ARTICLE 9

NONCONFORMITIES

SECTION 901. GENERAL.

Nonconformities are of three types: nonconforming lots of record, nonconforming

structures, and nonconforming uses. A definition of each type is as follows:

A. NONCONFORMING LOT OF RECORD. A lot which is part of a recorded

subdivision or parcel of land, the deed to which was recorded prior to these

regulations and said lot does not comply with the lot width or area

requirements of the district in which it is located.

B. NONCONFORMING STRUCTURE. A structure that existed prior to the

adoption of these regulations that does not comply with the lot coverage,

height or yard requirements which are applicable to structures in the zoning

district in which it is located.

C. NONCONFORMING USE. A use of a structure or of land that lawfully

existed prior to the adoption of these regulations which does not comply with

the use regulations applicable in the zoning district in which it is located.

SECTION 902. NONCONFORMING LOTS OF RECORD

The Village Clerk may issue a Site Plan & Land Use Permit for any nonconforming

lot of record provided that:

A. Said lot is shown by a recorded plat or deed to have been owned separately

and individually from adjoining tracts of land at a time when the creation of

lot of such size and width at such location would not have been prohibited by

any zoning regulations.

B. Said lot has remained in separate and individual ownership from adjoining

tracts of land continuously during the entire time that the creation of such

lots has been prohibited by any zoning regulations.

C. Said lot can meet all yard regulations for the district in which it is located.

D. Said lot can meet minimum sanitation requirements by either connecting to a

sanitary sewer line or having adequate area to support a septic system.

SECTION 903. NONCONFORMING STRUCTURES

A. AUTHORITY TO CONTINUE. Any existing structure which does not comply

with the application intensity of use regulations and/or the applicable yard

and height regulations, may be continued so long as it remains otherwise

lawful.

B. ENLARGEMENT, REPAIR, ALTERATIONS. Any nonconforming structure

may be enlarged, maintained, repaired or remodeled; provided, however, that

no such enlargement, maintenance, repair or remodeling shall either create

any additional nonconformity or increase the degree of existing

nonconformity of all or any part of such structure. Not withstanding the

above, a porch is covered by a roof which extends into a front setback area

may be enclosed but not in excess of the area covered by the existing roof.

C. DAMAGE OR DESTRUCTION. In the event that any nonconforming

structure is damaged or destroyed, by any means, to the extent of more than

fifty (50) percent of its replacement value, such structure shall not be

restored unless it shall thereafter conform to the regulations for the zoning

district in which it is located. When a structure is damaged to the extent of

fifty (50) percent or less, no repairs or restoration shall be made unless a Site

Plan & Land Use Permit is obtained within six months and restoration is

actually begun one year after the date of such partial destruction and is

diligently pursued to completion.

D. MOVING. No nonconforming structure shall be moved in whole or in part

for any distance whatever, to any other location on the same or any other lot

unless the entire structure shall thereafter conform to the regulations of the

zoning district in which it is located after being moved.

SECTION 904. NONCONFORMING USES

A. AUTHORITY TO CONTINUE. Any lawfully existing use of part or all of a

structure or any lawfully existing use of land which existed prior to the

adoption of these regulations and does not comply with the use requirements

of these regulations may be continued, so long as otherwise lawful and so

long as it is not specified to be terminated by these regulations.

B. ORDINARY REPAIR AND MAINTENANCE.

1. Normal maintenance and incidental repair or replacement installation

or relocation of non bearing walls, non bearing partitions, fixtures

wiring or plumbing may be performed on any structure that is devoted

in whole or in part to a nonconforming use.

2. Nothing is these regulations shall be deemed to prevent the

strengthening or restoring to a safe condition of a structure in

accordance with an order of a public official who is charged with

protecting the public safety and who declares such a structure to be

unsafe and orders its restoration to a safe condition.

C. EXTENSION. A nonconforming use shall not be extended, expanded,

enlarged, or increased either in land area or floor area.

D. ENLARGEMENT. No structure that is devoted in whole or in part to a

nonconforming use shall be enlarged or added to in any manner unless the

use thereof shall thereafter conform to the regulations of the district in which

it is located.

E. DAMAGE OR DESTRUCTION. In the event that any structure that is

devoted in whole or in part to a nonconforming use is damaged by any means,

to the extent of more than fifty (50) percent of its replacement value, such

structure shall not be restored unless such structure and the use thereof shall

thereafter conform to all regulations of the zoning district in which it is

located. When such damage or destruction is fifty (50) percent or less, no

repairs or restoration shall be made unless a Site Plan & Land Use Permit is

obtained and restoration is actually begun within one year after the date of

such partial destruction and is diligently pursued to completion.

F. MOVING. No structure that is devoted in whole or in part to a

nonconforming use and no nonconforming use of land shall be moved in whole

or in part for any distance whatever to any location on the same or any other

lot, unless the entire structure and the use thereof and the use of land shall

thereafter conform to all regulations of the zoning district in which it is

located after being so moved.

G. CHANGE IN USE. If no external structural alterations are made which will

expand the area or change the dimensions of the existing structure and

nonconforming use of a structure or structures and premises may be changed

to another nonconforming use as a conditional use application, provided that

the Village Board after receiving the recommendation of the Planning

Commission, shall find that the proposed use is as appropriate or more

appropriate to the district than the existing nonconforming use. In permitting

such change the Village Board, after receiving the recommendation of the

Planning Commission may require conditions and safeguards to protect

surrounding areas and properties. Once such use has changed it may no

longer be returned to the original use or any other less appropriate use.

H. ABANDONMENT OR DISCONTINUANCE. When a nonconforming use is

discontinued or abandoned for a period of twelve consecutive months, such

use shall not thereafter be re-established or resumed and any subsequent use

or occupancy of such land or buildings shall comply with the regulations of

the zoning district in which such land or buildings are located.

I. NONCONFORMING ACCESSORY USES. No use which is accessory to a

principal nonconforming use shall continue after such principal use shall

cease or terminate unless said accessory use is permitted in the district.

J. NONCONFORMING RESIDENTIAL USES. Notwithstanding the provisions

of Section 904.C and 904.D, any structure which is devoted to a residential

use and which is located in a business or industrial district may be replaced

or remodeled, extended, expanded, and enlarged; provided that after any

remodeling, expansion or enlargement, such structure shall not be used to

accommodate a greater number of dwelling or lodging units than such

structure accommodated prior to any such work.

K. NONCONFORMING MOBILE HOME USES. Notwithstanding the

provisions of Section 904.C and 904.D, any mobile home which is devoted to a

residential use and which is located in a C-1, C-2 or I-D (business or

industrial district) may be replaced, remodeled, extended, expanded, and

enlarged, provided that after any such replacement, remodeling, expansion or

enlargement, such structure shall not be used to accommodate a greater

number of dwelling or lodging units than such structure accommodated prior

to any such work.

SECTION 905. STATUS OF CONDITIONAL USES

A. STATUS OF EXISTING CONDITIONAL USES. Where a use exists at the

effective date of these regulations and is permitted by these regulations only

as a Conditional Use in the zoning district in which it is located shall be

deemed to be a nonconforming use. Such Conditional Use shall not be

enlarged or expanded unless an application is approved as set out in Article

11 of these regulations.