters and senior citizen congregate housing.

A single purpose corporation, complying with the foregoing will be created for this project prior to the signing of any site plan for this project. The applicant notes that this provision requires the creation of a corporation, and inquires as to why a duly formed limited liability company is not acceptable?

(2) Prohibitions. This subsection does not permit nursing homes, convalescent homes, private proprietary homes, homes for the aged or any other facilities regulated and licensed by the Department of Health under the Public Health Law of the State of New York, except for Assisted care living quarters and Senior citizen congregate housing.

Requirement noted. The proposal does not contemplate assisted care living quarters or senior citizen congregate housing.

(3) Annual report. The applicant and/or owners of a development under this subsection shall file with the Town Zoning Administrator, before the first Monday in December of each year of operation, a form affidavit supplied by the Town Zoning Administrator, for compliance with all provisions of Subsection O(A)(4) and (8) and any state or federal filing requirement, if any. Any delay in filing of such form affidavit shall constitute a violation of this special permit, and, further, any real estate tax abatement provided under this subsection shall immediately cease.

Requirement noted. The applicant and/or owner will make the appropriate filings when required.

(4) Tax abatements/payment in lieu of taxes (PILOT).

(a) Any tax abatement/PILOT afforded under this subsection shall be for the purpose of reducing rent payments for housing for eligible senior citizens.

(b) To continue the eligibility for tax abatement/PILOT under this subsection, prior to renting any facility, the applicant, sponsor and/or owners of any development under this subsection shall contact the Town of Clarkstown or its designated qualified agency for a current list of names and addresses of eligible senior citizens desiring housing for the elderly and give these eligible senior citizens priority in the rental of these facilities according to the length of years of residency in Clarkstown.

(c) Anything to the contrary notwithstanding hereinabove, eligibility for any housing provided shall be pursuant to the regulations of the United States Department of Housing and Urban Development, in the event that financing is obtained pursuant to those programs, or other applicable federal, state and local government programs.

Requirement noted. No decision has yet been made as to the method of financing and whether a tax abatement or PILOT agreement will be sought.

(5) Construction requirements. All building and dwelling units constructed under this subsection

shall be constructed in accordance with the New York State Building Construction Code and conform to any additional requirements of the state or federal programs providing for housing for the elderly, whichever is applicable, and shall be inspected and approved by the Building Inspector. There shall be no more than 200 dwelling units constructed at any one site.

Agreed. The total number of dwelling units being sought for this site is 127 (reduced from the original proposal for 134).

(6) Community space. In order to qualify under this subsection, the applicant or sponsor of housing for the elderly shall provide a community space at least equal to 10% of the floor area of each building, including lounges, workshops, game rooms and other designed facilities for the elderly, except space for medical facilities or dispensaries.

The proposal complies. Community space consists of a 5,500 square feet community center, 440 SF sitting areas on the second and third floors of each building, and a 658 square feet lobby/vestibule area on the first floor of each building. The total community space provided is 16,253 SF and the building floor area is 16,253 SF. The project provides 10% community space requirement. The calculations are provided on the "FAR and Community Space Calculations" dated August 20, 2014 and prepared by Degenshein Architects.

(7) Permitted general accessory uses.

(a) Cafeterias or dining halls.

(b) A medical dispensary.

(c) Storage or tool sheds.

Provision noted. As of this writing, none of the foregoing accessory uses are proposed, but the applicant reserves the right to include all or some of them in the future.

(8) Rental requirement, tenant priority and availability.

(a) Every unit shall be a rental unit. The sale of any individual unit shall be strictly prohibited.

(b) At least 10% of all the units shall be affordable units.

(c) To qualify for an affordable unit under this subsection, prior to renting any facility, the applicant, sponsor and/or owners of any development under this subsection shall contact the Town of Clarkstown or its designated qualified agency for a current list of names and addresses of eligible senior citizens desiring housing for the elderly and give these eligible senior citizens priority in the rental of these facilities according to the length of years of residency in Clarkstown.

(d) Affordable units shall be indistinguishable in character and construction from other units with regard to size, standard fixtures and appliances, and amenities, and have the same rights and responsibilities of any other unit in the development, excepting the specific provisions of this section. The ratio of studio apartments and one-bedroom and two-bedroom affordable units shall be equal to the ratio for market-rate units.

(e) Every renter of an affordable unit shall certify, on a form prescribed by the Town Attorney's office, that such unit is the primary place of residence. Renters of affordable units shall not be permitted to sublet said units to other parties, this being enforced by a lease restriction. No property owner shall rent any affordable unit without first obtaining such verified certificate from the renter.

