



Elkhart County Planning & Development

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Written Interpretation – Additions to Nonconforming Structures

Question: Can nonconforming structures be added onto and under what circumstances?

Relevant Code Citations:

ARTICLE 4. NON-CONFORMING USE SPECIFICATIONS .

SECTION 1. Non-conforming Uses.

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- b. Any legal non-conforming building or structure may be continued in use if there is no physical change other than necessary maintenance and repair, except as otherwise permitted in this ordinance.

SECTION 5. Repairs, Alterations and Additions.

c. Residential additions within the front yard set back.

- (1) At the Zoning Administrators discretion an Improvement Location Permit can be issued for additions to the principal residential structure that is non-conforming because of its location in the required front yard(s). This permit can only be issued if the following criteria has been met:
 - (a) That the existing yard(s) were created prior to or in conformance with this ordinance and amendments, and
 - (b) That the existing building line is more than 40 ft. from the centerline of any road and is not presently within any public rights-of-way, and
 - (c) That the proposed addition will be at or behind the Building Line established by the principal residential structure, and
 - (d) That the square feet of the additions (only that area which sets between the established Building Line and the required Building Set Back Line) is 20% or less of the Ground Floor Area of the principal residential structure, and
 - (e) That the yard(s) in question are not adjacent to a major classified street, federal or state highway, and
 - (f) That a site plan (as prescribed by the Plan Commission) is submitted.

Interpretation: The allowed building additions described in Section 5.C above do not have to be within the front yard setback. They may be to the rear or side of the building as well. For example, an addition could be added to the side of a building that encroaches into a required setback, but, accept as allowed in 5.C, that addition would have to meet the required setback. If the addition is entirely outside of the current required setback, then the 20% rule described in c(1)(d) above does not apply. If any portion of the addition is within the required setback, then the 20% rules does apply.

To calculate the 20% rule, take the livable area of the ground floor of the primary structure and multiple it by .8. The area that encroaches into the setback must be less than or equal to this number. If it is more, then a Development Variance is needed.

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