

ARTICLE VIII : NON-CONFORMING USES, STRUCTURES, LOTS

8.10 NON-CONFORMING USES

8.11 Continuation and Expansion. Any lawful non-conforming use as defined in this ordinance may continue, and may be expanded as a special exception allowed by the ZBA pursuant to the provisions of Section 10.40 provided all other zoning requirements are met and the use is expanded by not more than 50% in overall intensity considering such matters as the following: traffic generated, number of employees, number of shifts, volume of water use, volume of sewage effluent, noise, odor, glare, vibration, dust, and smoke.

8.12 Conversion of Existing Non-conforming Business Use To Another Business Use. Any lawful non-conforming business use now in existence may be converted to another business use as a Site Plan Review allowed by the Planning Board pursuant to the provisions of Section 12.10 provided that all other zoning requirements are met and the new use does not result in an increase in intensity of use over the existing use considering such matters as the following: traffic generated, number of employees, number of shifts, volume of water use, volume of sewage effluent, noise, odor, glare, vibration, dust, and smoke.

8.13 Resumption After Discontinuance. A non-conforming use which has ceased to exist for a period of 24 consecutive months may not again be initiated.

8.14 Superseded by Conforming Use. If a non-conforming use is superseded by a permitted use or a use permitted by Site Plan Review, it shall thereafter conform to the regulations of the district and the non-conforming use shall not be resumed.

8.20 NON-CONFORMING STRUCTURES AND BUILDINGS AND STRUCTURES AND BUILDINGS WHICH WOULD BE RENDERED NON-CONFORMING BY EXPANSION

8.21 Continuance. Any lawful non-conforming building in existence when this ordinance is passed may continue unchanged, but may not be altered or expanded in any way which will result in a new or increased violation, except as provided herein.

8.22 Setbacks for Existing Non-conforming Structures. Where an existing structure is non-conforming with respect to the road, side, or rear setback requirements, additions to, or modifications of that structure (except under Section 8.27) and the construction of accessory buildings or accessory structures may be permitted in the setback area as a special exception subject to the provisions of Section 10.40 and to the following requirements:

- A. the proposed modification, addition, or accessory building or accessory structures cannot reasonably be located outside the setback area and,
- B. the lot coverage, excluding driveways, of that part of all proposed additions or accessory buildings or accessory structures to be located in the setback area will not

be larger than 500 square feet in the Lyme Common and Lyme Center Districts or 1,000 square feet in all other districts.

8.23 Expansion of Existing Conforming Structures and Construction of Accessory Buildings Or Accessory Structures Within or Into the Road, Side, or Rear Setbacks Established in Table 5.1.

The expansion of existing conforming structures and the construction of accessory buildings or accessory structures either within or into the road, side, or rear setback areas established by Table 5.1 may be permitted in the setback area as a Special Exception subject to the provisions of Section 10.40 and to the following requirements:

- A. the proposed replacement, addition, or accessory building or accessory structures cannot reasonably be located outside the setback area and,
- B. the lot coverage, excluding driveways, of that part of all proposed additions or accessory buildings or accessory structures to be located in the setback area will not be larger than 500 square feet in the Lyme Common and Lyme Center Districts or 1,000 square feet in all other districts.
- C. This section applies only to the expansion of structures existing prior to March 14, 1989 and the construction of accessory buildings or accessory structures where the principal structure on the property existed prior to March 14, 1989.

8.24 Expansion of Existing Structures and Construction of Accessory Buildings or Accessory Structures Within or Into the Conservation Districts.

The expansion of existing structures and the construction of accessory buildings or accessory structures either within or into the Conservation Districts as defined in Section 3.27.1 through 3.27.5 may be permitted as a special exception subject to the provisions of Section 10.40 and to the following requirements after review by the *Planning Board* for Steep Slopes Conservation District encroachment and *Conservation Commission* review for Wetlands and Shoreland Conservation Districts encroachment:

- A. Such expansion or construction will not significantly violate the objectives of the Conservation Districts and meets all State requirements including the Comprehensive Shoreland Protection Act (NH RSA 484:B);
- B. Such expansion or construction cannot reasonably be located outside the Conservation District and will be made in the manner which is least intrusive to the Conservation District;
- C. The lot coverage, excluding driveways, of that part of all proposed expansion or construction to be located in the Conservation District will not be larger than 500 square feet in the Lyme Common and Lyme Center Districts or 1,000 square feet in the other districts;
- D. Such expansion or construction will not involve a significant increase in sewage loading within the Wetlands, Shoreland, or Flood Prone Area Conservation Districts; and

- E. All expansion or construction in the Flood Prone Area Conservation District is done in accordance with the Floodplain Development Ordinance for the Town of Lyme.

