

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – November 18, 2021

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

Alternate Members: Helena Witte

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

Public: Tom Ball, Ethan Ball, David Russ

Chair Frank Bowles called the meeting to order at 7:30 pm. The minutes of the September 16 meeting were approved on a motion by Bill. The minutes of the October 21 meeting were approved on a motion by Bill.

Application #2021-ZB-78 – Ethan Ball on behalf of Tom Ball (Tax Map 401 Lot 19) 107 Bear Hill Lane

Ethan Ball has applied on behalf of Tom Ball for a Special Exception under Section 8.24 to construct a septic system on the property at 107 Bear Hill Lane in the Rural District. The proposed septic system intrudes into the Agricultural Soils Conservation District. Footprint calculations have not been made as the application is for a septic system that will not add to the Lot Coverage and does not have a footprint. Ethan explained that the cabin currently has a composting toilet, and they would like to upgrade the plumbing so they can have a shower. The lot is one acre, and the site proposed for the septic system was designated by the surveyor. Tom added that results of soil tests were approved there. David Robbins noted that the 75' well radius would preclude another site.

Ethan noted that Frank Chesley had once had a mobile home and other structures on the property, and produced documentation in support of his statement. Tom said he bought the land in the 1980s but the building permit was initially denied due to a change in road classification to Class VI, so he secured a right of way from Chesley. David observed that he does not know where the trailer was or when it was removed. Ethan confirmed that the trailer was in place when the cabin was built. David added that he had spoken with Patty Jenks, who confirmed that as well.

Deliberations: Bill moved that based on the testimony of the applicant and of the Zoning Administrator who reported that the Town Clerk had confirmed the existence of a trailer. The proposed project is exempt from the Agricultural Soil Conservation District. Frank seconded the motion and it was approved unanimously.

Out of Deliberations.

Application #2021-ZB-76 – David Russ (Tax Map 407 Lots 58.1, 56.2) 15 Whipple Hill Road

The applicant has proposed to construct a single-family home on lot 58.1 in the Rural District. The driveway will cross lot 56.2. The applicant is applying for a variance from section 4.64 to develop 2.6 acres within the Agricultural Soils Conservation District, to be used for a single-family residence. The lot has 40.48 acres, all of which are within the Agricultural Soils Conservation District. The 0.4-acre driveway intrusion on lot 56.2 has been included as part of the variance in order to simplify the application. A separate special exception under section 8.24 would provide the same relief.

The reason for the Variance request instead of a Special Exception is that the lot currently has a conservation easement protecting 32.26 acres. This constitutes 79.7 % of the lot. The requirement for the special exception is 75% of the remaining Ag Soils. The current easement protects a greater portion of the lot than the zoning requires. The Zoning Administrator observes that it makes no sense to require an additional easement on already protected land.

David Russ noted that the land surrounding the proposed building site was conserved before he bought it. He would like to build a smaller home on it. David Robbins noted that deliberations would address only the land on the east side of Route 10, not the west side. The driveway would reach Route 10 at an existing lane at 226 Orford Road. David Russ said that the Grafton County Champion Sugar Maple stands on the property.

Deliberations: Frank proposed a Variance rather than a Special Exception. Bill questioned why the existing easement created special conditions for the lot. Adair Mulligan noted that conservation easements typically contain clauses that do not permit additional, subsequent easements without the advance written approval of the land trust. Lynne noted that she is a member of the board of directors for the Upper Valley Land Trust and recused herself. Frank appointed Helena to sit as a regular member. David Robbins reminded that the applicant bought the property with the conservation easement in place. The board agreed that the lot conditions are therefore highly unusual because of the easement.

The board then considered and agreed unanimously on each of the following tests of a Variance in section 10.50:

1. The Variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Substantial justice is done
4. The values of surrounding properties are not diminished; and
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
 - A. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area, namely a conservation easement that protects 79.7% of the lot:
 - i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
 - ii. The proposed use is a reasonable one.

Frank moved to grant a Variance based on the above determinations, and it was approved unanimously.

Out of Deliberations

Meeting adjourned 8:18 pm

Respectfully submitted,

Adair Mulligan, Recorder