

**Appendix A:**

Art. 8:

**ALTERNATIVE TO 30% EXPANSION RULE PURSUANT TO TITLE 38 SECTION 439-A  
SUBSECTION 4-A****Section 12.C. Non-conforming Structures**

- (1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.
- (a) Legally existing non-conforming principal and accessory structures that do not meet the water body or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.
- i. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
  - ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
  - iii. For structures located less than 75 feet from the normal high-water line of a water body or upland edge of a wetland, the maximum combined total floor area for all structures is 1,000 square feet, and the maximum height of any structure is 20 feet or the height of the existing structure, whichever is greater.
  - iv. For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all structures is 1,500 square feet, and the maximum height of any structure is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line or upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of subparagraph (a), a basement is not counted toward floor area.

- (b) Construction or enlargement of a foundation beneath the existing structure is not considered an expansion of the structure provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in paragraph 2 Relocation, below; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.

Art. 9:

NOTE: The special expansion allowance provided below is available to municipalities that wish to allow a greater expansion limit if the landowner has maintained a quality 50 foot buffer along the water body or wetland, or agrees to plant such a buffer, and

agrees to implement certain measures to reduce erosion and sedimentation from the property. If the municipality does not have adequate resources to ensure compliance with this provision, the department recommends that it not be incorporated into the ordinance.

(1-A) Special expansion allowance. Existing principal and accessory structures that exceed the floor area or height limits set in divisions (iii) and (iv) above may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met.

- (a) The principal structure is set back at least 50 feet from the normal high-water line of a water body, or upland edge of a wetland.
- (b) A well-distributed stand of trees and other vegetation extends at least 50 feet in depth as measured from the normal high-water line or upland edge for the entire width of the property. A "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river flowing to a great pond classified GPA, is defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of tree at 4 1/2 feet above ground level (inches)	Points
2-4 inches	1
>4-12 inches	2
>12 inches	4

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25-foot square area.

If a well-distributed stand of trees and other vegetation meeting the requirements of this subparagraph is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the planning board or its designee, to reestablish a buffer of trees, shrubs, and other ground cover within 50 feet of the normal high-water line or upland edge of a wetland.

- (c) Adjacent to great ponds classified GPA and rivers flowing to great ponds classified GPA, except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs and other woody and herbaceous vegetation within 50 feet of the normal high-water line. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch and plantings of native shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of stormwater.

- (d) A written plan by the property owner, including a scaled site drawing, is approved by the planning board and is developed, implemented, and maintained to address the following mitigation measures for the property within the shoreland zone.
- (i) Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies and wetlands.
  - (ii) Roofs and associated drainage systems, driveways, parking areas, and other nonvegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body or wetland. Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.

(1-B) Planting requirements. Any planting or revegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, be implemented at the time of construction, and be designed to meet the rating scores contained in paragraph (b) and the ground cover requirements of paragraph (c) when the vegetation matures within the 50 foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than three (3) feet tall for coniferous species and no less than six feet tall for deciduous species. The planting plan must include a mix of at least three native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted unless otherwise approved by the planning board or its designee, based on adjacent stand comparison. All aspects of the implemented plan must be maintained by the applicant and future owners.

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NOTE: Municipalities are encouraged to specify those professions which they deem qualified to prepare planting and mitigation plans, taking into account the availability of those professionals in the region. Such professionals may include, but are not limited to, foresters, arborists, landscape architects, and landscape contractors.

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(1-C) Filing and reporting requirements. Written plans required pursuant to this section must be filed with the registry of deeds of the county in which the property is located. A copy of all permits issued pursuant to this section must be forwarded by the municipality to the department within 14 days of the issuance of the permit.