

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – June 20, 2013

Board Members: Present - Frank Bowles, Rob Titus, Walter Swift, Alan Greateorex,
Absent: Bill Malcolm

Alternate Members: Present- Michael Woodard, Dan Brand

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

Public: Wayne Pike, Bret Ryan, Joe Longacre

Rob Titus called the meeting to order at 7:30 pm and designated Dan Brand and Mike Woodard as regular members.

Minutes: Minutes of the March, 2013 meeting were approved on a motion by Rob seconded by Walter.

Frank Bowles arrived to chair the meeting and designated Mike to serve as a regular member.

Elections: Frank was elected chair on a motion by Alan, seconded by Walter. Rob was elected vice-chair on a motion by Mike seconded by Frank.

Application #2013-ZB-19, Wayne Pike (Tax Map 407 Lot 134) 50 Pinnacle Hill Road in the Rural District. Wayne Pike is proposing to remove three existing out buildings totaling 606 square feet and replace them with a 24.5' by 24.5' garage totaling 600 square feet at 50 Pinnacle Hill Road. The lot is a preexisting non-conforming lot with an area of .89 acres. The house was built in 1970 and the out buildings were built /added between 1979 and 1997. The total current lot coverage totals 1775sf. The proposed total lot coverage is 1769sf.

The property slopes from the road towards the rear of the property; the Town GIS data show the slope to be 22%. The out buildings are located on a man-made terrace, below the house, that was created prior to zoning being enacted. The new garage will be placed on the existing terrace. There will be no change to the existing topography. Due to the physical restrictions of the lot, in order to keep the new garage from being built on steep slope, the new garage will need to be placed within the 75' road and property line setbacks. The setback and intrusion into the Steep Slopes and the Conservation District issues require special exceptions under section 8.20 of the zoning ordinance.

Wayne pointed out that the outbuildings on his father's former property were chicken houses. The new garage will probably be 24x24, at least 50 feet from the front line, and no closer to the side property line than the current buildings. There will be no excavation; the garage will be put on a 6" slab.

Deliberations: Alan saw no reason not to approve as a special exception and that it is an improvement in nonconformity. He moved to grant a special exception under section 8.20 to allow the erection of a garage on a non-conforming lot, replacing three outbuildings. Findings of fact:

- The new structure will be at least as far from the side as the nearest current accessory structure
- Testimony has been received that the building will be at least 50 feet from the road
- There is no other reasonable location for the garage
- The Planning Board sent a letter indicating no objection
- Conditions of 10.40 are met
- Condition: best management practices for construction and erosion control will be used, given the steep bank on the west side.

Mike seconded the motion and it passed unanimously.

The board then had 20 minutes to wait until the next scheduled hearing, and discussed modifying the way meeting times are warned. They decided that warning one time and then moving straight through would do a disservice to later applicants and those bringing hired consultants.

David noted that a joint meeting with the Planning Board is to be scheduled, and will be warned. Frank advised identifying ambiguities in the ordinance in advance for more efficient discussion, and that the meeting occur before another public hearing on the master plan.

Application #2013-ZB-32, Bret Ryan (Tax Map 402 Lot 91) 123 River Road in the Rural District. Brett Ryan has proposed to replace the existing 774 sq/ft mobile home and the existing 360sq/ft garage with new structures on his property. Bret said he is replacing the trailer with a house that is of more use to his mother. The proposed new residence will be 32' X 42' (1344 sf) and the new garage will be 24' X 28' (672 sf) with a 6' X 12' (72 sf) handicap ramp between the two structures. The lot is 15745 sf in size (.36 acres), 12783 sf are in the Flood Prone Zoning District. The lot is only 100 feet deep at its maximum depth, therefore the entire lot is within a setback area.

The new structures will require special exceptions under 8.22 (Expansion of non-conforming structures), 8.24 (Expansion of existing structure into a Conservation District), and 8.25 (Expansion of existing structure exceeding building footprint and lot coverage). Both of the new structures would be in the FEMA designated flood plain and would need to meet the requirements of the Lyme Flood Plain Ordinance. The current buildings have been certified as being high enough to be considered out of the Flood Zone. The new buildings would need to maintain the elevation in order to stay out of the Flood Zone. The new structures will need to be certified by a surveyor that they are in fact above the Flood Zone.

Bret said that the property had a three bedroom state-approved septic plan but he will replace the entire system. There is no failure issue. David noted that the state requires a new design for an expansion. Bret said his mother lives there now, year-round. Both structures were in place before zoning and are separate, about 10 feet apart. Bret wants to build an enclosed, heated connector ramp between the new house and garage to allow handicapped access from the garage in poor weather and to allow utilities in the garage to serve the house. The trailer has a full basement and he wants to retain as much of it as possible. There are no utilities in the basement. The house will have two stories. Mike noted that the garage will be further from the property line than the current structure, which is right on the line. Bret said the pin marking the property line is halfway up the steep bank behind the house.

David noted that the property is outside the Shoreland Conservation District, so the conservation commission was not consulted. Joe Longacre, an abutter, said he believes the project will be an improvement and help the tax base of the town.

Deliberations: Walter said he saw no need for a variance, and others agreed. There are now two separate buildings, but no change in use when the footprint is expanded and a single building is created with the connector. This adds 954sf to the residence, which is under the limit of 1000sf allowable in the flood prone area.

Out of deliberations: Discussion ensued about whether the new basement would be considered living space that needed to be above the 100 year floodplain. Mike noted that to get a building permit, David will have to be satisfied that the project will be approved by FEMA. Bret said if this is not possible, he will keep the existing basement. David explained that if FEMA will not allow that either, he cannot issue a permit. The board indicated that David and FEMA are the appropriate decision makers for the status of the basement.

Deliberations: Alan asked if a primary structure could be expanded beyond 1000sf. Frank noted that section 10.62 will accommodate a handicapped resident. The board discussed whether the enclosed connector ramp would have to be removed after the handicapped resident was no longer living there, and decided not to invoke that requirement clause since this would provide more accessible housing in Lyme. Walter added that the 2088 sf is an increase of 1314sf, which exceeds the 1000sf expansion limitation, but which does not recognize that the garage will be torn down. This is additional justification for the 10.62 waiver. Rob noted that he would have appreciated more information than the sketch provided. All agreed. Walter said that in some cases, the applicant should be asked to come back when more information can be provided.

Alan moved to grant a special exception under sections 8.22, 8.24, and 8.25 to allow the replacement of the existing trailer and garage with a single new structure consisting of a home, garage, and structural connector. Findings of fact include:

- the lot is small and tight

- the septic system will be replaced
- the connector ramp will be heated and provide access to utilities
- all floors will be certified to be above the 100 year floodplain and the project will need to meet FEMA regulations
- the total allowable increase in square footage and lot coverage is 1000sf
- because a 360sf garage will be removed, the amount of expansion is reduced to 954sf.
- Testimony has been received that the structural connector is to accommodate a handicapped individual
- Because converting the accessory structure to a primary structure will result in a single structure, the board grants a waiver to the dimensional limits under section 10.62, and has the authority to grant without a finding of hardship
- The board chooses not to put a time limit on this waiver.
- The entire lot is within the property line setback.
- An abutter has testified in favor of the project
- Conditions of 10.40 are met.
- Conditions: best construction practices will be followed, especially with respect to care of any wetlands that may be on the property, and that all conditions necessary for FEMA compliance will be in place to the satisfaction of the Zoning Administrator.

Rob seconded the motion and it passed unanimously.

Meeting adjourned 8:50 pm

Respectfully submitted,

Adair Mulligan, Recorder