

Article 4 of Town Bylaw

Zoning Bylaws



Monterey
Massachusetts

TOWN SEAL DESIGNED 1970, BY EDITH L. WILSON

Bylaws Reprinted: February 1994

Town of Monterey

- Public Notice -

Notice is hereby given that the following Zoning Bylaws voted on favorably at a Special Town Meeting in Monterey, February 16, 1974, and approved May 16, 1974, by Attorney General Robert H. Quinn, together with revisions voted on favorably at a Special Town Meeting January 22, 1977, and approved March 16, 1977, by Attorney General Francis X. Bellotti and those revisions voted on favorably at the Annual Town Meeting in Monterey, May 7, 1977, and approved August 18, 1977, by Attorney General Francis X. Bellotti and those revisions voted on favorably at a Special Town Meeting September 2, 1981, and approved December 8, 1981, by Attorney General Francis X. Bellotti and those revisions voted on favorably at a Special Town Meeting August 24, 1982, and approved December 20, 1982, by Attorney General Francis X. Bellotti and those revisions voted on favorably at a Town Meeting in Monterey May 3, 1986, and approved June 5, 1986, by Attorney General Francis X. Bellotti, and those revisions voted on favorably at a Special Town Meeting August 25, 1989, and approved December 18, 1989, and March 29, 1990, by Attorney General James M. Shannon, and those revisions voted on favorably at the Annual Town Meeting May 1, 1993, and approved July 21, 1993, by Attorney General Scott Harshbarger will become effective following publication as provided in Chapter 40, Section 32, of the General Law.

SECTION I. Purpose

The purpose of the Bylaws is to provide for the Town of Monterey all the protection authorized by the General Laws of the Commonwealth of Massachusetts, Chapter 40-A, and any amendments thereof, and to protect and promote the health, safety, and general welfare of the inhabitants of Monterey.

SECTION X. Amendments

This Bylaw may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of Chapter 40A of the General Laws.

SECTION XI. Validity

The invalidity of any section or provision of this Bylaw shall not affect any other section or provision thereof.

the Board of Health of the request, and said boards shall respond to the Board of Appeals within thirty (30) days thereafter by written reports of their findings in respect of their specific fields of responsibilities. If deemed necessary, said boards shall make on-site plan reviews and inspections.

3. Variances. To hear and decide requests for a variance from the terms of the Bylaw where the Board of Appeals specifically finds that, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw. The Board may authorize a use or activity variance. Upon receipt of a request for a variance, the Board of Appeals shall notify the Conservation Commission, Planning Board, and the Board of Health of the request, and said boards shall respond to the Board of Appeals within thirty (30) days thereafter by written reports of their findings in respect of their specific fields of responsibilities. If deemed necessary, said boards shall make on-site plan reviews and inspections.

SECTION IX.C. Filing Information

Filing information may be obtained at the Town Offices.

SECTION II. Definitions

Agricultural Use: Any use of land for the purpose of raising agricultural products, livestock, poultry or dairy products, including necessary farm structures, vehicles and equipment. This does not include kennels, commercial stables, commercial greenhouses or slaughterhouses.

Building: A roofed or walled structure used or intended for supporting or sheltering any use or occupancy.

Camp, Summer: A land use, in operation only between Memorial Day and Labor Day, which for campers and staff provides: organized recreational activities, common kitchen and dining facilities, and sleeping quarters in dormitories or separate cabins. One single family dwelling may be provided for the purpose of administration or owners' residence.

Customary Home Occupation: Self-employed resident occupants in their private homes working at an occupation which is limited to the home and carried forth at the home, including but not limited to dressmaking, preserving or home-cooking, photography, the giving of private music and dance lessons, or a one-chair beauty parlor. Customary home occupation does not include gift shop, antique shop or art gallery or similar retail establishment.

Dwelling Unit: One or more rooms constituting a separate, independent housekeeping unit establishment with cooking, living, sanitary and sleeping facilities for the use of no more than one family.

Dwelling, Single Family: A detached residential building designed for or occupied by one (1) family only, but not including mobile homes and trailers whether placed on foundations or not.

