



Town of Shelburne, Vermont

CHARTERED 1763

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MEMORANDUM

TO: SHELBURNE SELECTBOARD
VIA: LEE KROHN
CC: DIANA VACHON, JASON GRIGNON [JG by email only]
RE: **BYLAW AMENDMENTS-
RURAL NONCONFORMITIES; SETBACK MEASUREMENT**
FR: DEAN PIERCE, FOR PLANNING COMMISSION
DA: OCTOBER 16, 2020

On September 10, 2020, the Shelburne Planning Commission voted to conduct a public hearing on proposed amendments to Shelburne's Zoning Bylaw. That duly warned hearing was conducted during the evening of October 8, 2020. Following the hearing, Planning Commissioners voted to submit proposed Zoning Bylaw changes to the Selectboard for its consideration and action. Commissioners also approved transmittal of a related bylaw change report. The text of the proposed changes and a copy of the bylaw change report are attached.¹

The proposal would modify aspects of the bylaw relating to: a) Nonconforming structures and b) Setbacks. The first proposal would increase opportunity for expansion of structures in the Rural District while streamlining the review process. The second proposal would modify the definition of Setback by expanding the list of features that are not subject to default setback requirements. Please see related "Executive Summary" memo for more information concerning the proposal.

As authorized in statute, the Selectboard is now able to consider moving the proposal forward. Typically the first step would be to receive (i.e., acknowledge via motion) the proposal. The step after that would be to agree (again via motion) to conduct a public hearing on the proposal, with the date of the hearing coming at least 15 days after publication of a legal notice.

As noted in section 4442 of Title 24 VSA,

(a) Public hearings. Not less than 15 nor more than 120 days after a proposed bylaw, amendment, or repeal is submitted to the legislative body of a municipality under section 4441 of this title, the legislative body shall hold the first of one or more public hearings, after public notice, on the proposed bylaw, amendment, or repeal, and shall make copies of the proposal and the written report of the planning commission available to the public upon request. Failure to

¹ Please note that the proposed changes are shown in the attachment using a common convention. Unchanged text remains in black standard text. Text proposed for deletion is depicted in red, with strikethrough (as shown ~~in this manner~~). Text proposed to be added is depicted in red, with underscore (as shown in this manner).

hold a hearing within the 120 days shall not invalidate the adoption of the bylaw or amendment or the validity of any repeal.

The Selectboard may make changes to the proposal. However, these changes would affect the hearing schedule. Again as noted in section 4442 of Title 24 VSA,

(b) Amendment of proposal. The legislative body may make minor changes to the proposed bylaw, amendment, or repeal, but shall not do so less than 14 days prior to the final public hearing. If the legislative body at any time makes substantial changes in the concept, meaning, or extent of the proposed bylaw, amendment, or repeal, it shall warn a new public hearing or hearings under subsection (a) of this section. If any part of the proposal is changed, the legislative body at least 10 days prior to the hearing shall file a copy of the changed proposal with the clerk of the municipality and with the planning commission. The planning commission shall amend the report prepared pursuant to subsection 4441(c) of this title to reflect the changes made by the legislative body and shall submit that amended report to the legislative body at or prior to the public hearing.

Whether or not changes are made, the proposal can be adopted or rejected following the close of the hearing. According to statute,

(c) Routine adoption. (1) A bylaw, amendment, or repeal shall be adopted by a majority of the members of the legislative body at a meeting that is held after the final public hearing, and shall be effective 21 days after adoption.

In brief, the steps from this point on would include:

1. Formal receipt of the proposal from the Planning Commission at a meeting of the Board;
2. Formal action to warn a public hearing on the proposed changes on a date no less than 15 and no more than 120 days from date of receipt;
3. Issue public notice at least 15 days prior to public hearing and make copies of proposal available;
4. Conduct public hearing as warned;
5. If proposal is acceptable to a majority of the Board, at a meeting following the hearing, vote to adopt the proposal.

