

Proposed amendments for Sec. 3.8.B., Nonconforming Uses of Land & Structures - v6f - 2.2.2024

(A) Nonconforming Uses *[unchanged]*

(B) Nonconforming Structures. Any structure, or portion thereof, legally in existence as of the effective date of these regulations which does not comply with the requirements of these regulations as adopted, or as subsequently amended, shall be considered a nonconforming structure. A nonconforming structure:-

- 1) .. may undergo routine maintenance and repair, provided that such action does not increase the degree of nonconformity. (*see figure 1*)
- 2) .. may be reconstructed within the existing footprint;
- 3) ..may be altered on site if the proposed change:
 - a) does not encroach further into any setback; and
 - b) does not increase the height of the non-conforming part of a structure. (*see figure 2, figure 3*)
- 4) ..may be relocated or demolished and re-constructed on the same parcel, provided that the new location of the rebuilt structure is more conforming to dimensional standards than the original structure (as measured by total area of the new structure built into the setbacks before vs. after reconstruction), and that the reconstruction retains at least 10% of the footprint of the former structure. These projects may be allowed if approved by the Development Review Board through conditional use review. (*see figure 4*)
- 5) .. may be structurally-altered in a manner that will increase the degree of non-conformity only if approved by the Development Review Board through conditional use review under Section 5.4. (An increase to the degree of non-conformity is defined as any structural alteration which extends the building footprint further into a setback, or increases the height of any part of the structure that is in the setback.) (*see figure 5*)
- 6) Conditional use approval by the Development Review Board for projects listed in B)4 and B)5 above shall address general and specific standards under Sec. 5.4.
- 7) Adverse impacts to adjoining properties or rights-of-way from reduced setbacks shall be mitigated through site design, landscaping, screening, or other mitigation measures acceptable to the Development Review Board.

(C) A nonconforming structure may be repaired, restored or reconstructed after damage from any cause, provided that the repair or reconstruction does not increase the degree of noncompliance which existed prior to the damage, is commenced within two (2) years of the date of the event that led to the damage, and is substantially completed within three (3) years of the damage or destruction, in accordance with Section 3.1. The Zoning Administrator may grant an extension to this deadline upon a determination that the delay was unavoidable and that the owner had acted to substantially complete the repair, restoration or reconstruction within the initial two (2) years. Any non-conforming structure in the Flood Hazard Overlay Area District must meet the standards of Section 5.6.

(D) Nothing in these regulations shall be construed as allowing the continuation of a use or occupancy of a structure that has been declared by an appropriate governmental authority (e.g., Health Officer)-to be unsafe, or pose a threat to public health or safety.

[revised Setback definition, from p. 129:]

Setback: Setbacks between buildings and property lines provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of buildings and open spaces between them and to the road. A setback is the horizontal distance from a road (see below), lot line, boundary or other delineated feature (e.g., a stream bank, shoreline, or wetland area), to the nearest part of a structure (as defined herein) or, where applicable, a wastewater system located on the premises. In the case of a public highway, the setback distance shall be measured from the limit of the highway right-of-way or 25 feet from the centerline of the highway, whichever is greater. In the case of a private road, the distance shall be measured from the edge of the road right-of-way. In the case of a driveway, no front setback to structures is required or created.