



**TOWN OF FALMOUTH  
ORDINANCE NO 109-2013**

**An Ordinance Amending the Zoning and Site Plan Review Ordinance  
Regarding Nonconforming Residential Structures on conforming or non-  
conforming lots**

**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 to read as follows:**

**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 the extension, enlargement, or construction of a single family detached dwelling or residential detached accessory structure which is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements, is permitted provided the extension, enlargement, or construction 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; 5/30/12]
- 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 or residential accessory structure which is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements, provided the following criteria are met: [Amended, 10/25/04]:

1. No aspect of nonconformity may be increased, except as provided below.

(a) Lot coverage shall not exceed 50%; and

- (b) If the structure is nonconforming due to setbacks, the new structure shall not extend closer to the lot lines than the existing structure. The Board shall require that the setback requirements in Section 3 be met to the greatest practical extent.
- d. Any non-residential structure or a multiplex dwelling unit which is nonconforming due to lot size, lot width, lot frontage, lot coverage, height or setback requirements, may be expanded or enlarged subject to Planning Board Site Plan Review, provided that 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, 1/24/00]

Any single family detached dwelling located in the Suburban-Business District, Commercial District, or the Business and Professional District, which is nonconforming solely because of its use, may be expanded or enlarged in accordance with the preceding requirements. [Amended, 12/22/86]

**6.9** Except for lots located in the Water View Overlay District, the Board of Zoning Appeals may allow by conditional use, in accordance with Section 8.3 and 8.7, the relocation or replacement either wholly or in part of a single family dwelling, multiplex, or residential accessory structure located on a nonconforming lot. As a condition of the approval, the lot shall be consolidated with any adjoining lot or lots in common ownership and not occupied by a dwelling, to form one or more conforming lots so far as possible with regard to the lot area and width requirements of this Ordinance. The following additional criteria shall be met: [Amended, 5/27/92; 7/24/06]

- a. If the structure is conforming, the replacement structure shall be conforming.
- b. No aspect of nonconformity of the original structure or the lot shall be increased, except as provided below.
  - 1) lot coverage shall not be increased above 50%; and
  - 2) If the structure is nonconforming due to setbacks, the new structure shall not extend closer to the lot lines than the existing structure to be replaced. However, the Board shall require that the setback requirements in Section 3 be met to the greatest practical extent.

**6.10 Reserved.**

**Attest:** \_\_\_\_\_  
**Ellen Planer**  
**Town Clerk**  
**April 22, 2012**