However, if the Board wishes to makes substantial changes to the proposal, it shall

6. warn a new public hearing or hearings and repeat steps 3-5 and also file copies of the new proposal with the Town Clerk and the Planning Commission at least 10 days prior to the hearing;
7. consider the Planning Commission's revised report on the conformance of the proposed amendment with the Town Plan; and
8. when the Board does take action, changes shall be effective 21 days after adoption.

If you have any questions, please do not hesitate to contact me.

MEMORANDUM

TO: Shelburne Selectboard
FR: Planning Commission Chair and Vice Chair, Via Dean Pierce
RE: Latest Proposed Amendments to Zoning Regulations
DA: October 19, 2020

This memorandum was prepared in anticipation of questions being raised regarding the Planning Commission's latest proposal to amend the Zoning bylaws. It addresses the following:

- (1) Why changes are being proposed,
- (2) Which of these are considered major,
- (3) How many can be categorized as 'edits' or technical corrections,
- (4) Which have alternatives,
- (5) How much community input is reflected in them, and,
- (6) Which may generate more than usual interest from those principally affected.

Why changes are being proposed

The Planning Commission developed the changes in response to requests from Shelburne property owners. One party (a couple) making a request owns a non conforming residence in the Rural District, and the other party owns a non conforming residence in the Residential District. The owners of the Rural District property would like to expand it within the setback. The owner of the Residential District property would like to construct a front porch.

In reviewing the requests by property owners, the Planning Commission felt that the changes prompted by the requests would provide benefits not only to the properties in question but to the future development of the town. The modifications being proposed in the Rural District will allow property owners to expand and upgrade older properties built during a time when setbacks were closer to the road. This not only allows property owners flexibility, it also encourages the preservation and restoration of older houses in the rural district. The changes allow property owners to update older residences closer to the road, rather than building new residences farther back in the property.

The Planning Commissions proposed changes to the definition of a set back is meant to allow property owners to build porches or decks facing the street within the setback. This change promotes updates that encourage interactions with neighbors and pedestrians, and helps to create a strong neighborhood fabric.

Finally, through the proposed process changes, the Planning Commission is hoping to relieve some burden from the Development Review Board and simplify the process for property owners.

Which of these are considered major

The following components of the proposal may be considered major:

1. **Modification of allowances in Rural District.** See Attachment 1.
2. **Definition of Setback.** See Attachment 2.
3. **Process changes, including administrative approval.** See Attachment 3.

How many can be categorized as 'edits' or technical corrections

It is the Planning Commission's position that the proposals are substantive and do not constitute edits or technical corrections.

Which have alternatives

As noted in previous memos, consideration of alternatives is a recurring activity when bylaw amendments are prepared. Typically, the first alternative considered is whether to pursue any change at all. When doing nothing is not considered desirable, the Commission's discussions of changes often involve a range of options. Other times, however, the alternatives are binary, meaning simply that the regulations either will require something or will not. Possible alternatives to the proposals (including some identified by staff) are shown in Table 1 below.

Table 1. Alternatives to Major Changes

Major Change category	Summary of current proposal	Alternatives		
Modification of allowances in Rural district	Increase allowable expansion, with some preference for residential expansions	Increase allowable expansion to same degree for both residential and non residential uses	Reduce setback requirements in District	Do nothing
Definition of setback	Increase exemptions/reduce setback requirements	Expand exemptions further than proposed	Reduce setback requirements in District	Do nothing
Process changes/ administrative approval	Allow administrative approval of residential changes/ add criteria	Add criteria but continue review by DRB for all proposal	Allow administrative approval of all changes	Do nothing

How much community input is reflected

The changes included in the proposal delivered to the Selectboard have been the subject of public discussions but not voluminous ones. A summary of the community input relating to each major change is presented in Table 2 below.

Table 2. Community input relating to proposals

Major Change Category	Input
Modification of allowances in Rural district	Public input from property owners at public meetings
Definition of setback	Public input from property owner at public meetings
Process changes/ administrative approval	Public input from property owners at public meetings

Which may generate more than usual interest from those principally affected

Those principally affected by the proposals include those owning or occupying property governed by the regulations under discussion, and those who own or occupy adjoining property. In Table 3 below please find an itemization of possible concerns of those principally affected by the proposal.

