

Town of Lyme
ZONING BOARD OF ADJUSTMENT
Minutes – June 17, 2010

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

Alternate Members: Absent: Margot Maddock

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

Public: Jane Fant, Charlie Hirshberg, Carol Barr, Barney Brannen, Wayne Pike

The meeting came to order at 7:30 pm. Minutes of the May 20 meeting were approved on a motion by Bob seconded by Ross.

Application #2010-ZB-24, Jane Fant (Tax map 409 Lot 21.1), 171 Dorchester Road in the Lyme Center Zoning District. Jane Fant has applied for a special exception under section 8.25 of the Lyme Zoning Ordinance to remove an existing detached garage and rebuild it attached to the house. The combined structure would exceed the maximum building footprint allowed under section 5.10. The lot is 0.54 acres. Jane distributed photos of the property and explained she wishes to preserve the 1856 house. David added that other houses in the neighborhood have attached garages. Adair Mulligan, an abutter who said she strongly supports the application, confirmed this and noted that there is little usable yard space behind the house and removal of the existing garage would make this available. There have been no changes since 1988 other than construction of a new mounded septic system. She said this will not be impacted by the relocation of the garage. David confirmed that the only building permit in the files is for the garage.

Ross noted that the total decrease in lot coverage would be 62'. Walter said that the footprint deals with a single building; the existing building is 1632 sf and up to 500 sf can be added. Jane said she plans to add 288 sf. Walter said this leaves 212 sf for future expansion. He determined from the tax map that there is no setback issue. Ross noted that the applicant has the right not to lose the footprint of the existing garage.

Walter moved to allow a special exception under section 8.25 (expansion of existing structures), noting that

- The increased footprint will be 288 sf, attached to the north side of the existing structure
- Section 8.25 permits an increase of up to 500 sf in the Lyme Center District
- The structure and proposed addition appear not to fall in the side setbacks which are 20 feet in the Lyme Center District
- Removal of the existing garage will result in a net decrease in lot coverage
- An abutter was present who spoke in support of the application

Condition: the new structure will be built in accordance with the dimensions on the application. Ross seconded the motion and it passed unanimously.

Application #2010-ZB-03, CLD Consulting Engineers on behalf of Carol Barr (Tax Map 403 Lot 16) 301 River Road in the Rural Zoning District. Continuation of hearing from May 20. Applicant has requested Special Exceptions from section 4.63 (Shoreland Conservation District) and 4.65 (Flood Prone Area Conservation District) and a Variance to sections 5.10c,d,e (Property setbacks) and 5.13Ea (Sewage Disposal System Setbacks) to allow the owner of the property to install a replacement septic system at 301 River Road.

The Lyme Planning Board has completed its review of the steep slopes encroachment for the replacement of the septic system and addition of off street parking. The plans have changed significantly: the septic system has changed from an aeration tank and a leach field to a closed tank system that will need to be pumped periodically, and the well has been removed from the

project and water will be brought in from the house next door in a pipe that is to be laid above ground. A Special Exception under section 5.13.E.3 is needed to allow the replacement septic system in the property line setback areas. A Special Exception under section 8.24, Expansion into the Conservation Districts, is needed for the septic system. (Steep Slope and Shoreland Conservation Districts). Section 5.13.E Sewage Disposal System Setbacks, requires a 200 foot setback from the Connecticut River, This setback shall not be reduced except in accordance with the provisions of Section 8.20 (section 5.13.E.1.B).

For the parking area, a Special Exception is needed under section 8.23 Construction of accessory structures into the setbacks for the off-street parking located in the road setback. A Special Exception under section 4.63.B.3 and 4.65B.3 is needed for the parking spaces. The definition of a driveway includes off-street parking spaces and therefore will require special exceptions from both the Shoreland Conservation District and the Flood Prone Area Conservation District.

Alan shared copies of letters of support for the application by abutters Mike Smith and Paul Hodes. Charlie Hirshberg updated the board on changes, noting that the septic will include two 1000 gallon holding tanks, the second fitted with an alarm, that will be closed systems with no discharge. The parking includes a concrete block support wall and parallel parking for two cars to get them off the road. The Planning Board has conducted a close review and added a construction sequence including new steps to the structure. Stormwater is addressed with roof runoff from the road side being directed to a leader and discharged to a swale and shallow spreader.

Two permits are required from DES: a Shoreland permit and septic permit. There is a planting plan for stabilization. A stone retaining wall will be built to contain fill around the tanks, set above the river level. Alan noted that the Conservation Commission had visited the site and recommended certain plantings; he asked if they were consistent with what DES would expect and with what is shown. Adair noted she had been on the CC at the time and that native species were recommended; she pointed out that English Rhododendron is not native. Charlie said that was added by the landscape architect, and that there is grass to stabilize the area. The parking is a stone surface laid over a sand bed designed to be permeable.

