

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – August 21st, 2014
Draft

Board Members: Present –Frank Bowles, Robert Titus, Bill Malcolm, Alan Greatorex, Alternate
Members: Present- Dan Brand
Staff: David Robbins, Zoning Administrator;

Public: Dale and Patricia Hill, Tim Olsen, John Vansant, Nick and Brenda Ashooh

Frank opened the meeting at 7:30pm

Acceptance of the minutes from July 17th, 2014 meeting and the July 21st site visit.

Bill moved to accept the minutes from July 17th, 2014 with minor edits.

Rob seconded the motion.

Frank called for a vote and the motion passed unanimously.

Rob moved to accept the minutes from July 17th, 2014 with minor edits.

Bill seconded the motion.

Frank called for a vote and the motion passed with Frank abstaining as he was not present at the site visit.

Continuance of Dale and Patricia Hill's application for a Special Exception under section 4.66 B to construct a new four bedroom 2500 square foot dwelling with 400 square feet of porches and a 625 square foot attached garage within the Ridgeline and Hillside District on their property at 11 Horton Ln (Tax map 401 Lot 42).

Frank appointed Dan Brand to sit as a regular member.

Frank asked the applicants if they had any more information to present to the Board. Having none, Frank asked the Board members if they had any question for the applicants. Alan asked if the applicants were planning on building the proposed house or if they were planning on selling the property and letting the new owners build a house. He wanted to make sure that the Board's decision did not lock the applicant into a design that if the new owner did not want to use they would be required to seek new Zoning Board approval. The applicants answered that the land was for sale and they would appreciate some flexibility in the Board's decision that would allow new owners to design their own house.

Having no further question the Board entered deliberations.

In Deliberation: Alan stated that he had no objections and was willing to make a motion to approve the application. Bill asked if they could discuss an issue he had, the reference point on the map was the location of the South East corner of the house and he was concerned that the house could be rotated around that point and could then be placed closer to the ridge line than the

board had intended. The Board discussed several way of wording the decision to limit the location of the house from moving further towards the ridgeline.

The Zoning Administrator asked to be heard.

Out of deliberations: The Zoning Administrator suggested that the Board define a building envelope based on the reference point and not allow the building outside of the envelope.

Bill agreed that a building envelope would solve his issues. Frank asked the Board if a building envelope would be acceptable. It was felt that this would be a reasonable solution. Bill suggested an envelope that would be 100' on each side tied to the southeast corner location. Frank asked the applicant if it was acceptable to them, Pat said that it was.

In deliberations:

Bill moved to approve the application for a special exception under section 4.66B with the following conditions:

1) The house would be built within a building envelope, 100 feet on each side defined as the following:

Starting at the location on the plan, dated 3 July 2014 from Cardigan Mountain Land Surveys, LLC, noted as "Proposed Limit of Southeasterly corner of Structure, Location of blue stake as placed by zoning bd on 21 July 2014." Extending 100 feet at the same angle as the line marked 115.8', turning 90° in a westerly direction for 100 feet then turning 90 ° in a southerly direction for 100 feet, intersecting with the line marked 228.5, turning 90 ° in a easterly direction for 100 feet back to the point of origin.

2) The house depicted on the plan is for reference only and does not constitute an approval of the design or location by the Board.

3) There will be no further clearing from the walls of the structure beyond 75 feet to the south and to the west.

4) The new structure will not exceed the limits listed on the plan dated 3 July 2014 under the heading of Zoning Information.

5) The highest point of the structure will be measured from the point that is noted on the plans as "Proposed Limit of Southeasterly corner of Structure, Location of blue stake as placed by zoning bd on 21 July 2014" and will not exceed 28 feet.

6) Best management practices for construction and erosion control are to be used.

Alan seconded the motion.

Frank called for a vote and all members voted to approve the motion with Frank abstaining as he is an abutter.

3) Tim Olsen on behalf of Tara Greco has applied to the Lyme Zoning Board of Adjustment for Special Exceptions under sections 8.24 and 8.25 of the Lyme Zoning Ordinance in order to build an 8' X 24' deck, attached to her house on her property at 53 Post Pond Lane (Tax Map 407 Lot 14). The proposed deck exceeds the maximum lot coverage for the lot and is entirely within the Shoreland Conservation District.

Frank asked Tim if he had any more information that he would like to give the Board, Tim did not. The Planning and Zoning Administrator stated that he had a letter of review from the Conservation Commission. Copies were passed to the Board members.

Frank asked if the Board had any questions. Alan asked if there were any recent Zoning Board decisions for the property. The Planning and Zoning Administrator stated that the Board had approved a new septic system for the property. Alan then asked if that decision had affected the Lot coverage or any building footprint. The Planning and Zoning Administrator stated that it had not.

