

Introduced 04.01.2024
Public hearing 04.15.2024
Council action 05.06.2024
Executive action _____
Effective date _____

County Council of Howard County, Maryland

2024 Legislative Session

Legislative day # 4

BILL NO. 16 – 2024 (ZRA – 206)

Introduced by:
The Chair at the request of
Elite Facility Management

SHORT TITLE: To allow additional square footage for detached accessory structures in RC and RR zoning districts

AN ACT amending the Howard County Zoning Regulations to change Section 128.0.A.12 to allow additional square footage for detached accessory structures on residentially zoned lots in the RC and RR zoning districts for both individual structures and cumulatively by allowing an additional 500 square feet for properties greater than 3 acres with larger properties having more allowance for detached accessory structures; and generally relating to lot coverage in the RC and RR zoning district.

Introduced and read first time April, 2024. Ordered posted and hearing scheduled.

By order Michelle Harrod
Michelle Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on April 15, 2024.

By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on May 6, 2024 and Passed _____, Passed with amendments _____, Failed X.

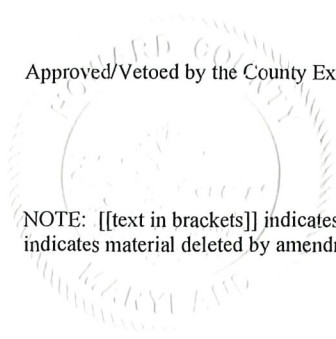
By order _____
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2024 at _____ a.m./p.m.

By order _____
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2024

Calvin Ball, County Executive



NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the
2 Howard County Zoning Regulations are hereby amended as follows:

3
4 *By Amending:*

5 *Section 128.0: "Supplementary Zoning District Regulations"*

6 *Subsection A: "Supplementary Bulk Regulations"*

7 *Number 12: "Regulations for detached accessory structures on residentially zoned lots*
8 *developed with single-family detached dwellings".*

9
10 **HOWARD COUNTY ZONING REGULATIONS**

11
12 **SECTION 128.0: Supplementary Zoning District Regulations**

13
14 **A. Supplementary Bulk Regulations**

15 The following supplementary regulations shall apply in addition to the requirements of the
16 applicable zoning districts.

17
18 12. Regulations for detached accessory structures on residentially zoned lots
19 developed with single-family detached dwellings

20 a. Size restrictions

21 (1) The maximum cumulative lot coverage permitted for all of the accessory
22 structures located on any given residential lot developed with a single-
23 family detached dwelling is:

24 (a) 600 square feet for a lot in the planned public water and sewer
25 service area.

26 (b) 1,200 square feet for a lot in the RC or RR district which is 2
27 acres or less

28 (c) 2,200 square feet for a lot in the RC or RR district which is
29 greater than 2 acres[.] BUT LESS THAN 3 ACRES.

30 (D) AN ADDITIONAL 500 SQUARE FEET FOR A LOT IN THE RC OR RR

1 DISTRICT WHICH IS 3 ACRES OR GREATER BUT LESS THAN 4 ACRES
2 PROVIDED THAT NO DETACHED ACCESSORY STRUCTURE SHALL BE
3 LARGER THAN 2,500 SQUARE FEET.

4 (E) AN ADDITIONAL 500 SQUARE FEET PER ACRE FOR EACH LOT IN THE
5 RC OR RR DISTRICT 4 ACRES OR GREATER PROVIDED THAT NO
6 DETACHED ACCESSORY STRUCTURE SHALL BE LARGER THAN
7 5,000 SQUARE FEET.

8 (2) The cumulative lot coverage restrictions cited above shall apply to all
9 accessory structures on any residentially zoned lot developed with a single-
10 family detached dwelling, excepting only legitimate farm buildings located
11 on properties meeting the definition of "farm", shipping containers used as
12 accessory storage structures, and swimming pools. Farm structures,
13 shipping containers used as accessory storage structures, and swimming
14 pools are not subject to size restrictions; however, they must be subordinate
15 and incidental to the principal use.

16 (3) Ground-mounted accessory solar collectors shall not count toward the lot
17 coverage requirement provided they do not cover more than 2% of the lot.

18
19 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that*
20 *any individual who has applied for an accessory garage building permit prior to April 13,*
21 *2004 shall be subject to the accessory garage requirements of the Howard County Zoning*
22 *Regulations in effect prior to that date.*

23
24 *Section 3. Be it further enacted by the County Council of Howard County, Maryland, that*
25 *this Act shall become effective 61 days after its enactment.*



DPZ Office Use only Case No: _____ Date Filed: _____
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**Petition to Amend the Zoning Regulations
of Howard County**

Zoning Regulation Amendment Request

1. I (we), the undersigned, hereby petition the Zoning Board of Howard County to amend the Zoning Regulations of Howard County as follows:

To allow additional square footage for detached accessory structures in RC and RR zoning districts

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. **Petitioner's Name:** Elite Facility Management
Address: 12459 Barnard Way, West Friendship, MD 21794
Phone:(W) _____ **(H)** _____
Email Address: _____

3. **Counsel for Petitioner:** Sang W. Oh, Talkin & Oh, LLP
Counsel's Address: 5100 Dorsey Hall Drive, Ellicott City, MD 21042
Counsel's Phone: 4109640300 **Email Address:** soh@talkin-oh.com

4. **Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed:**

The purpose of the proposed amendments to the Howard County Zoning Regulations Section 128.0.A.12 is to allow additional square footage for detached accessory structures on residentially zoned lots in the RC and RR zoning districts both individual structures and cumulatively by allowing an additional 500 square feet for properties greater than 3 acres with larger properties having more allowance for detached accessory structures.