8.25 The Expansion of Existing Structures and Construction of Accessory Buildings or Accessory Structures Where the Maximum Building Footprint and/or Lot Coverage Exceeds or Would Exceed the Percentage Limitations Established in Table 5.1. The expansion of existing structures and the construction of accessory buildings or accessory structures where the building footprint and/or lot coverage exceeds or would exceed the percentage limitations established by Table 5.1 may be permitted as a Special Exception subject to the provisions of Section 10.40 and to the following requirements:

- A. The lot coverage, excluding driveways, of that part of the proposed addition or accessory building or accessory structure that would cause the building footprint, lot coverage, or percentage limitations established by Table 5.1 to be exceeded will not be larger than 500 square feet in the Lyme Common and Lyme Center Districts or 1,000 square feet in the other districts.
- B. The maximum building footprint of 4,500 square feet in Lyme Center and Lyme Common and 7,000 square feet in the other districts (other than agricultural buildings in the Rural, East Lyme, and Mountain and Forest Conservation Districts) shall not be exceeded.
- C. This section applies only to the expansion of structures existing prior to March 14, 1989 and the construction of accessory buildings or accessory structures where the principal structure on the property existed prior to March 14, 1989.

8.26 Replacement, Restoration, and Reconstruction. Nothing herein shall prevent the substantial restoration or reconstruction within two years of a non-conforming building or structure destroyed in whole or in part by fire or other natural casualties, to include snow load, wind, or age, or the replacement of a building or structure so long as this use does not result in a new or increased violation. Such a restored, reconstructed, or replaced building or structure shall be considered an existing building or structure for purposes of this Ordinance.

8.27 Replacement of a Non-conforming Structure. Nothing herein shall prevent the replacement of a non-conforming structure so long as the replacement does not result in a new or increased violation.

8.30 NON-CONFORMING LOTS

8.31 Vacant Lot. A vacant lot which is non-conforming because of the requirements of Table 5.1 may be used (1) for the purposes for which it was being used at the time of passage of this ordinance; (2) for agriculture; (3) for forestry; (4) for a single dwelling; and (5) for outdoor recreational purposes only, provided the following conditions are met:

- A. all other requirements of this ordinance are met;
- B. the arrangements for sewage disposal are approved in accordance with the provisions of Town regulation and State law;

- C. such lot has at least 50 feet of frontage on a road or has a private driveway which serves not more than two adjacent lots and is shown on a subdivision plan approved by the Planning Board prior to the passage of this ordinance; and
- D. except where the proposed use is for agriculture and/or forestry, a Special Exception shall be required which shall include a determination by the ZBA of reasonable and practicable dimensional requirements applicable to the size and location of the proposed residence.

8.32 Annexation to a Non-Conforming Vacant Lot. The Planning Board may approve annexation to enlarge a non-conforming vacant lot of record by up to one acre without removing its “lot of record” status provided the lot remains non-conforming because of the requirements of Table 5.1. The resulting lot shall be subject to all the requirements and conditions of Section 8.31, and the Planning Board, in its discretion, may designate a building envelope on the resulting lot consistent with the goals and purposes of this Ordinance and the Lyme Subdivision Regulations.

8.33 Removal of Structures on Non-Conforming Lots. When all buildings or structures other than septic systems and wells located on a non-conforming lot have been demolished, and the remains of such structures have been removed from the site, the lot shall be deemed to be vacant for the purposes of Section 8.31.

8.34 Creation of Non-Conforming Lots with Existing Development by Special Exception. The creation of non- conforming lots with existing residences may be permitted as a Special Exception subject to the provisions of Section 10.40 and to the following requirements:

- A. The lot is already developed at the time of application.
- B. No lots are created.
- C. The criteria for lot size averaging set forth in Section 5.11 D. can not be met.
- D. The acreage, frontage and other characteristics of the land separated from the developed non-conforming lot may not be used to satisfy the acreage or dimensional requirements for development or subdivision of any lot.
- E. All other dimensional requirements of this Ordinance are met to the extent reasonably feasible and practicable as determined by the Zoning Board of Adjustment.