

ZONING OFFICER OPINION
BOROUGH OF BAY HEAD

LOT WIDTH AND LOT AREA EXEMPTION – R100 ZONE
68 EGBERT STREET

05/14/2024

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ISSUE

During my review of the zoning application for 68 Egbert Street, I noted that the lot area and lot width were nonconforming with the minimum lot area and lot width requirements of the R100 BF zone district in which the property is located.

The applicants attorney contacted me to ask why, when this lot clearly existed on May 1, 1977 and should therefore be entitled to the exception detailed in the Nonconforming Lot definition which is shown and highlighted in bold/underlined text below :

*NONCONFORMING LOT — A lot of record which does not have the minimum width, frontage or depth or contain the minimum area required for the zoning district in which it is located; provided, however, that, **notwithstanding the provisions of this chapter, any existing lot of record on May 1, 1977, located in the R-100 Zone with an area of a minimum of 5,000 square feet and a minimum lot width of 50 feet shall not be considered nonconforming with respect to the lot area and lot width requirements of the R-100 Zone.** All other yard and building requirements of the R-100 Zone, as set forth in Appendix A shall apply to such lots and structures located thereon.*

BACKGROUND

- This lot is located in the R100 BF zone. It is not located in the R100 zone.
- Ordinance 1995-11, approved on November 8, 1995, created the definition. At the time of its adoption, the R100 BF zone did not exist.
- Ordinance 2003-06, adopted on September 16, 2003, created the R100 BF and R100 OF zones. This ordinance also amended and supplemented Section 147-2 Definitions, however, there were no revisions made to the Nonconforming Lot definition to include lots in the R100 BF and R100 OF zones.
- The Lot Area and Lot Width requirements of the R100 BF and R100 OF zones are identical to those in the R100 zone (zone schedule attached), with the exception of corner lots in the R100 OF zone which requires a larger lot size.

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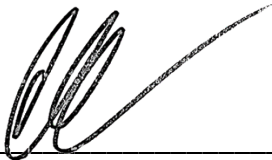
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DISCUSSION

The 1995 exception appears to be a mechanism that recognized existing smaller lots within the R100 zone as conforming in order to avoid the need to create spot zones for clusters of these smaller lots and to avoid excessive variance applications before the Planning Board. There are numerous lots in the R100 zone (now R100, R100 BF and R100 OF) that would otherwise be considered nonconforming.

Given that the lot area and lot width requirements are the same across the 3 zones (R100, R100 BF, R100 OF) it appears to me that this may have been an oversight of the Borough. The one exception would be the minimum area of corner lots in the R100 OF zone (Appendix A-Footnote 1) which was a new requirement in Ordinance 2003-06.

Absent of comments to the contrary, I am of the opinion the definition of nonconforming lots should be revised to include lots in the R100BF and R100 OF zones.



Paul E. Pogorzelski, P.E., P.P.
Zoning Officer

ORDINANCE 2003-06

Borough of Bay Head
Appendix A
Schedule of Area, Yard and Building Requirements
(§ 147-5)

Zone	Minimum Lot Requirements		Minimum Required Yard Depth (feet)					Maximum Percentage Lot coverage By Buildings	Maximum Percentage Lot Coverage By Structure	Maximum Height (stories)	Maximum Height (feet)	Accessory Building Maximum Height (feet)
			Principal Building				Accessory Building					
	Area (square feet)	Lot Width (feet)	Front Yard Depth	Each Side Yard Depth	Combined Side Yard Depth	Rear Yard Depth	Distance To any Side Line					
R-100	10,000	100	35	10	25	15	10	35	50	2.5	35	16
R-100-BF	10,000	100	35	10	25	15	10	35	50	2.5	35	16
R-100-OF	10,000 ¹	100	20	10	25	20	10	25	40	2.5	35	16
R-50	5,000	50	20	6	16	10	4	35	50	2.5	35	16
B&B	5,000	50	20	6	12	10	4	60 ³	75 ³	2.5	35	16
B-1	5,000	50	20	6	12	20	4 ²	60 ³	75 ³	2.5	35	16
B-2	10,000	100	35	10	25	15	10	35 ⁴	75 ⁴	2.5	35	16
C	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

¹ Corner lots in the R-100-OF Zone on the east side of East Avenue shall have a minimum bulk area of 12,000 square feet, see § 147-5B.

² Accessory buildings can occupy no more than 30% of the required yard area.

³ Except that single family residences within the B-1 Zone and B&B Zone shall comply with the bulk requirements of the R-50 Zone.

⁴ Except that single family residences in the B-2 Zone shall comply with the bulk requirements of the R-100-BF Zone.

ORDINANCE 2023-05

LAND USE

147 Attachment 1

Borough of Bay Head

Appendix A

Schedule of Area, Yard and Building Requirements

(§ 147-5)

[Amended 11-3-93 by Ord. No. 1993-10; 10-4-94 by Ord. No. 1994-10; 11-8-95 by Ord. No. 1995-11;
3-16-99 by Ord. No. 1999-4; 3-5-20 by Ord. No.2002-2; 9-16-2003 by Ord. No.2003-6; 9-3-2013 by Ord. No. 2013-05
7-5-2016 by Ord. No. 2016-16; 4-6-20 by Ord. No. 2020-05]

Zone	Minimum Lot Requirements				Principal Building Requirements								Accessory Structure			
	Area	Width	Frontage	Depth	Min. Front Yard Setback	Min. Each Side Yard Setback	Min. Combined Side Yard Setback	Min.Rear Yard Setback	Maximum Building Coverage	Maximum Lot Coverage	Maximum Height	Maximum Height	Min. Front Yard Setback	Min. Side Yard Setback	Min. Rear Yard Setback	Max. Accessory Structure Height
	Sq. Ft.	Feet	Feet	Feet	Feet	Feet	Feet	Feet	Percent (%)	Percent (%)	Stories	Feet	Feet	Feet	Feet	Feet
R-100	10,000	100	100	100	35	10	25	15	35	50	2.5	35	35	10	10	16
R-100-BF	10,000	100	100	100	35	10	25	15	35	50	2.5	35	35	10	10	16
R-100-OF	10,000	100	100	100	Note 7	10	25	20	25	40	2.5	35	Note 7	10	10	16
R-50	5,000	50	50	100	20	6	16	10	35	50	2.5	35	20	4	4	16
B & B	5,000	50	50	100	20	6	12	10	60	75	2.5	35	20	4	4	16
B-1	5,000	50	50	100	20	6	12	20	60	75	2.5	35	20	4(2)	4(2)	16
B-2	10,000	100	100	100	35	10	25	15	35	75	2.5	35	25	10	10	16
C	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

NOTES:

¹ Corner lots in the R-100-OF Zone on the east side of East Avenue shall have a minimum bulk area of 12,000 square feet; see § 147-5B.

3 Single-family residences within the B-1 Zone and B&B Zone shall comply with the bulk requirements of the R-50 Zone.

4 Single-family residences in the B-2 Zone shall comply with the bulk requirements of the R-100-BF Zone.

5 Buildings in flood hazard areas shall be permitted to have a maximum height of 32.5 feet above base flood elevation

6 Existing lots in the R-100-OF Zone which are less than 75 feet in width shall have combined side yards which are at least 1/3 of the lot width. The minimum side yard depth shall remain 10 feet, except in the case of lots which are less than 60 feet in width, where the side yards shall have a minimum depth of seven feet.

7 Front yard setback in the R-100-OF Zone is established for each oceanfront property individually as set forth in Appendix B.

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LAND USE

- 2 Accessory buildings can occupy no more than 30% of the required yard area.