[You may attach a separate document to respond to Section 4. If so, this document shall be titled "Response to Section 4"]

- 5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County:**
SEE SUPPLEMENT

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

-
- 6. The Legislative Intent of the Zoning Regulations in Section 100.0.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.0.A.**

SEE SUPPLEMENT

[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

-
- 7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s).**

SEE RESPONSE TO #6.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no?

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

SEE SUPPLEMENT

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. Provide the address, Tax Map, and Parcel Number for any parcel of land known to be affected by the amendment(s) that the Petitioner owns or has a legal or equitable interest in.

12459 Barnard Way, West Friendship, MD 21794, Tax Map 15, Parcel 15, Lot 20

The Petitioner agrees to erect and maintain Planning Board meeting poster(s) on the affected parcels in accordance with the Affidavit of Posting provided by the Department of Planning and Zoning. The poster(s) must be erected no less than six weeks prior to the date of the Planning Board meeting and must be removed within seven days of the conclusion of the Planning Board meeting.

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition.

[You may attach a separate document to respond to Section 10. If so, this document shall be titled "Response to Section 10."]

11. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in [[Double Bold Brackets]]. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

12. The Petitioner certifies that no petition for the same or substantially the same proposal as herein contained for the subject property has been denied in whole or in part by the Zoning Board or has been withdrawn after the taking of evidence at a public hearing of the Zoning Board within twenty-four (24) months of the Zoning Board hearing unless so stated herein.

13. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling.

14. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Michael Libber
Petitioner's/Owner's Names

[Signature] 8/14/23
Petitioner's/Owner's Signature Date

Petitioner's/Owner's Names

Petitioner's/Owner's Signature Date

Petitioner's/Owner's Names

Petitioner's/Owner's Signature Date

Sang W. Oh, Talkm-Oh, LLP
Counsel for Petitioner's Names

[Signature] 8/15/23
Counsel for Petitioner's Signature Date

Fees

The Petitioner agrees to pay all fees* as follows:

Filing Fee\$ 2,500.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night:.....\$ 510.00

Public Notice Poster:..... \$ 25.00 (per poster)

*** The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.**

APPLICATIONS: One (1) original plus twenty (24) copies along with attachments.

For DPZ office use only:

Hearing fee: \$ _____

Poster(s) fee: \$ _____

Total: \$ _____

Receipt No. _____

Make checks payable to the "Director of Finance"

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

ZONING MATTER: _____

**AFFIDAVIT AS TO CONTRIBUTIONS TO CANDIDATES AND
BUSINESS ENGAGEMENTS WITH ELECTED OFFICIALS**

**As required by the Maryland Public Ethics Law
Annotated Code of Maryland, General Provisions Article
Sections 5-852 through 5-854**

ALL BOLDDED TERMS ARE DEFINED BY SECTION 5-852
MARK EACH PARAGRAPH AS APPLICABLE

1. I, Michael Libber, the **Applicant** filing an **Application** in the above zoning matter, to the best of my information, knowledge, and belief HAVE / HAVE NOT made a **Contribution** or contributions having a cumulative value of \$500 or more to the treasurer of a **Candidate** or the treasurer of a **Political Committee** during the 48-month period before the **Application** was filed; and I AM / AM NOT currently **Engaging in Business** with an **Elected Official**.

2. I, the **Applicant** or a **Party of Record** in the above referenced zoning matter, acknowledge and affirm that, if I or my **Family Member** has made a **Contribution** or contributions having a cumulative total of \$500 or more during the 48-month period before the **Application** was filed or during the pendency of the **Application**, I will file a disclosure providing the name of the **Candidate** or **Elected Official** to whose treasurer or **Political Committee** the **Contribution** was

made, the amount, and the date of the **Contribution**; and that a **Contribution** made between the filing and the disposition of the **Application** will be disclosed within 5 business days after the **Contribution**.

3. I, the **Applicant**, acknowledge and affirm that, if I begin **Engaging in Business** with an **Elected Official** between the filing and the disposition of the **Application**, I will file this Affidavit at the time of **Engaging in Business** with the **Elected Official**.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY and upon personal knowledge that the contents of this Affidavit are true.

