

Town of Lakeville  
Board of Health  
December 7, 2022 6pm

Members present: Chairman Spratt, Member Maxim, Member Poillucci, and Health Agent Ed Cullen. Chairman Spratt called the public hearing to order at 6:00pm. LakeCam was not present to record.

**Public Hearing** - for proposed changes to Lakeville Board of Health Regulation pertaining to minimum lot sizes and potability parameters for water. Chairman Spratt read the legal notice into the record.

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

Voted: to open the hearing pertaining to the notice.

Unanimous approval.

Chairman Spratt read the proposed changes to be discussed. The existing regulation 2.0 states: A lot less than one half acre (rounded down to 20,000sq. ft. of upland acreage) shall be deemed too small for both a water supply and sewage disposal. The proposed regulation 2.0 would read: 1) no dwelling, building or structure to be served by an on-site source of potable water and individual subsurface sewage disposal system shall hereafter be erected, placed or converted on any lot having an area of less than 30,000sq. ft. unless a variance has been granted by the Board of Health. 2) No building, dwelling or structure to be connected to a public water supply system shall hereafter be erected, placed or converted on any lot having an area of less than 20,000sq. ft. unless a variance has been granted by the Board of Health. The Lakeville Board of Health Potability existing regulation reads: Total Coliform Bacteria, pH, Ammonia Nitrogen, Nitrate Nitrogen, Iron, Hardness, Manganese, Sodium, Chloride, Magnesium, Copper, Arsenic & Volatile Organic Compounds (hereafter referred to as VOC's). The proposed regulation reads: Total Coliform Bacteria, pH, Ammonia Nitrogen, Nitrate Nitrogen, Iron, Hardness, Manganese, Sodium, Chloride, Magnesium, Copper, Arsenic, **Lead**, and VOC's. Member Poillucci said that the addition of lead to the potability isn't an extra cost to the residents. Member Maxim added that both labs include lead testing in their package.

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

Voted: to add lead to the water potability parameters.

Unanimous approval.

Member Maxim explained that for the other regulation, the original did not specify a public water supply, it just said water supply. This proposal is also to change from 20,000 to 30,000 sq. ft. He said he believed with a 20,000 sq. ft. property, you could get a two bedroom with a treatment system, but you shouldn't have a three bedroom. Member Poillucci said if they did 20,000 minimum with 10,000 per bedroom after that, that would give two bedrooms on a 20,000 sq. ft. lot and three bedrooms on 30,000. Member Maxim added that a treatment system would have to be done. Member Poillucci said they could give a variance to allow more if better treatment systems come along later and DEP would allow it. Agent Cullen said on the original regulation 'upland' was specified and on the proposed regulation it doesn't specify. Do we want to include that? Member Poillucci said if they're going down to 20,000, it should all be upland, and that's only for a two bedroom. Agent Cullen explained that the difference between the current regulation and the proposed is it doesn't matter if you're on public

water, you still need 20. The original regulation doesn't say that, it just says it's too small for a water supply and sewage disposal. This doesn't specify on-site well or water coming in from the street it's still 20,000. There was some continued discussion. Chairman Spratt said the regulation was put this way because section one is for both private wells and septic. The other section is if you have a sewage system and then a public water source. Agent Cullen said the bedroom count is covered under nitrogen aggregation for the most part. He didn't know if they really needed to specify that. A resident brought up some concerns about the number of people living in houses in Clark Shores. He thought 30,000 for a two bedroom would give a good buffer. Member Poillucci explained that Title 5 says 10,000 sq. ft. per bedroom. Agent Cullen said Title 5 goes by two people per bedroom. So, when they say 20,000 sq. ft., they're assuming less than four people. Another resident asked if the Board could make it stricter. Chairman Spratt said they could. Member Poillucci added that it wouldn't just be for his neighborhood, it would be the whole town. You can't spot zone different areas. He said DEQE did a report on Clark Shores in 1977 about the seasonal communities and they spoke specifically about the nitrogen loading down there. The discussion returned to the wording of the regulations. Member Maxim said he was in favor of 20,000 because it's allowed by DEP, but they could go to 30 like Middleboro. There was a brief discussion about mapping nitrogen sensitive areas. Agent Cullen said they could make it 30, then they have the option of granting a variance and still do 20. Chairman Spratt said he was leaning toward the 30 for the extra protection, but residents could ask for a variance. Member Poillucci said they can only grant variances for certain reasons. So, are they going to deem that a nitrogen sensitive area and hold them to 30, but then let other people where it's not a nitrogen sensitive area, waive it down to 20. Agent Cullen gave an example, if an area is surrounded by conservation land that cannot be built on, then you could say there's no risk of any other private wells in the area, so you could grant a variance. That's what variances are for, in situations where you're not hurting anyone by granting it. Member Maxim said he was okay with 30 with a well. Chairman Spratt said "upland" still needs to be added to the regulation. Member Poillucci said lots should have at least 20,000 sq. ft. of upland. The regulations could be revised with an asterisk that all lots have to have 20,000 sq. ft. of upland.

