

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – November 20, 2014 and
Continuation, November 22, 2014

Board Members: Present - Frank Bowles, Bill Malcolm, Alan Greatorex, Walter Swift

Absent - Rob Titus

Alternate Members: Present- Michael Woodard (November 20)

Absent - Dan Brand

Staff: David Robbins, Zoning Administrator; Adair Mulligan, recorder (November 20)

Public: Kathy Perkins

Frank Bowles called the meeting to order at 7:30 pm. He appointed Mike Woodard to serve as a regular member.

Minutes: Minutes of the October 16, 2014 meeting were approved with corrections on a motion by Mike seconded by Walter.

Application #2014-ZB-97, Kathy Perkins (Tax Map 409 Lot 67) 68 Isaac Perkins Road in the Rural District.

Kathy Perkins has applied for a special exception under section 8.23 to build a 24' x 42' storage shed on her property. According to David's calculations, 570sf of the shed would be within the road setback area. Kathy explained she wished to cover equipment such as an excavator, horse trailer, and truck that are now parked in her yard. Asked if the shed could be moved out of the setback, Kathy explained that it would require cutting trees or placing the shed on her lawn. She confirmed for Mike that this is the site where Herb Perkins butchered his pigs and made cider, but no foundations remain.

Bill asked about the width of the road. Kathy did not know. Bill asked if right of way information is available. David said he does not have it, and that the diagram lines shown on the aerial photo of the property to indicate the road setback are based on the tax map. He added that he uses a figure of 25 feet from the center line if road width is not known. The road setback is 75 feet in this district. Bill pointed out that some stone walls nearby are closer, and that if the road is a conventional two-rod-wide road (33 feet), it would be narrower than David's default measurement. Bill, who lives at the other end of this road, observed that Isaac Perkins Road is a two rod road for most of its distance. He added that the bank is steeper closer to the Baker Hill Road intersection, which would make access to the shed more difficult if it were moved there. Alan noted that the proposed shed dimensions are 27' x 42', not 27' x 32' as indicated on the diagram. Kathy confirmed that she wishes to build the shed where it is indicated on the diagram, noting that the road used to go straight through this area toward Scarlett Dube's property, rather than making a sharp turn as it does now.

Deliberations: Mike observed that data are important here. He surmised that the road is probably two rods wide and recalled that there had previously been a structure on this site. He said that most buildings on the property were built well before zoning was enacted. Bill and Alan expressed their belief that the shed is in the setback but less than shown on the diagram. Frank asked whether, given traditional uses of the property, the desire to improve the appearance of the property by covering vehicles, and the need to retain trees for shade, the application meets the conditions for a special exception. Bill said he thought the shed could not be reasonably located outside the setback area, and reminded that the proposed area is less than the 1000sf of intrusion allowed. Alan agreed, given the testimony. Walter said he is not familiar with the site and would like to see it. The board agreed that a site visit would be productive.

Out of Deliberations: Michael moved to continue the hearing to Saturday, November 22 at 9:00am at 68 Isaac Perkins Road. Walter seconded the motion and it passed unanimously.

Meeting adjourned 8:07 pm

Respectfully submitted,

Adair Mulligan, Recorder

Meeting continuation, 9:00, Saturday, November 22, 2014 at 68 Perkins Rd.

Members: Frank Bowles, Bill Malcolm, Alan Greatorex, Walter Swift

Absent: Rob Titus

Alternate Members Absent: Dan Brand, Michael Woodard

Staff: David Robbins, Zoning Administrator

Public: Kathy Perkins

Frank called the meeting to order at 9:05. Frank, Allan and Bill measured from the centerline of Isaac Perkins Road and determined that all of the proposed structure would be within the road setback. The board examined the area of the proposed structure and it was noted that it is already a prepared parking area bounded by heavy stones and some foundation stones. Kathy confirmed that the area was formerly the site of Herb Perkins' shed.

Kathy invited the board into her house to continue discussions.

Deliberation: it was noted that there is a relatively level area to the right of the proposed site of the shed, but given that the shed is to be used for storage of heavy equipment moving the shed to this location would require adding a great deal of fill, cutting several trees and then significantly expanding the turn-around area in front of the barn by removing lawn and replacing it with gravel. Bill Malcolm read out the criteria for granting a special exception and it was noted that the proposed construction appears to meet them. During this part of the discussion Allan noted that a great many of the structures on Isaac Perkins road are in the setback area. He also noted that the proposed shed would have a footprint of 1134 sq. ft., which is over the 1000 sq.ft. allowed under zoning. He also noted, however, that given the shape of the road, some of the far end of the structure might be out of the setback. Walter noted that he felt a variance was more appropriate than a special exception in this case given the unique characteristics of the property and the hardship involved in creating turn around area for the heavy equipment to be located in the shed. He proposed the following motion:

A variance is granted by the Lyme Zoning Board of Adjustment in order for the applicant to build a 24' X 42' storage shed within the Road Setback Area. The Board has found that:

The surrounding property values would not diminish because the new shed will be keeping with the character of the neighborhood as several buildings along Isaac Perkins Road are within the Road Setback Area and it will be visible from only a small number of properties.

It is in the public interest to store heavy machinery under cover, outside of the view of the public. The new building will be in harmony with the surrounding structures.

The spirit and the intent of the ordinance are protected, by allowing the building in the Road Setback the adjacent Agricultural Soils will preserved.

The provisions in the ordinance are in conflict on this issue; both the Road Setback Area and Agricultural Soils are protected from development. Substantial justice was done by allowing the applicant to re-use an area that is currently developed as a parking area instead of requiring the development to be done on Agricultural Soils.

Denial of the variance would create hardship because an expanded turn-around area would have to be created, requiring a road base that would be able to support heavy machinery.

Findings of Fact:

- The entire building will be located within the road setback.
- The site formerly had a building located on it.
- The proposed location has an already prepared base and is currently used for parking and will require no new disturbance.

- The proposed building will be used to store equipment.
- Moving the location would require trees to be cut and additional driveway and turn around areas to be created to provide access, leading to an increase in the overall disturbance on the site.
- The proposed location would result in no new disturbance.
- Moving the location outside of the road setback will necessitate building on Agricultural Soils.
- Many buildings along Isaac Perkins Road, built prior to the enactment of Zoning are within the Road Setback Area.

Conditions:

- No further construction will be allowed within the setback areas. (Road and Property Line)
- Best Management Practices will be used.

Frank called for a vote and the motion passed unanimously.

The meeting adjourned at 9:34 am.