



# Planning & Zoning

6042 Acme Road | Williamsburg, MI | 49690

Phone: (231) 938-1350 Fax: (231) 938-1510 Web: [www.acmetownship.org](http://www.acmetownship.org)

To: Acme Township Board of Trustees

From: Lindsey Wolf, Planning & Zoning Administrator

Date: March 29, 2023

Re: Zoning Ordinance Amendment 003 – Nonconforming Structures

Amendment Number: 003

Attachments: 5 Pages – Full Text of Proposed Amendments (noted in red) & Hearing Notice

**NONCONFORMING STRUCTURE:** A structure that was lawfully erected but that no longer complies with all the regulations applicable to the zoning district in which the structure is located.

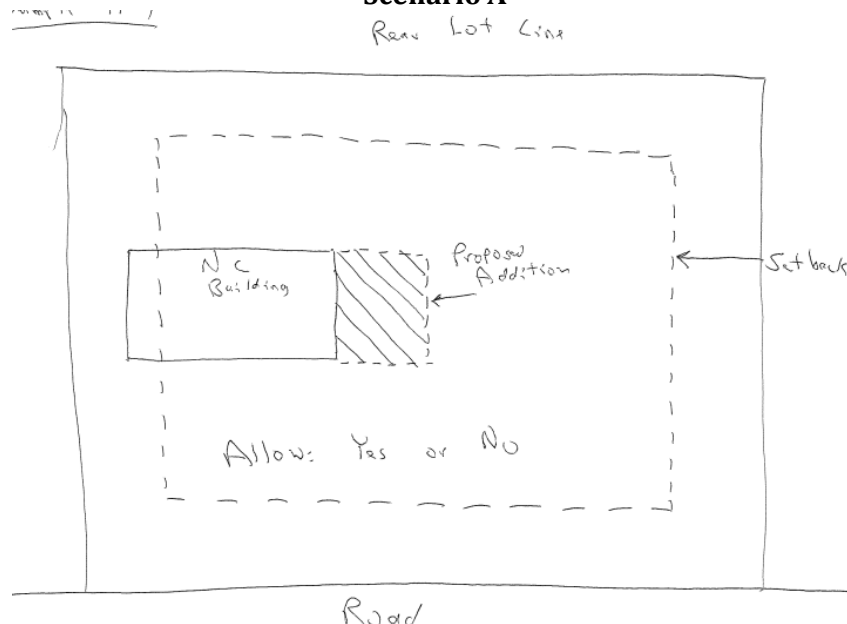
## **Proposed Amendments Summary:**

Article 5 General Provisions -Section 5.33.5 Nonconforming Structures

5.33.5 A. Continuation of Nonconforming Structures: The previous language states “that such maintenance shall not exceed an aggregate cost of 30% of the assessed value of the structure” - it is not practical on the township’s end. The township would need to hire an independent consultant to determine the cost percentage. This would also be at the expense of the property owner. The proposed amendment removes this standard.

5.33.5 D. Enlargement or Expansion: The amended language allows the enlargement or expansion of a structure in cases like this to be approved by the Zoning Administrator:

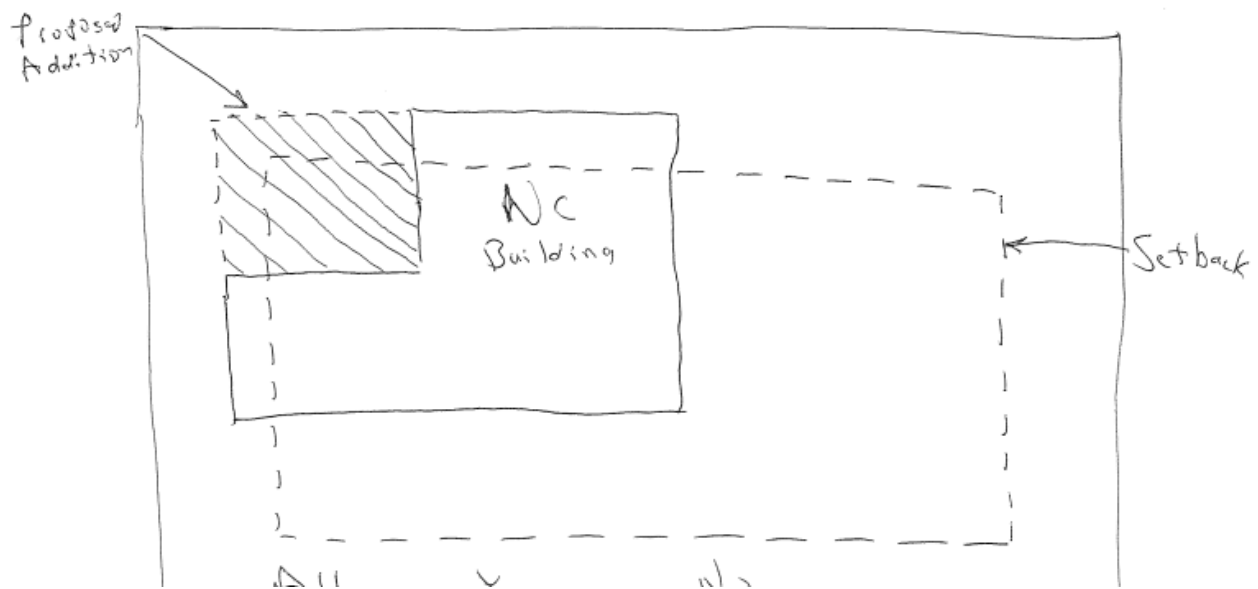
### **Scenario A**



As opposed to this type of enlargement/expansion that would require approval by the Zoning Board of Appeals:

