

SECTION 9
NON-CONFORMING LOTS, USES, BUILDINGS, AND/OR STRUCTURES

9.0 Intent and General Rules

- 9.01 Intent: It is the intent of these Regulations that non-conformities are not to be Expanded, Altered, or Enlarged, that they should be changed to conformity as quickly as the fair interest of the owners permits, and that the existence of any present nonconformity anywhere in the Town shall not in itself be considered grounds for the approval of a variance for any other use, building or other structure or lot. (For the definitions of terms relative to this Section 9, see Section 3, Definitions). [From former Section 8.1, Amended Effective 3-7-08]
- 9.02 Nonconformity: Any Use, Building or other Structure, Lot or site development, or part thereof, which existed lawfully, by variance or otherwise, on the date these Regulations, or any amendment hereto, became effective and fails to conform to one or more of the provisions of these Regulations, or such amendment hereto, may be continued subject to the provisions and limitations of this Section 9. [From former Section 2.2]
- 9.03 Casualty–Building or Structure: If any Nonconforming Building or Structure, or Building or Structure on a Nonconforming Lot, shall be damaged or destroyed by fire or other casualty outside the control of the owner, such Building or Structure may be restored to the extent that such Building or Structure existed at the time of the casualty, provided that such restoration is completed within one (1) year from such casualty. In the event of failure to complete such restoration within the one (1) year period, or within such additional periods, not exceeding two (2) years, as the Zoning Commission may grant upon written application made to it. Upon a finding by the Zoning Commission, following a public hearing with notice to the property owner and occupant of the Premises, that such Nonconforming Building or other Structure, or Building or Structure on a Nonconforming Lot, has been abandoned, the right under this Paragraph to restoration of such Nonconforming Building or other Structure, or such Building or Structure on a Nonconforming Lot, shall be lost and terminated. Such restoration when made within the Zone A or Zones V 1V30 portions of the Flood Plain District shall conform to the requirements of Section 4.4 of these Regulations. To the extent said reconstruction does not conform to the standards set forth in Schedule A-2 of these Regulations or Schedule B-2 of these Regulations, as applicable, said reconstruction shall be allowed within such same Building footprint and pre-existing actual cubic area occupied or less, with no increase in pre-existing non-conformities. [From former Section 8.4 , Amended Effective 4/3/95 and 3-7-08]
- 9.04 Casualty–Uses: If any site development not involving a Building or Structure, or any Building or Structure containing a Nonconforming Use, shall be damaged or destroyed by fire or other casualty outside the control of the owner, any such Nonconforming Use may be resumed to the extent that such site development or

use existed at the time of the casualty, provided that such restoration is completed within one (1) year from such casualty. In the event of failure to complete such restoration within the one (1) year period, or within such additional periods, not exceeding two (2) years, as the Zoning Commission may grant upon written application made to it. Upon a finding by the Zoning Commission, following a public hearing with notice to the property owner and occupant of the Premises, that said site development or Use has been abandoned, the right under this Paragraph to restoration of site development, and the right to resume any such Nonconforming Use, shall be lost and terminated. Such restoration when made within the Zone A or Zones V 1V30 portions of the Flood Plain District shall conform to the requirements of Section 4.4 of these Regulations. To the extent said reconstruction does not conform to the standards set forth in Schedule A-2 of these Regulations or Schedule B-2 of these Regulations, as applicable, said reconstruction shall be allowed within such same Building footprint and pre-existing actual cubic area occupied or less, with no increase in pre-existing non-conformities. [From former Section 8.4 , Amended Effective 4/3/95 and 3-7-08]

- 9.05 Repair: Nothing in this Section shall be deemed to prohibit work on any Nonconforming Building or other Structure, or any Building or Structure on a Nonconforming Lot, or site development, when required by law to protect the public health or safety, provided that such work does not increase the Nonconformity. Nothing in this Section shall be deemed to prohibit work on ordinary repair and maintenance of a Nonconforming Building or other Structure, or site development, or replacement of existing materials with similar materials. [From former Section 8.5, Amended Effective 4/3/95 and 3-7-08]
- 9.06 Title: No change of title, possession or right of possession shall be deemed to affect the right to continue a Nonconforming Use, Building or other Structure, or Building or Structure on a Nonconforming Lot, or site development. [From former Section 8.6, amended 4-3-95]
- 9.07 Voluntary Demolition: The voluntary demolition by the owner of any Building or Structure containing a Nonconforming Use shall constitute evidence of wilful abandonment of such Use. Similarly, the voluntary demolition by the owner of any Building or Structure that is nonconforming as to Bulk shall constitute evidence of wilful abandonment of such legal nonconformity, and the construction of any Building or Structure on such Lot shall conform to all applicable provisions of these Regulations.

