

Unlike later versions of BLUO, the June 27, 2002 version in force at the time of the application, had no paragraph dealing with expansions, or limits to expansions, of non-conforming structures. Nevertheless, the building permit Holdsworth issued approved the construction of a 1,728 sq. ft. footprint to replace the existing 788 sq ft structure. The existing main foundation (26' x 28') was incorporated into the 48' x 36' foundation of the replacement structure. (This represents an expansion of about 120%, well beyond the current maximum expansion of non-conforming structures of 30%.) Further, the porch along the front and part of the new structure was eight (8) feet closer to the road than the removed structure had been. This actually made the new structure more non-conforming than the removed structure.

Current BLUO provisions.

Setbacks. The current BLUO Lot Standards & Structure Setback Table no longer establishes setbacks with reference to the centerline of a roadway (as it did in 2003) but to the edge of the road right-of-way. The current required setback for a residence in the Rural & Agricultural Zone is fifty (50) feet from the edge of the road right-of-way. If the road is a 3-rod road (about 49.5') then the setback of a house from the centerline would be about 75' (50' + 24.75'). If the road is a 2-rod road (about 33'), then the setback from the centerline would be about 66.5' (50' + 16.5').

The Building & Land Use Ordinance provides some guidance when there is no formal record of a road's right-of-way. BLUO Section 5 (B) reads: *"To locate the edge of a street right-of-way when no survey exists, find the apparent center of the traveled portion of the road and measure 25 feet to the assumed edge of the right-of-way."* Unless the applicant could provide documentation that the road way is something other than a 3-rod road, then the road is presumed to be a 3-rod road and the setback from the centerline of any new construction added to the existing structure would need to be about 75 feet.

Non-Conforming Structure BLUO Section 5 (I) reads: *If any portion of a structure does not meet the dimensional requirements of the Building and Land Use Ordinance, that portion of the structure shall not be expanded by more than 30% in floor area or volume."* In as much as the existing structure is itself a greatly expanded structure as compared to the structure removed in 2003, it would be reasonable to conclude that any further expansion could only take place beyond the required setback from the edge of the right-of-way, i.e., attached to the conforming portion of the existing structure.