(f) The landowner and developer shall file a declaration with the Rockland County Clerk at the time of site plan approval identifying the units which are affordable units, and restricting their

future rental price under the provisions of this section. The declaration shall include a provision requiring that every lease for an affordable unit shall include the following paragraph to inform all future sellers and buyers or renters that these units are affordable units subject to the provisions of this section:

"This dwelling unit is for use by income-eligible families pursuant to a special program under the Town of Clarkstown Zoning Local Law. Its future rent must be to persons who qualify with the income requirements and at a price in accordance with the program at the time of execution of the lease or any renewal thereof, to be verified by the qualified agency referred to in Subsection O(A)(8)(g). The Town of Clarkstown shall have the right to approve or disapprove the subsequent rental of this unit based upon the income of the proposed renter and the requirements of Subsection O(A)(8)(c)."

(g) *The Planning Board shall, as a condition to approval of an application, require the applicant to contract with a qualified agency as designated by the Town Board to administer and oversee the rental of affordable units.*

Requirement noted. The applicant will comply with these requirements, but believes that a rental-only requirement in this context is contrary to New York State law.

(9) Minimum accessory off-street loading berths (subject to Article VI).

(a) Open loading berths are permitted, provided that they are not located in the required side yards and are not adjacent to a residential district or residential use permitted by right. No loading area shall be permitted to locate within 50 feet of any property line, and this setback shall be screened.

(b) Completely enclosed loading berths are permitted in all yard areas except the front yard; however, no loading berth, loading area or driveway shall be located within 25 feet of any property line.

(c) All loading berths, loading areas and driveways shall be illuminated with indirect lighting and shall have access only from a major or secondary road as classified on the Official Map of the Town of Clarkstown.

No loading berths are proposed for the project. No driveway is located within 25 feet of a rear or side property line. No parking space is located within 25 feet of any property line. Proposed lighting to meet Town of Clarkstown standards.

(10) Required off-street parking (subject to Article VI).

Senior Citizen Housing and Congregate Housing

<i>Dwelling Unit Type</i>	<i>Parking Space</i>
<i>Studio apartment</i>	<i>1.0</i>
<i>One-bedroom</i>	<i>1.0</i>
<i>Two-bedroom</i>	<i>1.5</i>
<i>Superintendent</i>	<i>2.0</i>

<i>Assisted Care Living Quarters</i>	<i>Parking Space</i>
<i>Per bed</i>	<i>0.55</i>

Parking calculation:

<u>Dwelling Unit Type</u>	<u>Number</u>	<u>Parking Space</u>	<u>Required</u>
Studio apartment	0	1.0	0

One-bedroom	64	1.0	64
Two-bedroom	62	1.5	93
Superintendent	1	2.0	2
Assisted Care	0	0.55	0
		Total	159
		Provided	175

(11) Additional regulations.

(a) No trucking shall be permitted into a site from a collector or local street. No shipping or receiving of goods shall be permitted between the hours of 11:00 p.m. and 7:00 a.m., nor on Sunday.

Requirement noted.

(b) Minimum lot area shall be 180,000 square feet. Assemblage of properties or parcels not in the same ownership at the time of adoption of this section so as to meet minimum lot area requirements is prohibited.

Lot area is 357,628 square feet, after deductions for environmental features.

(c) Minimum front lot line shall be 300 feet along a major, secondary or collector road.

The parcel has a front lot line of 597.87 feet along Parrott Road and 575.46 feet along Germonds Road, both of which are secondary roads.

(d) Access roads.

[1] Ingress and egress roads shall be from a major, secondary or collector road. A variance from this provision shall be deemed a use variance.

Ingress and egress are from Parrott Road and Germonds Road, both of which are secondary roads.

[2] No roads or driveways shall be located within 100 feet of any street intersection.

The ingress and egress driveway on Germonds Road is 440 feet from the intersection of Germonds and Parrott Roads. The ingress and egress driveway on Parrott Road is 325 feet from the intersection of Germonds and Parrott Road. The latter driveway is directly opposite the “T”-shaped intersection of Yew Drive and Parrott Road, in keeping with safe traffic engineering principles, as there is insufficient frontage on Parrott Road to place a driveway more than 100 feet from a point opposite Yew Drive. The applicant requests the interpretation of the Building Inspector and/or Zoning Administrator as to whether a variance from this provision is required.

