

I-C PRE-EXISTING NON-CONFORMING USES, STRUCTURES AND LOTS

(Section replaced in its entirety May 2016 – ATM, Art. 21)

1. Applicability.

This By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this By-law, or any relevant part thereof, was adopted.

Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this By-law, unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

2. Nonconforming Uses.

The Zoning Board of Appeals may award a special permit to change a nonconforming use in accordance with this Section only if it determines that such change shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

2.1 Permissible Changes. The following types of changes to nonconforming uses may be considered by the Zoning Board of Appeals:

1. Change or substantial extension of the use.
2. Change from one nonconforming use to another, less detrimental, nonconforming use.

2.2 Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

3. Nonconforming Structures.

The Zoning Board of Appeals may award a special permit to change a nonconforming structure in accordance with this Section only if it determines that such change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

3.1 Permissible Changes. The following types of changes to nonconforming structures may be considered by the Zoning Board of Appeals:

1. Reconstruction, extension or structural change.
2. Alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

3.2 Changes Resulting in Increased or New Nonconformity. Except as provided below, the change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a dimensional variance; the extension of an exterior wall at or along the same nonconforming distance within a required yard shall also require the issuance of a dimensional variance from the Zoning Board of Appeals.

I-C PRE-EXISTING NON-CONFORMING USES, STRUCTURES AND LOTS CONTINUED

3.3 Nonconforming Single and Two Family Residential Structures. Nonconforming single and two family residential structures may be changed upon a determination by the Building Inspector that such proposed change does not increase the nonconforming nature of said structure by more than 50% of the existing gross floor area.

3.3.1 Permissible Changes. The following circumstances shall *not* be deemed to increase the nonconforming nature of said structure and a building permit may be issued:

1. Alteration to a structure located on a lot with non-conforming area, provided that the structure and any alterations thereto comply with all current setbacks, building height, and percent building coverage requirements. See Section IV-B.
2. Alteration of a structure on a lot with non-conforming frontage, provided that the structure and any alterations thereto comply with all current setbacks, building height, and percent building coverage requirements. See Section IV-B.
3. Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, building coverage and building height requirements. See Section IV-B.
4. When an existing residence does not meet the minimum required side yard setback, an addition may be constructed on the same line as the existing residence.

If the Building Inspector determines that proposed change exceeds the one or more of the criteria set forth above (including the 50% cap), the Zoning Board of Appeals may, by Special Permit, allow such change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. For the purposes of this subsection only, the term “reconstruction” shall not include the voluntary demolition of such structure and its rebuilding. See Section 3.5 below.

3.4 Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law; provided, however, that by special permit the Zoning Board of Appeals may reestablish a nonconforming use or structure otherwise abandoned or not used.

3.5 Reconstruction After Catastrophe or Demolition. Any nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

I-C PRE-EXISTING NON-CONFORMING USES, STRUCTURES AND LOTS CONTINUED

3.5.1 Procedures.

1. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
2. Building(s) reconstructed as of right shall be located on the same footprint as the original nonconforming structure and shall be only as great in volume or area as the original nonconforming structure.
3. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a Special Permit shall be required. In the case of voluntary demolition, the Special Permit shall be obtained from the Zoning Board of Appeals prior to such demolition.

4. Non-Conforming Lots

4.1 Changes to Nonconforming Lots. A lot that does not currently comply with the dimensional requirements set forth in Section IV-B may be changed provided that such change reduces or does not increase the extent of the existing nonconformity and does not create a new nonconformity. Such change shall not cause the protected status of the lot to be forfeited and the lot shall be considered a nonconforming lot.

4.2 Government Acquisition. If government acquisition of land causes a lot to be rendered nonconforming, or more nonconforming, it shall not cause the protected status of the lot to be forfeited and the lot shall be considered a nonconforming lot.