

**Opponents' Exhibit 5:** Response to Redniss' December 20, 2013 Letter, affirmed by Mr. Lunney on January 2, 2014. (the "Response")

The opponents to the Zoning Application were not made aware of this letter until January 6, 2014, the night of the close of the record for the Public Hearing held by the Zoning Board on this matter.

Notwithstanding that the Response to the December 20<sup>th</sup> letter was forwarded to Mr. Cole and others on January 8<sup>th</sup>, Mr. Cole did not provided the Response to the Board of Representatives in connection with the Referral from the Zoning Board.

**Uses:**

There are four types of non-conforming uses with regulations:

1. the use is nonconforming;
2. the building is non-conforming;
3. the location of the building on the lot is non-conforming; or
4. the size or shape of the lot is non-conforming.

See generally Connecticut Practice, Vol. 9B, § 52:1 (West 2007).

It is a fundamental principal of zoning law that nonconformities are not to be expanded, and that they should be abolished or reduced to conformity as quickly as the fair interests of the parties will permit. This principle is declared to be the intent of the City's zoning regulations. Pursuant to Article III, Section 7, it states:

No building shall hereafter be erected, nor shall any existing building be structurally altered, enlarged, rebuilt, or moved, nor shall any land contiguous to any building be encroached upon or reduced in any manner except in conformity to the yard, lot area, building location, percentage of lot coverage, and other space and area regulations designated in the SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF BUILDINGS under APPENDIX B on pages B-1 to B-2, and notes appended thereto for the district in which such building or space is located.

## KAREN A. MURPHY

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January 8, 2014

James Lunney III  
Zoning Enforcement Officer  
City of Stamford, Zoning Board 7<sup>th</sup> Floor  
888 Washington Blvd.  
Stamford, CT 06904-2152

Re: Map/Zone Change from R-20 to RA-1 for Seven Properties on Saddle  
Rock Road - File # 213-33 ("ZB Application")

Dear Mr. Lunney:

At the continuation of the public hearing for the above referenced ZB Application held on January 6, 2014, Mr. Redniss submitted into the record the attached letter, dated December 20, 2013, and affirmed by you on January 2, 2014 (the "Letter"). The Letter raises a number of questions.

First, Mr. Redniss provides no authority or citation for his legal conclusion that no variances will be required for improvements for lots that become non-conforming due to a self-imposed hardship, that is, by the approval of the owners of property within the area to be rezoned (by actions or silence) of the above referenced map change. Under this bizarre interpretation of the City's zoning regulations, an owner of a conforming lot can voluntarily file for a zoning map change intentionally making his lot non-conforming and then, without obtaining any variances (assuming variances are even permitted after a self-inflicted hardship), build a three story home with a building height of 35 feet.<sup>1</sup> Please provide the legal authority for Mr. Redniss' strange, to say the least, legal conclusion in the first paragraph of the Letter.

Second, for the accessway lots, which three of the seven properties involved in the zone classification charge (lots 102, 123 and 107) are accessway lots, why in the second paragraph of the Letter is Mr. Redniss silent on the boundary changes<sup>2</sup> for such lots if the zone is changed

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<sup>1</sup> **Article II, Section 3 – Definitions**

68. Non-Conforming Use: The use of a building or of land that does not conform to the regulations as to use for the district in which it is situated.

**Article III, SECTION 7 - AREA AND SUPPLEMENTAL REGULATIONS**

A - No building shall hereafter be erected, nor shall any existing building be structurally altered, enlarged, rebuilt, or moved, nor shall any land contiguous to any building be encroached upon or reduced in any manner except in conformity to the yard, lot area, building location, percentage of lot coverage, and other space and area regulations designated in the SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF BUILDINGS under APPENDIX B on pages B-1 to B-2, and notes appended thereto for the district in which such building or space is located.

<sup>2</sup> **Zoning Regulations - Article III, Section 7:**

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68 Saddle Rock Road □ Stamford, CT 06902  
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James Lunney III, Zoning Enforcement Officer  
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from R-20 to RA-1? It may be true that the increase in the circle diameter requirement will not impact "improvements," but was it a material omission not to note that the increase in two of the boundaries from 20 feet to 25 feet may have an impact on improvements?

Third, with respect to accessway lots in the second paragraph of the Letter, Mr. Redniss only discussed "improvements." As Mr. Redniss and the City's Land Use Bureau officials know the Ward/Lu property at 102 Saddle Rock Road has been vacant for more than a year and in all likelihood will be razed. If the ZB Application becomes effective before the Ward's/Lu's build a new home, the new home will have to conform to the use regulations of the district in which it is located, that is RA-1.<sup>3</sup> Due to, among other things, the Ward's/Lu's lot becoming non-conforming if the ZB Application is approved, will they be able to build a house on their lot, or is the approval of the ZB Application a Regulatory Taking of the Ward's/Lu's property? It is fairly evident that the approval of the ZB Application does not advance any legitimate state interest, but it will deny the Ward's/Lu's an economically viable use of their land.

Finally, Mr. Redniss refer to "parking regulation of the RA-1 Zone." What are the parking regulations and can you provide me with the citation for RA-1 and R-20 parking regulations?

