

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes –July 16, 2009

Board Members: Present - Alan Greatorex, Chair; Ross McIntyre, Vice Chair; Frank Bowles

Absent: George Hartmann, Walter Swift

Alternate Members: Present – Margot Maddock

Absent: Jane Fant

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

Public: Ray Clark, Don Elder, Julia Elder, Alice Small

Chairman Greatorex appointed Margot Maddock to serve as a regular member.

Application #2009-ZB-37, Ray Clark (Tax Map 408, Lot 59) 70 Acorn Hill Road in the Rural District.

Ray Clark is requesting a Special Exception or Variance, as part of a purchase and sales agreement, to move an existing house at 70 Acorn Hill Road approximately 200 feet to a location north of the existing barn. The existing and the proposed locations are both within the Agricultural Soils Conservation District. The house is currently in the Road Setback Area. The majority of the lot is within the Agricultural Soils Conservation District, and therefore there is no alternate site for the house that would not be within this district. The new location will move the house out of the Road Setback Area. Mr. Clark proposes to move the house and ell, rebuild the barn, and demolish miscellaneous structures.

Lot 59 has been the subject of several actions in the last month. Lots 59 and 63 on Tax Map 408 were merged for tax purposes between 1995 and 1996. On July 18, 2009, Lot 59 was demerged from Lot 63 by the Zoning Administrator, as allowed by Section 4.57 of the Lyme Zoning Ordinance.

Only July 9, 2009, the Lyme Planning Board was presented an Application for lot line adjustment. The purpose of the adjustment was to annex 0.19 acres from Lot 59 to Lot 60. The owners of Lot 60 have had a garden within this 0.19 acres for the last 40 years, and the lot line adjustment will allow them to keep their garden when Lot 59 is sold. The lot line adjustment was approved.

Don Elder, Trustee for Kenneth Elder Revocable Trust, owner of the property, has authorized Ray Clark to represent the Trust for this application.

Ross asked if the proposed house site is within 200 feet of the existing site. Dave said that the 200' line runs through the middle of the new house site, and pointed out that the outline of the existing house on the tax maps is questionable in its accuracy. Ross asked about plans for the old site once the house is moved. Ray said he would return it to pasture. He said the existing location is challenging, so close to the road and to the Smalls' house, and that he assumes it needs a new foundation and floor system. What is left would depend upon what he uncovers. Don Elder said that the ell closest to the house has a 14' cellar walled with stone, and that there is a narrow cellar across the front of the house; the rest is crawl space. Ross pointed out health reasons for eliminating the cellar. Ray said he expected to salvage the stone and use it elsewhere, and fill in the cellar hole, and said that the plan for the property is a conceptual one. The actual lot coverage of the new layout will be dramatically less than at present.

Ray believes that it would be more expensive to restore the house on its current site, and it would be less appealing for sale in its existing location. If he discovers that the proposed site is too wet, he may move it somewhat, but no further north. He will dismantle the barn and use what he can to build a smaller one. Frank asked if there are any buried tanks on the property. Ray said no, and that there will be a new septic system. He is not aware of any such problems, and there will be an environmental inspection prior to closing.

Alice Small said she had no concerns. Ray said that the Furstenbergs, neighbors, have a right of first refusal, and have decided not to exercise it, allowing Ray to proceed. He believes they do not object and support Ray's project. There was no other public comment.

Deliberations: Ross noted that the Zoning Ordinance is silent on the topic of moving houses, and that many in Lyme have been moved over the years. Most recently, the O'Hara house was moved, probably on agricultural soils. Ross said that if the house is moved and agricultural soils are restored, the net result is zero, there is a net improvement in conformity to the ordinance, and there are no setback issues. He said

there may be no need for either a Special Exception or Variance. He added that while there is one small area of the property that is not in agricultural soils, access to that site would be across such soils and would do more damage than the present proposal.

Alan pointed out that the current house sits in a building zone. Ross suggested that the zone would move with the building because the ordinance does not take into account a project to move a house. Alan proposed issuing a Variance to avoid setting a precedent. Frank moved to grant a Variance under section 10.50, finding that

- The board had reviewed the proposed project and found no net change in use of agricultural soils
- The project will result in a decrease in zoning violations on the property
- The house will be moved out of the front road setback.
- The building zone surrounding the house in its current location will be defined around the house in its new location, in this one circumstance.
- The project will not diminish surrounding property values
- Granting the variance will not be contrary to the public interest
- The use will not be contrary to the spirit and intent of the ordinance
- By granting the variance, substantial justice will be done
- Denial of the variance would result in unnecessary hardship to the owner.

Conditions include:

- Agricultural soils will be removed during new construction and be used to replace soils at the existing location, so there will be no net change in the inventory of soils.
- Best construction practices will be used
- The project will be subject to codes such as the Energy Code and requirements for septic system design.

Ross seconded the motion and it passed unanimously.

Ray observed that while the board's actions energetically protect agricultural soils, there should also be action in defense of historic homes, a similarly limited resource.

Alan asked the board members to review ordinance sections 8.22, 8.23, and 8.24 before the next meeting to propose possible changes in language or agree upon interpretation.

Meeting adjourned 8:15 pm

Respectfully submitted,
Adair Mulligan, Recorder