



PLANNING AND ZONING COMMISSION

SUBDIVISION/ SPECIAL PERMITS APPLICATIONS

Property address 131-2 Salem Road, Lyme, CT Zone RU-80 Map 46 Lot 3

Applicant Edward M. Bombaci, Applicant Phone (860) 275-8359 Email jcasey@rc.com
John Casey, Robinson & Cole LLP, Agent

Mailing Address 280 Trumbull Street, Hartford, CT 06103

Owner Edward M. Bombaci Phone (860) 275-8359 Email jcasey@rc.com

Mailing Address PO Box 220, Hadlyme, CT 06439

For:

Subdivision Approval Re-subdivision Approval

Special Permit under Chapter 315, Article Brief description

Municipal Improvement, attach brief description...

X Regulation revision; X zoning subdivision, chapter and article 315-2.2; 315-23.3

Coastal Site Plan Review

Is property within:

X Inland wetlands/URA X Eight-mile Overlay Conservation District

X 500 ft. of adjoining municipality

Deed restrictions: (easement notice required? Y N) include volume and page

Application is hereby made by (sign) [Signature] date 7/31/2023
(Regular zoning permit and other building permits required if approved)



Received by Planning and Zoning Commission on this day of , 20
(next regular meeting)

Application fee cash check check #

Approval date Denial date Site Plan rev. date

§ 315-2.2 Definitions.

EXISTING LANGUAGE

NONCONFORMING LOT

A lot which does not contain the minimum lot area and/or the minimum required frontage for the district in which it is located, but which was legally existing on the effective date of the governing regulations. To be nonconforming, a lot must have been continuously owned separately from any adjoining lot since the date it became nonconforming. See Article 23.

PROPOSED LANGUAGE

NONCONFORMING LOT

A lot which does not contain the minimum lot area and/or the minimum required frontage for the district in which it is located, but which was legally existing on the effective date of the governing regulations **and meets the applicable requirements in Article 23.3.** ~~To be nonconforming, a lot must have been continuously owned separately from any adjoining lot since the date it became nonconforming. See Article 23.~~

§ 315-23.3 Existing nonconforming lots.

EXISTING LANGUAGE

The applicable requirements of these regulations pertaining to minimum gross lot area, net buildable lot area, and minimum lot width shall not prevent the construction of an otherwise permitted building or structure or the establishment of an otherwise permitted use on a lot which:

- A. On July 9, 1954, contained less than one acre or a frontage of less than 150 feet upon a public or private way;
- B. Or any lot which on December 18, 1964, contained one or more acres but less than the minimum gross lot area at any time thereafter prescribed by the Commission for the district in which such lot is situated;
- C. Or any lot which on July 15, 1989, contained the minimum gross lot area for the district in which such a lot is situated but contains a minimum net buildable area less than 14,000 square feet;
- D. Or any lot which on June 30, 1993, contained a minimum gross lot area for the district and a minimum net buildable area of 14,000 square feet,

provided that continuously after the respective dates above mentioned, such lot was owned separately from any adjoining lot, and further provided that no dwelling or other building containing human habitation shall be constructed on any lot less than 15,000 square feet in area.

PROPOSED LANGUAGE

The applicable requirements of these regulations pertaining to minimum gross lot area, net buildable lot area, minimum frontage along a public street, and minimum lot width, shall not prevent the construction of an otherwise permitted building or structure or the establishment of an otherwise permitted use on a lot which:

- A. On July 9, 1954, contained less than one acre or a frontage of less than 150 feet upon a public or private way;
- B. Or any lot which on December 18, 1964, contained one or more acres but less than the minimum gross lot area at any time thereafter prescribed by the Commission for the district in which such lot is situated;
- C. Or any lot which on July 15, 1989, contained the minimum gross lot area for the district in which such a lot is situated but contains a minimum net buildable area less than 14,000 square feet;
- D. Or any lot which on June 30, 1993, contained a minimum gross lot area for the district and a minimum net buildable area of 14,000 square feet,

provided that continuously after the respective dates above mentioned, such lot, if it does not contain the minimum gross lot area required for the district in which it is located, was owned separately from any adjoining lot, ~~and further provided~~ that no dwelling or other building containing human habitation shall be constructed on any lot less than 15,000 square feet in area, and further provided that to establish a permitted use on a lot without frontage on a public street, the lot owner must demonstrate that all buildings, structures, uses, equipment, or material on the lot is readily accessible for fire, police and emergency medical services from a public street.