Table 3. Identification of those principally affected by major proposals

Major Change	Party	Possible concern
Modification of allowances in Rural district	Property owners/residents within Rural District; owners/residents of abutting property	Owners/residents: Allowance should be expanded more than proposed Abutters/residents: Changes raise possibility of drainage or other impacts
Definition of setback	Property owners/ residents; owners/residents of abutting property	Owners/residents: Allowance should be expanded more than proposed Abutters/residents: Changes raise possibility of noise, shading, or other impacts

Process changes/ administrative approval	Property owners within Rural District; owners of abutting property	Owners/residents: Allowance should be expanded to include administrative approval of all types of applications Abutters/residents: Changes raise possibility of impacts; administrative approval reduces notice requirements
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Conclusion

This memo has been prepared to provide the Selectboard with a simple, clear, and concise summary of issues possibly related to the bylaw change proposal. Should the information provided generate questions or concerns, Commissioners and/or staff would be happy to discuss or provide further information.

Attachment 1. Rural District Nonconformities

Details regarding this change are presented below. Text editing conventions are followed.

As a result of the change, section 1920.2.B.2 would be amended to allow non conforming residential structures (one and two family) and structures containing childcare related uses to be expanded by an area equal to 100 percent of the existing footprint, or 1,500 feet, whichever is greater.

Under the amendment, allowances for expansion of other types of structures would receive a boost, in that the current allowance (25 percent of existing footprint) would be supported by a floor of at least 750 square feet.

2. In the Rural District, a structure that is nonconforming by virtue of the structure extending into the required front setback, may be expanded or extended if such expansion or extension does not extend any closer to the lot frontage than the existing structure, except as limited below.

a) ~~that~~ One and Two family Dwellings, Licensed Day Care, Registered Family Day Care and related accessory structures. In no case shall the building footprint of the expansion exceed one hundred (100) percent of the existing building footprint, or 1,500 square feet, whichever is greater.

b) Other allowed uses and related accessory structures not included in sub paragraph a above. In no case shall the building footprint of the expansion exceed twenty-five (25) percent of the existing building footprint or 750 square feet, whichever is greater.

c) All allowed uses and related accessory structures. Such expansion or extension may occur within a required side yard setback so long as the expansion or extension does not extend any closer to the side boundaries than the existing structure.

Attachment 2. Definition/Measurement of setbacks

Details regarding this change are presented below. Again, text editing conventions are followed.

As a result of the change, the definition of setback (found at 2110.146) would be amended to allow more and in some cases larger building features within a setback.

For example, at present, porches and decks are subject to setback requirements. Under the proposal a porch or deck with depth of 8 feet or less would subject to much reduced setback requirements (five feet as compared to what is typically fifteen feet).

Similarly, unenclosed patios and terraces would be allowed as long as they meet a five foot setback requirement.

An effort was made to reflect FBZ allowances in default bylaw to a greater degree than occurs at present.

The distance from any property line or street right-of-way line to the nearest point of a building on the lot bounded by that property line or street line, ~~including decks~~ but **excluding:**

- (A) eaves, sills, pilasters, gutters, leaders, cornices, bay windows, chimneys, and roof overhangs provided such features do not extend more than ~~three (3)~~four (4) feet from the remainder of the structure;**
- (B) ~~uncovered~~ steps to first floor entries and awnings provided such features do not extend more than ~~five (5)~~six (6) feet from the remainder of the structure;**
- (C) porches and decks provided such features do not extend more than eight (8) feet from the remainder of the structure and are at least 5 feet from the vertical plane of any lot line or Right of Way line;**
- (D) retrofit modifications to a structure made for energy efficiency purposes, provided that such features do not extend more than ~~eight (8) inches~~one (1) foot from the remainder of the structure; ~~and~~**
- (E) handicapped access ramps to the extent necessary to perform their proper function; and**
- (F) Unenclosed patios or terraces, provided that such extension is at least 5 feet from the vertical plane of any lot line or Right of Way line.**

Attachment 3. Process Changes, including administrative approval

Details regarding this change are presented below. As a result of the change, section 1920.2.C would be amended to allow administrative approval of residential structures and structures containing childcare related uses. Approval of structures supporting other uses would continue to require review and approval by the Development Review Board. In both situations, proposed expansions would be evaluated against new criteria preventing encroachments on rights of way, modification of drainage patterns, and undue and adverse impacts on the character of the neighborhood.