In deliberations:

Alan moved to approve the application for special exceptions under section 8.24 and 8.25 for a deck as presented in application 2014-ZB-43, the conditions of section 10.40 were met. Condition shall be set as follows:

- 1) Best management practices for construction and erosion control are to be used.
- 2) A NHDES Shoreland Permit shall be obtained.

Rob seconded the motion.

Frank called for a vote and the motion passed unanimously.

4) John Vansant on behalf of Nick and Brenda Ashooh has applied to the Lyme Zoning Board of Adjustment for a special exception under section 8.31 and or any other relief granted by the Board in order to build a single family dwelling on their property at 228 River Road (Tax map 402 Lot 72.2)

John gave the Board an overview of the project and the site. Alan noted that the Board had received a letter from Gayle Elizabeth Krater, an abutting land owner. The letter states that she approves of the plans and hopes that the project goes forward.

Bill noted that the driveway currently serves two residences on separate lots and therefore could not be allowed under section 8.31. Alan suggested that because the lot had been approved as part of a subdivision on February 4th, 1975 prior to the adoption of Zoning, that the Board approve an Equitable Waiver under section 10.61

Frank asked if there was any more testimony. There being none the Board entered deliberations.

In deliberations:

Alan felt that if the Board granted an equitable waiver for section 8.31 C then the Board could approve the application. He stated that the lot has existed for over ten years and there has been no enforcement action, therefore it qualifies for the waiver.

Rob was not sure this was the proper solution; he felt that the Board should consider a variance.

Alan moved to grant the applicant an equitable waiver under section 10.61 allowing the driveway to serve 3 lots.

Dan seconded the motion.

Frank called for a vote.

Frank, Bill, Alan, and Dan voted to approve the Motion Rob voted against. The motion passed by a four to one vote.

Out of deliberations:

The Planning and Zoning Administrator showed the Board a map of the showing 3.6 acres of Agricultural soils on the property based on the USDA soil maps. John stated that the area of Agricultural soils was much smaller because the slope of the lot was over 8% and based on the grade the USDA soil map was incorrect. Using the area of less than 8% grade, the area of Agricultural Soils was less than one acre.

John stated that the applicants were still in the planning process. The current plans showed the house footprint being 562 square feet over what would be allowed under the Zoning and that any flexibility the Board could give would be helpful.

In Deliberations:

Alan moved to approve a special exception under section 8.25 to exceed the maximum footprint allowed under Table V for a single dwelling. Conditions would be as follows:

- 1) The Building footprint shall not exceed 4000 square feet.
- 2) Best management practices for construction and erosion control are to be used.

Section 10.40 had been reviewed and the conditions met.

Frank called for a vote and the motion passed unanimously.

5) John Vasant on behalf of Craig and Virginia Walton has applied to the Lyme Zoning Board of Adjustment for a Special Exception under section 8.22 to demolish an existing residence and

replace it with a guest house and to construct a new garage. The entire proposed guest house and a portion of the proposed garage are within the road setback. The Walton's property is located at 42 Claflin Lane, Tax map 410 lot 33.1.

John described the project to the Board; the property currently has two Planning Board approved dwellings. The applicants wish to remove the smaller of the two residences and replace it with a new building to be used as a guest house. The proposed dwelling will be smaller than the original. The current building is almost entirely within the road setback. The applicant also proposed to construct a garage, 119 square feet of the proposed garage would be in the road setback.

Frank asked the Board members if they had any questions.

Rob asked if the Planning Board had placed any restrictions on the property when they had approved the second dwelling. The Planning and Zoning Administrator stated that there was no additional restriction from the Planning Board. He then passed out a copy of the Planning Boards Notice of Decision.

Having no further questions the Board entered deliberations.

In deliberations:

The Board concluded that because the proposed new dwelling was smaller and was to be built within the footprint of the existing structure that it as a replacement non-conforming structure that could be replaced under section 8.27 without any action of the Board. The Board further determined that the garage was past the end of the Town maintained section of Claflin Lane, based on the definition of "Road" in the ordinance. Because the road had ended the garage was not within the road setback and therefore no action was needed by the Board.

Frank moved to deny the application for a special exception under section 8.22 because the proposed construction did not need Zoning Board approval.

Alan seconded the motion.

Frank called for a vote and the motion passed unanimously.

Out of deliberations:

The Board instructed the Planning and Zoning Administrator that based on the plans submitted in the application, a zoning permit could be issued without any action from the Board.

The meeting adjourned at 10:25 pm.

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