Attachment 1

Application for Text Amendment Edward M. Bombaci – Applicant John Casey, Robinson & Cole LLP – Agent

Application Narrative

This narrative is in support of the Application for a Text Amendment to the Town of Lyme (the “Town”) Zoning Regulations (the “Zoning Regulations”) submitted on behalf of Edward M. Bombaci (the “Applicant”) by John Casey of Robinson & Cole LLP. Mr. Bombaci is the owner of property known as 131-2 Salem Road, Lyme (Parcel 46-3). This Application proposes amendments to Sections 315-2.2 (Definitions) and 315-23.3 (Existing nonconforming lots) of the Zoning Regulations.

Background and Reason for Proposed Text Amendment

The Zoning Regulations do not account for pre-existing non-conforming parcels that do not have any direct frontage on a public street. This amendment proposes to address this issue to allow for the development of such parcels without the need for a variance. This amendment will not allow for the subdivision of such parcels – any subdivision of land will still have to comply with all the applicable rules and regulations. This amendment will simply allow individual nonconforming parcels of land that have been in existence, and described as separate parcels, since before zoning was implemented in the Town, to be developed with a single permitted use for the zoning district in which they lie.

Consistency with the Town Plan of Conservation and Development

The Zoning Regulations do not include a set of review criteria specific to text amendment applications. The stated purpose of the Zoning Regulations is to “promote and protect the public health, safety, convenience, general welfare and property values of the community” and the stated intent is to “preserve Lyme’s rural character and natural resources and enhance its sense of community for present and future generations.”¹

The proposed amendment to the nonconforming lot regulations will not have a negative impact on the public health, safety, welfare, or property values in the Town and would continue to preserve the rural character and natural resources of the Town. As noted above, this amendment would not create new lots that could be further developed – it would simply allow existing lots that are undeveloped, yet non-compliant with the frontage requirements in the Zoning Regulations, be developed with a use that is allowed in the zoning district.

Connecticut General Statutes Section 8-2 requires that the Planning and Zoning Commission set regulations that are in accordance with the Town’s 2015 Plan of Conservation and Development (the “POCD”). While many provisions of the POCD are not relevant to this application, the proposed text amendment is consistent with the following sections:

Lyme’s Vision and Goals – Goals: On page 23, a stated goal of the POCD is to continue to

¹ Lyme Zoning Regulations Sec. 315-1.1

“protect and preserve the town’s natural resources and the rural landscape.” A review of the Town’s GIS mapping website indicates that out of 1,555 parcels in Town, the maximum number of parcels that could possibly benefit from this amendment is approximately 20 (1.2%), and of those only two (.12%), besides Mr. Bombaci’s property, are comprised of multiple tracts that appear to predate zoning and qualify as pre-existing, non-conforming lots without frontage. Given the limited impact of this amendment, the proposed amendment is consistent with POCD policy to preserve and protect the natural resources and rural landscape of the Town as it will not lead to excessive development.

Recommendations for Action – Protecting the Rural Landscape: On page 27 of the POCD, a stated action of the POCD is to “continue to review local land use regulations and ordinances to assure that all available and appropriate land use tools are in place.” Under the current regulations, a new use cannot be established on a pre-existing parcel which does not have any direct frontage on a public street without approval of a variance. The purpose of the proposed amendment to the Zoning Regulations is to provide owners of such parcels with the ability to use their land without the need for a variance or the construction of new streets when adequate access to the parcel is demonstrated.

Recommendations for Action – Infrastructure: On page 31 of the POCD, a stated action of the POCD is to “[l]imit future road construction and improvements to reduce the impact on the natural and visual environment.” Aside from a variance, the use of existing parcels that do not have direct street frontage would require subdivisions and the construction of new roads to comply with the Zoning Regulations. The proposed amendment is consistent with this action of the POCD because it would allow for use of such lots without the need for new roads.

Additionally, on page 31 of the POCD, a stated action of the POCD is to “[c]onsider access by emergency vehicles in the review and approval of new subdivisions.” Although not permitting the subdivision of existing parcels, the proposed amendment is consistent with this action item since it explicitly requires that the owner of a lot that does not have frontage on a public street demonstrate that all buildings, structures, uses, equipment, or material on the lot is readily accessible for fire, police and emergency medical services from a public street.

Conclusion

Mr. Bombaci proposes a text amendment to the Zoning Regulations to address nonconforming lots which do not have frontage on a public street. The proposed amendment is consistent with the purpose of the Zoning Regulations and with several goals and actions of the POCD and will allow for the reasonable development of pre-existing non-conforming lots in a manner that is consistent with the rural character of the Town. As such, Mr. Bombaci asks that the application be approved.