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Rothman Gordon is a Pittsburgh-based law firm that has been advocating its clients' interests since 1954. Over the past 50 years, Rothman Gordon has created a suite of services for closely-held businesses and individuals. Our areas of practice include:

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- Taxation
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HOW ZONING CAN AFFECT YOUR DREAM HOME

By Bernadette L. Puzzuole, Esquire

So you're ready to build that dream home. Are you aware that your local government may force a compromise of your plans by the zoning ordinance it has adopted?

Just as municipalities have the right to establish speed limits to protect citizens, similarly they can enact zoning ordinances with respect to land development to protect the health, safety and general welfare of their citizens; otherwise, scenarios such as these might occur:

A developer could locate a 300-store shopping center in the middle of a densely populated residential district with resulting traffic and safety consequences; a 20-story office building could be built where local fire company equipment can only reach 15 stories, endangering tenants; or a chemical factory that regularly and legally emits noxious fumes, could locate next to an elementary school, placing children at risk.

Well-drafted zoning ordinances should protect you and your property - both residential and commercial, from bad decisions by the owners of adjacent property. To protect your neighbors, however, it restricts the use of your property too.

Zoning ordinances typically divide municipalities into a number of zoning districts – residential, commercial, recreational, etc. Prior to investing in a lot to construct your dream home, exercise “due diligence” and carefully investigate the zoning of the property and other restrictions in the zoning district that can affect your plans. If the land is zoned single family residential, for example, and you want to build a double home for yourself and your aging parents, you may have to purchase other property zoned for duplexes or multi-family residences. If it is zoned commercial, but allows single family residences as well, you may want to re-consider, knowing that a drug store or gas station could be built next door.

The municipality may require that residential lots for multi-family use be a minimum of one acre. If yours is smaller, you'll need to decide whether to build a large single family home with an area designated for your parents, rather than a completely separate living unit.

Ordinances usually require a setback requirement. If the front yard setback is 25', that means no part of the house or related structures (sheds, detached garages) may be closer than 25' to the front lot line. Side and rear yard setback requirements, usually smaller, may also be included. So, that sprawling ranch plan you liked may not fit the side yard setback requirements; a two-story dwelling may be all that will fit on the lot to conform.

Though unrelated to the home itself, zoning may also affect landscaping requirements. Many developments seek to create a wooded atmosphere, so you may not be able to remove the 30-year-old oak tree located in the center of your proposed swimming pool. The ordinance may require that the lawn be seeded or sodded, so that no dirt is visible within three months of construction completion, or that the property contain at least six trees, minimally six feet tall.

Many municipalities have provisions in ordinances prohibiting on-street parking between certain hours (typically 2 AM to 6 AM). This means sufficient on-lot parking must be provided for vehicles that will **typically** be at your house during those hours. If you, your spouse, your teenage son and your aging father each own cars, you need to have four on-lot parking spaces, which may mean a three car garage and one parking pad. The number of parking pads permitted may also be restricted. You may find that a boat, a mobile home, or a commercial truck can only be parked in an enclosed structure.

What you can construct on your property might also affect your decision to buy a particular lot. Outdoor swimming pools, for instance, might require a larger lot to allow for the required setback and the ordinance might require that pools be in-ground. You may have to have a six-foot fence around the swimming pool for safety and aesthetic reasons. Outdoor sheds or detached garages might be prohibited or dictated setbacks may necessitate purchase of a larger lot to construct both your dream home and accessory structures.

Knowing those restrictions **before** you purchase property, or before you begin the design phase of your home is important. If you already own the property, you should evaluate with an attorney, whether you qualify for a variance from those restrictions, or whether the ordinance can be amended to permit construction of your dream home.

And before you complain about the unfairness of zoning restrictions, remember the protection you have, as a result of the restrictions, from unreasonable and unsafe development.