### Scenario B

Rear Lot Line



### Discussion:

The current language of 5.33.5.D allows for expansions of nonconforming structures so long as the expansion does not increase the nonconformance. That is the example found in the first sketch (A) above. Some municipalities also allow for the expansion of a nonconforming structure that would increase the nonconformance. That is the example in the second sketch (B) above. The proposed language would allow both types of expansions. However, because this is a substantive change, it is important for the Planning Commission/Township Board to consider whether it wishes to allow for expansions of nonconforming structures that would increase the nonconformance. The current ordinance does not allow that right now.

On March 13, 2023 the Planning Commission held a public hearing and unanimously agreed that enlargements and expansions in Scenario A should be allowed with approval by the Zoning Administrator. The Planning Commission also unanimously agreed that enlargements and expansions in Scenario B should be allowed with approval by the Zoning Board of Appeals, as the owners would have to prove they have a hardship in order to have it allowed.

*Motion by Timmins, support by VanHouten to recommend that the Board of Trustees adopt Zoning Ordinance Amendment 003 Nonconforming Structures in the text under 5.33.5, 5.33.5A, and 5.33.D Motion carries unanimously*

### Proposed Motion:

*Motion to adopt Zoning Ordinance Amendment 003 Nonconforming Structures as presented in the text under 5.33.5, 5.33.5 A, and 5.33.D.*

#### 5.33.4 Nonconforming Sites

Nonconforming sites may be continued, enlarged, or expanded in accordance with the following provisions:

- A. Applicable Standards: Various site design standards are established in Article 6: Site Development Standards and Article 7: Supplemental Use Standards of this Ordinance. Consequently, many development sites do not meet current requirements for such items as parking lot standards, landscaping, exterior lighting, storm water requirements and other design specifications. This subsection requires that such nonconforming sites be brought into conformance with all applicable development standards prescribed by this Ordinance.
- B. Authority to Continue: Any legal nonconforming site may be continued so long as it remains otherwise lawful subject to this subsection.
- C. Extensions:
  - 1. In General: A nonconforming site on which there is a conforming use shall not be expanded or contracted unless the site is brought into conformance with the provisions of this ordinance.
  - 2. Single Family Residential Exception: A single family residential structure that is located on a legally nonconforming site with respect to required yards, areas, or height may be structurally altered or enlarged, providing the portion of the structure that is altered or enlarged conforms with the provisions of this ordinance.
- D. Relocations: No structure shall be relocated within a nonconforming site until the site is brought into conformance with the provisions of this ordinance.
- E. Change in Use: A nonconforming site shall be allowed to be occupied by another use allowed by right in the district so long as no exterior structural or site modifications are to occur. In the event the new occupant desires to provide exterior structural modifications, the site shall be brought into compliance with all applicable site and use standards, unless a nonconforming site variance has been approved by the Zoning Board of Appeals.

#### 5.33.5 Nonconforming Structures

Nonconforming structures may be continued, repaired, replaced, enlarged or expanded, following review by the Zoning Administrator and a land use permit, in accordance with the following provisions:

- A. Continuance of Nonconforming Structures:

Current Language: Subject to all limitations in this subsection, and the provisions for Exception for Repairs Pursuant to Public Order in General Standards subsection, any nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless in accordance with the provisions under Enlargement or Expansion in this subsection, provided that such maintenance does not exceed an aggregate cost of thirty (30) percent of the assessed value of the structure.

Proposed: Any nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless in accordance with the provisions under Enlargement or Expansion.

- B. Repair and Maintenance of Nonconforming Structures: Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of any nonconforming structure, or any part thereof, which results from wear and tear, deterioration, fire, windstorm, snowstorm, rainstorm, flood or other casualty damage, nor shall it prevent compliance with the provisions of the State Construction Code Act, relative to the maintenance of buildings or structures. Such repair and maintenance shall not be so extensive as to constitute a replacement of the structure by replacing an exterior wall(s). For the purposes of this subsection, the determination of whether proposed repairs and maintenance constitute replacement shall be made by the Zoning Administrator. The determination of the Zoning Administrator shall be appealable to the Zoning Board of Appeals.
- C. Replacement of Damaged Nonconforming Structures: Nothing in this Ordinance shall prevent the replacement of any nonconforming building or structure damaged or destroyed by fire, windstorm, snowstorm, rainstorm, flood or other casualty damage beyond the control of the owner, provided such replacement utilizes the original structure footprint and does not increase the original usable floor area or volume of such structure. Such replacement shall commence within twenty four (24) months of the damage or destruction.
- D. Enlargement or Expansion:

Current Language: A nonconforming structure in which only permitted uses are operated may be enlarged or expanded provided that the area of nonconformance is not increased and provided further that compliance with all of the provisions of this Ordinance established for structures in the district in which the nonconforming structure is located. Such enlargement shall also be subject to all other applicable Township ordinances.

