

Amendment to § 14-2.7 Land Nonconforming by Area

- a. Enlargement of Undersized Lots. Lawfully established lots which have less than the minimum are requirements, may be maintained and may be changed by adding additional land to such lots, if recorded with a proper plat plan and with the approval of the Planning Board where otherwise necessary, without prejudice to the rights of the owner of such resulting lots pursuant to the provisions of this section. Any lawfully established lots which have been merged by the owner and shown on the Assessor's Plats as one lot shall be deemed to be one lot and shall not be redivided, unless in conformance with the dimensional regulations of this chapter, and with the approval of the Planning Board.
- b. Use of Substandard Lots of Record. A lawfully established lot that is nonconforming with the dimensional regulations of this chapter, also known as a substandard lot of record, may be used for any use permitted in the district provided that all other requirements of this chapter are met, except that the required side, front and rear yard depths and maximum lot coverage for a substandard lot of record may be reduced to the following:
 1. ~~Side yard (each) — Shall be 15% of the lot width measured at the front yard depth but no less than 10 feet in depth for each side yard.~~
 2. ~~Front yard depth — Shall be 15% of the average depth of the lot but no less than 30 feet in depth.~~
 3. ~~Rear yard depth — Shall be 15% of the average depth of the lot but no less than 15 feet in depth.~~
 4. ~~Maximum lot coverage — Shall be 10% of the lot area by all structures; but may be expanded up to a total of 750 square feet of lot coverage, provided that the total habitable floor space therein shall not exceed 750 square feet.~~
The setback, frontage and/or lot width requirements of the zoning district in which the lot is located shall be reduced and the maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located. All proposals exceeding such reduced requirement shall proceed with a modification request or a dimensional variance, whichever is applicable.

Zoning Ordinance Amendment - Accessory Dwelling Units

§ 14-5.5 Accessory Uses – Dwelling Units

In order to maintain affordable housing in the Town, and provide for the protection of family living units, the accessory dwelling units are allowed, subject to all of the requirements set forth herein. For purposes of this section, an accessory family dwelling unit is defined as a residential living unit on the same parcel where the primary use is a legally established single-unit or multi-unit dwelling. An accessory dwelling unit provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling.

- a. Accessory dwelling units apartment. A maximum of one accessory dwelling unit shall be permitted on a lot, provided that all of the following requirements are met:
~~A maximum of one accessory apartment shall be permitted on a lot in certain existing buildings, provided that all of the following requirements are met:~~
 1. The lot or parcel of land is located in a residential district and has a minimum lot size of twenty thousand square feet. ~~The lot or parcel of land shall have an absolute minimum area of three acres. The provisions of § 14-2 relating to substandard lots of record shall not apply to allow any new accessory apartment on a lot less than three acres.~~
 2. An ~~The~~ accessory apartment shall be located entirely within an owner-occupied principal residential structure ~~which existed on December 10, 1987~~ and which contains no less than 1,500 square feet of gross floor area (GFA). The accessory apartment shall occupy no greater than 40% of the total GFA of the principal structure excluding the basement.
 3. For accessory apartments, there ~~There~~ shall be no exterior alteration of the principal structure except for the development of a separate entry and any required safety exits.
 4. The accessory dwelling unit apartment ~~apartment~~ shall be designed for year-round occupancy. The accessory dwelling unit apartment ~~apartment~~ shall be provided with a safe and adequate water supply and an individual sewage disposal system approved by the Rhode Island Department of Environmental Management.
 5. Any ~~The~~ existing principal residence and accessory dwelling unit apartment ~~apartment~~ shall comply with all requirements of the Rhode Island State Building Code, the Rhode Island Housing Maintenance and Occupancy Code, and other Federal, State and local codes, ordinances and regulations and all other applicable provisions of this chapter.
 6. All such accessory dwelling units apartments ~~apartments~~ shall require a building permit and certificate of occupancy, whether or not any construction is required.
 7. Detached accessory dwelling units shall comply with all dimensional zoning regulations for the district in which the lot is located.

Zoning Ordinance Amendment - Modifications

§ 14-9.1 Enforcement.

