

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – April 19, 2018

Board Members: Present - Frank Bowles, Michael Woodard, Bill Malcolm; Absent - Alan Greateorex

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

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

Public: Paul Mayo, Wally Ragan

Chairman Frank Bowles called the meeting to order at 7:30 pm. The minutes of the meeting of December 21 were amended slightly to add that section 10.40 had been considered, and approved on a motion by Mike seconded by Bill. Frank appointed Sue Ryan to sit as a regular member. Paul Mayo accepted a four-person board.

Application #2018-ZB-10, Paul Mayo (Tax Map 408 Lot 30)

Paul Mayo has applied for a variance to construct a septic system within the 75' road setback as defined in Section 5.13 of the Lyme Zoning Ordinance. There is no plan on record for the current system but the tax card shows the house as a three bedroom house. Mr. Mayo has applied for a replacement sized for a six bedroom house.

Paul explained that there is no record of the existing septic system and that he has asked former occupant Patty Jenks about when it might have been installed and why the tax card refers to it serving a three-bedroom house when the house has 10 rooms and once served as a home for senior citizens. Patty could not offer any information. David Robbins noted that he had gone through the property folder and found no information, so he assumed the system was over 20 years old. Paul said he believes there is at least one tank and possibly a second. While there are three bedrooms in the house now, he could convert some existing interior space into more bedrooms and is also considering making an outbuilding into living space, all without exterior changes to the buildings. Sue Ryan asked whether the proposed system would be in the right of way for power or phone. Paul said he did not know, but that the recent ROW clearing by the power company was down near the road.

Paul continued that he fully explored the possibility of placing the system on the opposite side of Dorchester Road and got a quote for drilling under the road, but learned that because of the possibility of ledge, the cost would be very high. Therefore he focused on placing the system in the proposed location. Frank said he felt satisfied that alternate locations had been evaluated and found unworkable or prohibitively costly. Paul added that the system could not be placed farther behind the house because it would require pumping and there is much water and ledge in that area. He displayed photos of the basement with a ledge intruding into it.

Deliberations: Sue noted that as the house was once a boarding house, the idea of it having three bedrooms was likely an artifact of an early assessor's notes. All members agreed that a special exception would be more appropriate than a variance. Bill observed that whatever Paul does would be an improvement and that the tax card was not useful in this circumstance.

Out of Deliberations: Discussion ensued about the application of section 5.13 E. 3 and whether the property line setback is relevant, because the property extends on both sides of the road. The house is more than 100' from the road, as measured on the plans. The garage is also outside the road setback, and was built before the zoning ordinance was adopted. Bill observed that the Planning Board should be asked to remove septic tanks from the rules so the Zoning Administrator can make decisions about permitting such items. Abutter Wally Ragan reported that there were once two wells on the land Paul now owns, across Dorchester Road from his properties, but that they are both now gone. He has no objection to the project.

Deliberations: Bill moved to grant a special exception to approve the application as submitted, with the following findings of fact:

- The board is not relying on section 5.13 E. 3 because it does not accept that the property line setback is more relevant than the road setback
- Section 8.23 refers to "road, side, OR rear setbacks" and is thus more relevant than Section 5.13.E.3
- The project meets all the conditions of section 8.23

- The septic system cannot be reasonably located elsewhere
- There is no evidence that the current septic system did not exist before zoning
- The house was built before the Zoning Ordinance went into effect
- The new compact system will occupy approximately 100sf and this area will be subtracted from the 1000sf allowable in the rural district under section 8.23.
- Testimony has been received that there is both ledge and a lot of water uphill from the house and the potential of ledge across the road.
- A design is on file for an unfeasible system, which would require drilling under Dorchester Road; success and the chances of securing a permit for this system are uncertain.
- The board concludes that the proposed location is the only feasible site for the new septic system.
- Conditions of Section 10.40 have been met.
- Conditions of approval: best construction practices will be used with specific attention to the control of runoff during construction, and no building permit will be issued before the state has approved the design.

Mike Woodard seconded the motion and it passed unanimously.

Out of Deliberations

Officers – Frank Bowles was elected chair and Mike Woodard was elected vice-chair.

Meeting adjourned 8:30pm

Respectfully submitted,
Adair Mulligan, Recorder