

**Town of Lyme**  
**LYME ZONING BOARD OF ADJUSTMENT**  
**Minutes – May 19, 2015**

Board Members: Present - Frank Bowles, Rob Titus, Walter Swift, Alan Greatorex, Bill Malcolm

**Alternate Members:** Present- Michael Woodard, Dan Brand

**Staff:** David Robbins, Zoning Administrator;

**Public:** David Roby, Rich Brown, Michael Bruss, Bobbie Hantz, Megan Carrier, Brian Pratt, Robin Taylor, Thomas Morrissey, Tim Cook, Liz Ryan Cole, Karl and Charlotte Furstenberg, Roy Tilsley, Meg Russell, Bill Waste, John Stadler, Sara Goodman, Jonathan Edwards, Stuart Arnett, Barbara Woodard.

Chairman Frank Bowles called the meeting to order at 7:30 pm. He noted that the goal of the evening was summarize the requested relief and develop findings of fact that the board will use as the basis of their decision. He wanted to go in to deliberations to discuss proposed findings, and then give the applicant and the members of the public the opportunity to comment on the summary of requested relief and the proposed findings. He then asked the applicant if this procedure acceptable to them. The applicant having no issues Frank asked the members of the public the same question. Having no issues raised Frank proceeded with the hearing.

The Planning and Zoning Administrator passed out packets of supplemental information that he had received over the past few days.

Minutes of the Meeting of May 6<sup>th</sup>, 2015 were amended by Walter to clarify the Boards vote on the perceived conflict of interest by alternate Woodard and several typographical errors. It was then unanimously approved on a motion by Rob seconded by Alan.

Frank asked the applicant if they had any further information to present to the Board before they went into deliberations. Bobbie had supplemental information to give to the Board including a market analysis, pro forma, and phasing information. She then stated that Stuart Arnett and Johnathan Edwards from the Arnett Development Group were present and would be willing to provide testimony on workforce housing at a later time. Rob asked Bobbie why they could not present the testimony before the Board went into deliberations. She explained that they were just brought into the process and needed more time before they would able to provide testimony. Rob found this to be highly unusual.

Frank asked the Board and staff to introduce themselves to the hearing attendees.

Walt requested that the Board take a recess so that the members could read the additional information the Planning and Zoning Administrator had provided. Frank recessed the hearing for 15 minutes.

When the Board reconvened, Bobbie said that Mr. Arnett would like to address the Board in regards to workforce housing. Mr. Arnett stated that he had five thoughts he wanted to convey to the Board. First Article 11 of the Lyme Zoning Ordinance allowed for workforce housing. Frank clarified for Mr. Arnett that Article 11 provided for affordable housing and the housing had to be owned or leased by a non-profit organization with the purpose of providing affordable housing. Mr. Arnett corrected himself stating that article 11 supported the goals of workforce housing. His second thought was that the Master Plan recommends the allowance for a diversity of housing types suitable for a broad range of economic circumstances. (Recorders note: from the recommendations in Chapter 1 of the 2013 Lyme Master Plan.) His third thought was that the additional four units of workforce housing were supported by Item 4 in the Regional planning commission's response to regional impact. Frank noted that the letter stated that the number of units will have a minimal impact on the overall need for housing in the region. Mr. Arnett's forth thought was that this project would provide opportunities for housing across wide economic

spectrum, and his final thought was that without the Board granting the variance the four units of workforce housing could not be created.

Rob asked if Mr. Arnett had consulted on either the Cobb Hill or the Peterborough, NH co-housing projects. He stated that he had not.

The Board entered deliberations.

Bill asked the Board if they should organize the findings by the five variance criteria. Walt suggested that they focus on each of the proposed findings then ask the public if there was any input on any specific finding. The Board could then decide if the individual findings passed the variance criteria.

Frank passed out copies of the Individual Board Member Variance worksheet from the Board of Adjustment in New Hampshire handbook.

The Board discussed the wording of the proposed summary of relief for the first variance request. Rob wanted to ensure that whatever wording was used that it addressed all of the requests that the applicant had made. The Board discussed describing the request as a Planned Development in the Rural District or as Multi Family dwellings. The Board also discussed the use of the terms Co-housing and Condominium. The Board decided that to best address Rob's concerns that the Board would use the language from the application, "A use Variance is requested from the Zoning Ordinance Table 4.1 to permit co-housing development the rural district". An additional finding would be added, stating that the supplied plans defined the applicant's references of a "Co-housing development"

Frank suggested that the Board limit the discussions to first variance request as the special exceptions and the relief from the five year conversion requirements all rely on the first variance.

The Board then started discussions of the proposed findings.

