

Lyme Planning Board Minutes
August/27/2015

Board Members and Staff Present: John Stadler, Chair; Tim Cook, Vice Chair; C Jay Smith, Select Board Representative; Vicki Smith, Member; Ursula Slate, Member; Eric Furstenberg, Alternate; Freda Swan, Alternate David Robbins, Planning and Zoning Administrator.

Board Members Absent: none

Members of the Public Present: Rich Brown, Jonathan Edwards, Liz Ryan Cole, Bill Waste, Bruce Koloseike, Carola Lea, Arend Tensen Sharyn Amberger, Michael Amberger .

Item 1: Arend Tensen final Site Plan Review, to open a farm stand on his property at 18 East Thetford Rd.

On April 23rd, 2015 the Planning Board approved Mr. Tensen's Application for Site Plan Review with the condition:

Letters of approval from the Lyme Fire Chief and from NH State DOT for the use of the driveway shall be submitted to the Zoning Administrator within 30 days (May 23, 2015) of the approval or the approval will be invalidated.

Mr. Tensen was unable to acquire the State driveway approval within the allotted 30 days. He had requested that the Board re-open the Site Plan Review and issue a new decision now that the letters of approval had been submitted.

John opened the hearing and asked the Planning and Zoning Administrator if the two letters had been submitted. The Planning and Zoning Administrator stated the both letters were now on file.

John then asked if any of the Board members had any questions. There being none he asked if the public had any questions, there were none.

John then asked if any Board member would like to move to approve the Site Plan.

Vicki moved to approve the Site Plan with the outstanding conditions still in effect, noting that the application had been deemed complete at the April hearing. Tim seconded the motion. John called for a vote and the motion passed unanimously.

Item 2: Pinnacle Project, LLC Informal discussions on Ordinance changes and Lot Size Averaging Subdivisions.

John noted that this was an Informal hearing and that all discussions were non-binding on both the Pinnacle Project and the Planning Board.

He asked Rich which he preferred: going over the answers to his submitted questions concerning subdivision and lot size averaging or discussing zoning. Rich said he preferred starting with zoning issues and circling back to the questions later.

Rich said there were several zoning issues that had been problematic for the Pinnacle Project's latest co-housing proposal. The first was that covered connections between buildings caused their building footprints to be combined. This resulted in the buildings being too large given the dimensional controls in the Ordinance.

The Planning and Zoning Administrator said he had taken the position that a connection between two buildings makes the two become one. Vicki did not agree with this interpretation, but agreed it was the Administrator's job to make a determination. She asked Rich for more details about the construction of the connection. He said it was an enclosed structure elevated off the ground. Vicki said, in that case, she agreed with the Administrator's determination.

Rich discussed the issue of open space protection. He wanted to avoid protecting 75% of the land under lot size averaging. It was explained to him that this scenario was not inevitable and would only come into play if the Board granted Pinnacle reduced lot sizes under lot size averaging.

John asked Rich if this line of questioning about zoning changes was to find a route to the 36 unit proposal that was recently rejected by the Zoning Board of Adjustment (ZBA). Rich answered affirmatively that, yes, they still wanted to find a way to build that 36 unit co-housing proposal.

John felt this was unreasonable given the ZBA's denial and the Town's strong rejection of Pinnacle's earlier petitioned zoning amendment allowing 26 units. He suggested that they might consider a different approach, one where they adapt to Lyme's zoning, instead of trying to adapt Lyme's zoning to their particular project.

Rich modified his earlier assertion by saying they would consider reducing the size of the project.

Liz commented that they were talking to the Planning Board because the ZBA recommended it. John reminded her that the last time Pinnacle was before the Planning Board, he had urged them to pursue all their options with the Planning Board before attempting to get what they wanted through Variances. He also pointed out that the member of the ZBA who suggested Pinnacle return to the Board also urged them to do so with a proposal reduced in scale and density.

