

TOWN OF HOLDEN - DEPARTMENT REFERENCE MANUAL

SECTION IX

NONCONFORMING USES, STRUCTURES AND LOTS

- A. **APPLICATION:** The provisions of this section apply to nonconforming uses, structures and lots as created by the initial enactment of this bylaw or by any subsequent amendment. Unless specifically permitted by the provisions of this section, no nonconforming structure or use shall be extended, altered, changed or reconstructed and no non-conforming lot or open space on a lot (yards, setbacks, courts or building area) shall be further reduced or increased so as to be in greater nonconformity unless either (a) it is specifically permitted by the provisions of this section, or (b) the Zoning Board of Appeals grants a special permit therefor after finding that it is not substantially more detrimental to the neighborhood than the existing nonconforming structure, use, lot or open space.
- B. **EXTENSION AND ALTERATION**
1. Any nonconforming structure may be altered or extended and the conforming use extended throughout the altered or extended portions provided that any resultant alteration or extension shall not cause the structure to violate the applicable provisions of Tables 2 through 5 inclusive of this bylaw relative to the district in which the structure is located.
 2. Any nonconforming structure or portion thereof or any non-conforming lot which has come into conformity shall not again become nonconforming.
- C. **RESTORATION:** Any nonconforming structure partially or totally destroyed by fire or any catastrophe, may be restored to the original use and bulk of the original structure within 2 years of the occurrence of such fire or catastrophe. Restoration after 2 years of the date of such fire or catastrophe shall not be permitted except in accordance with the use, yard, height and bulk regulations of the bylaw.
- D. **ABANDONMENT:** Any nonconforming use of a structure or lot which has been the subject of abandonment shall not be used again except for a conforming use.
- E. **UNSAFE STRUCTURE:** Any structure determined to be unsafe (by causes other than fire or catastrophe) may be restored to a safe condition. Such work on any nonconforming structure shall be completed within one year of the determination that the structure is unsafe; and it shall not place the structure in greater nonconformity. If the cost to restore any structure shall exceed 50 percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.
- F. Any increase in area, frontage, or setback requirements; shall apply to any lot in a residential zoning district except to the extent that either the provisions of M.G.L. c. 40A Subsection 6

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apply or the following provisions, provide otherwise. Any increase in area, frontage or setback requirements prescribed by the Town's Zoning Bylaw shall not apply to any lot in a residential district if the Zoning Board of Appeals finds that all of the following requirements are met and the Zoning Board of Appeals grants a special permit to permit the development of a single or two- family home on the residential lot.

1. At the time of the recording or endorsement, the lot (a) conformed to the requirement in effect at the time of recording or endorsement, but did not conform to the increased requirements, and (b) had at least fifteen thousand square feet of area in the R-2 district and twenty thousand square feet of area in the R-1 district, and (c) had at least eighty feet of frontage;
2. The size or shape of the lot has not changed since the lot was created by such recording or endorsement (a) such change complied with present Town requirements for frontage, area and setbacks, or (b) the Zoning Board of Appeals specifically finds the change to the lot was de minimis relative to the interest of the neighborhood if that lot would be developed;
3. Either (a) the lot was not held in common ownership at any time after May 15, 2000, with adjoining lot or lots that had continuous frontage with the lot in question, or (b) if the lot was held in common ownership at any time after May 15, 2000, with adjoining lot or lots that had continuous frontage with the lot in question, such lot had on it a single family or two-family dwelling;
4. The Board must find that the proposed development will not be more detrimental to the neighborhood.