

**AN ORDINANCE AMENDING VARIOUS ARTICLES AND SECTIONS OF THE
SMITHFIELD ZONING ORDINANCE TO COMPLY WITH CHANGES MADE TO THE
LAND USE ENABLING ACTS OF THE STATE OF RHODE ISLAND**

IT IS HEREBY ORDAINED BY THE TOWN OF SMITHFIELD AS FOLLOWS:

Section 1. Article 2 Definitions Town of Smithfield Zoning Ordinance are hereby amended by adding/amending the following definitions:

ARTICLE 2 DEFINITIONS

Section 2.2 Specific Definitions

1. Abutter
2. Accessory Dwelling Unit (ADU)
3. Accessory Use of Structure
4. ~~Adult Entertainment~~ Adaptive Reuse

The conversion of an existing structure from the use for which it was constructed to a new use by maintaining the elements of the structure and adapting such elements to a new use.

...

48-49. Development

49-50. Development Plan Review

~~The process whereby the Planning Board is authorized to review the site plans, maps and other documentation of a development to determine the compliance with the stated purposes and standards of this Ordinance.~~ Development plan review. Design or site plan review of a development of a permitted use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific and objective guidelines, for developments including, but not limited to:

- A. A change in use at the property where no extensive construction of improvements is sought;
- B. An adaptive reuse project located in a commercial zone where no extensive exterior construction of improvements is sought;
- C. An adaptive reuse project located in a residential zone which results in less than nine (9) residential units;
- D. Development in a designated urban or growth center;
- E. Institutional development design review for educational or hospital facilities; or
- F. Development in a historic district.

...

8889. Land Development Project

Land Development Project. A project in which one (1) or more lots, tracts, or parcels of land or a portion thereof, are to be developed or redeveloped as a coordinated site for ~~a complex of one or more~~ uses, units, or structures, including, but not limited to: planned development or cluster development, and/or conservation development for residential, commercial, industrial, institutional, recreational, open space, and/or mixed uses as provided for in this Ordinance.

...

157158. Variance: Permission to depart from the literal requirements of this Ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by this Ordinance. There shall be only two (2) categories of variance, a use variance or a dimensional variance:

- A. Use Variance: Permission to depart from the use requirements of this Ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this Ordinance;
- B. Dimensional Variance: Permission to depart from the dimensional requirements of this Ordinance, ~~where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief, although it may be an incidental result of the relief.~~ under the applicable standards set forth in R.I.G.L. § 45-24-41.

Section 2. Article 3 Nonconformance is hereby amended by amended as follows:

ARTICLE 3 NONCONFORMANCE

3.4 Nonconforming By Dimension (Substandard Lots Of Record)

A lawfully established building, structure, or parcel of land not in compliance with the dimensional ... frontage, (also known as a substandard lot of record) is also nonconforming by dimension.

Notwithstanding the failure of a single substandard lot of record or contiguous lots of record to meet the dimensional and /or quantitative requirements of this zoning ordinance, and/or road frontage or other access requirements applicable to the district as stated in the ordinance, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet minimum lot size requirements of the district in which such lot is located. The setback, frontage, and/or lot width requirements for a structure under this section shall be reduced and the maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located. All proposals exceeding such reduced requirement shall proceed with a modification request under Section 10.3 or a dimensional variance request under Section 10.8, whichever is applicable.

3.7 EXISTENCE BY VARIANCE OR SPECIAL USE PERMIT

A nonconforming building, structure, sign, or parcel of land or the use thereof, which exists by virtue of a variance or a special use permit granted by the ~~Board~~ permitting authority, shall not be considered a nonconformance for the purposes of this Article, and shall not acquire the rights of this Article. Rather, such building, structure, sign, parcel of land, or use thereof, shall be considered a use by variance or a use by special use permit and any moving, addition, enlargement, expansion, intensification or change of such building, structure, sign, parcel of land or use thereof, to any use other than a permitted use or other than in complete conformance with this Ordinance, shall require a further variance or special use permit from the ~~Board~~ permitting authority.

3.11 Land Nonconforming by Area

E. Merger Prohibited for Certain Lots

The merger of lots shall not be required, in any zoning district, when the substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the lots within two hundred (200) feet of the subject lot, as confirmed by the zoning enforcement officer through the submission of a Compilation Survey stamped and signed by a Rhode Island Registered Land Surveyor.

Section 3. Article 4 Use Regulations is hereby amended by adding the following new section entitled “Adaptive Reuse Projects”:

ARTICLE 4 USE REGULATIONS

Section 4.7 Adaptive Reuse Projects

A. Permitted Use. Adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed-use developments is a permitted use, under the criteria described below under Eligibility.

B. Eligibility.

1. Adaptive reuse development must include at least 50% of existing gross floor area developed into residential units.
2. There are no environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the US EPA.

