

ARTICLE 9 - NONCONFORMING USES AND STRUCTURES

Section 9.01 Continuation.

Subject to the Provisions of this Article, any lawful building, structure or use of premises substantially existing at the time of enactment of this Local Law or any subsequent amendment thereof applying to such building, structure or use of premises may be continued although such building, structure or use of premises does not conform to the provisions of this Local Law, provided, however:

A. No nonconforming use may be expanded, enlarged, increased or extended or placed on a different portion of the parcel it occupies without obtaining a use variance.

B. No nonconforming structure shall be enlarged, expanded, extended, increased in bulk or moved to a different portion of the lot it occupies unless such modification is in conformance with this local law or an area variance is obtained.

C. A nonconforming use shall not be changed to any other use which does not conform to the provisions of this Local Law without obtaining a use variance.

D. In no case shall any increase or expansion violate or increase noncompliance with the minimum setbacks of the shoreline restrictions contained in this Local Law without obtaining an area variance.

E. This Article shall not be construed to permit any unsafe use or structure, or to affect all proper procedures to regulate or prohibit any unsafe use or structure.

Section 9.02 Conversion of Certain Existing Uses.

Those structures existing on August 1, 1973 that are associated with resort hotels, motels, rental cottages and group camps may be converted from their existing use to individual single-family residences, condominiums, cooperatives or other non-seasonal residential occupancy subject to site plan review under Article 5. In its review of such conversions, the Planning Board will apply the following additional criteria:

A. A single structure containing over 1,250 square feet of net interior floor space as of May 22, 1973 may be converted to more than one single family residential unit at the approximate rate of one unit for each 1,250 square feet of floor space in the structure prior to conversion; however, there shall be no fixed square footage requirement for the resulting units.

B. For the purpose of determining whether any additional principal buildings may be constructed on the parcel (including adjoining parcels in the same ownership), each single family residential unit resulting from the conversion shall be considered a new principal building, and the minimum lot size and intensity requirements of Article 4 shall apply. All contiguous or adjacent lands associated with the prior use or in the same ownership shall be included in the area upon which the intensity requirements of Article 4 will be applied.

Section 9.03 Discontinuance.

A. When any nonconforming use has been discontinued for a period of sixty (60) months further use of the property or structure shall conform to this Local Law.

B. If a nonconforming use is replaced by another use, such use shall conform to the provision of this Local Law or require a use variance.

C. Any use, or any building, structure or land which is used or occupied by a nonconforming use and which is changed to or replaced by a conforming use under this Local Law shall not thereafter be used for or occupied by a nonconforming use without first obtaining a use variance.

Section 9.04 Completion of Structure.

Nothing contained in this Local Law shall require any changes in plans, construction, alteration or change in designated use of a structure for which substantial construction work has lawfully commenced and substantial expenditure expended prior to the adoption of this Local Law.

Section 9.05 ~~Destruction~~ Replacement of Nonconforming Use or Structure.

~~Any structure or use which is nonconforming to the use, bulk or area provisions of this Local Law, which is damaged by fire, flood, wind, hurricane, tornado, or other acts beyond the control of man, to the extent of more than fifty percent (50%) of its assessed valuation may be repaired or rebuilt according to its original use, bulk and area, provided such rebuilding or repair be accomplished within three (3) years after such damage occurs.~~

If a nonconforming structure or a structure containing or constituting a nonconforming use is destroyed by any cause, the structure or use may be replaced or resumed to the same extent and on the same building footprint, providing such rebuilding or repair occurs within 5 years.

Structures that lawfully exist within a shoreline setback area may be replaced or rebuilt in the same location or immediate vicinity. The following changes to the dimensions of a lawfully existing structure within the shoreline setback area require a variance, whether the changes occur through expansion or replacement: (i) location of the structure any closer to the mean high water mark; (ii) any increase in height; (iii) any increase in footprint; or (iv) any increase in width. However, an increase of up to two feet in height of a single family dwelling or mobile home, an increase of up to 250 square feet of footprint to the rear (non-shoreline side) of a single family dwelling or mobile home, and/or the addition of a stoop no larger than 25 square feet providing access to the rear or side of a single family dwelling or mobile home does not require a variance.