

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – December 15, 2016

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

Absent: Rob Titus

Alternate Members: Dan Brand, Michael Woodard

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

Public: Richard Drew, Alethea Young, Philip Kinsler, Margaret Johnston

Chairman Frank Bowles called the meeting to order at 7:30 pm. He appointed Michael and Dan to sit as regular members, as Walter and Bill had not yet arrived. The minutes of the meeting of November 17 were approved on a motion by Mike seconded by Alan.

Application #2016-ZB-66, James and Liz Kelsey (Tax Map 408 Lot 2)

The Kelseys have applied for a Use Variance to allow the use of the property and buildings at 39 Pleasant Street for hosting temporary events. The barn and the rest of the property, as needed, would be available to rent by private parties for weddings, family reunions, company outings, and local fundraisers. David reported that the applicants had called to request that the hearing be continued until the next regular meeting. Voted to continue the hearing until January 19, 2017, on a motion by Alan seconded by Mike.

Application #2016-ZB-76, Alethea Young (Tax Map 404 Lot 20)

Alethea Young has applied to the Lyme Zoning Board of Adjustment for a variance to replace a failed septic system within the road setback, Connecticut River setback, and within the Shoreland Conservation District. The proposed replacement system will be constructed on her property at 429 River Road in the Rural District. Alethea explained that her septic system had failed and that Richard Drew had assisted her with the situation. David noted that the state will require the new system to be located as far from the river as possible, regardless of Lyme's priorities. The response to a question from Walter was that both the old and the new systems would be located within the river and road setbacks. Alan noted that replacing a failed system will result in improved conditions. Walter asked if the old system would be required to be excavated. David said the town would not and he did not know whether the state would require it. Richard Drew reported that septage was backing up into the house and that the tank is now being pumped. He added that the current tank will remain, and another will be added to it; septage will pass from that to a pump station to the new leach field. David said that the road setback is 100' from the center line of the road (the ROW is 25' from the center line, and the setback is 75' beyond that).

In response to a question from Walter regarding section 8.24E, David consulted the floodplain ordinance and provided a map of the 100 year floodplain to the board. He confirmed that both the house and the septic system site are out of the floodplain.

Deliberations: Walter questioned whether a variance would be needed, since a leach field is defined in the ordinance as a structure and the ordinance allows a replacement structure by special exception if there is no increase in violation. He cited sections 8.11, 8.23, 8.24, and 8.27. Walter moved to grant a special exception to relocate the septic system closer to the road with the following findings of fact:

- The current system has failed
- The current and new systems would both be located in the Shoreland Conservation District and the front setback
- The new system will be located to comply more closely with state requirements
- There will be no increase in septic loading
- The septic system qualifies as a structure although will not contribute to lot coverage
- Section 8.11 permits continuance of a non-conforming use provided, among other requirements, that the volume of sewage effluent is not expanded by more than 50%.
- Section 8.22 and 8.23 provide that an existing non-conforming structure may be modified in setbacks if it cannot reasonably be located outside the setbacks

- Section 8.24 provide that an existing structure may be modified in a conservation district if it cannot reasonably be located outside the district and if it will not involve a significant increase in sewage loading within the district.
- The septic system will be located out of the floodplain, so the application complies with section 8.24E.

Alan seconded the motion and it was unanimously approved.

Application #2016-ZB-79, Philip Kinsler and Margaret Johnston (Tax Map 402 Lot 101)

Philip Kinsler and Margaret Johnston have applied to the Lyme Zoning Board of Adjustment for a variance to replace a failed septic system within the road setback, Connecticut River setback, and within the Shoreland Conservation District. The proposed replacement system will be constructed on their property at 161 River Road in the Rural District in the same location as the previous system. Philip explained that there is nowhere else on the property to locate the leach field, and it is to be sited at the maximum distance from the road, river, their well, and their neighbor's well. All contaminated soil will be removed before construction. The proposed system is a denitrifying system which will benefit the river.

Discussion ensued about the location with respect to the floodplain. Philip explained that before they purchased the house in 2002, previous owner Sylvia Reed had engaged a surveyor who showed that the house was above the 100 year floodplain. He said that the house is 1" above the floodplain and that the leach field is located above the house. David provided copies of minutes from the ZBA meeting of May 15, 2003, when the current owners applied for a permit to construct a garage. The minutes showed that the board had found that the state Office of Emergency Management had accepted Robert Pantel's 1994 statement that the septic system posed no flood hazard.

Deliberations: Walter moved to grant a special exception to replace the septic system with the following findings of fact:

- The current system has failed
- The current and new systems would both be located in the Shoreland Conservation District and the front setback
- The new system will be located in the same location as the old system
- There will be no increase in septic loading
- The septic system qualifies as a structure although will not contribute to lot coverage
- Section 8.11 permits continuance of a non-conforming use provided, among other requirements, that the volume of sewage effluent is not expanded by more than 50%.
- Section 8.22 and 8.23 provide that an existing non-conforming structure may be modified in setbacks if it cannot reasonably be located outside the setbacks
- Section 8.24 provide that an existing structure may be modified in a conservation district if it cannot reasonably be located outside the district and if it will not involve a significant increase in sewage loading within the district.
- The septic system will be located out of the floodplain, so the application complies with section 8.24E.

Mike seconded the motion and it was unanimously approved.

Meeting adjourned 8:28pm

Respectfully submitted,

Adair Mulligan, Recorder