[From former Section 8.5, Amended Effective 4/3/95, 3-7-08 and 4-1-09]

9.1 Non-Conforming Lots

The following provisions and limitations shall apply to Nonconforming Lots, but not Parcels which are not Lots, except as otherwise noted: [From former Section 8.9, Amended Effective 4/3/95 and 3-7-08]

9.1.1 Use of Nonconforming Vacant Lots: Any vacant Nonconforming Lot, meaning a Lot upon which no Principal Building exists, having less than the minimum Lot Area required under these Regulations is not required to conform to such minimum Lot Area requirement and any permitted Building or other Structure may be erected or placed, and any permitted Use may be made thereon only if all of the following requirements are met:

- a. Such Lot shall have an area equal to or greater than 90% of the minimum Lot Area required under these Regulations, provided such lot is 18,000 square feet or larger; and
- b. Such Lot has abutted no other Lot under the same ownership since the adoption of Zoning Regulations in the Town of Old Lyme (effective August 12, 1958). See Section 9.1.2. [From former Section 8.9.1.b, Amended Effective 3/1/98 and 3-7-08]
- c. Except for Lot Area and Frontage, all other bulk requirements of Schedule A-2 or B-2, as the case may be (minimum setbacks, maximum coverage, etc.) shall apply, except as varied by the Zoning Board of Appeals. [From former Section 8.9.1.c , Amended Effective 3/1/98 and 3-7-08]

9.1.2 Merger of Non-Conforming Lots: If title to a non-conforming Parcel or Lot, whether improved or not, was, at any time after the adoption of Zoning Regulations in the Town of Old Lyme (effective August 12, 1958), or is now, vested in any person(s) that own(s) any Parcel or Parcels of land contiguous to it, then said contiguous land together with the Non-conforming Parcel as is required to conform to these Regulations shall be deemed to be a single Lot or Parcel for zoning purposes, and thereafter may not be divided, sold, transferred, or improved in any manner which would create or result in a Non-conformity or in an increased or further Non-conformity. In the event that all contiguous lands of said person(s) are together insufficient to meet the minimum requirements of these Regulations, then all said contiguous land shall be considered as a single non-conforming Lot or Parcel for the purposes of this Section. The foregoing merger provisions shall not apply to any Lot approved pursuant to the Old Lyme Subdivision Regulations as in force at the time of such approval, pursuant to Connecticut General Statutes Section 8-26a(b), or to Parcels of land, each of which are improved with legal Principal Buildings existing prior to the effective dates of the regulations which rendered them Non-conforming.

The preceding provision is intended to continue and clarify the provisions of Section 9.1.1(b), requiring the merger of non-conforming parcels under single ownership. [From former Section 8.9.2, Amended Effective 3/1/98 and 3-7-08]

9.1.3 Expansion of Existing Building or Structure on Nonconforming Lot

9.1.3.1 General Rule. Except upon the issuance of a Special Permit as provided herein, or a Certificate of Zoning Compliance in accordance with Section 9.1.4, no Building or other Structure located on a Lot which does not conform to the requirements of these Regulations shall be Enlarged or Extended, and no additional Buildings or Structures shall be constructed on such Lot; nor shall any Building or Structure be Altered so as to increase the extent of its Nonconformity. These prohibitions specifically include the following: [From former Section 8.9.3, Amended Effective 7/1/96, 3-7-08 and 4-1-09]

- a. the conversion of any garage, outbuilding or other Accessory Building or Structure to habitable living space. [From former Section 8.9.3(b) , Amended Effective 6/1/96 and 3-7-08]
- b. The construction of any additional Building for habitable living space. **[Amended to delete seasonal use effective 9-16-11]**

9.1.3.2 Exceptions to General Rule by Special Permit by the Commission. The Commission may issue a Special Permit for an Enlargement, Extension, or additional Building or Structure otherwise prohibited by this Section for a Lot containing a Single Family Dwelling and located in the R-10 District, provided that the septic system is in compliance with the current Public Health Code without the use of any exceptions provided by such Code; and also provided that there is no new nonconformity, nor increase in any existing nonconformity, with respect to setback, coverage, and other Bulk requirements; and also provided that, in addition to the criteria of Section 13B, the Commission may consider: [Amended Effective 4-1-09]

