

**Town of Lyme**  
**LYME ZONING BOARD OF ADJUSTMENT**  
**Minutes – May 20, 2021**  
**Via Zoom**

**Board Members:** Present - Frank Bowles, chair; Sue Ryan, Lynne Parshall, Bill Malcolm, Judith Timchula

**Candidate Members:** Present – Helena Witte

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

**Public:** Ray Clark, Jim Kennedy, Karen Keane, Laurie Wadsworth, Faith Catlin

Chair Frank Bowles called the meeting to order at 7:30 pm and explained the authorization for the meeting to proceed via remote connections. Minutes of the April 15 meeting were approved on a motion by Sue seconded by Judith. Frank announced that Helena Witte will soon join the board.

**Application #2021-ZB-24 –Loch Lyme Lodge (Tax Map 408 Lot 42) Orford Road**

The board voted to approve the applicant's request to continue the hearing to June 17, 2021 on a motion by Frank seconded by Lynne.

**Application #2021-ZB-41 –Ray Clark (Tax Map 201 Lot 31.1) 14 On the Common**

Ray Clark has applied for a Variance from section 4.61 to construct two residential buildings within the Wetlands Conservation District on his property in the Lyme Common District. David Robbins noted that the project will use the new senior housing ordinance recently passed at Town Meeting. The footprint expansion will be controlled by the Planning Board through site plan review, and the only issue before the Zoning Board is the additional lot coverage for two new buildings in the Wetlands Conservation District buffer.

Ray explained that he had previously received a special exception for 480sf of incursion into the wetland buffer, but since that time, there have been changes in the regulations and in his plans. He was approved for 5 units: 4 in the existing house and one in the barn, but as he got into his project, he realized that it would not be economically viable to do 4 units in the existing structure. He observed that the building code does not accommodate historic structures well and that he could not meet code economically, so had to make the difficult decision to tear down the back half of the building, which eliminated 2 units. He is now applying for 2 units elsewhere on the property. He added that he thinks it makes sense to develop more densely in the village area.

Jim Kennedy outlined the changes on the map and impact on the wetland buffer. The map displays buildings within the setback of a minor wetland with low functions and values, not a vernal pool. Another, high-functioning, wetland is farther south on the lot. He described the stormwater catchment and drainage retention features of the design, including a large rain garden. These are sized according to NH standards for Alteration of Terrain and include a stone spillway to the nearby wetland. The Conservation Commission has sent a letter of approval. Lynne asked if access to the Big Rock Nature Area will be provided. Ray said that he hopes a trail will be built in cooperation with Northern Woodlands, but that not all the land is under their control. Lynne asked whether the designers have considered moving buildings 6 and 7 north to avoid the wetland. Jim said that leach fields are in the way and that room is needed for grading. Bill noted that driveways are included in lot coverage in the Lyme Common District. David said that there are special exceptions available for drives in wetland buffers but that in this case it can be rolled into the variance.

Karen Keane has sent a letter to the board expressing concern about a house 20 feet from her back yard, especially as the height of the house is unknown. Frank noted that this board cannot regulate height and David added that there is a 35-foot height limit in the ordinance which applies to all new structures. David displayed map 201 to show the lot lines and noted that this question is better addressed during Site Plan Review with the Planning Board. Faith Catlin asked if Ray is asking to build on conservation land. Ray said no, just within the setback from the wetland. Laurie Wadsworth expressed concern about using up a beautiful back yard, noting that the proposed driveway goes very close to her property and affects privacy. She would like to see an overall plan for wetlands on both lots. Frank responded that the proposed buildings do not modify the wetlands. Jim reported that this has come up before and he has offered to help with vegetation management.

Deliberations: Frank authorized Helena to ask questions during deliberations. Bill raised the question of the purpose of the wetland buffer, and it was determined that the wetland is greater than 2500sf. The Conservation Commission letter noted that this wetland has long been disturbed. Bill added that the senior housing ordinance is irrelevant for the wetland issue because

the ZBA has no authority to relax those rules. Frank noted that the applicant says he needs the additional units to make his project economically viable. Sue and Frank agreed that runoff and the nature of the driveway surface should be discussed.

