

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Zoning, Article XXI, Section 99 Nonconforming Uses, By Amending The Nonconforming Use Requirements in Section 99 B and D, By Adding A New Section 155-99.1 To Provide Expansion Regulations For Nonconforming Dimensional Buildings.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXI, Section 155-99, Nonconforming buildings and uses, by amending Section 155-99 B and D, to provide as follows:

§ 155-99 Nonconforming ~~buildings or~~ uses.

A. Continuation. The lawful use of a building or land existing on the effective date of this chapter or any amendment thereto, or authorized by a building permit issued prior thereto, may be continued although such use does not conform to the provisions of this chapter.

B. Extension or expansion. A nonconforming use may be expanded or extended when authorized as a special exception, subject to the following limitations:

(1) Any such expansion or extension shall be limited to the lot on which the use is located, as that lot was defined when the use became nonconforming.

(2) The following provisions shall apply to expansions within a building and expansions to the site on the exterior of the lot.

(a) -Expansions within a building. A nonconforming use within an existing building may be expanded within the building provided the expansion does total of all increases in the area devoted to the use shall not exceed 25% of the building area devoted to the use on March 20, 1985, or on the date the use became legally nonconforming, whichever is later. The term "area devoted to the use" shall include the total floor area within the building devoted to the nonconforming use. This right of expansion shall be applied separately to each building on the lot. means the total of the floor area and, for any portions of the use not conducted in a building, the lot area actually utilized in connection with the nonconforming use.

(b) Expansion to an existing building. A building with a nonconforming use may be expanded provided the expansion does not exceed 25% of the building area legally devoted to the use on March 20, 1985 or on the date the use became legally nonconforming, whichever is later. The term "area devoted to

the use" shall include the total floor area within the building devoted to the nonconforming use.

(c) Expansion to the exterior of a lot. If the exterior of a lot is currently being used for a legal nonconforming use, the exterior lot area devoted to the nonconforming use may be expanded by no more than 10%.

(d) Lot expansion limits. The total area of the lot devoted to the expanded nonconforming use may not exceed 10% of the lot area.

(3) Any such extension or expansion shall conform with the requirements of Articles XIX, Signs, XX, Off-Street parking facilities, XXV, General Regulations, XXVII, Floodplain District XXVIII, Steep Slopes, and with the height, yard, setback, buffer, impervious surface, and floor and building area requirements of the district in which it will be located.

C. Changes. A nonconforming use may not be changed to any use except one which is permitted in the zoning district in which the property is located.

D. Restoration. A building with a nonconforming use~~building~~ which has been damaged or destroyed by fire, or any other cause, to an extent of not more than 75% of the ~~habitable~~ floor area, ~~or a nonconforming building which has been legally condemned~~ may be reconstructed and used for the same nonconforming use, provided that:

(1) The reconstructed building shall not exceed in height, area and volume the building destroyed or condemned.

(2) Building reconstruction shall be commenced within one year from the date the building was destroyed or condemned, unless the Zoning Hearing Board shall authorize as a special exception an extension of this time limit, and shall be carried on without interruption.

E. Discontinuance. If a nonconforming use of land or ~~of~~ a nonconforming use within a building ceases or is discontinued for a continuous period of six months or more, subsequent use of such building or land shall be in conformity with the provisions of this chapter.

F. Unlawful use. If a lawful nonconforming use of land or of a building ceases and use is made thereof which is unlawful under the terms and conditions of this chapter, the prior nonconforming use may not thereafter be continued, and subsequent use of such building or land shall be in conformity with the provisions of this chapter.

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXI, Section 155-99, Nonconforming uses, by adding a new Section 99.1, entitled Nonconforming Buildings, to provide as follows:

§ 155-99.1 -Dimensional Nonconforming Buildings.

Buildings that are nonconforming to the setback requirements in this chapter shall be subject to the following:

A. Continuation. An existing building lawfully located on the effective date of this chapter or any amendment thereto, or authorized by a building permit issued prior thereto, may be continued although such location does not conform to the provisions of this chapter.

B. Restoration. A building nonconforming to the required setbacks which has been damaged or destroyed by fire or other cause to an extent of not more than 75% of the ~~Habitable~~ Floor Area may be restored, provided that:

(1) The portion of the reconstructed building in a required setback shall not exceed in height, area and volume of the building destroyed or condemned.

(2) Building reconstruction shall be commenced within one year from the date the building was destroyed or condemned, unless the Zoning Hearing Board shall authorize as a special exception an extension of this time limit, and shall be carried on without interruption.

C. Extension or expansion. A building that is nonconforming to the setback requirements in this chapter may be expanded or extended subject to the following limitations:

1. The extension shall maintain the nonconforming setback and shall not extend closer to the street line or property line than the existing nonconforming building.
2. The maximum height of any single story extension in the required setback shall not exceed 16 feet unless the extension is a minimum of 10 feet from the property line.
3. If the extension is a minimum 10 feet from the property line, a second story shall be permitted with a maximum height of 30 feet.

(The board of Commissioners shall consider a maximum height range between 25 feet and 30 feet)

4. The maximum length of the extension in the required setback shall be 20 feet.
5. The maximum floor area of the extension permitted in a required setback is 400 square feet per floor.
6. Where an existing one story building is nonconforming to the required setback, a vertical second story addition may be erected provided the footprint is no larger than the existing footprint below and the maximum building height is no more than 30 feet above grade.
7. No portion of the extension may project into any other required setback.
8. The provisions in 4 through 7 above shall apply to Semi-Detached Dwellings and Townhouse units

Section 3. Nothing in this Ordinance or in Chapter 155 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 155 prior to adoption of this amendment.

Section 4. The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provisions had not been included herein.

Section 5. This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board this day of , 2017.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley