



TRANSITION GUIDANCE TO THE 2008 RULE MAKING

Implementation Guidance Minor Non-conforming Shoreline Expansions 2008 Rule Making

At its November meeting, the Agency adopted the following regulations, to be effective on December 31, 2008:

Existing §575.5(b)(2) has been removed and replaced with the following:

An existing structure located within the shoreline setback area may not be expanded in any direction within the shoreline setback area, including an increase of structure height, without a variance; provided, however, no such variance shall be required for a minor rearward expansion or a minor height expansion specified in an agency letter to the property owner.

New Sections 575.7(c) and (d) are added:

(c) Any lawfully existing on-site wastewater treatment system which is in non-conformance with the Agency shoreline setback requirements, when proposed to be replaced, must be replaced in conformance with the setback requirements to the greatest extent possible, and in any case, no closer to the mean high water mark. No variance will be required for a replacement system which meets this requirement and which will also provide enhanced treatment over the lawfully existing system as determined by the Agency, provided such system is not also being expanded to meet an actual or potential occupancy increase.

(d) Any proposed expansion of a non-conforming on-site wastewater treatment system designed to service an actual or potential increase in occupancy of the shoreline structure served must meet all existing standards for such systems, including the shoreline setback requirements. Otherwise, a variance will be required for the system expansion.

As part of that approval, the Agency agreed to provide additional guidance by defining what constitutes a “minor expansion” and other clarifications. The following is proposed guidance for implementation of the new regulation:

1. Where the proposed expansion for a structure is located entirely outside the shoreline setback area, no variance is required for the structure. However, a variance will be required for the expansion of a non-conforming on-site wastewater treatment system.
2. Additions up to a maximum of two hundred fifty (250) square feet may be added to a lawfully existing non-conforming shoreline structure provided the additions (1) are rearward, and (2) the existing ridge lines are not raised by more than two feet. If the proposed expansion adds a bedroom or a room that can be used as a bedroom, a design report prepared by a licensed engineer must be submitted to the Agency. The report must confirm the adequacy of the existing on-site wastewater treatment system for the existing dwelling and the proposed addition, and that the system meets the shoreline setback requirements. The report shall include a scaled site plan confirming the distance from the mean high water mark to the closest point of the leaching component of the wastewater treatment system.
3. The floor space associated with any new roof height, including turrets, dormers or cupolas, will be included in the calculation of the two hundred fifty (250) square foot expansion.