

Response from Mike Morse to 2009-06-26 e-mail from Planning Board Chair regarding our Land Use Ordinance Amendments

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Subject: RE: Long Island Land Use Ordinance
Headers: Show All Headers

Curt,

In the recent Department approval, dated June 9, 2009, the Department approved the town's definition for a single family dwelling. This approval is based on the current standards, but represents an allowed relaxation of the standards. However, the consequence for the town's failure to adopt the required 2006 changes over the past 3 years is that the Department will be imposing the State Guidelines on the town. This will not take immediate effect on July 1, 2009. The Department will impose the regulations through a rulemaking procedure as soon as we get through our review of ordinances from towns that comply with the deadline (I anticipate this will occur sometime this fall). The imposed regulations will be administered and enforced by the town as though the town adopted it as its own ordinance (statutory requirement, not DEP policy). The Department will not create an individualized ordinance to account for previously approved ordinance deviation for each town receiving an imposed ordinance.

You are likely familiar enough with the Guidelines to note that they are more restrictive than the local ordinance in several aspects, including, but not limited to the minimum lot dimensional requirements and the definition of a residential dwelling unit. The 'conflict provision' in Section 7 of the imposed ordinance will require that the more restrictive provision controls. As such I expect that the imposed ordinance will override the Department's recent approval of the 'relaxed' ordinance allowing an accessory dwelling unit. I fully expect there will be other provisions that will be rendered inoperable by the imposed ordinance as well.

Personally, I hope this does not present itself as a major inconvenience to town officials and property owners. However, it does have an inherent tendency to do so. This is precisely why the Department urges municipalities to comply with such deadlines. I look forward to working with you as you prepare your amendments for next year's town meeting. Please don't hesitate to contact me with any further questions or comments.

Thank you,
Mike