

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – July 17, 2008

Board members: Present - Ross McIntyre, George Hartmann, Walter Swift, Frank Bowles

Absent: Alan Greatorex

Alternate members: Present -Margot Maddock, Jane Fant

Staff: Adair Mulligan, recorder

Public: Scott Williams, Tim Odell, Susan Musty

Ross chaired the meeting.

Minutes of June 19, 2008 were amended with several clarifications and approved, on a motion by Margot seconded by George. Walter pointed out that it should be clarified whether Alan Greatorex's expertise as an engineer and technician extends to being licensed to assess the structural integrity of bridges. Minutes of the June 30 site visit were approved on a motion by George seconded by Margot.

Application # 2008-ZB-009, Joan Granlund, (Tax Map 409, Lot 84), 12 Baker Hill Road, Represented by Pathways Consulting, LLC.

Continued from June 19 and June 30. The applicant requests a special exception to replace an existing stone driveway culvert with a precast concrete arch bridge within the Wetlands, Shoreland and Flood Prone Area Conservation Districts. The Conservation Commission has provided comments. A site visit by the ZBA has been conducted. A handout on stone culverts from the NH Division of Historical Resources was provided to the board. A state wetlands permit is required. The Wetlands Bureau has requested that the applicant provide DES with further information. DES is considering the application as a Minor, rather than a Minimum Impact Project.

Walter said that he learned Jane Fant is chair of the history committee, and asked if she should recuse herself because the historic aspect of this project is key. Jane said that she felt there was no conflict of interest involved, because the Lyme Historians have nothing to gain or lose in the case, and her perspective would be the same whether or not she was an officer of the committee. George said that recusal is a personal decision, although Walter pointed out that the board can force recusal by a vote. Ross advised giving attention to whether a person can act fairly or not, and said he did not feel Jane's situation was a problem.

Walter raised a question regarding RSA 673.11, relative to the appropriateness of an alternate serving in the place of a disqualified member when the alternate was not appointed by the same body as that which appointed the member. Lyme's Zoning Board alternates are all appointed by the Planning Board, and the members are appointed by the selectmen, so it appears that the alternates may never serve in the place of a disqualified regular member. Ross said that pending this opinion, the hearing would proceed with a four-member board. Voted to send the question to town counsel, on a motion by George seconded by Walter. George noted that he had not named Margot and Jane as sitting members for the site visit because he assumed they were already sitting on the case. Walter said he thought this was appropriate and that a quorum existed for the site visit.

Frank asked if the historic house can be torn down based on the ordinance requirements. Jane said there is little historic fabric left in it, which Scott confirmed. Frank said he had visited the site and examined the bridge. He asked if the structural engineer is willing to sign off on the project only if the culvert is replaced. He referred to statements by David Roby, citing State Architectural Historian James Garvin, and asked if the structure could be refurbished in a way that satisfied the engineer. Scott said that Schall had not gotten into it, and that the issue is the question of whether the rocks are stable. The engineer doesn't know how to determine stability based on his observations and evidence that past repairs have not all held.

Scott continued by reporting on a conversation he had with Travis Callahan, a stone structure restoration specialist contacted by David Roby to consult on the structure. Scott said he called Callahan after speaking with David Roby, and said that David's letter to the board does not include facts that Travis shared with David. Scott said that Travis told him that the structure could be rebuilt, by taking the stone out and rebuilding from the ground up. The cost given of \$45,000 refers only to the walls, and does not include the span on top. Travis is not an engineer, and so said he would need one to undertake this part of the job. The cost also does not include analysis and design, and Schall said that he could probably put a bridge over the top. Scott estimated \$5,000-20,000 for this part, and \$8,000-10,000 for other aspects. Scott said that Travis did not think that his walls would be the primary support for the crossing. Scott said that he feels that pursuing restoration as Travis has described it would double the cost of the project, contrary to what David Roby indicated.

Walter asked if a licensed engineer could be found to sanction this approach. Scott said that Travis has done prior work in places such as at Saint-Gaudens where the town or state has supported the work and found grants to cover the cost. He added that FEMA advises bypassing such structures if historic preservation is important, but

that opportunity does not exist here. Walter asked who requires a licensed engineer to sign off on such a project. Scott said that because it is a private project, none is required, but the landowner wants to avoid liability. Frank asked if a timber deck would be put over it. Scott said both consultants said that the situation required an engineered approach. Frank observed that this forces a very conservative scenario.

Ross asked Scott if this is a significant historic feature. He said he has driven up the road but never noticed it. Scott said it is not, and that while he understands the historic context, there is nothing special about the culvert. Jane Fant, speaking as a member of the public, said that the State of New Hampshire is looking for examples of just such stone culverts, and is designating them eligible for the National Register of Historic Places. Lyme has two others in addition to this one. She said that because of the size of the rocks, it had been a huge feat to build this culvert, and that it is the last original structure on the first settled property in Lyme Center. She said she hopes that this impressive structure can be saved.

George asked about DES' letter and the reclassification of the project. Scott said that because the proposed culvert would be a replacement, it needed to be a Minor Impact project and so is subject to a series of further questions. DES wants the streambed replaced with rounded rocks already there. The easement with the abutters has been signed. He has filed an amended sequence of construction. George asked if any of the further questions relate to historic significance. Scott said that he must prove he has consulted the Natural Heritage Bureau's data base for historic resources, and found no hits other than the Lyme Center Historic District. He said that the historic value is a matter of interpretation, and that because the structure has been repaired, it might not all be original. Frank asked what would happen when the stones are pulled. Scott said they might be worked into the new structure.

Walter asked if Lyme's history committee has an inventory of historic features. Ross said there is an inventory of historic barns, and Jane added that the Lyme Historians are working on an inventory of cellar holes. Walter asked about David Roby's stone culverts. Adair said that they are relatively inaccessible to the public, unlike this one, requiring a 35-45 minute walk on abandoned roads to reach. Walter asked if David had invited the public to view them, if they were significant. Adair said that he had invited the cellar hole survey committee to inventory them. Ross said that he noticed that the other stone culvert he had mentioned at the last meeting has now been replaced with a wooden bridge.

Deliberations: Ross said that if the town had an historic preservation fund to assist landowners, he would feel differently, but did not want to saddle a private landowner with a safety issue. He said he is not impressed with the proposed design, thinking it is more appropriate for another area of the country, but the safety issue is important. Walter said that if there was a way to preserve the box shape and stone features without additional cost or with payment from another source, he could support restoration. He cited the zoning ordinance section 10.40 A 11, saying he thought it implied that the burden of cost be shared if the board requires restoration. George said he was encouraged to hear that the culvert's stones could be used on the outside of the structure and recommended making that a condition of approval. Frank said he was more concerned about the appearance of the deck. He said that precast concrete is subject to salt deterioration and age, but a wooden deck looks better, is easily replaced, and wears well. He asked how the stones could be reused.

Out of Deliberations: Scott showed a photo and drawing of Hewes Bridge in Hanover. He said the bridge could be faced with stone that is the same color. He said that the applicant is not required to use natural stone. Frank said that artificial stone may not last, but wanted to know how the existing stone would be used. Scott said that it could be used on the wingwalls.

Deliberations: Walter moved to grant a special exception under sections 4.61B3, 4.63B3, 4.53, and 8.26. Findings of fact include:

- The location of the approach to the property has been chosen to minimize damage to the surrounding area;
- The Conservation Commission has reviewed the project and has no objections;
- The board considered the requirement under section 10.40A10 that the use will not result in the destruction or loss of historic features, and determined that although the existing stone culvert is a meritable historic feature, the significance of safety issues and the cost burden to the landowner to pursue repair or identical replication is not feasible or deemed practical, and is an unfair burden.
- The applicant's engineer through a letter to the state noted significant deterioration and safety concerns, and had evaluated several alternatives including repair, which was judged more expensive.
- The new structure will have a smaller footprint than the existing one.
- The application meets the requirements of section 10.40.
- The applicant indicates that attempts at maintenance have left uncertainties about what is original and what is more recent.
- At the site visit, chunks of concrete were observed to have fallen into the stream from past attempts at restoration.
- Conditions include: use of original material to the greatest degree possible.

George seconded the motion and it passed the four-member board unanimously. Ross reminded of the 30 day window for appeals.

Application # 2008-ZB-011, Susan Musty, (Tax Map 409, Lot 37), 227 Dorchester Road.

Project: to construct additions to a pre-existing non-conforming structure in the Rural District.

Susan is requesting a special exception under section 8.22 of the zoning ordinance and/or a variance to construct the following additions:

- A 49 sf addition toward Dorchester Road within the 75' setback
- A 64 sf addition toward the east side of the property
- A 384 sf addition toward the west side of the property.

The total increase in area proposed to the building footprint, lot coverage and gross floor area is 497 sf, which is less than the 1,000 sf allowed in the Rural District. The front of the lot is mapped by NRCS as a Groveton fine sandy loam, 3-8% slope, which is an agricultural soil of national importance. However, the proposed construction is within the 200' building zone, as defined in the zoning ordinance.

Walter asked if any additions may be reasonably located outside the road setback. Susan said that she is trying to increase the size of her home space, and adding in a different direction would encroach into the Shoreland Conservation District. Her entire house is located within the 75' road setback.

Deliberations: Walter moved to grant a special exception under section 8.22 of the zoning ordinance for the modification proposed, with the following findings of fact:

- The project is in the Rural District.
- The additions are to a non-conforming house that predates the zoning ordinance.
- The total increase in area proposed to the building footprint, lot coverage and gross floor area is 497 sf, which is less than the 1,000 sf allowed in the Rural District.
- The additions cannot reasonably be located outside the road setback, and the project will decrease the setback from the road by 4 feet.

Frank seconded the motion and it passed unanimously.

Meeting adjourned 8:56 pm.

Respectfully submitted,
Adair Mulligan, Recorder