

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – June 16, 2011

Board Members: Present - Ross McIntyre, Alan Greatorex, Frank Bowles, Walter Swift, Rob Titus

Alternate Members: Absent: Paul Mayo

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

Public: Richard Wade, Tim Olsen, Kim Butler, Dana Avey, Alex Rapinien, Doug Vogt

Chairman Ross McIntyre called the meeting to order at 7:30 pm.

Minutes of the meeting of May 19, 2011 were amended and approved on a motion by Walt seconded by Frank.

Application #2011-ZB-14, David Celone (Tax Map 201, Lot 67) 6 East Thetford Road in the Lyme Common District.

David Celone has applied for a special exception under section 8.25 to add a 80 square foot (8' X 10') shed to his property. David Robbins reported that the applicant has asked for a continuance until the next meeting. Voted unanimously to continue this hearing until the next regular meeting on July 21 at a time set by the Zoning Administrator, on a motion by Frank seconded by Alan.

Application #2011-ZB-31, Brett Ryan (Tax Map 201, Lot 91) 12 & 14 East Pleasant Street, Lyme Common District.

Brett Ryan has withdrawn his application.

Application #2011-ZB-30, Richard Wade (Tax Map 408, Lot 56) 172 Acorn Hill Road in the Rural District.

Mr. Wade has applied to the Lyme Zoning Board of Adjustment for a special exception under section 8.25, to add a 20' X 20' addition to the barn on his property. The addition would exceed the maximum building footprint allowed by the Zoning Ordinance. Mr. Wade has applied for a special exception under section 8.25 to add a 20' X 20' addition to his barn. This addition to his barn will cause the barn to exceed the maximum building footprint for the lot. There are no Conservation Districts on this lot.

The lot calculations are as follows:

Lot Size	40946 square feet
Maximum lot coverage 12%	4913 square feet
Maximum building footprint 2%	819 square feet
Current Lot Coverage Total	1692 square feet
House	1212 square feet
Barn	480 square feet

The requested expansion of 20'X 20' or 400 square feet will bring the total foot print of the barn to 880 square feet, 61 square feet over the maximum building footprint. Mr. Wade applied for and received a special exception in 1993 for the original barn. This addition would bring the total allowed expansion under section 8.25 to 880 square feet.

Deliberations: David Robbins noted his concern about the 1993 decision, and whether it would unfairly penalize the applicant. Richard said he would use the space for storage and perhaps a garage. He believes the applicant is allowed 1000 sf of expansion. Walter concurred and said he believes the applicant is entitled to 1000sf for both the accessory structure and the house because both were built before 1989. Walter moved to grant a special exception to add a 20'x20' addition to the existing barn, with the following findings of fact:

- The lot is a pre-existing lot that is non-conforming in size
- Section 8.25C allows addition of 1000sf to an accessory building on a non-conforming lot.
- The existing barn was built after zoning but did not make full use of the 1000 sf of allowable expansion
- The total footprint expansion of the accessory structure is 880sf, allowing 120sf for future expansion on this building.
- No abutters were present.
- The conditions of 10.40 are satisfied.

- The following condition will be observed: the addition will be located substantially as shown on the sketch map provided with the application. Frank seconded the motion and it passed unanimously.

Application #2011-ZB-38, Jane Fant (Tax Map 409, Lot 12.2) 173 Dorchester Road in the Lyme Center District. Ms. Fant has applied to the Lyme Zoning Board of Adjustment for a special exception under section 8.25 of the Lyme Zoning Ordinance, to expand the footprint of her house. The structure will exceed the maximum building footprint allowed by the Zoning Ordinance. Jane owns two adjoining parcels in Lyme Center. At the May 6th 2011 Planning Board meeting Jane applied for and was granted a lot Line Adjustment to annex 0.09 acres from Lot 12.1 to lot 12.2, both parcels being on tax map 409. All the lot size calculations have been made using the post Lot Line Adjustment lot size. The original house was built in 1826, therefore the existing footprint and lot coverage is pre-zoning. There have been no post-zoning expansions to the residence on the property.

