

§ 54-17. Nonconforming use and development waivers.

A. The lawful use of a building or structure which existed on May 1, 2004, and which is not in conformity with the provisions of this article may be continued in accordance with Chapter 148, Zoning, Article XV, Nonconforming Uses.

B. No change or expansion of use-a structure shall be allowed, with the exception that the Administrator may grant a nonconforming use and development waiver for principal structures within the landward 50 feet of the RPA on legal nonconforming lots or parcels to provide for remodeling, alterations and/or additions to such nonconforming principal structures. Any proposed remodeling, alteration and/or additions to nonconforming structures within the seaward 50 feet of the RPA must be approved by the governing body; except that if the square footage of the footprint to be remodeled, altered, or replaced is equal to or less than the existing footprint, such modifications may be approved by the Administrator. In both instances, waivers can only be granted, provided that:

[Amended 10-14-2004; 9-11-2009]

(1) There will be no net increase in nonpoint source pollution load involving any additions or expansions and best management practices are implemented for any portion of the existing principal structure that encroaches into the seaward 50 feet of the RPA.

(2) Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of the Northumberland County Erosion and Sediment Control Ordinance. *Editor's Note: See Ch. 64, Erosion and Sediment Control.*

(3) The requirements in § 54-17E must be satisfied to allow for the expansion of a nonconforming principal structure.

C. An application for a nonconforming use and development waiver shall be made to and upon forms furnished by the Administrator and shall include, for the purpose of proper enforcement of this chapter, the following information:

(1) The name and address of the applicant and property owner.

(2) A legal description of the property and type of proposed use and development.

(3) A sketch of the dimensions of the lot or parcel, the location of buildings and proposed additions relative to the lot lines and the boundary of RPAs.

(4) The location and description of any existing private water supply or sewage system.

D. A nonconforming use and development waiver shall become null and void six months from the date issued if no substantial work has commenced.

E. An application for the expansion of a nonconforming principal structure may be approved by the Administrator through an administrative review process, provided that the following findings are made:

(1) The request for the waiver is the minimum necessary to afford relief;

(2) Granting the waiver will not confer upon the applicant any specific privileges that are denied by this article to other property owners in similar situations;

(3) The waiver is in harmony with the purpose and intent of this article and does not result in water quality degradation;

(4) The waiver is not based on conditions or circumstances that are self-created or self-imposed;

(5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality; and

(6) Other findings, as appropriate and required by Northumberland County, are met.

(7) In no case shall this provision apply to accessory structures.