

**Town of Lyme**  
**LYME ZONING BOARD OF ADJUSTMENT**  
**Minutes –December 17, 2009**

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

Absent: George Hartmann, Walter Swift

**Alternate Members:** Present – Margot Maddock, Jane Fant

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

**Public:** Paul and Judy Barker, Steven Doig, Marion Cass, Harry Burgess, Jacob Burgess, Roy and Mary Etta Day, Cindy Day, Lawrence Butterfield

Minutes of the meetings of November 19 and December 4 were approved with the deletion of a strike-out phrase in the Dec. 4 minutes, on a motion by Ross seconded by Frank.

Chairman Greatorex appointed Margot Maddock and Jane Fant to serve as regular members.

**Application #2009-ZB-59, Paul and Judy Barker (Tax Map 407 Lot 20) 67 Post Pond Lane.**

Paul and Judy Barker have applied for Special Exceptions under sections 8.23, 8.24 and 8.25 of the Lyme Zoning Ordinance to construct a 12X14 foot screened porch and a 6X8 open deck and steps on the north side of their cabin in the Rural District. The additions do not conform to the property line setback requirements in section 5.13 of the Lyme Zoning Ordinance. Therefore they will require a Special Exception under Section 8.23, Expansion of Existing Structures into the Set back Area. The proposed additions fall within the Shoreland and Wetlands Conservation Districts. The additions are not allowed uses under Sections 4.61 and 4.63 of the Zoning Ordinance. Therefore they will require a Special Exception under Section 8.24, Expansion of Existing Structures into Conservation Districts. The current structure equals the maximum square footage for lot coverage and exceeds the maximum square footage allowed for a building footprint. Therefore they will require a Special Exception under Section 8.25. This project will require a State Shoreland Permit. The Barkers are in the process of obtaining this permit. The Lyme Conservation Commission has visited the site.

In January, 1998 the Barkers received a Special Exception to add a 144 square foot porch to the cabin. The square footage of the building described in the 1998 approval does not match what is currently on the site. The first tax card to show a sketch of the building with its dimensions was dated 07/08/1998; these dimensions are the same as found on the 2009 tax card. Paul Barker explained that the original Camp Pinnacle cabin was replaced on its original footprint, including the big front porch of the earlier cabin, when they decided that the structure was not salvageable. Judy confirmed that the drawing under discussion is recent and includes the current structure. She said she could not confirm the dimensions of the original cabin and outhouse, but that they did complete the work permitted in 1998 by closing in the 8' x 18' porch, and added a small jog on the corner where the toilet was placed. She noted that she has a record of mention of an error in measurements for a long time. Dave Robbins reminded that the current tax card is correct and says 704 sf. Paul added that the cabin has no septic system but uses an electric composting toilet. There is no water line, and the family carries in its own water.

Deliberations: Ross said he thinks it is fair to take the existing 704 sf of measurement, and subtract the 144sf allowed in 1998 to equal the footprint of record, 560 sf. Therefore the owners have used 144 sf of the allowable 1000 sf of expansion. Jane noted that the proposal is for 216 sf. Ross moved to grant special exceptions with the following findings of fact:

- The applicants wish to add a 12' x 14' screened porch and a 6' x 8' open deck on their cabin on lot 20, Map 407 at 67 Post Pond Lane.
- The entire property is within the Shoreland Conservation District.
- The current structure equals the maximum allowable lot coverage and exceeds the maximum allowable footprint.
- In January 1998, they received a special exception to add 144sf to the existing cabin, then elected to rebuild entirely, incorporating the 144 sf in the structure.
- They seek a special exception to the property line setback under section 5.3, which is allowed by section 8.23
- Because the addition is within the Shoreland and Wetland Conservation District, a special exception is required by sections 4.61 and 4.63.

- Under section 8.25, the applicant is allowed 1000sf of total addition to the 560 sf structure that existed in 1998.
  - No abutters appeared.
  - A composting toilet has replaced the previous outhouse; there is no leach field, well, or water line.
  - The project will use 216 sf of allowable square footage for lot coverage and 360 sf of footprint.
  - This leaves 640 sf for possible future expansion for footprint and 784 sf for expansion of lot coverage.
  - The provisions of Section 10.40 are met.
  - The Conservation Commission supports the project.
  - Conditions: Best construction practices will be used, and the Conservation Commission's recommendation to take steps to decrease runoff will be followed insofar as possible.
- Frank seconded the motion, and it passed unanimously. Ross noted that he believes a composting toilet is better than a typical privy, and others agreed.