Out of Deliberations: Ray said he prefers a gravel drive rather than a paved impervious surface. Jim noted that all runoff would be accommodated in a basin, and that the low-functioning wetland is really a built-in sediment basin now. The Windsor soils here are very permeable. He calculated that there is 5486sf of intrusion into the Wetland Conservation District attributable to driveways.

Deliberations: Frank observed that the buffer is not being violated much by the proposed buildings. He moved to grant a variance to allow intrusion into the Wetland Conservation District of 1883sf for buildings and 5486sf for driveways to allow construction of multiple housing units, noting that this decision refers only to the Wetland Conservation District and not to any other element of the zoning ordinance such as lot coverage, building footprint, or housing definition. The board voted the following findings:

1. The Conservation Commission supports the project;
2. The project is not contrary to the public interest, as the Master Plan urges additional housing and recent public discussion has supported that;
3. The spirit of the ordinance is observed, and this is a Class B disturbed wetland for which the applicant is proposing mitigation measures on well-drained Windsor soils;
4. Substantial justice will be done, given the intent of the Master Plan
5. The value of surrounding properties will not be diminished; while testimony has been received by concerned abutters, no testimony has been received that indicates property values will be diminished by incursion into the wetland buffer;
6. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship – this is a large property in this district and the incursion is made because another plan is not economically feasible.

Each portion of the variance finding was voted individually. The votes were unanimous. Bill seconded the motion and it passed unanimously.

#### Out of Deliberations

#### **Application #2021-ZB-40 –Barbara Roby (Tax Map 409 Lot 84) 12 Baker Hill Road**

Barbara Roby has applied for special exceptions under sections 4.63B3 and 8.22 to reconstruct a bridge and driveway over an unnamed tributary of Grant Brook that intrudes into the Shoreland Conservation District and the road and property line setbacks. Frank noted that this is a repair of an existing culvert. Jim Kennedy added that the driveway led to a house that has since been demolished. Adair Mulligan said that the culvert dates from about 1780. The Robys purchased the lot when a repair to the culvert was being attempted, in order to preserve it. No building is being proposed, and the property may become a park. Jim said the goal is to fix the access without altering the look of the culvert. Old rusted steel beams will be removed and a new granite slab added, topped with a poured concrete slab resting on concrete footings. 12" thick gravel will be placed on top and then a guard rail and sitting wall constructed of fieldstone. A sample will be created for the Lyme Heritage Commission to consider. Jim added that a Permit by Notification has been received for the culvert repair from NH DES.

Asked why a special exception is required, David noted that he considered the property abandoned since the house is gone and the drive is no longer used. Jim noted that Pathways Consulting is still drawing up plans and there may be prefab planks rather than poured cement in order to avoid problems with controlling liquid concrete. Bill said there is a concrete block on the far side where a concrete footing is shown. There is much disturbed ground, and he would like to see a PE stamp on the plan. Jim noted that DES does not require a PE stamp for a repair. David said that under section 9.22 the applicant is not just replacing existing materials but introducing new ones. Bill said he applauds the proposal and is glad to see the culvert saved, but recommended continuance until the application is complete with structural design.

Deliberations: Lynne moved to continue the hearing to the next regular meeting on June 17, and to ask the applicant to provide additional details on the construction plan, methodology, and expected weight limit. She asked that a site visit be scheduled, and noted that a special exception from section 8.24 would be needed. Sue seconded the motion and it passed unanimously.

Out of Deliberations: Jim will schedule a site visit with Rod Finley of Pathways.

Announcement: David said that the selectboard is discussing opening the town office building by the end of June.

Meeting adjourned 9:33 pm  
Respectfully submitted,

Adair Mulligan, Recorder