C. Density.

1. For projects that meet the following criteria, the residential density shall be no less than fifteen (15) dwelling units per acre:
 - a) Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building fire code, and utility requirements.

- b) The development includes at least twenty percent (20%) low- and moderate-income housing.
 - c) The development has access to public sewer and water service or has access to adequate private water, such as well and/or wastewater treatment systems approved by the relevant state agency for the entire development as applicable.
2. For all other adaptive reuse projects, the residential density permitted in the converted structure shall be the maximum allowed that otherwise meets all standards of minimum housing and has access to public sewer and water services or has access to adequate private water, such as well and wastewater treatment systems approved by the relevant state agency for the entire development, as applicable.
 3. The density proposed for any adaptive reuse project shall be determined to meet all public health and safety standards.

D. Dimensional requirements.

1. Notwithstanding any other provisions of this section, existing building setbacks shall remain and are considered legal nonconforming.
2. No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority.
3. Notwithstanding other provisions of this section, the height of the structure shall be considered legal nonconforming if it exceeds the maximum height of the zoning district in which the structure is located.
 - a) Any rooftop construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption.

E. Parking requirements.

1. Adaptive reuse developments shall provide one parking space per dwelling unit. The applicant may propose additional parking in excess of one space per dwelling unit.
2. The number of parking spaces required, as defined in Article 7, shall apply for uses other than residential.

F. Performance Standards

1. The performance standards set forth in Article 6.3 shall apply to all adaptive reuse projects.

G. Allowed uses within an adaptive reuse project.

1. Residential dwelling units are a permitted use in an adaptive reuse project regardless of the zoning district in which the structure is located, in accordance with the provisions of this section.

Section 4. Article 6 Supplementary Regulations is hereby amended by adding three (3) new sections entitled: 6.11 Land Development Projects, 6.12 Unified Development Review and 6.13 Development Plan Review.

ARTICLE 6 - SUPPLEMENTARY REGULATIONS

6.11 Land development projects.

- A. Land development projects shall be reviewed in accordance with the procedures established in the Land Development and Subdivision Regulations, pursuant to R.I.G.L. §45-23.
- B. No land development project shall be initiated until a plan of the project has been submitted and approval has been granted by the authorized permitting authority, as determined in Land Development and Subdivision Regulations.
- C. The permitting authority is empowered to apply any special conditions and stipulations to the approval that may, in the opinion of the authorized permitting authority, be required to maintain harmony with neighboring uses and promote the objectives and purposes of the comprehensive plan and zoning ordinance.

6.12 Unified Development Review

- A. Unified development review established. There shall be unified development review for the issuance of variances and special use permits for properties undergoing review by development plan review and/or land development or subdivision review.
- B. Public hearing. All land development and subdivision applications, and development plan review applications that include requests for variances and/or special-use permits submitted pursuant to this section, shall require a public hearing that meets the requirements of Section 10.8.B.
- C. In granting requests for dimensional and use variances, the Planning Board shall be bound to the requirements of Section 10.8.C.1 relative to entering evidence into the record in satisfaction of the applicable standards and may impose conditions as stated in Section 10.8.C.3.
- D. In reviewing requests for special use permits the Planning Board shall be bound to the conditions and procedures under which a special use permit may be issued and the criteria for the issuance of such permits, as found within the zoning ordinance Section 10.8.C.2, and shall be required to provide for the recording of findings of fact and written decisions as described in the zoning ordinance pursuant to Section 10.8.C and may impose conditions as stated in Section 10.8.C.3.
- E. Appeals. An appeal from any decision made pursuant to this section may be taken pursuant to Section.

6.13 Development Plan Review

- A. Development plan review established. There shall be development plan

- review for uses that are permitted by right under the zoning ordinance.
- B. Permitting authority. The permitting authority shall be as determined in the Land Development and Subdivision Regulations.
- C. Specific and objective guidelines. Design of all projects shall be consistent with the provisions of the Land Development and Subdivision Regulations.
- D. Waivers. The authorized permitting authority may grant waivers of design standards as set forth in the regulations.
- E. Appeal. A rejection of the decision shall be an appealable decision pursuant to Section 10.13.

Section 5. Article 10 Administration, Enforcement and Relief is hereby amended as follows:

ARTICLE 10 ADMINISTRATION, ENFORCEMENT AND RELIEF

10.3 MODIFICATIONS GRANTED BY THE OFFICIAL

The Official is hereby empowered to hear and grant Modifications. Submission requirements for Applications for such Modifications shall be the same as those for a Dimensional Variance Application, provided that references to the Zoning Board shall refer to the Official.