- a. the density or intensity of the Lot and the surrounding area, including the area and topography of the Lot, its coverage by Buildings, the height and volume of such Buildings, the number of Dwelling Units or bedrooms, and the ratio of impervious surfaces;
- b. the natural resources on the Lot and in the vicinity of the Lot which may be adversely impacted;
- c. the access to the Lot, including whether access roads are public or private, their surface condition, width, grade, flood hazard, drainage, existing traffic volume, and suitability for increased traffic or population to be served;
- d. Access to the existing or proposed Building(s) or Structure(s) on and Abutting the Lot for emergency vehicles and public safety personnel;

- e. the character of the neighborhood, including the scale of other Buildings or Structures in the area, the streetscape, impact on marine or coastal vistas as viewed from public Streets or other public viewing areas;
- f. the goals of the Connecticut Coastal Management Act, despite the exemption from such Act for Single Family Dwellings; and specifically including a consideration of the protection of the coastal resources on or adjacent to the site; and impacts to such coastal resources shall be found to be acceptable for the proposed application. Such review shall also include a recognition that many areas of the R-10 District are within coastal flood hazard areas and that the potential danger to life and property shall be reduced or minimized by the proposed application.
[Amended Effective 4-1-09]
- g. privacy, light, and air for the subject Lot and Abutting Lots;
- h. increased effluent disposal volumes, the condition of the existing septic system on the Lot, and the impact on potential future repair or expansion of any such septic system.
- i. An A-2 Survey shall be provided in support of any application under this Subsection.

9.1.3.3 Exceptions to General Rule by Certificate of Zoning Compliance by the Zoning Enforcement Officer. In addition to the preceding Section 9.1.3.2, the following may be permitted by Certificate of Zoning Compliance on a Nonconforming Lot in the R-10 District containing a Single family Dwelling only, provided all other setback and Building bulk and coverage requirements are met; and also provided that the septic system is in compliance with the current Public Health Code including the use of any exception provided by such Code. [From former Section 8.9.4, Amended Effective 10/6/95, 4-1-09]

- a. a detached Accessory Building not exceeding 100 square feet in size, 10 feet in height;
- b. a Deck.
- c. a Terrace.
[Added c. effective 4-1-09]

An A-2 Survey shall be provided in support of any application under this Subsection.

- 9.1.4 Exceptions for Other Single-Family Residential Districts: For a Lot containing a Single Family Dwelling and located in single family zone other than the R-10 District, the Zoning Enforcement Officer may issue a Certificate of Zoning Compliance for an Enlargement, Extension, or additional Building or Structure, provided that the septic system is in compliance with the current Public Health Code without the use of any exceptions; and also provided that all other setback and Building Bulk and coverage requirements are met.

An A-2 Survey shall be provided in support of any application under this Subsection.

[From former Section 8.9.4, Amended Effective 3-7-08, except as otherwise noted]

- 9.1.5 No Reduction of Nonconforming Lot. No Lot or Parcel shall hereafter be decreased in size, by sale, devise, descent, gift, or otherwise, so that it or any part of it, or so that any Structure or Building thereon, shall fail to comply with these Regulations or shall increase the extent of any non-conformity. [Added effective 3-7-08]

9.2 Non-Conforming Uses

The following provisions and limitations shall apply to a Nonconforming Use of land, Building or other Structure:

- 9.2.1 Enlargement: No Nonconforming Use of land shall be Enlarged, Extended or Altered, and no Building or other Structure or part thereof devoted to a Nonconforming Use shall be Enlarged, Extended, reconstructed or Altered, except where the result of such changes is to reduce or eliminate the Nonconformity. No Nonconforming Use of a Building or other Structure shall be extended to occupy land outside such Building or other Structure or space in another Building or other Structure. [From former Section 8.7.1, Amended Effective 3-7-08 **Amended to delete reference to seasonal use effective 9-16-11**]
- 9.2.2 Change: No Nonconforming Use of land, Buildings or other Structures shall be changed to any Use which is different in nature and purpose from the former Nonconforming Use except such Uses that are permitted uses in the District in which they are to be located. No Nonconforming Use of land, Buildings or other Structures if once changed to conform or to more nearly conform to these Regulations shall thereafter be changed so as to be less conforming again. This Section shall not be construed to waive any Commission or administrative review (Site Development Plan, Special Permit, Certificate of Zoning Compliance, etc.) which any new or altered use would require under these Regulations. [From former Section 8.7.2]
- 9.2.3 Moving: No Nonconforming Use of land shall be moved to another part of a Lot or outside the Lot, and no Nonconforming Use of a Building or other Structure shall be moved or Extended to any part of the Building or other Structure not manifestly arranged or designed for such Use at the time the Use became Nonconforming, and no Building or other Structure containing a Nonconforming Use shall be moved,

unless the result of any such move is to terminate the Nonconformity. [From former Section 8.7.3 Amended Effective 3-7-08]

