

- (i) The finished floor elevation of the basement slab is a minimum of 12" above the seasonal high groundwater elevation, hydraulically restrictive horizon or bedrock as defined by the State of Maine Subsurface Wastewater Disposal Rules. The determination of the limiting factors shall be based on a soil profile description, prepared by a Maine-licensed site evaluator, for a minimum of two (2) test pits excavated within the footprint of the proposed building. The soil profile shall be documented on a standardized application form issued by the Maine Department of Health and Human Services (*i.e.*, HHE-200 form, as may be amended from time to time). Submitted documentation to support the basement request shall include an elevation reference mark for verification. The soil profile and condition used for the determination of the limiting factor elevation shall be representative of the most limiting conditions beneath the foundation of the building.

or

  - (ii) The applicant demonstrates sufficient right, title or interest, reviewed and approved as to legal sufficiency by the Corporation Counsel, to discharge runoff from building foundation drain(s) or sump pump(s) onto or across downgradient properties. Such rights shall include any required downgradient areas along the flow path of the discharge from the project site to a natural stream or the City's public separated storm drainage system.
- (8) Building site plans submitted pursuant to Sec. 5-58 of the Code shall include a Drainage Plan meeting the requirements of Sec. 27-1536(e), Standards for a Drainage Plan.
  - (9) Notwithstanding any other provision of this ordinance to the contrary, there shall be no vehicular access, driveway or parking easements allowed to benefit or burden the lot to be developed.
  - (10) The proposed design and development of the lot and the buildings and structures on the lot shall be consistent with the established character of the neighborhood. In determining if the proposed development meets this criterion, the Planning Board must find that the following are met, if they are applicable to the location:
    - (i) If there is a predominate pattern of development in the immediate neighborhood with respect to the relationship of the principal building to the street, the principal building must be located on the lot so that it has a similar relationship to the street as other neighboring principal buildings on the same side of the street. If this requires

the building to be closer to the front lot line than the required front yard setback, the building may encroach on the required yard and no variance is required.

- (ii) If there is a predominate pattern in the width of buildings in relationship to the width of lots in the immediate neighborhood, the width of the front of the building must be similar to the relationship of neighboring lots on the same side of the street.
  - (iii) If there is a predominate pattern in the style of the roof and its orientation with respect to the street in the immediate neighborhood, the roof of the building must be similar to the relationship of buildings on neighboring lots on the same side of the street. If the predominant pattern is for the ridgeline of the roof to be perpendicular to the front property line, the portion of the proposed building facing the street must maintain this relationship.
  - (iv) If there is a predominate pattern in the height of buildings in the immediate neighborhood, the height of the building based upon existing grade must be consistent with the height of the buildings on neighboring lots on the same side of the street. If the predominant pattern is for buildings to have more than one story, the proposed building must have more than one story for the portion of the building facing the street.
  - (v) The appearance of the wall of the building facing the street must be consistent with buildings on neighboring lots on the same side of the street. If there is a predominant pattern in the immediate neighborhood for these walls to be treated as the front of the building with a front door and windows, the front wall of the proposed building must be treated as the front of the building. If there is a predominant pattern for neighboring buildings to have a front porch, the design of the proposed building must be consistent with this pattern.
  - (vi) The exterior materials must be visually compatible with adjacent and nearby buildings where a predominate pattern in the exterior materials exists, except where unacceptable materials predominate. This provision shall not be used to exclude materials that are visually similar to existing materials but are made differently. The determination shall be based upon Sec. 27-1568(H), Materials and Colors.
- (11) If the nonconforming lot of record is located within the Shoreland Area Overlay District, including the Shoreland Resource Protection Overlay Subdistrict and the Stream Protection Overlay Subdistricts, the lot must be developed, and all buildings and structures located, in full compliance with the water setback requirements and performance standards of those districts.
- (12) If the nonconforming lot of record is located within a special flood hazard zone, the lot must be developed, and all buildings

and structures located, in full compliance with the requirements of Article IV of Chapter 5 of the Code of Ordinances.

(g) *Planning Board review requirements*

(1) Application - The owner of the lot of record or the owner's agent, or other person with right, title, or interest in the property, including a valid purchase and sale agreement, must make a written application to the Planning Board requesting approval to develop on a nonconforming lot of record that does not meet the minimum lot area, minimum street frontage, maximum net residential density or minimum area per family requirements. The application must be made on forms provided by the City. The application must be accompanied by the following documentation:

(i) An existing conditions plan prepared by a land surveyor or other qualified professional licensed in the State of Maine and drawn to scale showing the boundaries of the lot of record, any improvements on the lot including buildings, structures, or paving, the location of buildings and other improvements on the abutting lots, the topography and direction of drainage of the parcel, any existing easements, and the location of all utilities on the lot or in adjacent streets.

(ii) A site plan prepared by a land surveyor or other qualified professional licensed in the State of Maine at the same scale as the existing conditions plan showing the proposed improvements to the lot including buildings, structures, paving, landscaping, easements, and utilities.

(iii) Building plans for the principal building and any accessory buildings including, at a minimum, the first floor plan, and elevations for all sides of the building showing the architectural treatment of the property.

(iv) Perspective drawings or photo simulations showing how the proposed building will appear when seen from the street and how it will fit into the streetscape.

(v) A written and visual analysis of the existing character of the immediate neighborhood within five hundred (500) feet of the parcel that is within the same zone focusing on the factors identified in subsection (f)(10). This should include aerial photos and pictures of the existing lots in the neighborhood.

(vi) A written and visual analysis demonstrating how the proposed development of the lot meets the standards of subsection (f)(10).

(vii) A Drainage Plan meeting the requirements of Sec. 27-1536(e), Standards for a Drainage Plan.

(2) Review Process - The review of an application shall occur as follows:

(i) Prior to submitting an application, the applicant must have a pre-application conference with the Planning and Development Department. No application shall be considered by the Planning Board unless a conference has been held. This meeting is intended to provide the applicant with an understanding of the City's standards and procedures

and to allow the applicant to familiarize the staff with the proposed development.

(ii) Upon submission and acceptance of an application, the Planning Staff shall place the item on the Planning Board's agenda for consideration.

(iii) The Planning Director or the Planning Board may request a peer review of the design of the development from an architect or other design professional. This shall occur in accordance with Sec. 27-138.

(iv) The Planning Board must hold a public hearing on the application. The hearing shall be noticed and conducted in accordance with Sec. 27-1425.

(v) In the case of a nonconforming lot of record abutting a developed lot in the same ownership as of October 21, 2007, the Planning Board shall consider the existence of the previously developed lot or lots in reviewing the application.

(vi) In acting on the application, the Planning Board may impose conditions of approval on the development. These conditions must relate to the standards of subsection (f). In all cases, the Planning Board shall include a condition requiring that the Certificate of Approval and the Findings of Fact for the development are recorded at the Cumberland County Registry of Deeds.

(vii) The development of the property must comply with the approved application, including any conditions of approval. If it is necessary to make modifications to the approved plan prior to or during development, the Planning Director may approve such modifications provided they do not amount to a waiver or substantial alteration of the approved plan, including any conditions or requirements set by the Planning Board. Any subsequent modifications to the building or site layout or use may occur only with the approval of an amended application by the Planning Board.

(3) Performance Guarantee - The applicant shall comply with the performance guarantee requirements of Secs. 27-1429, 27-1430 and 27-1431, as appropriate.

(Ord. No. 11-16/17 1/18/17 [Fiscal Note: Less than \$1,000])

**Secs. 27-305 - 27-400. Reserved.**