

To see if the Town will vote to amend the Town of West Newbury Zoning Bylaw by striking existing Section 7 (including 7.1.-7.4) and replacing it with the following new Section 7 (including 7.1-7.9), and further to authorize the Town Clerk to make any non-substantive, ministerial changes to numbering and formatting to ensure consistency with the remainder of the Zoning By-law, or take any action relative thereto:

Section 7. Nonconforming Uses and Structures

7.1 Nonconforming single- and two-family residential structures

7.1.1. Nonconforming single- and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. Any one or more of the following circumstances shall not be deemed to increase the nonconforming nature of said structure:

- a. Alteration, reconstruction, extension or change to a structure located on a lot with insufficient lot area, which structure as altered, reconstructed, extended or changed will comply with all current setback, lot coverage, and building height requirements.
- b. Alteration, reconstruction, extension or change to a structure located on a lot with insufficient frontage, which structure as altered, reconstructed, extended or changed will comply with all current setback, lot coverage, and building height requirements.
- c. Alteration, reconstruction, extension or change to a structure which encroaches upon one or more required yard or setback areas, where the alteration, reconstruction, extension or change will comply with all current setback, lot coverage and building height requirements.
- d. Alteration, reconstruction, extension or change to an existing structure that does not meet the required setbacks for purposes of or extending along the existing nonconforming building setback line if said expansion or extension does not encroach upon another setback or create any new dimensional nonconformity.

7.1.2. In the event that the Building Inspector determines that the nonconforming nature of any single- or two-family structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

7.2 Nonconforming structures other than single- and two-family residential structures

7.2.1. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

7.3 Variance required

7.3.1. Except as provided in 7.1 above, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a variance from the Board of Appeals.

7.4 Nonconforming uses

7.4.1. The Board of Appeals may award a special permit to change or extend a nonconforming use, including to another nonconforming use, in accordance with this article only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

7.5 Abandonment or non-use

7.5.1. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this bylaw.

7.6 Reconstruction after catastrophe or demolition

7.6.1. A nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

- a. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
- b. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in floor area as the original nonconforming structure.
- c. In the event that the proposed reconstruction would 1) cause the structure to exceed the floor area of the original nonconforming structure; 2) exceed applicable requirements for yards, setback, and/or height; or 3) cause the structure to be located other than on the original footprint, the provisions of Section 7 shall apply.

7.7 Reversion to nonconformity

7.7.1. No nonconforming use or structure shall, if changed to a conforming use or structure, revert to a nonconforming use- or structure.

7.8 Lawfully existing uses and structures

7.8.1. This bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such bylaw, or amendments thereto, as required by MGL c. 40A, § 5. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

7.9 Commencement of Use or Construction

Construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance or by-law unless the use or construction is commenced within a period of not more than 12 months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.