Michael Libber
(Print full name)

Michael Libber
(Sign full name &
indicate legal capacity, if applicable)

8/24/23
(Date)

ZONING MATTER: _____

DISCLOSURE OF CONTRIBUTION

**As required by the Maryland Public Ethics Law
Annotated Code of Maryland, General Provisions Article
Sections 5-852 through 5-854**

ALL BOLDED TERMS ARE DEFINED BY SECTION 5-852

If the **Applicant** or a **Party of Record** or their **Family Member** has made a **Contribution** or contributions having a cumulative value of \$500 or more during the 48-month period before the **Application** is filed or during the pendency of the **Application**, the **Applicant** or the **Party of Record** must file this disclosure providing the name of the **Candidate** or **Elected Official** to whose treasurer or **Political Committee** the **Contribution** was made, the amount, and the date of the **Contribution**.

For a **Contribution** made during the 48-month period before the **Application** is filed, the **Applicant** must file this disclosure when they file their **Application**, and a **Party of Record** must file this disclosure within 2 weeks after entering the above zoning matter.

A **Contribution** made between the filing and the disposition of the **Application** must be disclosed within 5 business days after the **Contribution**.

Any person who knowingly and willfully violates Sections 5-852 through 5-854 of the General Provisions Article of the Annotated Code of Maryland is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

Applicant or Party of Record: Michael Libber
(Print Full Name)

RECIPIENTS OF CONTRIBUTIONS:

NAME	DATE	AMOUNT
Committee to Elect David Yungmann	1/8/2022	\$100.00

I acknowledge and affirm that any **Contribution** I make between the filing of this disclosure and the disposition of the **Application** must be disclosed within 5 business days of the **Contribution**.

Michael Libber
(Print full name)

Michael Libber
(Sign full name & indicate legal capacity, if applicable)

8/14/23
(Date)

ELITE FACILITY MANAGEMENT
ZONING REGULATION AMENDMENT
SUPPLEMENT

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with the current General Plan for Howard County:

On January 4, 2005, the Howard County Zoning Regulations were amended by Zoning Regulation Amendment No. 53 (Council Bill No. 58-2004, a copy of the enrolled bill which is attached hereto) to establish new maximum sizes for detached accessory garages accessory to single family detached dwellings. The current maximum square footage of 2,200 SF for all lots greater than 2 acres in the RC or RR zoning districts was established by CB 58-2004; however, also enacted as part of CB 58 were 2 enactment clauses:

“Section 3. Be it further enacted by the County Council of Howard County, Maryland, that any individual who has applied for an accessory garage building permit prior to April 13, 2004 shall be subject to the accessory garage requirements of the Howard County Zoning Regulations in effect prior to that date.”

And

“Section 4. Be it further enacted by the County Council of Howard County, Maryland, that any individual who has applied for an accessory garage building permit prior to October 4, 2004 shall be subject to the accessory structure height and setback requirements of the Howard County Zoning Regulations in effect on the date of application.”

The practical effect of these enactment clauses was to ensure that accessory detached garages, which had previously been approved were neither rendered illegal nor noncomplying with the new limitations and, moreover, that the previously-approved structures would not count against the need to new limit placed on accessory structures.

The legal status of the previously-permitted garages changed, however, during the 2012-2013 Comprehensive Zoning where the now-current language of Section 128.0.A.12 was enacted. As part of the 2012-2013 Comprehensive Zoning legislation (CB 32-2013), the aforementioned enactment clauses were neither proposed nor adopted. The practical effect of the omission of the two enactment clauses above was to render (i) any detached accessory garage that was permitted prior to April 13, 2004, but non-compliant with the provisions of CB 32-2013, to become a noncomplying structure; and (ii) that the square footages of any pre-April 13, 2004 accessory garage building are NOT exempt and do, in fact, count towards a cumulative square footage requirement for all accessory structures, which cannot exceed 2,200 SF irrespective of the size of a RC or RR property. The cumulative square footage limitation, which did not exist prior to 2013 has had the effect of causing some obsolescence of previously-approved accessory garages

as the cumulative square footage requirement has prevented any planning or construction of additional complementary structures. Please note that any detached garage regardless of proximity to a principle dwelling is regarded as detached and counts against the amount of allowable cumulative square footage

For approximately the past 10 years, all properties in the RC or RR zoning districts have been restricted from having any detached accessory structures either, individually or cumulatively, larger than 2,200 SF regardless of the size of such RC or RR property. This limitation has presented challenges for some rural west residents and has hindered their ability to use their properties appropriately and proportionately.

Originally enacted to impose a reasonable size limitation on detached accessory garages, the limitation on square footages for these types of structures has been disproportionately impactful in the rural west where larger properties require more accessory structures and the cumulative footprint of all detached structures not exceeding 2,200 SF has become all too common a restriction without any compelling reason for limiting larger properties. A strict limitation of 2,200 square feet regardless of the size of the property is extremely limiting and negatively impacts Rural West residents who despite having purchase larger parcels of land to serve their lifestyles and recreation opportunities, are relegated to a relatively minor increase over other detached accessory garages on much smaller lots.

CB 58-2004 even reveals this notion of allowing larger properties dispensation from restrictions as that original legislation did not limit the height of detached garages for properties larger than 3 acres to 15 feet.

