

BROOKLINE PLANNING BOARD

~~Proposed deleted items~~ **Proposed changes**

Amendment No. XXXXX

800 NONCONFORMING USES, LOTS, AND STRUCTURES

900 LOTS OF RECORD

Add a new section to Section 800 defining how vacant Nonconforming Lots of Record, can build on lots that don't meet dimensional requirements. If the lot cannot be built on without going into setbacks, then a new Special Exception process is outlined.

Remove Section 900 as it will be covered in the expanded Section 800.

Reasoning:

Owners of lots of record should have a clear path to building and abutters will have protections when setbacks need to be reduced.

800.00 NONCONFORMING USES, LOTS, AND STRUCTURES

801.00 Purpose and Intent

The Purpose and Intent of this Ordinance is to allow for the lawful continuance of nonconforming uses, structures and lots, in accordance with the criteria outlined below and to allow for a reasonable level of alteration, expansion or change to occur by special exception when it can be demonstrated that the proposed alteration, expansion or change will:

1. *not* change the nature of the use,
2. *not* unduly impact the neighborhood, *and*
3. provide *adequate* subsurface disposal of waste.

802.00 Definitions

The following definitions shall apply to this section of the Ordinance. General definitions can be found in Section 200.

- A. ***Pre-zoning nonconforming Lot of record:*** *A lot in separate ownership, the deed recorded on or before 12 March 1968, that does not meet the dimensional requirements of the Zoning District it is in.*

803.00 Nonconforming Uses

- A. Any nonconforming use may continue in its present use; however, it shall not be changed to another nonconforming use.
- B. Whenever a nonconforming use has been intentionally discontinued or abandoned for a period of one year the use shall not be reestablished.
- C. Any alteration, expansion or change of a nonconforming use shall be permitted by special exception by the Zoning Board of Adjustment if it finds that:
1. The proposed alteration, expansion or change will not change the nature and purpose of the present use; and
 2. The proposed alteration, expansion or change would involve no substantially different effect on the neighborhood-

804.00 Nonconforming Lots

- A. Nonconforming Lots with a structure.
A nonconforming lot that has been developed with a structure may continue in its present use; however, any alteration or expansion shall comply with Sections ~~800.01~~ 803.00 and ~~800.03-805.00~~.
- B. Substandard ***Pre-zoning nonconforming Lot of record.***
~~A pre-zoning nonconforming lot of record in the Residential/Agricultural District, which is recorded and taxed as a lot of record at the time of passage of this Ordinance and, pursuant to Zoning Ordinance Section 900,~~ may be used for a single family or two family dwelling unit with the following dimensional provisions: ~~any permitted use in the district in which it is located.~~

For a Single Family Dwelling Unit

1. *minimum lot size of 44,000 square feet*
2. *minimum 150 feet of frontage on a Class V road or better*
3. *Meets setback requirements*

For a Two dwelling unit dwelling unit

1. *minimum lot size of 88,000 square feet*
2. *minimum 150 feet of frontage on a Class V road or better*
3. *Meets setback requirements*

If a pre-zoning nonconforming lot of record cannot meet setback requirements for a dwelling unit or accessory structures, the owner may apply for a special exception from the Zoning Board of Adjustment if it finds that:

- 1. The proposed dwelling or accessory structure, ~~would have no substantially different negative effect~~ would not unduly impact the neighborhood.*
- 2. The proposed dwelling or accessory structure, would extend no farther into the setback than is necessary.*
- 3. The proposed dwelling unit or structure and its proposed placement must be in keeping with the existing development of the neighborhood.*

- C. New septic systems, or any changes to existing septic systems, must comply with the NH Division of Water Supply and Pollution Control and the Town of Brookline in accordance with the provisions of RSA 485-A:38 and the Town of Brookline's Zoning Ordinance Section 303.02.

805.00 Nonconforming Structures

- A. Any lawful nonconforming structure existing at the time of adoption of this Ordinance, may be occupied, operated and maintained.
- B. Any alteration, expansion, or change of a structure which already extends into the front, side, or rear setbacks required for the zone shall be permitted by special exception by the Zoning Board of Adjustment if it finds that:
1. The proposed alteration, expansion, or change will not change the nature and purpose of the present use; and
 2. The proposed alteration, expansion, or change would involve no substantially different effect on the neighborhood; and
 3. The proposed alteration, expansion, or change would extend no farther into the setback than that portion of the structure which already resides in that setback.
- C. Any development which would create a new extension into a setback shall require a variance from the Zoning Board of Adjustment.
- D. Accessory structures which can meet the setback requirements do not require a special exception or variance.
- E. Any increase in the number of bedrooms requires a septic system that complies with the NH Division of Water Supply and Pollution Control and the Town of Brookline in accordance with the provisions of RSA 485-A:38 and the Town of Brookline Zoning Ordinance Section 303.02.

807.00 Appeals

All appeals shall be conducted in accordance with Section 2500 of this Ordinance.

808.00 Conflicts and Severability

This Section shall comply with Section 2900 of this Ordinance.