

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – December 17, 2015

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

Alternate Members: Present- Michael Woodard

Absent: Dan Brand

Staff: David Robbins, Zoning Administrator; Adair Mulligan, recorder

Public: Liz Ryan Cole, Bobbie Hanz

Chairman Bowles called the meeting to order at 7:32 pm. The minutes of the meeting of November 19 were approved on a motion by Rob seconded by Bill after correction of a typographical error. Bill observed that many special exceptions are approved without abutter comment, and that this project had been before the board for several years. In another recent project that received similarly ample discussion, the board approved the project and an abutter later appealed the decision and prevailed. Bill said he thinks it behooves the board to look out for the applicant and to consider a possible appeal from abutters. Bill added he did not think the board had been biased but that the project and rehearing deserve careful review. He believes there was misconception about how the board treated the application.

Application #2015-ZB-06, Pinnacle Project (Tax Map 408 Lot 22.1)

Frank convened the re-hearing of the Pinnacle Project's requests for variances to construct a co-housing development on their property at 70 Orford Road. He asked Attorney Bobbie Hanz if she had been in contact with town counsel about what would be considered to be "in the record." She confirmed she had. Frank said he saw no reason to go through a formal motion of making others resubmit their testimony, and asked what would satisfy all, given the need for burden of proof on both sides. He suggested an enumerative record for what all parties want, and offered to work with David and Bobbie to make a spreadsheet list that both parties must agree is complete. Rob reported that he had reviewed the previous documents and prepared such a list, noting it does not itemize emails and letters or testimony other than the minutes. David copied the list and provided it to all. Bobbie added that videos are also available. She confirmed that the material provided at the last meeting is the correct set, and all agreed. Bill asked if anything in the binder is new, and she said no, although some items have been condensed.

Bobbie continued that the gist of the application was to adopt the most consistent parts of the Zoning Ordinance appropriate to the proposed Pinnacle community, to allow people to live on a small footprint and fulfill the goals of the Ordinance. She opined that the Ordinance imposes unnecessary hardship. She emphasized that the proposal is consistent with the spirit of the Ordinance and is not offensive to those things that the Ordinance protects. The applicants have tried to seek relief only where they think the Ordinance is unnecessarily restrictive.

Walter asked about guidelines for workforce housing and reported he had researched this on-line. Land use boards are to be scrupulous about data gathering, and Walter suggested that this board may have lacked diligence because much data were not sought. The applicant refers to Lyme not providing workforce housing and provided some data on the number of houses built in the last few years but no other data on Lyme's inventory of housing. The Planning Board did create an inventory but did not discuss it extensively. Is this material available to the Zoning Board? Bobbie replied that Rich Brown created charts that were in the record, including sales data from the last three years. The Arnett report builds on that. She will bring it to the next meeting. She said that the existing housing stock is not a test for workforce housing opportunities. The board has a letter from the regional planning commission on this topic.

Walter moved to the question of lot coverage and asked if the fire driveway is to be a grass path, as shown on the plan, or hardpack, as shown in the application. He asked if the fire chief has approved one or the other, and whether it is included in lot coverage calculations. Bobbie said it is to be grass and that they did confer with their engineer but not the fire chief. The engineer said the drive must be hard enough to support fire vehicles but could be green, and she will confirm whether it counts toward lot coverage. Frank reminded this must be plowed.

Walter continued to the pro forma document and asked if there is more material. Rob said that this was in the original filing but not in the new notebook. Liz said this was prepared by David Pride Consulting, a low income housing developer, in a report with four tabs. Walter asked for the whole report and asked whether there were financial data on what other development approaches would sell for. Bobbie said that those concept plans were to show how the project organizers got to their proposed number of units, and financial data are not relevant because the law says that the board has to look at what is proposed, not the alternatives. She added that they were open to the idea of building fewer units if affordable housing would not be part of the project. She said they have proposed a warrant article and will receive comments on it from the Planning Board. Walter pointed to the claim that a conventional subdivision would be more disruptive, and asked to know more about this. Bobbie said there is a plan in the original notebook.

