



ZONING BOARD
OF APPEALS

LYME TOWN HALL
480 HAMBURG ROAD
LYME, CT 06371

LYME ZONING BOARD OF APPEALS
VIRTUAL PUBLIC HEARING

The Lyme Zoning Board of Appeals held its virtual regular meeting
on April 15, 2021 at 7:30 p.m.

MEMBERS PRESENT: David Lahm, Chairman, Jack Sulger, John Kiker, Anna James and Toni Phillips seated alternates, unseated alternate Judy Davies, Ross Byrne ZEO, and Jennifer Thomas Secretary.

Absent Members: Fred Harger and Winnifred Gencarella

Lahm called the meeting to order at 7:32 p.m.

Toni Phillips and Anna James were seated for absent regular members Fred Harger and Winnifred Gencarella.

Lahm called for a motion to approve the minutes from the September 2020 meeting. Kiker made the motion, seconded by Sulger, and the motion carried.

Kiker read the public notice.

2021-01-

Koch Northeast, LLC, 0 Avenue B Tax Map 40.4, Lot 4; an application for a variance to construct a three-bedroom, single family residence on an existing non-conforming lot. The lot does not meet the minimum 15,000 sq. ft. requirement per Chapter 315, Article 23.3, the structure, as presented, will not meet the yard setbacks, maximum building or impervious coverage per Article 4.5, of the zoning regulations.

2021-02-

Michael Debiasi, 231 Blood St., Tax Map 40.2, Lot 53; an application for a variance to permit an existing, non-conforming garage on an existing non-conforming lot. The garage encroaches on the side and rear setbacks per Chapter 315, Article 4.5 and 4.5A, and exceeds maximum building coverage per Article 4.5C.

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.

Sulger read the application, appeal, and denial of 2021-01.

2021-01 – Koch Northeast, LLC, 0 Avenue B, Tax Map 40.4 Lot 4.

Present: William T. Koch, Jr.

Lahm questioned Byrne if the certified mail receipts were received, and Byrne stated that the receipts have been received.

Koch stated that he bought the lot as an investment and would like to build a single-family home on the property. The lot has been in existence since 1926 and includes deeded rights to Rogers Lake. He stated that the hardship was created by the Town of Lyme when it formed its zoning regulations. Prior to that,

a house would have been able to be built without issue. He believes a denial could be seen as unlawful taking of property, denying his right to use the property.

Lahm read Section 315 Article 23.3, Existing Nonconforming Lots into the record. He stated that the regulations appear explicit with regards to the 15,000 sq. ft. threshold for building a dwelling on a lot, and that this lot falls significantly short of 15,000 sq. ft.

Koch agreed that the lot is under 15,000 sq. ft., stating that one of the surveys he submitted calculated the square footage around 10,000 sq. ft. He stated that this is one of the reasons he has come before the board for a variance.

Lahm said that beyond the square footage, he will also need to be granted a variance for setbacks and net buildable area. He asked Koch to explain the hardship.

Koch stated that the Town of Lyme created the hardship by passing the zoning regulations and believes this is the purest type of hardship there is. He stated that if he can obtain approval to put in a septic system on the property, there should not be any public health issue and no adverse effects to the neighborhood.

Koch stated that several surrounding towns have a smaller square footage requirement, noting Old Lyme and Clinton as two examples. He believes the square footage requirement found in the regulations can be seen as arbitrary or exclusionary. He submitted a letter from the Town of Clinton records which indicated the Clinton Zoning Board of Appeals may look favorably on similar applications from small lots that do not meet the required square footage.

Lahm called for any questions from the board.

Kiker asked Koch to clarify his statement that a denial would constitute unlawful taking of property. Koch stated that the board would be denying the owner of the value of the property.

Lahm stated that being disappointed in property value does not constitute exceptional difficulty or undue hardship.

Sulger asked how Koch determined the size of the structure he wanted to build. Koch stated that a three-bedroom house is typical of the neighborhood and the 1,736 square foot structure includes a garage.

