

**Lyme Planning Board Minutes**  
**March 28, 2013**

Board Members and Staff Present: John Stadler, Chair; Jack Elliott, Vice Chair; C. Jay Smith, Select Board Representative; Vicki Smith, Member; Tim Cook, Member; Freda Swan, Alternate; Sam Greene, Alternate; David Robbins, Planning and Zoning Administrator

Board Members Absent: Ben Kilham, Alternate

Members of the Public Present: David Roby, Don and Julia Elder, Rob Meyer, Dan and Marlene Green, Harry Glass, Jackie Glass, Michael Whitman, Elizabeth Kilmarx.

John Stadler opened the meeting at 7:00pm

**Item 1: Elect Chair and Vice Chair**

Jack moved to elect John Stadler as Chair.

Vicki seconded the motion

John called for a vote and the motion passed unanimously with John abstaining.

Vicki moved to elect Jack Elliott as Vice-chair.

John seconded the motion

John called for a vote and the motion passed unanimously with Jack abstaining.

**Item 2:** David Roby and Daniel & Mildred Bailey, application for a Minor Subdivision to create a 2 lot subdivision of lot 6 on Tax map 406. The applicants propose to split the approximately 64 acre lot into two lots one being 61 acres and the other being 2.5 acres.

Tim Cook stated that he was an abutter to the property and wished to withdraw as a member for this application.

John appointed Freda to sit in Tim's place.

David Roby gave an overview of the proposed subdivision. In the application it was proposed that the smaller 2.5 acre lot created through Lot Size Averaging, be approved as a non-buildable lot. This lot is the site of a dump that was used in the late 1960s and closed in the early 1970s. Due to the waivers requested, Lot 2 would not be proven to be a buildable lot and therefore suitability of the lot to support development requiring a septic and / or a well would need to be determined and the use approved by the Planning Board at a later date.

Vicki questioned the lack of access to the 2.5 acre lot. Mr. Roby felt that this was not an issue because the owners of the lot had no intention of accessing the lot. Vicki felt it was

important and asked the Board to consider making access to the lot a condition of the approval.

The Planning and Zoning Administrator was concerned that this subdivision was subject to NHDES approval. Mr. Roby stated that it was his opinion that if the lot was approved by the Planning Board, it would be approved as a non-buildable lot and therefore there would never be a well or septic system proposed for this lot. Since the purpose of DES approval is to ensure that any lot less than 5 acres has suitable space for a well and septic system, he felt DES approval was unnecessary because there would never be a well or septic system.

The Planning and Zoning Administrator still felt that DES approval was required under State law and that the application should be considered incomplete or a condition of the Planning Board approval be that DES subdivision approval be granted.

Members of the public voiced concerns over the ownership of the 2.5 acre lot and whether it would revert to the Town if the owner stopped paying taxes. C .Jay Smith, the Board of Selectmen representative stated that the Town has no obligation to take a parcel if the taxes were not paid, so it would not become a liability for the Town.

The members of the public also voiced concern over the lack of access.

The Board reviewed the application for completeness, noting where waivers were requested.

Waivers were requested for the following sections and the Board noted the reasons why the waivers should be granted.

## Section II

### A.) The Topographic Map.

Because the approval would stipulate that lot 1 is not buildable and lot 2 will require further Planning Board approval that would include the Board requiring a Topologic Map, the Topologic Map was not needed at this time.

### B.) The Conservation District Map.

Because the approval would stipulate that lot 1 is not buildable and lot 2 will require further Planning Board approval that would include the Board requiring a Conservation District Map, the Conservation District Map was not needed at this time.

### C.) Subdivision Map

Even though this is a lot size averaging subdivision, the subdivision layout map was not applicable because it was clear that the subdivision met the requirements.

### D) A Partial waiver was requested for the site survey map.

Section II D 5

The Board would require as a condition a right of way to be agreed on by the property owners which would not need to be defined on the plan.

Section II D 13 Surface water within 200 feet of the site

Because the approval would stipulate that lot 1 is not buildable and lot 2 will require further Planning Board approval that would include the Board requiring a map showing surface waters within 200 feet of the site, the map was not needed at this time.

Section II D 14

Because the approval would stipulate that lot 1 is not buildable and lot 2 will require further Planning Board approval the map of the setbacks would not be required at this time.

Sections III, IV, V, VI, VIII

The Board determined that these sections were not applicable to this approval, but would be required for any approval for further development.

Vicki moved to approve the waivers and deem the application complete.

Jack seconded the motion.

John asked if there was any discussion, there being none he called for a vote.

The Board unanimously voted to approve the waivers and deem the application as complete.

The board made the following findings and set the following conditions.

Findings:

- 1) This subdivision is a lot size averaging subdivision.
- 2) Lot 1, the 2.5 acre lot, will be a non-buildable lot.
- 3) Lot 2 would remain undeveloped unless reviewed further by the Planning Board.
- 4) The defined open space on the plan meets the requirements for a lot size averaging subdivision.
- 5) This plan meets the requirements for a lot size averaging subdivision under section 5.11 D 7 of the zoning ordinance.
- 6) Waivers were granted to the following sections of the Subdivision regulations.

