

ARTICLE 6

EXCEPTIONS AND MODIFICATIONS SECTION

SECTION

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6.010 Scope. Article 6 of this Resolution is devoted to providing for necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided for in Article 4 and Article 5.

6.020. Nonconforming Uses. It is the intent of this Resolution to recognize 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 would violate the provisions of this Resolution. It is also the intent of this Resolution to so administer the elimination of nonconforming uses, buildings, and structures existing at the time of the passage of this Resolution or any amendment thereto 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 area occupied by such use as of the effective date of this Resolution. A nonconforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this Resolution.

- C. When a nonconforming use of any structure or land, excepting nonconforming mobile homes or mobile home parks, has been discontinued for a period of six (6) months, it shall not be reestablished or changed to any use not in conformity with the provisions of this Resolution. Immediately upon the removal of a nonconforming mobile home or discontinuance of a nonconforming mobile home park the nonconformity of such structure and use of land shall lapse.
- 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 it be done within six (6) months of such damage, unless damaged to extent of more than (fifty) 50 percent of its fair market value immediately prior to damage in which case any repair or reconstructions shall be in conformity with the provisions of this Resolution.
- 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.

6.030. Exceptions to Height Limitations. The height limitations of this Resolution shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, silos, grain elevators, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyers, flag poles, radio towers, masts, and aerials.

6.040. 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 of this Resolution. 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 in the opinion of the Board of Zoning Appeals as possible.
- 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 by this Resolution, 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.

6.050. Exceptions to Setback Requirements. The front setback requirement of this Resolution 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.

6.060. Absolute Minimum Lot Size. In no case shall the Board of Zoning Appeals permit a residence to be erected on a lot whose width at the building line is less than seventy-five (75) feet and/or whose total lot area is less than seven thousand five-hundred (7,500) square feet.