

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – August 17, 2023

Board Members: Present - Bill Malcolm, vice chair; Helena Witte, Judy Timchula

Absent: Zoe Washburn

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

Public: David Lutz, Bruce Simpson

Vice Chair Bill Malcolm called the meeting to order at 7:25 pm and appointed Judy Timchula to sit as a regular member.

Application #2023-ZB-45– David Lutz Solaflect Energy on behalf of Michael and Heather Lepene (Tax Map 407 Lot 56.1) 216 Orford Road

David Lutz has applied for a Special Exception under section 8.24 to construct a solar tracking array with the Agricultural Soils Conservation District at the property located at 216 Orford Road in the Rural District. He described the location in the field as the only location on the parcel with good solar access, because of difficult terrain and shading by trees elsewhere. It will be possible to locate it out of the road setback. It will be 300' from the house, but that is necessary to access adequate solar illumination. He accepted a three-person board.

David Robbins pointed out that the entire lot has agricultural soils, and while there is a 200' exclusion zone around the house, the proposed location is outside of that. The house was built before zoning. There has been no comment from neighbors or from the Conservation Commission. There are several solar trackers nearby. He asked how the board prefers to calculate the area of impact, suggesting it could be the dimension of the panel or the footprint of the ground mount.

Deliberations: Bill observed that the lot is not big enough for farming other than a household garden, and that the application meets the threshold conditions for section 8.24. David Robbins said that last year, the board used a footprint calculation of 70% of the area of the tracker because it moves. This was based on what the Planning Board had previously proposed but has not yet adopted as a guideline. Helena said she thought the size of the footing is sufficient because location of future building nearby would be restricted by the movement of the tracker and so would be guided by common sense. David said that the impact to ag soils is minimal. the area of the pedestal above ground could be used as the reduction in area for future building under the special exception. In the case of the agricultural conservation district, the area under a solar tracker can still be used for agriculture, although one could not build around it. For other conservation districts and setbacks, such as wetlands, the board may view it differently.

Helena moved to approve a Special Exception under section 8.24, with the following findings:

- the solar tracker cannot be reasonably located elsewhere
- it will be located outside of the road setback area as determined by the Zoning Administrator
- there has been no previous development of agricultural soils on this property
- the size of the footing does not exceed restrictions
- the application therefore meets the requirements of section 8.24 to qualify for a special exception under section 10.40.

Judy seconded the motion.

Helena moved to approve a Special Exception under section 10.40A, with the following findings:

- (1) the use is in harmony with the intent of the ordinance
- (2) the use is in harmony with the Master Plan
- (3) the proposed site is the only appropriate location
- (4) the use is compatible with the neighborhood, where there are other such installations
- (5) the use will not adversely affect the character of the area
- (6) the use will not change the essential character of the area
- (7) the use will not disturb neighboring spaces
- (8) the use will not involve detrimental activities
- (9) not applicable
- (10) the use will not destroy habitat
- (11) the use will not impose an undue burden on public services
- (12) Planning Board review is not required
- (13) not applicable
- (14) not applicable

Helena recommended that the board impose the following conditions under section 10.40B: construction consistent with the plan submitted and located outside the road setback as indicated, with the location subject to the approval by the Zoning Administrator. Judy seconded the motion and both motions passed unanimously.

Out of Deliberations

Application #2023-ZB-53– Ben Simpson (Tax Map 402 Lot 53) 173 Dartmouth College Highway

Ben Simpson has applied for a Special Exception under section 8.25 to add 72 square feet to the residence on his property in the Rural District. David Robbins noted that the house, which pre-dates zoning, is larger than the zoning ordinance allows for the lot. The owners were previously given a permit on October 21, 2021 to build a 288sf carport, which was not built. The present application requests 72sf. David added that he had spoken to abutter Amy Nichols who had no concerns. Lot coverage is not an issue. While there are agricultural soils on the property, there is a 200' exclusion zone around the house, within which the proposed addition lies.

Deliberations: Helena noted that the earlier approval confirms that the project meets the requirements of section 8.25.

Judy moved to approve a special exception under section 8.25 with the following findings:

- the house was built in 1930 and is considered non-conforming under the Zoning Ordinance
- the request is for a special exception to add 72sf of footprint to expand the kitchen
- the request therefore satisfies the conditions of section 8.25, in that
 - (A) the requested additional square footage is below the 1000 sf limit
 - (B) the addition would not cause the building footprint to exceed the maximum 7000 sf limit
 - (C) the house was built before zoning
- the abutter did not object to the project
- in October, 2021 the applicant received a permit for a 288sf carport, leaving 712sf for future expansion
- this proposal would use 72sf, leaving 640sf for future expansion.
- the project meets the applicable requirements of section 10.40A.
- conditions for section 10.40B are that the project will be built with best construction practices and according to the plan submitted.

Bill seconded the motion and it passed unanimously.

Out of Deliberations

The board discussed the level of detail necessary in the minutes.

Minutes of the May meeting were approved on a motion by Judy, seconded by Helena.

Meeting adjourned 8:22 pm

Respectfully submitted,

Adair Mulligan, Recorder