

To: Warner Zoning Board of Adjustment

From: Michael Martin

RE: Is a nonconforming use eligible for special exception?

After six weeks of reading, listening and spending time with the ordinances, I believe the true bottom line is this:

1. Only conforming lots are eligible for special exceptions. (Article VI)
2. In the Ordinances Definitions (Article III), Non-Conforming Use means a use of any building, structure, or land which does not conform to the district's regulations. The lot for the special exception has 1.3 acres and must have 2 acres of buildable area.
3. Article VI also has yard requirements (setbacks) which reduces the lot size of 1.3 acres (56,620 sq. ft) to .5 acres (21,128 sq. ft).

This request makes a non-conforming lot more non-conforming. Whereas, the goal for a non-conforming lot is greater conformity. Article XV provides a remedy for a non-conforming lot which permits a residential use and is consistent with Article VI. The opening sentence reads: "The Medium Density Residential District R-2 is designated for residential and limited agricultural uses."

Thank you.