Walter asked about the cabin's facilities. Carol Barr said it has a tub, toilet, and kitchen sink, but did not know whether it had a hot water heater. Charlie said that low flow fixtures would help keep flow down. David said that water is currently drawn from the river by a hose and will now have water from the neighbors via a hose that will be drained in winter. Bob asked about the use of the cabin. Carol said it is a spillover house for guests, boats, and dock and is not rented. Alan asked about merging with the adjacent lot. Barney Brannen said there is no intention to merge. Deliberations: Ross said that the roof discharge will be the same but will now be treated with a spreader, an improvement. He noted that a move to pump tanks is a rational solution and said that the lot would not have been built upon if zoning had been in place. He said the proposal is a reasonable one to upgrade the systems on what the Planning Board views as a seasonal property. The idea of requiring a deed restriction to prevent drilling of a well was discarded since a permit from the ZBA would be required due to location in the setback. Walter agreed that the property should remain seasonal.

Out of Deliberations: Barney said it would be inappropriate of the board to impose a condition regarding change of use since the zoning ordinance does not define seasonal, and the board could not describe how drilling a well would change it from a seasonal residence to something else. He added that the building cannot be described as accessory to another. David confirmed this since it is further than 100 feet from the next house and does not share a septic system.

Deliberations: Walter noted that section 10.40B9 permits the board to restrict use and that 5.13E1B points to section 8.27 which permits replacement of a non-conforming septic system. Walter noted that steep slopes are involved.

Alan moved to grant special exceptions for the application by Charlie Hirshberg on behalf of Carol Barr, to sections 5.13E, 8.23, 8.24, 4.63B3, and 4.65B3, for replacement of a septic system and addition of a parking area. Findings of fact include:

- The entire property is within the 200' Connecticut River Shoreland Protection District
- A septic system constructed of holding tanks is located within the 75' road setback and the rear setback because the entire property is only 50 feet deep.
- There is no other location for the location of the septic system.
- The Conservation Commission reviewed the project in January when the project was quite different, but recommended approval of the septic system.
- The offstreet parking is within the road setback.
- The structure was built before zoning adoption
- The parking can be considered part of a driveway and is excluded from section 8.25 in consideration of lot coverage.
- Two abutters favor the project.
- The primary use of the property is seasonal.
- When the project was first proposed, questions were raised about a leach field and potential impact upon the stability of substructure and soils in this location, and the applicant returned with a revised plan for a pump tank system.
- The Planning Board reviewed the application and requires a water supply line to remain on the surface to ensure that the property's use remains seasonal.
- The applicant has submitted a plan with that detail.
- The property is currently a two bedroom cabin, and approval is granted with the condition that it remain a two bedroom seasonal use, under authority given to the board by section 10.40B9.

Conditions:

- Conditions recommended by the Conservation Commission should be followed except for the second bullet (relating to switches for a water supply)
 - Planning Board conditions 1-4 should be followed, including both conditions numbered three
 - This permit cannot be issued until the Zoning Administrator is assured that the floodplain conditions are met or don't need to be met
 - Sedimentation and erosion control are followed as on the plans
 - No permit is issued until the necessary DES permits are in place.
- Ross seconded the motion and it passed unanimously.

Application #2010-ZB-11, (Tax map 421 Lot 7), 651 Dorchester Road.

The Lyme Planning Board has made a motion of rehearing asking the Zoning Board of Adjustment to review its decision to not include granting or denying a special exception under section 8.24 in their decision for Wayne Pike to add a second floor to a cabin located at 651 Dorchester Road. Walter said he agreed with the Planning Board that it is an expansion of building volume, something the Lyme Zoning Ordinance does not address, although other ordinances do. Bob agreed but said he didn't think the Planning Board was the appropriate party to file. David said that because the minutes specifically asked for direction from the Planning Board on this topic, that Board considered itself a directly affected party. Bob disagreed. David noted that he had alerted abutters, so a rehearing could take place if the board so chose.

Walter moved to deny the request for a rehearing, recognizing that it may have been an oversight to not cite section 8.24 and recognizing that the project is an expansion; notwithstanding, he sees no reason to prolong the process of providing a permit, since it makes no practical difference in the outcome. Bob seconded the motion and it passed unanimously.

Meeting adjourned 9:40 pm.

Respectfully submitted,
Adair Mulligan, Recorder