Dwelling, Multi-Family: A residential building containing two (2) or more dwelling units.

Family: An individual or any number of individuals related by blood, marriage or other legal arrangement, such as adoption, guardianship, foster care, or up to six (6) unrelated individuals living in a single dwelling unit.

Frontage: The boundary of a lot which lies along a road.

Lot: An area of land in one ownership with definite boundaries, used or available for use as the site of one or more buildings.

Municipal Use: Any Town of Monterey use of land in accordance with the general laws governing municipal powers and functions including participation in regional uses.

Repair: Any maintenance which affects structure, egress, fire protection systems, fire ratings, energy conservation provisions (Massachusetts Building Code, Article 20), plumbing, sanitary, gas, electrical or other utilities. (From Massachusetts Building Code, Article 2).

Repair, ordinary: Any maintenance which does not affect structure, egress, fire protection systems, fire ratings, energy

SECTION IX. Board of Appeals

SECTION IX.A.

There is hereby established a Board of Appeals of five (5) elected members and two (2) associate members to be appointed by the Board of Selectmen as provided in Chapter 40A of the General Laws.

SECTION IX.B.

The powers of the Board of Appeals shall include the following:

1. Appeals. To hear and decide appeals and review any order, requirement, decision or determination made by the Board of Selectmen or other officer charged with the enforcement of this Bylaw. Such appeals may be taken to the Board of Appeals by any officer of a board of the Town, or by any person aggrieved by such order, requirements, decision or determination, following the procedure established under Chapter 40A of the General Laws as amended.
2. Special Permits. To grant permits for exception as provided in this Bylaw and in Chapter 40A of the General Laws when it shall find, after a public hearing, that such exception shall be in harmony with the general purpose and intent of the Bylaw and that the use involved will not be injurious, noxious, offensive, or detrimental to the established or future character of the neighborhood and of the Town and subject to appropriate conditions or safeguards if deemed necessary. Upon receipt of a request for permit, the Board of Appeals shall notify the Planning Board, Conservation Commission, and

new home is under construction. Such permit shall expire no later than twelve (12) months from date of its issue.

conservation provisions (Massachusetts Building Code, Article 20), plumbing, sanitary, gas, electrical or other utilities. (From Massachusetts Building Code, Article 2).

Road: (a) A public way or way which the Clerk of the Town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective (January 27, 1966) in the town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting hereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Roadline: The right-of-way-line of a road as established by public authority (stone walls, line trees, deeds, surveys, other official documents, etc.), or as shown on a plan approved or endorsed by the Planning Board under the Subdivision Control Law, or if none of the above apply, a line parallel to the center line of the travelled way and 25 feet therefrom.

Setback: The area of the lot extending inward from a lot line (or, in the case of front setback, the road line), for the distance specified in the zoning regulations in which no buildings or structures may be placed.

Setback, Front: An area extending across the full width of the lot and extending inward from the road line of the lot.

Setback, Rear: An area extending inward from the rear lot line between the side lot lines.

Setback, Side: An area extending along a side lot line from the front line to the rear line.

Structure: Any construction, erection, assemblage or other combination of materials upon the land with or without pilings, footings or a foundation for attachment to the land, including but not limited to swimming pools, recreational courts, decks, platforms including tent platforms, piers, free-standing antennae and satellite dishes. For the purpose of this By-Law, fences are not considered structures.

Travelled Way: Portion of a road which is used and maintained for vehicular travel.

Such permit shall state that the structure, premises and the proposed use thereof comply with the provisions of the Bylaw.

Exceptions which do not require a building permit:

1. ordinary repairs
2. construction, alteration or expansion of a building or structure which will create less than one hundred (100) square feet of area, including basements and additional floors.

- c. All permits shall expire in one (1) year if construction is not substantially started during this period of time, and shall become void if the operation once commenced is discontinued for a period of more than six (6) months.
- d. The Board of Selectmen shall be notified in writing by the owner fourteen (14) days before a building shall be used or a dwelling occupied. Upon notification, the Selectmen or their representative shall inspect the building for compliance with building permit and regulations and issue an occupancy permit within the specified fourteen (14) day period; or instruct the owner which deficiencies must be corrected.