In addition to the losses of utilization of land for the benefit for larger property owners, there is loss of utilization for the greater community as well. For example, the severe need and shortage of recreational facilities for youth, particularly indoor space to accommodate practices, are well-documented throughout the County. The policies supporting Smart Growth prevent larger infrastructure investments in the Rural West and exacerbate the shortage of recreation facilities in this area.

Some larger detached accessory structures on larger properties can be utilized to meet the unmet needs of youth and recreation in Howard County. Zoning restrictions for residential districts would not allow conversion of these accessory structures to exceed residential intensities and the overall size limits do assure that an adequate balance is struck between the surrounding community, larger property owners and community needs.

Policy 12.1 of Plan Howard 2030 discusses the concept of Continuous Innovation in the providing of services. The goal is to implement new strategies for improving the efficiency and sustainability of County services provided to the community. General Plan Policy 8.13 discusses enhancing community recreational opportunities by expanding partnerships with private recreation providers and to encourage recreational programming among private providers for all age groups and abilities.

6. **The Legislative Intent of the Zoning Regulations in Section 100.0.A. expresses that the Zoning Regulations have the purpose of “. . . preserving and promoting the health, safety and welfare of the community.” Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.0.A.**

The proposed ZRA will be in harmony with the purpose of Section 100.0.A. The health, safety and welfare of the community is best served by residents making reasonable use of their properties. The maximum square footage of a single detached accessory garage not exceeding 2,500 SF for any property larger than 3 acres, but less than 4 acres would allow for a single building that is only 300 SF larger than the structure that can be constructed under the existing law. The benefit to property owners to construct this additional square footage when weighed against the impact of the additional 300 SF is not detrimental to the health, safety and welfare of the community. Likewise, an addition of 500 SF for each additional acre beyond 4 acres is a size increase that assures the additional square footage of the proposed garage will be beneficial to property owners without causing detriments to the health, safety and welfare of the community.

8. **Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? YES**

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number is greater than 12, explain the impact in general terms.

The total number of properties impacted by the proposed ZRA is greater than 12. The impact of this proposed ZRA in general terms will be the following:

- 1) Properties in the Planned Service Area or properties less than 2 acres will not be affected.
- 2) Properties larger than 3 acres but smaller than 4 acres will be able to add 300 SF for a maximum of 2,500 SF for an individual detached, accessory garage or 2,500 SF total, cumulatively for all detached, accessory garage structures.
- 3) Any detached accessory garages approved and permitted prior to April 13, 2004, will remain compliant under the regulations irrespective of their size. Although these previously-permitted garages cannot be increased, the square footage of these garages do not count towards the cumulative footprint of all accessory structures.

Proposed Text

Amend Section 128.0.A.12 as follows:

12. Regulations for detached accessory structures on residentially zoned lots developed with single-family detached dwellings

a. Size restrictions

(1) The maximum cumulative lot coverage permitted for all of the accessory structures located on any given residential lot developed with a single-family detached dwelling is:

(a) 600 square feet for a lot in the planned public water and sewer service area.

(b) 1,200 square feet for a lot in the RC or RR district which is 2 acres or less

(c) 2,200 square feet for a lot in the RC or RR district which is greater than 2 acres[.] BUT LESS THAN 3 ACRES.

(D) AN ADDITIONAL 500 SQUARE FEET FOR A LOT IN THE RC OR RR DISTRICT WHICH IS GREATER THAN 3 ACRES BUT LESS THAN 4 ACRES PROVIDED THAT NO DETACHED ACCESSORY STRUCTURE SHALL BE LARGER THAN 2,500 SQUARE FEET.

(E) AN ADDITIONAL 500 SQUARE FEET FOR EACH ACRE GREATER THAN 4 ACRES FOR A LOT IN THE RC OR RR DISTRICT.

(2) The cumulative lot coverage restrictions cited above shall apply to all accessory structures on any residentially zoned lot developed with a single-family detached dwelling, excepting only legitimate farm buildings located on properties meeting the definition of "farm", shipping containers used as accessory storage structures, and swimming pools. Farm structures, shipping containers used as accessory storage structures, and swimming pools are not subject to size restrictions; however, they must be subordinate and incidental to the principal use.

(3) Ground-mounted accessory solar collectors shall not count toward the lot coverage requirement provided they do not cover more than 2% of the lot.

Example of How Text of Section 127.0.A.12 Would Appear Normally if Adopted

12. Regulations for detached accessory structures on residentially zoned lots developed with single-family detached dwellings

a. Size restrictions

(1) The maximum cumulative lot coverage permitted for all of the accessory structures located on any given residential lot developed with a single-family detached dwelling is:

(a) 600 square feet for a lot in the planned public water and sewer service area.

(b) 1,200 square feet for a lot in the RC or RR district which is 2 acres or less

(c) 2,200 square feet for a lot in the RC or RR district which is greater than 2 acres but less than 3 acres.