Turning to the question of wetlands protection, Walter asked what would happen to the salt and sand in the snow storage area near the wetlands buffer, noting that these wetlands drain to Post Pond. Bobbie said that treatment is planned through swales and other features. A submission on this aspect has not yet been made because engineering detail is not worked out at this stage. She reminded that Lyme's ordinance specifies an ample wetland buffer that will protect wetlands from run-off.

Walter asked about the Common House, noting it is to be only for residents, and asked if it would be available for rent for public functions. Frank asked whether the workforce housing occupants will be subject to the work requirement. Liz said they would, that occupants would have to be members like everyone else, but that they will be associate members, because they may not realize equity growth in their units. Walter asked for copies of the Planning Board's minutes on this project from 2005 to the present. He asked if all structures will meet all ADA requirements. Liz said that this would mean elevators in each building, so the connected covered walkways allow buildings to share an elevator.

Rob asked how the applicant is interpreting the workforce housing requirement. Bobbie said the challenge is to provide opportunities going forward, and that the statute looks to planning for this need. She said the court will look at how a town provides this. Rob asked how we pick a number. Bobbie referred to the Arnett report that says there is no opportunity to build workforce housing in Lyme. Bill, who read the statute aloud, advised that the workforce housing worksheet must be found and used. Frank agreed, saying the board might need to have a study done. Rob advised that data are needed on the sufficiency of the supply available for conversion. Bobbie replied that conversion is not an effective tool for creating workforce housing and that people are leaving the state for lack of appropriate housing. She will get a letter from the NH Housing Coalition.

Liz reviewed the ownership of the lodge and lands. Pinnacle LLC purchased Loch Lyme Lodge and will be the umbrella group over the housing. Her group is currently talking about the work requirement for the membership. She believes this may be a new concept in northern New England.

Bill asked when workforce housing units will be available. Bobbie said that there is a plan in place with dates, and that units will be added as they go along. They have budgeted for a five year build-out. Liz reminded that the workforce units are to be subsidized by the other units and so can't be built until those are subscribed. Bill asked how an approval could be structured to be sure workforce housing is built. Bobbie said that this could be a condition of approval on the building permit. David said that the state fire inspector may want to visit, and that if construction is phased in units, he would not issue a permit for the next phase until the workforce housing is built.

Frank questioned the comparables used by Sally Rutter in her letter stating that comparables in Lyme do not show an impact from nearby multi-family units, because there are none near the properties she cited. Bobbie said she would get comparable data from other towns that did have relevant data.

Frank also expressed concern about directional drilling for the septic system, asking whether a drill can be run through a boulder field without the drill bit glancing off boulders. He asked whether the engineers can certify that they can accomplish what they have drawn and noted that this was information that Pinnacle really needed and that the board also needed in order to make a full evaluation of the potential impact of septic construction on the wetlands.

Walter asked whether the board should commission an analysis of workforce housing and potential multi-family housing in advance of the next meeting. He believes this is critical information to have. David said that a subcommittee of the Planning

Board is about to meet to create an update of this inventory with site visits, examination of the assessor's list, and review of existing stock. Walter asked about the potential for building out affordable housing in other districts. David observed that this is not a short and easy job and that any accessory dwelling can be called workforce housing. Bill noted that the turnover rate affects availability and suggested that a professional study might be needed. Bobbie said that she doubts that an applicant should be required to pay for a town-wide study but could do a study if it is related to the proposal. She will look for similar studies.

Bill moved to assign Walter and David to work together with Bobbie on details relevant to workforce housing and to continue the hearing to the regularly scheduled February meeting. Alan seconded the motion and it passed unanimously. Frank moved to add a notice of a business meeting regarding this application to the agenda for the next regularly scheduled January meeting. Alan seconded the motion and it passed unanimously.

Meeting adjourned 9:56pm
Respectfully submitted,
Adair Mulligan, Recorder