



Planning and Zoning Members,

We have previously discussed the ongoing challenges surrounding legally non-conforming land uses, specifically regarding single-family homes that are currently situated within commercial or industrial zoning districts. Recently, we have received requests from homeowners seeking spot rezonings for these properties because they are running into severe issues with their property insurance. Underwriting guidelines may restrict or deny coverage for non-conforming homes because our current local ordinances do not specifically allow a non-conforming structure to be rebuilt in the event of a complete loss. To resolve this, we initially considered conducting a section-by-section review of the entire town to rezone every qualifying property back to a residential designation. However, after exploring that path, I realized it would demand an immense amount of staff time, city resources, and administrative effort, requiring a lengthy series of planning and zoning commission meetings followed by multiple city council readings just to start chipping away at the list.

Instead of pursuing a resource-intensive rezoning campaign, I propose that we recommend a targeted addition to the text of the zoning code itself. Our current regulations regarding non-conforming uses are housed in Article V, Section 501 of Appendix A. My recommendation is to introduce a text amendment within this section that provides specific code relief to legally established, non-conforming residential uses, explicitly allowing them to be rebuilt in the event of a total loss. Implementing this structural change directly into the ordinance will provide insurance companies with the formal regulatory relief they require to maintain coverage for our residents, while completely bypassing the need for dozens of individual parcel rezonings. For our upcoming discussion, we could model the amendment to state that any legally established single-family residential structure destroyed by fire or natural disaster may be reconstructed and re-occupied, provided that the new building matches the original footprint and height, a building permit is secured within twelve months of the damage, and the home was actively occupied as a residence up until the casualty event.

An example of a code of this type from Iowa City:

14-4E-4: NONCONFORMING SINGLE-FAMILY USES:

Except with regard to the occupancy, any single-family use, structure for a single-family use, including any accessory structures, and any lot on which a single-family use is located, that was established lawfully prior to the establishment of the currently applicable development regulations and, due to a change in the regulations, is no longer in conformance with the provisions of this title, will generally be treated as conforming for as long as the dwelling is used for a single-family use. Accordingly, the following rights are granted under this article:

- A. A nonconforming single-family use may be reestablished and its structure reconstructed if the structure for the nonconforming single-family use is destroyed or damaged by fire, explosion, act of God or by a public enemy.
- B. A nonconforming single-family use may also be expanded, repaired and structurally altered, provided such expansion or alteration does not increase or extend any other nonconforming situation on the property. However, if a nonconforming single-family use is changed in order to



increase the occupancy beyond that of a family or group household, the property must be brought into full compliance with the number of required off street parking spaces.



- C. A nonconforming structure that contains a single-family use may be restored to the same degree of nonconformity or less if destroyed or damaged by fire, explosion, act of God or by a public enemy. Such a structure may also be repaired or structurally altered, provided such construction does not increase or extend the degree of nonconformity and does not increase or extend any other nonconforming situation on the property.
- D. A nonconforming accessory structure to a single-family use may be restored to the same degree of nonconformity or less if destroyed or damaged by fire, explosion, act of God or by a public enemy. Such a structure may also be repaired and structurally altered, provided such construction does not increase or extend the degree of nonconformity and does not increase or extend any other nonconforming situation on the property.
- E. A nonconforming lot that contains a single-family use is granted the same rights as listed in subsections A, B and C of this section, and will be treated as if the lot were conforming.

Sincerely,

David Kral
Building Official and Zoning Administrator for the City of Oelwein
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