



THE TOWN OF RHINEBECK · NEW YORK

FOUNDED 1686

Town of Rhinebeck Town Board Policy Statement on Petitions for Zoning Amendments

I. Purposes of this Policy

The policy seeks to achieve the following purposes:

- to establish a fair, objective policy for Town Board consideration of petitions to amend the Town Zoning Law;
- to establish a single policy and procedure that will apply equally to all parties asking for the Town Board to amend the Town Zoning Law and which will allow for amendments to the Zoning Law by petition;
- to establish a process that will ensure that any amendments to the Zoning Law adopted pursuant to a petition will be legally valid and meet the applicable standards in New York State law;
- to ensure that the Town Board does not waste municipal time and money resources in the consideration of proposals which cannot meet applicable standards;
- to ensure that the Town is not unduly burdened by the municipal expenses which must be incurred in connection with the amendment review and adoption process; and
- to inform potential petitioners at the outset about the legal requirements and procedures necessary to accomplish the adoption of a valid amendment to the Zoning Law.

II. Reasons for this Policy

New York State Law prohibits piecemeal or spot zoning. In general terms, spot zoning occurs when an area of property is rezoned solely for the benefit of a property owner or group of property owners with no significant benefit to the community as a whole.

In order to be legally valid, amendments to the Zoning Law made at the request of a petitioner must be shown to be consistent with the policies and goals of the Town Comprehensive Plan and, in addition to benefitting the party seeking the amendment, the amendment must benefit the Town of Rhinebeck as a whole and promote the general welfare of the community.

This State law standard must be met in order for an amendment to be valid and to withstand

**Town of Rhinebeck Town Board
Policy Statement on Petitions for Zoning Amendments**

any legal challenge.

Under state law, in evaluating whether the standard is met, the Town Board must consider the Town Comprehensive Plan and also look at certain factors including:

- the size of the properties to be rezoned (the smaller the area of land to be rezoned, the more difficult it may be to establish community benefit);
- the benefit to the party asking for the amendment;
- the benefit to the community as a whole;
- the character of the uses permitted by the proposed amendment (how consistent are they with the Town Comprehensive Plan); and
- the character of the surrounding neighborhood and the potential negative impacts of the amendment on character of the surrounding area.

The requirements of this policy and the procedures established in this policy have not been selected at random. They are designed to assure that petitioners understand the standards which must be met and to ensure that the Town Board is provided with the information it needs in order to properly evaluate petitions for amendment.

III. Important Considerations for the Petitioner

Any amendment to the Zoning Law is a legislative act. The Town Board is under no legal obligation to adopt, or even consider, requests to amend the Zoning Law.

As a Petitioner, you must agree to enter into this process with the awareness that the Town Board may not grant the amendment you seek.

This process will require you to incur expenses. Any expenses you incur, including escrow contributions, will be your sole responsibility whether your petition is granted or not.

In order to avoid incurring unnecessary expense, before drafting a petition, you should carefully review the legal and substantive standards which must be met, as they are described in this Policy Statement. It may be advisable for you to consult with a community planning professional and/or land use attorney before making an application to learn more about the strength of your case.

IV. Requirements

If you choose to petition the Town Board to enact legislation to amend the Town Zoning Law, you must comply with the requirements set forth in this Policy Statement. Petitions which do not comply with these requirements will not be accepted.

All petitions must be in writing and contain the information set forth in this statement.

Town of Rhinebeck Town Board
Policy Statement on Petitions for Zoning Amendments

1. Name and address of petitioning party and the addresses and tax grid identifying numbers of all property owned by the petitioning party in the Town of Rhinebeck.
2. Identification of the Zoning District(s) to be affected by the proposed amendment and an itemized list of all properties to which the proposed amendment would apply and which would benefit therefrom, including the names of property owners, property addresses and tax grid identifying numbers.
3. Identification of all Zoning Districts contiguous to the Zoning District to be impacted by the proposed amendment.
4. List of allowed uses under the existing Zoning Law, both permitted by right and as authorized by special use permit, in the Zoning District to be impacted by the proposed amendment.
5. A report from an experienced community planning professional containing narrative statements which provide the following information:
 - 5.1. The changes to the Zoning Law sought by the proposed amendment.
 - 5.2. The reasons for which the amendment is sought and how the proposed amendment will benefit the properties affected.
 - 5.3. A detailed description of how the proposed amendment complies with the policies and goals of the Town of Rhinebeck Comprehensive Plan containing citations to the appropriate sections of the Comprehensive Plan
 - 5.4. A detailed description of how the proposed amendment will benefit the Town and community as a whole and promote its general welfare.
 - 5.5. The size of the parcel or parcels benefitted by the proposed amendment.
 - 5.6. A detailed description of the character of the land uses which surround the properties benefitted by the proposed amendment.
 - 5.7. A detailed statement describing the character of the new uses to be permitted by the proposed amendment.
 - 5.8. Identification of any property or structure within the area to be rezoned which is on the State or Federal Register of Historic Places.
 - 5.9. Identification of all special districts, protections or designations within which the area to be rezoned is located.
 - 5.10. Identification of any part of the area to be rezoned which lies in the Coastal Area.
 - 5.11. If any part of the property lies within the Coastal Area, a detailed statement describing the consistency of the proposed zoning amendment with the policies

