

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

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

Alternate Members: Present- Michael Woodard, Dan Brand

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

Public: Curtis Cote, David Roby, Bill Waste, Patty Jenks, Michael Whitman, Simon Carr, Stuart White, Jenny Littlewood, Rich Brown, Liz Ryan Cole, Eric Furstenburg, Michael Bruss, Jane Fant, Jay Kelly, Richard Bradley, Pete McGowan, Bobbie Hantz, Brian Pratt, Tim Cook, John Stadler, Robin Taylor, Sharyn Amberger

Chairman Frank Bowles called the meeting to order at 7:30 pm. He appointed Dan Brand to serve as a regular member for the McGovern case and Michael Woodard to serve as a regular member for the Pinnacle Project case.

Minutes: Minutes of the January 15, 2014 meeting were approved on a motion by Mike seconded by Rob.

Application #2014-ZB-129, Tara McGovern (Tax Map 413 Lot 22) 22 Canaan Ledge Lane in the Holt's District.

Tara McGovern and Curtis Cote have applied for a special exception under section 8.23 to build a garage/barn on their property. Due to the narrow width of the lot, location of the septic system, and the angle of the driveway, the applicants have requested to be allowed to place 162 square feet of the new structure in the property line setback. The board reviewed a series of photographs and a topographic diagram based on the tax map. Curtis said that the barn would be 28' x 24' with a 12' x 23' leanto. His lot is two acres. He identified the location of his drilled well, which is next to a small building that will be removed. He noted that the lot is quite hilly, and that the house was placed on ledge. The nearest corner of the barn will be 25 feet from the side property line. David Robbins said that the house was built in 1989, and Walter concluded that it had been built before adoption of the zoning ordinance.

Deliberations: Walter moved to grant a special exception to build a 28' x 36' barn in the location shown, based on the following findings of fact:

- The application meets the requirements of section 8.23, which allows expansion into the setbacks.
- The property is in the Holt's District, where 1000sf of intrusion into the setback is permitted.
- The applicant has requested an intrusion of 162sf, which will be reduced by 80sf because a building of that size will be removed, leaving 82sf of intrusion into the side setback.
- The proposed structure cannot be located outside the setback because of the steepness of the lot; the topographic map shows a 5% to 10% grades in the area.
- The application meets the requirements of section 10.40. Frank Bowles reviewed all of these requirements.

The board set a condition that best construction practices will be used, particularly with respect to erosion control. Frank seconded Walter's motion and it passed unanimously.

Application #2015-ZB-06 Pinnacle Project, LLC (Tax Map 408 Lot 22.1) 70 Orford Road in the Rural District.

CLD Consulting Engineers, on behalf of their client, Pinnacle Project LLC, has applied to the Lyme Zoning Board of Adjustment for a combination of variances and special exceptions to allow the Pinnacle Project to construct a 36-unit, 87-bedroom multi-family housing development on their property at 70 Orford Road in the Rural District. Members of the board were provided extensive materials to review in advance, and each member received a binder of supplemental information, including maps and imagery, collected into binders, that was described as consistent with previously distributed materials.

Bill Waste introduced the project participants: Liz Ryan Cole and Rich Brown of the Pinnacle Project; Michael Bruss of Bruss Construction; Stuart White, architect; Brian Pratt of CLD Engineering; and attorney Bobbie Hantz of Sheehan, Phinney, Bass, and Green. Bobbie noted that they had previously presented to the Lyme Planning Board in a non-binding review, and noted her surprise at the statements laid out in the meeting minutes. She asked that if any members of the Zoning Board

felt that their review of those minutes led them to a bias, she asked that they recuse themselves. Some members had read the Planning Board's minutes and others had not, but none reported bias.

Bill Waste continued by describing his personal experience in looking at alternative future housing, and his interest in energy efficient construction that could offer a variation of development with multiple positive elements in land use and structural features. The group made a slide presentation that described 36 clustered units on four of the property's 98 acres. Bill noted that the Pinnacle Project is not requesting a change in zoning, but a combination of variances and special exceptions. Liz Ryan Cole suggested that the project would appeal to young people and young families, as well as older people, and that the area has long been a focus of activity with Loch Lyme Lodge. The Lodge and 12 acres have been subdivided off the Pinnacle Project property.

Architect Stuart White offered his view that this project combines energy conservation with exemplary land use. He displayed sketches of the current cabins and proposed structures, noting that his design cues came from the cabins and other rustic buildings in the area. The rolling terrain will provide views and sunlight. Brian Pratt, civil engineer, reported that he has coordinated with NH DOT and that a permit for a new driveway will be needed. He reviewed the placement and function of the various proposed structures, beginning with the Common House, which will include dining, recreation facilities, and other shared functions. The Crest building will have seven units; Vail 11 units; others will have fewer. Each unit in Crest, Building C and Building D has one covered parking space. The other units have carports. One large septic system will serve the project, along with a pump station. Test pits have been dug. Brian said he is still working on a well location.

Brian continued that the project will require an Alteration of Terrain permit from NH DES and a well permit. There will be 500-700sf of wetland intrusion, because the designers wanted to avoid tearing down a cabin. Brian displayed the conservation overlays showing steep slopes, wetlands and wetland buffers, and agricultural soils.

A layout for a conventional subdivision of the property would result in five large lots of 20 acres each; with a density bonus for clustering, six lots could be realized. If, as allowed by the zoning ordinance, each unit is converted into six after five years, this would result in 36 units, providing the basis for the present application.

