



Street

UNDERLYING FACTS

Size of Lot

6,000 square feet (Nonconforming Lot of Record)
60 Feet Road Frontage
100 Feet Deep

House w/o Deck Setbacks

House is 28' Wide & 36' Deep/Long
House is a total of 1008 Sq Ft (Footprint)
Front Setback - 15 Feet (5 feet Nonconforming)
Right Side Setback - 22 Feet (Conforming)
Left Side Setback - 10 Feet (5 feet Nonconforming)
Rear Setback - 48 Feet (Conforming)

Garage Setbacks

Garage is 16' Wide & 24' Deep/Long
Garage is a total of 384 Sf Ft in Size (Footprint)
Front Setback - 60 Feet (Conforming)
Right Side Setback - 2 Feet (2' Nonconforming)
Left Side Setback - 42 Feet (Conforming)
Rear Setback - 18 Feet (Conforming)

Zoning District Setbacks

Front - 20 Feet
Side - 15 Feet
Rear - 15 Feet

Deck w/o House Setbacks

Deck is 20' Wide & 12' Deep
Deck is a total of 240 Sq. Ft (Footprint)
Front Setback - 50 Feet (Conforming)
Right Side Setback - 28 Feet (Conforming)
Left Side Setback - 13 Feet (2 Feet Nonconforming)
Rear Setback- 36 Feet (Conforming)

COMPARISON OF CURRENT STANDARDS TO PROPOSED STANDARDS TYPE 2 NONCONFORMITY

CURRENT STANDARDS

1. A Type 2 Nonconformity specifically considers the amount of structure expansion permitted within a nonconforming setback area. A property owner that applies for a Type 2 Nonconforming Permit can expand the structure in a conforming area just like any property owner.

2. The house and the attached deck and the garage are nonconforming with respect to required structure setbacks. A proposed expansion of the house/deck and the garage would be addressed as separate structures.

2. The amount of expansion in the nonconforming area for the house/deck would be based on the total footprint of the house and deck that are attached structures. The footprint of the house is 1,008 sq ft, and the attached deck is 240 sq ft, for a total of 1,248 square feet. A Type 2 Nonconformity allows a 30% expansion within the nonconforming area. Thirty (30%) percent of 1,248 square feet is 374.4 square feet. Thus, the house/deck could be expanded in the nonconforming setback area by this amount (374.4 sq ft), provided none of the expansion is any closer to a nonconforming setback than the current structure. Again, the the structure could be expanded in any area that conforms to structure setbacks.

In the above scenario, the house is nonconforming with respect to the front setback by 5 feet, and similarly by a maximum amount of 5 feet along one side lot line. For the example now presented, the total amount of the structure in a nonconforming area is 319 sq ft, however, the current formula would allow a footprint expansion in the nonconforming area that is larger than the total amount of the current nonconformity. In addition, current standards would allow an upward expansion (upper floors) above any portion of the nonconforming structure.

4. A potential expansion of the garage would be considered as a separate issue. The total footprint of the existing garage is 384 square feet. Thirty percent (30%) of 384 square feet is 115 sq ft. The garage is setback only 2 feet from the adjacent lot line, and 13 feet of the width of the garage is in the nonconforming area; a total of 312 square feet. Similar to the house/deck, the footprint of the garage could be expanded within the nonconforming area by a total of 115 square feet, and the garage could be expanded in any area that conforms to structure setbacks. Also, upward expansions of the garage would be allowed.

PROPOSED AMENDMENTS

1. Like the current standards, a Type 2 Nonconformity specifically considers the amount of structure expansion permitted within a nonconforming setback area. A property owner that applies for a Type 2 Nonconforming Permit can expand the structure in a conforming area just like any property owner.

2. The house and the attached deck and the garage are nonconforming with respect to required structure setbacks. The proposed standards would calculate the amount of expansion allowed separately for the house, that is an enclosed structure, and for the attached deck that is an open structure. The garage, all of which is an enclosed structure, also would be addressed as a separate structure.
3. The amount of expansion allowed would be based only on the amount of the house (enclosed structure) located within any nonconforming setback area, and the amount of the deck (open structure) located in the nonconforming area. A total of 295 square feet of the house is in a nonconforming setback area. Thirty percent (30%) of 295 square feet is 88.5 square feet. The house could be expanded in any nonconforming area that is located no closer to the lot line than any point of the existing house.

The amount of nonconforming expansion for the attached deck, an open structure, would be calculated separately from the house. The deck is setback 13 feet from the lot line, thus only 2 feet of the deck is in a nonconforming setback area. The deck is 12 feet deep, thus 24 square feet of the deck is in a nonconforming setback area. Thirty percent (30%) of 24 square feet is 7.2 sq ft. Thus, this amount of square footage could be used to expand the deck in any nonconforming setback area. Continuing, this amount of square footage, 7.2 square feet, can only be used to expand an open structure, such as this deck. Further, the owner cannot expand upward over the open deck based on this calculation.

4. The current regulations allow an owner to expand upward over an existing structure that is located in a nonconforming area, and there is no specific limit on the amount of such an expansion. The new regulations separately consider each floor of a structure and the degree to which it is nonconforming in calculating the 30% expansion amount. For example, if the structure in our example is a 3 story structure, and the total size of each of the 3 stories is the same, the owner could expand the each of the 3 floors in a nonconforming area by the same amount as the first floor; 88.5 square feet. The proposed standards eliminate the current standard that automatically allows an upward expansion above an existing nonconforming area.
5. Continuing, any amount of the expansion for an enclosed structure can be applied to the expansion of an open structure, and the enclosure of space on an open structure can occur by using the amount of square foot expansion allowed for the enclosed structure. However, none of the amount of nonconforming expansion allowed for an open structure can be applied to an enclosed structure.
6. With respect to the garage, 312 square feet of the garage (384 sq ft) is in a nonconforming setback area because the garage is only 2 feet off the property line. Thirty percent of 312 square feet is 93.6 square feet. Thus, the garage can be expanded by 93.6 square feet in any nonconforming setback area. The current regulations would allow an expansion of 115 square feet in the nonconforming area. The reason there is not that great a difference between the two formulas is because much of the garage is in a nonconforming area.