

When Ware adopted the 1987 version of zoning, there were many cases of nonconforming lots, structures, and uses. The 2012 zoning update minimized nonconformities to the greatest extent possible. This brochure provides a brief explanation of the types of nonconformities: lots, structures, and uses.

Effective November 4, 2016, Chapter 40A, §7: nonconforming structures shall be deemed to be legally non-conforming provided the following:

- ◆ real property has been improved by erecting or altering a structure;
- ◆ the structure or alteration has been in existence for at least 10 years; and
- ◆ there has been no notice of any enforcement action within 10 years from the commencement of an alleged zoning violation

An owner may then avail himself or herself of state and local provisions to seek a special permit to change, extend, or alter a non-conforming use or structure.

The provisions of the law under Chapter 184 are applicable regardless of whether the structure was erected prior to or after November 4, 2016. Municipalities also have an additional 6 months to take action on non-complying structures that were erected or altered not more than 10, and not less than 9, years before the effective date of the act.

Need more information?

Please call or stop by the Planning & Community Development Department during normal business hours.

We are here to provide information and to assist you with your permitting process.

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Zoning bylaws At A Glance

Section 1.9

Nonconformities

*When a Lot, Structure, or Use
Does Not Comply with Zoning*



Nonconforming Lots - Vacant lots for single-family or two-family homes:

When an owner does not own any abutting lots, a building permit can be obtained to construct a home on the lot provided the lot is at least 5,000 square feet in area (ft²) and has at least 50 feet of frontage. There is no time limit on when a building permit must be obtained.

When an owner *does* own any abutting lots, state law allows construction of a home on a 7,500 square foot lot, but only gives the property owner five years from the date of adoption of the zoning regulation to obtain the building permit. Since the 2012 bylaw rewrite did not increase the lot size, frontage, or setback for any single-family or two-family lots, this provision has no effect.



Nonconforming Structures - Extension or alteration of existing multi-family or non-residential buildings:

- ◆ Requires a special permit when extended or altered, even if the nonconformity is **NOT** increased.
- ◆ Requires a variance when the nonconformity **IS** increased.

Nonconforming Structures: Destruction: When any pre-existing non-conforming structure is damaged due to fire or other unforeseen causes, the structure can be rebuilt upon the issuance of a building permit provided that:

1. the non-conforming nature is not increased in any respect;
2. the use is the same as the previous use, or the new use complies with the zoning in effect at the current time; and
3. a building permit is issued within 2 years of the date of destruction.

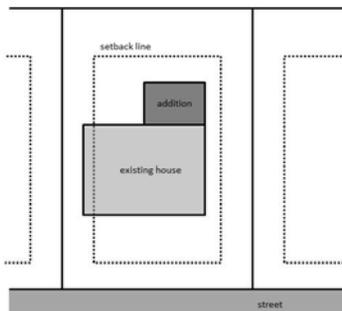
Nonconforming Uses:

- ◆ Uses that do not conform to the provisions of the zoning bylaw can be altered upon the issuance of a special permit.
- ◆ Uses that are discontinued for a period of two years or more, or are abandoned, cannot be re-established. New uses of the property have to comply with the use provisions of the zoning bylaw in effect at the current time.
- ◆ When a property which had a nonconforming use on it is changed to a conforming use, then the former nonconforming use cannot be re-established.

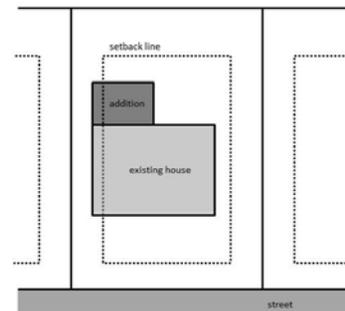


Nonconforming Structures: Single or Two Family Homes

When a house encroaches the setbacks, an addition can be constructed upon issuance of a **building permit** when the addition itself meets the setback requirements.



If the addition is proposed to also encroach the setbacks, but no more than the existing house does, then a **special permit** is required prior to obtaining a building permit.



If the addition is proposed to encroach the setback more than the existing house does, then a **variance** is required.