(e) Floor area ratio shall be 0.50.

The proposed floor area ratio is 0.50.

(f) Maximum lot coverage shall be 0.65.

The proposed lot coverage is 0.51.

(g) Maximum density permitted shall be 20 dwelling units per acre for developments constructed and maintained on a nonprofit or limited-profit basis by an organization or its wholly owned

subsidiary incorporated pursuant to the provisions of the laws of the State of New York or 16 dwelling units per acre for any for-profit developments. A variance from this provision shall be deemed a use variance.

The applicant is a for-profit entity. The proposed density is 15.9 dwelling units per acre. The applicant questions whether such a distinction can be made under applicable New York law.

(h) No more than 50% of the units shall be two bedrooms. No units shall be more than two bedrooms with the exception of one superintendent's apartment per complex which shall consist of no more than three bedrooms.

There are 127 total units proposed. 67 units are one-bedroom units; 67 units are two-bedroom units; one unit is a three-bedroom unit for occupancy by the complex superintendent.

(i) Yard requirements.

	<i>Road Classification</i>		
	<i>Major (feet)</i>	<i>Secondary (feet)</i>	<i>Collector/Local (feet)</i>
<i>Front yard</i>	100	75	50

Yards adjacent to a district line or use permitted by right or special permit.

	<i>District Classification</i>		
	<i>Residential (feet)</i>	<i>Commercial (feet)</i>	<i>Industrial (feet)</i>
<i>Side yard</i>	50	100	200
<i>Rear yard</i>	100	200	300

<u>Dimension</u>	<u>Required</u>	<u>Provided</u>	<u>Variance Required?</u>
Front yard (Germonds Rd.)	75 feet	50 feet	Yes
Front yard (Parrott Rd.)	75 feet	50 feet	Yes
Side yard (Residential)	50 feet	50 feet	No
Rear yard (Residential)	100 feet	100 feet	No

(j) Maximum building height shall not exceed 35 feet and shall be no more than three stories aboveground.

The proposed building height is 35 feet and three stories.

(k) Minimum distance between buildings shall be no less than the height of the highest building. The minimum distance between buildings is 60 feet, which is greater than the maximum building height of 35 feet.

(l) Minimum recreation space shall be 200 square feet per dwelling unit set aside for active recreational uses for the senior citizens.

25,400 square feet of active recreational uses are required for the proposed 127 dwelling units. The proposal includes a total of 29,950 square foot of recreational space, consisting of a clubhouse (5,500 SF), putting green, patio, bbq area (10,800 SF), community garden (1,350 SF), courtyard patio (1,200 SF), and the loop path (11,000 SF).

(m) Minimum distance between Senior citizen congregate housing sites shall be not less than

1,500 feet.

There are no “Senior citizen congregate housing sites” within 1,500 feet of the subject site.

(n) Minimum distance between assisted care living quarter sites shall not be less than 1,500 feet.

There are no “assisted care living quarter sites” within 1,500 feet of the subject site.

(o) The total aggregate number of Senior Citizen Housing units allowable under the Planning Board special permit pursuant to this section shall be no more than 700. The Town Board may, by resolution passed by a super-majority vote after a public hearing, increase the total number of senior citizen housing units. No such increase shall take place until at least one year after the final Planning Board approval of the initial 700 units.

Requirement noted. The applicant is unaware of an excessive number of Senior Citizen Housing units having been sought pursuant to this provision.

(p) Dwelling units shall be air conditioned with individual thermostatic controls for heating and air conditioning.

Agreed.

(q) All dwelling units shall incorporate design features, to the maximum extent practical, which ensure the safety and convenience of the residents, including, but not limited to, elevators, grab-bars, nonscalding faucets, water-impervious nonslip floors, flush thresholds and wheelchair-accessible doorways.

Agreed.

(r) If pets are permitted, specific pet-walking areas designated and located so as to prevent nuisance and annoyance or health hazards to the residents and/or abutting property shall be provided.

Pet walking areas are to be limited to the perimeter walking path.

(s) Elevators shall be able to accommodate a gurney and emergency crew and be located closest to handicapped-accessible units.

Agreed. This requirement will be incorporated into the final architectural plan.

(t) Entrance canopies shall be no lower than 14 feet so as to accommodate buses and emergency vehicles.

Agreed.

(u) All dwelling units shall be designed, constructed and inspected in accordance with the New York State Building Code and Chapter 109 of the Town Code.

Agreed.