

ARTICLE 36

EXISTING AND NONCONFORMING USES

SECTION 3601 CONFORMANCE REQUIRED

Except as hereinafter specified, no land, building, structure or premises shall hereafter be used, and no building or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district in which it is located.

SECTION 3602 NONCONFORMING VACANT LOTS

3602.01 NONCONFORMING VACANT LOTS IN RESIDENTIAL DISTRICT

In any district where dwellings are permitted, a one family detached dwelling may be erected on any lot of official record as of the effective date of the Zoning Resolution of German Township, when by reason of its lot area, width or depth it does not meet minimum requirements for a lot under these regulations; provided, however, that no lot shall be deemed to be less than forty (40) feet wide for the calculation of yard requirements and provided, further:

- A. The sum of the side yard widths on any such lot of record shall be at least twenty-five (25) percent of the width of the lot.
- B. In no case shall the width of any side yard be less than ten (10) percent of the width of the lot, except that on a corner lot, the width of side yard adjoining the side street lot line shall be not less than ten (10) feet.
- C. The depth of the rear yard of any such lot need not exceed twenty (20) percent of the depth of the lot, but in no case shall it be less than twenty (20) feet.
- D. If the width of such lot meets the standards of the Zoning Resolution but the depth is such that the total area is less than seven thousand five hundred (7,500) square feet, the rear yard for such lot shall have a minimum of thirty (30) percent of the depth of the lot but in no case shall it be less than thirty (30) feet.

3602.02 NONCONFORMING VACANT LOTS IN OTHER DISTRICTS

In any district, other than Residential District, a building designed for any permitted use in such district may be erected on any lot of official record as of the effective date of the Zoning Resolution of German Township, provided that:

- A. Such building shall comply with all regulations applicable in the district in which the lot in question is located; provided, however, the width of any required side yard need not be

greater than that derived by applying the following equation, where "X" = the required side yard width:

$$\frac{X}{\text{actual lot width}} = \frac{\text{minimum side yard required by district regulations}}{\text{minimum lot width required by district regulations}}$$

SECTION 3603 NONCONFORMING STRUCTURES

3603.01 CONTINUATION

Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is non-conforming with Article 37, Section 3701, for minimum floor area or is located on a lot which does not comply with the applicable lot size requirements and/or development standards, may be continued, so long as it remains otherwise lawful, subject to the restrictions of Subsection 3603.02 through 3603.04.

3603.02 ENLARGEMENT, REPAIR, ALTERATIONS

Any such structure described in Subsection 3603.01 may be enlarged, maintained, repaired or structurally altered; provided, however, that no such enlargement, maintenance, repair or structural alteration shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structures; except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be determined by Subsection 3602.01 or 3602.02, whichever is applicable.

3603.03 DAMAGE OR DESTRUCTION

In the event that any such structure described in Subsection 3603.01 is damaged or destroyed, by any means, to the extent of more than seventy-five (75) percent of the current replacement cost of the entire structure, such structure, shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided, that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Subsection 3602.01 or 3602.02, whichever, is applicable. When a structure is damaged to the extent of seventy-five (75) percent or less no repairs or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction.

This section does not apply to residential structures that are non-conforming with Article 37, Section 3701, for minimum floor area. These structures may be rebuilt regardless of the extent of damage or destruction, provided the minimum floor area of the rebuilt structure is not less than the floor area of the original structure.

3603.04 MOVING

No structure described in Subsection 3603.01 shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it will be located after being moved.

SECTION 3604 NONCONFORMING USES

3604.01 CONTINUATION

Any lawful existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure, may be continued, so long as otherwise lawful, subject to the restrictions of Subsection 3604.02 through 3604.09.

