



Town of Shelburne, Vermont

CHARTERED 1763

P.O. BOX 88 5420 SHELburnE ROAD SHELburnE, VT 05482
 www.shelburnevt.org 802-985-5118

APPLICATION TO MODIFY NONCONFORMING PROPERTY*

* Also available in alternate formats in accordance with the Americans With Disability Act.

PLEASE USE THIS FORM TO REQUEST REVIEW OF CHANGES TO A NON- CONFORMING LOT, STRUCTURE, AND/OR USE

Under Shelburne's zoning bylaw, a nonconforming use—a use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the bylaws — may be continued, provided that certain conditions are met. However, nonconforming use cannot be expanded, cannot be resumed after being discontinued, and cannot be changed without approval of the Development Review Board. This form is to be used when seeking approval for such changes.

Similarly, a nonconforming structure may continue to be occupied and may be modified. However, many such changes also require review and approval by the DRB. Do not prepare and submit this application until you have submitted a GENERAL APPLICATION FORM and have received a GAF number.

APPLICANT INFO

APPLICANT	PRIMARY CONSULTANT (If any)
First Name (please print)	Name (please print)
Last Name (please print)	Mailing address
Signature	City State Zip
GAF Number	Email
Permit Request	Phone

PROJECT INFO

Please provide or attach a concise description of your project:

Form continues on reverse side...



Date received	by	Referral (s)	by
Fee received	by	Forms offered	by
Permit #	by	Hearing date	

APPLICATION TO MODIFY NONCONFORMING PROPERTY

NATURE OF PROJECT/PROPERTY	OCCUPANCY INFO
Does project propose development of an undersized lot?	If project proposes change to non-complying building, is building occupied?
Does project propose modification of boundary of an undersized lot?	If structure is not occupied, has it been damaged by fire or other unintended cause?
Does project propose modification of a non-complying sign (e.g. size, setback, lighting)?	If structure is not occupied, has it been occupied within last 12 months?
Does project propose modification of a mobile home in Mobile Home Park (MHP)?	If structure is not occupied, has it been occupied within last 24 months?
If project proposes change to mobile home in MHP, will project meet 1920.4 B.2?	If structure not occupied, is it served by electricity, water service, & sewer service?
Is current use of property included in list of allowed uses in applicable zoning district?	Is structure actively offered for sale?
Will non-complying building be expanded?	Approx. age of non complying structure
Will non-complying building be moved?	
Will project result in changes to massing, roof shape, entry arrangement, or fenestration pattern of non complying building?	

CONFORMANCE WITH CRITERIA

Applications proposing modification to non-complying property must meet several criteria contained in the zoning bylaw. The review process will tend to function more smoothly when you provide thorough responses to the following items.
If project proposes relocation of non-complying structure, describe or summarize and attach evidence that the new location results in the structure being as the least nonconforming solution feasible on the site , and that it is no more nonconforming than in the original location. Provide evidence that the encroachment (footprint and volume) are as small as possible .
If project proposes expansion of any portion of a non-complying structure, describe or summarize and attach evidence that the expansion or extension meets all applicable setback requirements for the district in which it is located (except in MU, CI, CIS, where may be expanded or extended if such expansion or extension does not extend any closer to Shelburne road than the existing structure) or if a mobile home in Mobile home park complies with 1920.4.B.2.
If project proposes renovation or rehabilitation of existing non-complying structure, describe or summarize and attach evidence that the project will not involve demolition of the structure?

APPLICATION TO MODIFY NONCONFORMING PROPERTY

CONFORMANCE WITH CRITERIA, CONTINUED

Applications proposing modification to non-complying property must meet several criteria contained in the zoning bylaw. The review process will tend to function more smoothly when you provide thorough responses to the following items.

If project proposes demolition and reconstruction of a non-complying structure, describe or summarize and attach evidence that...

...The total area of building footprint of the new or re-built building that extends into the required setback is no more than the total area of building footprint of the original building that extended into the required setback.

...The total floor area in the portion of the new or re-built building that extends into the required setback is no more than the total floor area of the portion of the original building that extended into the required setback. and

...The volume of the new or re-built building located above the maximum height limit is no more than the volume of the original building that was located above the maximum height limit.

