

INTERPRETATION REQUEST:

EXPANSION OF A LEGAL NONCONFORMING RESIDENTIAL STRUCTURE

Code Sections:

- 20.68.030.C (Legal Nonconforming Structure Use)
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Date: January 20, 2009

Requested by: Joe Sidor

Subject: Expansion of a Legal Nonconforming Residential Structure

What is the Question?

The subject code sections in Title 20 and Title 21 state, "A structure maintaining a legal residential nonconforming use may be increased for the expansion of the use by one hundred twenty square feet, or 10% of the floor area, whichever is greater." Is this a one-time entitlement, or may the property owner use this code section to increase the structure size multiple times through multiple permit applications and entitlements?

Short Answer:

This is a one-time only entitlement once the residential structure becomes legal nonconforming.

Discussion:

When reviewing an application request for an addition to a legal nonconforming residential structure, it will be necessary for the assigned planner to research files that he/she would not normally need to research. As usual, the planner will need to confirm the lot legality, research the County's GIS database, search Parcel Quest for Assessor's information, and review the APN permit history in Permits Plus. In addition, the planner will need to research the parcel's zoning history and determine when the zoning changed to cause the structure to become nonconforming. The planner will also need to identify how many permits and what type of permits/entitlements were issued before and since the structure became legal nonconforming. When the research has been completed, the planner will then need to flag the property in Permits Plus to identify the 10% entitlement figure and how much (if any) has already been used.

Facts of the situation (Example):

In 1949, the property owner constructed a single family dwelling, guesthouse, and minor accessory structures totaling approximately 1,767 square feet. At that time, the property did not have a zoning designation. In 1969, the property received its first primary zoning designation of One Family Residential (R-1). R-1 zoning allowed a single residence on the parcel with maximum lot coverage of 35 percent. In this case, the parcel is 21,668 square feet, and the maximum coverage allowed would have been approximately 7,584 square feet.

In 1988, the zoning designation changed from R-1 to Resource Conservation (RC). RC zoning only allows a maximum coverage of 5 percent, and does not allow residential structures as a use;

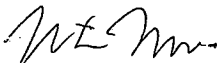
therefore, the residential structure became legal nonconforming and exceeded the new coverage maximum of 1,083 square feet.

In 2006, the property owner requested changes totaling approximately 195 square feet. The entitlement was approved, even though the existing structures exceeded maximum lot coverage by 684 square feet and the requested changes exceeded the 177 square foot entitlement maximum.

In 2008, the property owner requests a new addition totaling 380 square feet. Based on historical increases, staff must recommend denial of the permit application. Under the code sections above, the property owner has no remaining entitlement balance with which to allow any more structural additions.

<u>Year</u>	<u>Zoning</u>	<u>Begin Sq Ft</u>	<u>Allowed Sq Ft</u>	<u>End Sq Ft</u>	<u>Entitlement Balance (10%)</u>	<u>Comment(s)</u>
1949	None	0	N/A	1,767	N/A	Initial structures built
1969	R-1	1,767	7,584	1,767	N/A	R-1 zoning applied
1988	RC	1,767	1,083	1,767	177 Sq Ft	RC zoning applied
2006	RC	1,767	1,083	1,962	0 <18 Sq Ft>	195 Sq Ft added (PLN060320)
2008	RC	1,962	1,083	1,962	0	PLN080536 denied

Interpretation Prepared By: Joe Sidor, Associate Planner

Interpretation/Opinion Confirmed by Managers: 
Mike Novo, Director