

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – October 16, 2014

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

Alternate Members: Present- Michael Woodard
Absent - Dan Brand

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

Public: Jake Cooke, Joan Cooke, Priscilla LaMott, Tim Olsen, Karl Griswold, Sara Zahendra, Julia Elder, Don Elder

Rob Titus called the meeting to order at 7:30 pm and explained that a minimum quorum was present. He offered each applicant the opportunity to postpone his/her hearing, and all declined, preferring to go ahead. Rob appointed Mike Woodard to serve as a regular member.

Minutes: Minutes of the August 21, 2014 meeting were approved with a formatting change on a motion by Walter seconded by Mike.

Application #2014-ZB-84, Tim Olsen on behalf of Jean Cooke (Tax Map 201 Lot 125) 13 High Street in the Lyme Common and Rural Districts.

Tim Olsen has applied on behalf of Jean Cooke for a Special Exception under section 8.23 of the Lyme Zoning Ordinance and/or a variance to construct a 24' x 24' garage on her property. The lot is split by the Lyme Common and Rural Zoning Districts. The house and the proposed new garage are located entirely in the Lyme Common District. The proposed location is partially within the road and property line setback areas. The average road setback is 160 feet based on the five closest buildings on the same side of the street as required in section 5.13 C.

The proposed garage will be 576 sf, of which only 150 sf will fall within the setback area. The closest point of the garage to the property line is 15 feet. Abutter Priscilla LaMott said she was concerned about loss of screening by trees that had died. Tim explained the choice of location off the south side of the house, to avoid interfering with an existing 10' x 16' storage shed. The leach field is located on the north side, precluding setting the garage there. Attaching the garage would add to expense. David Robbins noted that attaching the garage would result in expansion of the footprint limit beyond the limit. He reported that the file for the property could not be found even after a careful search. There is no record of a building permit for the house that replaced a trailer on the lot. The current primary structure was built in 1994. It is a replacement for a mobile home that was placed on the lot in 1986. He consulted the tax cards, which showed a 14' x 66' trailer on the site through 1994, and a 28' x 48' house on the lot beginning in 1995.

Deliberations: Rob noted that the primary structure did not exist before adoption of zoning in 1989, but a previous structure did. Mike observed that the trailer was 924sf and the current house is 1344sf, resulting in an increase in lot coverage. Rob recommended a variance, since section 8.23 does not apply. Walter moved to grant a variance to allow construction of a garage of the proposed size and location at 13 High Street with the following findings of fact:

- The location of abutting structures and leach field on the property mean that it is impractical to locate the garage behind the house. The proposed location is as far out of the front setback as possible. Because of the narrowness of the lot, it is not possible to locate the garage outside of the side setback.
- Connecting the garage to the house would result in an increase in lot coverage or footprint that would exceed the allowable limit.
- Although the primary structure was not in place in 1989, a primary structure that served as a full-time residence was in place. The project would qualify for a Special Exception if it were not for the strict wording of the ordinance.
- Any further project requests that would otherwise require a Special Exception under Section 8 for this property will require a variance unless records are found that the current primary structure was a continuation of the previous, pre-zoning structure on the property.
- The project meets the criteria for a variance:
 - There is no indication that the project will affect area property values in any way

- It is in the public interest to provide such structures for winter protection
 - It is the intent of the ordinance to permit incremental changes when lot size and setbacks restrict activity. The applicant has done an excellent job of identifying the least impacting location for the garage.
 - Substantial justice will be done. The ordinance might have permitted this project with a Special Exception.
 - If the ordinance could not be interpreted to permit this project by variance, it would eliminate the possibility of garages in many places in town.
- Conditions: best practices for construction will be used.

Mike seconded the motion and it passed unanimously.

Application #2014-ZB-91, Karl Griswold (Tax Map 409 Lot 34) 201 Dorchester Road in the Rural District.

Karl Griswold is applying for special exceptions under sections 8.22, 8.24 and 8.25 to build a partially covered deck at the rear of his house. The entire deck (covered and uncovered) will be 396 sf; the covered portion will be 132 sf. The lot is a non-conforming lot just over an acre in size. The house was built in 1960 before zoning. The GIS data show that almost the entire property is in either wetlands or the wetlands buffer and within the Flood Prone Area Conservation District. The proposed construction is within the 75 foot road setback, in the Wetland Conservation District, in the Flood Prone Area Conservation District and exceeds the maximum footprint and the maximum lot coverage. Only the covered portion of the deck is counted as footprint.

Karl said he would like to build a cedar wood deck on pressure treated posts, located on the back of his house as far out of the neighbors' view as possible. A small portion (11' x 12') will be screened and covered with an extension of the house roof. Julia and Don Elder, owners of the abutting garden lot and neighbors across the road, offered no objection and attended to help answer questions. David noted that there were no prior ZBA actions on the property. He added that because the porch is not considered living space, it is not affected by the Floodplain Ordinance. The project will result in an increase in lot coverage, and the house is already beyond current limitations. Rob noted that the Conservation Commission had visited the property and offered no objection.

Deliberations: Walter recalled a previous decision regarding a similar project and asked David to research it. No information was found. Rob offered that the applicant should not be penalized for the lack of information. Walter moved to grant Special Exceptions under sections 8.22, 8.24, and 8.25 to permit the addition of a partially covered deck on the existing residence at 201 Dorchester Road, with the following findings of fact:

- The proposed expansion has two parts: two open deck sections totaling 264sf, and one covered deck with a roof totaling 132sf. The total footprint addition is 264sf and the total lot coverage addition is 396sf.
- The house is a non-conforming structure built before the adoption of zoning, in the front road setback and Wetland Conservation District.
- The expansion exceeds the allowable footprint and lot coverage based on lot size.
- Expansion of up to 1000sf is allowed in the Rural District, and the proposed expansion is below this limit.
- A maximum of 604sf remains for allowable future expansion for lot coverage.
- A maximum of 868sf remains for allowable future expansion for footprint.
- Abutters were present and offered positive comments.
- The Conservation Commission offered no objection.
- The project meets the conditions of section 10.40.
- Conditions: best construction practices will be used, especially in regard to wetlands.

Mike seconded the motion and it passed unanimously.

Application #2014-ZB-94 - James Jenks (Tax Map 410 Lot 31), 15 Clafin Lane in the Rural District.

Jim Jenks has applied for a Special Exception under section 5.13 E.3 to install a replacement septic system on his property. The proposed location of the replacement system will fall inside the 75' road setback area. In Jim's absence, David explained the project. The Jenkses are planning to sell their home and need to replace their undersized leach field. Soil constraints and the location of the well radius narrow the opportunities for placement. The site selected is the only buildable location without going a long distance from the house. The field will be further from the existing small pond (less than one acre) than previously. The tanks will not be replaced.

Deliberations: Walter moved to grant a Special Exception under section 5.13.E.3 to permit the construction of a replacement leach field on the Jenks property at 15 Clafin Lane, with the following findings of fact:

- The leach field is a replacement system to provide sufficient capacity to serve the existing home.
- The design was prepared by Harry Burgess in September, 2014
- The applicant has demonstrated that the proposed location is the only reasonable one on the lot.
- The location meets the minimum distance from the well.
- The proposed location is within the property line setback, which is allowable under section 5.13.E.3 .
- The application meets the requirements of section 10.40.
- Conditions: Best practices will be used in construction. The design must be approved by the State of NH, provided that such approval results in no substantial change in design or location that would impact the requirements of the zoning ordinance.

Mike seconded the motion and it passed unanimously.

Meeting adjourned 8:44 pm
Respectfully submitted,
Adair Mulligan, Recorder