

Town of Windham

Planning Department
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Windham, ME 04062

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MEMO

DATE: January 26, 2017

TO: Windham Town Council

THROUGH: Tony Plante, Town Manager

FROM: Amanda Lessard, Planner *AL*

Cc: Ben Smith, Director of Planning

RE: Planning Board Recommendation - Ordinance Amendment – Section 204,
Nonconforming Lots

At the Planning Board's meeting on January 9, 2017, a public hearing was held on the proposed ordinance changes to the Nonconforming Lots of Record standards of Section 204 of the Land Use Ordinance. The changes clarify that legally existing nonconforming lots of record may be further divided or have its lot lines adjusted so long as the change does not increase the non-conformity or create a new non-conformity.

No members of the public spoke for or against the proposed amendment.

Following discussion of the proposed changes, the Board made the following motion:

To recommend to the Town Council approval of the proposed amendment to Section 204 Nonconforming Lots of Record.

Motion: Jim Hanscom
2nd: Margaret Pinchbeck

Vote: 6-0

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MEMO

DATE: December 9, 2016

TO: Windham Planning Board

FROM: Amanda Lessard, Planner *AL*

Cc: Ben Smith, Planning Director
Code Enforcement Department

RE: Nonconforming Lots ordinance revisions – Section 204

Attached is draft ordinance language that makes changes to Section 204 Nonconforming Lots of Record to clarify that legally existing nonconforming lots of record may be further divided or have its lot lines adjusted so long as the change does not increase the non-conformity or create a new non-conformity. The purpose of this change is to codify what has been a long standing practice but which was recently questioned by town counsel without ordinance language to support it. This draft has been reviewed and found to be acceptable by Town attorney Kevin Haskins.

The attached ordinance language contains underlined text for new wording.

A public hearing is scheduled for the Planning Board meeting on January 9, 2017. After the public hearing and discussion by the Board, the Planning Board may vote on a recommendation to the Town Council similar to the following:

MOTION: To (~~recommend~~/**recommend with comments**/~~not recommend~~) approval of the proposed amendment to Section 204 Nonconforming Lots of Record.

204 Nonconforming Lots of Record

- A. A single family dwelling may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership and that all other dimensional standards of this chapter shall be met. In the event that all other dimensional standards cannot be met, the property owner may apply for a variance in accordance with Section 1100 of this Ordinance.
- B. If two (2) or more contiguous lots or parcels are in single ownership of record at the time of adoption or amendment of this chapter and if all or part of the lots do not meet the dimensional and area requirements of this chapter, the lands involved shall be considered to be a single parcel for the purpose of this chapter, and no portion of said parcel shall be built upon or sold which does not meet dimensional and area requirements of this chapter; nor shall any division of the parcel be made which creates any dimension or area below the requirements of this chapter. Two (2) contiguous lots in single ownership prior to July 8, 1976, which each have an existing residential structure(s) on them and which do not meet the requirements of this Ordinance are exempt from this section and may be divided. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.
- C. Lots in subdivisions approved by the Windham Planning Board after February 7, 1972, are exempt from the provisions of Section 204.A. and Section 204.B., above.
- D. Alteration of Nonconforming Lots. A nonconforming lot, legally existing as of the effective date of this ordinance, may be further divided or have its lot lines altered provided that such action does not increase or extend the degree of, or create any new, non-conformity with regard to any applicable dimensional standard.

Definition from Section 300

Nonconforming Lot. A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.