Section II

- A) The Topographic Map.

- B) The Conservation District Map.
  - C) Subdivision Map
  - D) A Partial waiver was requested for the Site Survey Map.
  - Section II D 5 proposed rights of way
  - Section II D 13 location of surface water
  - Section II D 14 setbacks
- Sections III, IV, V, VI, VIII

Conditions:

- 1) The Deed for Lot 2 shall reserve to the owners of lot 1 a 10 foot wide right-of-way aligned as mutually agreed upon by the owners of lot 1 and lot 2.
- 2) DES approval, if required by DES, will be submitted prior to the recording of the mylar plat and the notice of decision with the Grafton County Registry of Deeds.
- 3) Lot 1 shall not be used for building purposes and thus shall constitute a non-buildable lot.
- 4) That part of lot 2 designated as open space on the plan entitled “Subdivision Plan for Daniel R. and Mildred Bailey, prepared by Pathways Consulting, LLC, Project # 11947 dated December 6, 2012 shall be restricted to open space uses through a Zoning Easement to the Town of Lyme.
- 5) Lot 2 shall not be developed for any use requiring an on site water supply or an onsite septic system without a determination by the Lyme Planning Board that such development satisfies all of the requirements of Lyme’s Site Plan and Subdivision regulations in effect at the time.
- 6) Names of the easement holders on abutting properties needs to be added to the plan
- 7) The names and address of the owners of lots 42.1 and 42.2 on tax map 405 shall to be changed to the name and address of the new owners.

Vicki moved that the subdivision be approved with the discussed conditions.  
Freda seconded the motion

John called for a vote and all five members voted to approve the subdivision.

Tim took his place as a regular member.

**Item 3) Elder/Roby Lot Line Adjustment (Tax map 409 Lots 45 and 46)**

Elizabeth Kilmarx described the proposed Lot Line Adjustment. The intent of the annexation will be to move approximately 1.2 acres of lot 45 to lot 46. Currently the well for the Elders residence is located on Lot 45. This annexation will encompass the well location so that the well will be located on Lot 46.

A waiver for the perimeter survey map was requested. The applicants contended that the full perimeter survey was unnecessary because the boundary points for the annexation are at existing boundary markers that can be easily located on the ground and are found on abutting property surveys.

Vicki moved to waive the requirement for a full perimeter survey because the new boundary points are existing points that are found on abutting surveys and are easily located on the ground.

John seconded the motion.

Chairman Stadler called for vote on the motion.  
All members voted to approve the motion.

Vicki made a motion to accept the application as complete.  
John seconded the motion.  
The motion was approved unanimously.

Chairman Stadler asked the Board if there were any comments.

Vicki requested that the sketch map have the marker at the south-east corner of the existing Elder Lot (Lot 45) added.

There being no further comments Chairman Stadler asked if there was a motion to approve the Lot Line Adjustment.

Vicki moved that the Lot Line Adjustment be approved with the discussed addition to the sketch map.

John seconded the motion

John called for a vote and all five members voted to approve the Lot Line Adjustment with the following findings and conditions:

Findings:

- 1) Lot 46 is a pre-existing non-conforming lot containing approximately 1.1 acres
- 2) The annexation will bring the total size to 2.3 acres, making the lot more conforming to the three acre lot size requirement for this area.

3) After the annexation the well supplying water to Lot 46 will be located within lot 46.

**Conditions:**

1) The marker at the south-east corner of the existing Elder Lot (Lot 45) shall be added to the sketch map.

**Item 4) Acceptance of minutes from minutes from February 28<sup>th</sup>, 2013 and March 14<sup>th</sup>, 2013**

Jack moved to accept the minutes of February 28<sup>th</sup>, 2013 as submitted

John seconded the motion.

The motion passed unanimously.

Vicki moved to accept the minutes of March 14<sup>th</sup>, 2013 as submitted

Jack seconded the motion.

The motion passed unanimously.

**Item 5) Review of The Rules of Procedure.**

The Board reviewed the Rules of Procedure and discussed that the Board needed to ensure that Planning Board Meetings were conducted in a manner that was courteous to all the participants.

**Item 6) Zoning Board of Adjustment member appointment.**

The Planning and Zoning Administrator stated that Zoning Board Member Walter Swift had come to the end of his appointed term. The opening had been posted and Mr. Swift was the only person who had shown interest. The Planning and Zoning Administrator requested that the Planning Board re-appoint Mr. Swift for another three year term.

John moved to appoint Walter Swift as a member to the Lyme Zoning Board of Adjustment for a term of three years.

Vicki seconded the motion.

The motion passed unanimously.

The Board requested that the Planning and Zoning administrator express to Mr. Swift their thanks for his willingness to server another term on the Zoning Board of Adjustment and for his past years serving on the Board.

The Meeting adjourned at 9:17pm.

Respectfully Submitted

David A. Robbins

Lyme Planning and Zoning Administrator.