

**Town of Lyme**  
**LYME ZONING BOARD OF ADJUSTMENT**  
**Minutes – August 21, 2008**

**Board members:** Present - Alan Greatorex, Chair; George Hartmann, Walter Swift, Frank Bowles.

Absent: Ross McIntyre, Vice Chair

**Alternate members:** Present -Margot Maddock, Jane Fant

**Staff:** Francesca Latawiec, Planning and Zoning Administrator

**Public:** David Conant, Applicant; Allen Thompson, Abutter; Ellen Thompson, Abutter; Barbara Wade, Abutter; Philip Wade, Abutter; Wayne Tullar, Realtor; Frank Gould, Abutter; David Roby, Applicant; Scott Williams, Pathways Consulting LLC.

Alan Greatorex, Chair, called the meeting to order at 7:35 PM. George Hartmann was appointed to serve as Chair for the discussion on the request for a re-hearing on the Grandlund case under Other Business. The ZBA requested the Planning and Zoning Administrator to get an opinion from Town Counsel relative to the following question raised at the July 17, 2008 ZBA meeting.

“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.”

**Minutes** of July 17, 2008 were amended with several clarifications and approved, on a motion by George Hartmann seconded by Frank Bowles.

**Application # 2008-ZB-012, David S. Conant (Tax Map 409, Lot 31) 2 Acorn Hill Road,** The chair called the public hearing to order at 7:40 PM. Jane Fant was appointed as an alternate to sit on this case. The project is located partially in the shoreland conservation district and extends into the road setback. The applicant is requesting special exceptions or a variance to move an existing house to a better location on the lot on an existing cellar hole and to add an ell and a garage in the Lyme Center District.

The ZBA, staff and members of the public introduced themselves. The ZBA and members of the public reviewed the maps submitted by David Conant, the applicant, relative to location of the project, the culverts and Grant Brook. Mr. Conant added the location of 2 large trees on the site at Jane Fant’s request. He also noted that the existing cellar hole where the house is to be built will be replaced with a concrete foundation. The stones may be used to construct a stone wall. Francesca Latawiec noted that in addition to the information that the ZBA had already received, the project had received a curb cut permit, a letter from the Conservation Commission stating that the project would have no additional impacts to wetlands, and a letter of support from the abutters.

There was discussion of an additional 936 sf old cellar hole on the site and whether or not it could be used as part of the existing footprint. There was also an old barn on the property that had been torn down and an additional shed according to the Thompsons. Alan Greatorex inquired about the nature of the proposed patio at the rear of the house. Mr. Conant explained that it would be either concrete pavers or crushed stone. The sheds and porches on the existing structure are to be demolished. Frank asked about whether the septic system would be gravity fed. It will be a pumped system with improvements to the existing system and an additional tank. A new well will be drilled to service the house. The house, ell, and garage will all be attached with shared walls and doors, thus making them all part of the same footprint.

Philip Wade expressed enthusiastic support for the project and Allen Thompson indicated that it would be a benefit to the town from a safety perspective.

Deliberations: Frank Bowles moved to go into deliberations, seconded by George Hartmann and unanimously approved. The ZBA went over the dimensional calculations relative to the zoning requirements. Walter Swift went over the calculations for the building footprint. There are 1019 sf shown on the application for the house and shed.

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An additional 300 sf shed has recently been torn down; a barn was torn down previously. There is an additional abandoned cellar hole on the site. The ZBA reviewed historical tax cards to determine what was on the site at the time that zoning was passed in 1989.

Out of Deliberations: The Chair asked David Conant how important timing of approval was to his proposed project. Mr. Conant replied that he had a closing date of August 30, 2008 and that his daughter, who will be attending Dartmouth Medical School, is planning to reside there. The appointed time for the next hearing had passed. Upon a motion by Walter Swift, seconded by George Hartmann, the ZBA unanimously voted to table the discussion until 9:10.

**Application # 2008-ZB-013, Bruce Hammond (Tax Map 410, Lot 42) 31 Bliss Lane** The chair called the public hearing to order at 8:35 PM. Margot Maddock was appointed as an alternate to sit on this case. The applicant is requesting a special exception to install a silo. The proposed structure would be within the 75 foot road setback for the rural zone. It will be located behind a barn that is an existing non-conforming structure within the 200 foot building zone. There was discussion as to whether the structure was actually a silo or a bin to store pellets for a wood stove.

Deliberations: Walter Swift moved to go into deliberations, seconded by George Hartmann and unanimously approved. There was discussion about the age of the barn. David Roby offered that it had been there prior to 1989. The ZBA agreed that the proposed silo is a detached, accessory structure to a pre-existing, non-conforming building within the road setback. The conditions of Section 10.40 have been met

Out of Deliberations: George Hartmann made a motion to approve a special exception, under Section 8.23, to install a 7' diameter, 19'3" tall silo, 53' back from Bliss Lane, within the 200' building footprint. This was seconded by Frank Bowles and passed unanimously.

**Other Business,** The appointed time to reconvene the hearing on the Conant case had not yet arrived. The Chair suggested that the ZBA open discussion on an item to be considered under other business. Alan Greatorex recused himself and left the table, as he is an abutter to the project. George Hartmann was appointed to Chair this portion of the meeting and both Jane Fant and Margot Maddock, alternates, were appointed to sit as voting members for the discussion.

**Grandlund special exception (2008-ZB-009)** David Roby, an abutter, has requested a rehearing of the Board's decision that was granted July 17, 2008. George Hartmann, Acting Chair, asked Mr. Roby if he wished to explain to the ZBA why the decision he has complained of is unlawful or unreasonable. Mr. Roby stated that Section 10.40 A 11 of the zoning ordinance is irrelevant to the special exception request and should not have been given weight in the ZBA's deliberations and findings. Walt Swift responded that this comment is irrelevant, as there are no references to Section 10.40 A 11 in the findings of fact. David Roby further disagreed with the findings of fact, relative to Section 10.40 A 10, that the cost burden to the landowner to pursue repair or identical replication is not feasible or deemed practical, and is an unfair burden. He stated that Travis, the stone mason he consulted, advised him that the stone culvert could be rebuilt for less than \$40,000 and that Pathways Consulting did not consider this option. He stated that Travis has worked with engineers before to do structural analyses on similar projects. He went on to state his opinion that this would not be an unfair burden, given the fact that the building permit application for the bridge was estimated at \$50,000 and the building permit application for the house was estimated for \$1,250,000. He stated that the cost of replacing the stone culvert would be detrimental to the project. He also stated that the community attitude survey for the master plan that is currently being updated by the planning board showed historic resources as ranking very high.

George Hartmann gave Scott Williams, of Pathways Consulting, LLC the opportunity to comment. Scott explained that he had also spoken with Travis about the possibility of rebuilding the stone culvert. He said that Travis, who is a stone mason and not an engineer, expressed many caveats about cost and safety issues. He mentioned that Travis had trespassed on his client's property without permission and stated that his client has the right to choose to have the design done by a structural engineer for safety reasons. He also stated that the cost of the bridge is a separate project and should not be related to the cost of the house. The project has received a permit from the NHDES Wetlands Bureau. When asked about cost, he replied that they have a contract for \$32,330 for the bridge as designed.

George Hartmann asked for comments and questions from the ZBA. Margot Maddock stated that there appears to be two interpretations of what Travis' evaluation of the structure is. She would like to see a letter from Travis and testimony from a third party. Frank Bowles stated that sufficient information is missing to warrant granting a rehearing. Jane Fant stated that the stone culvert option was not thoroughly considered by Pathways and that she'd like to see some detailed drawings. Scott replied that the existing structure is in a condition such that it would be questionable to do a structural analysis of the safety risks. Walt Swift asked if the design had already been paid for. Scott replied that it had and the +- \$33,000 would be for the precast concrete bridge itself, excavation and footings. Rebuilding the stone culvert would also require excavation and footings to bridge over the existing structure. The issue is load bearing capacity. Mr. Swift asked that if a rehearing were granted would both parties agree to be there with engineers to demonstrate safety standards, as well as the stone mason to provide testimony. The response was in the affirmative from both parties.

Deliberations: Walter Swift moved to go into deliberations, seconded by Margot Maddock and unanimously approved. He stated the two criteria for granting a rehearing are that the decision has to be unlawful or unreasonable. It is not unlawful; the ZBA must consider whether it is unreasonable. He stated that Lyme has a Lyme Center Historic District and that the subject property is not in it. The structure in question is of historic merit, but not significance. Personal property rights are considered in both the State and National Historic Register criteria such that even if a property is designated the owner is not obligated to maintain it unless there is federal money involved. Based upon his research, he believes that the appeal for a rehearing is not warranted. Jane Fant asked if the historic requirements of the zoning ordinance would be upheld in court. Frank Bowles stated that he thinks the information that the ZBA has is incomplete and that he would like to hear the additional testimony. Margot Maddock restated her opinion that there are two different interpretations of the same information. Frank Bowles made a motion to grant the re-hearing with the condition that structural engineers for both the applicant and the appellant be present with a written narrative to be prepared by each and that the stone mason also be present. This motion was seconded by Margot Maddock. The motion passed by a 4 to 1 vote.

Out of Deliberations: Margot Maddock made a motion to go out of deliberations. This passed unanimously upon a second by Frank Bowles. The re-hearing was scheduled for September 18, 2008 at 7:40 PM at the Lyme Town Offices.

**Application # 2008-ZB-012, David S. Conant (Tax Map 409, Lot 31) 2 Acorn Hill Road, Alan Greatorex** resumed his position as Chair and reconvened the public hearing at 9:35 PM. Jane Fant was re-appointed as a voting member to sit on this case.

Deliberations: Frank Bowles moved to go into deliberations, seconded by George Hartmann and unanimously approved. There was extensive discussion about the calculations for the dimensional requirements in Table 5.1 of the zoning ordinance. The ZBA considered whether the project was suitable for a variance. The ZBA agreed that there was supportive testimony from the abutters for the project and that one abutter testified that the project would benefit the town by improving safety conditions. The Conservation Commission had commented that the proposal would be less intrusive to the wetlands. The proposal would remove and consolidate a number of scattered buildings into a more coherent design that would be more suited to the land.

In discussion of the dimensional requirements the board recognized that the house was to be moved to an existing cellar hole and resumed their discussion of the special exceptions in the shoreland conservation district and the road setback. The proposal is to remove a 1,019 sf existing house, a 300 sf recently removed shed and a 231 sf small garage and replace it with a 1,004 sf house on an existing cellar hole, a 760 sf ell, a 760 sf garage and a 365 sf patio. This is a total of 2,889 sf, which does exceed the 2,016 sf allowable by 873 sf. This is 373 sf above the 500 sf additional allowance in the Lyme Center District.

Walter Swift made a motion to approve the special exceptions from the road set back in Table 5.1 of the zoning ordinance and the 100 foot setback in the Shoreland Conservation District to build a house with an ell, attached garage and patio, as located on the plan submitted by David Conant, based upon findings of fact that:

**FINDINGS OF FACT:**

- The new configuration will replace a 1,019 sf existing house, a 300 sf recently removed shed and a 231 sf small garage;

- The new configuration will be placed atop an existing 936 sf cellar hole, to be replaced by a new foundation;
- All existing structures are within either the existing road or Shoreland Conservation District set backs;
- There will be a significant net reduction in the building footprint and lot coverage within the set backs as a result of the proposal;
- There will be an increase over the 500 sf additional allowed in the Lyme Center District;
- The existing leachfield has been reviewed by a permitted septic system designer and found to be acceptable;
- A new well that meets the state set backs will be drilled to service the property;
- Several abutters voiced support for the project and there were no objections; and
- Expansion into the set backs in Sections 8.23 and 8.24 result in a net decrease from existing conditions.

CONDITIONS:

- The driveway will be located at least 75' from the intersection of Acorn Hill and Dorchester Road;
- The size and location of all structures and the patio will be in accordance with the plans submitted by David Conant on August 21, 2008; and
- Best management practices will be employed during construction.

The motion was seconded by Frank Bowles and passed unanimously.

Alan Greatorex, Chair, noted that the decision can be appealed within 30 days.

Meeting adjourned 10:50 pm.

Respectfully submitted,

Francesca Latawicz

Planning and Zoning Administrator