

**PROPOSED NEW REGULATIONS FALL 2020**

**Public Hearing October 17, 2020 – 10 am**

**NONCONFORMING STRUCTURES AND LOTS**

DELETIONS IN **[BRACKETS AND UNDERLINED]** / ADDITIONS IN *ITALICS AND BOLD*

**EXISTING SECTION VII – NONCONFORMING USES, BUILDINGS AND LOTS**

Any lawful use of a building lot existing as of September 1, 2010 may be continued subject to the following conditions:

1. Except as hereinafter provided in this Section, a nonconforming use shall not be enlarged or extended.
2. A nonconforming use may not be changed to another nonconforming use.
3. If any nonconforming building or structure is destroyed by fire, flood or other casualty, or is intentionally razed or demolished, it may be restored or replaced by a building or structure having the same nonconforming features as the building or structure destroyed or razed. [provided such restoration or replacement is started within one year of such razing, demolition or destruction and diligently pursued to completion.]

**Note – see Connecticut General Statutes on page 6.**

4. [A nonconforming use which ceases for any reason for a continuous period of more than one (1) year, or is changed to a conforming use, shall not thereafter resume.]

**Note – see Connecticut General Statutes on page 6.**

5. Any permitted use may be made of, and any permitted building may be constructed on, a nonconforming lot provided that as of August 2, 1980 and continuously thereafter the legal owners of record of the nonconforming lot did not, at any time during the ownership of the nonconforming lot, own any adjoining or contiguous lot. When lots are joined, for the purposes of complying with the Zoning Regulations, the lots need [not] to be combined into one lot on the land records. [The interior lot lines, where the lots abut, have no zoning significance relative to setback requirements for any building located on the so joined property.]

**Needs to be combined otherwise we have created a non-conformity – See Section III of BPBCA Zoning Regulations – goes against that section.**

6. The owner of two (2) or more adjoining or contiguous lots may, upon approval by the Board of Governors of the Association, re-subdivide those nonconforming lots to create one (1) or more conforming lots.

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7. Except as set forth in paragraph 8, a nonconforming building shall not be enlarged or extended, vertically or horizontally, unless:
8. Such extension or enlargement complies with the setback requirements of these regulations regardless of the existing setback lines of the nonconforming building *except as noted below*, and
9. Such extension or enlargement complies with all other provisions of these regulations pertaining to the type of building being extended or enlarged as relates to height, dimensions and number of floors.
10. Any open portion of a nonconforming dwelling having a roof and existing as of February 5, 1991 may be enclosed so to form a portion of the interior of the dwelling.
11. The roofline immediately over actual occupied area above grade, not including accessory unoccupied areas, in a nonconforming dwelling may be changed, providing the overall height of the structure is not increased *except as noted below*.
12. *Nonconforming structures exceptions.*
  - a. *No nonconforming dwelling shall be enlarged or extended unless the enlargement or extension conforms to the requirements of the district in which it is situated.*
  - b. **EXCLUDED FROM THIS PROHIBITION ARE:**
    1. *Additions of a second story to one-story single family dwellings.*
    2. *Conversions of single-family one-and-one-half story dwellings to two-story dwellings, either by means of dormers or upward extensions of existing sidewalls.*
    3. *Conversions to two stories of one-story appendages to two-story single-family dwellings.*

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- 4. Construction of an addition that fills in a section of the house when two adjacent exterior walls are already non-conforming.***
- 5. Construction of an addition that extends the existing nonconformity as long as the extension does not exceed twenty percent of the existing structure and does not extend into the front or rear yard setbacks.***

***c. NONE OF THE FOREGOING ADDITIONS, EXTENSIONS, OR CONVERSIONS SHALL:***

- 1. Extend beyond the perimeters of the existing buildings except as noted in #4 or #5 above.***
- 2. Exceed the vertical projection limits specified elsewhere in these regulations.***
- 3. Alter the single-family status of the dwellings.***
- 4. Result in a separation of less than 15 feet from the sidewalls of any other dwelling.***
- 5. Result in the nonconformity being constructed no closer than five feet from the property line.***
- 6. Result in construction that exceeds the coverage limit thirty-five (35) percent of all structures on the property.***

***d. Nothing shall prevent the construction of additions to single family detached residential dwellings provided that the following conditions are met:***

- 1. No lot within the scope of these provisions may contain more than one dwelling.***
- 2. The dwellings are used solely as private residences, except for approved "Home Occupations" and the proposed additions shall likewise be designed for such use. (For purposes of this regulation, single-story, accessory attached and detached garages shall be considered residential additions.)***

