

Town of Lyme
LYME ZONING BOARD OF ADJUSTMENT
Minutes – July 16, 2015

Board Members: Present - Bill Malcolm, Walter Swift

Absent: Frank Bowles, Rob Titus, Alan Greator

Alternate Members: Present- Dan Brand

Absent: Michael Woodard

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

Public: Vicki Smith

Bill Malcolm was elected acting chair on a motion by Walter Swift seconded by Dan Brand. Bill called the meeting to order at 7:30 pm and appointed Dan Brand to sit as a regular member. Approval of the minutes of the meeting of June 18 was postponed until the next regular meeting. Bill asked Vicki Smith if she is willing to accept a three-person board's decision, which she did.

Application #2015-ZB-38, Vicki Smith (Tax Map 201 Lot 19) 26 Market Street in the Lyme Common District.

Vicki Smith described needed improvements at the property she has just purchased on Market Street. She is attempting to reduce intrusion into the Shoreland Conservation District near Grant Brook and so hopes to remove the paved driveway and relocate it to the other side of the small lot. The lot is in the Lyme Common District which requires calculation of the front setback based on the five closest buildings, which she determined to be 150 feet, meaning that her entire lot and part of the lot behind hers are within the front setback. She noted that the previous owner built a small deck without a permit and disclosed this only upon the day of the sale. She needs to replace an inadequate leach pipe with a leach field and has a design that will be built entirely on her property, although she has a septic easement on the abutting parcel.

David reported that abutter Andy Stadheim had called with concern about the location of the septic vent pipe, which could be within his view. Vicki said that her Presby system design calls for a low vent and there are camouflage options such as a granite post or bird bath that she will offer to the neighbors. David said he called the septic designer who said that the vent could be put anywhere on the system and doesn't need to be shown on the plan, as long as it is correctly installed. He recommended setting a condition that the applicant consult the Stadheims about the location of the vent pipe.

Deliberations: Walter reviewed his draft motion (which follows) and was commended by his colleagues. He in turn said that the drafting was made easy due to the quality of the application.

Walter moved to grant a special exception under § 4.63.B.4 and §8.24 to remove 475 sq. ft. of paved driveway, install perimeter drains and re-grade around the house, all within the Shoreland Conservation District of Grant Brook;

He also moved to grant a special exception under § 5.13.E.3 to install a replacement leach field within the property front and rear setbacks.

He further moved to grant a variance to the limitations of lot coverage defined in Table 5.1 and §8.22 of the Ordinance, to permit the applicant to carry out the proposed improvements as set forth in the application allowing a 2,000 sq. ft. driveway within the front road setback, and 216 sq. ft. for a replacement septic system in the front and rear setbacks, exceeding the requirements and limits of those sections of the Ordinance;

These motions are based on the following findings of fact:

Findings of Fact:

1) The applicant proposes to remove a paved driveway and shed from the Shoreland Conservation District of Grant Brook and the road setback, re-grade and provide drainage away from the house, modify the dwelling slightly, build a garage (572 sq. ft.) and driveway (2,000 sq. ft.) and replace the septic system on the property at 26 Market St. in the Lyme Common

District (Tax Map 201, Lot 19). Details of the proposed modifications are incorporated in the application dated 5/5/15, amended 7/2/15, including property sketches and a narrative of the proposed work, and a septic system plan by Hogg Hill Design, LLC dated 6/26/15.

2) The surveyed lot size is 47,916 sq. ft. Reductions for the conservation district yield a net lot size of 22,073 sq. ft. This results in permitted lot coverage of 2,649 sq. ft. and a maximum building footprint of 1,324 sq. ft.

3) The dwelling and other existing improvements on the lot pre-date the passage of the Ordinance, except for the 132 sq. ft. deck.

4) The calculated front setback is 150' based on neighboring buildings; all existing improvements on the lot lie within the front setback. The dwelling and accessory structures qualify as existing, non-conforming structures with respect to intrusions into the road setback.

5) An existing driveway (475 sq. ft.), shed and about 75% of an existing dwelling with attached deck lie within the Shoreland Conservation District of Grant Brook.

6) The existing grade causes seepage and mold in the basement. Re-grading and drain-lines are intended to divert runoff to Grant Brook.

