

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – July 19, 2012

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

Absent - Frank Bowles, Walter Swift

Alternate Members: Present - Michael Woodard - Absent - Dan Brand

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

Public: Tom Toner

Rob Titus called the meeting to order at 7:30 pm. He designated Mike Woodard to serve as a regular member.

Minutes: David is now posting draft minutes five days after the meeting. Colin Robinson saw them on line and chose to send a series of recommended changes to the minutes. Minutes of June 21 were amended and approved on a motion by Alan seconded by Mike.

Application #2012-ZB-23, Russell Hirschler (Tax Map 405 Lot 27) 609 River Road in the Rural District. Russell has applied for a special exception under Section 8.24 (Expansion of Existing Structures and Construction of Accessory Buildings or Accessory Structures Within or Into the Conservation Districts) to build a 14' x 20' deck on the rear of his house. The proposed deck would fall entirely within the Shoreland Conservation District. Just north of the house is a stream that meets the requirements for the Shoreland District, and possibly also wetlands. A letter from the Conservation Commission has been received and considers that the proposal represents a net decrease in the amount of impervious surface. Rob asked Mike and Bill Malcolm if they were comfortable voting on the proposal since they had not been present at the previous meeting. They both said they were.

David noted that there is a discrepancy in the files regarding the square footage of the structures, and consulted the tax cards. In 1998, a shed and lean-to measuring 18'x30' were rebuilt into the present ell, but there is nothing in the record showing an expansion into the conservation districts. It was concluded that no expansion had occurred on the lot since zoning was adopted. Bill Malcolm noted that the decision would stabilize the property records.

Deliberations: Mike moved to grant a special exception to Section 8.24 (Expansion of Existing Structures and Construction of Accessory Buildings or Accessory Structures Within or Into the Conservation Districts) to build a 14' x 20' (280sf) deck on the rear of the house at 609 River Road, with the following findings of fact:

- the location falls within the Shoreland Conservation District
- the board has received a letter as requested from the Conservation Commission stating that it anticipates no substantial impacts to wetlands and has no reservations about the project
- the house is located in the Rural District
- up to 1000sf of encroachment is allowed into the conservation district; this project will consume 280sf, leaving 720sf for future expansion.
- Conditions: best management practices will be followed during construction, including installation of a silt fence between the construction site and the slope leading to the wetland.

Bill seconded the motion and it passed unanimously.

The board unanimously voted to recognize Adair Mulligan as "scribe extraordinaire" on a motion by Bill seconded by Mike.

Application #2012-ZB-18, Tom Toner/Richard Jeffrey (Tax Map 407 Lot 106) 153 Pinnacle Road in the Rural District. The applicant proposes to add a 14' x 14' (192sf) screened porch with open deck above to the existing building. The addition will exceed the maximum allowed footprint, exceed the maximum lot coverage, and is within the road setback and within the Shoreland Conservation District. The applicant requests special exceptions under sections 8.23, 8.24, and 8.25. The lot is a very small lot with a small strip of agricultural soils approximately 25 feet wide along the road. The proposed location of the deck is not within this strip. The building, which was the Whipple Schoolhouse, was built in 1912, long before zoning, and therefore has a 200 foot building zone around it.

Rob noted that a four-member board was present to hear the application, and Tom Toner accepted this. Tom explained that at the rear of the old schoolhouse, there is a 5'x4' privy at one corner, and the owners want to fill in the other rear corner of the building. The brook that runs behind the schoolhouse is off the property. David advised relying on the on-the-ground measurements that accompany the application, rather than the tax card. Rob asked about use of the building. Tom said it had been in the family since the 1950s and was used as a vacation home. The family wants to visit in winter. Walter Swift sent in a question to David, whether there has been a change in use from the schoolhouse. David said that he consulted the minutes of August 22, 1994, when a decision was made on this property, but could not find them. He noted that the secretary of the board on that date was Walter Swift. Adair referred to a recent publication by the Lyme Historians about historic schoolhouses in Lyme, and reported that the building had been sold by the school board in 1948 to become a private home.

David continued that on February 6, 1990 the ZBA denied a request to convert the building from a seasonal to a full-time residence. Bill expressed concern about not being able to make this conversion. David noted that the ZBA had relied on sections 4.23, which was later eliminated from the ordinance, and section 4.63, governing the Shoreland Conservation District.

Rob asked about parking, noting its relevance to section 10.40. Tom said that the family uses a small area in front of the building and plans on bringing in fill to create a small parking area to the right side. Alan asked if there is a floodplain associated with the brook. David said that the FEMA map does not show one.

