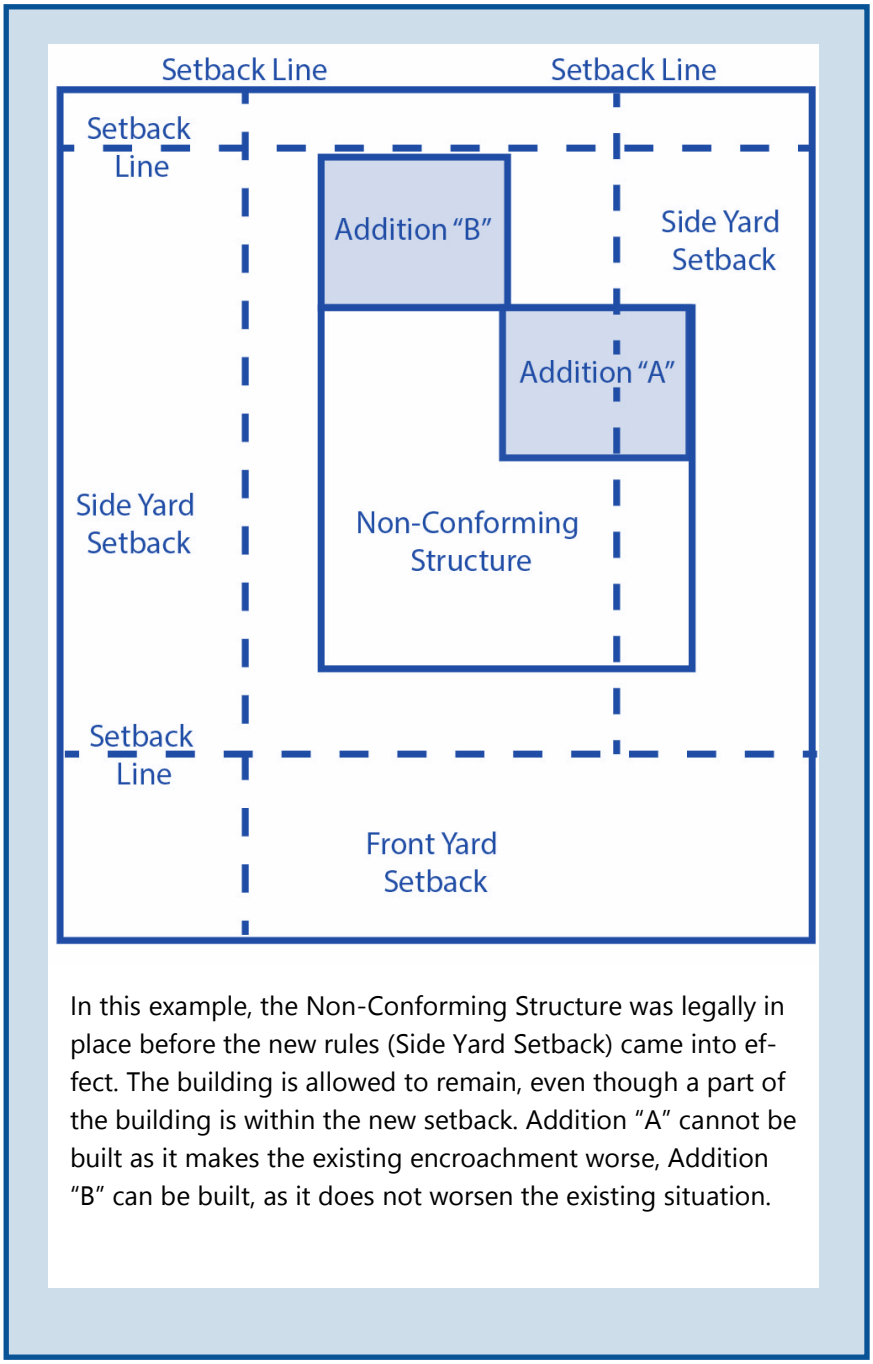
Non-Conforming Structures & Uses

What is a Non-Conforming Structure?

A non-conforming structure, is a building that was already built when the current Land Use By-law was adopted. This means that the structure has special status and can remain in place, and it is not required that it meet any news setbacks or rules within the new Land Use By-law.

Non-conforming structures can be enlarged, repaired, rebuilt, replaced or relocated as long as the current setbacks of the structure are not reduced. When rebuilding a non-conforming structure, a Location Certificate (prepared by a Professional Surveyor) must be submitted to mark the location of the non-conforming structure before it is demolished.



In this example, the Non-Conforming Structure was legally in place before the new rules (Side Yard Setback) came into effect. The building is allowed to remain, even though a part of the building is within the new setback. Addition "A" cannot be built as it makes the existing encroachment worse, Addition "B" can be built, as it does not worsen the existing situation.

What is a Non-Conforming Use? Are there different rules for a Non-Conforming Use?

A Non-Conforming Use is created when there is a change to zoning rules. The use of a piece of land that was allowed under the old rules, is no longer permitted under the new zoning. A Non-conforming use is allowed to continue operating as normal but cannot expand into new parts of the building or lot where it is located. In addition, if the use closes or stops operations for 6 months, the use loses its Non-conforming status and cannot be reopened, unless it meets all rules of the current By-law.

How do I Prove that my Structure or Use is Non-Conforming?

There are two methods to prove that a use or structure was legally in place or in operation before the current By-law was adopted. The first is through Municipal records such as permits, tax bills or surveys. If no Municipal records can be found proving the use or structure was in place prior to the By-law, a Statutory Declaration from the property owner may also be accepted as proof.

Why don't Non-Conforming Structures and Uses have to follow the new rules?

The special rules for Non-Conforming Structures and Uses aims to balance the ability for communities to shape the type of development that happens there, with the rights of individual property owners to use their land as they wish.

Calling for the removal of a Non-Conforming structure that doesn't meet a new rule would be costly and unfair to a property owner who, at the time of construction, likely had no way of knowing that the structure or use would not be allowed in the future. The downside to owning or using a Non-Conforming structure is that the ability to add or expand the structure may be limited. Non-conforming Uses that cease to operate for 6 months are not allowed to reopen, unless all requirements of the Land Use By-law can be met.

For further information

See full planning documents and background information online, at voicesandchoices.ca/revision

Questions? Comments?

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