Proposed: A nonconforming structure in which only permitted uses are operated may be enlarged or expanded as follows. Applications for enlargements or expansions that do not increase any nonconformance shall be reviewed by the Zoning Administrator and approved upon the Zoning Administrator's determination that there is no increase to any nonconformance. Applications for enlargements or expansions that increase any nonconformance shall be reviewed by the Zoning Board of Appeals. The Zoning Board of Appeals shall only approve such increase if the applicant meets all necessary requirements to receive a variance. Upon approval of the enlargement or expansion under one of the scenarios above, the applicant must apply for and receive any and all other approvals, including but not limited to site plan or special use permit amendment or approval, prior to receiving a land use permit.

#### 5.33.6 Nonconforming Lots

- A. Any nonconforming lot of record may be used for any purpose authorized by the district in which it is located, except those uses that specify a minimum lot size. This provision shall apply even though such lot fails to meet the requirements for area or width applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Any required variances may be requested pursuant to the procedures and standards of this Ordinance.
- B. If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of

02.03.2023 Draft v1

lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance or which creates a nonconforming structure.

T. C. RECORD-EAGLE, INC.  
120 WEST FRONT STREET  
TRAVERSE CITY MI 49684  
(231)946-2000  
Fax (231)946-8273

ORDER CONFIRMATION

Salesperson: MEGAN O'BRIEN

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Acct #: 6

Ad #: 597678

Status: New WHOLD

ACME TOWNSHIP  
LISA SWANSON, CLERK  
6042 ACME ROAD  
WILLIAMSBURG MI 49690

Start: 02/25/2023 Stop: 02/25/2023  
Times Ord: 1 Times Run: \*\*\*  
STDAD 3.00 X 3.56 Words: 251  
Total STDAD 10.68  
Class: 147 LEGALS  
Rate: LEGAL Cost: 119.15  
# Affidavits: 1

Contact:

Phone: (231)938-1350

Fax#: (231)938-1510

Email: dwhite@acmetownship.org

Agency:

Ad Descrpt: LEGAL NOTICE TOWNSHIP OF  
Given by: \*

P.O. #:

ls Created: mobri 02/22/23 11:23

Last Changed: mobri 02/22/23 11:37

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PUB ZONE EDT TP START INS STOP SMTWTFS  
RE A 97 W Sat 02/25/23 1 Sat 02/25/23 SMTWTFS  
IN AIN 97 W Sat 02/25/23 1 Sat 02/25/23 SMTWTFS  
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TRAVERSE CITY MI 49684  
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ORDER CONFIRMATION (CONTINUED)

Salesperson: MEGAN O'BRIEN

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Acct #: 6

Ad #: 597678

Status: New WHOLD WHOI

**LEGAL NOTICE  
TOWNSHIP OF ACME  
NOTICE OF HEARING**

PLEASE TAKE NOTICE that the ACME TOWNSHIP PLANNING COMMISSION will hold a public hearing at its regular meeting on Monday, March, 2023 at 7:00 p.m. at the Acme Township Hall, 6042 Acme Road, Williamsburg, MI 49690, to consider the following amendment to the Acme Township Zoning Ordinance:

**Zoning Ordinance Amendment 003 - Nonconforming Structures**

The proposed amendment would modify Article V Section 5.33.5 of the Acme Township Zoning Ordinance to provide clarity to 5.33.5 A. Continuance of Nonconforming Structures. The proposed amendment would also modify 5.33.5 D. Enlargement or Expansion to clarify the review and approval process.

All interested persons are invited to attend and be heard at the public hearings before the Planning Commission. After the public hearings the Planning Commission may or may not deliberate and make its recommendation based on the Acme Township Zoning Ordinance to the Township Board, which will subsequently take appropriate action on the application.

The application for the proposed amendment may be inspected at the Acme Township Hall between 7:30 a.m. and 5:00 p.m. Monday through Thursday. The application materials will also be available on the Acme Township website [www.acmetownship.org](http://www.acmetownship.org) under the current meeting minutes tab. If you are planning to attend and require any special assistance, please notify Lisa Swanson, Township Clerk, within 24 hours of the meeting at 938-1350. Written comments may be directed to:

Lindsey Wolf, Planning & Zoning Administrator  
6042 Acme Rd, Williamsburg, MI 49690, (231)938-1350, [zoning@acmetownship.org](mailto:zoning@acmetownship.org)

February 25, 2023- 1T

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