If project proposes modification of a non-complying sign, describe or summarize and attach evidence that the modified sign will not result in (A) increased sign area or height or (B) reduced setbacks (relocation closer to a property line or right-of-way), unless such nonconforming signs are located on land which is acquired for governmental purposes by governmental action..

CHANGES TO NON CONFORMING PROPERTY PLAN CHECKLIST

As most non conformities require Conditional Use review and approval, the "Changes to Non-Conforming Property Plan" submitted with this application shall supplement the Conditional Use Site Plan normally required with Conditional use Applications.

The features depicted on the Changes to Non-Conforming Property Plan must include the following:

Site plan or plans, drawn to scale, showing existing and proposed contours at 1 foot intervals, flood hazard area boundaries, water courses, any zoning district boundaries that abut or cross the site, property lines as delineated on a survey prepared by a surveyor licensed in the State of Vermont, **present and proposed setbacks, present and proposed building coverages, present and proposed lot coverages, present and proposed locations of any signs and sign lighting**, north arrow, scale and date.

If project proposes new or reconstructed building within the setback, the plans must also depict the building footprint, floor area, and volume encroaching on setbacks or exceeding bylaw limits.

If project proposes modification of a non-complying sign, plans must also depict sign design (sign type, area, height, lighting.)

APPLICATION TO MODIFY NONCONFORMING PROPERTY

CHANGES TO NON CONFORMING PROPERTY PROCEDURES

State law provides communities with considerable latitude regarding how non-conforming properties are regulated. The following requirements apply in Shelburne:

A structure housing a non-conforming use can be rebuilt for the non-conforming use in the event the building is destroyed by fire or explosion or some other unintentional cause—provided that such reconstruction is completed within two years of the destruction. However, a discontinued non-conforming use cannot be resumed.

No nonconforming use may be changed to another non-conforming use without conditional use approval by the Development Review Board, provided that the Board finds that the total floor area occupied by the proposed use is no greater than the floor area occupied by the existing non-conforming use. Further, a nonconforming structure may not undergo significant revision to building massing, roof shape, entry arrangement, fenestration pattern or other major architectural elements without prior conditional use approval of the Development Review Board. A non-conforming structure may be demolished and re-built with DRB approval, provided that the new structure is no more nonconforming than the original structure, and provided that the approval is granted prior to demolition. A nonconforming structure may be moved, provided that the new location results in the structure being as the least nonconforming solution feasible on the site, and that it is no more nonconforming than in the original location.

Minor changes to non-conforming such as minor changes to doors or windows may be approved by the Administrative Officer.

Administrative Approval of Requests

Where an application seeking approval of changes to a Non-conforming property does not require DRB review, the Administrative officer will issue any associated permit without public hearing. In general, applications will not be acted upon unless or until they are complete. Applicants may request a conference with the DRB Administrator or another staff member to review the application materials and determine whether the application is complete. Application materials shall be submitted to Planning and Zoning staff 24 hours prior to the Filing Conference. If the application is found to be complete, a decision will be made within 30 days. Any permit issued may indicate that approval is conditioned on compliance with all standards contained in the zoning bylaw.

Requests requiring DRB Approval

In the case of requests that are subject to DRB review, action on associated zoning permit application will follow evaluation of the non-conformity request by the Development Review Board. If the request for Conditional Use approval is granted by the DRB, a decision on the permit request to conduct work within the Watercourse Overlay will be made within 30 days of that approval. Any permit issued may indicate that approval is conditioned on compliance with all standards contained in the zoning bylaw.

Applications subject to Board's review will not be warned for public hearing until the applicant conducts a filing conference with staff of the Planning and Zoning Office. The applicant will schedule this conference with the DRB Administrator or another staff member assigned by the Administrator. The purpose of the conference is to review the application materials and determine whether the application is complete. Application materials shall be submitted to Planning and Zoning staff 24 hours prior to the Filing Conference.

If the application is found to be complete, the Administrator will schedule a hearing before the Board. Normally, the Administrator or other staff will prepare a staff report to assist the DRB in reaching a decision on the application. Meeting materials prepared by staff ordinarily will be available the Thursday preceding a regular meeting. Public hearings shall be conducted as specified for Conditional Use review. Pursuant to the zoning and subdivision bylaws, an applicant may be required to pay the reasonable costs and fees incident to an independent technical review of the application on behalf of the Town. Final decisions of the DRB will be in writing and issued within no more than 45 days of the close of the public hearing.

SUBMIT