

CHARTER TOWNSHIP OF BREITUNG

ARTICLE IX NONCONFORMING USES AND STRUCTURES

Section 901 Intent

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Ordinance but were lawfully established prior to the time of its applicability. It is recognized that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without such necessary and appropriate restriction as are within the power of the Township to impose.

The zoning regulations established by this Ordinance are designed to guide the future use of land in Breitung Township by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established.

All uses or structures created in violation of any preceding Breitung Township Zoning Ordinance shall not be considered a nonconforming use or structure, has no vested right, and is a violation of this Ordinance.

Section 902 Nonconforming Uses and Structures

Nonconforming Uses and Structures are those which have been so designated by the Planning Commission, after application by any interested person or the Zoning Administrator. The Planning Commission shall find that the continuance thereof would not be contrary to the public health, safety, and general welfare; that the use or structure does not and is not likely to significantly depress the value of nearby properties; that the use or structure was lawful at the time of its inception; and that it meets the standards set out in Section 704 of this Ordinance.

Section 903 Provisions for Nonconforming Uses and Structures

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (A) No Nonconforming Use or Structure shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance ***without approval from the Planning Commission.***
- (B) No Nonconforming Use or Structure shall be moved, in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance, except after approval of the Planning Commission.
- (C) A Nonconforming Use or Structure shall not be changed to another nonconforming use.
- (D) No Nonconforming Use or Structure shall be expanded to add another nonconforming use or structure.
- ~~(E) Nonconforming Uses or Structures shall not be altered or expanded.~~

CHARTER TOWNSHIP OF BREITUNG

- (F) *Nonconforming Structures or structures devoted to a nonconforming use shall not be repaired, other than normal maintenance. Repairs shall not exceed 25% of the assessed market value of the structure in any twelve (12) month period.*
- (G) *In the event that any nonconforming structure or structure devoted to a nonconforming use shall be damaged by any means or in any manner to the extent that the cost of reconstruction or restoration is equal to or less than 50% of the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, such reconstruction or restoration shall be permitted provided a building permit for such reconstruction or restoration is issued within one (1) year of the occurrence of such damage.*

Failure to commence restoration or reconstruction within one (1) year following the occurrence of said damage shall be conclusively presumed to be an abandonment of the nonconforming use or structure. Where the cost of restoration or reconstruction of such a structure exceeds 50% of the entire structure as it existed immediately prior to the time of said damage, the nonconforming structure may not be restored or reconstructed, nor shall any nonconforming use which may have been occurring within said structure be resumed or continued upon the premises upon which said structure was located.

Section 904 Regulations Pertaining to Nonconforming Uses and Structures

No Nonconforming Use or Structure shall be resumed if it has been discontinued for a continuous period of at least twelve (12) months or if it has been changed to a conforming use for any period.

Section 905 Nonconforming Lots

Any nonconforming parcel of land shown as a lot in a map recorded with the County Register of Deeds, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgement of a Notary Public, prior to the effective date of this Ordinance, and which lot actually exists as shown or described may be used for permitted uses even though the lot area and/or dimensions are less than those required for the district in which the lot is located, provided that yard dimensions and other requirements of the district, not involving lot area or width, are met. If a parcel contains more than one nonconforming lot, which is contiguous and in one ownership and would make one or more conforming lots, then only one structure would be permitted per conforming parcel. In addition, if a parcel contains more than one nonconforming lot which is contiguous and in one ownership but would not make one or more conforming lots, then only one structure would be permitted per parcel. The spirit of this provision is to limit density in areas of historically small lots to provide for proper isolation for wells, septic systems, drainage and similar public health considerations. No vested right shall arise to the property owner for any parcel created in violation of any preceding Breitung Township Zoning Ordinance.

Section 906 General Standards

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the intent of this Article and the general standards as set out in Section 704 of this

CHARTER TOWNSHIP OF BREITUNG

Ordinance. Each individual proposal shall follow the procedure identified in Section 1002 of this Ordinance.

DRAFT