

## Pre-existing Nonconformities

Existing uses or structures which were established or built legally under previous zoning (or prior to zoning) may continue without being impacted by the proposed zoning amendments. However, future changes to such uses or structures will need to comply with zoning in effect at the time of the proposed change.

When Hampden adopted the 1983 version of the zoning ordinance, it resulted in some nonconforming lots, structures, and uses. One of the goals of this year's zoning update effort was not to eliminate nonconformities but to minimize them to the extent possible. This brochure provides a brief explanation of the types of nonconformities: lots, structures, and uses.

Note: in most cases, the proposed regulations for lot size, frontage, and setbacks are the same or less restrictive than what is currently required. Please refer to the Dimensional Table brochure for more information.

Section 4.5 of the zoning ordinance deals with nonconforming situations, where a property doesn't comply with the regulations. This section is proposed to be amended to delete language which is from the state's shoreland zoning provisions and causes confusion. Other changes clarify the provisions.

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## Town of Hampden



## 2018 Zoning Ordinance Amendments

*Making Hampden's zoning user  
friendly and understandable.*

## Nonconformities

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

## Nonconforming Lots

When an owner of a vacant lot does not own any abutting lots, a building permit can be obtained to construct a home on the lot regardless of size if served by public sewer, or if not, is at least 20,000 square feet in area. There is no time limit to when a building permit must be obtained.



When an owner owns any abutting lots, state law requires the lots be combined to the extent necessary to meet the dimensional standards. When public sewer is not available, the combined lot must be at least 20,000 square feet.

## Nonconforming Structures

When a nonconforming building is proposed to be expanded, the permits necessary to do so vary depending on what is proposed. See the section at the bottom of this page for details. Note that in all cases except for single family or two family dwellings, a site plan approval is also required. Please refer to the Approval Procedures brochure for more information on that process.

When any pre-existing non-conforming structures are damaged by more than 50% of the market value of the structure, they may be rebuilt upon the issuance of a building permit provided that:

- ◆ the non-conforming nature is not increased in any respect;
- ◆ the use is the same as the previous use or the new use complies with the zoning in effect at that time; and
- ◆ a building permit is issued within one year of the date of destruction.

## Nonconforming Uses

Uses that do not conform to the provisions of the zoning ordinance cannot be expanded, except nonconforming residential uses where accessory structures such as sheds or decks can be added as long as the dimensional requirements of the ordinance are met for the new structure.

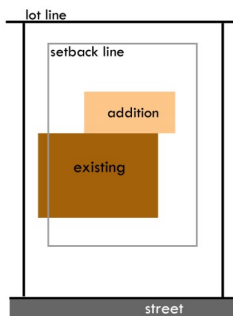
Nonconforming uses may be changed to another nonconforming use upon the granting of a conditional use permit from the Planning Board.

Uses that are discontinued for a period exceeding two years, or are abandoned, cannot be reestablished – new uses of the property have to comply with the use provisions of the zoning ordinance in effect at that time.

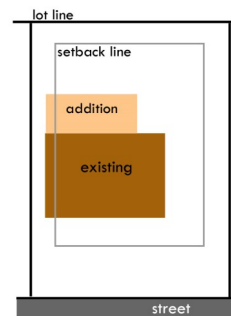
When a property which had a nonconforming use on it is changed to a conforming use, then the former nonconforming use cannot be reestablished, nor can another nonconforming use be established.

## Expansions of Nonconforming Structures: Different Approvals for Different Situations

When a building encroaches the setbacks, an addition may be constructed upon issuance of a building permit when the addition itself meets all the setback requirements as well as requirements for height, building coverage, and impervious surface area.



If the addition is proposed to encroach the setbacks no more than the existing building does, and on the same side as the existing encroachment, then a conditional use approval is required prior to obtaining a building permit. Requirements for height, building coverage, and impervious surface area must be met.



All other expansions require a variance: encroachment into another setback (illustrated), encroachment into the same setback by more than the existing building, or exceeding the building height, building coverage, or impervious surface area allowed.

