

**Lyme Planning Board Minutes  
January/11/2018**

Board Members and Staff Present: John Stadler, Chair; Tim Cook, Vice Chair; C Jay Smith, Select Board Representative; Eric Furstenberg, Member; Amber Boland Alternate; David Roby, Jr.; David Robbins, Planning and Zoning Administrator.

Board Members Absent: Vicki Smith; Member.

Members of the Public Present: Sue Ryan, Thomas Smith, Sue Mackenzie, Bret Ryan, Barry Schuster, Rich Menge, Colin Robinson, David Roby, Sr., Karen Menge, Aaron Rich, Rich Brown Rusty Keith, Matt Brown.

**Item 1: Public Hearing for a petition zoning amendment for the 2018 Town meeting. The petitioned amendment is as follows:**

To amend the Lyme Zoning Ordinance by amending Section 3.22 “Commercial District” by extending the southerly boundary of the district on the west side of Route 10 so that the southerly boundary of the district shall follow the southerly boundary lines of Lots 53.1 and 53.2 as shown on the Town Tax Maps. The distance of the depth of the district from Route 10 shall remain 1000 feet as currently shown on the Town Zoning Map, Appendix D.

To amend Appendix D, Lyme Zoning Map, to show the extension of the southerly boundary of the “Commercial District” as described above.

John opened the public hearing. David Roby, Jr was appointed to sit as a regular member for Vicki Smith.

Colin Robinson wanted it noted in the record that the Board was required to hold a hearing under RSA 675:4 for any petition amendments and as required by the RSA the Board would have to vote as to whether they approved or disapproved of the article.

John then asked if one of the petitioners would like to speak as to the reason for the petitioned amendment. Aaron Rich noted that the purpose was to extend the commercial district to allow the continuation of commercial uses.

Barry Schuster, who has been representing Bret Ryan, agreed that the extension was to allow for the continuation of commercial uses on the Maxfield’s property that has been historically used for commercial uses. He also noted that in his opinion this did not constitute spot zoning as the nearby district was a commercial district and the extension was encompassing a commercial lot. He continued by saying that the change is consistent with the Town’s master plan citing the results of the 2006 Community Attitude Survey in chapter 8.

John asked if there was any public comment.

Sue Ryan stated that she was in favor of the change because she believed that the lots should have been included in the commercial district when it was created.

Colin Robinson stated that it was his opinion that the Board should not endorse the change 1) due to the fact that the Site Plan Review was still pending litigation, 2) The Town should not change the rules to accommodate a single land owner. 3) He disagreed with Atty. Schuster in that he believed that this did constitute spot zoning.

Rusty Keith noted that much of the retail square footage in the commercial district has been converted to residential space. The petition amendment would correct the lost retail area.

David Roby, Sr. stated that when the commercial district was laid out, including the Maxfield's was discussed but it was decided to leave a buffer between the commercial district and the residential lots to the south consistent with the intensity of use.

Karen Menge, an abutting property owner, submitted and read a letter outlining her objections to the petition. She contended that the change in the district boundary was contrary to the recommendations in the Master Plan and that it was an attempt to circumvent in-process litigation.

John continued to be curious about what benefit this change would provide for Lyme. He asked the petitioners if they had done any type of analysis to see what could be built on the properties and what the effects would be, both positive and negative.

Barry Schuster stated that no studies were done other than a review of the Towns Master Plan. He noted that in Chapter 8 the 2006 Community Attitude Survey 50% of the respondents agreed or strongly agreed that the Town should encourage professional offices. The goal was to include a commercial lot into the commercial district.

Karen Menge noted that the recommendations in chapter 8 refer to providing opportunities in Lyme Common and Lyme Center, not expanding the Commercial District.

In discussion it was confirmed that all of the lots that would be added under the amendment were owned by the same person, Bret Ryan. It was also shown that much of the existing commercial district had not yet been utilized as commercial by its owners, but could be.

John stated that it would be difficult to support a change such as this with no data as to the effect of the change. He wished the petitioners had done a build out analysis to determine what could be developed within the proposed expanded district and how that might impact Town services and taxes.

John asked if there was any more discussion. There being none, he moved that the Board vote to disapprove of the petition article on the grounds that there was not enough data or research about the effects of the change in order to make an informed decision.

Eric seconded the motion.

John called for a vote. John, Tim, David, and Eric voted to approve the motion. Jay voted against.

John closed the public hearing on the petitioned amendment and opened the hearing on changes to section 8.27.

## **Item 2: Public Hearing – Proposed Zoning Amendment, Section 8.27.**

Current Language:

8.27 Replacement of a Non-conforming Structure.

Nothing herein shall prevent the replacement of a non-conforming structure so long as the replacement does not result in a new or increased violation.

Proposed Language:

8.27 Replacement of a Non-conforming Structure.

Any non-residential and multi-dwelling replacement requires Site Plan Review prior to the issuance of a Zoning Permit. Otherwise nothing herein shall prevent the replacement of a non-conforming structure so long as the replacement does not result in a new or increased violation.

John believed that there was an error in the proposed language. The current version states:

Any non-residential and multi-dwelling replacement requires Site Plan Review prior to the issuance of a Zoning Permit.

He believes that the “and” should be “or” so that it will read:

Any non-residential **or** multi-dwelling replacement requires Site Plan Review prior to the issuance of a Zoning Permit.

The Board voted to approve the change from “and” to “or”. There was a discussion whether the change was significant enough to warrant a new public hearing. The Board first voted to send the amendment to Town Meeting without another hearing but then rescinded that vote and voted to hold a public hearing on January 25<sup>th</sup>, 2018 at 7:00 pm at the Lyme Town Offices.

### **Item 3: Approval of the minutes from December 14, 2017**

John moved to approve the minutes of December 14<sup>th</sup>, 2017 as amended by Tim.

Tim seconded the motion.

John called for a vote and the motion passed unanimously.

### **Item 4: New business.**

Thomas Smith brought corrected copies of the approved Green subdivision to be signed.

Rusty Keith asked if the approval was final. He expressed concern that the definition of a conservation lot was not met in this approval. John noted that the subdivision was approved at the December 14<sup>th</sup> meeting. He understood Rusty's concern but stated that it was the general practice of the Board to allow a conservation lot to be approved prior to the easement being placed on the lot when the lot was going to be sold and the new owner was to place the easement on their new property, given that it was impractical to place an easement on a non-existing lot beforehand. When the Board did this they would ensure that the plat clearly stated that the property was to be conserved so that no building permits would be issued. According to the definition of Conservation Lot, the easement must be in form and substance satisfactory to the Planning Board and the issue of timing is not addressed. John added that the Board should revisit the language to see if they could improve on it for next year.

John then signed the plats and the notice of decision.

### **Item 5: Article 13 draft.**

Sue Mackenzie noted that the draft senior housing article only benefited those who are compromised and wanted to be in the Lyme Common zoning district. She asked the Board to consider incentives for seniors that live outside of the Common district. She felt that many seniors, including herself, are still able to care for themselves but may like the ability to group several residences together to share resources.

The Board agreed to include this as part of their continuing review of the draft section. John noted that the reason for concentrating on the Lyme Common district was that almost all of the input from the aging in place discussions was that people wanted to live near and be able to walk to centrally located amenities. This was not because they were infirm, but because of convenience. There was also a recognition that a sudden change in health might make the location more than a convenience. John thanked Sue for her input and noted that the Board would include and take into account her comments in future discussions of the senior housing article.

The meeting adjourned at 8:13 pm.

Respectfully Submitted

David A. Robbins

Lyme Planning and Zoning Administrator.