

TOWN OF WALKERSVILLE
ORDINANCE 2014-09

AN ORDINANCE TO AMEND SECTION 88-2 DEFINITIONS AND SECTION 88-9
CONTINUANCE OF NONCONFORMING USES, OF THE WALKERSVILLE TOWN CODE

BE IT ENACTED AND ORDAINED by the Burgess and Commissioners of the Town of Walkersville that § 88-2 and § 88-9 of the Walkersville Town Code shall be amended as follows. New provisions are indicated by being in UNDERLINED CAPITAL LETTERS and the provisions being eliminated are indicated by being ~~struck through~~, and in *italics*:

§ 88-2 Word usage and definitions.

NONCONFORMING STRUCTURE – A STRUCTURE LAWFULLY EXISTING ON JULY 16, 1963 OR ON THE EFFECTIVE DATE OF AN AMENDMENT OF THIS CHAPTER, AND THAT COULD NOT BE BUILT UNDER THE TERMS OF THIS CHAPTER BY REASON OR RESTRICTION ON AREA, LOT COVERAGE, HEIGHT, YARDS, OR OTHER CHARACTERISTICS OF THE STRUCTURE OR ITS LOCATION ON THE LOT.

NONCONFORMING USE – A use of a building or land lawfully existing ON JULY 16, 1963 OR AT THE TIME OF AMENDMENT OF THIS CHAPTER ~~at the time this chapter and/or previous ordinances or amendments thereto became effective~~ and which does not conform to the use regulations of the ~~zone~~ DISTRICT in which it is located.

§ 88-9 Continuance of nonconforming uses AND STRUCTURES.

PURPOSE: THE PURPOSE OF THIS SECTION IS PERMIT CERTAIN LEGITIMATE NONCONFORMING USES AND/OR STRUCTURES TO CONTINUE AS ESTABLISHED AS OF THE EFFECTIVE DATE OF ADOPTION OF THIS ORDINANCE OR ANY AMENDMENT THERETO, BUT NOT ALLOW ANY ACTION WHICH WOULD INCREASE THE NON-CONFORMITY. .

The lawful use of land or a structure existing at the time of adoption of this chapter, or subsequent amendment of this chapter, may be continued with the following limitations:

- A. Expansion of nonconforming uses.
Nonconforming uses may be upgraded or repaired or alterations may be made to their facilities. However, expansion of any nonconforming use shall be limited to the lot that exists at the time of adoption of this chapter, and additional acreage or structures shall not be added to enlarge any nonconforming use.
- B. EXPANSION OF NONCONFORMING STRUCTURES
THE CONFORMING PORTION OF A NONCONFORMING STRUCTURE MAY BE EXPANDED OR MODIFIED PROVIDED THAT THE EXPANSION OR MODIFICATION DOES NOT INCREASE THE PORTION OF THE STRUCTURE DETERMINED BY THE ZONING ADMINISTRATOR TO BE NONCONFORMING.

THE NONCONFORMING PORTION OF A NONCONFORMING STRUCTURE MAY BE MODIFIED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER PROVIDED THAT THE MODIFICATION DOES NOT INCREASE THE NONCONFORMITY, AS DETERMINED BY THE ZONING ADMINISTRATOR.
- C. REBUILDING NONCONFORMING STRUCTURES. ~~Nonconforming use not to rebuild. Any nonconforming use which has been damaged to the extent of sixty percent (60%) of its current fair value, as estimated immediately prior to damage, shall not be repaired or reconstructed except in conformity with this chapter.~~

THE BOARD OF APPEALS MAY GRANT A SPECIAL EXCEPTION TO RESTORE AND/OR REBUILD A NONCONFORMING STRUCTURE DAMAGED TO THE EXTENT OF SIXTY PERCENT (60%) OR MORE OF ITS CURRENT FAIR VALUE, AS ESTIMATED IMMEDIATELY PRIOR TO DAMAGE, PROVIDED:

- (1) THE STRUCTURE IS REBUILT WITHIN THE SAME FOOTPRINT AND UP TO THE DIMENSIONS OF THE BUILDING OR STRUCTURE AS EXISTING IMMEDIATELY PRIOR TO DAMAGE;
- (2) REBUILDING THE STRUCTURE WILL NOT INCREASE THE ORIGINAL NONCONFORMITY.
- (3) THE BOARD OF APPEALS FINDS THAT THE REBUILT STRUCTURE IS APPROPRIATE TO THE NEIGHBORHOOD AND DISTRICT IN TERMS OF ITS SIZE, LOCATION, SCALE, AND APPEARANCE.

D. Discontinued nonconforming use not to be reestablished after ~~six (6) months~~ ONE YEAR. No nonconforming use shall be established or reestablished after having been discontinued for ~~six (6) months~~ ONE (1) YEAR. Vacating of the premises or building or non-operative status shall be evidence of a discontinued use.

E. Substitution of nonconforming uses.

The Board of Appeals may grant a special exception to change a nonconforming use to another nonconforming use if:

- (1) The Board of Appeals, by a specific finding in the case, finds that the proposed use is more appropriate to the district.
- (2) A nonconforming use will not be changed to a use considered less appropriate to the district.
- (3) The Board of Appeals may impose conditions within the scope of this chapter on the granting of such a special exception.

INTRODUCED THIS ___TH DAY OF _____, 2014.

Burgess and Commissioners of Walkersville, MD
Ralph W. Whitmore, President

PASSED THIS ____ DAY OF _____, 2014.

Burgess and Commissioners of Walkersville, MD
Ralph W. Whitmore, President

APPROVED THIS ____ DAY OF _____, 2014.

Burgess and Commissioners of Walkersville, MD
Ralph W. Whitmore, President