

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – June 28, 2022

Board Members: Present - Frank Bowles, chair; Bill Malcolm, Helena Witte

Alternate Member: Zoe Washburn

Absent: Lynne Parshall, Judy Timchula

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

Public: Douglas Gernhard, Jacob Burgess, Ellen Thompson

Chair Frank Bowles called the meeting to order at 7:30 pm. Minutes of the April 21 meeting were approved. The Zoning Administrator and Recorder were authorized to participate by voice without vote.

Application #2022-ZB-12 – Douglas Gernhard (Tax Map 404 Lot 48.2) 68 North Thetford Road

Douglas Gernhard has applied for a Special Exception under section 8.24 to construct a 26' x 34' (884sf) garage on his property in the Rural District. The proposed garage would be located entirely within the Agricultural Soils Conservation District.

Frank asked if there is any alternative location for the garage that is out of the Ag soils district. The applicant reported that there is not, because of the way the house sits on the hill; there is a 100' drop in one direction and the other side is a garden. With the necessary orientation, there is no other place to put it. Frank observed that the setbacks look fine.

Deliberations: Bill moved to approve the special exception under section 8.24 to construct a 26' x 34' (884sf) garage within the Agricultural Soils Conservation District, with the following findings:

- no abutters commented on the project
- the garage cannot be reasonably located outside the ag soils district, based on testimony, a site map, and a LiDAR representation of the pond and barn
- the proposal does not exceed 1000sf
- construction will not significantly increase sewage loading in a wetland
- the project meets the tests of section 8.24
- the Zoning Administrator presented a LiDAR diagram showing severe topography
- 116sf will be left for future expansion in the conservation district
- the project meets the requirements of section 10.40A
- under section 10.40B, conditions are that best construction practices will be used.

The project was unanimously approved.

Out of Deliberations

Application #2022-ZB-13 – Pioneer Land Surveying on behalf of Bayne Stephenson (Tax Map 201 Lot 12.2) 5 & 7 Market Street

Pioneer Land Surveying has applied for a Variance from section 5.11 (lot size) in order to annex 0.04 acres from Lot 12.2 to lot 12.1 in the Lyme Common District. Lot 12.2 is currently a non-conforming lot of 0.38 acres. David Robbins explained that this is a lot line adjustment approved by the Planning Board on the condition that the ZBA issue a Variance. The lot is the former Lyme Cash Market. Both lots are non-conforming. Jacob Burgess of Pioneer Land Surveying explained that the change in space is about 150sf in order to grant a parking area for the Lyme Cash Market site. The two lots share a leach field and septic tank, and both have been designed to be safe for parking above. The proposal adds more acreage to the smaller lot. A new white picket fence represents the new lot line.

Bill Malcolm observed that Table 5 is not helpful.

Deliberations: Frank reviewed the five criteria for a variance:

- the project is not contrary to the public interest
- the spirit of the ordinance is observed
- substantial justice will be done
- the value of surrounding properties will not be diminished but indeed will be improved, as parking will be added to the smaller lot
- literal enforcement of the ordinance would result in unnecessary hardship. It was noted that the lot is extraordinary and fits the hardship definition.

All participating members voted unanimously to confirm each finding. Frank moved to approve the variance. Bill seconded the motion and it passed unanimously.

Out of deliberations

Application #2022-ZB-35 – Allen and Ellen Thompson (Tax Map 410 Lot 55) 52 Pico Road

The Thompsons have applied for a special exception under section 8.23 to construct a replacement septic system within the road setback on their property in the Rural District. Ellen explained that the proposed system is very close to the footprint of the current system. The septic tank had to be moved out of the radius from the well. David noted that the plans he had received did not show the old system, and that if they had, he would have signed off on the system as a replacement in kind.

Deliberations: The board voted unanimously to approve a motion by Helena Witte to advise the Zoning Administrator to finding that the project as a replacement in kind, based on testimony presented at the meeting by the applicant, and that a special exception is not required.

Application #2022-ZB-40 – James Kennedy on behalf of Lyme Farmland, LLC (Tax Map 403 Lot 9) 101 East Thetford Road

Jim Kennedy has applied for a special exception under section 4.61B3 to construct a new access way on this property in the Rural District. The proposed access way will intrude into the Wetlands Conservation District. Bill observed that sight lines at this property are a problem and that the proposal is a better solution. David added that the wet area will require a DES permit. He distributed comments from the Conservation Commission he had just received. He noted that Jim Kennedy believes the wetland to be of low value and is not connected to other wetlands. David would prefer to see a driveway with good sight lines.

Deliberations: David observed that the driveway does cross ag soils but he does not consider this a concern because the barn is a structure ancillary to agricultural use. Asked about the development potential of this land, David said that there are clay soils here that are not suitable for development of septic systems. Zoe moved to approve a special exception under section 4.61B3 based on the following findings:

- the Zoning Administrator has discussed the proposal with various abutters and uncovered no concerns
- informal public testimony was received that there is no other location for the access
- section 4.61 A 2 offers support
- the proposal would enable agriculture using best management practices
- filling the wetland would increase agricultural use because the property would be more operable
- the wetland is of low value
- the Conservation Commission supports the project
- the project meets the criteria of section 10.40A
- for section 10.40B, the project will be substantially constructed in compliance with the application submitted.

The motion was approved unanimously.

Meeting adjourned 8:32 pm

Respectfully submitted,

Adair Mulligan, Recorder