1) Citation of relevant sections of the ordinance re rural district: "... The objectives of the Rural District are to protect the existing pattern of rural land uses in the Town to maintain and foster traditional agricultural pursuits, to encourage the most appropriate use of land, and to facilitate the adequate provision of community services. Less intensive land uses are permitted in the Rural District to ensure that uses complement each other and are consistent with the existing character of the District and to minimize demands placed on Town services.

Alan suggested that the section number (3.23) from the ordinance be added.

2) Citation of relevant sections of the master plan: Page 1-7& 1-8: Maintenance of Lyme's Rural Character: Preservation of Lyme's rural character is dependent on successfully integrating new development into the fabric of the community. Open space should not be turned into housing developments or industrial/commercial complexes. Vistas from roads and public places should be protected. The rate of development should be paced so that people still know and care about their neighbors. Development should only occur in areas with adequate supporting infrastructure and should be in harmony with the character of the existing neighborhood.

3) citation of relevant sections of the master plan: Page 1-9: New multi-family buildings are not favored. Conversion of existing large buildings to dwelling units and single family homes are the preferred form of residential development. Single family homes and the conversion of existing large buildings have been favored by residents of the town. Condominiums, co-ops and new apartment buildings were opposed. Ensuring a mix of

families by accommodating housing for people of all incomes is a concern shared by many residents.

Alan noted that the recommendations are the most important points for consideration. Walt responded that the Master plan is a committee's best interpretation of what they believe the Town wants for the future, the zoning ordinance is directly voted on by the town's residents and therefore is a better gauge as to the will of the Town. Bill commented that the Master plan should be consulted where there was ambiguity in the zoning ordinance.

4) Planned unit developments: the proposed project, a condominium development, resembles a planned unit development but lacks the commercial component noted in the planned unit development definition in the ordinance. Loch Lyme lodge has a grandfathered hospitality business that would be adjacent to the condominium development. As specified in table 4.1 of the ordinance, planned unit developments and restaurants are not permitted in the rural zone

Walt suggested removing the word "unit" as the Zoning Ordinance definition is Planned Development. The Board discussed the wording further and decided on the following wording:

Planned developments: the proposed project, a co-housing development, resembles a planned development but lacks the commercial component noted in the planned development definition in the ordinance. As specified in table 4.1 of the ordinance, planned developments are not permitted in the rural zone but they are permitted in the Lyme Common and Commercial District. Co-housing is not listed as a permitted use in the ordinance.

5) Agricultural Soils conservation district provisions: section 4.64B applies to this application. It requires that a use of agricultural soils be calculated based on 25% of the area of the parent lot, i.e. original lot area, of any lot that has been subdivided in the last ten years.

Frank suggested that table this issue, to be taken up when deciding on the Special Exception requests. The other Board members agreed.

6) history of applications relevant to this project application: March 2008-2010, proposal to re-draw boundaries of Lyme Common District one mile north, to include Loch Lyme Lodge. Withdrawn due to gross floor area limitation in Lyme Common District. 2010-2011, Open Space Community Development. Withdrawn due to faulty language. 2013: Conservation Neighborhoods. Opposed by planning board, voted down 280 to 174 at town meeting.

Mike questioned if this was relevant. Alan felt that the only statement that reflected the Town's views was the Conservation Neighborhoods as that proposal was voted on at Town Meeting.

7) testimony in re Section 4.46 (conversions): David Roby, a longtime member of the planning board testified that the intent of the conversion option was to allow existing large houses to be converted into up to four apartments so that these houses could be repurposed in areas like the Lyme Common zone. He noted that the conversion

provision was not intended to be used to modify a newly built structure that was designed to be converted so as to get around zoning restrictions.

Rob and Alan noted that this provision had been amended in the past in order to increase the total number of units to six. Frank noted that Mr. Roby's testimony is historical information only, the ordinance itself does not restrict the conversion of buildings built to specifically be converted after the five year waiting period.

8) data re section 5.11.D (lot size averaging): Response from Attorney Hantz for Pinnacle Project: "We are not utilizing Lot Size Averaging per se except to show the potential for a clustered single-family development under the existing ordinance."

Mike suggested, with agreement from other Board members that this finding be deferred to the second variance request.

9) subdivision of the property: The 110 Acre parent lot was subdivided into two lots in January 2015: the 98-acre lot that is the subject of the Pinnacle Project application and 12 acre +/- lot for the Loch Lyme Lodge operations.

10) Structure of the proposed project: the Pinnacle Project is a for-profit condominium development with limited workforce housing (four units). The project is planned to be constructed in phases

Findings number 9 and 10 were acceptable to the Board.

11) Cohousing: the project will be organized as a cohousing community . Participation in the project will require that participants join the Pinnacle Project and that they be willing to share in collaborative tasks such as communal cooking.

12) Cohousing and foodservice:

Findings number 11 and 12 were struck by the Board because the Board felt that they were irrelevant.

