

ORDINANCE NO. 08-03

AN ORDINANCE AMENDING AND SUPPLEMENTING THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF NEPTUNE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY BY AMENDING THE SECTION CONCERNING NONCONFORMING USES, STRUCTURES AND LOTS

BE IT ORDAINED, by the Township Committee, County of Monmouth, State of New Jersey, that Section 422 of the Land Use Ordinance of the Township of Neptune be and is hereby amended as follows (deletions are indicated with strike-through, additions are bolded):

SECTION 1

- D. A nonconforming structure may not be enlarged, extended, increased in height, width or depth, moved or relocated, modified in such a way so as to increase habitable or useable space, number of dwelling units or number of bedrooms; unless such structure is changed to a structure conforming to the requirements of this Chapter except that an existing one family structure may be rebuilt, enlarged, extended or added to provided:
1. The enlargement, extension or addition conforms to all zone requirements; or
 2. The portion of the enlargement, extension or addition which does not conform to zone requirements consists entirely of the enclosure of existing side or rear porches.
 - ~~3. The portion of the enlargement, extension or addition that does not conform to the requirements does not increase the degree of non-conformity with setback requirements.~~
 3. **Where a structure is nonconforming solely because it intrudes on the current required yard area.**
 - a.) **If the proposed horizontal addition to that building would not protrude further than the furthest point of the existing building line into that required yard area, then the Zoning Official can issue the permit and no application to the Board of Adjustment is necessary. The proposed addition must be equal to the existing building line, but cannot exceed the same if it violates the setbacks.**
 - b.) **If a proposed vertical addition would be located within the building envelope or existing building footprint (and assuming no violation of height restriction or other ordinance provision), the Zoning Official may also issue a permit for such vertical expansion provided that the addition would not exacerbate the nonconformity.**

4. An existing one-family structure located in a residential district destroyed by fire or other natural calamity may be rebuilt provided the new structure complies with all zone requirements relating to setbacks and height; however, the existing lot need not comply with minimum lot width, depth and area requirements where the existing condition is non-conforming.
- E. The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply for, in writing, the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the responsibility of affirmatively proving the preexisting nonconforming use or structure. Application pursuant hereto may be made to the Zoning Board of Adjustment Administrative Officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Zoning Board of Adjustment.**
- F. Any parcel of land with an area or width less than that prescribed for a lot in the zone in which the lot is located may be used as a lot for any purpose permitted in the zone, if:**
- 1. at the time of and since the adoption of the zoning ordinance making such lot nonconforming, the owner of the lot did not own adjoining property.**
 - 2. all other regulations prescribed for the zone are or can be complied with.**

SECTION 2. All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance, be and the same are hereby repealed to the extent of such inconsistency.

SECTION 3. Should any section, paragraph, clause or any other portion of this Ordinance be adjusted by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

SECTION 4. This Ordinance shall take effect upon its passage and publication according to law and upon the filing of a certified copy thereof with the Monmouth County Planning Board.

APPROVED ON FIRST READING: January 14, 2008

APPROVED, PASSED AND ADOPTED: February 11, 2008

ATTEST:

Richard J. Cuttrell,
Municipal Clerk

J. Randy Bishop,
Mayor