***e. All application for construction under this section will require an A-2 survey to demonstrate the exact location of the existing structure, the proposed addition(s), and the location of the closest neighboring structure(s).***

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**13. NONCONFORMING LOTS (NOTE – EXISTING SIDE YARD IS 15 FEET)**

***Lots 79 feet or less in width: In the case of any lot 79 feet or less in width, the minimum combined width of both side yards and the minimum width of the narrowest side yard shall be respectively as follows;***

<b>LOT WIDTH</b>	<b>COMBINED WIDTH OF SIDE YARDS</b>	<b>MINIMUM WIDTH OF NARROWEST SIDE YARD</b>
<b>UNDER 40 feet</b>	<b>16 feet</b>	<b>8 feet</b>
<b>40 feet to 49 feet</b>	<b>18 feet</b>	<b>9 feet</b>
<b>50 feet to 59 feet</b>	<b>20 feet</b>	<b>10 feet</b>
<b>60 feet to 69 feet</b>	<b>24 feet</b>	<b>12 feet</b>
<b>70 feet to 79 feet</b>	<b>28 feet</b>	<b>14 feet</b>

**Note - Front yard is defined in the existing regulations.**

**Front Lot Line. – The lot line on the street address of a lot. In cases when a property abuts multiple streets, the street address shall be the same as the front entrance of the single-family dwelling.**

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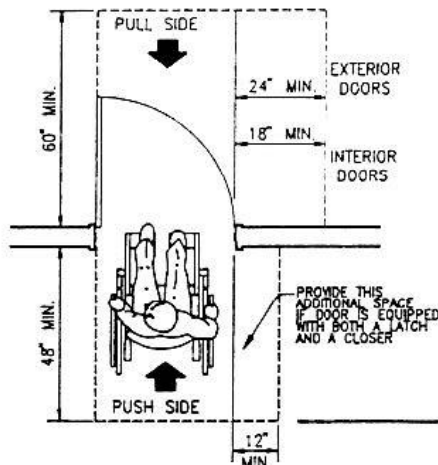
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**13. Landings and Stairs Within the Setback Areas REMOVE FROM SECTION V – 3 AND ADD TO NON-CONFORMING SECTION, MODIFY AS NOTED BELOW TO COMPLY WITH ADA REQUIREMENTS.**

Exterior landings and stairways to exterior doors which are constructed within the setback areas as defined in this section shall be consistent with the following requirements, and no further deviation from such setback areas shall be permitted unless expressly authorized by a variance granted by the Zoning Board of Appeals:

- a. Landings *in the setback area* shall not exceed the dimensions of four [ (4) feet by four (4) feet] *six (6) feet by six (6) feet*.
- b. Stairways *and landings* shall not extend into a side or rear setback area [more than three (3) feet] *less than five (5) feet* from the property line, nor into a front setback area [more than six (6) feet] *less than five (5) feet from the property line*.
- c. The coverage of any roof constructed above a landing shall not exceed the dimensions of the landing, and the landing beneath a roof shall not subsequently be enclosed.
- d. No roof or other overhead structure shall be constructed above the stairway.

**Note - BUILDING CODE - MINIMUM REQUIREMENTS** Top landings at minimum should be at least 60" X 60" if there is an outswinging door, with at least a 12" to 24" of "elbow room" space provided off the door's handle side, particularly for a person using mobility equipment. These dimensions give enough room for a person to move off to the side while opening the door without having to back up to get out of the way of its swing.



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**Intent is to promote flexibility on lots and structures that were built prior to the creation of zoning regulations, to remove section of the nonconformity regulations that are contrary to Connecticut General Statutes, and address ADA requirements in the building code.**

***Please note a portion of Connecticut General Statutes 8-2 reads as follows pertaining to nonconforming uses and structures:***

***“Such regulations shall not prohibit the continuance of any nonconforming use, building or structure existing at the time of the adoption of such regulations or require a special permit or special exception for any such continuance. Such regulations shall not provide for the termination of any nonconforming use solely as a result of nonuse for a specified period of time without regard to the intent of the property owner to maintain that use. Such regulations shall not terminate or deem abandoned a nonconforming use, building or structure unless the property owner of such use, building or structure voluntarily discontinues such use, building or structure and such discontinuance is accompanied by an intent to not reestablish such use, building or structure. The demolition or deconstruction of a nonconforming use, building or structure shall not by itself be evidence of such property owner's intent to not reestablish such use, building or structure.”***

**NOTE - NONCONFORMING BUILDING REGULATIONS ARE FROM THE EAST LYME ZONING REGULATIONS AND EAST HADDAM REGULATIONS WITH MODIFICATIONS.**