

TO: Patricia Finnigan, Town Manager
FROM: Steve Wilson, Planner/CEO
RE: Proposed Ordinance Amendments for November
DATE: August 13, 2012

The Planning Board also voted (3-1-0, two members were absent) at its August 2nd meeting to recommend the attached zoning ordinance amendments to Article VI Nonconformance , Section 3, Expansion of Use .

The proposed Article VI, (3) amendments explained by section:

- a) **Section 3. Nonconforming Uses, (3):** Change “pavement” to “area of use” for clarity. And add the “except as defined below” to allow for the addition of sub (b) & (c).
- b) **Section 3. Nonconforming Uses, (3):** add sub (a) to keep no expansion of nonconforming use in the shoreland zone.
- c) **Section 3. Nonconforming Uses, (3):** add sub (b) to define zones in town where nonconforming uses may not expand. Note: there are no apparent nonconforming uses in these zones.
- d) **Section 3. Nonconforming Uses, (3):** add sub (c) to allow a limited one time 30% expansion only to “nonconforming uses” in the RU-1, RU-2, B-3, V, VE, and the CR zones, which are more residential in nature, following application to the Zoning board of Appeals, Public Hearing, and acceptance of any conditions imposed by the ZBA. No additional nonconformity can be created as part to the expansion and Site Plan Review may also be required for approval.
- e) **Section 3. Nonconforming Uses, (3):** add sub (d) to allow “nonconforming uses” in the more commercial zones, B-1, B-2, & B-4 districts to expand to the extent allowed and/or applied for as allowed by the district regulations for the zone in which they currently occupy following application to the Zoning board of Appeals, Public Hearing, and acceptance of any conditions imposed by the ZBA. No additional nonconformity can be created as part to the expansion and Site Plan Review may also be required for approval.

The proposed changes in nonconformance affect a limited number of businesses in Camden that have been a part of the Community since Ordinance adoption and will hopefully allow them to continue as part of the Community.

Section 3. Nonconforming Uses

(1) Continuance

- (a) The use of land, building or structure, lawful at the time of adoption of this Ordinance, or of subsequent amendments of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance, except as provided in paragraph 2, Discontinuance, below.

(2) Discontinuance

- (a) A nonconforming use which is discontinued for a period of 24 consecutive months may not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this Ordinance, except for legally existing space and bulk nonconformities, which may continue. *(Amended – 11/15/05)*
- (b) In the shoreland zone, a nonconforming use which is discontinued for a period of 12 consecutive months may not be resumed, except that the Zoning Board of Appeals, for good cause shown by the applicant, may grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding (5) year period. *(Added 11/10/09)*
- (c) Whenever a nonconforming use is changed to a permitted use, such structure and/or land shall thereafter conform to the provisions of this Ordinance, and the nonconforming use may not thereafter be resumed.

(3) Expansion of Use

A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in building area or building volume, expanse of ~~pavement area of use~~, or hours of operation except as defined below.

- (a) Within the Shoreland Zone, nonconforming residential uses may be expanded within existing residential structures or within expansions of such structures as allowed in Section 4. *(Added 11/10/09)*

- (b) In the RP, RR, B-H, B-R, B-TH, & B-TR districts no expansion of a nonconforming use is allowed.

- (c) In the RU-1, RU-2, B-3, V, VE, and CR districts which are more residential in character but contain some commercial uses, existing nonconforming uses not in the shoreland zone, may be expanded by up to 30% in volume and area of use as existed on November 4, 1992, following Zoning Board of Appeals determination that there will be no greater physical or visual adverse impact on the subject and adjacent properties and resources. In determining there is no greater adverse impact, the decision is to be based on adverse impacts such as changes to traffic (volume and type), noise, and dust. The Zoning Board of Appeals may place additional requirements to the project design to offset current and

possible impacts of the nonconforming use and such requirements will become part of the approval once accepted by the applicant.

As part of the approval of expansion, no additional non-conformity shall be allowed to be created on the property and all district standards and applicable Site Plan Review standards must be met.

(d) In the B-1, B-2, & B-4, districts which are more commercial in character and contain more business uses, existing nonconforming uses not in the shoreland zone, may be expanded by up to the extent allowed by the district regulations following Zoning Board of Appeals determination that there will be no greater adverse physical or visual impact on the subject and adjacent properties and resources.

In determining there is no greater adverse impact, the decision is to be based on adverse impacts such as changes to traffic (volume and type), noise, and dust. The Zoning Board of Appeals may place additional requirements to the project design to offset current and possible impacts of the nonconforming use and such requirements will become part of the approval once accepted by the applicant.

As part of the approval of expansion, no additional non-conformity shall be allowed to be created on the property and all district standards and applicable Site Plan Review standards must be met.

(4) Changes in Nonconforming Uses

Upon approval of the Zoning Board of Appeals, a nonconforming use may be changed such that it is less nonconforming or no more nonconforming than the lawfully existing situation. In making its determination that the use is less nonconforming or no more nonconforming than the lawfully existing situation, the Zoning Board of Appeals shall apply the standards of Article VII, Section 4(3), Standards for Special Exception Permit.

For structures located within a shoreland setback, the Zoning Board of Appeals shall also apply the standards of Article VI, Section 6, (5). *(New last sentence – 11/15/05)*