

Town of Lakeville
Board of Health
November 18, 2020 6pm

Present were: Chairman Maxim, Member Spratt, Member Poillucci, and Agent Ed Cullen. Chairman Maxim called the meeting to order at 6:00pm. This was a remote meeting and was recorded by LakeCam.

32 Fuller Shores – Meet with Foresight Engineering to discuss requested local upgrade approval. The property owner is currently upgrading the inside of the residence and would like to upgrade the two existing cesspools. Since they don't use the house full time, they would like to install two tanks (ready for future upgrade to a treatment system and leaching field). There was a discussion about the tank elevations. Chairman Maxim asked about the bedroom count. Mr. Michaelis said there was one bedroom upstairs and one downstairs. Agent Cullen said this was a one-bedroom house until a few months ago when they added a second floor. Since the second bedroom was added illegally, the request for a two-bedroom deed restriction was changed to a one-bedroom until the property owner decides to come back to upgrade.

Upon a motion made by Member Poillucci, seconded by Member Spratt, it was:

Voted: to approve the plan with a one-bedroom deed restriction now, with the understanding that if they come back in the future with a denitrification system they can consider going to a two-bedroom.

Discussion: Chairman Maxim said that note #9 on the plan he would like changed. Mr. Michaelis said he would remove that note.

Unanimous approval.

13 Summit St – Meet with Foresight Engineering to discuss a variance request. The tank was not replaced and the leach field is installed, backfilled, and as-built. The tank is a 1,500 gallon, there is a filter installed, a riser to grade, and meets all State requirements. Since the Board doesn't usually grant this variance, Mr. Michaelis has offered to the homeowner that he will come out twice yearly and clean the filter and check to see if the tank needs to be pumped. Chairman Maxim said that the plan clearly says two compartment tank and the installer should have picked up on that. The regulation for a two-compartment tank is a Lakeville regulation and is not Title 5. Chairman Maxim asked if Mr. Michaelis could certify the tank and go to a commercial filter. Mr. Michaelis said he could put on a bigger outlet riser, and a bigger filter.

Upon a motion made by Member Spratt, seconded by Member Poillucci, it was:

Voted: to approve the after-the-fact variance for the septic repair at 13 Summit Street in Lakeville with the caveat that a better filter will be used, and to certify the tank with two annual inspections, and add larger riser.

Unanimous approval.

4 Old Powder House Rd. – continued discussion from November 4, 2020 with Zenith Consulting Engineers to discuss requested variances. Jamie Bissonnette was present from Zenith for discussion. He said he had hoped to have all the material to present to the Board, however, they do not. He wanted to give the Board an update. At the last meeting, Agent Cullen and Town Counsel referenced an email from DEP with guidance information. Mr. Bissonnette had sent the email back looking for clarification. That clarification has been sent to the Board. It states that as long as they meet the environmental level of protection and prove that it would be manifestly unjust to deny the variance, the Board could approve the variance and they would be allowed to use the advanced treatment. They have to prove that they are meeting the environmental level of protection and Mr. Bissonnette's office does not handle some of the testing that's allowed for that. So, they have sub-contracted out a hydrogeological company to do some testing. They are still waiting for that report. They would like to ask for another continuance. Chairman Maxim asked if there were any other emails going back and forth. Agent Cullen was looking to access all the emails with DEP. Mr. Bissonnette said that was the only one they received. He stated he could send the email that was sent that had several questions. It was basically asking for clarification on who has the ability to grant variances. He stated that in face to face meetings with DEP, that the Board of Health has that ability. They were looking to confirm what they were told and if the Board of Health has the right to grant the right to use the advanced treatment in a situation like this. Mr. Bissonnette said he could send that email to Agent Cullen. Chairman Maxim said that Town Council would like to get all information at least 10-days prior to the next meeting if they continue it so he can have time to review it prior. Mr. Bissonnette said he didn't see a problem with that and asked when the next meeting date was. He said if it was the beginning of December, it would provide the hydrogeological engineer enough time to formulate his report. Member Poillucci said it would be in two weeks, so 10-days before that would be next week which is Thanksgiving. He would need to get it to Mr. Bissonnette within the next few days to make the 10-days. The next meeting date would be the 16th. Chairman Maxim said they were getting to the end of continuing and would like to resolve it. They would like to get a decision or deny due to incomplete application until they have everything they need. Mr. Bissonnette said he thought this was the last piece, but if they see this dragging out any longer they might ask for a withdrawal without prejudice. Chairman Maxim asked if he proves to the Board that this conventional system meets the criteria, you can approve any treatment system after-the-fact. Mr. Bissonnette said as part of their email to DEP, what they asked was if the Board of Health agrees and gives the variances, and gives them a permit to install, if they decided they want to voluntarily add advanced treatment, is that an allowable thing. His understanding was that Council said even if they got the variance they still couldn't put it in because it has to be in full compliance with Title 5. The email they got back from DEP said yes, if you get the variances, you can. Their intention would still be to put in the advanced treatment if they do receive the variances. Chairman Maxim said they would still have to prove the two criteria, manifest unjust, and groundwater. At a previous meeting, a representative from the treatment company spoke about how it meets the criteria, but Chairman Maxim said he wasn't a big fan of that type of treatment system since the blowers can be turned off and it can be