As a final thought and I hope Corporation Counsel agrees, it is not a good zoning practice, for obvious reasons, for the Zoning Enforcement Office to be signing /confirming such letters as the one Mr. Redniss had you execute in this matter. Further, as the Zoning Enforcement Office (at least in my opinion), you should have sent a copy of the Letter to the

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O – Accessway lots, each limited to one (1) single-family residence whether now existing or hereafter created, shall be permitted only in the RA-3, RA-2, RA-1, and R-20 One Family Residence Districts. The division between the accessway and the remainder of an accessway lot shall be shown on any record map dated after August 1, 1959 by a dotted or dashed line. The area of each accessway lot, exclusive of its accessway, shall conform to the area regulations for the district in which it is located. Its area shall be designated on any record map dated after August 1, 1959 as "exclusive of accessway". Not more than two (2) abutting accessways shall be permitted. Every accessway lot shall be so designed that a circle of the following diameter can be drawn within the boundaries of the lot; two hundred feet (200') in a RA-3 or RA-2 One Family Residence District; one hundred fifty feet (150') in an RA-1 One Family Residence District; and one hundred twenty feet (120') in a R-20 One Family Residence District. The record map shall include arcs demonstration that such a circle can be included within the lot. On any accessway lot, the main dwelling and any accessory building or buildings shall be located at least: (a) the same distance from any two boundaries as is required of a main dwelling from the front and rear lot lines on an interior lot in the district, and (b) from each of the other boundaries, at least thirty feet (30') in an RA-3 or RA-2 One Family Residence District, twenty-five feet (25') in an RA-1 One Family Residence District, and twenty feet (20') in an R-20 One Family Residence District. In no event shall any building on an accessway lot be located nearer to any street than the minimum front setback regulations for the district in which it is located.

<sup>3</sup> **Article IV, SECTION 10 - NON-CONFORMING USES**

D - A building structure or portion thereof, non-conforming as to use, which is, or hereafter becomes vacant or remains unoccupied for a continuous period of one (1) year shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

James Lunney III, Zoning Enforcement Officer  
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parties opposing the above referenced Map Change before January 6<sup>th</sup>, the date the continuation of the public hearing.

Thank you for your cooperation in this matter.

Respectfully,

KAREN A. MURPHY

cc: Judge Emmett, Corporation Counsel &  
Counsel for the Zoning Board  
Norman Cole, Chief of the Land Use Bureau  
Attorney Daniel Benjamin  
Nancy and David Lu  
Attorney Jane Freeman



December 20, 2013

James Lunney III  
Zoning Enforcement Officer  
888 Washington Boulevard  
Stamford, CT 06901

**Re: ZB 213-33**  
**Saddle Rock Road – Stamford, CT**

Dear Mr. Lunney,

We are writing to confirm that any of the existing lots being proposed to be changed from R-20 to RA-1 (see attached) that would become nonconforming with regard to lot area, lot size, and/or frontage would not require a variance for additions, renovations, redevelopment, or other allowable improvements provided that any such improvements conform to the height, setback, coverage, use, and parking regulations of the RA-1 Zone. Any proposed improvements that conform to the RA-1 standards follow the same permitting process as they would if still in the R-20 Zone or if the lot met the size and frontage standards (i.e., Building Department, Engineering, CAM, etc.).

The only effective differences created by this R-20 to RA-1 Zone Change are increases in the rear yard setback, height, and stories: 50 to 60 feet, 30 to 35 feet and 2½ to 3 stories; respectively. Standards for coverage, front and side yards remain the same. Increases in the circle diameter requirement (i.e., 100 to 125 feet for frontage lots, and 120 to 150 feet for accessway lots per Section 7-0) have no impact on improvements for existing lots.

Please confirm your agreement by signing below.

Sincerely,

Richard W. Redniss, AICP

Enclosure: Zone Change Map

*Signed and Agreed:*

James Lunney III  
Zoning Enforcement Officer

1/2/2014  
Date

**TABLE III**  
**APPENDIX B: SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF BUILDINGS**

ZONING <sup>(1)</sup> DISTRICTS	MINIMUM SIZE OF PLOT	RESIDENTIAL DENSITY	BUILDING HEIGHT	BUILDING AREA	MINIMUM YARD DIMENSIONS (ft)										
	AREA (sf)	S.F. PER FAM.	MAX. FAMILIES PER PLOT	STORIES	FEET	% LOT	FRONT STREET LINE CENTER	SIDE ONE SIDE	BOTH SIDES	REAR					
RA-3	130680	200	200	130680	1	3	35	10	60	85	60	85	70	70	
RA-2	87120	200	200	87120	1	3	35	10	60	85	60	85	70	70	
RA-1	43560	125	125	43560	1	3	35	15	40	65	40	65	15	35	60
R-20	20000	100	100	20000	1	2½	30	15	40	65	40	65	15	35	50
R-10	10000	75	-	10000	1	2½	30	20	40	65	40	65	10	20	30
R-7½	7500	60	-	7500	1	2½	30	25	30	55	30	55	6	12	30
R-6	5000 6000	50 50	- -	- -	1 <sup>(9)</sup> 2	2½ 2½	30 30	25 25	25 25	50 50	25 25	50 50	6 6	12 12	30 30
RM-1 <sup>(1)</sup>	5000	50	-	3750 <sup>(17,22)</sup>	-	2½	30	25 <sup>(18)</sup>	25	50	25	50	10	20	30
R-5	5000 6000 9000 30000	50 50 60 150	- - - -	- - 3000 2500	1 <sup>(20)</sup> 2 9 -	2½ 2½ 3 3	30 30 40 40	30 30 30 30	20 20 20 20	45 45 45 45	20 20 20 20	45 45 45 45	6 6 (note 3.1) (note 3.1)	12 12 30 30	30 30 30 30
RM-F	5000 20000	50 100	- -	2000 1500	- -	4 4	40 40	30 35 <sup>(16)</sup>	15 15	40 40	15 15	40 40	8 (note 3.3)	18 (note 3.3)	30 30
R-H	5000 20000 43560	50 100 150	- - -	2000 1250 725	- - -	4 4 -	40 40 125	30 35 35 <sup>(16)</sup>	15 15 20	40 40 45	15 15 20	40 40 45	8 (note 3.3) (note 3.4)	18 30 30	30 30 30

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