9.2.4 Performance Standards: Any Use of land, Buildings or other Structures, or site development, which does not conform to one or more of the performance standards of Section 4.5 shall not be changed to increase such Nonconformity but may be changed to decrease or eliminate such Nonconformity. Any such Nonconformity so reduced or eliminated shall not be resumed. [From former Section 8.7.4, Amended Effective 3-7-08]

9.2.5 Exceptions: Notwithstanding the above, a Structure devoted to a Nonconforming Use may be cosmetically changed or may be internally changed or remodeled if:

- a. In the case of a non-residential Use, the change/remodeling does not Expand, Extend, or Alter the Nonconforming Use, except to one that is permitted, and does not increase the level of permitted occupancy of the Nonconforming Use, and does not increase the area within the Structure devoted to the Nonconforming Use;
- b. In the case of a residential Use, the change/remodeling does not change the Use, except to one that is permitted, and does not increase the total number of rooms, and does not increase the number of bedrooms or rooms classifiable as bedrooms under state building or health codes, and does not increase the number of Dwelling Units.

Any such changes shall be allowed only within the existing Structure footprint and existing cubic area of the Structure or less, with no increase in existing Nonconformities.

[Preceding From former Section 8.7.5, Amended Effective 11/10/95 and 3-7-08]

9.3 Non-Conforming Buildings and Structures

The following provisions and limitations shall apply to Nonconforming Buildings and other Structures and site development:

9.3.1 Enlargement: No Building or other Structure which does not conform to the requirements of these Regulations regarding Height limitations, or Building bulk and coverage, or required setbacks shall be Enlarged or Extended unless such Enlarged or Extended portion conforms to these Regulations. [From former Section 8.8.1, Amended Effective 4-3-95, 3-7-08, **Amended to delete reference to seasonal use effective 9-16-11**]

9.3.2 Change: No Nonconforming Building or other Structure, or site development, if once Altered to conform or to more nearly conform to these Regulations shall thereafter be Altered so as to be Nonconforming or less conforming again. [From former Section 8.8.2, Amended Effective 3-7-08]

- 9.3.3 Moving: No Nonconforming Building or other Structure, or site development shall be moved unless the result of such moving is to reduce or eliminate the Nonconformity. [From former Section 8.8.3]
- 9.3.4 Signs: Signs of a size or type not permitted in the District in which they are situated, or which are improperly located or illuminated, or which are Nonconforming in any other way, shall be considered Nonconforming Structures under this Section, and any increase in size, illumination or flashing of such Signs shall be deemed to be an Enlargement or Extension constituting an increase in Nonconformity. When the support structure, panel or illumination facility of a Nonconforming Sign is voluntarily Altered or removed, that element of the Nonconforming Sign is deemed to be discontinued or terminated. [From former Section 8.8.4, Amended Effective 3-7-08]
- 9.3.5 Off-Street Parking and Loading: Any Lot, Use, Building or other Structure, or site development, which does not conform to one or more of the Parking and loading provisions of Section 18 shall continue to conform to such provisions to the extent that it conforms on the effective date of such Section. Any Use of land, Buildings or other Structures which does not conform to one or more of the provisions of Section 18 shall not be changed to a Use which would need additional off-street Parking or loading spaces to comply with the provisions of Section 18 unless such spaces are provided as required for the new Use under Section 18. [From former Section 8.8.5 , Amended Effective 3-7-08]
- 9.3.6 Site Development and Landscaping: Site development, including landscaping, which fails to conform to requirements of these Regulations under Section 13 shall be deemed a Nonconformity. No Use for which such site development and landscaping are required shall be Enlarged, Extended, Altered or moved and no Building or other Structure for which such site development and landscaping are required shall be Enlarged, Extended, Altered, moved or reconstructed unless such Nonconformity is eliminated, provided that the Zoning Commission may, in accordance with action under the provisions of Section 13, authorize continuation or reduction of the Nonconformity. [From former Section 8.8.6, Amended Effective 1/1/96, 4/1/99, and 3-7-08]