Vicki and John both stated it was the Board's obligation to recommend zoning changes that were a benefit for the Town as a whole, rather than a benefit for a developer's specific project. Rich felt co-housing was a benefit to the Town. John said he liked the idea of co-housing and had seriously looked into living in an early co-housing project

when he was much younger. He pointed out that co-housing is in no way prohibited in Lyme. There were multiple scenarios which would allow for co-housing under the Ordinance. The issue with their proposal was not co-housing, but rather scale and density. Vicki said that co-housing is a form of multi-family housing, should be treated as such and should receive no special treatment

Jonathan Edwards felt that Lyme's Master Plan supported the goals of the Pinnacle Project. The issue of the five-year wait to convert into multi-dwelling units was raised as an impediment to accomplishing those goals. John said that the five-year wait is what allows opportunities for housing diversity in a small town like Lyme in a way that does not invite overwhelming development and damaging demands on Town services. He pointed out that allowing multi-dwelling conversion throughout much of Lyme, given that the vast majority of existing housing stock is more than five years old, acts as a generous provision for potentially denser development. However, scale and density that is inappropriately large is not allowed.

The discussion moved onto the Workforce Housing (WFH) component of their proposal. Freda asked how Pinnacle envisioned keeping such units affordable going forth. Jonathan Edwards said there were various ways. Vicki suggested working with Twin Pines Housing. Jonathan asked the Board if it would like to see the financial analysis justifying Pinnacle's need for so many units to support the four WFH units they'd proposed. John said he'd be willing to look at them, but was unsure if that was really going to be helpful. Vicki felt that the Board only evaluates proposals as they relate to land use and not on the basis of their financials.

Tim pointed out that Lyme has a substantial stock of WFH. The most recent estimates showed that at least 25% of the Town's residential units qualify as WFH. Given that the threshold is now significantly higher than at the time of the inventory, the present ratio was likely higher. Additionally, it was pointed out that Lyme has had provisions for Accessory Dwelling Units (ADU's) in its ordinance for a long time. ADU's are highly recommended as a way for Towns to address WFH, though, ADU's are not authorized to be included in a WFH inventory.

Other ways the ordinance can provide opportunities for WFH is through its Affordable Housing section (Article XI), through the multi-dwelling conversion provision, Planned Developments, Lot Size Averaging with flexible and discretionary zoning, clustering as well as through intensity incentive provisions.

Liz said the high cost of property in Lyme and project approval need to be factored in. John reiterated that the Board's usual role does not include approving a development because of a developer's financial situation. And while financial issues can play a role with WFH, Pinnacle's provisional proposal of 4 conditional units out of 36 was an uncertain and unacceptably low ratio. Additionally, those 4 units would have minimal impact on Lyme's overall WFH inventory. John said Lyme was committed to compliance with WFH laws, but that, in his opinion, Pinnacle's proposal had demanded too much for far too little WFH.

John asked the attending public whether they had any questions or comments. Carola Lea, a member of the Pinnacle Project, said she was encouraged by the tone of the discussions. Bill Waste said he was interested in discussing more general housing topics and didn't want to derail the current discussions with different issues. John invited him to return another time to do so. Bill said he would.

The discussion turned to Lot Size Averaging (LSA) and Pinnacle's submitted questions. Pinnacle found LSA to be hard to understand. Freda urged them to read section 5.11. D. 1 of the Ordinance which explains the Board's review criteria. John expressed surprise at their confusion given that they had previously been through a determination for LSA under the guidance of their earlier, accomplished lawyer and were now represented by another accomplished lawyer.

John offered Pinnacle an LSA worksheet he had prepared that might help them better understand the variables under this flexible and discretionary zoning section. They accepted it and thanked him.

Vicki suggested they read 5.11. D. 1. closely and judge whether their proposals line up with its review criteria.

John thought that the answers to Pinnacle's questions one and two might be the same. The first part of each question concerned how the "25% bonus" under LSA works. John clarified that there is no "bonus". There is an "Increased Density Option" that was at the discretion of the Board. If the objectives of 5.11. D. 1 were met, the Board could approve up to 25% more lots. However, even with the rounding off of fractional lots, there is no guarantee of any additional specific number of lots under this provision.

Concerning the issue of maximum lot coverage and maximum building footprint, John was inclined to see each new lot created as qualifying for its own full share as opposed to dividing up the original amount from the parent lot among each of them. Liz said she was happy to hear this.

John said the full amount seemed more reasonable, but acknowledged it was possible to interpret it more restrictively under the details outlined in the definition of "parent lot". He also emphasized that the word "maximum" means it is possible that a lot might qualify for less than a maximum amount for various reasons.

Question number three was answered by the Planning and Zoning administrator who said that each lot has its own dimensional controls. There are no provisions in the Ordinance to allow for adding to one from another.