2. After a public hearing, the Board of Appeals may grant a permit for the temporary use of a trailer or mobile home provided that adequate provision is made for water, sewage disposal and other dwelling requirements of the State Sanitation Code, and provided the applicant proposed to use such trailer or mobile home as temporary living quarters while a

SECTION VIII. AdministrationSECTION VIII.A. Enforcement

This Protective Bylaw shall be administered and enforced by the Board of Selectmen. Anyone violating any of the provisions of this Bylaw may be fined not more than fifty dollars (\$50.00) for each offense.

SECTION VIII.B. Permits

1. Building Permits

- a. The Board of Selectmen shall grant building permits when plans and specifications conform with the provisions of this Bylaw, the Subdivision Control Law, and the State Building and Sanitary Codes or with the decision of the Board of Appeals or of the courts. Applications for buildings or structures located within one-hundred (100) feet of wetlands are subject to the review of the Conservation Commission.
- b. A building permit from the Board of Selectmen shall be required before starting to:
 1. construct, reconstruct, alter, remove, repair, or demolish a building or structure, or
 2. change the type of occupancy or use of a building or structure, or
 3. install or alter any equipment for which provision is made or installation of which is regulated by the Massachusetts Building Code.

SECTION III. Establishment of District and MapSECTION III.A. Types of Districts

For the purposes of this protective bylaw, the Town of Monterey is hereby divided into the following districts:

1. Agricultural-Residential District
2. Lake Shore District
3. Business District

SECTION III.B. Location of District

Said Districts are located and bounded as shown on a map entitled "Zoning Map of Monterey, Massachusetts," on file with the Town Clerk. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this Bylaw.

SECTION III.C.

1. Lake Shore District

This district shall consist of all land located within 260 feet of the mean high water level line of Lake Buel or Lake Garfield.

2. Business District

This district shall consist of all the land bordering on Main Road known as Route 23 to a distance of 150 feet from the right-of-way lines of the highway between the following boundaries: the easterly boundary of the district shall be the right-of-way on the westerly side of the New Marlborough Road and extending across to the easterly boundary of the Old Firehouse Property on said Main Road. The westerly boundary of the district shall be the

westerly boundary of land now or formerly of Donald L. Amstead formerly known as the golf course property and extending across at a 90-degree angle to said Main Road.

3. Agricultural-Residential District

This district shall consist of all the area of the town not described under III.C.1. and III.C.2.

In the case of a lot duly recorded prior to October 19, 1990, the Board of Health may authorize construction or installation of such disposal system at a reduced distance but not below the minimum set in the State Environmental Code, Title V, if the Board determines the compliance with the requirements of this section would cause unreasonable difficulty.

2. No dwelling, parking area larger than 600 square feet, or impervious-surfaced parking or recreational area larger than 300 square feet shall be constructed within 75 feet of the mean high-water line of any natural or man-made water bodies described herein under item 1) above, except under a Special Permit from the Board of Appeals, if the Board finds that compliance with the requirements of this section would cause unreasonable difficulty.

SECTION VII.E. Hazardous Waste Disposal

No land within any use district in the Town of Monterey may be used for the collection, treatment, storage, burial, incineration or disposal of hazardous waste as defined in Chapter 21C, Section 2. of the Massachusetts General Laws except by provision of the Board of Health for collection, temporary storage and removal.

SECTION VII.F. Measurements

All distances in this bylaw shall be measured horizontally and all heights shall be measured vertically.

