



TOWN OF FALMOUTH

ORDINANCE NO 18-2014

An Ordinance Amending the Zoning and Site Plan Review Ordinance Section 6 Nonconforming Structures, Uses and 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: the extension or enlargement of a single family detached dwelling; the extension or enlargement of a residential accessory structure located ten (10) feet or greater from a property line; or the development of a residential accessory structure as a conditional use in accordance with Section 8.3 and 8.7 where a lot size, lot width, lot frontage, lot coverage, height or setback nonconformity exists provided the following criteria are met:
 - 1. Shall not increase lot coverage above 50%; and,
 - 2. If the existing 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 create or compound a violation of the height restrictions in Section 5.20. [Amended 7/24/06], and

3. No part of the extension or enlargement of the structure may be closer than ten (10) feet from any lot line.
- 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 BP, MUC, or VC Districts, 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 Relocation or Teardown of Residential Structures

- 6.9.1 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(s) is not located between the lot lines and the required setback lines and does not compound nor create a lot coverage or height violation.
- 6.9.2 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 dwelling, dwellings, 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. Shall not increase lot coverage above 50%; and,
 - b. If the structure(s) is nonconforming in relation to setbacks, the new structure(s) shall not extend closer to the lot lines than the existing structure(s) 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(s) may be closer than ten (10) feet from any property line, and
 - e. Two off-street parking spaces for each dwelling unit shall be provided.

6.10 A non-conforming residential accessory structure less than ten (10) feet from a property line may be replaced or relocated provided that a conditional use approval is obtained from the Board of Zoning Appeals in accordance with Section 8.3 and 8.7 and the following additional criteria are met:

1. The structure is not extended or enlarged in any manner; and,
2. The structure, as rebuilt, complies with all applicable fire safety codes; and,
3. The new structure shall be placed on the lot such that the setback requirements are met to the greatest extent practical as determined by the Board using the criteria set forth in section 6.5(a)(2).

[Adopted, 5/27/93] [Amended 7/24/06]

Attest:_____

Ellen Planer

Town Clerk

July 22, 2013