(d) an additional 500 square feet for a lot in the RC or RR District which is greater than 3 acres but less than 4 acres provided that no detached accessory structure shall be larger than 2,500 square feet.

(e) an additional 500 square feet for each acre greater than 4 acres for a lot in the RC or RR District.

(2) The cumulative lot coverage restrictions cited above shall apply to all accessory structures on any residentially zoned lot developed with a single-family detached dwelling, excepting only legitimate farm buildings located on properties meeting the definition of "farm", shipping containers used as accessory storage structures, and swimming pools. Farm structures, shipping containers used as accessory storage structures, and swimming pools are not subject to size restrictions; however, they must be subordinate and incidental to the principal use.

(3) Ground-mounted accessory solar collectors shall not count toward the lot coverage requirement provided they do not cover more than 2% of the lot.

Section 3. Be it further enacted by the County Council of Howard County, Maryland, that any individual who has applied for an accessory garage building permit prior to April 13, 2004 shall be subject to the accessory garage requirements of the Howard County Zoning Regulations in effect prior to that date.

Petitioner	ZIVA	Applicant	Form	Name	Date Affidav	Have	Have Not	Recipients of Cont	Date of Contribution	Amount	Am	Am Not
Elite Facility Management	206	Michael Libber	Affidavit of Contribution	Michael Libber	8/24/2023	X						
Elite Facility Management	206	Michael Libber	Affidavit Engaging in Business	Michael Libber	8/24/2023							X
Elite Facility Management	206	Michael Libber	Disclosure of Contribution	Michael Libber	8/14/2023		Committee to Elect David Y		1/8/2022	100		



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

TECHNICAL STAFF REPORT

Planning Board Meeting of November 16, 2023

Case No./Petitioner: ZRA-206 – Elite Facility Management

Request: To amend Section 128.0.A.12 to allow additional square footage for detached accessory structures in the RC and RR zoning districts.

I. BACKGROUND AND HISTORY OF EXISTING ZONING REGULATIONS

Section 128.0.A.12 - Regulations for Detached Accessory Structures:

Lot coverage restrictions for detached accessory structures on residentially zoned lots developed with single-family detached dwellings were first added to the Zoning Regulations by Council Bill No. 58-2004 (ZRA-53). The Bill restricted residentially zoned properties (except for RC and RR zoning districts) to a maximum of 600 square feet for an accessory garage. The Bill restricted RC and RR zoned properties to a maximum of 1,200 square feet for an accessory garage on properties under two (2) acres and to a maximum 2,200 square feet on properties greater than two (2) acres. The Bill included an enactment clause that any building permit for an accessory garage submitted prior to April 13, 2004 would be subject to the accessory garage regulations in effect at that time.

The 2013 Comprehensive Zoning Plan, approved August 6, 2013, amended Section 128.0.A.12 of the Zoning Regulations to restrict all accessory structures to the same 2004 lot coverage limits which were previously applied only to accessory garages.

II. DESCRIPTION OF PROPOSAL

This section contains a summary of the Petitioner's proposed amendment. The Petitioner's proposed amendment is attached as Exhibit A.

Sec. 128.0.A.12.c restricts the cumulative lot coverage for all accessory structures on lots two (2) acres or larger to 2,200 square feet. The proposed amendment will increase this by an additional 500 square feet for every acre over three (3) acres. For properties between three (3) and four (4) acres, the maximum size of an individual accessory structure will be limited to 2,500 square feet. A maximum size of an individual accessory structure is not proposed for properties larger than four (4) acres.

The petitioner asserts that the accessory structure lot coverage limitation of 2,200 square feet disproportionately impacts properties in the rural west where there are larger lots and greater setbacks.

III. EVALUATION OF PROPOSAL

This section contains the Department of Planning and Zoning (DPZ) technical evaluation of ZRA-206 in accordance with Section 16.208.(d) of the Howard County Code.

- 1. The compatibility, including potential adverse impacts and consequences, of the proposed Zoning Regulation Amendment with the existing and potential uses of the surrounding areas and within the same zoning district.**

Section 128.0.A.12

The proposed amendment could allow significantly larger accessory buildings and increase lot coverage associated with multiple accessory buildings, since there will not be a size limitation on lots four (4) acres or larger. Depending on their location and use, these larger buildings may be incompatible with and have adverse impacts on adjacent residential properties. The impacts resulting from larger accessory buildings could be mitigated through a maximum size limitation and/or additional setbacks.

- 2. The properties to which the Zoning Regulation Amendment could apply and, if feasible, a map of the impacted properties**

The proposed amendment will apply to properties 3 acres or greater and within the RR and RC zoning districts outside of the Planned Service Area (PSA). DPZ identified 5,380 properties that would be potentially impacted. A map identifying those properties is provided in Attachment "A." The analysis used the following property criteria:

- Zoned RR or RC
- Outside of the public service area (PSA)
- Equal to or greater than 3 acres in size
- Residential land use
- Contains one or more major buildings (200 square feet or greater)

- 3. Conflicts in the Howard County Zoning Regulations as a result of the Zoning Regulation Amendment.**

DPZ does not anticipate that this amendment will result in conflicts in the Zoning Regulations. While not a conflict, the Accessory Structure definition, shown below, states that the accessory structure shall be subordinate in area to the principal structure. Sec. 128.0.A.12 only applies to single family detached houses. Therefore, the footprint of the house limits the footprint of an individual accessory structure where the house is smaller in area than what is allowed in Sec.128.0.A.12.

