

Article XX AMEND ZONING BY-LAW: NONCONFORMING SINGLE AND TWO-FAMILY STRUCTURES

To see if the Town will vote to amend the Swampscott Zoning By-Law Section 2.2.7.3. pertaining to regulations for nonconforming single and two-family structures, as set forth in Appendix Z, or take any action relative thereto.

Comment: This proposed amendment will bring our local bylaw into compliance with G.L. Chapter 40A, §6, which is the State statute that establishes protections for nonconforming single and two-family structures. The current version of our local bylaw supersedes said protections offered by the State, therefore allowing any decision or finding made by the Zoning Board of Appeals, in accordance with our current bylaw, to be overturned on appeal. The proposed amendment further offers the Building Commissioner the discretion to determine whether any dimensionally-conforming additions to nonconforming structures and/or on nonconforming lots may be permitted, as of right.

APPENDIX Z – NONCONFORMING SINGLE AND TWO-FAMILY STRUCTURES AMENDMENT

All proposed language changes outlined below with new language in red and text to be removed in ~~red text strikethrough~~.

2.2.7.3. *Nonconforming Single and Two-Family Structures.*

(a) ~~Nonconforming single and two-family residential structures may be extended, altered, reconstructed or structurally changed upon a determination by the Inspector of Buildings that~~ Any proposed extension, alteration, reconstruction or change to a single- or two-family residential structure, including an accessory structure, that meets one or more of the following criteria shall be deemed not to increase the nonconforming nature of a single- or two-family residential structure and shall be permitted as of right upon the issuance of a building permit by the Building Commissioner ~~does not increase the nonconforming natures of said structure, which determination shall only be made by the Inspector of Building if one or both of the following two (2) circumstances exists:~~

1. Alteration, extension, reconstruction or change to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements;
 2. Alteration, extension, reconstruction or change to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements; and/or
 3. Alteration, extension, reconstruction or change to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.
- ~~1. In the case of a lot that does not comply with the existing minimum lot area and/or minimum lot frontage requirements: (i) there has been no alteration, extension, reconstruction or structural change to the exterior of the structure within the past five (5) years, and (ii) the existing structure complies with all current setback, open space, lot coverage, and building height requirements, and (iii) the proposed alteration, extension, reconstruction or structural change will also comply with all said current setback, open space, lot coverage and height requirements, and (iv) the cost to complete the proposed alteration, extension, reconstruction or structural change does not exceed one-third (1/3) of the assessed cost of the entire existing structure, and (v) such alteration, extension, reconstruction or structural change does not increase the gross floor area of the structure by more than fifteen (15%) percent, or increase the height of the building by more than fifteen (15%) percent, or increase the size of any lateral dimension by more than fifteen (15%) percent of the aggregate lateral dimension, or increase lot coverage by more than fifteen (15%) percent, or decrease the open space by more than fifteen (15%) percent; and/or~~

~~2. In the case where the existing structure presently encroaches or otherwise does not comply with one or more setback, open space, lot coverage or building height requirements: (i) there has been no alteration, extension, reconstruction or structural change to the exterior of the structure within the past five (5) years, and (ii) the proposed alteration, extension, reconstruction or structural change will comply with all current setback, open space, lot coverage and building height requirements, and (iii) the cost to complete the proposed alteration, extension, reconstruction or structural change does not exceed one third (1/3) of the assessed cost of the entire existing structure, and (iv) such alteration, extension, reconstruction or structural change does not increase the gross floor area of the structure by more than fifteen (15%) percent, or increase the height of the building by more than fifteen (15%) percent, or increase the size of any lateral dimension by more than fifteen (15%) percent of the aggregate lateral dimension, or increase in lot coverage by more than fifteen (15%) percent, or decrease the open space by more than fifteen (15%) percent.~~

(b) In the event that the proposed alteration, reconstruction, extension, or change does not meet any of the criteria the Inspector of Buildings does not make the determination required in Section 2.2.7.3.(a) above, such extension, alteration, reconstruction or change may ~~only~~ be permitted ~~only~~ by: (1) a determination by the Board of Appeals that such extension, alteration, reconstruction, or change does not increase the nonconforming nature of said structure or (2) if the Board of Appeals determines that such extension, alteration, reconstruction, or change does increase the nonconforming nature of said structure, by a special permit issued by the Board of Appeals pursuant to M.G.L. Chap 40A Section 6 ~~(so-called "Section 6 Special Permit")~~ upon a determination that such extension, alteration, reconstruction or change is not substantially more detrimental than the existing nonconforming structure to the neighborhood. ~~A Section 6 Special Permit shall only permit conforming changes to non-conforming structures and/or conforming changes to non-conforming lots.~~ Extensions, alterations, reconstruction or changes that ~~will not comply with the current setback, open space, lot coverage or building height requirements~~ create or result in a new nonconformity shall ~~only~~ be permitted, if at all, ~~only~~ upon issuance by the Board of Appeals, as applicable, of a Dimensional Special Permit in accordance with Section 2.3.6.0. below or a Dimensional Variance in accordance with Section 5.2.2.2. below.