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

Voted: to delete existing regulation 2.0 - a lot less than one half acre (rounded down to 20,000 sq. ft of upland acreage) shall be deemed too small for both a water supply and sewage disposal. Replace that with - 2.0.1 no dwelling, building or structure to be served by an on-site source of potable water and individual subsurface sewage disposal system shall hereafter be erected, placed or converted on any lot having an area of less than 30,000 sq. ft. unless a variance has been granted by the Board of Health. Section 2.0.2 no building, dwelling, or structure to be connected to a public water supply system shall hereafter be erected, placed or converted on any lot having an area of less than 20,000 sq. ft. unless a variance has been granted by the Board of Health. Those will be followed by and asterisk to say these pertain to lots that have over 20,000 sq. ft. of upland.  
Unanimous approval.

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

Voted: to close the public hearing.  
Unanimous approval.

*Documents: legal notice, regulation changes*

Chairman Spratt called the Lakeville Board of Health meeting to order at 6:37pm.

**7 Azalea Street** - continued discussion from November 15, 2022 regarding nitrogen loading with Zenith Consulting Engineers, LLC. Jamie Bissonnette from Zenith was present for discussion. Since the last meeting, they have gone back and looked at the plans and the regulations. The client has spoken with his legal counsel, who has provided a letter that he received today. Copies were distributed to the Board and Agent Cullen. Mr. Bissonnette said this was just his synopsis of the regulations. After reviewing the letter, Agent Cullen asked if he could comment. He said this is a private well area, it's not a nitrogen sensitive area. Both are subject to 440 gallons per day. Mr. Bissonnette said he understands the intention of having wells and septic in the area and on the lots, but the way the regulations reads to the attorney, if it's not mapped out as a nitrogen sensitive area or within an IWPA or Zone 2 or 1, then it's not considered nitrogen sensitive. If you go to the subsequent regulation, it says: if you're proposing an area of new septic and new wells. But there's no new wells being proposed. There's only a septic with municipal water. That's the fundamental difference here, there's no wells being proposed. Based on the topic of the report from 1977, if the state had mapped the area as nitrogen sensitive, we wouldn't be here. The fact is, there is no map. Even the new wells, the four or five public water wells, the IWPAs, all of those areas are shown clearly on GIS, those are definitely nitrogen sensitive. The old wells are removed already. So, if we were in that area, we wouldn't be able to do this, because that would be nitrogen sensitive. But there's no map saying this is nitrogen sensitive. Agent Cullen added, nor does it have to be. These are private well areas and are not mapped by DEP, they're not considered nitrogen sensitive areas. There are over half a million private wells in Massachusetts. There's no way all private well areas can be mapped. Mr. Bissonnette agreed, but added, where does it say this area is nitrogen sensitive. Agent Cullen said it isn't nitrogen sensitive, but it is subject to the 440 gallons per day. Mr. Bissonnette asked if Agent Cullen could show him where it says if you're in an area with wells. Agent Cullen pointed out in the regulations, area subject to 440 gallons per day, nitrogen sensitive areas, and regulation number two states areas of private wells. You have to clarify what a private well area is from DEP. They gave a very clear answer. They said an area where the surrounding area has private wells. There are two wells within 110-feet. Eighty percent of the lot is within 100-foot radius of those two wells. That would be considered surrounding. There was a discussion regarding DEP documents. Mr. Bissonnette said in the referenced document it states, areas of residential new construction as designed by Title 5 where both systems and on-site drinking water supply wells are proposed. Which he agreed with, and these areas are so-called private well areas. There are no wells proposed. Agent Cullen responded that is why they reached out to DEP for clarification. And the answer they gave back did not say there had to be a well on the site. They said it had to have surrounding wells, and there are two wells within 110-feet that encompass 80% of the subject lot, within the 100-foot radius of these two wells. So, to say these wells will not be affected, when 80% of the lot is within the 100-foot radius; that's clearly surrounding. Mr. Bissonnette said it wasn't about affecting the well, necessarily. Agent Cullen said that was why they have restrictions for private well areas. Mr. Bissonnette questioned if this was a 30,000sq. ft. lot, long and thin, same distance, same coverage in that area, that would meet what you're saying would be Title 5 aggregate. Agent Cullen answered that was correct. Mr. Bissonnette asked if that wouldn't affect the well anymore. If you had a longer run, it may affect more wells further down. There's nothing saying you can't have wells affecting the entire lot. It's just the square footage. Agent Cullen said that was correct, but the idea of this is to protect the surrounding wells. That's why the more area you have, the less likely you would put the septic system on the very edge of the property, you'd put it in the middle because you have more area. By limiting it to 10,000, you only have one place to put it and that's 100-feet and 3-inches from the neighboring well; and that's a concern.

