

NONCONFORMING USES AND LOTS

FACT SHEET

CASS COUNTY ENVIRONMENTAL SERVICES

Nonconforming Use (nonconformity) Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

1115 NONCONFORMING USES AND LOTS

It is the purpose of this section to provide for the regulation of non-conforming lots, uses, structures and noncompliant individual sewage treatment systems. It is necessary to satisfying the purposes and intent of this ordinance that non-conforming lots, uses, structures and noncompliant individual sewage treatment systems not be permitted to continue without restriction.

1115.1 Nonconforming Uses

A structure or the use of a structure or premises which was permitted or allowed before the passage or amendment of these standards but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions: All legally established nonconformities as of the date enactment of this ordinance may continue, but will be managed according to applicable state statutes and other regulations of the county for alterations and additions, discontinuance of use for two years, or intensification of use.

1115.2 Construction on Nonconforming Lots of Record Recorded Prior to Zoning Regulations

- A. Lots that were of record in the office of the county recorder before 1972 in shoreland areas that do not meet the requirements of ordinance sections 1113.1 may be allowed as residential building sites without variances from lot size requirements provided the following criteria are met:
 - (1) All setbacks as prescribed in Section 1126.1 of this ordinance can be met and the lots can be developed without a variance, and;
 - (2) A site for a standard individual sewage treatment system is identified pursuant to Minnesota Rules, Chapter 7080 and the Cass County Individual Sewage Treatment System Ordinance.
- B. Development on lots which do not meet the criteria in 1115.2 (A), require application for a variance. In evaluating the variance, the board of adjustment may require shoreline buffers as prescribed in section 1123 of this ordinance. An ISTS site evaluation and design prepared by a state-licensed ISTS evaluator/designer. The Board of Adjustment shall deny the variance if adequate ISTS facilities cannot be provided.
- C. If, in a group of two or more contiguous lots under the same ownership in the shoreland zone, any individual lot does not meet at least 75% of the minimum lot area and lot width standards in section 1113.1 of this ordinance for the shoreland zone for the zoning classification in which the lots are located, the lots shall not be considered as a separate parcels of land for the purposes of residential building site development. The lot may be combined with one or more contiguous lots so that they equal one or more parcels of land, each capable of meeting the standards in section 1113.1.

1115.3 Construction on Nonconforming Lots of Record in the Shoreland Zone Recorded Subsequent to Zoning Regulations

- A. Lots that became of record in the office of the county recorder after 1971 in shoreland areas, or—that do not meet the requirements of section 1113 and do not currently have residential structures may be allowed as residential building sites without variances from lot size requirements provided the following criteria are met:
 - (1) the lots were created compliant with official controls in effect at that time they were created; and,
 - (2) all setbacks as prescribed in Section 1126.1 of this ordinance can be met and the lots can be developed without a variance, and;
 - (3) a site for a standard individual sewage treatment system is identified pursuant to Minnesota Rules, Chapter 7080 and the Cass County Individual Sewage Treatment System Ordinance.

- B. Development on lots which do not meet the criteria in 1115,3 (A). above, require application for a variance. . In evaluating the variance, the board of adjustment may require shoreline buffers as prescribed in section 1123 of this ordinance, and an ISTS site evaluation and design prepared by a state-licensed ISTS evaluator/designer. The Board of Adjustment shall deny the variance if adequate ISTS facilities cannot be provided.

- C. If, in a group of two or more contiguous riparian lots in the same ownership, any individual lot does not meet the requirements of sections 1113.1 in this ordinance, the lots shall not be considered as separate parcels of land for the purposes of sale or development. The lot may be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the requirement of sections 1113.1.

- D. Lots in the shoreland zone that became of record in the office of the county recorder after 1998 shall meet all lot requirements in this ordinance. Existing riparian lots on GD lakes meeting the 20,000 square foot total lot size and 8,000 square foot buildable area standards effective prior to December 1, 2002 are exempt from this provision.

- E. Those lots of record that do not meet the present lot size requirements because of a lake or river classification change may be allowed as separate lots exempt from this section, provided that they were each created after 1972.

1115.4 Nonconforming Structures

- A. Maintenance Maintenance, as herein defined, of an existing nonconforming structure may be performed. Any other alteration requires application for a variance.

- B. Additions/Expansions All additions or expansions to the outside dimensions of an existing nonconforming primary residential structures shall meet the following criteria:
 - 1. Nonconforming portions of primary residential structures in the shoreland zone existing before 1972 may be expanded with a permit provided the setback of the addition is not less than 50 feet from any public water and does not reduce the existing structure setback. The maximum size of the nonconforming portion of the permitted addition shall be calculated by multiplying the building footprint of the original pre-1972 nonconforming portion of the structure by 0.5. The resulting square footage area may then be added to the total useable floor space on the ground floor (See example in Appendix C, 5.)

2. The nonconforming portion of the structure shall not exceed 1000 square feet in size.
3. In the Shoreland Zone, vegetative screening pursuant to section 1128 shall be maintained. Shoreline buffers as prescribed in section 1123 of this ordinance shall be completed.
4. No expansions of nonconforming guest quarters are allowed.

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