13 ) project finances: the applicants have stated that the total project will cost approximately \$13.5 million and that the first phase will cost about \$9 million. The average cost per units for the first phase would be approximately \$450,000. For the total project, the per unit cost would average \$375,000. The applicant states that funding would be provided by loans from members, pre-construction sales of units and bank financing.

Mike asked if this was relevant to the request for a variance. Rob stated that it was in the public's interest to ensure the feasibility of the project. Rob suggested that the finding be reworded based on the pro forma that had been submitted earlier in the evening by the applicant.

After discussion the Board reworded the finding as follows:

13) project finances: the applicants have stated that the total project will cost approximately \$14,114,927 and the first phase will cost \$8,900,636.

14) proposed structures: construction is stated to include one eleven-unit structure, one seven-unit structure, two five unit structures, two four unit structures and a common house connected via walkways to the seven and eleven unit structures. The connected structures are designed to allow wheelchair access to the common house, which would house a common dining area and other common-use facilities.

Alan suggested that this include the stand alone carports and any other structure that would be included in the lot coverage. Walt asked for a list of structures including the stand alone structures with their sizes that would be easy to understand without having to cross reference the plan.

15) occupancy: there would be a total of 84 bedrooms in the project with a projected population of 59 adults and between 9 and 12 students in the Lyme school.

This finding was acceptable to the Board.

16) construction phasing: the project is to be completed in phases. Phase one would construct the common structure and the seven unit and eleven unit structures. Phase 2 would see construction of a four unit and a five unit structure and then phase three would see construction of the final four and five unit structures. Phasing would depend on the applicants ability to pre-sell and finance the planned units.

17) workforce statement: applicant has submitted a 'statement of intent to build workforce housing' as part of its application package. Construction of the workforce housing would be in phases, with two units in phase one and an additional unit in each of phases two and three.

The Rob noted that there were conflicting numbers as to the phasing. Frank suggested that when the Board left deliberations that they ask the applicant to clarify the phasing of the project including the phasing of the workforce housing units. Bill stated that he had also intended to ask the applicant for additional information.

18) workforce housing analysis: in 2014 the Lyme planning board developed a workforce housing inventory and report. The analysis states that the workforce ownership threshold is \$244,000 for purchase or \$940 a month including utilities. Lyme was found to have approximately 24% of its housing stock with a valuation that would put it in the workforce housing category.

Rob suggested that the \$940 a month be clarified by adding for rental as follows:

18) workforce housing analysis: in 2014 the Lyme planning board developed a workforce housing inventory and report. The analysis states that the workforce ownership threshold is \$244,000 for purchase or \$940 a month including utilities for rentals. Lyme was found to have approximately 24% of its housing stock with a valuation that would put it in the workforce housing category.

19) driveway vs. private road: Loch Lyme Lodge's cabins and hospitality business will share a curb cut with the proposed project. The applicant has stated that "We believe

that the drive serving the co-housing units qualifies as a driveway under the Lyme zoning ordinance as it connects the buildings to the main road and does not serve more than one lot.”

Alan questioned if this was a driveway, he considered it to be a private road.

Frank felt that this finding may require its own variance and it should be deferred to a later discussion.

20) well: no well location is shown on the plans. Well would most likely require a special exception.

Frank felt that this finding may require its own special exception and it should be deferred to a later discussion.

21) septic system: the project would be served by a community septic system with a forcemain of approximately 750’ leading to a remote leaching field at the toe of the steep slopes area of the site

Walt noted that there was no state approval for the proposed system.

22) driveway length: the total length of the proposed driveway is approximately 1375 feet to the parking area for building D, the most distant building and it encroached into the Wetlands Conservation District.

23) areas of constructed structures: the built area of the project is to be approximately four acres, excluding the leaching field.

24) site conservation district areas: the total conservation district area is greater than the lot area due to conservation area overlap.

Total Lot Area	98 acres
Agricultural Soils	12.5 acres
Wetlands Buffers(includes wetlands)	26 acres
Steep Slopes	65 acres

Findings number 21, 22, and 23 were acceptable to the Board. At this time Alan suggested that this was a good stopping point.

The Board exited deliberations.

Frank asked Bobbie if she had any issues with the findings that the board had discussed, she had none.

Frank stated that the Board had four items that they were requesting more information.

- 1) the unit costs
- 2) phasing of the entire project including workforce units
- 3) List of all standalone structures.
- 4) Table containing the lot coverage for each of proposed structures.

Alan move to continue the hearing to June 2<sup>nd</sup>, 2015 at 730pm at the Town Offices conference room.  
Bill seconded the motion.  
Frank called for a vote and it passed unanimously.

The meeting adjourned at 9:40 pm

Respectfully submitted  
David Robbins  
Planning and Zoning Administrator.