

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – November 15, 2012

Board Members: Present -Rob Titus, Walter Swift, Alan Greatorex, Bill Malcolm

Absent: Frank Bowles

Alternate Members: Absent - Michael Woodard, Dan Brand

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

Public: Colin Robinson, Nancy Grandine, Brian Cook

Rob Titus called the meeting to order at 7:30 pm.

Minutes: Minutes of the October meeting were amended and approved on a motion by Alan seconded by Bill.

David reported that the Borgstroms had been notified that the board would revisit the question of section 10.40 at this meeting. Rob moved to add to the minutes that in the board's approval of the Borgstroms' application, it was implicit that the application meets the requirements of section 10.40, and that the board ratifies this addition to the prior approval. Walter seconded the motion and it passed unanimously.

Application #2012-ZB-64, Steven and Heather Toulmin (Tax Map 402 Lot 65) 5 Sloan Lane in the Rural District. The Toulmins have applied for special exceptions under sections 8.23, 8.24 and 8.25 of the Zoning Ordinance to construct a 12' x 22' deck on the south side of their house. The addition of the deck will cause the house to exceed the maximum allowed footprint (section 5.14) and exceed the lot coverage for the lot (section 5/15). The deck, which will be at the first floor level, will be in the road setback (section 5.13) and within the Shoreland Conservation District (section 4.63). The Toulmins were not present at the hearing, nor were any abutters.

David Robbins distributed a letter from the Conservation Commission noting no objection to the project since the deck would be farther from the stream behind the house than the septic field. ZBA minutes of 2/19/2009 confirm that the septic system is located in the Shoreland Conservation District. An aerial photograph of the property with the tax map lot boundaries superimposed shows possible errors in the tax map, since the neighbor's house to the west appears to be located on the Toulmins' lot. Discussion ensued about the location and nature of the drainage behind the house, and Alan surmised that the stream, which drains the Baileys' field across Route 10, flows 9-10 months/year. The deck appears to be 88 feet from the water course. David has no documentation about the right of way along Route 10; in its absence, the convention is to measure 25' from the center line of the road. He felt that some portion, at least one foot, of the deck would be in the setback from Sloan Lane, and none in the Route 10 setback. He does not know if the Toulmins have a survey of their land, but confirmed that the entire house is within the setback from Sloan Lane. The house has been expanded on the footprint of the previous nonconforming house, and no more bedrooms were added.

Deliberations: Bill noted that a four-person board was present. Rob said that if the applicants are unhappy with the decision, they can file a motion to reconsider it on this basis. Walter moved to grant special exceptions to sections 8.22, 8.24, 8.25, and 10.40 to construct a 12' x 22' deck on the south side of the Toulmins' house, based on the following findings of fact:

- Section 8.22 (setbacks for existing nonconforming structures) permits expansion of an existing nonconforming structure
- The proposed modification cannot be reasonably located outside the road setback since the house is entirely within the setback from Sloan Lane
- No more than half of the proposed deck will be within the Sloan Lane setback.
- Lot coverage is affected by the deck. An increase in lot coverage of up to 1000sf is permitted, and this project represents 132sf of expansion against the 1000sf, leaving 868sf for future expansion.
- The delineation of property lines on the tax map is ambiguous, according to testimony by the Zoning Administrator, and the board finds that none of the structures or proposed deck are located in the setback from Route 10.

- Section 8.24 (expansion of existing structures into the Conservation Districts) permits the deck construction because the deck cannot be reasonably located outside the Shoreland Conservation District.
- The southernmost border of the property has a seasonal water course running 9 months/year, and the deck will lie within the 100' Shoreland Conservation District.
- The deck will intrude 264' into the Shoreland Conservation District, leaving 736sf for future expansion.
- Section 8.24 (E) is not applicable.
- Section 8.25 (expansion of lot coverage and footprint) permits expansion up to 1000sf of buildings that predate the Zoning Ordinance.
- Lot coverage will increase by 264sf, leaving 736sf for future expansion.
- Building footprint will increase by 264sf, leaving 736sf for future expansion.
- The Conservation Commission has provided an opinion and has no objection.
- The Zoning Administrator has testified that there will be no increased sewage loading.
- The project meets the conditions of Section 10.40.
- The following conditions will be met: use of best management practices and construction of the deck as described in the application.

Bill seconded the motion and it passed unanimously.

Application #2012-ZB-70, Colin Robinson (Tax Map 201 Lot 56) 27 Union Street in the Lyme Common District.

Colin Robinson has applied for a special exception under section 8.23 of the Zoning Ordinance to construct a 22' x 26' timber framed, one and a half story, two car garage on his property. The proposed garage will be partially located in the side property line setback. Colin explained that there is a granite boundary line marker near the highway but the lot has never been surveyed. He cannot locate the garage elsewhere because a raised leach field, pump chamber, and septic tank block other locations. The garage will intrude 13' into the property setback. He is allowed 500sf of expansion into the setback in the Lyme Common District, and this project will use 338sf.

Rob asked about the permit issued in 2004. Colin said he did not use it and it has expired. Walter asked why the garage could not be located behind the leach field. Colin said he hopes to use the garage to block the view of the raised leach field, and that the area behind it is covered with tree stumps. Placing it there would also require him to run the driveway further through the property line setback. Walter asked about plumbing, and Colin said there would only be a floor drain to a dry well. Abutter Brian Cook said he supports the application, and neighbor Nancy Grandine said she had no comment. Rob asked Colin whether he had any objection to having his application considered by only four members and Colin stated that he did not.

Deliberations: Bill moved to grant approval for construction of a 22' x 26' garage under section 8.23 (construction of accessory structures in the property setback), with the following findings of fact:

- The structure is a new one, not an expansion of an existing structure
- As an accessory building, it cannot be reasonably located outside the property setback
- The lot coverage increase is less than 500sf; it will be 338sf, leaving 162sf for future expansion
- The primary structure was built long before zoning was enacted in 1989
- The applicant has testified that the permit issued in 2004 was not used
- Abutters were present and had no objection
- The project meets the conditions of section 10.40A.
- The following conditions will be met: use of best management practices and construction of the deck as described in the application.

Walter seconded the motion and it passed unanimously.

Meeting adjourned 8:32 pm
Respectfully submitted,
Adair Mulligan, Recorder