

Town of Lakeville  
Board of Health  
August 2, 2023 6:00pm

Members present: Chairman Spratt, Member Maxim, Member Poillucci, and Health Agent Ed Cullen. Chairman Spratt called the meeting to order at 6:00pm. LakeCam was present to record.

**425 Bedford St.** - Meet with Zenith Consulting Engineers, LLC to discuss requested local upgrade approvals. Tom Morris from Zenith was present for discussion. This is an upgrade to an existing failing system. There was a question about the number of bedrooms. It was designed for two, but there was a question of whether it was three. There is a third room that could be considered a bedroom, but it didn't have privacy. They are proposing a MicroFast system to reduce the groundwater separation from 5' to 3' to reduce the mound in the backyard. They are asking for three upgrade approvals: the setback from both tanks to the house, and the reduction from the pipes in and out of the tank, less than 12" from groundwater. Member Maxim said the tanks are monolithic, but the buoyancy calculations are for H-20. Mr. Morris said they re-checked the buoyancy calcs for the H-10 tank and it works, as long as there's 18" of cover on top, which is proposed. Member Maxim asked if they were going to stay with the H-10 tank with the external mount. There was a brief discussion about plan notes. Member Maxim asked if a deed restriction was needed since it was a two-bedroom. Agent Cullen said it was on the plan.

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

Voted: to approve the three variances for 425 Bedford Street, subject to them giving us a new plan and changing in two places from H-20 tanks to H-10 tanks, external mount.  
Unanimous approval.

**3 Apple House Rd.** - Meet with Zenith Consulting Engineers, LLC to discuss requested local upgrade approvals. Tom Morris from Zenith was present for discussion. Mr. Morris said there was a question on the number of bedrooms in the existing house. The original design for the septic was for a three-bedroom house. They assumed it was three-bedroom and designed as such. Then they heard it was a four-bedroom house, and always has been. This was confirmed with the original building plan. He was not sure why the septic was designed for three-bedrooms. They have designed it as a four-bedroom repair with a Presby system. There are two upgrade requests: one for the number of deep holes from two to one, the other is the setback between the foundation and the septic.

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

Voted to approve the two local upgrades for 3 Apple House Rd.  
Unanimous approval.

**19 Shore Ave** - Meet with Dean's Point Survey to discuss waiver for a well permit. Bob Lucey from Dean's Point Survey was present for discussion. Mr. Lucey said this was a proposed well relocation. They had previously worked on the adjacent lot, 17 Shore Ave, to put in a tight tank. It has not been installed yet. There was more discussion about the site. Member Maxim asked what was wrong with the old well. Mr. Lucey said it was an old 2" point, a shallow well. Chairman Spratt said the home was

previously tied into the water system. Agent Cullen explained that the Board of Health actually approved a new well a while back. For whatever reason, they switched over to Clark Shores Water that was seasonal. Now, they want to go back to a well. The existing well is not acceptable, it makes more sense to drill a new well. Member Maxim said he and Agent Cullen looked at the water line map of Clark Shores and it's no where near this property. They would not be allowed to drill a new well if the year-round water line was there. A resident asked why this well is different than someone that wants to put in a well to get off Clark Shores Water. Chairman Spratt said they would have to have a prior well, even if it was abandoned. Agent Cullen added that you have to have the 100' and the appropriate lot size. With this one, they put in a tight tank. With conventional systems, you have leach fields that you can't be within 100' of. With a tight tank, you only have to be 50' away. Member Maxim said they were there tonight for a variance to the property line. You're supposed to be 10' and they are asking for 4 ½', actually to the pond. Member Poillucci said it was a legal well that was permitted. The Board has to let them replace it. If the water line was coming down there soon, we would have told them they would have to hook in. Another resident said a house near by requested a well last year. They almost have 20,000sf and were denied. They have a brand-new septic but were just shy land-wise. It's a much larger lot than this one. They were told they cannot use the house year-round, it has to remain seasonal because they couldn't put in a well. Member Poillucci said if the lot had a well, it would have been grandfathered. It would have been pre-existing non-conforming. The resident asked what if this person was to search his lot and find at some point there used to be a well. Agent Cullen said it would have to be documented. Member Poillucci said he can't just go dig one and come in and say he found it. This one was all legal and permitted properly. Member Maxim said they had the well dug up and Agent Cullen went out to verify and took pictures.