- C. Structures that are nonconforming by virtue of encroachment in any required yard setback may be modified subject to the requirements above, pursuant to the following procedure:
1. One or two family residential structure or structure containing a licensed day care or registered family day care, or related accessory structure. Such requests may be approved upon review by the Administrative Officer. To approve any such proposal, the Administrative Officer must first determine that the proposal will not result in any of the following:
 - a) encroachment on any public highway right of way or municipal easement;
 - b) modification of established drainage pattern, such that it will adversely affect adjacent property; or
 - c) undue, adverse impact on the character of the neighborhood.
 2. A nonconforming structure containing other uses, or accessory structure related thereto. Such structure may not undergo modification significant revision to major architectural elements (e.g., building massing, roof shape, entry arrangement, or fenestration pattern) without prior conditional use approval of the Development Review Board under Section 1910 of these Regulations. In evaluating any such proposal, the DRB must determine before any approval is granted that the proposal will not result in any of the following:
 - a) encroachment on any public highway right of way or municipal easement;
 - b) modification of established drainage pattern, such that it will adversely affect adjacent property; or
 - c) undue, adverse impact on the character of the neighborhood.

Planning Commission Reporting Form for Municipal Bylaw Amendments (Form Based Zoning)

Amended and approved by Planning Commission on October 8, 2020

This report is in accordance with 24 V.S.A. §4441(c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide (:)

(A) brief explanation of the proposed bylaw, amendment, or repeal andinclude a statement of purpose as required for notice under §4444 of this title,

(A)nd shall include findings regarding how the proposal:

- 1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*
- 2. Is compatible with the proposed future land uses and densities of the municipal plan:*
- 3. Carries out, as applicable, any specific proposals for any planned community facilities.”*

Brief explanation of the proposed bylaw amendment.

The Planning Commission proposal would modify aspects of the bylaw relating to: a) Nonconforming structures and b) Setbacks. The first proposal would increase opportunity for expansion of structures in the Rural District, as well as streamline the approval process. The second proposal would modify the definition of Setback by expanding the list of features that are not subject to default setback requirements.

Purpose

The Planning Commission has developed the changes in response to requests and/or inquiries made by Shelburne property owners. The Commission believes the proposed changes address the issues expressed by the property owners while also reflecting the policy input and prerogatives of the Commission. The proposal also responds to and contributes to the advancement of Comprehensive Plan policies.

Findings regarding how the proposal conforms with or furthers the goals and policies contained in the municipal plan

Under state law, the Zoning Regulations must be “in conformance with” the Plan. To be “in conformance with” the Plan, the bylaw must: make progress toward attaining, or at least not interfere with, the goals and policies contained in the Plan; provide for proposed future land uses, densities, and intensities of development contained in the Plan; and carry out any specific proposals for community facilities, or other proposed actions contained in the Plan.

The Planning Commission finds that the proposal conforms with or furthers the goals and policies contained in the municipal plan. Such policies include but are not necessarily limited to the following:

GOAL: Pursue future land use based on the principles of “placemaking.” Placemaking is the process of creating quality places where people want to live, work, play and learn. Thus, the explicit aim of the future land use section of this plan is to promote the creation of quality places that combine:

- a) Appropriate physical form (i.e., development occurs at a human scale and is pedestrian oriented),
- b) A mix of land uses and functions, and
- c) A mix of social opportunity.

OBJECTIVES:

- 6. Identify, preserve, and promote landscape aspects and structures that support Shelburne’s historic and contemporary character as a valley farming town set against the grandeur of lake and mountain vistas. Important vistas include both close and distant views of farms, woodlands, and water bodies as well as historic architecture and its setting. These scenic vistas and iconic landscapes we so value exist and are visible both in and from both the developed landscape and the rural and conservation zones.
- 7. Recognize that each development situation presents a unique set of factors. Throughout the town, achieve desirable forms of development that enhance existing scenic characteristics, minimize the introduction of discordant features, and safeguard the integrity of natural resources while protecting neighborhood values.

