

**DRAFT  
TOWN COUNCIL  
Town of Falmouth, Maine  
March 11, 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 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 development~~ 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, ~~or~~ 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 ~~extension or enlargement~~ following criteria are met: [Amended, 10/25/04]:
    1. Shall not increase lot coverage above 50%; and
    2. If the structure is nonconforming in relation to setbacks, the new structure shall not extend closer to the lot lines than the existing structure to be replaced ;and ~~Shall not extend closer to the lot lines than the existing structure; and,~~
    - 2.3. Shall not create or compound a violation of the height restrictions in Section 5.20. [Amended 7/24/06] ; and
    - 3.4. No part of the extension or enlargement (of a single family detached dwelling) of the structure may be closer than ten (10) feet from all any lot lines and shall be at least twenty (20) feet from any buildings on any adjoining lot.
  - d. Any non-residential structure ~~other than a single family detached dwelling,~~ 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 relocation or tear down either wholly or partially of a dwelling, dwellings 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 resulting structure is not located between the lot lines and the required setback lines and does not compound nor create a lot coverage or height violation.

The Board of Zoning appeals may allow by conditional use in accordance with Section 8.3 and 8.7, ~~the owner or owners of a nonconforming lot shall apply to the Board for a conditional use to relocation or tear down replacement~~ either wholly or in partially part of a dwelling, or dwellings, or residential accessory structure located ~~thereon a nonconforming lot, and build or replace the same in whole or in part.~~ As a condition ~~to applying for such a conditional use of the approval,~~ the lot ~~must~~ shall be consolidated with any adjoining lot or lots in common ownership and not occupied by a dwelling, to form one or more ~~lots conforming~~ conforming lots so far as possible with regard to the lot area and width requirements of this Ordinance. The ~~Board may grant the conditional use only if~~ following additional criteria ~~are~~ shall be met: [Amended, 5/27/92; 7/24/06]

- a. Shall not increase lot coverage above 50%; and
- b. If the structure is nonconforming in relation to setbacks, the new structure shall not extend closer to the lot lines than the existing structure to be replaced; and
- c. Shall not create or compound a violation of the height restrictions in Section 5.20. [Amended 7/24/06]; and
- d. No part of the extension or enlargement of the structure may be closer than ten (10) feet from any lot line and shall be at least twenty (20) feet from buildings on any adjoining lot; and
  - ~~a. The reconstructed dwelling shall be used as a single family detached dwelling;~~
  - ~~b. The lot coverage shall not exceed fifty (50%) percent;~~
  - ~~c. A minimum setback of ten (10) feet from all lot lines shall be maintained;~~
  - ~~reconstruction shall be no closer than twenty (20) feet to other buildings on any adjoining lot; and~~
- e. Two off-street parking spaces for each dwelling unit shall be provided.

- 6.10** ~~Reserved. A non-conforming structure which is accessory to a single family detached dwelling may be rebuilt within the existing footprint without a variance provided that the structure is not extended or enlarged in any manner; that the structure, as rebuilt, complies with all applicable fire safety codes; and that conditional use approval is obtained from the Board of Zoning Appeals. [Adopted, 5/27/93] [Amended 7/24/06]~~