

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – September 21, 2023

Board Members: Present - Bill Malcolm, Chair; Zoe Washburn, Judy Timchula

Absent: Helena Witte

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

Public: Gregg Hartman, Michael Woodard (in person); David Lutz, Maureen Byrne (via Zoom)

Chair Bill Malcolm called the meeting to order at 7:03 pm. All applicants agreed to accept a three-person board.

Minutes of the August 17 meeting were approved unanimously on a motion by Judy Timchula seconded by Zoe Washburn

Application #2023-ZB-26– David Lutz Solaflect Energy on behalf of Gregg Hartman (Tax Map 402 Lot 44) 19 Maple Lane

David Lutz has applied for a Special Exception under section 8.24 to install two solar trackers on a small shelf within the Steep Slopes Conservation District at the property located at 19 Maple Lane in the Rural District. He described the location as on a hillside near the driveway below the house, in a sunny, south-facing area that is close to the meter connection. Other locations would be much farther away, offer less solar exposure, and be more expensive. Gregg Hartman confirmed that there is no good alternative and added that the site would allow the trackers to be out of public view from both nearby homes and the road. He walked the site with the Planning Board and a consultant provided advice on erosion control after installation. He invited a visit after a year to confirm that erosion had been controlled. David Robbins provided a map with 2' contours to show the slope. He noted that trees would not have to be removed and that the Planning Board had agreed this is the best site.

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

- the Planning Board reviewed the site in person and accepted that the proposed location is the best choice given lot constraints
- the solar trackers cannot be reasonably located elsewhere to make use of solar potential
- the proposal does not significantly violate the Steep Slopes district under section 8.24
- sections 8.24 C, D, and E are not applicable
- the application therefore meets the requirements of section 8.24 to qualify for 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 and no testimony has been offered by neighbors
 - (8) the use will not involve detrimental activities
 - (9) not applicable
 - (10) the use will not destroy habitat
 - (11) not applicable
 - (12) the Planning Board has visited the site
 - (13) not applicable
 - (14) not applicable

Judy recommended that the board impose the following conditions under section 10.40B: construction consistent with the plan submitted and use of best management practices for erosion control, with follow-up in one year. The motion passed unanimously.

Out of Deliberations

Application #2023-ZB-58– Maureen Byrne (Tax Map 409 Lot 39) 1 Flint Hill Road

Maureen Byrne has applied for permission to replace a septic system within the 75' road setback, under Section 5:13 E 3. The definition of lot coverage specifically excludes a septic system because it is underground. Maureen explained that her current leach field is in poor condition and needs to be replaced. David Robbins said he has spoken with the designer who said that there would be some overlap with the current leach field. Because the location is close to the 75' setback from Grant Brook, where the state will not allow leach fields, the replacement field must be put within the 75' road setback. Contaminated soils

will be removed by the contractor. Board members agreed that it would be better to locate the leach field within the road setback than the stream setback. The house was built in 1910 and the septic system has been in place since at least 1989.

Deliberations: Discussion ensued about whether to issue a special exception under 8.23, setbacks, or 5:13 E 3. Definitions were consulted. David said that it would be difficult to know the exact difference in size of the old and new systems. Zoe moved to approve a Special Exception under sections 5:13 E 3 and 8.23, with the following findings:

- Sections 5:13 E 1 and 2 do not apply
- the project meets the requirement of Section 5:13 E 3 as the system is to be a replacement system
- the project cannot be reasonably located outside the road setback
- lot coverage is not an issue as this is not calculated for septic systems
- the system was built before 1989
- the road setback in the Rural District is 75'
- the location will keep the system out of the setback from Grant Brook, and this is the only location where the system can be reasonably located outside that setback because of topography
- the application therefore meets the requirements of section 8.23 to qualify for 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, especially to protect Grant Brook
 - (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 and no testimony has been offered by neighbors
 - (8) the use will not involve detrimental activities
 - (9) not applicable
 - (10) the use will not destroy habitat
 - (11) the use will not place a burden on town services
 - (12) not applicable
 - (13) operations will not be objectionable
 - (14) not applicable

Zoe recommended that the board impose the following conditions under section 10.40B: construction consistent with the plan submitted, use of best management practices for erosion control with particular attention to protecting Grant Brook, and that construction not proceed until state approval is in place. Judy seconded the motion and it passed unanimously.

Out of Deliberations

Application #2023-ZB-16– Chris Jackson on behalf of Michael Whitman and Lynn McRae (Tax Map 201 Lot 101) 21 Dorchester Road

The owners and designer have applied for a 71sf increase in the footprint and lot coverage of their addition to the existing home in the Lyme Common District. A special exception was granted on May 18, 2023 to construct a 262 sf breezeway/porch between the house and garage, leaving 238sf for future expansion. Michael Whitman explained that when they applied for a special exception in May, they were working from sketches. In the course of preparing a full design, it became clear that an additional 71sf increase is needed to allow the drainage from the addition to tie into existing drainage. David Robbins explained that the new application would increase the square footage of the addition to 333sf, leaving 167sf for future expansion.

Deliberations : Bill asked David if the board could amend the earlier approval. David said this would be easier than making a new decision, but that this cannot be considered a re-hearing because more than 30 days have elapsed since the May approval. Bill asked the recorder to update the previous findings with changed amounts, adding the improvement to drainage, as follows: Bill moved to approve a special exception under section 8.25 with the following findings:

- the lot coverage of $1,303 + 333 = 331\text{sf}$ over the allowable maximum but under the 500sf of allowable expansion in the Lyme Common District
- the footprint is less than the 4,500 maximum allowed in the Lyme Common District
- the house predates zoning.
- the breezeway will connect the house and garage to protect occupants from the elements.
- the expansion will allow the addition to tie into existing drainage on the site
- of the 500sf of allowable expansion in the Lyme Common District, 167sf remains for future expansion

- the requirements of section 10.40A 1-14 are met where applicable
- conditions for 10.40B are that best construction practices will be used, all required permits will be secured, and the project will be completed according to the plan submitted

The motion was seconded by Zoe and passed unanimously.

Meeting adjourned 7:55 pm

Respectfully submitted,

Adair Mulligan, Recorder