Brian observed that there could be two ways to navigate the zoning ordinance to permit the project to proceed. The first path would be to ask for a variance for 36 units, with a variance to exceed lot coverage limits. Each building will be less than 7,000sf. He wanted to know whether the elevated bridges connecting the Common House with other units would also require a variance. Special exceptions would be needed to develop on agricultural soils, to disturb wetland buffers, and to address height limitations. Lyme's ordinance restricts height to 35 feet. While most of the proposed buildings are 33 feet tall, the design calls for one corner of the commons building to be 40 feet tall in order to accommodate the terrain. Brian said he would need to work with the Lyme Fire Chief on details of fire protection. There would be gravity-feed fire cisterns at the upper end of the lot, buildings would be sprinklered and fire paths would be provided around the buildings.

A second path to a variance would be to eliminate the five year waiting period for conversion to multiple units. This would require getting the approval of the Planning Board for lot size averaging and a variance to change the number of units per building. The same special exceptions would be needed. Brian asked the board to review the plan and alert him to any variance or special exception requirements he may have missed.

Rich Brown showed several photographs that had been altered to indicate how the project might look from across Post Pond, including with the barn moved to its permitted location. He continued that the 36 units would likely result in an occupancy of 68-72 people, including 59 adults and 9-13 students. Bobbie Hantz offered the opinion that the economic impact of the project would likely be positive rather than negative, since the project would be located a mile from the center of town and on a state road, with an internal private road, resulting in little burden on town services. Michael Bruss added his opinion that there would be minimal environmental impact.

Bobbie continued that the project will be built in phases, with the Common House and several units built first, and more units added later. She noted that four of the 36 units will be available as workforce housing, and that these four units need to be subsidized by the other units. She turned to a letter from Coldwell Banker Realtors giving the opinion that the project

will not negatively impact the value of surrounding properties. She reminded that there are other ways to use the Pinnacle property, including large lots with large, dispersed homes.

Chairman Bowles then invited the public to speak. David Robbins distributed a packet of 12 email messages offering further commentary.

- Jenny Littlewood said she supports the project.
- Rich Bradley said he opposes it, and thinks there are too many units for this narrow, winding section of Route 10 where he has witnessed near-accidents at the road crossing near the Loch Lyme lodge driveway. He supported developing the land conventionally. He thought the project as presented does not sound like “aging in place” and questioned the viability of the co-housing concept.
- David Roby said he thinks it will be a beautiful project but does not work under current zoning. He advised that the Town should vote on an amendment to permit it, and added that the variances are the same ones that a conventional developer would ask for.
- Simon Carr said he thought the Town needs to look at this sort of thing and how it would handle co-housing. He said that Lyme is a town with very large houses that has not looked at more modest housing.
- Ellen Thompson said she supports the project and expected it would allow those now in larger homes with a more affordable option if they would like to remain in Lyme.
- David Roby recalled that two years ago, an amendment to the zoning to allow more clustered housing was brought before the town and withdrawn. It was replaced by an amendment developed by the Pinnacle Project. The Planning Board could not support this amendment and it was defeated in town meeting by a substantial vote.
- Jane Fant said that Lyme needs these housing options, although she was not certain how to proceed. She said she is concerned about waiving the five year requirement.
- Rich Bradley asked why the proposal was not for an over-55 complex, with no children.

There being no other public comments offered, Bobbie Hantz proceeded to describe the special exceptions that would be needed. She noted that lot coverage limits are 26,000sf per lot. She expects that alteration of the wetland buffer will be needed as access is created and utilities are buried. With respect to agricultural soils, she observed that this is what is left when steep slopes and wetland buffers are eliminated. She anticipates there will be agricultural use with gardens. Because they would be built on sloped land, a few buildings would be higher in the front and less in the back. She believes that each aspect will meet the 14 requirements to satisfy section 10.40.

With respect to variances, she noted that planned developments are allowed in other zoning districts in Lyme that are nearby, but not in the Rural District. She cited section 4.46, regarding the five-year waiting period, and section 4.46G, regarding reconfiguring buildings into a development that works. She noted that several of the proposed buildings have less than six units, and some have more. She believes that, as proposed, the project needs one variance. She added that the project fits with the nearby lodge use and that it promotes the public good through housing benefits and land conservation. She asserted that it follows the Master Plan, which allows clustering and conversion. It allows efficient use of the land and maintains slopes and vistas. By contrast, she believes that allowing five houses, with the outbuildings that might accompany them, would lead to much higher impact. Bobbie concluded that the proposal allows the owners to make reasonable use of the property with less impact than conventional development, and that it is a reasonable use on 100 acres in a way that is economically viable. She described the property as unique, between the pond and the ridge, and noted that there is no request to change the ordinance for this project.

Walter requested clarification on the following points:

1. The calculations that led to a division into five lots, including the steep slopes district. He noted that the Lyme Zoning Ordinance describes steep slopes as those with a 20% grade, but the drawing shows 10% slopes.
2. Agricultural soils – he would like information on the total area of agricultural soils on the parent lot, and where they are overlaid with wetlands.
3. The criteria for the five year wait – he asked for background on the reasoning behind this aspect of the ordinance.
4. The previous zoning amendment – he asked for more information about each side of the decision to withdraw it.
5. Dimensions relative to boundaries.

Rob asked whether the applicants are doing a market study, and what the relationship will be between the applicants and the future owners. He also asked if there are any cases where variances were granted for similar housing on vacant or open land. Frank asked for more information about the internal mechanisms of co-housing, and how they relate to common spaces such as the bridges and common house. He also asked for dimensions of the roadway and whether there would be standby generators in case of failure of the pumping station (yes). Alan asked about the relation between the proposed leach field and the original lot, and asked to see them on drawings. He also asked why the access to Route 10 is being proposed with only one driveway for both the lodge and the co-housing development..

The board voted to continue the hearing to the next regular meeting on March 19, on a motion by Frank seconded by Mike.

Meeting adjourned 9:38pm
Respectfully submitted,
Adair Mulligan, Recorder