

WARRANT ARTICLE XX - Shall an ordinance dated May 2, 2023 and entitled “Amendments to the Land Use Zoning Ordinance to allow exceptions to the height limitations consistent with State Shoreland Zoning Laws” be enacted as set forth below?

Explanation: This Article allows an exception to how height is measured when a structure is located within an area of special flood hazard.

SECTION 4 NON-CONFORMITIES

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4.3 Non-conforming Structures

- 1. Expansions Outside the Shoreland Zone.** A structure located outside the shoreland zone which is nonconforming with respect to a dimensional requirement may be enlarged or extended in any other direction upon issuance of a building permit, provided that such activities otherwise comply with all provisions of this Ordinance.
- 2. Expansions In the Shoreland Zone.** All new structures in the shoreland zone must meet the applicable shoreline setback requirements contained in Sections 3 (Land Use Districts) and 6 (Standards for Uses, Permits and Approval). A non-conforming structure in the shoreland zone may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure if such addition or expansion does not increase the non-conformity of the structure and is in accordance with the subsections of Section 4.3.2.
 - (a) Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
 - (b) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
 - (c) Notwithstanding Section 4.3.2(b), if a nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of this Ordinance are met, and the expansion is not prohibited by Section 4.3.2 above.
 - (i) The maximum total footprint for the principal structure may not be expanded to an area greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
 - (ii) The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

- (d) All other nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met and the expansion is not prohibited by Section 4.3.2 and subsections (a), (b) or (c) above.
 - (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to an area greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
 - (ii) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
 - (iii) For structures located less than 100 feet from the normal high-water line of a great pond, the maximum combined total footprint for all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
 - (iv) For structures located less than 100 feet from the normal high-water line of a great pond, the maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
 - (v) For structures located less than 100 feet from the normal high-water line of a great pond, any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of Sections 4.3.2(d)(i) and (ii).
- (e) In addition to the limitations in Section 4.3.2 and subsections (a), (b) and (c) above, structures that are nonconforming due to their location within the Resource Protection District and are located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:
 - (i) The maximum combined total footprint for all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater.
 - (ii) The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
 - (iii) Any portion of the structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, must meet the footprint and height requirements of Sections 4.3.2(d)(iii) and (iv).
 - (iv) Any portion of the structures located less than 75 feet from the normal high-waterline of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of Sections 4.3.2(d)(i) and (ii).

(f) Notwithstanding the limitations on height imposed under the paragraphs above, the height of a structure that is a legally existing nonconforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the local floodplain management elevation requirement or to 3 feet above base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This paragraph applies to structures that:

(i) Have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the local floodplain management elevation requirement; and

(ii) Are located in an area of special flood hazard.

(f)(g) Any approved plan for expansion of a nonconforming structure under Section 4.3.2 must be recorded by the applicant in the registry of deeds of the county in which the property is located within 90 days of approval. The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary and evidence of approval by the permitting authority.

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SECTION 8 DEFINITIONS

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AREA OF SPECIAL FLOOD HAZARD: Land in a floodplain having a 1% or greater chance of flooding in any given year, as identified in the effective federal flood insurance study and corresponding flood insurance rate maps.

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HEIGHT OF A STRUCTURE: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. With respect to existing principal or accessory structures, including legally existing nonconforming structures, located within an area of special flood hazard that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required by a local floodplain management ordinance, the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.