

Lyme Planning Board Minutes
May/25/2017

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

Board Members Absent: Vicki Smith, Amber Boland Alternate; David Roby Jr. Alternate Member

Members of the Public Present: Morty Bailey Jr. Brett Ryan, Richard Menge. Aaron and Patience Rich, Carola Lea, Sherman Philips, Rich Brown, Lynore Bolton, Maureen Byrne

Item 1) Morty Bailey - Preliminary Site Plan Review to discuss a proposed conversion of a single residence to a four unit residence.

Morty Bailey Jr. appeared before the Board for a Preliminary Site Plan Review concerning the house and property at 302 Orford Road. His plan is to take ownership of the property and convert the house to 4 units. He wanted to know what the Board would require for its final review.

There is a house that will be over 5,000 s. f. on a property of more than 40 acres.

He was told to work closely with the Planning and Zoning Administrator, David Robbins, to make sure he was in compliance with 4.46 Conversions and the Site Plan Review Regulations. Issues of parking, septic, fire department approval as well as layout, landscaping, lighting and screening would likely be raised.

Item 2) Richard Menge, David Roby Request to rehear Site Plan Review for Holt's Ledge LLC.

Mr. Menge and Mr. Roby came to the meeting, on behalf of Karen Menge, in order to express strong objections to the Site Plan approval granted to Holt's Ledge LLC at the May 11 meeting. They considered the new use to constitute a clear increase in intensity of use. They also objected to the portrayal of the historical record of the intensity of use at the tractor repair business and also questioned its "grandfathered" status. Mr. Menge added that he had investigated purchasing the property when it came up for sale, but didn't because he was convinced nothing crucial could change there.

Everyone on the Board wished Mr. Menge and Mr. Roby had taken the opportunity to come to the May 11 hearing so their concerns could have been considered at the scheduled and publicly noticed time.

During an extended back and forth with Mr. Roby and Mr. Menge, various members of the Board explained to them both the process and the reasoning behind their decisions in this case. Below is a general summary of the points covered:

Under 8.27, the applicant was given approval by the Planning & Zoning administrator to replace two non-conforming buildings, as the results would make the replacement buildings less non-conforming. No prior input was required from the Planning Board or Zoning Board of Adjustment under this clause.

Only after the buildings were substantially done and in place, was the applicant required to come in for a Site Plan Review in order to address a change of use from the tractor repair business to office use.

It was agreed that the tractor repair business had never been clearly discontinued and therefore the precedent of historical use continued into the present. This conclusion was based on applicant's testimony and Town Counsel's explanation of discontinuance to the Planning & Zoning Administrator.

It was also established that there were varying levels of intensity over the many years of that continued use. For example, there had been a gas station associated with the enterprise for a long stretch of time. Also, the applicant said that metal buildings had been sold from the site, necessitating frequent and noisy, dusty truck deliveries. During other periods, the business was quieter.

Under 8.12, a consideration of whether the change would cause an increase in overall intensity of use was based on a comparison of the components of the applicant's proposed plan with that of the historical intensity of the tractor repair business:

A primary consideration was weighing the significant historical impact of the tractor repair business's noise, odor, vibration, dust and smoke against the allowed increase to a maximum of 45 employees associated with the office use. The conclusion about this issue was that the office use was very likely a net lessening in overall intensity and, in any case, certainly not an increase.

A consideration of traffic generated and associated parking compared the impact of a smaller flow of heavy machinery and cars scattered willy nilly across the entire hardpack areas (and at gas pumps) with the higher number of cars associated with the proposed office uses. There are 45 parking spaces. Unavoidably, this was an exercise in comparing apples to oranges, that is, the impact of a smaller number of more intense vehicles versus the larger number of more benign vehicles. In the end, the Board, in its best effort, concluded both might be of roughly an equal level of intensity of use.

In terms of volume of water use and sewage effluent, it was thought that this new use could be an increase in intensity, but not knowing the tractor repair business's historical water impact at its most intense levels, this conclusion was not for certain.

The Board had granted the applicant 7 day a week usage from 7 am to 7 pm, both because of the convincing need expressed by the business that plans to occupy one of the office buildings and because there appeared to have been little to no limits on the days of operation with the prior business. In this case, there seemed an insignificant change from precedent.

All things considered and on balance, the Board concluded that, at worst, the overall intensity of use would be roughly equal, and, at best, less than that of the prior tractor repair business.

The Board also considered the concerns expressed by Geneva Menge who had attended on behalf of her daughter, Karen, the abutter to the south. Ms. Menge's primary concern seemed to be about the screening between the two properties. The applicant maintained that the present buffering was adequate. An overhead view of the two properties led the Board to believe that the screening was indeed adequate, but they agreed to make a site visit the following morning in order to be more certain.

On site, all four members who attended agreed that the screening was adequate, but told the applicant he should work with the abutter to address any of her reasonable concerns through plantings. He agreed to do so.

In approving the plan, the Board also noted that the office use would keep two Lyme businesses in town that might have otherwise moved out of Lyme. It would also likely result in a net positive impact on revenue for the Town and other businesses, particularly food-related enterprises and the gas station.

This Site Plan Review was somewhat of an anomaly for the Board. Often, a project of this scale comes before the Zoning Board of Adjustment for review or to the Planning Board for SPR before any building begins. However, because of how 8.27 is written, the applicant came before the Board with a substantially finished project that had received only administrative review. The Board felt this was a less than ideal process. As a result, they intend to amend the language in 8.27 in order to force SPR prior to construction for future projects involving a change of use.

Mr. Roby strongly urged the Board to rehear the case because he felt new information had been presented which could justify taking that route. He said that otherwise the case would likely be taken to court.

The Board seriously considered his request. John and Tim ultimately voted to grant a rehearing stating that while it might not change anything, it would allow everybody to have their say. Eric and Jay voted against it, stating that there was no substantially new information. They also felt that the Town goes to a lot of effort to publicly notice hearings and abutters. It shouldn't have to hold a second hearing whenever people don't show up or send in a letter stating their concerns. Because there was a tie vote, the motion did not pass and there will be no rehearing.

Item 3) Master Plan Housing Chapter

Members from the Aging In Place Committee were at the meeting to learn about the Board's plans for the Housing Chapter of the Master Plan and senior housing. John, who had attended many of their meetings, explained that the hope was to have Lyme's first ever Housing Chapter. It would include housing data collected over the past couple of years, as well as a discussion of various issues facing the Town, including senior housing, workforce housing, pace of development and the Route 10 corridor, among others. The Board hoped to have forums on at least some of these topics.

The attendees were given copies of a working paper being used as a platform for discussions about what directions the Town might like to take going forward. Rich Brown suggested that

there be facilitators to run the forums. The Board was open to that idea, noting that during the Master Plan update the Board had used facilitators for those forums

The Board was asked if it was okay for this group to come to future meetings. John and Tim urged the attendees to keep coming to the meetings because this provided the Board with public input, oversight and helped keep things open.

Item 4) Minutes from May 11th, and 12th , 2017

Tim noted an error in the spelling of the name of one of the attendees in the May 11th minutes. John moved to approve the minutes for May 11th, and 12th 2017 with the name correction. John called for a vote and the minutes were approved unanimously.

Item 5) New Business.

John suggested that the Board start planning the Housing forums at the next meeting and that they should discuss language to amend section 8.27, as previously discussed.

Respectfully submitted

John Stadler, Planning Board Chair.
David Robbins, Planning and Zoning Administrator.