

### Article 3:

**Shall an ordinance entitled, “An Ordinance to Amend the Town of Bowdoinham Land Use Ordinance to Add and Amend Provisions Regarding Non-conforming Buildings” be enacted?**

**NOTE: Proposed additions to existing Code sections are underlined.  
Proposed deletions of existing Code sections are ~~crossed-out~~.  
Other sections of the Ordinance are unchanged.**

### Article 3: Nonconformance

#### C) Non-conforming Buildings

- 1) Expansions. A non-conforming building may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not create an increase in the nonconformity of a structure and is in accordance with subparagraphs (a) and (b) below.
  - a) A non-conforming building shall not be added to or enlarged unless such addition or enlargement does not increase the linear extent of the nonconformance of the building or a variance is obtained from the Board of Appeals.
  - b) Whenever a new, enlarged or replacement foundation is constructed under a non-conforming building, the building and new foundation must be placed such that the setback requirements are met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section C. 2- Relocation, below. The construction or enlargement of a foundation under an existing dwelling shall not be considered an expansion provided that:
    - (i) The completed foundation does not extend beyond the exterior dimensions of the structure.
    - (ii) The completed foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the original ground level to the bottom of the first floor sill.
    - (iii) The addition of an open patio with no structure elevated more than three inches above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing porch shall not constitute the expansion of a non-conforming structure. But the addition of a deck does constitute the expansion of a non-conforming structure and the deck shall meet all the dimensional requirements of this Ordinance.
- 2) Relocation. A non-conforming building may be relocated within the boundaries of the parcel on which the building is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a building be relocated in a manner that causes the building to be more non-conforming.

- a) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.
- 3) Reconstruction or Replacement. Any nonconforming building, or a building containing a nonconforming use, which is hereafter damaged or destroyed by fire, flood, lightning, wind, structural failure or other accidental cause, may be restored or reconstructed in conformity with its original dimensions and used as before, within three (3) years of the date of such damage or destruction; provided, however, that such reconstruction and use shall ~~not~~ to the greatest practical extent, be no more nonconforming than the prior nonconforming building or use. Nothing in this section shall prevent that demolition of the remains of any building so damage destroyed.
- a) In determining whether the reconstruction is no more nonconforming than the prior building to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the reconstruction or replacement.

This Ordinance shall take effect upon adoption by the Town Meeting.

Given under our hands this \_\_\_\_ day of \_\_\_\_\_, 2021.

BOARD OF SELECTMEN OF THE TOWN OF BOWDOINHAM:

\_\_\_\_\_  
David Engler, Chair

\_\_\_\_\_  
Tony Lewis

\_\_\_\_\_  
Jeremy Cluchey, Vice Chair

\_\_\_\_\_  
Mark Favreau

\_\_\_\_\_  
Thomas Walling