RECOMMENDED ACTIONS:

- 4. Create guidelines depicting how new development can be successfully integrated in a variety of settings in the undeveloped portions of the Growth Areas and in the Rural Area.

GOAL: To preserve and maintain the agricultural, economic, environmental, recreational, and aesthetic benefits provided by Shelburne’s rural lands while at the same time balancing the town’s need for growth and successful integration of the town into the larger regional community.

OBJECTIVES:

- 3. Recognize that Shelburne’s road corridors form the ‘bones’ of this community, and especially in the rural area, roadscape are the primary means by which both visitors and residents experience the town. They are the outward expression of community identity and heritage. Consider adopting design guidelines to guide site planning, height bulk and scale compatibility and architectural character of new development occurring in these irreplaceable scenic contexts to increase the likelihood that it will be compatible.
- 5. Recognize that collective sense of place in the Rural Area is an expression of the interplay of natural, scenic and historic resources. Support continuance of this cultural heritage by valuing and protecting rural place identities.

RECOMMENDED ACTIONS:

- 1. Revise the Zoning Regulations to implement the above goal and objectives.

GOAL: To have an adequate supply of housing to accommodate a diverse array of residents, but which

does not adversely impact the town's scenic and natural resources or the ability to provide public facilities and services.

OBJECTIVES:

4. Consistent with regional guidelines, the Town will develop and pursue policies that result in, on average, ten percent of new housing units constructed being Workforce Housing, which is defined as housing for households with incomes between 80% and 120% of the county median income for the appropriate household size. Perpetual Workforce Housing designation shall be assured through binding legal mechanisms.
8. Continue to encourage the development of a variety of appropriately scaled housing options for elder residents (congregate housing, continuing care, assisted living, home care, nursing care, etc.) and a wider variety for singles, downsizers, young families (rental apartments, small condominiums, small detached dwellings).
9. Promote use of innovative and creative development layouts and design and construction techniques so that residential buildings fit their landscape and setting. Also require new construction to minimize energy footprint consistent with the Energy section of the Comprehensive Plan and state energy goals.

RECOMMENDED ACTIONS:

1. Amend the Town's Zoning Ordinance to encourage, within areas designated for high levels of growth, the development of housing for young families (e.g. rental apartments, small condominiums, and small, detached dwellings), and a variety of housing options for elders.

GOAL: To encourage the continued growth and diversification of Shelburne's economy in a manner that enhances the general well-being of the community, and which does not detract from the overall character of the community, while adhering to smart growth principles.

OBJECTIVES:

1. Ensure that commercial and appropriate industrial development, and associated employment opportunities, take place in accordance with the Land Use section of this Plan.
4. Encourage forms of economic development that complement and are compatible with existing institutions and businesses.

RECOMMENDED ACTIONS:

4. Facilitate development review and permitting to the extent permitted by law for commercial and industrial development in areas designated for such uses in the Land Use section of this Plan. Establish expedited review process for development projects implementing key objectives of Comprehensive Plan.

Planning Commissioners find that the proposal would positively address and advance the foregoing language as well as related Comprehensive Plan language. They believe that:

- By relaxing restrictions on expansion of certain non-conforming residential structures and further by authorizing administrative approval of changes, the proposal would promote housing and housing retention. Such expanded housing could help accommodate a diverse array of residents in ways that do not adversely impact the town's scenic and natural resources or public facilities and services. The Commission's reasoning is that the change would allow or perhaps encourage owners of certain residential structures to invest in those properties even when expansions would not meet setback requirements.
- Similarly, by relaxing restrictions on expansion of certain non-conforming commercial structures, the proposal would support the growth and diversification of the Town's economy and thus enhance the general well-being of Shelburne residents. The Commission's reasoning is that the change would allow, with DRB approval, certain commercial activities to 'expand in place' where structures housing those activities do not meet setback requirements.
- By modifying the definition of Setback by expanding the list of features that are not subject to default setback requirements, the proposal would encourage "placemaking," which is the process of creating quality places where people want to live, work, play, and learn. The Commission's reasoning is that the change will remove barriers to certain placemaking-friendly building features, such as porches, in locations where they are currently precluded.