3604.02 REPAIR AND MAINTENANCE

- A. Work may be done on ordinary maintenance and repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing; provided however, that this paragraph "A" shall not be deemed to authorize any violation of Subsection 3604.03 through 3604.09.
- B. Nothing in this Resolution shall be deemed to prevent the strengthening or restoring to a safe condition of a building or other structure (other than a damaged or destroyed building or other structure subject to the provisions of Subsection 3604.05) in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.
- C. Nonconforming residential buildings in a Business or Industrial District may be maintained, repaired, improved, modernized or enlarged; provided, however, that no increase in the number of dwelling units shall be permitted.

3604.03 STRUCTURAL ALTERATION

No structural alteration shall be made unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which such structure is located except as provided in Subsection 3604.04, 3604.05 and 3604.07.

3604.04 EXTENSION AND ENLARGEMENT

The Board of Zoning Appeals may permit a nonconforming building or structure to be extended, expanded, enlarged, or increased in intensity subject to the following conditions:

- A. A nonconforming use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on the effective

date of this Resolution.

- B. The Board may permit either an expansion of a nonconforming building or structure, or a substitution of a nonconforming use in such a building or structure, but not both.
- C. A nonconforming building or structure may be extended or enlarged upon the lot occupied by such building on the effective date of this Resolution or on an adjoining lot, provided such lot was under the same ownership as the lot in question on the effective date of this Resolution. Such nonconforming building may be enlarged or extended to an extent not exceeding twenty-five (25) percent of the gross floor area of such nonconforming structure or building lawfully existing at the time of the adoption of this Resolution.
- D. The extension or enlargement of a nonconforming building or structure may not occupy ground space suitable and otherwise available for meeting the off street parking requirement of this Resolution.
- E. A nonconforming use of land may not be extended, enlarged, or increased in intensity.
- F. Nothing contained in this section shall in any way prohibit a nonconforming use from acquiring additional street parking space.
- G. Application for an extension or enlargement in accordance with paragraph A through F shall be noticed and heard in the manner prescribed for appeals in Section 404 hereof.

3604.05 DAMAGE OR DESTRUCTION

In the event that any building or other structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to such an extent that the cost of restoration to the condition in which it was before such damage or destruction exceeds seventy-five (75) percent of the current replacement cost of the entire building or other structure, exclusive of foundation, such building or other structure shall not be restored unless such building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located. Moreover, even if such damage is seventy-five (75) percent or less, no repair or restoration shall be made unless a building permit is obtained, and restoration is actually begun, within one year after the date of such partial destruction.

3604.06 MOVING

No structure devoted in whole or in part to a nonconforming use, shall be moved to any other location on the same lot or any other lot unless the entire structure and the use thereof shall thereafter conform to the regulations of the district in which it will be located after being so moved. Moreover, no nonconforming land use shall be relocated, in whole or in part, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it

is located after being moved.

3604.07 CHANGE

The Board of Zoning Appeals may permit a substitution for a nonconforming use in a building or structure lawfully existing at the time of the adoption of the Zoning Resolution subject to the following conditions:

- A. The Board may permit either an expansion of a nonconforming building or structure or a substitution of a nonconforming use, but not both.
- B. A nonconforming use of land may not be changed.
- C. Application for a substitution in accordance with paragraph A shall be noted and heard in the manner prescribed for appeals in Section 404 hereof.

3604.08 DISCONTINUANCE

- A. Discontinuance of nonconforming use of land: In the event that operation of a nonconforming use of land is voluntarily discontinued for a period of two (2) years, such nonconforming use shall not thereafter be reestablished and any subsequent use or occupancy of such land shall conform to the regulations of the district in which it is located.
- B. Discontinuance of nonconforming use of buildings or structure: In the event that operation of a nonconforming use of all or part of a building or other structure is voluntarily discontinued for a period of two years, such nonconforming use shall not thereafter be reestablished, and any subsequent use or occupancy of such building or other structure shall conform to the regulations of the district in which it is located.

3604.09 NONCONFORMING ACCESSORY USES

No nonconforming accessory use shall continue after the principal use to which it is accessory has been discontinued.