

Abandonment or Discontinuance of Nonconforming Single-Family and Two-Family Dwellings

Proposed Zoning Amendment Sponsored by the Zoning Board

Planning Board Meeting

January 6, 2020



Background

What is a nonconformity?

Uses or structures in existence or lawfully begun prior to adoption of a zoning amendment with which it does not comply.

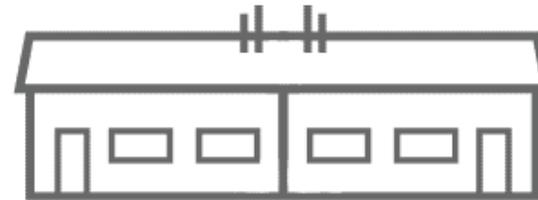
Examples of Uses

- Single-Family Dwelling in a business district
- Retail Store in a residential district
- Two-Family Dwelling created before special permit requirement

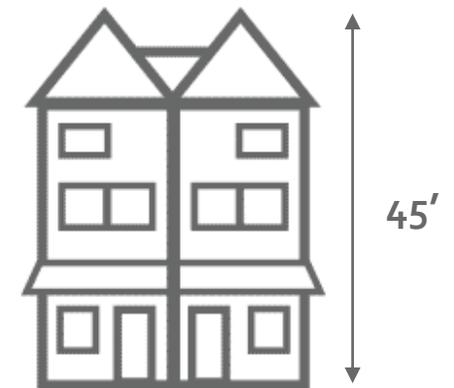
Examples of Structures

- Single-Family Dwelling on an undersized lot
- Structure located in a building setback
- Structure exceeds height limitation

Single-Family in Downtown



Two-Family Built Prior to 1955



Regulations

State

- **MGL c. 40A, s. 6** states that a “zoning ordinance or by-law may define and regulate nonconforming uses and structures abandoned or not used for a period of two years or more.”

Local

- **Section III-I of the Zoning By-Law** provides definitions of abandonment and discontinuance, establishes when protected status is lost, and creates allowances for restoration or reestablishment under certain circumstances.

Current Regulations and Proposed Amendment - Uses

Section III-1, 1.D: Abandonment or Discontinuance

- (i) A nonconforming use (other than **Single-Family or Two-Family residential use**) that has been discontinued for a period of more than two (2) years, shall not be reestablished, and any future use shall conform to this By-law.
- (ii) The nonconforming use of a building or structure as a **Single-Family Dwelling or Two-Family Dwelling** (and/or any Accessory Buildings related thereto) that has been discontinued for a period of more than four (4) years shall not be reestablished and any future use shall conform to this By-Law...

Proposed amendment would replace bolded text in (i) to mirror bolded text in (ii)

Current Regulations and Proposed Amendment – Structures

Section III-I, 1.D: Continued

(iii) A nonconforming structure that has been discontinued (not used or occupied) for a period of more than two (2) years, or has been abandoned, may not be used or occupied for any use, with the following exceptions:

a. This subsection (iii) does not apply to and shall not prohibit the conforming use of a lawful nonconforming Single-Family Dwelling as a Single-Family Dwelling (including Accessory Buildings) or conforming use of a lawful nonconforming Two-Family Dwelling as a Two-Family Dwelling (including Accessory Buildings).

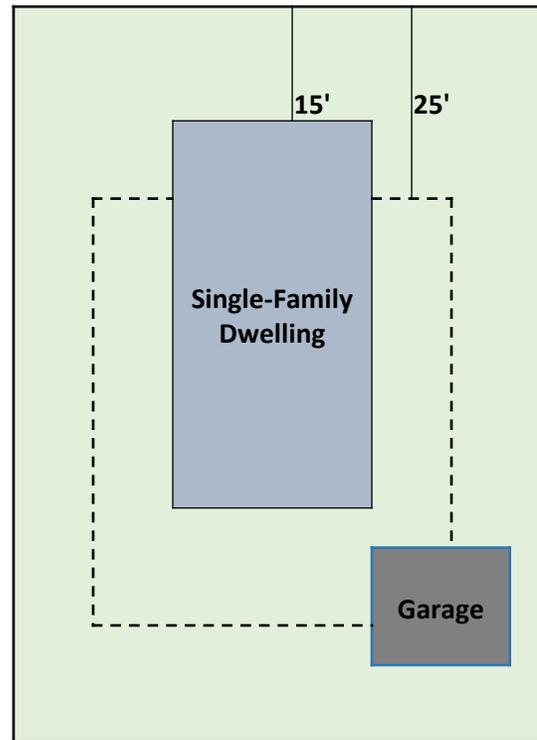
Replace subsection “a” as follows:

a. This subsection (iii) shall not apply to and shall not prohibit the conforming use of a building or structure that would be a lawful nonconforming building or structure if it had not been deemed discontinued or abandoned hereunder as a Single-Family Dwelling or a Two-Family Dwelling, provided, however, that any alteration, reconstruction, addition, extension, or structural change to the building or structure shall (i) maintain or improve the dimensional conditions that were once nonconforming until abandoned or discontinued and (ii) any addition or extension to the building or structure conforms to the applicable height and yard dimensions under Section IV-A.

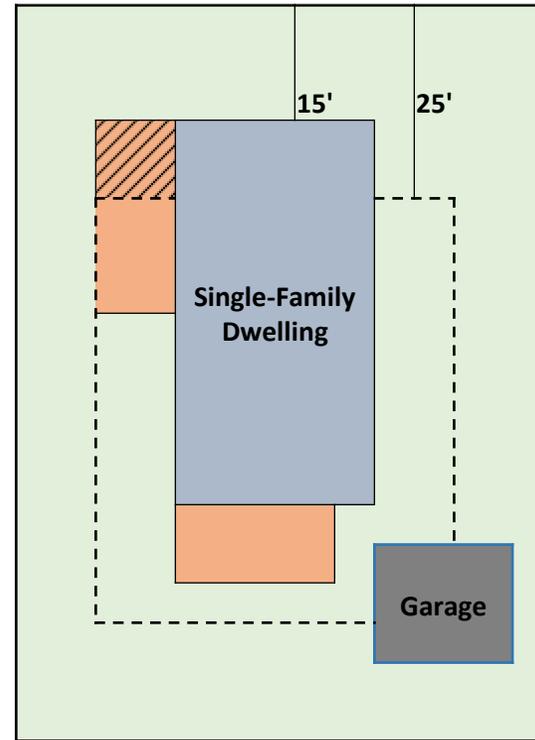
Examples

What does this really mean?

Reoccupy the Single-Family Dwelling in Existing Condition



Conforming Additions or Expansions



Improve Nonconformity with Reconstruction