Commissioners also recognize the potential for the proposal to promote other Comprehensive Plan goals and objectives.

Findings regarding how the proposal is compatible with the proposed future land uses and densities of the municipal plan

The default development densities authorized by the zoning bylaws are not affected by the proposal. Thus, in conclusion, the Planning Commission finds that the zoning amendment proposal that is the subject of this report would be entirely compatible with the Comprehensive Plan.

Findings regarding how the proposal carries out, as applicable, any specific proposals for any planned community facilities.

The proposed amendment does not directly carry out specific proposals for any planned community facilities. In addition, the proposed amendment does not conflict with any specific proposals for planned community facilities.

ARTICLE XIX: GENERAL REGULATIONS

It is the purpose of Article XIX to set forth the regulations that must be satisfied by development in the Town of Shelburne before a zoning permit may be issued for that development. Some of the regulations apply to all developments. Others apply to only those developments specified in this Article or elsewhere in these Regulations. The provisions of this article are intended to promote, among other things, multimodal connectivity within sites, between adjacent sites and neighborhoods, and to transit and public roads.

... [several intervening sections]

1920 Nonconformities. In accordance with 24 V.S.A., Section 4412(7), nonconformities include nonconforming uses, nonconforming structures, and nonconforming lots.

1920.1 Nonconforming Uses. A nonconforming use may be continued, provided that the following conditions are met:

- A. No nonconforming use may be changed to another nonconforming use without conditional use approval by the Development Review Board, provided that the Development Review Board finds that the total floor area occupied by the proposed use is no greater than the floor area occupied by the existing non-conforming use.
- B. A nonconforming use which has been discontinued for a continuous period of twelve (12) months, or has been changed to or replaced by a conforming use, may not be reestablished regardless of the intent to resume the nonconforming use. A nonconforming use shall be deemed to be discontinued if the use is not actively pursued on the premises, or if equipment, furniture, or other appurtenances associated with the use have been removed from the premises.
- C. A nonconforming use shall not be extended to displace a conforming use.
- D. Except as specified in this paragraph, no building or structure used for a nonconforming use shall be increased by an addition or separate structure unless the added space is entirely occupied by a conforming use.
- E. A structure housing a nonconforming use, if destroyed or damaged by fire, collapse, explosion or similar cause may be re-built or repaired for the nonconforming use, provided that the nonconforming use is not extended, expanded or enlarged in any way, and provided that such re-build or repair is completed within two years of the damage or destruction.
- F. Nothing in this Section shall be construed to prevent normal maintenance and repair of a structure housing a nonconforming use, provided that such action does not increase the degree of or create any new nonconformance.

1920.2 Nonconforming Structures. A nonconforming structure may continue to be occupied, and may be modified, subject to the following:

- A. Nothing in these regulations shall be construed as permitting the use of a structure declared unsafe by an appropriate governmental authority nor the continuation of a condition declared to be a health hazard by an appropriate governmental authority.
- B. Except as noted below, a nonconforming structure may be extended or expanded provided that the entire expansion or extension meets all applicable setback requirements for the district in which it is located.
 - 1. In the Mixed Use District, the Commerce and Industry District, and the Commerce and Industry South District, a structure that is nonconforming by virtue of extending into the required front setback from Shelburne road may be expanded or extended if such expansion or extension does not extend any closer to Shelburne road than the existing structure.
 - 2. In the Rural District, a structure that is nonconforming by virtue of the structure extending into the required front setback, may be expanded or extended if such expansion or extension does not extend any closer to the lot frontage than the existing structure, except that in no case shall the building footprint of the expansion exceed twenty-five (25) percent of the existing building footprint. Such expansion or extension may occur within a required side yard setback so long as the expansion or extension does not extend any closer to the side boundaries than the existing structure.
- C. A nonconforming structure may not undergo significant revision to major architectural elements (e.g., building massing, roof shape, entry arrangement, or fenestration pattern) without prior conditional use approval of the Development Review Board under Section 1910 of these Regulations.
- D. A non-conforming structure may be modified, but not expanded or extended, by minor changes to doors or windows, upon approval by the Administrative Officer.
- E. A nonconforming structure, the use of which has been discontinued for a continuous period of two (2) years shall not be re-occupied. The use of a structure shall be considered discontinued if all of the following conditions exist:
 - 1. The structure is unoccupied and not actively offered for sale.
 - 2. Regular maintenance of the structure is not performed.
 - 3. The structure is not served by activated utilities.