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

Voted: to approve the well permit for 19 Shore Avenue with one variance to 4 ½ feet to the property line.

Unanimous approval.

**Joe & Chloe Gas, Inc licenses** - Chairman Spratt said these are new owners doing business as Joe's Gas at 33 Bedford Street. They are requesting a tobacco permit, food establishment license, and a milk and cream license. Agent Cullen said the inspection was done the other day and all the paperwork is in. Member Maxim said they did install a new septic system and added a grease trap. Agent Cullen said there were no waivers and he had approved it probably three months ago.

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

Voted: to approve the tobacco permit, food establishment license, and a milk and cream license for Joe and Chloe Gas, doing business as Joe's Gas.

Unanimous approval.

**Pramukhseva Corporation d/b/a Jay's Smoke Shop** - Chairman Spratt said these were new owners located at 330 Bedford Street. Agent Cullen said they aren't ready yet. They're not set up and we haven't gotten all the paperwork. Once everything is in place, this will come back to the Board for approval.

Upon a motion made by Member Poillucci, seconded by Member Maxim, it was:  
Voted: to deny the Jay's Smoke Shop permit until their paperwork is complete

Unanimous approval.

**Approve meeting minutes** - May 3, 2023 and May 17, 2023.

Upon a motion made by Member Maxim, seconded by Member Poillucci, it was:  
Voted: to approve the May 3<sup>rd</sup>, 2023 meeting minutes as typed.  
Unanimous approval.

Upon a motion made by Member Maxim, seconded by Member Poillucci, it was:  
Voted: to approve the May 17<sup>th</sup>, 2023 meeting minutes as typed.  
Unanimous approval.

**Discuss Open Space Residential Development (OSRD) Bylaw with Town Planner** - The Town Planner, Marc Resnick, had a revised draft of the last plan. After comments from Agent Cullen, Mr. Resnick made an additional revision. Mr. Resnick said that last year when they discussed the OSRD bylaw the Board of Health's main concern was having a well and septic together on the same lot. Unless you are absolutely precise about the locations of well and septic on each lot, that could move and then impact the suitability for development of the next lot. The primary revision was the requirement for all OSRDs to either have a municipal water supply, a public water supply, or a wastewater treatment plant or shared septic system. By doing that they would have only one type of system on each parcel, either a private septic or private well. Mr. Resnick read from the proposed bylaw: the development shall be served by at least one of the following types of utilities, municipal water supply, privately owned public water supply, a wastewater treatment plant or a shared septic system. Approval for the desired system shall be obtained from the licensing/permitting authority prior to the issuance of the OSRD special permit. Mr. Resnick said in addition, they have excluded the buffer land or zone-1 of a water supply, from the calculation. Member Maxim asked if the buffer from a wastewater treatment plant to a public well go by the yield of gallons? Agent Cullen said yes for a zone-1. The bare minimum is 100'. It could go up to 400. Mr. Resnick wasn't aware of that regulation. Agent Cullen said if it was 20 or 30 units, you're going to have a big radius. On a residential 3-bedroom house, for 300 gallons per day, there's going to be a big buffer around a public well. There was additional discussion about the required radius. Agent Cullen said if you're putting a shared system, you could have 20 houses on that one system. You would have a huge amount of nitrates. So, although there is nothing in Title-V that says that, we need to take that into consideration when locating shared systems. Mr. Resnick asked if there was a scale depending on the gallons. Agent Cullen said they have the 440 gallons per day per acre. As far as setbacks from a shared system, no. Chairman Spratt said they usually leave a lot of extra space for reserve area because most of these end up being repaired at some point. Member Poillucci said with 20-acres, the minimum size, if you use this you could probably get 8 houses. Eight houses are going to require 400' for a zone-1. That will knock out about half of it. Mr. Resnick said he would adjust that language as far as it relates to zone-1. He said he didn't have any language in the bylaw about the reserve area being identified. Since there is no required buffer around a shared system, is there a recommended buffer. Member Maxim explained that it's case by case, how