[Preceding From former Section 8.8 , Amended Effective 3-7-08, except as otherwise noted]

9.4 Modification Of Non-Conformity To Achieve Improvement

The Zoning Commission may, after due notice and public hearing as required by law, grant a Special Permit in accordance with Section 13 of these Regulations authorizing construction, reconstruction, Enlargement, Extension, moving or Alteration of Buildings and Structures on a Lot having site development which fails to conform to the standards of Section 8 of these Regulations, and/or authorizing continuation, Enlargement, Extension, moving or Alteration of existing site development which fails so to conform if the Commission or other agency finds that the following standards are met:

- a. the proposed construction shall result in a general improvement of the Lot with regard to safe access, suitable drainage and adequate landscaping;
- b. Nonconforming Signs and lighting shall be brought into a conforming or more nearly conforming condition;
- c. adequate provision shall be made for landscaping in the area required for setback from a Residence District boundary line; and
- d. there shall be no increase in the Nonconformity of Buildings and other Structures and site improvements.

[Preceding From former Section 31.3.22, Amended Effective 3-7-08]

9.5 Illegal Use

Nothing in these Regulations, including the provisions of this Section 9, shall be interpreted as authorization for or approval of the continuation of the Use of land, Buildings or Structures which are in violation of any Zoning Regulations in effect prior to the effective date of these Regulations. [Added effective 3-7-08]

9.6 Zoning Permits, Certificates of Zoning Compliance, Special Permits and Variances, Amendments to Regulations or Zones

9.6.1 Approved Zoning Permits and Certificates: Unless otherwise specifically provided in this Section, nothing in these Regulations shall require any change in the Use of any land, Buildings or other Structures, or part thereof, in the area, location, Bulk or construction of any Building or other Structure or in site development for which an application for a Zoning Permit has been filed, even though such Use, Building or Structure or site development does not conform to one or more provisions of these Regulations or any amendment hereto. [From former Section 8.2, Amended Effective 3-7-08, Amended Effective 4-1-09]

9.6.2 Change of Regulations as They Affect Plans: Subject to the time limitations of Section 9.7.3, nothing in these Regulations shall be deemed to require any change in the proposed use of any land, Building or other Structure, in the area, location, Bulk or construction of any Building or other Structure, or as respects site development for which an application for a Zoning Permit has been filed, even though such proposed Use, Building or other Structure, or site development does not conform to one or more provisions of these Regulations or any amendment hereto. [From former Section 8.3, Amended Effective 3-7-08]

9.7 Expiration of Special Permits and Variances; Zoning Permit

For any Special Permit, or any Variance where filing of plans on the land records is a condition of such variance, final plans on mylar shall be submitted for signing by the

Chairman of the Commission or the Board, as the case may be, no more than sixty-five (65) days after the approval of such Special Permit or variance; and such plans shall be filed with the Town Clerk no later than ninety (90) days after the signing thereof. Any plans not submitted or filed as provided herein shall be null and void.

9.7.1 Time Limit for Zoning Permits: An approved Zoning Permit authorizing a proposed Use, Building or other Structure that does not conform to one or more provisions of these Regulations or any amendment hereto, as described in Section 9.6, shall become null and void unless a) the Use authorized thereby shall have been established within one (1) year from the effective date of such Regulations or any amendment thereto when such Use does not involve the construction of a Building or other Structure for which a Building Permit must be approved or b) the construction and Use of a Building or other Structure, and its site development authorized thereby shall be established and completed within two (2) years from the effective date of such Regulations or any amendment thereto. The Zoning Commission may grant extensions of such period for additional periods not to exceed one (1) year after public hearing for good cause demonstrated to the satisfaction of such Commission. [From former Section 8.3.1, Amended Effective 3-7-08]

9.7.2 Previous Regulations: The provisions of Sections 9.6 and 9.7 shall apply to Zoning Permits and Certificates of Zoning Compliance issued under the Zoning Regulations in effect prior to these Regulations. [From former Section 8.3.2 , Amended Effective 3-7-08]

9.7.3 Commencement and Completion of Work on Site Development Plan Approvals:

9.7.3.1 Commencement of Work: Work in connection with an approved Site Development Plan shall be commenced within eighteen (18) months after approval of the Plan, or within a lesser period as may be determined by the Zoning Commission, at the time of such approval, to be necessary to protect the public health and safety or to carry out other purposes of these Regulations. "Commencement" of work shall mean excavation and preparation for the foundation of a Building and the issuance of a Zoning Permit and a Building Permit for Site Development Plans involving Building construction; or the issuance of a Zoning Permit and the excavation and grading for the installation of utilities and parking areas and other site work, for Site Development Plans not involving Building construction. Failure to commence the work within such eighteen (18) month period shall result in expiration of approval of the Site Development Plan following a hearing with notice to the owner and permit holder; provided, however, that the Zoning Commission may extend such approval for additional eighteen (18) month periods for good cause shown.

