

Chapter 15

NONCONFORMING LOTS, USES, BUILDINGS AND STRUCTURES

SECTION 15.1 INTENT AND POLICY

- A. It is recognized that there exists certain lots, buildings, signs, structures and uses which were lawful before this Ordinance was adopted or amended that would be prohibited, regulated or restricted under the terms of this Ordinance. It is the intent of this Ordinance to permit legal nonconforming lots, buildings, signs, structures and uses to continue until they are removed or are otherwise no longer non-conforming, but not to encourage their survival, expansion or extension.
- B. Nonconforming lots, buildings, signs, structures and uses are declared by this Ordinance to be incompatible with permitted or other uses in the zoning districts in which they are located. It is the intent of this Ordinance that these nonconformities shall not be enlarged, moved, expanded or extended, nor be used as grounds for adding other buildings, signs, structures or uses prohibited by this Ordinance. Nonconforming uses, structures, signs, and buildings should be eliminated over time.
- C. Nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted.

SECTION 15.2 NONCONFORMING LOTS OF RECORD

- A. Where a lawful nonconforming lot of record exists at the time of the adoption or amendment of this Ordinance and it does not meet the current minimum requirements for lot width, frontage, area or other lot dimensional requirements due to the adoption or amendment of this Ordinance or a new ordinance amendment, such lot may be used for any use permitted by the zoning district in which the lot is located provided that it meets all applicable building and structure setback, lot coverage, yard and similar requirements.
- B. If two or more lawful nonconforming lots of record, combination of such lots and/or portions of such lots of record in existence at the time of passage of this Ordinance or an amendment thereto are:
 - 1. in common ownership, and
 - 2. adjacent to each other or with continuous frontage, andtwo or more such lots are vacant or have a principal building on either of the lots, and

3. individually do not meet the lot width or frontage of 100 feet or other dimensional requirements of this Ordinance and are less than 20,000 square feet;

then the lots involved shall be deemed automatically combined and shall be considered to be an undivided parcel for the purposes of this Ordinance. No such combined parcel or portion of such parcel shall ever be split or detached or be used or divided in a manner that diminishes compliance with the lot width, area, frontage and dimensional requirements of this Ordinance.

SECTION 15.3 NONCONFORMING USES

- A. A nonconforming use shall not be enlarged or increased in scope, frequency, size or intensity nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance.
- B. No part of any nonconforming use shall be moved unless such movement eliminates the nonconformity.
- C. If a nonconforming use is abandoned for any reason for a period of more than one year, any subsequent use shall fully conform to the requirements of this Ordinance.
- D. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exist and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 1. Utilities such as water, gas or electricity to the property have been disconnected;
 2. The property, buildings or grounds have fallen into disrepair;
 3. Signs or other indications of the existence of the nonconforming use have been removed;
 4. Removal of buildings, structures, equipment or fixtures which are necessary for the continuation or operation of the nonconforming use; or
 5. Other actions which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
- E. A nonconforming use may be changed to another nonconforming use provided that the new use is approved by the Board of Appeals and that all of the following determinations are made by the Board of Appeals:
 1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood and uses than the previous nonconforming use.
 2. The proposed nonconforming use shall not be enlarged or increased nor extended to occupy a greater or increased area of land, nor have a greater scope or intensity than the previous nonconforming use.
 3. The proposed use is reasonable.
 4. The proposed use is consistent with the Township's master plan.

5. Appropriate conditions and safeguards are provided to ensure compliance with the intent and purpose of this Ordinance.

SECTION 15.4 NONCONFORMING BUILDINGS, SIGNS AND STRUCTURES

Where a lawful building, sign or structure exists as of the effective date of this Ordinance or amendment thereto that does not comply with the requirements of this Ordinance because of restrictions such as lot area, coverage, width, height or yards, such building, sign or structure may remain as long as it is otherwise lawful and is not enlarged or moved.

SECTION 15.5 EXTENSIONS OF NONCONFORMING BUILDINGS, SIGNS AND STRUCTURES

- A. No building, sign or structure that is nonconforming due to its size, height, setback or other dimensional characteristic may be enlarged or altered in a way that extends or increases its nonconformity, except as noted in subsection B, below.
- B. Where the setback of a building or structure is nonconforming by a distance equal to or less than one-half of the distance required by this Ordinance, the nonconforming setback may be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

SECTION 15.6 RECONSTRUCTION OR MOVEMENT

- A. Should a nonconforming building, sign or structure be destroyed to an extent of more than 60% of its replacement value, it shall lose its lawful nonconforming status and shall be reconstructed only in full conformance with the provisions of this Ordinance. However, a single-family detached dwelling may be reconstructed in its previously nonconforming location (i.e., the same footprint) and at its preexisting size. Any such reconstruction shall be completed within one year of the date at which the dwelling was destroyed.
- B. Should a nonconforming building, sign or structure be destroyed in an amount equal to or less than 60% of its replacement value, it may be reconstructed in its previously nonconforming location (i.e. the same footprint but may not be enlarged in size or height). Said reconstruction shall be completed within one year of the date at which the building or structure was destroyed.
- C. Should a nonconforming building, sign or structure be moved for any reason and for any distance, it shall be moved to a location such that it fully complies with the requirements of this Ordinance.

SECTION 15.7 REPAIRS

None of the provisions of this Chapter are meant to preclude normal repairs and maintenance on any nonconforming building or structure nor the strengthening or correction of any unsafe condition of the building or structure.

SECTION 15.8 PURCHASE OR CONDEMNATION

The Township may acquire, through purchase or condemnation, private nonconforming buildings, signs, structures or land. The Township Board may take such actions in the manner as is provided by law.

SECTION 15.9 BURDEN OF PROOF

The burden of proof for establishing or proving the existence or any aspect of a lawful nonconforming structure, sign, lot or use (as well as the size, scope, intensity, and extent thereof) is on the owner of the property involved.