Lot Size (post lot line adjustment)	14810 square feet
Maximum Lot Coverage	1777 square feet
Maximum Building Footprint	889 square feet
Existing footprint and lot coverage	1547 square feet

Jane proposes to remodel the existing residence and expand the building footprint by 213 square feet. Because the existing (pre-zoning) house is already over the maximum footprint for the lot the applicant has requested a special exception under section 8.25 for the expansion. David noted that he used the new lot size in the calculations.

Proposed new footprint and lot coverage	1760 square feet
Total Expansion	213 square feet

Based on measurements using the survey submitted for the lot line adjustment, the proposed expansion will encroach into the west property line setback and possibly the east setback as well; therefore, the applicant will also need a special exception under section 8.23. Side setbacks in the Lyme Center District are 20 feet. Working with the drawings, Walter determined that the replacement ell has been moved one foot east, and the net new encroachment into the side setback on the west side is 84sf. Adair Mulligan, the abutter to the east, said she did not believe that the proposed construction would intrude into the setback on her side.

Frank noted that in a letter, Adair has suggested a shared driveway with the house immediately to the west. Tim Olsen, Jane’s representative, said that Jane does not want to do a shared driveway, and if there is a question about this part of the project, she will begin with remodeling the main house. There are no curb cut issues. Frank asked whether it would be possible to use the garage without encroaching on the property to the east. Tim said that it would, but only for a small car. Asked about the septic tank which currently sits in the path of the proposed drive, he said it could be moved out of the way, but a permit would be needed. He said that the well is buried in the driveway west of this house, and is shared by the two houses. Tim said that there would probably be room to sink a new well elsewhere on the property.

Walter noted that the new ell structure would be 12 feet longer than the old ell, and asked where the snow would go. Tim said that a tree would be removed and that snow could then be pushed back in the area where it stood. Adair asked whether driveways must be considered in lot coverage in this district. Walter consulted the ordinance and noted that driveways do count in the Lyme Center District. David confirmed that he did not count the driveway in his lot coverage calculations because he wasn’t given anything that showed a driveway.

Deliberations: Frank suggested continuing the hearing given the lack of lot coverage information.

Out of Deliberations: Tim noted that it is a non-conforming lot, and the applicant is allowed up to 500 sf of additional coverage. If the new 80’ x 10’ driveway is included, it would be 800sf.

Deliberations: Walter said he would like to see the layout before and after construction, with lot coverage figures. Ross agreed that he favored a plan showing where the drive would go and where it is now, so the board could consider the abutter’s concerns. He observed that the driveway across the street is shared, and that there are many shared drives nearby. He added that the turning radius looked very tight. He asked whether the new ell could be approved now, noting that it encroaches less than the previous structure. Walter moved to authorize the Zoning Administrator to issue a limited building permit to allow construction of a 20’ x 16’ addition to the north side of the main house, with the condition that it be built as shown on the drawing submitted. This action restricts

work on the garage and screened porch until the continuance of the hearing on July 21, to await receipt of a plan showing detail of the garage, drive, and arrangement on the lot, including consideration of a shared driveway with the house to the west. Frank seconded the motion and it passed unanimously.

Application #2011-ZB-17, PETSU (Tax Map 201, Lot 11) 1 Market Street in the Lyme Common District.

PETSU has applied to the Lyme Zoning Board of Adjustment for a re-hearing on the decision by the Board on April 21st, 2011 to grant PETSU, LLC d/b/a The Lyme Inn special exceptions to install a new well, replace a concrete pad for trash and recycling containers, and install two air conditioner condensers. Kim Butler distributed a drawing showing the location of the inn and the properties within a 1000 foot radius. Dana Avey reported on his conversation with NH DES, that the agency regulates only wells with flow above 13,500 gallons/day because it has not encountered issues with lower flow wells. The inn requires 2415 gallons/day. Cynthia Bognolo's well is 150 feet away. Kim reported that John Swain at Capital Well told her that the drilling of the inn's well was unlikely to affect Cynthia's well.

