

Draft Amendments to the Basic Land Use Ordinance and Shoreland Zoning Ordinance Dealing with the Planning Board's Opportunity to Take Jurisdiction of Permits for Nonconforming Structures

Proposed additions to the ordinances are underlined;
proposed deletions are ~~struck out~~.

Basic Land Use Ordinance

Amend Section 10.3.2.3 Authority of Planning Board to Exercise Jurisdiction over an Application to read:

10.3.2.3 Authority of Planning Board to Exercise Jurisdiction over an Application.

Except as provided for below, For any application for relocation of a nonconforming structure, or for the reconstruction or replacement of a nonconforming structure that was removed, damaged, or destroyed by more than fifty percent (50%) of the adjusted assessed value of the structure, made under Section 10.3.2, the CEO shall provide written notice to the Planning Board and all property owners within two hundred fifty (250) feet of the property as listed on the Town's most recent assessing records that a relocation, reconstruction or replacement application has been received and is being reviewed. The opportunity for the Planning Board to take jurisdiction under this provision and to receive notice shall not apply in the following situations:

(a) The relocation, replacement, or reconstruction will be carried out such that the structure complies with all applicable setback requirements, or

(b) The structure being relocated is an accessory structure that meets all of the following requirements:

- 1) The floor area of the existing nonconforming structure is less than two hundred (200) square feet,
- 2) The floor area or volume of the structure will not be increased,
- 3) The structure is and will continue to be accessory to the principal use of the property,
- 4) The structure will not be served by water, and
- 5) The structure has not been and will not be used for human habitation.

(c) The structure being reconstructed or replaced is an accessory structure that meets all of the following requirements:

- 1) The floor area of the existing nonconforming structure is less than two hundred (200) square feet,
- 2) The floor area and volume of the replacement or reconstructed structure will not be larger than one hundred fifty percent (150%) of the floor area and volume of the existing structure,
- 3) The existing structure is accessory to the principal use of the property and the replacement or reconstructed structure will continue to be so,
- 4) The replacement or reconstructed structure will not be served by water, and
- 5) The replacement or reconstructed structure will not be used for human habitation.

During that forty (40) day time period, the Planning Board may elect to exercise jurisdiction over the relocation, reconstruction or replacement application. The Planning Board's review, if any, shall be governed by the same review standards as govern the CEO review. The CEO shall not issue any permit under this Section until the earlier of (a) forty (40) days after the date that the CEO provides such written notice to the Planning Board and all property owners within two hundred fifty (250) feet of the property as listed on the Town's most recent assessing records or (b) the date the Planning Board declines to exercise jurisdiction over the application. Any relocation, reconstruction or replacement application approved by the Planning Board pursuant to this subsection shall be endorsed in writing. Failure of any property owner to receive the notice sent under this subsection does not invalidate any action taken by the CEO or Planning Board.

Shoreland Zoning Ordinance

Amend Section 10.3.2.4 Authority of Planning Board to Exercise Jurisdiction over an Application to read:

10.3.2.4. Authority of Planning Board to Exercise Jurisdiction over an Application.

Except as provided for below, For any application for relocation of a nonconforming structure made under 10.3.2.1, or for the reconstruction or replacement of a nonconforming structure involving more than fifty percent (50%) of its adjusted assessed value made under 10.3.2.2, the Code Enforcement Officer shall provide written notice to the Planning Board and all property owners within two hundred fifty (250) feet of the property as listed on the Town's most recent assessing records that a relocation, reconstruction or replacement application has been received and is being reviewed.

The opportunity for the Planning Board to take jurisdiction under this provision and to receive notice shall not apply in any of the following situations:

(a) The relocation, replacement, or reconstruction will be carried out such that the structure complies with all applicable setback requirements, or

(b) The structure being relocated is an accessory structure that meets all of the following requirements:

- 1) The floor area of the existing nonconforming structure is less than two hundred (200) square feet,
- 2) The floor area or volume of the structure will not be increased,
- 3) The structure is and will continue to be accessory to the principal use of the property,
- 4) The structure will not be served by water, and
- 5) The structure has not been and will not be used for human habitation, or

(c) The structure being reconstructed or replaced is an accessory structure that meets all of the following requirements:

- 1) The floor area of the existing nonconforming structure is less than two hundred (200) square feet,
- 2) The floor area and volume of the replacement or reconstructed structure will not be larger than one hundred fifty percent (150%) of the floor area and volume of the existing structure,

- 3) The existing structure is accessory to the principal use of the property and the replacement or reconstructed structure will continue to be so,
- 4) The replacement or reconstructed structure will not be served by water, and
- 5) The replacement or reconstructed structure will not be used for human habitation.

During that forty (40) day time period, the Planning Board may elect to exercise jurisdiction over the relocation, reconstruction or replacement application. The Planning Board's review, if any, shall be governed by the same review standards as govern the Code Enforcement Officer's review. The Code Enforcement Officer shall not issue any permit under this Section until the earlier of (a) forty (40) days after the date that the Code Enforcement Officer provides such written notice to the Planning Board and all property owners within two hundred fifty (250) feet of the property as listed on the Town's most recent assessing records or (b) the date the Planning Board declines to exercise jurisdiction over the application. Any relocation, reconstruction or replacement application approved by the Planning Board pursuant to this subsection shall be endorsed in writing. Failure of any property owner to receive the notice sent under this subsection does not invalidate any action taken by the Code Enforcement Officer or Planning Board.