- F. A nonconforming structure which is damaged or destroyed by fire, collapse, explosion or other similar unintended cause may be re-built, repaired or restored, provided that the Zoning Administrator determines that the re-build or repair results in a structure that is no more nonconforming than the original structure, and that the work is completed within two years of the damage or destruction. The Zoning Administrator may grant one year extensions to this deadline if it is demonstrated that the delays were unavoidable and that the work is progressing.**
- G. A nonconforming structure may be demolished and re-built, provided that the new structure is no more nonconforming than the original structure.**
- H. A nonconforming structure may be moved on the site, provided that the new location results in the structure being as the least nonconforming solution feasible on the site, and that it is no more nonconforming than in the original location. For the purpose of this paragraph, the phrase “least nonconforming solution feasible” shall mean the following:**

 - 1. The amount of the building’s footprint that extends into the required setback is as small as possible.**
 - 2. The maximum distance that any portion of the building extends into the required setback is as small as possible.**
 - 3. The total floor area built within the required setback is as small as possible, and**
 - 4. The total volume of enclosed structure located above the maximum building height is as small as possible.**
- I. For the purposes of paragraphs ‘F’ G, and ‘H’ of this sub-section, the phrase “no more nonconforming” shall mean the following:**

 - 1. The total area of building footprint of the new or re-built building that extends into the required setback is no more than the total area of building footprint of the original building that extended into the required setback.**
 - 2. The total floor area in the portion of the new or re-built building that extends into the required setback is no more than the total floor area of the portion of the original building that extended into the required setback, and**
 - 3. The volume of the new or re-built building located above the maximum height limit is no more than the volume of the original building that was located above the maximum height limit.**

1920.3 Nonconforming Lots. A nonconforming lot may be used or developed in accordance with the following:

- A. A lot that is nonconforming because it is smaller than the minimum lot required in the district in which it is located shall be treated as an existing small lot in accordance with Section 1980.2 of these Regulations.
- B. A lot that is nonconforming because it is smaller than the minimum lot required in the district in which it is located may be enlarged, even if not to the extent that it becomes fully conforming, provided that no other lot is made nonconforming or more nonconforming by the enlargement, and no existing structure is made nonconforming.
- C. A lot made nonconforming by requirements other than size may be used or developed for an allowable use if all applicable yard and setback requirements are met.

1920.4 Non-Conforming Mobile Home Parks. Sections 1920.1-1920.3 above notwithstanding, if a mobile home park is a nonconformity pursuant to these bylaws, the entire mobile home park shall be treated as a nonconformity, and the individual lots shall not be considered to be a nonconformity, except as provided below.

- A. No pre-existing nonconforming mobile home park may be resumed if such use has been discontinued for a period of twelve (12) months or more. Mobile home parks shall be considered discontinued when the whole park is vacant and 1) it is not actively offered for sale, and 2) regular maintenance of the park is not performed. An individual mobile home lot that is vacated shall not be considered discontinued.
- B. Any mobile home within the nonconforming mobile home park may be altered, expanded, or replaced, providing:
 - 1. the applicant provides proof of adequate wastewater capacity; and
 - 2. the expansion or replacement will not:
 - a. be located less than ten (10) feet from any other primary structure(s);
 - b. obstruct or prohibit ingress or egress for any primary structure;
 - c. obstruct or prohibit mobility or replacement of any primary structure;
 - d. obstruct or prohibit the provision of emergency services;
 - e. obstruct existing utilities or rights of way; nor
 - f. threaten or unduly degrade public health, safety, or welfare.