

Nonconformity – Sections - 4.3.6 & 4.3.5 Non-conforming Structures – Reconstruction or Replacement. Section 4.3.2 – Expansions in the Shoreland Zone.

OWNER(S): Summerscape Realty Trust – Elizabeth Carlisle Thomas

LOCATION: 18 Northern Neck Road, Mount Desert.

TAX MAP: 017 **LOT(S):** 012 **ZONE(S):** Shoreland Residential Two (SR2)

PURPOSE: Sections 4.3.6 & 4.3.5 Reconstruction or Replacement and Section 4.3.2 Expansions of a Non-Conforming Structure.

SITE INSPECTION: 4:30PM

Non-conforming Structures Expansions in the Shoreland Zone Section 4.3.2

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

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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).

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- (iv) Any portion of the 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).

- (f) 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.

Findings of Fact(s): _____ (Randolph/Anastasia) The proposed project meets the _____
 _____ criteria of the 30% maximum allowable expansion and height requirements as stated _____
 _____ in Section 4.3.2. _____

Conclusion of Law: _____ The Standards of Section 4.3.2 have been met. _____

VOTE: Findings of Fact and Conclusion of Law: Motion approved 5-0. _____

Expansion of Replacement Structure. If a structure conforms with the requirements of Section 4.3.6, and is less than the required setback from a water body, tributary stream or wetland, the structure may not be expanded, except as allowed pursuant to Section 4.3.2 above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location.

Findings of Fact(s): _____
 _____ See the Above Findings of Facts and Conclusion of Law. _____

VOTE: Findings of Facts _____ - _____

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Conclusion of Law: _____

VOTE: Conclusion of Law _____ - _____

APPROVAL CONDITIONS: In addition to all applicable federal, state, and town permits be in place prior to any construction, the following conditions apply:

_____ Contingent upon DEP approval. _____

_____ Contingent upon confirmation by a surveyor of the height of the structure as measured from the mean original grade at the downhill side of the structure to its highest point, excluding chimneys. _____

APPLICATION APPROVED 03/09/2022 **DENIED** _____
(Date) (Date)

MINUTES OF THIS PUBLIC HEARING CONSTITUTE A PART OF THE RECORD FOR THIS MATTER.

SIGNATURES OF ALL VOTING BOARD MEMBERS:

William Hanley
William Hanley, Chairman

Christie Anastasia
Christie Anastasia

David Ashmore
David Ashmore

Meredith Randolph
Meredith Randolph

Tracy Loftus Keller
Tracy Loftus Keller