**Application #2009-ZB-80, Marion Cass and Stephen Doig (Map 414 Lot 11.11) 75 Flint Hill Road.**

Marion Cass and Stephen Doig have requested to amend a variance in order to have the option to change the proposed location of the driveway at their property in the Rural District. They received a variance (listed under Wilber Clark) on January 15<sup>th</sup> 2009 to build a new dwelling and garage / work shop. The new location crosses the Agricultural Soils Conservation District. The soil it crosses is defined as Tunbridge-Lyman complex, 8 to 15 percent slopes. This soil class is designated as a soil of local importance. The current driveway is located on soil designated as Berkshire loam, 3 to 8 percent slopes, which is a soil of state and national importance.

The applicants have taken more detailed measurements of the building on the lot and have determined that there is 1309 more square footage in the footprint of the existing structures than was presented on the original plan from Barrett Architects. They would like to have the corrected total of 4852 square feet of existing footprint to be noted in the decision. They have now removed a shed and garage. Stephen Doig reported that there appears to be an old track on the route of the proposed new drive, and that this route is less steep than the previously approved route. Alan asked about the source of the soils data. Marion Cass replied that it came from a soil scientist, prepared for the last permit.

Alan noted that the better soil would be preserved with this option. Ross noted that the driveway will not intrude on the side setback. Stephen reminded that they are asking for the option to move the driveway, but not the obligation. They are still considering the best way to orient their new house. Alan asked about the change in footprint from 3543sf to 4852sf. Stephen explained that it was measured by Estes and Gallup while the owners were not in the area, when the property was covered with snow. When one building was later taken down, it turned out to be larger than originally thought; another building had been mis-measured, and another fully collapsed structure was discovered under the snow. He added that they do not intend to build a larger home, but they want the figures to be correct.

Ross asked how long after a building collapses should it still be considered square footage, and suggested looking at how much square footage could be built without the need to come to the ZBA. He advised that the Zoning Administrator take up this question with the assessor. Dave noted that the collapsed building would not appear on the tax card. Ross advised the applicants to document existing foundations.

Deliberations: Frank moved to amend the previously issued variance, with the following findings of fact:

- The applicant has testified that the alternative drive location to that already permitted by variance in January 2009 may be a less intrusive use of agricultural soils
- Therefore the board approves amending the variance to allow the option to move to whichever location suits the applicants' project best.
- Conditions include that best construction practices will be used; the drive shall not intrude in the side setback; the location will be approximately as shown in the drawing; all curb cut requirements will be met.

Ross seconded the motion and it passed unanimously.

**Application #2009-ZB-82, Roy and Mary Etta Day (Map 407 Lot 13), 51 Post Pond Lane.**

Roy and Mary Etta Day have requested for Special Exceptions under sections 5.13 and 8.24 to install a replacement septic system on their property in the Rural District. The proposed location falls within the side property line setback area on both sides and in the road setback area. The Days have applied for a

Special Exception from the setback requirements under Section 5.13.E.3 of the Zoning Ordinance and a Special Exception under section 8.24 Expansion of an Accessory Structure into a Conservation District. They have received a Shoreland Permit and are awaiting state approval of the septic design.

Harry Burgess, surveyor, noted that this two bedroom camp was built 20 feet from Post Pond in the early 1960s, on piers resting on ledge. The camp is currently served by a dry well and has no other septic system. He proposes to pump waste up to a 30' x 6' leach field with Enviro Septic design, on the site of the current gravel parking area, and cover this area with grass. Alan asked if he was certain he could lay a buried line around the ledge. Harry said this may cause trouble, but there will not be a check valve, and thus the line will drain back to the septic tank. Frank asked where the leachate would go, and whether it could fill a bowl of ledge. Ross said that if the state has approved the septic design, the board should follow. Harry noted that the Enviro Septic design is considered one of the best.

Deliberations: Ross noted that an inadequate system will be replaced with a state of the art system, and will be a vast improvement on treatment of wastewater near Post Pond. Alan noted that the leach field will be 130 feet from the pond, and that the board is permitted to reduce the minimum setback. He moved to grant a special exception to allow the construction of the leach field at the Days' property at 51 Post Pond Lane with the following findings of fact:

- A special exception is allowed under section 8.24 and there is no other location for the leach field that is not within 200 feet of Post Pond.
- The current proposal is for a vast improvement in wastewater treatment.
- The project will take place entirely within the side setbacks due to the size and configuration of the small lot.
- The Conservation Commission has visited the site and supports the project.
- No abutters were present.
- The side setback can be used as a route for the 2" water line.
- Conditions are that best construction practices will be used, including use of silt fence on both sides of the property.

Ross seconded the motion and it passed unanimously.

Meeting adjourned 8:59pm

Respectfully submitted,  
Adair Mulligan, Recorder