Accessory Use or Accessory Structure: A use or structure which is customarily incidental to the principal use or structure, serving no other use or structure, and which is subordinate in area, intensity and purpose to the principal use or structure. An accessory use or accessory structure shall be located on the same lot or parcel as the principal use or structure, except where it is otherwise allowed in these Zoning Regulations.

- 4. The compatibility of the proposed Zoning Regulation Amendment with the Policies and objectives, specifically including the environmental policies and objectives, of the Howard County General Plan.**

Lot coverage for accessory structures is not directly addressed in PlanHoward 2030, adopted in 2012. However, there is a policy that calls for refining zoning regulations in the RR and RC Zoning Districts to provide for greater flexibility for the agricultural community, as well as appropriate protections for rural residents.

POLICY 4.5 - Refine the Rural Conservation (RC) and the Rural residential (RR) zoning regulations to provide greater flexibility for the agricultural community, as well as appropriate protections for rural residents.

Implementing Actions:

- a. Review of Permitted Uses. Examine and amend where appropriate the list of accessory and conditional uses in the RC and RR districts and refine uses and standards for approval.
- b. Use Designations. Review use designations (permitted by right, by permit, and conditional) in each Rural West zoning district, and determine whether amendments are needed to make some uses less or more restrictive.

The proposed ZRA would proportionally expand the allowable lot coverage for accessory structures, which may result in more intensely developed properties without ensuring appropriate protections for rural residents.

Overall, the proposed ZRA 206 is not directly in conflict with the policies and objectives in PlanHoward 2030 which is effective in December 2023. The proposed amendment was submitted and evaluated prior to adoption of the HoCo By Design General Plan update. The proposed amendment will be evaluated for consistency with the General Plan update as an addendum to this technical staff report.

Environmental Policies and Objectives

The proposed amendment is not in conflict with the environmental policies and objectives in PlanHoward 2030, the County's general plan.

5. **If the zoning regulation text amendment would impact eight parcels of land or less:(i) A list of those impacted parcels;(ii) The address of each impacted parcel;(iii) The ownership of each impacted parcel; and(iv)The contact information for the owner, if an individual, or resident agent or owner, if a corporate entity, of each impacted parcel.**

This Zoning Regulation Amendment would impact more than eight (8) properties; therefore, this criterion does not apply.

DocuSigned by:
Lynda Eisenberg
1220B635863942E

11/2/2023

Lynda Eisenberg, Director

Date

Exhibit A

Petitioner's Proposed Text

12. Regulations for detached accessory structures on residentially zoned lots developed with single-family detached dwellings

a. Size restrictions

- (1) The maximum cumulative lot coverage permitted for all of the accessory structures located on any given residential lot developed with a single-family detached dwelling is:
 - (a) 600 square feet for a lot in the planned public water and sewer service area.
 - (b) 1,200 square feet for a lot in the RC or RR district which is 2 acres or less
 - (c) 2,200 square feet for a lot in the RC or RR district which is greater than 2 acres[,] BUT LESS THAN 3 ACRES.
 - (D) AN ADDITIONAL 500 SQUARE FEET FOR A LOT IN THE RC OR RR DISTRICT WHICH IS 3 ACRES OR GREATER BUT LESS THAN 4 ACRES PROVIDED THAT NO DETACHED ACCESSORY STRUCTURE SHALL BE LARGER THAN 2,500 SQUARE FEET.
 - (E) AN ADDITIONAL 500 SQUARE FEET FOR EACH ACRE GREATER THAN 4 ACRES FOR A LOT IN THE RC OR RR DISTRICT.
- (2) The cumulative lot coverage restrictions cited above shall apply to all accessory structures on any residentially zoned lot developed with a single-family detached dwelling, excepting only legitimate farm buildings located on properties meeting the definition of "farm", shipping containers used as accessory storage structures, and swimming pools. Farm structures, shipping containers used as accessory storage structures, and swimming pools are not subject to size restrictions; however, they must be subordinate and incidental to the principal use.
- (3) Ground-mounted accessory solar collectors shall not count toward the lot coverage requirement provided they do not cover more than 2% of the lot.

