

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – April 15, 2015

Board Members: Present - Frank Bowles, Rob Titus, Walter Swift, Alan Greatorex

Absent - Bill Malcolm

Alternate Members: Present- Michael Woodard, Dan Brand

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

Public: David Roby, Stuart White, Rich Brown, Michael Bruss, Bobbie Hantz, Brian Pratt, Robin Taylor, Thomas Morrissey, Freda Swan, Tim Cook, Charlotte Furstenberg, Barbara Woodard, Roy Tilsley, Meg Russell, Michael O'Donnell, John Quinby, Rich Bradley, Pete McGowan

Chairman Frank Bowles called the meeting to order at 7:30 pm.

Application #2015-ZB-06, Pinnacle Project, LLC (Tax Map 408 Lot 22.1) 70 Orford Road in the Rural District.

CLD Consulting Engineers, on behalf of their client, Pinnacle Project LLC, has applied to the Lyme Zoning Board of Adjustment for a combination of variances and special exceptions to allow the Pinnacle Project to construct a 36-unit, 87-bedroom multi-family housing development.

Frank appointed Michael Woodard to serve as a regular member for the Pinnacle Project case, but asked both alternates to participate in deliberations. The board voted to continue the hearing (at its conclusion) to Thursday April 23 at 3pm at the site, on a motion by Frank seconded by Mike. The site visit will be open to the public and the Conservation Commission will be invited. Frank asked that the applicant be prepared to discuss the visual impact on site. The subsequent hearing, originally set for April 29, was rescheduled to Wednesday, May 6 at 7:30 pm, on a motion by Frank seconded by Mike. Frank expects to enter deliberations at the May 6 meeting and asked Bobbie Hantz to select the alternative they want to pursue. He asked David Robbins to send the draft minutes to her. Rich Brown asked permission to record the meeting, which was granted. Bobbie will make the You-Tube link available.

Walter Swift asked for a summary of the Variances and Special Exceptions requested. Bobbie said that Option A is

- Variance from 4.46A and 4.46G, the 5-year waiting period for conversion into six units. Under the lot size averaging analysis, they believe that six units are possible, which leads to the 36 units requested, which would be built in phases.
- Variance from section 5.14B, to permit the building of over 7000sf if the connected bridges are considered part of the structures (which Frank confirmed they are.)

Option B is

- Variance from Table 4.1 to allow co-housing in the Rural District
- Variance from section 5.15C to exceed 26,000 sf maximum on one large lot.

Bobbie said she would wait to explain the Special Exceptions until the Conservation Commission's response is received. Frank asked if the Pinnacle Project proponents wished to provide any further information. Bobbie noted the information she has provided on the fiscal impact of mixed housing on town revenues and services in Tab 15. Tab 16 includes case law on workforce housing. Tab 17 is a summary of requests. The response from Upper Valley Lake Sunapee Regional Planning Commission was noted.

Frank invited questions from the board. Rob Titus asked about the ownership structure. Rich Brown said that the Pinnacle Project, LLC is the overall owner, and that members are also shareholders. Loch Lyme Lodge, Inc. owns the land. There is a separate LLC for the lodge to allow it to employ staff. To purchase a unit at the Pinnacle Project, one would have to become a member, and like a condominium, an owner can re-sell at the market rate. Rich conceded that the entire structure of ownership is not yet in place. Walter asked whether the owner would have free ownership of the property. Rich said that some may be rented but he is not yet sure.

Walter asked if some sort of "blackball" test, such as described on the Pinnacle Project's website, would need to be passed to purchase a unit. Bobbie said that they anticipate a participation model, in which membership is required to contribute to

the community. This structure needs to be set up and has not yet been done relative to the workforce housing element. Walter asked if restrictions can be imposed on workforce housing applicants. Frank noted that if part of the point is to permit aging in place, some members eventually may not be able to help out and occupants may end up relying too much on the workforce people. Rich observed that this is why they decided not to become a senior community and wanted to bring families in. Bobbie pointed out that there will be turnover, and this is not a continuing care retirement community. Michael Bruss said that occupants would vote each year how to manage the place and may assess members for some services like plowing. Bobbie added that workforce occupants would not be assessed. Dan Brand suggested that limits on rental terms would be needed, since weekly rentals of property so close to Post Pond would be desirable for vacationers. Walter asked whether ownership could be limited to preclude sublets or rentals. Bobbie said that they could not prohibit an owner from renting but could avoid seasonal rentals. This would be the same as any other unit in town. She reminded about the uniqueness of the property. Rob advised that the LLC identify the basic operating structure. He asked what feasibility studies have been done. Rich said they are working with David Pride and Doug Kennedy on a market study. Bobbie noted that it is premature to invest in detailed studies before they know they can proceed. Rich said that a marketing study is in hand and they are looking at how "green" they can build. He said that construction costs are known well enough so they want to go ahead. They will look to members to buy units in advance, in a phased approach, and then go to the bank for financing. Michael Bruss added that the costs will be \$150-175/square foot, not including site work. Not all numbers are in so these figures are not final. Rob said that the board needs assurance of financial viability. Bobbie said this could be fleshed out.

