NONCONFORMING SITUATION CHECKLIST

1. Property Identification.

   Address:

   Zoning District:

   Applicant(s):

   Owner(s):

2. Is this a pre-existing nonconforming single or two-family situation? Y/N
   If so, use G.L. c.40A, §6, ¶1, sentence one, second except clause.
   If not, use G.L. c.40A, §6, ¶1 and ZBL §3100

3. Is this a multi-family or commercial accommodation use? Y/N
   If so, also use ZBL §4100 to determine nonconformancy issues.

2. Dimensional Issues: (See ZBL §2560)

	Area	Ftg	F.Yrd	S.Yrd	R.Yrd	Lot Coverage
District Requires:	____	____	____	____	____	____
Property Has:	____	____	____	____	____	____
Conforms?:	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N

Dimensional Issues (ZBL §4100)	Units(Has)	Area	Area(Req'd)	Units(New)	Area (Req'd)
Multi-Family	____	____	____	____	____
Commercial Accommodations:	____	____	____	____	____
Conforms?	Y/N	Y/N	Y/N	Y/N	Y/N

3. Use Issues

   Property Use(s):
   District Allows?: Y/N

4. Relief Sought:

ZBL §3100 (Tracks G.L. c.40A, §6, ¶1 to allow a pre-existing nonconforming structure to be altered, reconstructed, extended or changed if nonconformancy not increased.)

I. Nonconforming Structures:

- Single and Two-Family Structures – Special Protection.

If the situation is a pre-existing, nonconforming single or two-family structure, use the second except clause of G.L. c.40A, §6, ¶1, which provides special protection. Make the two step determination required.

1. Identify all nonconformancies and determine whether an increase in or creation of any new nonconformancy is proposed. (Consider that ZBL §3100 states that any alteration that itself conforms is not an increase.)
   If no increase or new nonconformity, grant the relief requested.
   If an increase or new nonconformity is proposed, proceed to step 2.

2. Determine whether the increased or new nonconformancy would be substantially more detrimental to the neighborhood.
   If it would not be, then grant the relief.
   If it would, you may deny the relief.

- Non-Single and Two-Family Structures:

If the structure is **not** a single or two-family, apply ZBL §3100. Identify all nonconformancies; determine if an increase in or creation of a new nonconformancy is sought. If the proposal would not increase the nonconformancy, it is allowed.

If the alteration would comply with current ZBL requirements, it is not an increase. Allow the project.

If the alteration is on a nonconforming lot (but one with the minimum s.f. required prior to any increase) and would comply with current ZBL requirements, the alteration is not an increase. Allow the project.

If the alteration would not comply with current setbacks, but would merely extend the structure along the existing nonconforming setbacks and not intrude further than the existing nonconformancy into the required setbacks, the alteration may be allowed, but only if the ZBA determines that the proposal would not be substantially more detrimental than the existing nonconformancy to the neighborhood.

If the alteration would take a conforming dimension and make it nonconforming, it shall require a variance.

ZBL §3100

II. Nonconforming Uses

- Extension or alteration of a pre-existing nonconforming use may be allowed upon a finding by the ZBA (after a public hearing) that the proposal would not be substantially more detrimental than the existing nonconformancy to the neighborhood.

- A change in use of a pre-existing nonconforming use may be allowed, but only upon issuance of a special permit under ZBL §4300.

III. Demolition/Reconstruction – ZBL §3115

A lawfully nonconforming use or structure may be voluntarily demolished and reconstructed by special permit. Reconstruction must begin within two years of the demolition. The structure shall be located within the same footprint as the original structure and not exceed the building scale of the original structure or the area of the original structure, unless approved under ZBL §3110. Use of the premises shall be reestablished within one year of the certificate of occupancy permit.

IV. Restoration following casualty loss – ZBL §3120

A lawfully nonconforming structure destroyed by casualty loss may be reconstructed if the reconstruction is begun within one year and completed within two years of the loss, otherwise, it shall comply with the ZBL. (Added by Town Meeting 11/2010.)

V. Abandonment – ZBL §3130

A nonconforming use which is abandoned or discontinued for two years shall not be re-established.

ZBL §4100 Multi-Family Dwellings and Commercial Accommodations

Applies to:

- New development
- Conversion of existing premises by change of use under ZBL §4170
- Conversion of existing premises to change in occupancy, tenure or structure to result in a use for more dwellings or guest units than as of July 1, 1978
- Construction or conversion to result in three or more dwelling units on a lot.

Lot Area Requirements (ZBL §4120)

Along with the minimum lot area requirements for the lot, there the following requirements:

Multi-Family:	Units 1-4	must have 2500 s.f. per unit
	Units 5-10	must have 3,000 s.f. per unit
	Units 11-16	must have 3,500 s.f. per unit
	Units 17-25	must have 4,500 s.f. per unit
	Units 26---	must have 5,000 s.f. per unit
Commercial:	Units 1-10	must have 1,000 s.f. per unit
	Units 11-20	must have 1,500 s.f. per unit
	Units 21-30	must have 2,000 s.f. per unit
	Units 31-40	must have 2,500 s.f. per unit
	Units 41 --	must have 3,000 s.f. per unit

Yard Requirements (ZBL §4130)

No structure closer than 30 feet to the street. Side and rear yards must be adhered to for the district in which the property is located, but if the property abuts or crosses a district boundary for a district that does not allow the use, then the side and rear yards must be doubled.

Lot Coverage (ZBL §4140)

Shall be no more than 40% of total lot area

Green Area (ZBL §4150)

30% required

Plan Review (ZBL §4160):

Required by Planning Board for any project that requires lot area of 8,000 s.f. or more.