Example of how the text would appear normally if adopted:

a. Size restrictions

- (1) The maximum cumulative lot coverage permitted for all of the accessory structures located on any given residential lot developed with a single-family detached dwelling is:
 - (a) 600 square feet for a lot in the planned public water and sewer service area.
 - (b) 1,200 square feet for a lot in the RC or RR district which is 2 acres or less
 - (c) 2,200 square feet for a lot in the RC or RR district which is greater than 2 acres but less than 3 acres.
 - (d) An additional 500 square feet for a lot in the RC or RR District which is 3 acres or greater but less than 4 acres provided that no detached accessory structure shall be larger than 2,500 square feet.
 - (e) an additional 500 square feet for each acre greater than 4 acres for a lot in the RC or RR District.
- (2) The cumulative lot coverage restrictions cited above shall apply to all accessory structures on any residentially zoned lot developed with a single-family detached dwelling, excepting only legitimate farm buildings located on properties meeting the definition of "farm", shipping containers used as

Case No. ZRA-206

Petitioner: Elite Facility Management

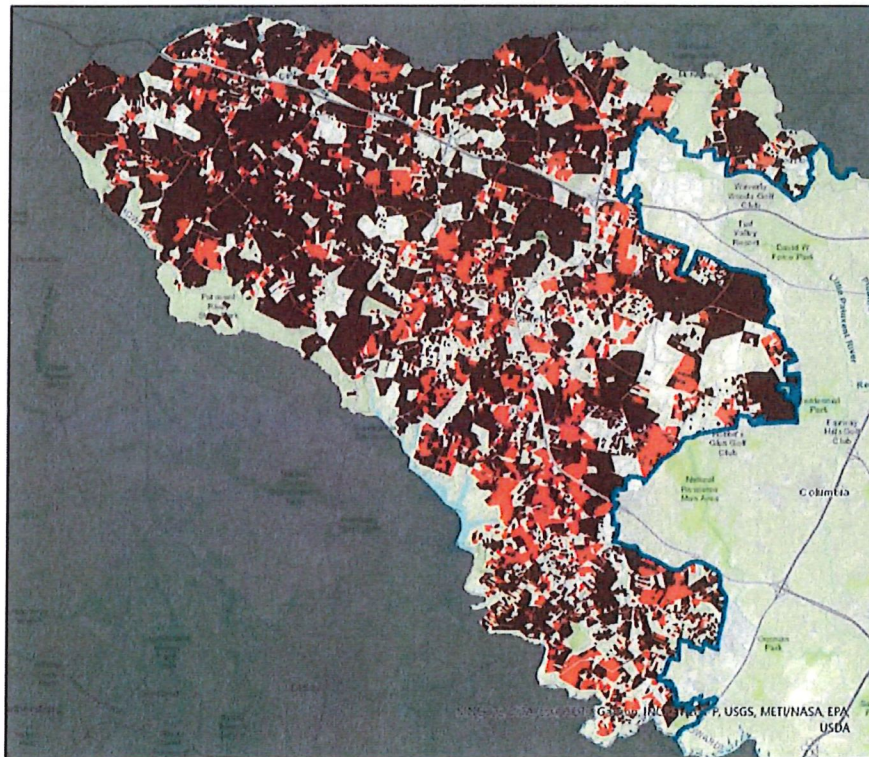
Page | 5

accessory storage structures, and swimming pools. Farm structures, shipping containers used as accessory storage structures, and swimming pools are not subject to size restrictions; however, they must be subordinate and incidental to the principal use.

(3) Ground-mounted accessory solar collectors shall not count toward the lot coverage requirement provided they do not cover more than 2% of the lot.

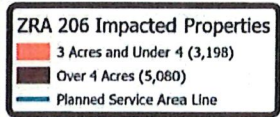
Attachment A

Impacted Properties



ZRA-206

Impacted Properties



Impacted properties were identified using the following criteria:

- 1) Zoned RR or RC
- 2) Over 3 Acres in size
- 3) Only residentially used
- 4) Outside of the PSA
- 5) Contains at least one building

October 12, 2023



1 **ELITE FACILITY MANAGEMENT** * **BEFORE THE**
 2 **PETITIONER** * **PLANNING BOARD OF**
 3 **ZRA-206** * **HOWARD COUNTY, MARYLAND**

4
 5 * * * * *

6 **MOTION: To not recommend approval of ZRA-206, subject to conditions.**

7 **ACTION: *Approved; Vote 4-0.***

8 * * * * *

9 **RECOMMENDATION**

10 On November 16, 2023, the Planning Board of Howard County, Maryland, considered the petition of
 11 Elite Facility Management (Petitioner) to amend Section 128.0.A.12 to increase cumulative lot coverage limits
 12 for all accessory structures on residentially zoned lots developed with single family detached dwellings in the
 13 RC or RR district. Lots meeting this criterion will be allowed an additional 500 square feet of accessory
 14 structures for every acre over three (3) acres. For properties between three (3) and four (4) acres, the maximum
 15 size of an individual accessory structure would be limited to 2,500 square feet.

16 The Planning Board considered the petition and the Department of Planning and Zoning’s (DPZ)
 17 Technical Staff Report.