SECTION VII.G. Streams and Pond Protection

The following minimum-distance setback requirements shall apply to any new construction, installation, or development as described herein:

1. No on-lot subsurface sewage effluent leaching system such as a cesspool, dry well, leaching field, or a drainage system for the waste water from showers, sinks, etc. shall be installed or constructed within 150 feet of the mean high-water line of the bodies of water indicated on a map entitled "Monterey Streams and Ponds" prepared by the Berkshire County Regional Planning Commission for the Monterey Planning Board in March 1990. Said map indicates all major streams and ponds within Monterey and, in addition, delineates the water sheds draining into Lake Buel and Lake Garfield, within which watersheds all streams, as defined by the Massachusetts Wetland Protection Act (MGL Ch 131, Sec 40), whether indicated on the map or not, are subject to the provisions of this bylaw. Said map is to be adopted as part of the Zoning Bylaw and will be permanently on file at the Town Office.

SECTION IV. Use RegulationsSECTION IV.A.

No dwelling, structure or land or any part thereof shall be used for any purpose unless authorized:

1. As a use by right in the specified district in this section of the Bylaw.
2. Under Special Permit or Variance granted by the Board of Appeals.
3. Under applicable law at the time such use began, and provided such use has continued until the present time.

SECTION IV.B. Agricultural-Residential District

1. Uses by right:
 - a. Single-family dwellings.
 - b. Any municipal or non-profit recreational purpose.
 - c. Any religious or non-municipal educational purpose subject to Section VII.C.
 - d. Any agricultural use.
 - e. The following commercial purposes but no others:
 1. The display and sale of natural products, the major portion of which are raised in the Town.
 2. The use of a room or rooms in a dwelling or accessory building by a resident occupant for practice of a recognized profession, including but not limited

to lawyer, doctor, architect, real estate agent, or by a resident carpenter, painter, plumber, electrician, or other artisan in connection with his or her trade, including display and sale of products produced on the premises, or by a resident engaged in customary home occupation, provided that there is no external evidence of business other than a permitted sign and required parking.

3. Renting of rooms and furnishing of board by an owner in his residence provided no independent kitchen facilities are maintained.

f. Buildings or structures accessory to the above uses.

2. Uses by Special Permit Only

The Board of Appeals may issue a Special Permit under Section IX.B.2. for the following uses:

- a. Commerical greenhouse;
- b. Icehouse;
- c. Sawmill;
- d. Antique, craft or gift shop;
- e. Summer camp, golf course, boat livery, riding stable;
- f. Commercial ski area;
- g. Restaurant;
- h. Facilities for generating power from wind, sun or water;
- i. Enclosed veterinary hospital;

SECTION VII.C. Non-Municipal Educational or Religious Use

Any non-municipal educational use or any religious use is subject to the following regulations:

1. Maximum building height -- two and one-half (2.5) stories or thirty-five (35) feet.
2. Maximum building coverage -- four (4) percent of the land area.
3. Setback -- two-hundred-foot (200') buffer surrounding the property to be kept undeveloped except for entrance and exit roadways.
4. Principal access roads and principal parking areas subject to frequent day or night use shall be approved by the Planning Board to meet subdivision requirements for safety and health of the community. Principal roads shall be at least eighteen (18) feet wide and shall not exceed a seven-and-one-half (7.5) percent grade.
5. Parking areas shall be subject to Section VII.B.
6. Parking areas shall be within three hundred (300) feet of the building to be served.

SECTION VII.D. Radioactive Waste Disposal

No land within any use district in the Town of Monterey may be used for the collection, treatment, storage, burial, incineration or disposal of radioactive waste, including but not limited to wastes classified as low-level radioactive waste.

SECTION VII. General Regulations

SECTION VII.A. Signs

Display of a sign pertaining to a permitted use shall be limited to one sign per business. Such sign shall not exceed ten (10) square feet in area. A sign may have faces in opposite directions and constitute one sign, and the area requirements shall be determined from the measurements of one side only. No sign shall have illumination by neon or blinking type of light, or shall be of noise-making variety or have moving parts. No part of the sign may be closer than ten (10) feet from the travelled way.

