

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – December 21, 2017

Board Members: Present - Frank Bowles, Michael Woodard, Alan Greatorex, Bill Malcolm

Alternate Members: Present – Lynne Parshall, Sue Ryan; Absent - Dan Brand

Staff: David Robbins, Zoning Administrator; Adair Mulligan, recorder

Public: Bret Ryan, Attorney Cassidy Neal, Geoff Little

Chairman Frank Bowles called the meeting to order at 7:30 pm. The minutes of the meeting of November 16 were amended slightly to clarify a statement by the appellant's counsel, and approved on a motion by Mike seconded by Alan. Frank appointed Sue Ryan to sit as a regular member for the first case.

Application #2017-ZB-74, Geoff Little (Tax Map 407 Lot 111)

Geoff Little has applied to the Lyme Zoning Board for a special exception under section 8.22 to construct a 288 sf addition to an existing shop on his property at 92 Highbridge Road. The entire proposed addition will be within the 75' road setback. Geoff explained that the existing shop on the property was built as a series of garages in the 1960s for an owner previous to Carola Lea (who preceded her on the property) who owned a car dealership. The current building has twelve-foot bays and is 72 feet long. He proposes to add one more bay, also of 12 feet in length, within the existing excavated area and to extend the same roofline. David Robbins reported on his lot calculations and confirmed that the proposed addition will not come close to the limit for footprint or lot coverage. While there are agricultural soils in the area, the proposed addition is within the 200' building zone of the house where ag soil consideration is excluded. There are no other conservation districts in the footprint area. Geoff confirmed that the permanently conserved area of the property is up the hill to the east and south of the shop, and not very close.

Bill Malcolm asked if the proposed addition would be further from the road. Geoff replied that it would continue the same line as the existing shop and would be slightly further away. Discussion ensued about measurements from the road. David noted that there are stone walls marking the edge of the historic road but the road itself was never deeded to the town, so the default measurement is 25' from the center of the road.

Deliberations: Frank noted that the addition cannot be put elsewhere if it is to be part of the existing building. Bill moved to approve the application as submitted, with the following findings of fact:

- Section 8.22 permits accessory structures in the setback area
- The proposed addition will occupy 288sf, leaving 712sf for future development
- The existing building was built before zoning
- The addition will intrude less into the setback than the existing building
- The addition will be built in an area that was previously disturbed
- Agricultural soils are not an issue
- The requirements of section 10.40 were reviewed and met.

Mike seconded the motion and it passed unanimously.

Out of Deliberations

Application #2017-ZB-30, Karen Menge (Tax Map 401 Lot 53.1)

Karen Menge has appealed back to the Lyme Zoning Board for a rehearing on application number 2017-ZB-30. As per RSA 67:33 the Board shall vote to grant or deny the motion for rehearing. Sue Ryan recused herself. Frank noted that he could appoint a fifth board member to hear the case but that the only other potential member present, newly-appointed alternate Lynne Parshall, is not familiar with the case. David noted that, in the absence of the applicant or her attorney, there is no one present to say yes or no to a four-person board.

Frank asked Bret if he had any comment. Bret declined. David distributed a recently received letter from Bret's attorney, Barry Schuster. Bill asked a hypothetical question about tracking non-conforming business uses, and the board agreed that such a discussion was not germane to Karen Menge's motion on the table.

Deliberations: Frank noted that pleadings had been received from both attorneys and asked if there are any new facts presented that would give the board a reason to rehear the case. Alan said he found no definition of "intensity" of use in the Zoning Ordinance, and that if there is no clear definition of unacceptable changes in intensity, he is unable to find the Planning Board's decision to be in error. Mike Woodard noted that the Zoning Board had received and reviewed letters from both parties and found no new facts. Frank added that the board had reviewed the extensive materials submitted, sought and received opinion of counsel, and based on that, he believes the Planning Board made a proper decision. He considered that Attorney Puffer had given no new information but rather a modified recitation of information given to the Planning Board. Lynne Parshall said that she saw no new facts presented. Alan said he saw no reason to doubt the judgment of the Planning Board, referring to items #9 and #10 in Attorney Puffer's letter. Mike Woodard noted that neither the applicant nor her attorney appeared at the present hearing, nor did they make any attempt to contact the Zoning Board in advance of the hearing.

Out of Deliberations: Mike asked about the protocol for a response. The Board consulted RSA 677:2 and 677:3.

Deliberations: Bill Malcolm moved to deny the application for rehearing as filed by Karen Menge and her attorney Mark Puffer, on the basis that no good reasons were presented in their request. Alan seconded the motion, and the board voted unanimously in favor (voting in the affirmative: Bill Malcolm, Frank Bowles, Mike Woodard, and Alan Greateorex).

Meeting adjourned 8:26pm

Respectfully submitted,

Adair Mulligan, Recorder