

# FRANKLIN TOWNSHIP ZONING ORDINANCE

## ARTICLE 5 NONCONFORMITIES

### 500. Nonconforming Structures

- A. Continuation. Any nonconforming structure existing on the effective date of this Ordinance or created by an amendment to this Ordinance may continue although such structure does not conform to the dimensional requirements of this Ordinance.
- B. Restoration. A nonconforming structure, which has been damaged or destroyed by fire, explosion, windstorm, or other natural or criminal acts, shall meet the following restoration requirements.
  - 1. The restored structure shall not exceed the height, area, and volume of the original damaged structure.
  - 2. The restoration of the structure shall commence within one (1) year following the settlement of all claims or if no claims exist, from the date the structure was damaged and shall continue uninterrupted, otherwise the nonconforming structure status shall be void.
- C. Demolition. In the event any nonconforming building is destroyed or partially destroyed and the owner has determined reconstruction / restoration Infeasible, the owner will be responsible for the complete removal of the structure and debris as well as the filling of any excavated areas within one year of the date the structure was damaged.
- D. Extension or Alteration. The following requirements shall apply to the extension or alteration of structures.
  - 1. A nonconforming structure may be extended or altered, providing the extension or alteration conforms to all dimensional requirements and all other applicable regulations of this Ordinance.
  - 2. The following exception shall apply to side yard and rear yard setbacks. Where a structure is nonconforming as to a required side yard or rear yard setback, the established nonconforming setback may be continued, so long as the proposed extension or enlargement does not project further into any yard beyond what has already been established by the nonconforming structure.
  - 3. Where adjoining lots are owned in single and separate ownership by the same person or entity, no extension or alteration may take place until the lots have been legally merged or combined.

### 501. Nonconforming Lots

- A. Continuation. Any nonconforming lot held in single and separate ownership from adjacent land as of the effective date of this ordinance may be continued although such lot does not conform to the lot requirements for the district in which it is located.
- B. Development. The following requirements apply to the development and use of the nonconforming lot as defined in paragraph A. All the requirements of this Ordinance shall be met with the exception of lot area and lot width; furthermore, no lot shall be developed unless the following requirements are met:
  - 1. Each lot shall have an approved on-lot wastewater system and replacement system or access to public sewer.
  - 2. Public water or an on-lot water well shall be provided. Additionally, for those lots utilizing on-lot water the minimum required isolation distance between the well and the on-lot wastewater system shall be provided (minimum of 100 feet).

### 502. Nonconforming Uses

- A. Continuation. Any nonconforming use existing on the effective date of this Ordinance or created by an amendment to this Ordinance may be continued although such use does not conform to the

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provisions of this Ordinance. Change in ownership or possession of the use or property shall not prevent the continuance of the nonconforming use.

- B. Extension. Extension of the nonconforming use shall be approved by the Zoning Hearing Board as a special exception subject to the following standards and the provisions of this Ordinance.
1. Extensions shall be limited to the lot occupying the use or a contiguous lot held in common ownership at the time the use became nonconforming.
  2. The extension of the nonconforming use shall not replace a conforming use.
  3. The extension shall conform to the requirements of the underlying district and applicable supplementary regulations including, but not limited to: lot, building, setback, coverage, buffering, height, parking, and sign requirements.
  4. The extension of uses within structures shall not exceed an increase of fifty percent (50%) of the original volume or area of the nonconforming use. The original volume and area is the volume and area devoted to the use as it existed on the date such use became nonconforming.
  5. Land operations, which are nonconforming uses, (e.g., mineral recovery operations, agriculture activities, junk yards, and landfills) may be extended greater than fifty percent (50%) upon the approval of the Zoning Hearing Board.
- C. Change of Use. The following regulations shall apply to the change of nonconforming uses.
1. A nonconforming use changed to a conforming use shall not be permitted to be changed back to a nonconforming use.
  2. A nonconforming use shall be permitted to be changed to another nonconforming use upon application to the Zoning Hearing Board in accordance with this Ordinance and the following standards.
    - a. The applicant shall show the nonconforming use cannot be changed reasonably to a permitted use.
    - b. The applicant shall demonstrate the change will be less objectionable in external effects than the existing nonconforming use including, but not limited to:
      1. Traffic Impact.
      2. Environmental impact (e.g., noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration)
      3. Solid waste disposal.
      4. Appearance.
    - c. The applicant shall demonstrate the change will meet other requirements of this Ordinance, including: parking and loading, buffering, and signage.
- D. Abandonment, Discontinuance and Delinquency.  
Any nonconforming use, building or structure, which has been abandoned, may not be resumed.

### 503. Certificate of Nonconformance

- A. An application for a certificate of nonconformance may be made to the Township by the owner of any nonconformity, with the assistance of the Zoning Officer, as of the effective date of this Ordinance or as of the effective date of an amendment creating the nonconformity.
- B. For previously unregistered nonconformities, the Zoning Officer shall assist the property owner and file the certificate of nonconformance at the time of application for a building permit.
- C. The Certificate of Nonconformance shall set forth in detail all of the nonconforming conditions of said property as of the effective date of this Ordinance or as of the effective date of an amendment creating the nonconformity.

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- D. The Township shall retain a copy of the Certificate of Nonconformance.
- E. The Zoning Officer fee for assistance shall be in accordance with a fee schedule established by separate ordinance by the Franklin Township Board of Supervisors.