Deliberations: Mike said the project seems innocuous and in keeping with the intent of the Zoning Ordinance. Rob noted that it is an unusual lot, and that any increase in intensity of use or size would be of concern. Bill said that the proposed screened porch is not year-round living space, and agreed that any increase in year-round living space would lead to septic and parking questions. Alan Groatorex moved to grant special exceptions under sections 8.23, 8.24, and 8.25 to build a screened porch with an open deck above, at 153 Pinnacle Road in the Rural District, with the following findings of fact:

- The proposed use is a screened in porch with deck above.
- The project does expand within the road, side, and rear setbacks but in the most innocuous direction possible, so it meets the criteria of section 8.23 (expansion of existing conforming structures within or into the road, side, or rear setbacks), namely
- The proposed porch cannot be reasonably located outside the setback area
- The lot coverage expansion is 196sf, less than the allowable 1000sf
- The building was built before the adoption of zoning in 1989, qualifying it for this allowance
- The expansion of 196sf leaves a remainder of 804sf for future expansion
- A July 3 letter from the Conservation Commission states that the Commission anticipates no substantial impacts on the adjacent wetland and has no reservations about the proposed construction relative to the Shoreland Conservation District
- The board finds that the proposal meets the criteria of section 8.24 (expansion of existing structures within or into the conservation districts) and will not violate the objective of the conservation district and meets the requirements of the Shoreland Protection Act, if applicable
- The porch cannot reasonably be located outside the Shoreland Conservation District
- The project will not cause an increase in septic loading
- All expansion in a flood-prone district is in accordance with the Floodplain Development Ordinance
- The project meets the criteria for section 8.25, expansion of existing structures where the maximum building footprint and/or lot coverage exceeds or would exceed the percentage limitations in Table 5.1)
- The existing house is 616sf with a 160sf shed for a total lot coverage of 776sf.
- The maximum building footprint is allowed to be 2% of the usable lot area, or 136.66sf.
- The maximum lot coverage is allowed to be 12% of the usable lot area, or 819.96sf.
- The allowable increase in lot coverage is 1000sf because the building was built before adoption of zoning.
- The porch deck will exceed the maximum allowable lot coverage by 153sf.
- The porch deck will cause the building to exceed the maximum allowable building footprint by 835sf.
- There is parking off the road in front of the building, and the owner plans to add additional parking on the uphill side of the building.

- Conditions: runoff from the roof will be channeled by gutters or curtain drain installed to facilitate immediate infiltration rather than surface sheeting and erosion. Best management practices will be followed during construction which includes, but is not limited to, installation of silt fence between the construction site and the adjacent wetland. The fence should be installed with preservation of on-site vegetation in mind. Any change to the porch requires further review.

Bill seconded the motion and it passed unanimously.

Application #2011-ZB-103, Loch Lyme Lodge (Tax Map 408 Lot 19) 59 Orford Road in the Rural District. This is a continuance of the hearing to construct a new dwelling and accessory structure on lot 19, Tax map 408. David reported that the applicants were unable to meet with the Conservation Commission because the Commission did not hold a meeting. Alan recommended going ahead with the original proposal with the original advice from the Commission. Mike moved to continue this hearing to August 16, at the request of the applicant.

David observed that the Lyme Heritage Commission was not consulted in the Toner/Jeffrey application, even though the building in question is an historic schoolhouse, because there is currently no reference in the Zoning Ordinance to the Heritage Commission and no method laid out for requesting its input. He wants to be sure the Heritage Commission has standing. Bill agreed that the Heritage Commission should have similar standing to the Conservation Commission and receive clear direction from the Planning Board on what is expected. Rob noted that the board can hear information from any outside body. Discussion commenced on how to amend the ordinance to include the Heritage Commission. Adair, who is an appointed member of the Lyme Heritage Commission, suggested consulting the language of the 2011 town meeting vote that established the Commission. Bill recommended that the Heritage Commission draft proposed language and formally bring it to the Planning Board. Alternatively, the Heritage Commission and others could bring an ordinance amendment to town meeting by petition, rather than wait for the Planning Board to take up the question on its own initiative.

David continued that the Planning Board wishes advice from the ZBA on ways to avoid commonplace problems and suggestions for changes in the ordinance, such as sheds in setbacks. David has started a list. Rob asked him to bring ideas to the next meeting.

Meeting adjourned 9:05 pm
Respectfully submitted,
Adair Mulligan, Recorder