7) Information submitted with the application shows that the existing lot coverage is 1,899 sq. ft, intrusion into the Shoreland Conservation District is 1,523 sq. ft., intrusion in the front setback is 1,899 sq. ft., and the existing maximum building footprint is 1,292 sq. ft. (132 sq. ft. was added at an unknown time).

8) Plans submitted by the applicant result in the following proposed changes in footprint and lot coverage: a decrease in the maximum building footprint of the dwelling to 1,223 sq. ft. from 1,292 sq. ft., and an increase in lot coverage to 3,927 sq. ft. from 1,899 sq. ft., primarily because of the relocation and reconfiguration of the driveway.

9) The driveway relocation and reconfiguration reduces impervious surface in the Shoreland Conservation District and improves the safety of egress to Market Street. It cannot be located outside the front setback.

10) There are no existing intrusions into the side nor rear setbacks. The applicant proposes to install a leach field in the front and rear setback as shown on the septic plan of 6/26/15. The replacement system has been located so as to meet the requirements for distances from the well and to avoid intrusion into the shoreland conservation district. The net effect of the replacement leach field is an intrusion into the front and rear setback of 216 sq. ft. Section 5.13.E.3. allows replacement septic systems in the property setbacks by special exception, and § 8.22 permits the addition of up to 500 sq. ft. of lot coverage in the property and road setbacks by special exception.

11) Two abutters requested clarification on some details of the proposed changes and offered some suggestions. There was no opposition to the project.

12) The applicant also indicated the desire to potentially add a second floor to the dwelling without an increase in bedrooms. The Board finds that a special exception under §8.24 is not required for this addition because the sewage loading is not increased.

13) The Conservation Commission has reviewed the applicant's plans with respect to changes in the Shoreland Conservation District and supports the proposed changes - they conclude that the modifications will result in a net gain for the buffer area.

14) The Board finds that the increase in lot coverage in the front setback (excluding consideration of the driveways) is 719 sq. ft. (572+216+99-168), and 216 sq. ft. in the rear setback for the replacement septic system, exceeding the allowed increase of 500 sq. ft. under § 8.22. Therefore, relief from this limit must be sought through a variance.

15) The Board finds that the increase in total lot coverage of 2,028 sq. ft. (3,927-1,899) exceeds the total allowed lot coverage permitted in Table 5.1., and that this excess is related to the coverage of the proposed driveway. Therefore, relief from this limit must be sought through a variance.

16) The Board finds that no further increases in Lot Coverage should be permitted.

17) The Board concludes that the provisions of §10.40 have been met.

Variance Criteria:

1. The Board finds that the improvements proposed will not diminish values of surrounding properties. The overall nature of the modifications is to improve safety, reduce disturbance within the shoreland conservation district and to improve the quality of the dwelling and surrounding area.
2. Granting the variance will not be contrary to the public interest. The project reduces impact to the shoreland conservation district and improves safety with respect access to and from the road.
3. The use is not contrary to the spirit and intent of the Ordinance. The additions and modifications are consistent with residential use – in the Common District. Impervious material is removed from the conservation district. Egress safety is improved. These changes are consistent with the objectives of the Ordinance [§ 1.20, (a), (g) and (h)].
4. Substantial justice is done. The modifications rectify unsafe and undesirable features on the property.
5. Denial of the variance would result in substantial hardship to the owner. The property, by virtue of its unique shape, limitations imposed by existing buildings in the front setback, and the extent of the shoreland conservation district, is severely constrained in options for viable use or for improvement. Virtually all buildable area is within either the front setback or the shoreland conservation district. The proposed changes allow substantial improvement in safety and natural features while preserving the residential quality of the property.

Conditions:

- 1) Modifications to the property shall be carried out in accordance with the dimensional information submitted with the application.
- 2) Best Management Practices shall be employed during the modifications.
- 3) State approval of the septic system is required.

Discussion ensued about whether an equitable waiver might be required under section 10.61 to accommodate the deck, since this non-permitted aspect was not disclosed by the former owner until the purchase of the property, but the board decided that the issue was adequately covered by Walter's motion. Bill seconded the motion and it passed unanimously.

The board asked that the Planning Board take up the question of which buildings should be used to determine the front setback in the Lyme Common District: primary buildings, or any building.

Meeting adjourned 8:26pm
Respectfully submitted,
Adair Mulligan, Recorder