

SECTION 590
Nonconforming Uses, Buildings, Lots and Structures

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590.1 PURPOSE.

The purpose of Section 590 is to recognize the existence of uses, buildings, lots and structures that lawfully existed at the time of this Resolution's enactment, or amendment thereto, but which do not conform to one or more of the regulations contained in this Resolution, and to provide for their eventual and equitable termination. Nonconforming status is considered to be incompatible with permitted uses in the zoning district in which it exists and with the land use plan of the Township. Therefore, such nonconforming status shall be continued only in conformance with Section 590.

A nonconforming lot, use, building or structure does not include nonconformity with regulations pursuant to a legally granted variance from a zoning regulation.

590.2 NONCONFORMING USE.

A nonconforming lawful use of any building or land may be continued only in conformance with this section.

- A. Alteration or Reconstruction of a Building Occupied by a Nonconforming Use. No building or structure occupied by a nonconforming use shall be altered, improved or reconstructed except when the cumulative cost of the alteration, improvement or reconstruction does not exceed 50% of the building's replacement value, unless the use of the building or structure is being changed to a conforming use.
- B. Expansion or Relocation of Nonconforming Use of Land. A nonconforming use of land shall not be physically enlarged, increased, extended, or relocated to a part of the lot that was not occupied by the use at the time it became nonconforming. No additional structures shall be constructed in connection with such nonconforming use.
- C. Change or Substitution of Use. A nonconforming use of a building, structure or land shall not be changed or substituted to another nonconforming use unless the Board of Zoning

Appeals, on appeal, finds that the use proposed is equally appropriate or more appropriate to the district than the existing nonconforming use, and that the use proposed is in less conflict with the character of uses permitted in the applicable zoning district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with other provisions of this Resolution.

1. Whenever a nonconforming use is changed to a less intensive use, such use shall not thereafter be changed to a more intensive nonconforming use.
2. Substitution to an auto repair use shall not be permitted in O-C or Residential Districts.

D. Discontinuance of Use. Discontinuance of the nonconforming use of a building, part of a building, lot or part of a lot for a continuous period of two (2) years or longer shall constitute voluntary abandonment of such use and thereafter any use of the premises shall conform to the provisions of this Resolution.

590.3 NONCONFORMING BUILDINGS OR STRUCTURES.

A nonconforming building or structure may continue to be used or occupied by a use permitted in the district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

A. Maintenance and Repair. A nonconforming building or structure may be maintained and repaired provided that no structural parts shall be replaced except when required by law to restore such building or structure to a safe condition, provided the cost of such restoration shall not exceed 50% of the replacement cost of the building, or to make the building or structure conform to the regulations of the district in which it is located.

B. Additions and Moving.

1. A nonconforming building or structure shall not be altered, added to, enlarged or moved unless the addition(s), alteration(s) or part(s) moved is made to conform to the regulations of the district in which it is located.
2. Whenever a nonconforming building is proposed to be altered, added to, enlarged or moved, any nonconforming site condition(s) that exists when a revised development plan is required pursuant to Section 720.2 for such modification shall be brought into compliance with the district regulations, unless the Board of Zoning Appeals determines that such conformance cannot be reasonably achieved because of existing site conditions. In such case, the Board of Zoning Appeals shall approve a development plan that reduces the existing nonconforming site condition(s) to the maximum extent practicable.

- C. Change in Principal Use of Building. The principal use of a nonconforming building may be changed to any other use permitted in the district in which it is located so long as the new use complies with all regulations of this Zoning Resolution specified for such use, except the regulations to which the building did not conform prior to the change in use.
- D. Restoration of Damaged Building or Structure. If a nonconforming building or structure is damaged or destroyed by any cause, those portions so destroyed or damaged may be restored to the original footprint and floor area of the building or structure provided the cumulative restoration costs do not exceed 50 percent of the replacement cost of the building or structure at the time of such damage. Such restoration shall be completed within a period of one year from the date of damage or destruction. Any restoration that exceeds the original footprint and/or floor area shall comply with Section 590.3B.

590.4 NONCONFORMING LOTS.

A lot of record that does not comply on the effective date of this Zoning Resolution or any amendment thereto with the lot area or width regulations of the district in which the lot is located may be used as follows:

- A. Lots in Combination. If a vacant nonconforming lot adjoins one or more lots in common ownership on the effective date of this Resolution or applicable amendment thereto, such lot shall be replatted to create conforming lots as a prerequisite for development.
- B. Nonconforming Lots of Record in Residential Districts.
 - 1. Existing Dwelling on a Residential Lot. If an existing lot of record in an O-C or Residential District is occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that:
 - a. The building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of this Zoning Resolution, with the exception of the lot area and the lot width regulations.
 - b. The number of dwelling units shall not be increased unless all zoning regulations, including lot area, are complied with.
 - c. Dwelling units may be expanded without requiring any additional garage space or parking space provided the addition does not occupy space that could be used for parking/garage in compliance with these regulations.
 - d. The Zoning Administrator may authorize detached garages to be located not less than 5 feet from side and rear lot lines when the Zoning Administrator determines that compliance with the setback requirements is not possible.

2. Individual Vacant Lots in a Residential District. A single vacant non-conforming lot in an O-C or “R” District shall be permitted to be developed as a site for a single-family dwelling provided that the dwelling and its accessory uses comply with all regulations of this Zoning Ordinance, except for the lot area and lot width regulations of the district in which the lot is located, and a zoning certificate authorizing such construction shall be issued by the Zoning Administrator.
 - a. Notwithstanding the above provision, any construction proposed on an existing lot of record that is a flag lot which results in a proposed dwelling unit being constructed behind an existing dwelling shall be reviewed by the Board of Zoning Appeals. The Board shall review the placement of the building on the lot and may require screening to protect the privacy of the existing dwelling unit.
 - b. The Zoning Administrator may authorize detached garages to be located not less than 5 feet from side and rear lot lines when the Zoning Administrator determines that compliance with the setback requirements is not possible.

C. Nonconforming Lots of Record in Nonresidential Districts.

1. Existing Building on a Nonresidential Lot. An existing nonresidential building located on a nonconforming lot shall comply with regulations set forth in Section 590.3.
2. Vacant Single Nonconforming Lot of Record. A single vacant nonconforming lot in a non-residential district may be used for any use permitted in the district in which it is located when the development of such lot meets all requirements of the district in which it is located, including the maximum lot coverage and minimum yard requirements, except for the minimum lot area and lot width requirements. No use that requires a greater lot size than the established minimum lot size for a particular district shall be permitted on a nonconforming lot. Review and approval of development on such lots of record shall be conducted according to the development plan review requirements set forth in Section 720.

590.5 NONCONFORMING PARKING FACILITIES.

A building or use existing lawfully at the time of this Zoning Resolution, or an amendment thereto, became or becomes effective, but which does not comply with the off-street parking regulations for the district or use in which it is located may continue without such parking facilities. In the event an existing building is altered or a use is changed or substituted in accordance with these regulations, then additional off-street parking spaces shall be provided in compliance with Section 590.3B.

590.6 NONCONFORMING SIGNS.

A sign, lawfully existing at the time this Zoning Resolution, or any amendment thereto, became or becomes effective, but which fails to conform to the sign regulations of the district in which it is located is a nonconforming sign and shall comply with the regulations set forth in Section 510.11.

590.7 COMPLETION OF CONSTRUCTION WITH ZONING CERTIFICATE.

Nothing in this Zoning Resolution shall prohibit the completion of construction and use of buildings for which a zoning certificate has been issued prior to the effective date of this Zoning Resolution, or amendments thereto, provided that construction is commenced within 90 days after the issuance of such certificate, that construction is carried on diligently and without interruption for a continuous period in excess of 30 days, and that the entire building is completed within one (1) year after the issuance of said zoning certificate.

590.8 DETERMINATION OF NONCONFORMING STATUS.

At the time of application for a zoning certificate or request for variance regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence for the Zoning Administrator or Board of Zoning Appeals, as applicable, to determine that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in existence at that time.

If the evidence submitted indicates the lot, building, structure or use was legally established and has since become nonconforming because of the establishment of or amendment to this Resolution, the Zoning Administrator shall issue a Certificate of Nonconforming Use. A copy of such certificate shall be kept on file in the Township Zoning Office.

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