SECTION VII.B. Parking Requirements

The area of parking space must be a minimum of nine (9) feet by twenty (20) feet. Minimum requirements as set forth below:

<u>PRINCIPAL USE</u>	<u>NUMBER OF PARKING SPACES</u>
ONE FAMILY DWELLING	2 SPACES/FAMILY
MULTI-FAMILY DWELLING	2 SPACES/DWELLING UNIT
ROOMING HOUSE	2 SPACES PLUS 1 SPACE FOR EACH RENTAL UNIT
MOTELS, RESORTS	2 SPACES PLUS 1.5 SPACES FOR EACH RENTAL UNIT PLUS 1.5 SPACES FOR EACH 20 SQUARE FEET OF FLOOR SPACE AVAILABLE FOR MEETINGS OR FUNCTIONS
PERMITTED OFFICE	4 SPACES IN RESIDENCE
RETAIL BUSINESS/ CONSUMER SERVICE ESTABLISHMENT	1 SPACE FOR EACH 250 SQUARE FEET OF CONSUMER SERVICE RETAIL FLOOR AREA
RESTAURANT, THEATRES	1 SPACE FOR EVERY THREE SEATS
EDUCATIONAL AND RELIGIOUS AND USES NOT OTHERWISE COVERED	1 SPACE FOR EVERY 3 PARTICIPANTS BASED UPON THE MAXIMUM CAPACITY OF THE BUILDING
OFFICE LABORATORIES	1 SPACE FOR EACH 250 SQUARE FEET OF GROSS FLOOR AREA
WAREHOUSE AND OTHER COMMERCIAL INDUSTRIAL BUILDINGS	1 SPACE FOR EACH 500 SQUARE FEET OF GROSS FLOOR AREA

- j. Municipal and public service buildings and structures;
- k. Display and sale of natural products, the major portion of which are raised outside of Town;
- l. Multi-family dwelling, subject to the following requirements:
 - 1. Site plan, construction plans and elevations and approval in writing by the Planning Board, the Board of Health, the Conservation Commission, the Board of Selectmen and the Building Inspector in respect to their respective fields of responsibility;
 - 2. The multi-family structure shall contain no more than six (6) dwelling units in one building. Plans shall contain provisions for adequate water supply, sewage disposal facilities, and roadways designed in accordance with the Subdivision Control Law;
 - 3. Lot shall contain a minimum of two (2) acres for the first dwelling unit and three (3) acres for each additional unit and two hundred (200) feet of frontage for the first unit and one hundred (100) feet of frontage for each additional unit. Land lying within the Lake Shore District may not be included as qualifying acreage for multi-family dwellings;
 - 4. Dwelling units, parking areas, and playing grounds shall be set back not less than one hundred (100) feet from all lot lines;
 - 5. Except as provided in (6) hereof, plans

- for conversion of an existing single-family residence into a multi-family dwelling unit must conform to all other requirements of this section;
6. Conversion of a single-family dwelling into a multi-family dwelling of two units, without meeting the requirements of (3) as to lot area and frontage and of (4) as to distance from lot lines may be permitted by the Board of Appeals, provided that:
 - a. the single-family dwelling has not been enlarged within seven (7) years of the proposed conversion;
 - b. the lot area has not been reduced with a resulting acreage smaller than the minimum acreage in (3) above within seven (7) years of the proposed conversion;
 - c. any fire escapes or outside stairways leading to a second story shall be located on any wall not facing a road and shall not occupy any part of the rear or side setback under Section VI of the Bylaw;
 - d. subsequent additions or expansions are subject to an amended Special Permit.

Footnotes

- (a.) Non-conforming lots on record and lots shown on a plan endorsed by the Planning Board under the Subdivision Control Law are exempt from the provisions of this Bylaw to the extent of, and as provided in, Section 6, Chapter 40A of the General Laws.
- (b.) The stated setbacks notwithstanding, no structure except fences, steps and docks may be erected in the Lake Shore District less than forty (40) feet from the mean high water line.
- (c.) Height to be measured in accordance with the State Building Code. The height regulations of buildings and structures shall not apply to agricultural buildings and structures, churches, spires, chimneys, antennae, or other appurtenances usually required to be placed above roof level and not intended for human occupancy.
- (d.) Frontage to be measured in a straight line between the two side lot lines.
- (e.) Lots in the Lake Shore District existing prior to May 3, 1986, have setback requirements of 15 feet front, side and rear.

