

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – August 19, 2021

Board Members: Present - Frank Bowles, chair; Sue Ryan, Lynne Parshall

Absent - Bill Malcolm, Judith Timchula

Alternate Members: Present – Helena Witte

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

Public: Mike Carbonneau, Bill Drescher

Chair Frank Bowles called the meeting to order at 7:30 pm and appointed Helena Witte to sit as a regular member. Minutes of the July 15 meeting were approved on a motion by Lynne seconded by Sue.

Application #2021-ZB-62 –William Weeks (Tax Map 403 Lot 18) 307 River Road

William Weeks has applied for special exceptions under sections 5.13E3, 8.23, and 8.24 to replace the septic system on his property in the Rural District. The septic system will intrude into the Shoreland Conservation District and the road and property line setbacks. Septic designer Mike Carbonneau said that an evaluation had indicated that the system had failed and sewage was backing up into the house. He did test pits and tied various scenarios for a typical subsurface system but found that the limited lot size and limiting soils with a hardpan at 12" led him to conclude that a holding tank was the only solution. He consulted NH DES, which reached the same conclusion. David Robbins explained the permitting system that applies when a system has failed. The property is grandfathered from the state Shoreland Protection Act but the town's own Shoreland Conservation District applies. Frank observed that the plan is clear and that the tank is in the only place it could go. Mike said he consulted a neighbor, noting that the old system was too close to both wells, and the neighbor agreed with the new plan. David shared letters from neighbors Barr and Graham and also from the Conservation Commission.

Deliberations: The board discussed whether a special exception or variance would be more appropriate. Lynne Parshall moved to grant special exceptions under sections 5.13E3, 8.23, and 8.24 to replace the septic system on this property in the Rural District with the following findings:

- The tax card for the lot indicates that the structure was built between 1975 and 1982, so it predates zoning.
- The 0.15Ac lot has a calculated building footprint of 25sf and a calculated maximum lot coverage of 147sf.
- The lot coverage and building footprint is 788sf.
- The lot lies completely within both the Shoreland Conservation District and the road and side setbacks.
- The proposed sewage disposal system is a DES-approved holding tank that replaces a drywell of unknown age, but which likely dates from the 1970's. The holding tank and house are outside of the DES -approved 50' well radius.
- The holding tank is located in the only place on the lot where it could be located.
- The application seeks to regularize the status of the new waste containment system which was installed on the mistaken assumption that a zoning permit would not be required.
- The replacement system is a significant improvement in terms of the objectives of the Shoreland Conservation District since it is a closed tank and cannot leak sewage into groundwater or the Connecticut river.
- An abutting neighbor and the Conservation Commission have submitted letters endorsing the revised system
- The Board finds that the holding tank sewage disposal system qualifies for special exceptions under 5.13E.3 8.23, 8.24 and that the requirements section 10:40 are met.

The board imposed the following conditions: Best management practices for erosion control will be used, and the work will strictly adhere to the conditions of the DES permit. Sue seconded the motion and it passed unanimously.

Out of Deliberations

Application #2021-ZB-59 –William Drescher (Tax Map 402 Lot 65) 5 Sloan Lane

William Drescher has applied to the Lyme Zoning Board of Adjustment for a special exception under section 8.25 to construct a 96sf shed on his property in the Rural District. The proposed shed will intrude into the Shoreland Conservation District. David Robbins explained that he disagrees with Lyme's tax mapping company's depiction of the boundary line in this case and has contacted the state regarding the large (100') right of way from Route 10 shown. He pulled the construction maps of Route 10 which show that in most areas the ROW is only 75' so the tax map is off by 25'. David is asking for the map to be fixed. He distributed a letter from the Conservation Commission.

Bill Drescher explained that there will be a pen surrounding the shed for two goats which have not yet arrived. The brook is about 2' wide, unnamed, and intermittent. Also on the property are a rabbit hutch which Bill added and a chicken shed which was on the property when he bought it; David is not sure when that was added. David noted that a previous ZBA decision

classified the area as shoreland with the brook running nine months/year, with which the current owner agreed. Discussion turned to whether there is any other location on the property for the shed, and none could be found. David agreed, noting the lot is not large, and that the only other area would be within the state right of way which would not be allowed. Bill said he contacted his abutter who had no objection. Sue pointed out that the tax map does not show the brook, but the owner said he has a state culvert easement on his land. He plans to store only hay or grain in the shed, and the goats will produce manure. He drew an illustration of the pen surrounding the shed for the board; it will be about 70' x 20'. David noted that manure is spread both on the fields next to this brook and property and also on those across Route 10. Helena, who has experience with managing goats, pointed out that erosion could occur if the goats denude the soil, and recommended fencing off the area closest to the brook in springtime to allow grass to grow.

Deliberations: The board discussed the possibility of limiting the number of goats on the property and determined that this would not be practical. Lynne moved to grant special exceptions to sections 8.24 and 8.25 for construction of a 96sf shed with the following findings:

- Per a 2012 ZBA finding and agreed by applicant, a brook that runs approximately 9 months of the year crosses the property. The brook runs through fertilized agricultural fields across Rt. 10 before entering Applicant's property.
- Applicant has received Conservation Commission review requesting that the ZBA consider mitigation to reduce potential impacts on the stream.
- Due to the size of the lot, topography, road setbacks from Sloan Lane and Rt. 10 and the need for space for a pen for the goats, there is no reasonable alternative place on the property to build the proposed shed and pen.
- The shed will not have a well, plumbing, heat, electricity, or septic.
- Applicant plans to store animal feed in the shed.
- Applicant plans to have a "small number" of goats in the shed and surrounding pen
- As planned, the project is not within the road setback for Rt. 10 or in the rear property boundary setback.
- The project will not require any significant removal of trees or vegetation.
- The ZBA notes that agricultural uses of land are strongly supported by both the Zoning regulations and the Town Master Plan.
- An abutter does not object
- The calculated maximum lot coverage (in the Rural District) is 1,847 per the Zoning Administrator
- Calculations for 8.24 (Shoreland Conservation District):
 - 1000 sf can be allowed under Special Exceptions:
 - 274 sf used to build deck per 2012 ZBA decision
 - 318 sf may be used by two additional sheds (it is unknown if they are in the Shoreland Conservation District)
 - 96 sf for proposed new shed
 - Leaving 312 sf for future incursions into the Shoreland Conservation District.
- Calculations for 8.25 (Maximum Lot Coverage)
 - Current Lot Coverage: 2430 sf (with new shed 2526 sf)
 - Maximum Lot coverage Calculation: 1847sf (with potential for 1000 sf via special exception – 2847sf)
 - Leaving 321 sf for future expansion.
- The requirements of Section 8.24 are met, and the NH Comprehensive Shoreline Protection Act is not applicable.
- The requirements of section 8.25 are met.
- The requirements of section 10.40 are met.

The Board recommended the following conditions for the permit:

- Best construction practices will be used, with particular attention to avoiding erosion
- Project to be built consistent with the application outside the various setbacks and maintaining distance from the brook
- No hazardous materials will be stored in the shed
- The pen will be sited as far as reasonably practicable from the brook
- A vegetative buffer will be maintained as far as possible between the pen/shed and the brook

Sue seconded the motion and it passed unanimously.

Out of Deliberations

Meeting adjourned 8:57 pm

Respectfully submitted,

Adair Mulligan, Recorder