- ~~A.~~ A Modification may be requested for adjustments or deviations not exceeding 25% of ~~any of the requirements of Table I, "Dimensional Regulations" in §5.4 or quantitative or dimensional requirements of parking, signs, landscaping, and other similar requirements of this Ordinance, but excluding the moving of lot lines, lot area, and density~~ the literal dimensional requirements of this ordinance. This does not permit the moving of lot lines.
- B. Within ten (10) days of receipt of a request for a Modification, the Official shall make a decision as to the suitability of the requested Modification based on the following determinations:
 1. The Modification requested is reasonably necessary for the full enjoyment of the permitted use;
 2. If the Modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
 3. ~~The Modification requested is in harmony with the purposes and intent of the Comprehensive Plan and this Zoning Ordinance~~ The Modification requested does not violate any rules or regulations with respect to a freshwater or coastal wetland; and
 4. The Modification requested does not require a Variance of a flood hazard requirement.
- ~~C.~~ Upon an affirmative determination on the Modification, in the case of a modification of five percent (5%) or less, the Official shall have the authority to issue a permit approving the modification, without any public notice requirements. In the case of a

modification of greater than five percent (5%), the Official shall notify, by first class mail, all property owners abutting the property which is the subject of the modification request and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of local circulation within the town give notice in the same manner as would be given for a Variance Application, pursuant to §10.8(B), that the Modification will be granted unless written objection is received within ~~thirty~~ fourteen (3014) days of the public notice, and inviting the public to inspect the plans and Application during normal working hours. If any written objection is received within ~~thirty~~ fourteen (3014) days, the request for a Modification shall be ~~denied~~ scheduled for the next available hearing before the Zoning Board on application for a dimensional variance following the standard procedures for such variances, including notice requirements provided in Section 10.8.B . ~~In such case, the changes requested will be considered a request for a Dimensional Variance and may only be issued by the Zoning Board following the standard procedures for Variances.~~

- D. If no written objections are received within ~~thirty~~ fourteen (3014) days, the Official shall grant the Modification. The Official may apply such special conditions to the Permit as may, in the opinion of the Official, be required to conform to the intent and purposes of the Zoning Ordinance. The Official shall keep public records of all requests for Modifications, and of findings, determinations, special conditions, and any objections received. If the Official grants the Modification, the written decision thereof shall be recorded in the Land Evidence Records of the Town.
- E. ~~If the Official denies the Modification, or if the applicant is aggrieved by some part of the Official's decision, there is no right of appeal. Rather, the changes requested will be considered a request for a Dimensional Variance and may only be granted by the Zoning Board following the standard procedures for Dimensional Variances~~ Cost of any notice required under this section shall be borne by the applicant requesting the modification.

Section 6. These Ordinance Amendments shall take effect Thirty (30) days after their adoption by the Smithfield Town Council.

APPROVED AS TO FORM AND LEGAILITY:

Anthony M. Gallone, Jr.
TOWN SOLICITOR

ADOPTED: _____

T. Michael Lawton
TOWN COUNCIL PRESIDENT

Lyn M. Antonuccio
TOWN CLERK

TOWN OF SMITHFIELD, RHODE ISLAND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Smithfield Town Council will hold a Public Hearing at the Smithfield Town Hall, 64 Farnum Pike, Smithfield, RI on **Tuesday, June 18, 2024 at 7:00 PM.** The purpose of the Public Hearing is to consider and act upon proposed amendments to the following Articles and Section(s) of the Smithfield Zoning Ordinance:

Summary of Amendments: the amendments are being proposed to numerous sections of the Zoning Ordinance to comply with amendments made to the land use enabling acts that went into effect on January 1, 2024.

The amendments involve adding changes to the following articles and sections of the ordinance including: *Article 2 Definitions; Article 3 Nonconformance; 3.7 Existence By Variance Or Special Use Permit; 3.11 Land Nonconforming By Area, E. Merger Prohibited For Certain Lots; Article 4 Use Regulations, (New Section) 4.7 Adaptive Reuse Projects with subsections A-G; Article 6 –Supplementary Regulations (New subsections) 6.1 Land development projects, 6.12 Unified Development Review and 6.13 Development Plan Review and Article 10 Administration, Enforcement And Relief*

These amendments are proposed to be made in accordance with the provisions of 45-24-53 of the General Laws of the State of Rhode Island (1956, as amended).

At said Hearing opportunity will be given to all interested persons to be heard upon the proposed amendments. The proposed amendments may be altered or amended prior to the close of the Public Hearing, without further advertising, as a result of further study or because of the views expressed at the Public Hearing. Any alteration or amendment must be presented for comment in the course of the Hearing.

A complete copy of the proposed amendments and map are available for inspection or copying at the Smithfield Planning Office, Town Hall, 64 Farnum Pike, Smithfield, Rhode Island during regular business hours (8:30 AM – 4:30 PM, Monday – Friday). Interested persons requiring special accommodations or assistance are requested to notify the Town Manager's Office (401-233-1010) at least 48 hours in advance of the Hearing.

BY ORDER OF THE TOWN COUNCIL.

T. Michael Lawton, President

Please publish as a display ad in the May 30th, June 6th and June 13th editions of the Valley Breeze using type size at least as large as the normal type size used in news articles.