

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes –September 23, 2009

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

Alternate Members: Present – Margot Maddock, Jane Fant

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

Public: Rod Finley, Michael Hinsley, Jonathan Webber, Marianne and Dell Lewis

Minutes of the July 16 were approved as presented, on a motion by Margot seconded by Frank. Chairman Greatorex appointed Margot Maddock to serve as a regular member.

Application #2009-ZB-55, Rod Finley (Tax Map 410, Lot 12) 159 Baker Hill Road in the Rural District.

Rod Finley has applied to the Zoning Board for variances and special Exceptions for this project on a 2.26 acre lot. The existing three bedroom house, which was built in 1999 on the site of a 1784 house, is to be razed and replaced with a new six bedroom house. The house is currently occupied by a single family of 10 people, including an ill child, and the house is plagued with severe mold problems. David distributed a letter from the Lyme Conservation Commission. Jonathan Webber, an agent for the project, has spoken with abutters and other neighbors and put out other information for the public.

The proposed replacement septic system falls in the road and side setback areas and partially in the Wetlands Conservation District (wetland buffer). The septic system is allowed by Special Exception in the setback areas under Section 5.13.E.3. Section 8.24 allows for a Special Exception for expansion into a Conservation District. The size of the replacement system is approximately 600 square feet. The expansion will be from the existing location south in length and towards the house in width, away from the wetland across the road, using an Eljen system. The majority of the expansion will fall outside of the wetland buffer. A 1999 special exception was granted to replace the then existing system with the present system. The present system is 318.75 square feet. The proposed new system would be under the 1000 square foot expansion allowed under Section 8.24. Town counsel has advised that a new special exception is required. The Conservation Commission has submitted a letter stating that there are no practical alternatives to the location for the leach field. Rod Finley said that an additional septic tank will be provided because pumping from the basement level will occur.

The expanded septic system results in a 100 foot setback for the well making the current well too close to the system. The proposed new well location is within the Wetlands Buffer. It is allowed by Special Exception with a review by the Conservation Commission, which also believes there are no practical alternatives to the site proposed. Rod said that the current well will be abandoned and filled. David said that when the new well is drilled, the crew will cover the ground and intermittent stream area with steel plates to prevent damage while drilling. Directional drilling will be used to run the water line under the intermittent stream area.

The proposed roof over the front door is an expansion of the building footprint. In 1999 the property owners received a Special Exception under Section 8.25. The current structure has the maximum footprint allowed for this property when including the 1000 sq ft allowed by the Special Exception. The proposed roof over the front entry way is approximately 127 square feet, requiring a variance. Otherwise, the house will occupy the same footprint as the existing house.

There is currently a fuel oil tank in the basement that will be removed. The site plan shows an underground propane tank on the northeast corner of the site, in the Wetlands Conservation District. Section 4.61.C.2 states “No underground fuel storage tanks are permitted.” This location would require a variance. The Conservation Commission recommends an alternative location for the underground tank, at the east end of the proposed new driveway. Discussion ensued about its location. Fire Chief and Health Officer Michael Hinsley said that the regarding during construction of the current house was improper, and water enters the basement where extreme growths of mold can be seen. The chimney is cracked and he advised that the house should be abandoned. He advised against locating the propane tank near the road, where a propane truck would interfere with traffic on the narrow gravel road, or upslope behind the house, because heavy propane vapors could accumulate in the lower levels of the house. He advised burying the

tank in a small area inside the curve of the driveway, where it will be inaccessible to playing children but accessible for filling. This area is also just outside the buffer of the wetland across the road.

The board compared the 1999 plans with the proposed plans. Approximately 330 sf of the new leach field is located in the Wetlands Conservation District. An intermittent stream runs through the property but does not fit the Town's definition of a water body. The stream bed itself is covered with local grasses and does not show any signs of having a permanent gravel bed. The property contains wetlands and the proposed well and part of the proposed septic system fall within the wetlands buffer portion of the Wetlands Conservation District. The northeast corner of the property lies within the Steep Slopes Conservation District. This district does not extend down to the current structure and therefore it is not an issue except for lot size adjustment. Agricultural soils are not a problem, since the building zone around the original structure includes all the locations involved in this application.

Deliberations: Alan moved to grant a Special Exception under section 8.24 to replace the septic system and leach field to accommodate state requirements for the number of bedrooms in the new dwelling.

Findings of fact:

- There will not be significant new loading because the number of occupants already living on the site (which 6 bedrooms would accommodate, by State DES rules) will remain the same.
- The leach field will intrude approximately 330sf into the wetland buffer.
- The Conservation Commission has reviewed it and has no objection.
- There is no other practical location for the leach field on the property.
- The state has issued an approval.

George seconded the motion and it passed unanimously.

Alan moved to grant a Special Exception to construct a well and waterline under section 4.61B4, noting that this may be granted with Conservation Commission review.

Findings of fact:

- The Conservation Commission has reviewed it and believes there is no practical alternative.
- The new well must be located 100' away from the new leach field, and across an intermittent stream to meet State DES requirements for this size system.
- The existing well will be abandoned and filled with concrete, per the plans dated 9/15/09 from Pathways.

George seconded the motion and it passed unanimously.

Alan moved to grant a Variance under section 10.50 to locate a buried 1000 gallon propane tank in a location bounded by the wetlands boundary and the edge of the driveway

Findings of fact:

- Testimony from the Fire Chief indicates this is the best location for public safety, as opposed to the location shown on the plans.
- There is no option to bury the tank uphill from the house because propane vapors could invade the finished floor of the house downslope.
- The Conservation Commission also did not approve of the proposed location.
- A variance is required because the board is unable to determine whether the location suggested by the Conservation Commission and the Health Officer would be out of the wetland buffer of the intermittent stream, should the intermittent stream have such a buffer.
- 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.

Frank seconded the motion and it passed unanimously.

Alan moved to grant a Variance under section 10.50 to replace a non-conforming structure with one that results in an increased violation due to addition of a roof over the front door which increases the square footage to 127 sf above the 1000 sf that would be allowed by special exception.

Findings of fact:

- There would be a significant safety issue due to snow and ice on the main entrance without such a roof.
 - The Conservation Commission has reviewed it and believes there is no practical alternative.
 - 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.
- George seconded the motion and it passed unanimously.

Meeting adjourned 9:21 pm

Respectfully submitted,
Adair Mulligan, Recorder