

Proposed amendments for Sec. 3.8.B., Nonconforming Uses of Land & Structures - LL v4b - 12.5.2023 *[added references to attached scenario figures]*

(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: ~~may continue to be occupied indefinitely in accordance with the Act [4412(7)], subject to the following limitations.~~

- 1) may undergo routine maintenance and repair, or be restored or reconstructed after damage or destruction within the existing footprint, provided that ~~such action~~ the repair or reconstruction does not increase the degree of ~~noncompliance~~ nonconformity; ~~these projects do not require a zoning permit. (see figure 1)~~
- 2) ~~Any structural alteration of a nonconforming structure~~ may be altered if the proposed addition: which
 - a) does not encroach further into the setback;
 - b) does not increase the height of the non-conforming part of a structure; or
 - c) does not extend the structure's footprint into any setback; ~~shall not be considered to increase the degree of non-conformity,~~as confirmed by the Zoning Administrator. These projects require a zoning permit. (see figure 2)
- 3) may be moved on the site, provided that the new location fully meets all dimensional standards, as confirmed by the Zoning Administrator. These projects require a zoning permit. (see figure 3)
- 4) may be demolished and re-built on the same parcel, provided that the new location of the rebuilt structure is more conforming to dimensional standards than the original structure; these projects may be allowed if approved by the Development Review Board through conditional use review per standards as outlined in Sec. 3.8.B.5 (below). (see figure 4)
- 5) may only be structurally ~~modified~~ altered in a manner that will not increase the degree of non-conformity, unless approved by the Development Review Board through conditional use review under Section 5.4. Any structural alteration which extends the building footprint or increases the height of a structure further into a setback ~~than the existing structure~~ shall be considered to increase the degree of non-conformity. (see figure 5) Conditional use approval by the Development Review Board for such projects shall address the following standards, in addition to general and specific standards listed under Sec. 5.4:
 - (a) The waiver, if authorized, represents the minimum setback reduction necessary to allow for the proposed development;
 - (b) The alteration shall not have an undue adverse impact on adjoining properties, or any public interest that would be protected by maintaining the existing setbacks to adjoining properties and bodies of water;
 - (c) The resulting structure's character, footprint and height shall be compatible with the character and scale of surrounding structures;
 - (d) In no case shall this alteration result in the upper floor of a nonconforming part of a structure extending further into the setback than the ground floor already does. [modification of prior wording]

(5) In the event there is no reasonable siting alternative for a proposed alteration or relocation of a nonconforming structure due to physical site constraints, the Development Review Board may waive a required setback distance by no more than 50% as necessary to allow a nonconforming structure to be structurally altered or relocated in a manner that increases the degree of nonconformance. In granting a waiver, a minimum setback distance of ten (10) feet shall be maintained; any further reduction in the minimum setback distance beyond 50% or ten feet shall require variance approval under Section 9.7.

(6) Any potential adverse impacts to adjoining properties or rights-of-way from reduced setbacks shall be mitigated through site design, landscaping and screening, or other mitigation measures acceptable to the Development Review Board.

~~(3) 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 one year of the date of the event that led to the damage, and is substantially completed within two (2) years of the damage or destruction, in accordance with Section 3.1. The Development Review Board may, on appeal, grant a one (1)-year 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 one (1) year period. Any non-conforming structure in the Flood Hazard Overlay Area District must meet the standards of Section 5.6.~~

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