SECTION IV.C. Business District

1. Uses by Right:

SECTION VI. Table of Minimums and Maximums

-LOT DIMENSIONS-
MINIMUM LOT DIMENSION

<u>DISTRICT</u>	<u>AREA IN SQUARE FEET</u>	<u>FRONTAGE(d.)</u>
AGRICULTURAL-RESIDENTIAL	2 ACRES	200 FEET
BUSINESS	.25 ACRES	100 FEET
LAKE SHORE:		
AVERAGE SLOPE OF LAKE SHORE LAND:		
LESS THAN 12%	2 ACRES	200 FEET
12% - 15%	4 ACRES	300 FEET
OVER 15%	6 ACRES	400 FEET

-SETBACK REQUIREMENTS-
MINIMUM SETBACK MEASURED IN FEET

<u>DISTRICT</u>	<u>FRONT</u>	<u>SIDE</u>	<u>BACK</u>
AGRICULTURAL-RESIDENTIAL	25	25	25
BUSINESS	15	15	15
LAKE SHORE (b.) (e.)	25	25	25

-MAXIMUM HEIGHT OF BUILDINGS/STRUCTURES-
MEASURED IN FEET (c.)

<u>DISTRICT</u>	<u>FEET</u>
AGRICULTURAL-RESIDENTIAL	35
BUSINESS	35
LAKE SHORE	35

- a. Any purpose allowed by right or by Special Permit in the Agricultural-Residential District except multi-family dwellings.
- b. Any other lawful business, service or public utility except the following: junk yards, commercial piggeries, fur farms, slaughter houses, trailer or mobile-home parks; and any purpose or use which by the emission or discharge of fumes, vapor, smoke, dust, dirt, odors, chemicals, sewage, noise or vibration or by unduly increasing the risk from fire or explosion would be dangerous or injurious to the health or safety of the public.

2. Uses by Special Permit:

Multi-family dwellings, subject to regulations in Section IV.B.2.1.

SECTION IV.D. Lake Shore District

1. Uses by Right:

Land may be used for single-family residential purposes only.

2. Uses by Special Permit:

- a. The use of a room or rooms in a dwelling as described in Section IV.B.1.e.2.
- b. Summer Camp.

SECTION IV.E. Nonconforming Structures, Uses and Lots

1. Exemptions

Except as herein provided, this bylaw shall not apply to:

- a. Structures and uses lawfully in existence prior to the effective date of this bylaw.
- b. A structure lawfully begun under a building permit or special permit issued before the first publication of notice of the required public hearing by the Planning Board on the applicable zoning bylaw or amendment.
- c. The alteration, reconstruction, extension or structural change to an existing nonconforming one-family or two-family dwelling provided such change does not increase the nonconforming nature of such structure as determined by the Zoning Board of Appeals.
- d. The expansion or reconstruction of existing structures for the primary purpose of agriculture, horticulture, viticulture or floriculture.
- e. Nonconforming lots of record and lots shown on a plan endorsed by the Planning Board under the Subdivision Control Law are exempt from the provisions of this bylaw to the extent and as provided in Section 6, Chapter 40A of the General Laws.

2. Requirements For Extension, Alteration, Reconstruction Of A Structure Or A Change In Use

- a. The Board of Selectmen may authorize a building

SECTION V.E.

The maximum land coverage including accessory buildings and structures and hardtop surfaces shall be as follows:

AGRICULTURAL-RESIDENTIAL DISTRICT	20%
BUSINESS DISTRICT	30%
LAKE SHORE DISTRICT	20%

SECTION V.G.

Any lot lying partly in two districts must have the minimum lot dimensions applicable to the district in which lies the largest part of its land. If the parts are exactly equal and if one of the equal parts lies in the Business District, the minimum lot dimensions of the Business District shall apply, and if one of the equal parts lies in the Lake Shore District, the minimum lot dimension of the Lake Shore District shall apply. No new lots with exactly equal parts in two districts shall be created by division or subdivision after the adoption of this bylaw. In all other respects, land and structures must be in compliance with the laws and regulations applicable to the district in which they lie.

