

Construction after Demolition – Reuse of Non-Conforming Lots

V1.2 May 2005

Since the Town of Sudbury Zoning Bylaws were recodified in 2003, Section 2460B Construction after Demolition, requires a Special Permit from the Board of Appeals if the total floor area of the proposed structure exceeds the total floor area of the original non-conforming structure.

While it takes time to fully understand the ramifications of any change in the Zoning Bylaw, the Board of Appeals has developed a set of decision making principles and Special Permit conditions that it uses to try to reach consistent decisions and to try to prevent problems that occurred with tear-down situations in the past.

Principles

- It is in the best interest of our community to reuse existing previously developed lots, rather than encourage the development of our remaining open spaces.
- Rebuilding houses on non-conforming lots provides the Town with the opportunity to remedy prior problems such as setback deficiencies, houses built at awkward angles, houses located that detract from the streetscape, drainage issues, and houses located as to detract from the privacy of abutters.
- While the Board of Appeals does not apply a rigid formula such as floor area to lot size ratio, particularly with smaller lots, it is far more likely to approve applications that are consistent with the general scale of the surrounding neighborhood and are located so as not to loom over the street or a neighboring house. To that end, if a proposed new structure is significantly taller than the one being replaced or is significantly taller than the general neighborhood, the Board may require architectural drawings showing front, rear, and side elevations. On sloping lots or if the grade of the proposed structure will be significantly higher than the one being replaced, the Board may require a topographical plan.
- The Board of Appeals also does not apply a rigid formula to front yard setbacks. However, as a general guideline, when one or one and half story homes are proposed to be replaced by two or two and a half story homes, the Board prefers that these taller homes be sited further back from the street. The Board is more likely to approve applications with 60 foot front yard setbacks than applications that only satisfy the minimum setback requirements. Similarly, in neighborhoods where the houses are generally set back further than 60 feet, the Board is more likely to approve an application that is consistent with the neighborhood norms.
- The Board of Appeals encourages applicants to meet with abutters to review the proposed project and reach agreement on neighborly-issues like sightlines and screening prior to the public hearing.
- The Board of Appeals encourages applicants to investigate the feasibility of donating the old house for use by the Town's Housing Authority. The cost of relocating the structure may not be substantially different than demolishing it.
- Except in circumstances where the building remains in a residential use, the Board of Appeals encourages the removal of the old house before construction begins on the new.

Standard Special Permit Conditions

These standard conditions will be included in each Special Permit. Other situation specific conditions (e.g., location of driveway, prohibition of removing trees screening an abutter) may also be applied.

- Construction must begin no later than one year after the Special Permit is issued.
- Construction must be completed no later than one year after commencement.
- In situations where the old structure remained in residential use during construction, the old structure must be removed with 6 weeks after an occupancy permit is obtained for the new.

Neighborhood Preservation

Certain neighborhoods in town have very small lots – under 10,000 square feet. The original homes on these lots were modest and scaled appropriately. Reconstruction in these neighborhoods has created a situation where there is simply too much house on too small a lot – where the structure and infrastructure essentially fills the lot.

This guideline is intended to maintain the integrity of these dense neighborhoods and prevent the discord of neighbors contesting the reconstruction plans of other neighbors. It is also consistent with the 2001 Master Plan's goal of preserving affordable housing stock

For lots under 8,000 square feet, the Board is more likely to approve applications that have a maximum height under 28' and an impermeable coverage area under 35%. Where practical, cape style homes, rather than colonial style homes are preferred for these small lots.