

LYME ZONING BOARD OF APPEALS  
PUBLIC HEARING

The Lyme Zoning Board of Appeals held its regular meeting  
on June 15, 2017 at 7:30 p.m.  
at the Lyme Town Hall, 480 Hamburg Road, Lyme, CT.

MEMBERS PRESENT: David Lahm Chairman, Judy Davies alternate seated for Winnifred Gencarella, Jack Sulger, John Kiker, Toni Phillips (alternate present but not seated), Fred Harger, Bernie Gigliotti ZEO, and Patsy Turner Secretary.

Lahm called the meeting to order at 7:30 p.m.

Lahm adopted the minutes of the July 2016 meeting.

Harger read the public notice.

**2017-01**

**John and Mary Salvatore, 181 Blood St. Tax Map 40.1 Lot 12; an application to construct a storage shed to replace an existing dilapidated non-conforming shed on a smaller footprint but in a different location. When completed the new shed would have a side yard setback of 5 ft. vs. 20 ft. and a rear yard setback of 5 ft. vs. 20 ft. required per section 7.3.**

Lahm read into the record Section 8-6 (3) of the General Statutes the five- (5) requirements that have to be met before a variance can be granted.

Harger read the application, appeal, and denial.

**2017-01**

**John and Mary Salvatore, 181 Blood St. Tax Map 40.1 Lot 12.**

Lahm questioned Gigliotti if the certified mail receipts were received.

Gigliotti stated the receipts have been received.

Lahm waived the reading of the specific section of our zoning regulations and questioned if there were letters received from the public.

Gigliotti stated that there was one letter received from Don and Marilyn Swaney (184 Blood Street).

Lahm passed the letter around the table to the board members.

Present at the meeting were John and Mary Salvatore.

J. Salvatore explained the project; when the property was purchased there was a 9'X10" shed which was in disrepair and was removed last year. The new shed will be built by Kloter Farms, 8'X10' vinyl sided.

Lahm stated that if there is a non-conforming use and if it is removed the property owner has 1 year to replace the structure on the same footprint and same area.

J. Salvatore added the new shed will be move 15 feet closer to the property line.

M. Salvatore mentioned the old shed was situated under an oak tree on the roots.

Lahm called for comments or questions from the board and Ray and Joanne Slezycski neighbors at 179 Blood Street.

J. Slezycski commented the placement of the shed is being opposed to the variance due to the proximity to the property line against our fence. The area is very visible from the lake.

R. Slezycski added side yard setbacks are not being met.

Lahm stated the board is reviewing this information to determine if there is a hardship and if a variance can be granted.

M. Salvatore commented that the neighbor mentioned the electric fence is on the property line and is 6 feet in height.

Lahm stated a fence of 6 feet is not considered a structure.

Sulger questioned the topography of the property; the maps do not show topo lines. Why is the shed not being placed in the same area as the previous shed?

J. Salvatore answered the reason for the different location is that if the shed is placed in the same area it will limit the ease of maneuvering around the tree.

Lahm pointed out different locations on the map where the new shed could possibly be located.

J. Salvatore drew the tree location on the map. There is a patio to the other side of the property.

Lahm stated the shed could sit on the patio. Ease of use of a structure is not considered a hardship. The house is setback 118 feet from the lake. If the old shed was removed more than a year prior the location of the non-conforming shed will no longer be grandfathered.

R. Slezycski commented the applicants should be commended for coming before the board with their request.

Lahm stated following the law is important and there have been people who build structures then come before the board looking for forgiveness; with some of those situations the structures have been moved or removed.

Harger added the use of the structure is not considered important to this board; the variance follows the land not the owners of the property, the next owner may wish to use the structure for a different purpose. Lahm stated the ease of moving items from the shed is not a hardship to the land but is a hardship for the property owner.

M. Slezycski stated removing trees for the placement of a shed would be an issue with other commissions.

J. Slezycski commented the property is very sloped.

Lahm reminded the applicants that the Lyme Zoning Board of Appeals has no precedent value on a vote from one variance to another. (Examples of approvals and how they run with the land and variances do not expire)

Sulger clarified the reason for the relocation of the shed is due to a large tree being located in the area. If the existing location of the shed were being considered the application for the variance could be modified.

Lahm stated to the applicants that not having a shed to store water equipment is not a hardship to the land and is not preventing you from enjoying the land. The requirements for a variance were reread into the record (Section 8-6 (3) of the General Statutes the five- (5) requirements that have to be met before a variance can be granted.) There may be another area on the property where the shed could be located.

The board discussed amongst the members the old location of the shed and the options for the new shed. Photographs provided by the adjacent neighbors were viewed. The differences between Inland/Wetlands Commission and the Zoning Board of Appeals; the ZBA regulates 30 feet setbacks and the I&W regulates 100 feet from water.

The meeting was paused momentarily while one of the members of the board left the meeting room.

Lahm called for final comments or questions from the board, members of the public, and the applicants; with there being none a motion was entertained to grant the variance as presented. Harger moved the motion and Sulger seconded.

Lahm called for a vote; Davies opposed, Harger opposed, Sulger opposed, Kiker in favor, and Lahm opposed. The variance has been denied.

For the record the reason for the denial; the applicant failed to demonstrate a true hardship which warranted a variance. The applicant did not meet the requirements of Section 8-6(3) of the General Statutes. Disappointment in the use of the property does not constitute exceptional difficulty or unusual hardship. When a property would have economic value even if the zoning regulations were strictly enforced, the fact that a peculiar characteristic of the property would make compliance with the zoning regulations exceptionally difficult if the property were put to a more valuable or desirable use does not constitute either an "exceptional difficulty" or an unusual hardship.

Lahm reminded the applicants that there is a fifteen (15) day appeal period to the Superior Court to overturn the ruling of this board. A new proposal could be submitted and a new public hearing can be held which would be a new application.

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Patsy Turner, Lyme ZBA Secretary