Frank asked how the project would guarantee that the workforce housing would get built. Bobbie said that this could be a requirement. The workforce financial numbers and availability are set by the state on a county by county basis. Frank asked how they know Lyme does not already meet the workforce housing requirements. Bobbie said the state considers availability and opportunity. Rob reminded that the plan is to build workforce housing in the last phase and asked what assurance there would be that it would be built. Bobbie repeated that the board can insist on this as a condition of approval. Rob asked what sanction there would be if it is not done. Mike Woodard said the permit could be pulled as with a hotel. Bobbie reminded that a residential use is being sought.

Frank asked whether the project would be a net cost to the town, a net gain, or neutral, given the change in property value and the probable number of school children occupants. Bobbie said that some analysis has been done but the cost analysis is not yet complete. This will be put together. Frank said that the board needs to know this by phase. Walter asked if the LLC is non-profit. Rich said it is not. Bobbie clarified that a non-profit entity will have to be created to hold the workforce housing part for rentals. It will not be needed for owned units. She observed that if costs go up, she is not sure what will happen, and the state is still debating on that.

Brian Pratt said that site plan review by the Planning Board is needed, and also lot size averaging if Option B is used. David Robbins said that the lot is subdivided so the Planning Board decision on five lots is null. Bobbie said she is confident the project meets the test. Frank asked, if the Planning Board does not approve it, will relief be sought in the court or with the ZBA. David added that he believes the applicant is using lot size averaging incorrectly. Bobbie reiterated that there is a benefit to clustering.

Alan Greator asked about the road safety study requested by the regional planning commission. Dan Brand noted he is vice chair of the Transportation Committee for the commission and that there have been concerns there for some time that an audit is needed of this section of Route 10. He is not sure how long such a study would take. Alan asked if it is truly necessary to go all the way to Whipple Hill Road. Mike noted that the state has been negligent and unresponsive to concerns expressed about this road. Rich said he has talked to the state and officials have told him that they would consider a push button with a flashing light. Alan asked about the driveway and whether it is an internal road and should be considered part of lot coverage. David said that a driveway can serve no more than two lots. Frank said it must be a roadway. David said that it would then need to be built to specifications in the subdivision regulations. Bobbie said it will be a private roadway. Alan noted that Route 10 is a Scenic Byway designated by both the State of New Hampshire and the Federal Highway Administration, and asked what effect this designation might have. Bobbie will look into that. Rob asked how much time is needed for research. Bobbie estimated two weeks and will send findings before the next meeting.

Frank then invited public comment, after introducing members of the board and staff. Roy Tilsley introduced himself as an attorney acting on behalf of Post Pond Lane residents. He said that he would send comment before the next meeting. David Roby observed that much material has been made available to the board, and asked if it will be made publicly available. David Robbins said that he will forward digital copies. David Roby continued that a variance is being requested to build a 36 unit multifamily development, exempted from the time requirement. He said that the drafters of the zoning ordinance looked at Lyme Common and the expected need for eventual repurposing of large structures there. He said that the current proposal is no different from saying that a vacant lot can become a six-unit apartment building, and that there will be many developers who want multiple unit buildings. David concluded that the best way to proceed would be to amend the zoning ordinance. He asked where the hardship exists, noting that 60% of the lot is undevelopable and too steep.

Rich Bradley asked about the peak height above the trees. Alan said that the maximum peak should not be more than 35 feet above the average grade at the structure's base. Rich expressed concern about a potential view of 130,000sf of structure from the Post Pond beach, and reiterated his concern about Route 10 as a dangerous road. He agreed with David Roby about subdivision and size. He said that the project would alter the nature of the town and that there are too many unknowns. He warned that the units could be used as rentals by families moving in to access the school system. He believes that there is low-cost housing in Lyme and does not think that the real estate market could sustain this project. He asked if the project is a profit-making opportunity, adding that if co-housing is a good idea, there would be more existing examples. He said that most of the project's proponents are not from Lyme. Dan Brand noted that Peterborough NH has a co-housing development, described at Peterboroughcohousing.org.

Tom Morrissey said he considers the project to be large in scale, and compared it to a Walmart on Post Pond with 87 bedrooms. He noted that the Lyme Inn has about a dozen rooms, the Norwich Inn 16, and 20 at Dowd's Inn. The scale of this project, he said, is similar to the Hanover Inn, and he believes it is an attempt to game the zoning ordinance. He said there is no reason to exempt the project from the five-year wait. He said that the Pinnacle group is trying to lease Loch Lyme Lodge cabins for ten-year periods, encouraging renters to insulate the cabins. In summer, the lodge has a capacity of 90; added to the Pinnacle population, this would be a large number, present on site all the time. He expressed concern about the noise of construction and the traffic. He believes the co-housing idea is nice, but that the project attempts to put a square peg in a round hole, and is not compatible with the spirit of the ordinance. Currently, Loch Lyme Lodge is open for only about two months per year, and is otherwise quiet. He has viewed the zoning ordinance as protection against this kind of project.

Michael O'Donnell asked how the corner on Route 10 can be considered safe now, if two cars pass near a pedestrian.

Frank noted that the board would be open to emailed comments that would become part of the record. He asked board members to review the case law before the next meeting. David Robbins will contact the Conservation Commission.

Meeting adjourned 9:25pm
Respectfully submitted,
Adair Mulligan, Recorder