Especially when you look at the nitrate levels in those wells. Agent Cullen explained the effects of nitrates in drinking water and added that most wells had a level of less than 1.1mg/ltr. Anything over 5 is a severe degradation of the water quality. Of the neighboring wells, one is 7.35, another is 8.7, and one is 10.9. Those are the three closest wells. This can be fatal to babies. To come in and put another septic system with a house that can have 8-9 people in it, that can cause a huge increase in the nitrogen. Member Poillucci said that if all the houses in that area were hooked into the public water supply, it wouldn't be as much of an issue. There was continued discussion. Chairman Spratt opened the discussion up to abutting homeowners. Steve Melanson (4 Violet St) said the Board should consider the health of the water system before they approve other houses to sign up for it. The water company wasn't approved for future loans and the people that are on it aren't paying. So, the future of the water system is unsure. When it does close, the USDA will just lock the door and there will be 63 year-round people and 111 summer people, without water. It's \$224,000 a year to run the water system and they are only taking in 4-6,000 a month. He asked if the town would consider buying the water system or at least take it over. Some people are paying to install the waterlines themselves so they can tie in, but everyone needs to know where things stand financially with the water company running in a deficit. One resident asked if variances could be given in reverse, to protect yourself. For example, asking for a variance to keep the neighboring septic 150-feet away from a well instead of 100. Chairman Spratt explained that wasn't possible, and variances were usually given in cases of hardship. Ken Comeau (11 Azalea) asked if no variances were given for 7 Azalea and the lot is only 10,000sq. ft, how does it qualify to build on at all. Member Maxim explained that the Board just approved the 20,000sq. ft. minimum and this proposal was brought to the Board prior to that approval. This regulation is going forward and isn't retro-active. Mr. Comeau asked what the regulation was prior to this approval. Agent Cullen said it was 20,000sq. ft. to have both a well and septic, and there was no well. Mr. Comeau asked about the elevations of the lot and the possibility of water being diverted onto his lot. There was continued discussion.

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

Voted: to continue 7 Azalea Street to December 21<sup>st</sup> at 6pm.

Unanimous approval.

*Documents: variance request letter, proposed septic plan.*

**1 Parkhurst Drive** - meet with Zenith Consulting Engineers, LLC to discuss requested variances and local upgrade approvals. Jamie Bissonnette from Zenith was present for discussion. Mr. Bissonnette said this was a septic repair. They are looking to place the system in the front corner of the lot. They are asking for relief due to the pond and catch basin. Mr. Bissonnette spoke with Agent Cullen and it was agreed that a liner on the catch basin side would be a good idea. The entire lot is within 400-feet of the pond. Member Maxim asked about the new well. Mr. Bissonnette said he would include it on the as-built. Member Maxim asked what would be done with the existing well, would it be decommissioned. Mr. Bissonnette said they would either turn it into an irrigation well or decommission it. He believed that it was a shallow well and that is why they're replacing it.

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

Voted: to approve the septic repair at 1 Parkhurst Drive with the three variances, and show the new well on the plan with the distances.

Unanimous approval.

*Documents: variance request letter, proposed septic plan.*

**129 Main St** - meet with Zenith Consulting Engineers, LLC to discuss requested local upgrade approvals. Jamie Bissonnette from Zenith was present for discussion. This is a septic repair. They are looking for a 1-foot reduction in the ground water separation. The reduction will allow them to stay with gravity flow. Mr. Bissonnette said he didn't do the perc tests, but there seems to be a restrictive layer down at about 90-inches where they found mottling, and then they hit some nice material below it. Based on the topography of the site, it would be a good assumption to think that it continues around the site, since they found it in both holes.

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

Voted: to approve the one local upgrade request for 129 Main Street in Lakeville, MA.

Unanimous approval.

*Documents: variance request letter, proposed septic plan.*

**Approve meeting minutes as typed** - October 5, 2022.

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

Voted: to approve the meeting minutes as typed for October 5, 2022.

Unanimous approval.

**Covid 19 Update** - Agent Cullen said there has been an increase in cases. Hospitalizations are ticking up, and that was expected with the holidays. Agent Cullen urged residents to take precautions during the holidays since there are still people out there that are vulnerable and don't have a lot of immunity. People should take precautions and test prior to gatherings. Chairman Spratt said there are free test kits available at the Board of Health. Agent Cullen added there were free tests at the Council on Aging, Library, and Fire Station also. Residents that are unable to get out because they are COVID positive can call the Board of Health and test kits can be dropped off at their home. Member Maxim asked what the quarantine recommendations were. Agent Cullen said there is still a five-day isolation even if you are asymptomatic. It's a minimum of 5 days isolation, but if you still have symptoms, you have to isolate longer. There are medications available, so if you test positive or your symptoms are worsening, and you are at high risk, call your doctor.

**Adjournment** - (7:35pm)

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

Voted: to adjourn.

Unanimous approval.