In response to question four, John said that as long as subdivided lots meet the requirements of the Subdivision Regulations and Ordinance, there seemed no reason to deny the subdivision.

John said, in response to question five, that 5.11 seemed the only way to cluster. That said, he thought it might be possible, in certain favorable circumstances, to design a

conventional subdivision where all the houses were placed near the common point of a four lot subdivision.

To answer number six, John said Pinnacle's definition of a duplex is "two homes". "Two homes" are allowed on a single lot under the definition of "Dwelling, Single" (where an attached apartment is allowed) or through the detached Accessory Dwelling Unit provision. John considered whether those homes could be owned separately and wasn't convinced they could. Vicki thought they might be able to have separate ownership under a condominium arrangement.

For number seven, John said that wealth had no bearing on the ability to qualify for conversion after a five year period. If the building and property met the requirements, it could be converted.

Liz asked what risks there could be in waiting out that five year period if a person invested much of their money into such a project. Vicki said there could be a change in the zoning during that period that could thwart the conversion goal. She said such an amendment could be proposed by petition from a private party opposed to the development. She said she had witnessed a scenario like that play out elsewhere. John wondered if in asking this question Liz was seeking opinions. She said yes and John stated it seemed very risky.

As it was drawing close to 9 pm, the discussion ended. Rich felt they had enough information to take back to their membership for consideration of next steps.

Item 3: Acceptance of minutes from August/13/2015

Vicki moved to accept the minutes with minor changes.
Tim seconded the motion.
John called for a vote and it passed unanimously.

The meeting adjourned at 9:04 pm

Respectfully Submitted
David A. Robbins
Lyme Planning and Zoning Administrator.

Appendix 1 Pinnacle Project questions.

Question One:

Assume a 50+ acre parent lot that yields, after all conservation overlays are applied, 10 parcels of 5 acres each. LSA provides for a 25% bonus. $10 * 125\%$ yields 12.5 parcels.

1) Is that 12 or 13 lots?

2) Lot Coverage: 1 acre = 43,560 sf; 5 acres = 217,800 sf. The ordinance allows up to 12% for lot coverage (26,136 sf), but caps lot coverage at 26,000 sf. Is this 26,000 sf for the 100 acres? Or does each of the lots (whether 10, 12, or 13 are allowed) get 26,000 sf?

3) Maximum Building Footprint: The ordinance allows a maximum building footprint of 2% of the lot. 5 acres * 2% = 4,356 sf max building footprint per lot. Is this 4,356 sf for the 100 acres, or for each of the (10, 12, or 13) lots?

Question Two:

Assume a 48+ acre parent lot, with 9 lots at 5 acres plus 1 lot at 3 acres. 3 acres = 130,680 sf; 12% = 15,682 sf; 2% = 2,614 sf

1) Is that 12 or 13 lots?

2) What is the total maximum lot coverage allowed?

i) $9 * 26,000 + 15,682$

ii) $11 * 26,000 + 15,682$

iii) $12 * 26,000 + 15,682$

3) What is the total maximum building footprint allowed?

i) $9 * 4,356 + 2,614$

ii) $11 * 4,356 + 2,614$

iii) $12 * 4,356 + 2,614$

Question Three:

Must there be a one-to-one match of each building's footprint to a lot, or may the owner allocate square footage of buildings according to their desires (as long as the total footprint is not exceeded)? Specifically, in Example Two above, must the one of the buildings be constrained to 2,614 sf, (with the others at 4,356 sf), or could the owner average the footprints?

Question Four:

What reasons would there be to refuse an owner who wanted to subdivide the 98 acre parcel into either 4 or 5 residential lots, assuming the engineering studies supported 4 or 5 lots?

Question Five:

Is there any way to cluster 4 or 5 homes on that same 98 acre parcel, short of Section 5.11 Lot size averaging (giving up 75% of the land)?

Question Six:

Is there any reason a duplex (two homes) could not be built on each of those 4 or 5 lots? What duplexes have been built in Lyme in the past 10 years?

Question Seven:

Consider a wealthy person who was planning ahead to make it easier to live into old age in their home. If they were to build a large residence on one of those 4 or 5 lots, is there any reason they could not count on converting it? What if more than one wealthy person wanted to build a large residence on the one of the other lots, with the idea of eventually converting it? What factors would the town consider in allowing this type of conversion?