Lahm called for any public comment.

Larry Shipman, attorney representing neighbors Paul and Jackie Noniewicz, spoke on behalf of his clients. He believes the regulations are written to help define how and when to grant a variance. He pointed to the undersized setbacks and the location of the garage as detrimental to the neighbors. He also pointed out that the lot is similar to others in the neighborhood, that have been used to have access to the lake only and believes the assessed value of the property reflects this use. He sees the applicant's arguments to be economical in nature and not physical hardship with the property.

Paul Noniewicz stated that he is concerned that a house with septic and well may impact his ability to move his well or septic if required in the future.

Cheryl Sorenson expressed concern that the lot is very close to a brook that has a history of flooding and worries that granting a variance could set a precedent for similar sized lots in the neighborhood.

Lahm pointed out that beyond the 15,000 square foot variance, the applicant also needs variances for setbacks and building coverage.

Koch clarified that he is not claiming economic hardship but does believe the lot presents a unique hardship with the land. He stated that the lot is a high lot and the septic should not have an impact on the abutting landowner.

Lahm stated he would entertain a motion to grant a variance to section 4.5, 23.3 and 20.1, as presented. No motion was made.

Lahm called for a motion to deny the variances as presented. Phillips made the motion, seconded by Kiker. Kiker, Sulger, Phillips, James, and Lahm all voted in favor of the denial. The variance was denied.

**Kiker read the application, appeal, and denial of 2021-02.
2021-02 – Michael Debiasi, 231 Blood Street, Tax Map 40.2 Lot 53
Present: Michael Debiasi**

Lahm questioned Byrne if the certified mail receipts were received, and Byrne stated that the receipts have been received.

Lahm re-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.

Lahm read a letter from Debiasi to the Town of Lyme into the record.

Debiasi stated that he installed a 14x24 ft single bay garage on his property approximately four years ago. There is also a nonconforming existing 8x8 ft shed at the rear of the property that he is willing to remove to reduce the nonconformity if the garage variance is granted. He apologized for not going through the proper permitting process before the garage was installed.

Lahm stated that the lot is .22 acres, 9,583 sq. ft. He pointed out that the structure is not a habitable structure. The variances needed would include building coverage, maximum impervious surface, as well as setbacks.

Debiasi stated that the hardship was created when the zoning laws were put in place by the Town of Lyme. He stated that his lot is on the corner of Blood Street and Oak Tree Lane, which is a private road. Oak Tree Lane has a 50 foot right of way which cannot be changed, but Debiasi stated that the Oak Tree Lane Association does not have an issue with the garage.

Lahm stated for the record that the Zoning Board of Appeals does not consider applications differently if the work has been done prior to the variance being requested, and that the board can only make their decision on the merits of the application.

Davies asked for clarification on when the garage was built and Debiasi stated that it was built in 2017.

Lahm stated that it seems the applicant is using not having a garage as a hardship and Debiasi said that was correct.

Lahm called for any comments from the public and there were none.

Debiasi stated that taking the garage down now would be a hardship and he would be willing to remove the shed at the rear of the property.

Lahm stated that it would be better if the board had a copy of the letter from the Oak Tree Lane Association stating that it was OK with the garage. He offered the option of tabling the hearing to the next month in order to receive this letter, but the applicant stated that he would like to move forward with the decision.

Lahm stated that he will entertain a motion to grant the appropriate variances for side yard and rear yard setbacks, maximum building coverage and maximum impervious surface coverage. Kiker made the motion, seconded by Sulger, and the motion passed with Phillips, James, Sulger, and Kiker in favor and Lahm opposed. The variance is granted.

Lahm reminded the applicant that there is a 15-day appeal period for anyone disagreeing with the decision to file an appeal.

Debiasi stated that he understood asked that the board give him 45 days to tear down the existing shed at the rear of the property and the board agreed.

Meeting was adjourned at 8:57 p.m.

Respectfully submitted,

Jennifer Thomas, Secretary