

ARTICLE V

EXCEPTIONS AND MODIFICATIONS

SECTION

- 5.010 Scope
- 5.020 Nonconforming uses
- 5.030 Exceptions to height limitations
- 5.040 Lots of record
- 5.050 Exception to front setback requirements
- 5.060 RESERVED
- 5.070 Agricultural use of land

5.010. Scope. ARTICLE VII is devoted to providing for necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided in ARTICLE III and ARTICLE IV.

5.020. Nonconforming uses. It is recognized that the elimination, as expeditiously as is reasonable, of the existing buildings and structures or uses that are not in conformity with the provisions of this resolution is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that will violate the provisions hereof. It is the intent to so administer the elimination of nonconforming uses, buildings, and structures as to avoid an unreasonable invasion of established private property rights. Lawful nonconforming uses, buildings, and structures existing at the time of passage or amendment hereto shall be allowed to remain subject to the following provisions.

- A. An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same or higher classification provided, however, that establishment of another nonconforming use of the same or higher classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.
- B. A nonconforming use of land shall be restricted to the tract of land occupied by such use as of the effective date hereof or the applicable amendments hereto. A nonconforming use of a building or buildings shall not be enlarged to additional land.
- C. When a nonconforming use of any structure or land has been discontinued for a period of one (1) year, it shall not be reestablished or changed to any use not in conformity with the provisions hereof.
- D. Any nonconforming building or nonconforming use which is damaged by fire, flood, wind, or other act of God may be reconstructed and used as before if application for reconstruction is filed within twelve (12) months of such damage.
- E. A nonconforming building or building housing a nonconforming use shall not be structurally altered except in conformance with the provisions of this resolution. These provisions shall not be construed to prevent normal maintenance and repairs, or alterations required for structural safety.
- F. Except as provided above, no nonconforming use shall be eliminated by condemnation proceedings in order to bring about conformance herewith.

5.030. Exceptions to height limitations. The height limitations shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, transmission towers, windmills, chimneys, smokestacks, conveyors, flag poles, radio towers, masts, silos and aerials.

5.040. Lots of record. The following provisions shall apply to all existing lots of record.

- A. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this resolution does not own sufficient land to enable him to conform to the yard or other requirements of this resolution, an application may be submitted to the Board of Zoning Appeals for a variance from the terms hereof. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as possible in the opinion of the Board of Zoning Appeals.
- B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed herein, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
- C. Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

5.050. Exceptions to setback requirements. The front setback requirement for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

5.060. RESERVED.

5.070. AGRICULTURAL USE OF LAND. THIS RESOLUTION SHALL NOT BE CONSTRUED AS AUTHORIZING THE REQUIREMENT OF BUILDING PERMITS NOR PROVIDING FOR ANY REGULATION OF THE ERECTION, CONSTRUCTION, OR RECONSTRUCTION OF ANY BUILDING OR OTHER STRUCTURE ON LANDS NOW DEVOTED TO AGRICULTURAL USES OR WHICH MAY HEREAFTER BE USED FOR AGRICULTURAL PURPOSES, EXCEPT ON AGRICULTURAL LANDS ADJACENT OR IN PROXIMITY TO STATE FEDERAL-AID HIGHWAYS, PUBLIC AIRPORTS, OR PUBLIC PARKS, PROVIDED, HOWEVER, SUCH BUILDING OR STRUCTURE IS INCIDENTAL TO THE AGRICULTURAL ENTERPRISE. THIS RESOLUTION SHALL NOT BE CONSTRUED AS LIMITING OR AFFECTING IN ANY WAY OR CONTROLLING THE AGRICULTURAL USES OF LAND.