- a. Building Official. It shall be the duty of the Building Official to interpret and enforce the provisions of this chapter in the manner and form and with the powers provided in the laws of the State and in the Charter and Ordinances of the Town. The Building Official shall:
 1. Provide for the issuance of modifications from the literal dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or structural modification of a structure or lot of record. The Building Official is authorized to grant modification permits. The zoning ordinance shall permit modifications that are fifteen percent (15%) or less of the dimensional requirements specified in the zoning ordinance. A modification does not permit moving of lot lines. Within ten (10) days of the receipt of a request for a modification, the Building Official shall make a decision as to the suitability of the requested modification based on the following determinations:
 - (a) The modification requested is reasonably necessary for the full enjoyment of the permitted use;
 - (b) If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
 - (c) The modification requested does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations; and
 - (d) The modification requested does not violate any rules or regulations with respect to freshwater or coastal wetlands.
 2. Upon an affirmative determination, in the case of a modification of five percent (5%) or less, the Building Official shall have the authority to issue a permit approving the modification, without any public notice requirements. In the case of a modification of greater than five percent (5%), the Building Official shall notify, by first class mail, all property owners abutting the property which is the subject of the modification request, and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of local circulation within the city or town that the modification will be granted unless written objection is received within fourteen (14) days of the public notice. If written objection is received within fourteen (14) days, the request for a modification shall be scheduled for the next available hearing before the zoning board of review on application for a dimensional variance following the standard procedures for such variances, including notice requirements provided for under this chapter. If no written objections are received within fourteen (14) days, the Building Official shall grant the modification. The Building Official may apply any special conditions to the permit as may, in the opinion of the Building Official, be required to conform to the intent and purposes of the zoning ordinance. The

Building Official shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received. Costs of any notice required under this subsection shall be borne by the applicant requesting the modification.

3. Refer all applications for variances greater than 15% of the dimensional requirements specified in the zoning ordinance, special use permits and other appeals to the Zoning Board of Review. The Building Official shall make a determination in writing, within 15 days, to any written complaint received, regarding a violation of this chapter. In order to provide guidance or clarification, the Building Official shall, upon written request, issue a zoning certificate or provide information to the requesting party within 15 days of the written request. Any determination of the Building Official may be appealed to the Board in accordance with Subsection 14-9.7 of this chapter.

Zoning Ordinance Amendment - Voting

§ 14-9.4 Voting

The Board shall be required to vote as follows:

- a. ~~Five~~ Four active members shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall excuse himself/herself, and shall not sit as an active member and shall take no part in the conduct of the hearing. Only five active members shall be entitled to vote on any issue.
- b. The concurring vote of three of five members of the Board sitting at a hearing shall be necessary to reverse any order, requirement, decision or determination of any Zoning Administrative Officer from whom an appeal was taken.
- c. The concurring vote of ~~four of the five members of the Board sitting at a hearing~~ a majority of members sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the Board upon which it is required to pass under this chapter, including variances and special use permits.

Zoning Ordinance Amendment - Special Use Permit Standards

§ 14-9.5 a. Special Use Permit

- a. Findings. In granting a special use permit, the Board shall require that evidence of the following standards be entered into the record of the proceedings by use category:

1. Residential Uses:

- A. That the special use is specifically authorized by this chapter, and setting forth the exact subsection of this chapter containing the jurisdictional authorization;
- B. That the special use meets all the criteria set forth in the subsection of this chapter authorizing the special use; and
- C. That the granting of the special use permit will not alter the character of the surrounding area or impair the intent or purpose of this chapter;
- D. That the special use will not create a nuisance or hazard in the neighborhood.

2. Business Uses:

- A. That the special use is specifically authorized by this chapter, and setting forth the exact subsection of this chapter containing the jurisdictional authorization;
- B. That the special use meets all the criteria set forth in the subsection of this chapter authorizing the special use; and
- C. That the granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter;
- D. That the special use will not create a nuisance or hazard in the neighborhood.

Zoning Ordinance Amendment - Dimensional Variance Standards

§ 14-9.6 Variance

- a. General Findings. In granting a dimensional variance, the Board shall require that evidence of the following standards be entered into the record of the proceedings:
 1. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and not due to a physical or economic disability of the applicants, excepting those disabilities addressed in section 45-24-30 (16) of the General Laws of Rhode Island, as amended.
 2. That said hardship is not the result of any prior action of the applicant ~~and does not result primarily from the desire of the applicant to realize greater financial gain.~~
 3. That the granting of the requested variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan of the Town.
 4. ~~That the relief to be granted is the least relief necessary.~~
- b. Hardship Findings. The Board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:
 1. In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of land or structures in an adjacent district shall not be considered grounds for granting a use variance; and
 2. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, ~~which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property~~ meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.