

**Draft Zoning Amendment
Zoning and Site Plan Review Ordinance
Town of Falmouth ME
Rev. 4-19-12**

An Ordinance Amending the Zoning and Site Plan Review Ordinance establishing a Waterview Overlay District with special provisions regarding waterview preservation.

Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that the Falmouth Zoning and Site Plan Review Ordinance be amended as follows.

Section 1

Amend the Official Copy of the Town Zoning Map as referenced in Section 1.2 by adopting the Water View Overlay District (WVOD) as shown on the attached map.

Section 3. Districts – new language as follows:

Section 3.1 – *add a new paragraph*

18. Water View Overlay District – “WVOD”

Add a new subsection:

3.201 Water View Overlay District “WVOD”

To establish within the Town of Falmouth an area as shown on the attached fragmentary map entitled, “Proposed Waterview Overlay District” and dated February 23, 2012. Non-conforming single family dwellings and nonconforming lots shall receive a Conditional Use Approval from the Board of Zoning Appeals and comply with Sections 8.3 and 8.7. ~~in order to consider the preservation of water views. The extension, enlargement, or development of structures within the WVOD requires a conditional use permit subject to the provisions of Sections 8.3 and 8.7.~~

Section 6 Nonconforming Structures, Uses and Lots

6.2 Except as provided in this subsection, a nonconforming structure or use shall not be extended or enlarged in any manner except as may be permitted as a variance. The following requirements shall apply to expansion or enlargement of structures which are nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements. [Amended 1/24/00]

- a. Except for lots located in the Water View Overlay District Board of Zoning Appeals may permit as a conditional use in accordance with Sections 8.3 and 8.7 the extension, enlargement, or development of a single family detached dwelling structure which is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements, is permitted provided the extension or enlargement is not located between the lot lines and the required

setback lines and does not compound nor create a lot coverage or height violation.
[Amended 10/25/04; 7/24/06]

b. The Board of Zoning Appeals may permit as a conditional use in accordance with Section 8.3 and 8.7, the extension or enlargement of a single family detached dwelling which is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements, provided the extension or enlargement [Amended, 10/25/04]:

- (1) Shall not increase lot coverage above 50%; and,
- (2) Shall not extend closer to the lot lines than the existing structure; and,
- (3) Shall not create or compound a violation of the height restrictions in Section 5.20. [Amended 7/24/06]
- (4) No part of the extension or enlargement (of a single family detached dwelling) may be closer than ten (10) feet from all property lines and twenty (20) feet from buildings on any adjoining lot.

6.7 A nonconforming single vacant lot outside of the WVOD and ; not adjoined by another vacant lot in common ownership, may be built upon subject to the lot coverage and setback requirements of this Ordinance for the district where located, provided that the owner can demonstrate that there is reasonable access to the site by emergency vehicle ~~and provided that the owner has conditional use approval from the Board of Zoning Appeals~~. For purposes of this Section 6.7, the term “vacant lot” shall mean a nonconforming lot that was vacant on and has remained vacant since the effective date of this Zoning Ordinance in 1965. [Amended 10/25/04; 7/24/06]

Within the WVOD, a nonconforming single vacant lot not adjoined by another vacant lot in common ownership, may be built upon subject to the lot coverage and setback requirements of this Ordinance for the district where located, provided that the owner can demonstrate that there is reasonable access to the site by emergency vehicles and provided that that owner has conditional use approval from the Board of Zoning Appeals. For purposes of this Section 6.7, the term “vacant lot” shall mean a nonconforming lot that was vacant on and has remained vacant since the effective date of this Zoning Ordinance in 1965.
[Amended 10/25/04; 7/24/06]