used by gravity without the system in proper working order. With this system you can't get higher above the water table to a 5' separation if you're trying to do gravity. Mr. Bissonnette said they weren't opposed to other treatment systems, his favorite for design purposes is the Orenco AX20. If the Board grants the variances, he is very open to changing the advanced treatment to something that would require a pump and the treatment to actually work for it to function. Chairman Maxim asked if Mr. Bissonnette could share his screen with the email to DEP. Mr. Bissonnette said on November 2, he sent Brett Rowe an email to which he responded on November 4th. What it said was *the MicroFast approval states the system is approved for facilities where the design flow is less than 10,000 gallons a day and where conventional system with reserve area exists or can be built on site in full compliance with the new construction requirement of 310CMR 15.000 and has been approved by the local approving authority. In a previous email from Boston, it stated if the site in question is new construction, it has to satisfy all the criteria laid in 310CMR 15.410 to seek variance. This includes both 1) demonstrating the level of environmental protection that is at least equal to that provided under 310CMR 15.000, can be achieved without strict application of the provision of 310CMR 15.000 from which a variance is sought and to demonstrating depravity of the applicant of all beneficial use of the subject property in order to be manifestly unjust. Under the current circumstances, it will be difficult to satisfy both the criteria especially since it is new construction. If the Board of Health approves the variances, then yes, they could move forward with their plan to install. Our point was that the variance standard for new construction is extremely hard to meet, and is not likely that they would have granted such a variance.* Mr. Bissonnette said they have hired someone to objectively give them an answer as to whether they are meeting the level of environmental protection. They will prepare a report and will attend the meeting so the Board can ask questions. Member Spratt asked if this was to show that a conventional system can go in there. Mr. Bissonnette said yes, this is looking at it and saying will the level of treatment, if a conventional system went there, equal the minimum requirements of Title 5. Member Poillucci said they had to have the information in time to have Town Council review it. Agent Cullen said if they could get all the correspondence with DEP, that would be helpful, and getting it at least 10 days prior would also be helpful.

Upon a motion made by Member Poillucci, seconded by Member Spratt, it was:

Voted: to continue to the meeting on December 16th.

Unanimous approval.

Betterment loan – approval of betterment loan for 54 Montgomery St. in the amount of \$60,074.00.

Upon a motion made by Member Spratt, seconded by Member Poillucci, it was:

Voted: to approve the betterment loan for 54 Montgomery St. in the amount of \$60,074.00.

Discussion: Member Poillucci wanted to explain the betterment process. These are loans given from money received by the State. It's available to everyone with no credit check, you just have to be a homeowner in need of a new septic system. The town loans this money out, there's a lien put on the property so we get paid back before anyone else, so the town's never lost a penny with this program and we charge a little bit for processing and interest.

Unanimous approval.

43D Committee update - Member Spratt said that the 15-days would be up on Friday, so they need to let them know that everything is complete. Once that's set and they vote on it, the 180 days for all the hearings starts. The first week in December there's a joint meeting for the introduction.

Covid 19 Update - Agent Cullen said the number of cases in Lakeville has been increasing. There were 18 in the last two-weeks. The numbers are also going up in surrounding towns. Lakeville is no longer in the red, not because we lowered the number of cases, but because they changed the criteria. So many small towns were in the red, that they changed the criteria and came out with a new formula. The recommendation is to try to keep your Thanksgiving to 5 people, no more than 10. The vaccine information that is coming out is very good, but most people will not get a vaccine until April or May.

Review and approve meeting minutes as typed – September 16, 2020

Upon a motion made by Member Spratt, seconded by Member Poillucci, it was:

Voted: to approve the meeting minutes dated September 16, 2020 as typed.

Unanimous approval.

Upon a motion made by Member Spratt, seconded by Member Poillucci, it was:

Voted: to continue the Executive Session meeting minutes approval to the next meeting on December 2nd.

Unanimous approval.

Adjournment – (6:56pm)

Upon a motion made by Member Poillucci, seconded by Member Spratt, it was:

Voted: to adjourn.

Unanimous approval.