9.7.3.2 Completion of Work: Notwithstanding the provisions herein for renewal of any Site Development Plan, in accordance with Connecticut General Statutes §8-3(i), any such Plan issued under Section 13 of these

Regulations after October 1, 1984 shall become null and void unless all physical improvements required have been completed five (5) years from the date of the approval of such Plan except that, in the case of any site plan approved on or after October 1, 1989, the Commission may grant one or more extensions of the time to complete all or part of the work in connection with the Plan, provided the total extension or extensions shall not exceed ten (10) years from the date of approval; provided, however, that, in accordance with §8-3(j) of the Connecticut General Statutes, for any such Plan issued after June 19, 1987 for a project consisting of four hundred (400) or more dwelling units shall become null and void unless all physical improvements required have been completed ten (10) years from the date of the approval of such Plan; and further provided, however, that, in accordance with §8-3(j) of the Connecticut General Statutes, for any such Plan issued after October 1, 1988 for a project consisting of a commercial, industrial, or retail project having an area equal to or greater than four hundred thousand square feet shall become null and void unless all physical improvements required have been completed within no less than five (5) years, nor more than ten (10) years from the date of the approval of such Plan. The approval of the Site Development Plan, including any extension of time provided in this Subsection, shall state the date on which such five (5) year period or lesser period expires, but failure to specify such date shall not create any approval which exceeds the time limits contained in this Subsection. Failure to complete all work within the time limits set forth in this Subsection, or lesser period as may have been specified, results in automatic expiration of approval of the Site Development Plan, provided, however, that any such lesser period may, for good cause shown and for work progressing in accordance with these Regulations, be extended by the Zoning Commission for periods up to the aforesaid time periods. "Work" for the purposes of this Subsection 9.6.3 means all physical improvements required by the approved Plan.

[Preceding From former Section 31.5.8, Amended Effective 3-7-08]

- 9.7.4 Commencement and Completion of Work for Special Permit: Work in connection with the Special Permit shall commence within 18 months and shall be completed and the Use established within three (3) years from the date the Special Permit was granted, unless otherwise restricted by the Commission at the time of approval, or extended at the time of approval or thereafter. Failure to complete the work and establish the Use results in expiration of the Special Permit following a hearing with notice to the owner and permit holder, provided however that the Commission/Board may extend such period of 18 months to enable completion of work progressing in accordance with the Special Permit and these Regulations. "Commencement" of work shall mean excavation and preparation for the foundation of a Building and the issuance of a Zoning Permit and a Building Permit for Special Permits involving

Building construction; or the issuance of a Zoning Permit and the excavation and grading for the installation of utilities and parking areas and other site work, for Special Permits not involving Building construction. “Work” for the purposes of this paragraph means all physical improvements required under the Special Permit. [From former Sections 32.9.5 and 52.3, Amended Effective 3-7-08]

- 9.7.5 Commencement and Completion of Work for Variance: Work in connection with a variance shall be commenced with eighteen (18) months and substantially completed and the Use established within three (3) years of the date the variance was granted. Failure to complete the work and establish the Use results in expiration of the variance following a hearing with notice to the owner and permit holder, provided however that the Zoning Board of Appeals may extend such periods of three (3) years to enable completion of work progressing in accordance with the variance and these Regulations. “Commencement” of work shall mean excavation and preparation for the foundation of a Building and the issuance of a Zoning Permit and a Building Permit for variances involving Building construction; or the issuance of a Zoning Permit and the excavation and grading for the installation of utilities and parking areas and other site work, for variances not involving Building construction. “Work” for the purposes of this paragraph means all physical improvements required under the variance. See Section 21.3. [From former Section 52.3, Amended Effective 3-7-08]

Rev. February 20, 2008 to correct 9.1.3.f reference to CAM and add language requested by OLISP.