

Zoning Excerpts related to continuance of legally existing nonconforming uses or lots – Grandfathering Provisions. For discussion at the November 9, 2021 Auburn Planning Board Meeting

Sec. 60-39. Lot area, width and depth exception.

The lot area (except as otherwise may be required), lot width and lot depth requirements of this chapter shall not apply to any lot which was lawfully laid out in conformance with zoning regulations in effect at the time of lot creation and duly recorded by plan or deed.

(Ord. of 9-21-2009, § 3.1G)

Sec. 60-40. Reduction in dimensional regulations.

No lot (except as allowed by the planning board at the time of final approval of a subdivision or development plan) shall be reduced, subdivided, conveyed, divided or otherwise transferred that violates, or creates a lot that violates, any minimum or maximum dimensional regulation of this chapter. No building permit or other municipal permit or license shall be issued to any of the land so transferred or to the land retained until all of such land or lots are in conformance with all dimensional regulations. If a serious health or safety issue with the property should arise, the director of planning and permitting services shall determine if a permit should be issued to correct the problem. This provision shall not allow further nonconformity to occur in order to achieve the corrective action necessary. Any land taken by eminent domain or conveyed for a public purpose shall not be deemed in violation of this provision. Any setback or lot that is reduced below the minimum or extended beyond the dimensional requirements as a result of land taken by eminent domain or conveyed for a public purpose shall not be deemed nonconforming. Setbacks for the enlargement of any existing building located on such a lot shall be referenced to the property line as it was located prior to the eminent domain action or the conveyance for a public purpose.

(Ord. of 9-21-2009, § 3.1H; Ord. No. 04-03072016, 5-16-2016)

Sec. 60-35. Conversion of one-family dwellings.

In all residential, general business and form based code districts, one-family dwellings erected prior to January 1, 1958, may be converted to two-family dwellings provided that:

- (1) Any floor space created by additions to the existing structure after January 1, 1958, shall not be converted to a second dwelling.
- (2) There will not be less than one accessible off-street parking place of 200 square feet in area, exclusive of driveways, per dwelling unit resulting from such conversion.
- (3) Stairways leading to any floor above the first floor will be enclosed within the exterior walls of the dwelling and any fire escapes required will be on the rear or one side of the dwelling and not on any wall facing a street.
- (4) After such conversion, the building converted will retain substantially the appearance and character of a one-family dwelling.

(Ord. of 9-21-2009, § 3.1C; Ord. No. 04-03072016, 5-16-2016)

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Sec. 60-78. Continuance.

Any lawfully nonconforming use of building or land which was established prior to September 14, 1960, or in conformance with zoning regulations in effect at the time of establishment or granted by variance **may be continued in the same kind and manner and to the same extent as at the time it became lawfully nonconforming.** No lot shall be deemed to be a nonconforming lot, nor shall any building or use of a lot or a building be deemed a nonconforming use solely by reason of the lot being one shown upon an approved planned unit development pursuant to division 9 of article IV of this chapter.

(Ord. of 9-21-2009, § 3.2A; Ord. No. 11-03012021, § 4, 3-15-2021)

Sec. 60-82. Damage.

Any nonconforming use of a building or structure, which has the structural members (frame, flooring, roof and exterior walls) above the foundation and the mechanical equipment (plumbing, electrical and heating) destroyed or damaged by fire, lightning, wind or other natural disaster to the extent of 65 percent or more shall not be rebuilt, repaired, reconstructed or altered except in conformance with all provisions of the underlying district's regulations. **For the purpose of this section, a residence building on a full foundation in an agriculture and resource protection district which has been destroyed or damaged by natural disaster shall not be deemed nonconforming for a period of one year following the damage and may be rebuilt, repaired and reconstructed in the same nonconforming location. Alterations and expansions of such buildings shall only be in conformance with all the underlying district's regulations. For the purpose of this section, a full foundation is considered to be a permanent concrete or masonry structure used to support a building.**

(Ord. of 9-21-2009, § 3.2E)

Sec. 60-86. Residential use.

An existing residential building that is nonconforming in terms of density of units and where the units, either some or all, have been abandoned as defined under section 60-81, shall be allowed to exceed its permitted density by two units or to reestablish the same number of units at the time they were abandoned, whichever is less.

(Ord. of 9-21-2009, § 3.2I)