**Town of Rhinebeck Town Board
Policy Statement on Petitions for Zoning Amendments**

of the Town of Rhinebeck Local Waterfront Revitalization Plan (LWRP) (Chapter 118 of the Town of Rhinebeck Code).

- 5.12. Identification and location of all freshwater wetlands, as defined in the Freshwater Wetlands Law of the Town of Rhinebeck (Chapter 120 of the Town of Rhinebeck Code), and compliance of the amendment with the Town Freshwater Wetlands Law.
- 5.13. Identification of any other significant environmental or natural resources located within the area to be rezoned.
6. A Full Environmental Assessment Form (EAF), Part 1.
7. In addition to the foregoing, the petition must comply with the disclosure requirements of Section 809 of the NYS General Municipal Law. That section requires disclosure of the name, residence and nature and extent of interest of any officer or employee of the state or the Town of Rhinebeck who may have an interest in, or benefit by, the amendment of the Zoning Law pursuant to your petition.
8. A draft proposed amendment to the Town Zoning Law sufficient in both form and content to meet the requirements for a Local Law under the NYS Municipal Home Rule Law to accomplish both the proposed amendment to the Zoning Law and any amendments to the Town Zoning Map.

V. Acceptance of Petition for Consideration

The decision whether to accept your petition and move it forward for formal consideration is a decision which lies in the sole discretion of the Town Board. If the Board decides to accept your petition for further consideration, the following steps will be followed.

VI. Agreement to Establish Escrow

Proper and prudent consideration of your petition by the Town Board, will require the Town to obtain the help of Town consultants like a planner or lawyer.

You must volunteer to establish an escrow account with the Town and contribute funds to that escrow account sufficient to reimburse the Town for all reasonable out-of-pocket costs incurred by the Town in connection with its review and consideration of the proposed amendment, its SEQRA review, and the adoption of the amendment to the Zoning Law.

This escrow requirement for zoning amendments is authorized by Article XIV of the Zoning Law. All escrow deposits shall be governed by the provisions of Article XIV.

VII. Referral to the Planning Board

Any petition accepted by the Town Board will be referred to the Town Planning Board for review. The Planning Board will review the planning, land use policy and Comprehensive Plan consistency aspects of the petition. If necessary, the Planning Board will obtain the aid of its

**Town of Rhinebeck Town Board
Policy Statement on Petitions for Zoning Amendments**

planning consultant. The Planning Board will issue a report to the Town Board with a recommendation on the proposed amendment.

VIII. Referral to the Conservation Advisory Board

Any petition accepted by the Town Board will be referred to the Town Conservation Advisory Board (CAB) for review. The CAB will review the potential impacts to the environment. The CAB will issue a report to the Town Board with a recommendation on the proposed amendment.

IX. Steps for Formal Adoption of a Proposed Amendment

Having considered the recommendations of the Planning Board and the CAB, the Town Board will then decide whether to continue the process and move toward formally adopting the proposed amendment as a piece of legislation.

If the Town Board decides to move forward, the Town Board will follow the procedural and substantive requirements necessary to pass the amendment as a law.

This stage will require additional process. The Town Board will conduct an environmental review as required by the State Environmental Quality Review Act (SEQRA). The Town Board will refer the proposed amendment to the Dutchess County Planning Department as required by Section 239-m of the New York State General Municipal Law. The Town Board will conduct a public hearing and will also obtain the advice of its attorneys on the form and content of the amendment.

In the event that all or part of the property to be rezoned lies within the Coastal Area, the amendment will be referred to the CAB in accordance with the requirements of the Town Waterfront Consistency Review Law (Chapter 118 of the Town of Rhinebeck Code). The CAB will issue a report to the Town Board with a recommendation on the proposed amendment. With that recommendation in hand, the Town Board will make a consistency determination.