

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – March 17, 2022

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

Alternate Members: Helena Witte

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

Public: Jim and Sarah Nourse, John Griesemer

Chair Frank Bowles called the meeting to order at 7:30 pm. The minutes of the December 16, 2021 meeting were approved on a motion by Bill seconded by Judith. Frank appointed Helena to sit as a regular member.

Application #2022-ZB-04 – James Nourse (Tax Map 408 Lot 71.2) 84 Franklin Hill Road

James Nourse has applied for a Special Exception to the Lyme Zoning Ordinance under section 4.64B to install a ground mounted solar tracker on his property at 84 Franklin Hill Road in the Rural District. In 2007 a previous property owner had applied for and received a special exception under this section for the development of 13.7% of the ag soils on the property. The current owner would like to site a solar array on Agricultural Soils that were not included in the previous application. He is applying to remove an additional 11.3% to bring the total removed up to the full 25% allowed under the Ordinance.

Jim said that the solar contractor visited the site and found that the proposed site is optimal for solar gain; another one exists but would generate 17% less gain and is still in the agricultural soils area. Discussion then revolved around whether it would be better to reserve less than the full 25% allowed under the Ordinance, since the tracker would take up only 22'x13' and have a 8'x 8' footing. The tracker needs to be placed in an area contiguous with the existing reserved area. David reported receiving an email of support from abutter John Sanders.

Deliberations: Lynne moved to grant a special exception under section 4.64B 1 to install a ground mounted solar tracker on his property at 84 Franklin Hill Road in the Rural District, with the following findings:

- The tracker will be mounted on a space contiguous with the area currently reserved from agricultural soils
- The solar tracker is accessory to a single dwelling as defined under section 4.64 B 1
- The area will be added to the reserved area to bring the total reserved area to 25%
- Abutter testimony in favor has been received
- Conditions of section 10.40 have been met
- Conditions:
 - a zoning easement will be placed on the remaining 75% of agricultural soils
 - the tracker will be placed substantially as shown on the application

The motion was passed unanimously.

Out of Deliberations

Application #2022-ZB-08– John Griesemer (Tax Map 201 Lot 26) 4 Market Street

John Griesemer has applied for a special exception under section 5.13E 3 to construct a replacement septic system within the property line setback at 6 Market Street in the Lyme Common District. John explained that he owns this property next door to his own home as a rental and has been working on improving its septic system. The tank has been replaced and a leach field is needed. The septic designer found just one spot where it could be put outside of the 75' radius of both neighboring wells. David agreed that there was no other place to put the leach field. No abutter testimony was received, although it was noted that John himself is the abutter to this property.

Deliberations: Judith moved to grant a special exception under section 5.13E 3 to construct a leach field within the property line setback at 6 Market Street in the Lyme Common District with the following findings:

- the project meets the requirements of section 5.13E 3
- there is no other possible location for the leach field
- no other abutter testimony has been received
- no wells exist within 75' of the chosen site
- no graveyards or wetlands exist within 100'
- conditions of section 10.40 are met
- Conditions: the leach field will be built substantially as shown on the plans submitted

The motion was passed unanimously.

Out of Deliberations

The issue with the wording of the Special Exception section for the Agricultural Soils Conservation District is the disconnect between when the reservation of the 25% allowed for development is granted and when the zoning easement on the remaining 75% is created. The area allowed for development and that covered by an easement require a specific boundary – presumably surveyed – for enforcement purposes.

With the current wording an owner can apply successively for Special Exceptions of up to a cumulative 25% of the Ag Soil District, potentially over several years or decades. The question is when is the zoning easement required? When the 25% limit is reached or after the first application for a special exception regardless of the percentage?

Administratively this is a challenging way to secure the easement and subject to varying interpretations by different zoning boards and different zoning administrators.

Meeting adjourned 8:32 pm

Respectfully submitted,

Adair Mulligan, Recorder