SECTION V.H.

A way approved by the Planning Board in accordance with the Subdivision Control Law may provide frontage and access only for lots which are contained within the approved subdivision.

SECTION V. Intensity Regulations

SECTION V.A.

No more than one single-family dwelling shall exist upon any lot as a use by right.

SECTION V.B.

A building or structure erected or converted for business use in the business district which includes one (1) single-family dwelling unit within the structure shall have no less than one-half (1/2) acre of land.

SECTION V.C.

A parcel of land having less than the minimum requirements set forth in the Table of Minimums may not be used for any building or structure.

SECTION V.D.

Accessory buildings and structures including but not limited to garages, maintenance sheds, tennis courts, swimming pools shall be subject to regulations under minimum setback dimensions.

SECTION V.E.

No existing lot shall be reduced in size or changed in shape so as to result in violation of the requirements set forth in the Table of Minimums and Maximums, Section VI.

permit as a matter of right for any extension, alteration or reconstruction of an existing nonconforming one-family dwelling or of an existing one-family dwelling on a nonconforming lot provided:

1. Such change, as well as the existing structure, shall meet all setback requirements in effect at the time of application;
 2. Such change would not increase the height of the existing structure with reference to the existing structure's highest point;
 3. Such permit application does not involve a lot containing a multi-family dwelling nor more than one dwelling.
- b. In cases where a building permit is not authorized as a matter of right, the Zoning Board of Appeals may authorize by Special Permit any extension, alteration or reconstruction of an existing nonconforming single or two-family dwelling or of an existing single or two-family dwelling on a nonconforming lot provided the Zoning Board of Appeals finds that such change would not increase the nonconforming nature of the structure, lot, and/or use.
- c. In all other cases, the Zoning Board of Appeals may authorize by Special Permit any extension, alteration, construction or reconstruction of an existing nonconforming structure or of a structure on a nonconforming lot or of a structure used in a nonconforming manner to provide for its use for a substantially different purpose or for

the same purpose in a substantially different manner or to a substantially greater extent, provided that any such change:

1. Shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use;
2. Would not significantly increase the incidence of air, steam, or water pollution, odor, glare, electrical interference, noises, traffic, or night operation according to the findings of the Zoning Board of Appeals after consideration of any recommendations from the Planning Board, the Conservation Commission and the Board of Health;
3. Would result in a structure no more than 25% greater in total habitable square footage than the structure as it was at the time it first became nonconforming. Total habitable square footage shall not include an unenclosed deck, unfinished basement, or unfinished attic;
4. Shall be subject to reasonable conditions, safeguards or limitations as imposed by the Zoning Board of Appeals so as to lessen any possible adverse impact on adjacent properties and the general neighborhood;
5. Shall comply with all other applicable provisions of this bylaw.

d. If any nonconforming use of any building,

structure and/or land is changed to a conforming use, it shall not thereafter be put into any nonconforming use.

3. Reconstruction Of Structure Damaged By Fire Or Other Catastrophe

Any pre-existing nonconforming structure or use may be rebuilt or reestablished within two (2) years if damaged or destroyed by fire or other catastrophe provided the rebuilt or reestablished structure shall not be in greater nonconformity with the provisions of this bylaw, and provided a building permit is obtained. If more than two (2) years pass from the time of damage, a Special Permit must be obtained before said structure or use may be rebuilt or reestablished. Such rebuilt or reestablished structure may be enlarged or changed in use only in accordance with the provisions of Section IV-E (2) herein.

4. Abandonment

Any nonconforming use which has been abandoned or not used for two (2) years or more shall not be reestablished, and any future use of such premises shall conform to the provisions of the bylaw.

5. Maintenance, Repair And Reconstruction Of Unsafe Structure

Nothing in this bylaw shall be deemed to restrict the normal maintenance and repair on nonconforming structures or prevent reconstruction to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety.