

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – March 19, 2009

Board Members: Present - Alan Greateorex, Chair; Ross McIntyre, Vice Chair; Walter Swift, George Hartmann, Frank Bowles

Alternate Members: Present – Margot Maddock

Absent: Jane Fant

Staff: Dave Robbins, Planning & Zoning Administrator; Adair Mulligan, recorder

Public: Scott and Elizabeth Bailey, Ben Kilham, Simon Carr, Dave Avery, Jeff Hennessey, Brian Cook

Minutes: The minutes of February 19, 2009 were approved on a motion by Ross McIntyre, seconded by Alan Greateorex.

Application #2009-ZB-07, Scott Bailey (Tax Map 402, Lot 49) 16 Shoestrap Road in the Rural District.

Hearing on appeal of administrative decision to deny a building permit to build a 28 X 36 single family dwelling on the edge of the Steep Slopes Conservation District and the Agricultural Soils Conservation district. Request Variance under Section 10.50 of the Zoning Ordinance.

Abutter Jeff Hennessey spoke in favor of the Baileys' application, noting that it is a small neighborhood and the Baileys are good neighbors. Dave Robbins noted that the request had been changed from a special exception at the time of the notice to a variance. He displayed two overlays he had created to show soil types on the property. The Cardigan/Kearsarge complex is a soil of local agricultural importance with a slope of 8-15%.

Ben Kilham said that this is actually a very stony soil, and that he had viewed it with the previous zoning administrator who agreed it was stony and said that up to 25% of a mapped soil type could be composed of inclusions of other soils. Ben said that the Baileys have farmed what was possible to farm on the parcel. Scott said that his family hays 14 acres there. Dave Robbins said that the aerial photograph shows that the field matches the location of prime soils. The total property is calculated at 93 acres. It was noted that the septic system designer had forgotten to add the test pit symbols to the site map. Brian Cook spoke in favor of the proposal on behalf of the Lyme Nursery School, an abutter.

Ben Kilham explained that the penalty for a special exception for the project is an easement on 75% of the agricultural soils, the same penalty that would result from a subdivision, although the Baileys do not want to proceed that way. Ben said that the easement requirement would impact the young couple in the future, and that they have been planning this project for a long time. He said that Scott had picked the best spot for building that would have the least impact on the agricultural use of the land. The property was given to him by his grandmother. Ben said that the Baileys have not sought a professional soil scientist's help because of the cost. The Conservation Commission has not looked at the project.

David Avery, an abutter, agreed that the proposed site for the house is the best on the property and said he does not oppose the project but is concerned about the poor quality of the data available.

Deliberations: Ross said that he is sympathetic to the needs of the applicant, but that granting a variance under such circumstances could set a precedent in the future for those who want to avoid the preservation of agricultural soils. Once a house is built here, subsequent applications could allow others in a subdivision on agricultural soils. Frank said he thought that the appropriate location for a house had been selected. Ross agreed, and said that if subdivision was chosen, agricultural soils would be impacted. George said that if legally acceptable proof could be found that the soils are not agricultural soils, neither a variance nor a special exception would be needed. Ross said that in the past, a grant program like the Land and Community Heritage Investment Program could help with the cost of a conservation easement, but this program currently has no funding. He reminded that a goal of Lyme's zoning is to preserve Lyme's farmland. If agricultural land preservation is eliminated by a future master plan in Lyme, with a variance issued for this project the applicant could go to the planning board with a subdivision proposal and sell house lots.

Out of deliberations: Walter asked whether the reason for the variance request was because of the lost development opportunity or the cost of a conservation easement. Ben said it was lost opportunity, and that the Baileys do not have the funds to do a subdivision. Scott said that if he wanted to do an easement, he

could build on the 25% excluded, in the middle of the field, which would ruin the field for agriculture. Simon said that the master plan draft has few changes from the current version. Scott confirmed that the parcel is in current use.

Deliberations: Ross said that with current climate change projections for rainfall, that 14 acre field may be increasingly valuable in the future for agriculture, as will any soil in an area with sufficient rainfall.

Out of deliberations: Adair Mulligan suggested that the board make a site visit to determine if the soils on the proposed building site are indeed as stony as testimony has indicated. Ben said that a site visit would be acceptable to the applicants.

Deliberations: Ross said he thought it would be a good idea to see the house site. George moved that the board hold a site visit, and Ross seconded the motion. Frank noted that Lyme's agricultural protection ordinance reflects the cultural needs and interests of Lyme and potentially state and national interests, while steep slopes can be dealt with by a competent design. He asked his colleagues which should take precedence.

Out of deliberations: David Robbins reported that he visited the site and suggested that the board may question the presence of steep slopes as well. Ben noted that the Baileys had already stumped the area for the house. George asked them to stake out the house location for the site visit. The site visit was scheduled for Saturday, April 11 at 10 am with an alternate date, in case of snow, for April 14 at 4 pm. The board voted unanimously to continue the hearing to this visit.

Elections: Frank moved to elect Alan chair and Ross vice-chair for another year. Ross seconded the motion and it passed unanimously. Simon noted that Ross will be reappointed by the select board, and that alternates for the planning board are needed.

Meeting adjourned 8:50 pm

Respectfully submitted,
Adair Mulligan, Recorder

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