

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – September 16, 2010

Board Members: Present - Alan Greatorex, Chair, Frank Bowles, Paul Mayo
Absent: Ross McIntyre, Walter Swift, Robert Titus
Alternate Members: Absent: Margot Maddock
Staff: Dave Robbins, Planning & Zoning Administrator; Adair Mulligan, recorder
Public: Wayne Pike

The meeting came to order at 7:30 pm. Minutes of the meeting of August 19 were accepted as amended with formatting changes, on a motion by Frank seconded by Alan. Paul abstained.

Application #2010-ZB-68, Wayne Pike (Tax Map 421, Lots 5 and 7) 645 and 651 Dorchester Road in the Rural District.

Wayne Pike has applied to the Lyme Zoning Board of Adjustment to install a septic system for two cabins at 645 and 651 Dorchester Road. The proposed system will be located in the Shoreland Conservation District, the road setback and property line setbacks; therefore special exceptions are required under sections 8.23 & 8.24. Wayne noted that the leach field is not located in either the town's or the state's Shoreland Conservation District. Both properties are currently served by outhouses, one located about 20 feet from the edge of Reservoir Pond. All features existed on the property before 1989 when zoning was adopted.

The Conservation Commission's letter of May 15 noted that the proposed project would improve waste management and gave the opinion that it would create no adverse impact. Frank asked about the lots and David explained that there were originally four lots, merged across the road into two. Alan requested soil type boundaries, and David prepared soil maps that indicated only one soil type in the project area, 711D. Alan asked about pump capacity, and Wayne said he was advised to use one larger submersible pump. Wayne said that he would bury the pipe about 36" and insulate the pipe under the road with blue Styrofoam. He has previously installed a similar trench on the same property, using a crowned trench with triple hay bales every 30-35 feet in steep sections, and has had no problems. When the project is built, Wayne will also arrange for installation of a dry hydrant to serve fire-fighting in the Lyme and Dorchester neighborhood of Reservoir Pond. There is currently no source of water for fire-fighting other than the very steep public boat access, which also requires chopping a hole in the ice in winter.

Alan asked about steep slopes, which he figured to be 34% in one place, and said that the Planning Board would need to review the situation before the ZBA could rule on it. David said he hesitates to rely on the town's GIS coverage for such a small area, and questions the method used on smaller areas of steep slopes such as this. Wayne said that he didn't know when the original septic system was built, but that it was state-approved. Frank said that overall, there is a great increase in safety and amenity, and the distance crossing steep slopes is very minor. Paul said that the Planning Board would likely come to the same conclusion. Frank said that because the board has approved work being done nearby, doing the new septic systems now would minimize disturbance. Alan noted that there are no agricultural soils. He said that in this case, because of Wayne's experience with stabilizing trenches in this setting, he was prepared to overlook that the question did not go first to the Planning Board.

Frank noted that the proposed uses are allowable, and that the question is only a procedural one. He said that the spirit of the ordinance is observed, and that two outhouses would be removed. Speaking as a member of the public and former member of the conservation commission, Adair said that removal of the two outhouses would greatly serve the public interest. Paul hesitated to grant approval because the procedure outlined in the zoning ordinance had not been followed. It became clear that to bring the question before the Planning Board and back to the Zoning Board and then seek State approval for the

septic system would delay the project until spring. Meanwhile, construction of Tyler Rich's access road nearby is waiting for this approval.

Deliberations: Alan moved to grant a Variance for construction of this septic system, based on the following findings of fact:

- The Conservation Commission has no objection
- The project will remove two outhouses that are located within the state's and town's Shoreland Conservation Districts
- An easement will be required if the two adjacent lots are sold to separate owners
- The cabins and outhouses were all built before the adoption of zoning in 1989
- The water table is below 36"; the line will be buried 36"; the estimated seasonal high water table based on models in the soil test pit is at 42"
- Experience with the existing house line up the hill suggests that there will be no erosion if hay is applied as liberally as three bales in a row across a well crowned ditch, with the rows spaced not more than 30 feet apart along the steepest parts of the slope (this being the technique used for the existing pump line already installed under a State approved design.
- The proposed location of the field and lines is better than the current outhouses and the proposed location also follows the proposed right of way for Tyler Rich's driveway. Construction of both will be concurrent.
- A member of the public spoke in favor of the application.
- A dry hydrant will be installed at the same time, creating a major public benefit.
- The requirements of section 4.62B for special exceptions indicate that such a question must be referred to the Planning Board before ZBA action; because the same condition applies to section 8.24, and because of the timing of board meetings and DES Subsurface Bureau approval, it is in the public's interest to be granted a Variance under section 10.50, because it allows installation of a fire hydrant which will allow fire protection for the neighborhood in the coming winter.
- Given all the facts, the Board finds that delay is not desirable.
- The proposed use 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 and to adjacent property owners.

Conditions include:

- To control erosion, rows of hay bales will be installed not more than 3 feet apart along the steepest sections, across a well-crowned ditch.
- Extruded insulation will be used to cover a four foot wide section under the road crossing from cabins A and B and will cover the dry hydrant.
- Construction will proceed as shown on the June, 2010 plan submitted by Harry J. Burgess to Wayne Pike.

Frank seconded the motion, and it passed unanimously.

Application #2010-ZB-65, Wayne Pike on behalf of Robert Owen (Tax Map 414, Lot 35), 353 Dorchester Road in the Rural District.

Wayne Pike has applied on behalf of Robert Owen to construct a new storage building at 353 Dorchester Road. The location of the proposed building is within the road setback and within the Wetland Conservation District. The proposal will require special exceptions under sections 8.23 & 8.24 of the Zoning Ordinance.

Alan noted that the presence of the Wetlands Conservation District on the property meant that Conservation Commission approval is required. David said that the shed is proposed for a flat area that is

level with the road; elsewhere on the property, the ground slopes down off the road. The proposed location is the best on the lot and while it is in the wetlands buffer, it is the only practical location.

Paul questioned the omission of lot coverage in the 2002 decision on the same property. David checked the calculations done by former Zoning Administrator Vickie Davis and found that the applicant is permitted 520 sf of building footprint on a non-conforming structure. The house predates zoning. Wayne confirmed that nothing has been done on the property since 2002. David confirmed that under section 8.24, there is 901 sf of lot coverage left, and 760 sf of available expansion into the conservation district. The proposed project would leave 40 sf for future expansion.

Deliberations: Frank moved to grant a special exception to build 720 sf of new storage building. Findings of fact include:

- The encroachment into the conservation district is allowed through lot calculations
- The proposed location is the only practical one on the property
- The project will have minimal effect on the conservation district because it is located on the highest site with road access
- The provisions of section 10.40 have been met
- There was no public comment

Conditions include:

- The Conservation Commission will review the project before a building permit can be issued.
- Best management practices, including for erosion control to protect wetlands, will be used.

Alan seconded the motion and it passed unanimously.

Meeting adjourned 9:51 pm

Respectfully submitted,
Adair Mulligan, Recorder