

§ 98-9. Exceptions to district regulations.

- A. Existing undersized residential lots of record. Nothing shall prohibit the use of an existing undersized residential lot of record containing less than the prescribed area, width or yard requirements, as specified below, when such lot is owned individually and separate from any adjoining tract at the time of enactment of this subsection, provided that all other provisions of this chapter are met. Yard setback requirements for the following categories of lots must be the minimums specified below: [Amended 9-9-2008 by L.L. No. 4-2008]

Minimum Yard Setbacks

Lot Area

| (square feet) | Front | Side-One | Side-Both | Rear |
|-------------------------------|--------------|-----------------|------------------|-------------|
| Below 10,000 ¹ | 25 | 8 | 20 | 30 |
| Below 10,000 ² | 30 | 10 | 25 | 35 |
| 10,000 to 14,999 ¹ | 30 | 10 | 25 | 35 |
| 15,000 to 19,999 ¹ | 30 | 15 | 30 | 35 |
| 10,000 to 19,999 ² | 35 | 15 | 30 | 35 |
| 20,000 to 29,999 | 35 | 15 | 30 | 35 |
| Below 30,000 | 35 | 25 | 50 | 40 |
| 30,000 to 39,999 | 40 | 25 | 50 | 40 |
| 40,000 to 79,999 | 40 | 30 | 60 | 50 |
| 80,000 and over | 50 | 30 | 80 | 60 |

NOTES:

¹ With both central water and sewer.

² With either central water or central sewer.

- B. Height regulations. The height limitations of these regulations may be waived by the Planning Board for the following, provided that such areas do not exceed 10% of the total roof area to which they are a part: flagpole, spire, belfry, chimney, transmission tower or facility, aerial, skylight, water or cooling tower or elevator or stair bulkhead.
- C. Yard requirements. The following accessory structures may be located in any required yard:
- (1) Chimneys or pilasters.
 - (2) Open arbor or trellis.
 - (3) Unroofed steps, patio or terrace no closer than 15 feet to the street line or 10 feet to any side or rear lot line, provided that the building complies with the yard requirements of this chapter. No side or rear yard restrictions are provided

for townhouse or attached dwellings.

- (4) Awning or movable canopy not to exceed 10 feet in height above the ground level over which it is located.
 - (5) Retaining wall, fence or masonry wall.
 - (6) Overhanging roof not in excess of 10% of the required yard setback.
- D. Two or more nonconforming, abutting subdivision lots not in separate ownership shall have three years from the date of this subsection to obtain a building permit under the provisions of Subsection A. Any such nonconforming lots in a subdivision granted final approval by the Planning Board more than three years prior to the effective date of this subsection may be required to be resubdivided if current engineering and environmental design criteria for water, sewer, drainage or buildable area cannot be satisfied when a building permit is applied for, for such lot or lots. In such event the Building Inspector may require that the plot be resubmitted to the Planning Board for resubdivision approval in accordance with the applicable provisions of this chapter and of the Town Subdivision Regulations.¹ **[Amended 9-9-2008 by L.L. No. 4-2008]**
- E. Any lot in a subdivision approved by the Planning Board after the effective date of this chapter which conforms to the bulk, width and depth requirements of this chapter but which is made nonconforming as to bulk, width and depth by any future amendment of this chapter shall have three years from the effective date of the future amendment or three years from the date of final approval, whichever is sooner, to obtain a building permit under Subsection A. Any subdivision lot for which a permit is applied for after the time periods specified herein shall conform to all the bulk regulations of this chapter and Subsection A shall be inapplicable to such a lot.
- F. Any separate lot nonconforming as to bulk which becomes subsequently attached to other adjoining land in the same ownership shall be entitled to the benefit of the provisions of Subsection A only if the total contiguous lot remains nonconforming as to bulk after the lots become attached.
- G. Any existing lot of record, as of the date of adoption of these regulations, owned separate and apart from any adjacent parcel, which is 10 acres or less and lies in an AR-.3 District, shall not be subdivided such that the potential number of lots created therefrom represents a loss of lots greater than 50% as compared to the potential lots which would have been created from the lot under prior zoning. The number of lots under both scenarios shall be established by the Planning Board based on plans sufficient in detail, to the Planning Board's satisfaction, to make such a determination. Any lots created under this section shall meet the two-acre lot requirements as shown in § 98-25C(1).
- H. Flag lots. Flag or rear lots shall only be allowed in the AR-.3 District on

1. Editor's Note: See Ch. 83, Subdivision of Land.

unsubdivided parcels, and only two such lots shall be allowed per parcel to be subdivided. Any lot in excess of five acres in said subdivision shall carry a deed restriction prohibiting further subdivision of flag lots on that lot.

- I. Construction of accessory buildings and swimming pools may be allowed in the front or side yard, but not within the required minimum setback of such front or side yard, on lots containing five acres or more. However, such accessory structure shall not be visible from the road on which the parcel fronts.
- J. Existing undersized lots of record in nonresidential zoning districts. The use of an existing undersized nonresidential lot of record, when such lot is owned individually and separate from any adjoining tract at the time of the enactment of this subsection, may be used for a permitted or special permit use in the zoning district in which it is situated subject to site plan review by the Planning Board.
[Added 9-27-2017 by L.L. No. 1-2017]