

To see if the Town will vote to repeal Section 174-17.1: Raze and Replace of the Mashpee Zoning Bylaws and replace with a new Section 174-17.1 Raze and Replace as follows:

Purpose and Intent

Buildings or structures that are nonconforming by dimension are likely if they are changed, extended or altered, to cause overcrowding and congestion in the neighborhoods and are contrary to the purposes of this bylaw. Buildings or structures that are nonconforming by dimension inhibit present and future development of nearby properties. It is intended that existing buildings or structures that are nonconforming by dimension shall not justify further departures from this bylaw. This section is intended to provide clarity to property owners and any applicable special permit granting authority which changes, extensions, or alterations of a pre-existing dimensional conformity may constitute detriment to the neighborhood in which the proposed reconstruction is located as to preserve the character and general scale of neighborhoods.

General Requirements

No pre-existing, non-conforming single or two family dwelling structures shall be torn down and rebuilt on any lot unless there is an issuance of a Special Permit from the Zoning Board of Appeals unless the proposed reconstruction qualifies for an exception as defined in this chapter or is otherwise buildable pursuant to Section 174-21 of this bylaw. Such a special permit may be granted only if the Zoning Board of Appeals finds that any changes, extensions, alterations, or reconstruction of the pre-existing non-conformities are not substantially more detrimental to the neighborhood than existed prior to the removal of the existing structure and that there is adequate land area to provide sufficient parking. No new nonconformities shall be permitted without the issuance of a variance from the Zoning Board of Appeals.

For All Properties except those Located Within the Floodplain Zone Overlay District and/or Popponeset Overlay District

1. The Zoning Board of Appeals may approve replacement structures that continue, extend, or alter lawful pre-existing nonconformities as follows:
 - a) For structures that do not comply with one or more required setbacks (front, side, rear, and/or setback to water and wetlands) property owners may increase the footprint within the side, front, rear or water and wetlands setback area provided that the replacement structure is not any closer to the applicable property line (or resource area) than existed previously. Any structure that is proposed to increase the intensity of a setback nonconformity as described shall be considered substantially more detrimental to the neighborhood and shall not be permitted.
 - b) For portions of a structure that are not nonconforming, the replacement structure may increase the building footprint and height to the maximum extent allowed in the applicable zoning district. For example, a 1.5 story house may be replaced with a 2.5 story house or a house with 20 feet to the side property line may be replaced with a house that is 15 feet from the side property line. The creation of any new nonconformities shall be considered substantially more detrimental to the neighborhood and shall not be permitted.

- c) For properties with pre-existing lot coverage nonconformities, the Zoning Board of Appeals may approve replacement structures that maintain, but do not increase, the lot coverage nonconformity. Any increase of a lot coverage nonconformity shall be considered substantially more detrimental to the neighborhood and shall not be permitted.
- d) For structures with nonconformities described in items a-c above (setbacks, lot coverage, and building height) replacement structures may increase the height of replacement structures up to the maximum height allowed in the applicable zoning district. For homes with pre-existing nonconforming building heights, the Board of Appeals can approve a replacement structure that maintains, but does not increase, the nonconforming nature of the building height. Increases in building height nonconformities shall be considered to be substantially more detrimental to the neighborhood and shall not be permitted.

For Properties within the Floodplain Zone Overlay District and/or the Popponeset Overlay District

The Zoning Board of Appeals may approve replacement structures in the Floodplain Zone Overlay District and/or the Popponeset Overlay District that continue, extend, or alter lawful pre-existing nonconformities as follows:

- a) For structures that do not comply with one or more required setbacks (front, side, or rear) property owners may NOT increase the footprint within the side, front or rear setback area that was pre-existing nonconforming. Increases in the size of the building footprint in the Floodplain Zone Overlay and Popponeset Overlay Districts shall be considered substantially more detrimental to the neighborhood than existed previously and shall not be permitted. The location of the footprint of a replacement structure may be adjusted on the lot so long as the overall footprint area is not larger than existed previously and is otherwise compliant with the provisions of this bylaw.
- b) For replacement structures that propose to continue a pre-existing side, front, or rear setback nonconformity than any increase in building height within the nonconforming setback area shall be considered substantially more detrimental to the neighborhood than existed previously and shall not be permitted. Building height may increase provided that the increase in height is located within the portion of a structure that conforms with the applicable setbacks of the underlying zoning district or overlay as applicable. For example, a house that is situated 10 feet from a property line where 15 feet is required may increase the height of a building at the 15 foot setback line. The portion of a home within the nonconforming setback area shall not exceed the height of the home that existed previously.
- c) Any reconstruction of a single or two-family dwelling that renders any portion of the lot outside of the building footprint impervious shall be considered substantially more detrimental to the neighborhood than existed previously and shall not be permitted. Previously existing impervious surfaces shall be replaced with pervious materials.

Exceptions

1. The voluntary demolition and reconstruction of a single or two-family residential structure may be approved as of right by the Building Commissioner if the reconstruction complies with all current setbacks, lot coverage, and building height requirements defined in 174-31 but is located on a lot with insufficient area and/or insufficient frontage where the reconstruction will also comply with all of said current requirements except frontage and/or lot area.
2. The voluntary demolition and reconstruction of a single or two-family residential structure that is reconstructed within the same footprint, building height, and the same volume or less as the building voluntarily demolished may be approved as of right by the Building Commissioner.

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