18 **Testimony**

19 Mr. Sang W. Oh, Esq., of Talkin & Oh LLP, representing Elite Facility Management (Petitioner),
 20 provided additional background on this proposed zoning regulation amendment and the circumstances for the
 21 petitioner. Mr. Oh cited several arguments in favor of the proposal. Mr. Oh stated that in the rural west, a
 22 growing number of properties have transitioned away from agricultural uses, rendering their previously exempt
 23 accessory farm buildings to be nonconforming to lot coverage restrictions. As a result, these formerly exempt
 24 structures are now exceeding the lot coverage limitations specified in Section 128.0.A.12. Mr. Oh contends that
 25 the rural west is lacking athletic facilities compared to the eastern portion of the county and as such lot coverage
 26 restricts future opportunities to construct such amenities. Mr. Oh asserts that the proposed lot coverage increase
 27 is self-regulating due to the inherent restrictions of utilizing additional square footage of accessory structures
 28 on large-acre properties for commercial purposes. In the absence of commercial viability, these properties are
 29 less likely to fully utilize the increased lot coverage allowance. Mr. Oh explained that the Petitioner’s property
 30 has a large accessory building that was built prior to the adoption of lot coverage limitations in 1984. The
 31 petitioner would like to construct an additional accessory building to store equipment, but the lot coverage
 32 limits do not allow his client to proceed. He further contended that the cumulative lot coverage equally restricts
 33 all properties of two acres or greater to the same amount of square footage.

1 Mr. Coleman asked if this ZRA would impact the septic requirements for these properties. Mr. Oh
2 stated that accessory structures cannot be used as residential dwellings but could have bathroom facilities which
3 may require additional septic capacity. Mr. Coleman asked Mr. Oh whether a property owner could use these
4 structures to store contractor equipment and that this ZRA would not alter the conditional use requirement for
5 commercial uses. Mr. Oh stated that contractor storage is only allowed through conditional uses. Mr. Oh
6 acknowledged that there may be instances where large structures built for residential uses could be perceived
7 as being used for commercial purposes but Mr. Oh believes that size of the structures should be commensurate
8 with the size of the property. Mr. Cecil asked whether accessory dwelling units fall under the definition of
9 structure. Mr. DelMonico clarified that lot coverage regulations apply solely to detached accessory structures,
10 in Howard County accessory dwelling units are not permitted in detached accessory structures within the RR
11 and RC zoning districts by-right. Mr. DelMonico acknowledged that the recently adopted HoCo By Design
12 General Plan has policies supporting detached accessory dwelling units, future zoning code updates may
13 involve revisions to lot coverage regulations to ensure consistency and eliminate potential conflicts

14 Two members of the public testified at the hearing, Mr. Chris Alleva testified in support of the proposed
15 ZRA. Ms. Monique Wilkins of 12455 Barnard Way, testified in opposition to the proposed ZRA. Ms. Wilkins
16 lives adjacent to the petitioner's property and expressed concerns that the neighbor is conducting
17 a commercial use on the site and any expansion would likely increase traffic along their shared driveway.

18 Board Discussion and Recommendation

19 In work session, Board members shared concerns related to the lack of any additional limitations on
20 the size and intensity of the accessory structures. Additionally, the Board members grappled with the potential
21 consequences related to conversion of a large accessory building to a dwelling unit or a commercial use.

22 Mr. Cecil motioned to not recommend approval of ZRA 206 unless there are clear definitions to protect
23 against negative impacts on the surrounding community. Ms. Mosier seconded the motion. The motion passed
24 4-0.

25 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 12th day of
26 December 2023, does not recommend approval of ZRA-206, as described above.

31 HOWARD COUNTY PLANNING BOARD

32 DocuSigned by:

33 *Edward T. Coleman*

34 Ed Coleman, Chair

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DocuSigned by:
Kevin McAuley

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Kevin McAuley, Vice-chair

DocuSigned by:
James Cecil

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James Cecil

DocuSigned by:
Barbara

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Barbara Mosier

Absent

Mason Godsey

ATTEST:

DocuSigned by:
Lynda Eisenberg

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Lynda Eisenberg, AICP, Executive Secretary

Office of the County Auditor
Auditor's Analysis

Council Bill No. 16-2024 (ZRA 206)

Introduced: April 1, 2024

Auditor: Diane Zagorski-Kelly

Fiscal Impact:

The fiscal impact of this legislation is unknown, as we cannot predict future development decisions of residential property owners.

According to the State Department of Assessments and Taxation (SDAT), real property values are reassessed when accessory structures are added to residential properties.

Purpose:

Council Bill 16-2024 amends the Howard County Zoning Regulations to allow additional square footage for detached accessory structures on residential properties in the RC and RR zoning districts as follows:

- An additional 500 square feet for a lot which is 3 acres or greater but less than 4 acres, provided the structure is no larger than 2,500 square feet
- An additional 500 square feet per acre for lots 4 acres or greater, provided the structure is no larger than 5,000 square feet

Other Comments:

The Planning Board did not recommend approval of the Zoning Regulation Amendment as originally proposed. Alternative language was added in Council Bill 16-2024 that limits the size of an accessory structure to no more than 5,000 square feet.

The Department of Planning and Zoning identified 5,380 properties that would potentially be impacted by this amendment.