

**An Ordinance to Amend Chapter 145 (Land Use) of the Code of the Town of Wells
to Revise Provisions Regarding Disability Variances**

NOTE: Proposed additions to existing Code sections are underlined.
Proposed deletions of existing Code sections are ~~crossed out~~.
Other sections of the Ordinance are unchanged.

The Town of Wells hereby ordains and enacts “An Ordinance to Amend Chapter 145 (Land Use) of the Code of the Town of Wells to Revise Provisions Regarding Disability Variances” to read as follows:

Part 1: Section 145-13, entitled “Nonconforming structures” is hereby amended as follows:

145-13 G. Egress.

- (1) The following types of means of egress shall be exempt from the dimensional requirements of this chapter if all of the conditions of Subsection G(2), (3) and (4) are met:
 - (a) The construction of a means of egress on a structure that is required by the Building Code of the Town of Wells *Editor's Note: See Ch. 91, Art. II, Adoption of Building Code.* ~~or that is required to make a structure or use accessible to a physically disabled person;~~ or
 - (b) The expansion of a stairway which is legally nonconforming with regard to space and bulk requirements solely to conform to the Building Code as adopted by the Town of Wells.
- (2) The use or structure was legally in existence on April 25, 1998. Means of egress or access serving structures constructed after April 25, 1998, shall conform to the dimensional requirements of this chapter, except as specified below in Subsection G(5).
- (3) The requested stairway or ramp is, dimensionally, the minimum structure that will satisfy the Town of Wells Building Code.
- (4) Due to the physical features of the lot or location of structures on the lot, it would not be practical to construct the proposed stairway or ramp in conformance with applicable dimensional requirements.
- (5) Notwithstanding 5 M.R.S. § 4353 or this subsection (G), the code enforcement officer may issue a permit to an owner of a dwelling ,or a resident of the dwelling with written owner permission, for the purpose of making a dwelling accessible to person with a disability who resides in the dwelling. If the permit requires a variance, the permit is deemed to include that variances solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement

officer shall impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling. The structures or equipment requiring a variance shall be removed within 12 months of the person with a disability vacating the dwelling.

(a) For the purposes of this subsection, the term "structure is necessary for access to or egress from the dwelling" includes ramps and associated railing, walls or roof systems necessary for the safety or effectiveness of the ramps.

(b) For the purpose of this subsection, "disability" has the same meaning as physical or mental disability under 5 M.R.S. § 4553-A.

Part 2: Section 145-67, entitled "Powers and Duties [of the Zoning Board of Appeals]" is hereby amended as follows:

~~(4) Disability variance. To hear and permit a variance of the dimensional requirements of this chapter to make a property accessible to a person with a physical disability as defined in 5 M.R.S.A. § 4553. Such a variance shall only be granted for the installation of equipment or construction of structures necessary for access to or egress from the property by a person living on the property who has a disability. The variance shall only be valid during the period in which a person with a disability requiring the access and egress resides on the lot and shall only be granted if the Board finds that there is no other feasible location or method for providing the desired access and egress.~~

To hear and permit a variance, pursuant to 30-A M.R.S. § 4353(4-A)(B), to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than 2 times the width and length of the noncommercial vehicle. The owner shall submit proposed plans for the structure with the request for the variance pursuant to this paragraph to the board. The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.

(a) For purposes of this subsection, "noncommercial vehicle" means a motor vehicle as defined in 29-A M.R.S. § 101(42) with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to 29-A M.R.S. § 521 and owned by the person with the permanent disability.

Part 3: Effective Date.

This Ordinance shall take effect upon adoption by the Town Meeting.

Given under our hands this ____ day of _____, 2014.

BOARD OF SELECTMEN OF THE TOWN OF WELLS:

Karl Ekstedt

Christopher Chase

Richard Clark

Robert Foley

Timothy Roche