Kim said that the inn is willing to test wells for those who came to the previous hearing and is willing to test for other abutters but feels it is not necessary for the protection of area wells. Dana clarified that "testing" refers only to a requirement to monitor water levels in the wells during pumping, not water quality. Kim said there are eight abutting properties, but within 1000 feet, there are 37 properties. Walter asked how testing of abutters' wells would be handled. Dana said that after the well is drilled, a six-hour capacity test would be run, and water levels in abutters' wells would be measured once/hour. The well will be a conventional bedrock well. Kim said she has talked only with Doug Vogt, and that no other abutters have contacted her. Doug asked if the testing is a condition set by the ZBA. Ross said it was, because an abutter raised a question about possible effects on her well. Dana noted that confusion may have arisen because Colin Robinson's testimony referred to the village water company having to test within 1000' but the inn is not the same kind of user. Walter asked if the village's water supply had been considered as a source, and Dana said that the inn's demand of 55 gallons/minute at peak could not be met that way, and that the distance to connect to it would be two or three times the cost of drilling a new well. Alan proposed offering testing within 500 feet, which would add about 10 more lots. Kim agreed to send letters.

Regarding the dumpster, Kim said that the site plan has been revised after discussions with Cynthia and the state, and the dumpster will move north of where it is now. The state has conceded to allow the dumpster within the protective well radius given the situation, with mitigation such as curbing around the dumpster pad, although written approval has not yet been received. The dumpster will be entirely fenced in. She said the Planning Board liked the location. The inn is concerned that the restriction on night dumping would force the inn to keep garbage inside, which would require refrigeration for which the inn is not equipped. The only trash going out is compost bags, between 9 and 9:30 in the evenings. Doug Vogt suggested that dumping is more a problem for the houses close by. Alex Rapinien said that his verbal agreement with the company is for pickup at 9am or later, but he was unsure whether this could be enforced. Doug said that the most annoying thing about the inn reconstruction project was the emptying of the trash dumpster in the early morning.

Kim said that the generator will not be moved but will be increased in size to handle the fire suppression system. The generator will be moved up to grade with no bunker and will be fenced in. The deck will be moved. The Planning Board set a condition of no noise over 55 decibels on the Bognolo side of the property line and not above 60 decibels on the Dorchester Road side. The current generator is 73 decibels. The state well approval includes this. Kim continued that the Conservation Commission has approved the project, but she noted that the only work done in advance was removal of the dumpster pad.

Deliberations: Ross noted that when the peak water flow for the inn was initially projected for 24 hours/day, it caused anxiety, and he was not sure of a need to insist on a larger number of properties to be tested. Frank suggested allowing them to ask but not insisting that the inn test all. Rob advised adding lots 23, 25, 26, and 100. Frank noted no further action is needed on the air conditioners or generator. Walter wanted restrictions on when a truck could empty the dumpster. Alan moved to grant a special exception to section 8.24, placement of a structure within the Wetland Conservation District, and for construction of a new well and dumpster pad, with the following findings of fact:

- The Zoning Board of Adjustment previously gave an approval for location of the well in the front setback
- A new well location cannot be denied because it is in the spirit of the Zoning Ordinance to preserve the character of the Common, which includes a viably functioning inn
- The intrusion into the Wetlands Conservation District is 16sf over the existing structure
- Food garbage is composted at the inn, and is not put into the dumpster
- Section 8.24 permits placement of a structure within the Wetlands Conservation District
- Requirements of section 10.40 have been met.
- Relocation of the dumpster pad adjacent to the wellhead has been tentatively approved by NH DES under the circumstances, and addresses the objections of the abutter.
- The applicant submitted a site plan updated through May 23, 2011 showing the revised location of the dumpster pad and bedrock well.
- The applicant has been told about the state's lack of regulations (Env-Ws 373.13, Pumping Tests) for testing transient community water supplies.
- The Conservation Commission has approved the project.
- The dumpster will be screened with a full enclosure.

He recommended the following conditions:

- The applicant will notify abutters and owners of four other lots (23, 25,26, and 100) of the opportunity for water level tests of their wells.
- The inn will control annoying operations around the dumpster, and the dumpster will be emptied only between the hours of 9am and 6pm.

Frank seconded this motion and it passed unanimously.

Meeting adjourned 10:12 pm

Respectfully submitted,
Adair Mulligan, Recorder