

SECTION 3B, NON-CONFORMING USES, STRUCTURES, AND LOTS

3B.100 NON-CONFORMING USES

Are uses which when established on a property in the Town of Dartmouth were lawfully allowed but because of changes in the Zoning Bylaw are no longer allowed in the zoning district within which the use is located.

3B.101 Protection of Non-Conforming Uses

Non-conforming uses are allowed to continue operation in the same manner and extent of the non-conformity present at the time of adoption of the zoning bylaw which made the use non-conforming. This section shall not apply to billboards, signs, and other advertising devices subject to the provisions of M.G.L., Chapter 93, Sections 29 through 33 inclusive, Chapter 93D or to adult bookstores, adult motion picture theaters, adult paraphernalia shops or adult video stores subject to the provisions of M.G.L., Chapter 40A, Section 9A.

3B.102 Change of Non-Conforming Use to an Allowed Use

The alteration of a non-conforming use or portion thereof, to an allowed use in the district, shall negate any rights of operation to the non-conforming use so altered or changed.

3B.103 Discontinuance of Non-Conforming Use

When a non-conforming use or portion thereof has been discontinued for a period of two or more years, said use shall not be re-established and future use of the property shall be in conformity with these by-laws.

3B.104 Expansion or Change of One or Two Family Residential Non-Conforming Uses

Existing one or two family residential uses which are non-conforming uses, may expand or be altered without a Special Permit from the Board of Appeals if the expansion or alteration meets the setback, height, and lot coverage standards of the zoning district in which the residential use is located.

3B.105 Expansion or Change of Non-Conforming Uses Other Than One or Two Family Residential Uses

Non-conforming uses other than a one or two family residential use may be extended or changed to another non-conforming use only by Special Permit granted by the Board of Appeals. The Board of Appeals shall not issue a Special Permit unless the Board finds that the extension is not more detrimental to the neighborhood than the existing non-conforming use.

3B.106 Alterations in Conformance with Bylaw

A non-conforming use may be altered without a Special Permit by the Board of Appeals, but not extended, if the alteration conforms with this Zoning Bylaw.

3B.200 NON-CONFORMING STRUCTURES

Are structures which when built were in compliance with the development standards, if any, in effect at the time, but because of changes in the Zoning Bylaw no longer conform to the development standards for structures in the zoning district in which the structure is located.

3B.201 Protection of Existing Non-Conforming Structures

Non-conforming structures which are legally in existence prior to October 26, 1993 shall be considered in compliance with this Zoning Bylaw.

3B.202 Expansion of Non-Conforming One or Two Family Structures

Expansions or alterations of one or two family residential structures in non-residential zoning districts need only meet the setback, height, and lot coverage standards of the zoning district in which the residential structure is located.

When the expansion or alteration of such a structure cannot conform with the development standards for structures in the zoning district in which the structure is located; the structure may be extended or altered only by Special Permit granted by the Board of Appeals. The Board of Appeals shall not issue a Special Permit unless the Board finds that the extension is not more detrimental to the neighborhood than the existing non-conforming structure.

3B.203 Expansion of Non-Conforming Structures for Uses Other Than One or Two Family Structures

Legal non-conforming structures, other than a one or two family residential structure, are allowed to expand or be altered without a Special Permit from the Board of Appeals if the expansion or alteration of the structure conforms with the development standards for structures in the zoning district in which the structure is located.

When the expansion or alteration of such a structure cannot conform with the development standards for structure in the zoning district in which the structure is located; the structure may be extended or altered only by Special Permit granted by the Board of Appeals. The Board of Appeals shall not issue a Special Permit unless the Board finds that the extension is not more detrimental to the neighborhood than the existing non-conforming structure.

3B.300 NON-CONFORMING LOTS

Are lots which when recorded or endorsed were in compliance with the frontage, area and shape requirements in effect at the time, if any, but because of changes in the Zoning Bylaw no longer conform to the frontage, area, and shape requirements of the zoning district in which the lot is located.

3B.301 Uses and Structures Not Affected By Non-Conforming Lots

Expansions or alterations of non-conforming uses or structures on non-conforming lots are allowed in accordance with the requirements of Sections 3B.100 and 3B.200 above.

3B.302 Vested Rights for Residential Lots in Single Ownership

The Building Commissioner/Zoning Enforcement Officer may issue a building permit for a non-conforming lot located in a residential district if all of the following conditions are met:

- A. The lot was not held in common ownership with any adjoining land when the zoning by-law changed to make the lot non-conforming.
- B. The lot has at least 5,000 square feet of area.
- C. The lot has at least 50 feet of frontage on a street which is built and improved to the standards required for the zoning district.