big the system is. Member Poillucci said whatever lot they put this on, they're going to go way over nitrogen loading. He wanted every lot to be proved. He didn't want someone getting credit for land that wouldn't be buildable anyway. If it's ledge or wetlands, or whatever, you can't put that many houses in. Every lot needs to have at least one perc test to prove that it works. Even if they tried to do a shared system, for new construction the Board doesn't allow it. We've only done repairs. It still says in Title V that it cannot exceed the design flow, which could have been constructed in compliance with 310 CMR 15 without the use of a shared system. The advantage of this is, if you prove you can get 50 houses, great. Now, you can put them on half the land. Hundreds of thousands of dollars saved on a road. The developer wins and the town wins because we get the land in the back. It's not a win if someone could only get 23 houses and now we pass something so they can put 50 houses on the same piece of land. Mr. Resnick said there were other sections in the bylaw that address that, if it's wetlands, if it's not able to perc, if it's ledge. You have to prove, it doesn't mean you have to perc every single lot. You don't want backhoes and everything traipsing through the open space. Clearly, if you've delineated the wetlands, and you know half of that back land you can't use and there's ledge there, you know you can't build there. There may be some areas where the soils are somewhat questionable. You may require some additional percs in that general area, at least to show whether that area can perc or not. Generally, that is how this is written, and that's how it works in all the other communities that have OSRDs. None of these are really written to give anybody any bonus lots, unless you do an inclusionary zoning for some affordable units. Member Poillucci said how are they going to prove it if they don't go out and dig a hole and perc the lots. Mr. Resnick said they shouldn't have to perc every single lot. Member Poillucci said the Board has a regulation that you need four percs per lot. He didn't care if they waived it down to one, just so they prove the lot. It has to be proven to the Board that's the flow they could have gotten by doing a regular subdivision. Mr. Resnick said in the other communities he's been in; the soils are fairly consistent. Why do you have to perc every lot? Member Maxim said in this area the soils are not consistent. Member Poillucci said the developer is going to save a fortune by building half the road, half the drainage, half the utilities, half of everything. Spend a day and go dig some holes. It isn't that big of an expense. Mr. Resnick said it wasn't the expense, it was the disturbance of the land that you want to keep as open space. Member Poillucci said you only have to get to one area on the lot and dig a hole. You won't have to dig four spots all over the lot and make a mess. Member Maxim asked if the Board had the authority to say you only need one hole for something like this. Mr. Resnick said there's no requirement under the preliminary subdivision control law that the lots perc; you don't have to perc every lot. It's just what does the town feel comfortable with in order to be able to prove each of those lots. Member Poillucci said all the big pieces of land in Lakeville are left for a reason. They just don't perc. Mr. Resnick said he could add some language to the bylaw that each conventional lot would have to have a perc on it. Member Maxim said there was ruling from DEP recently on undersized lots that don't meet nitrogen loading, for new construction. Nitrogen loading needs to be met on new construction. Even if there is public water or a treatment system, if there's a well in the surrounding area, they need to meet nitrogen loading. These 30,000sf lots are going to be limited to a 3-bedroom only. Mr. Resnick said if it would make the Board more comfortable, we can add that into the bylaw. Member Poillucci said it's 10,000sf per bedroom. If they have a bigger lot, and they want four, they can do it. Mr. Resnick asked if the Board ever does deed restrictions. Member Maxim said they just did one for a 2-bedroom. Mr. Resnick asked if the Board wanted to write that in for the smaller lots. They agreed it wasn't really necessary, just that you have to meet nitrogen loading. Member Maxim asked if there were any issues with shared systems. Agent

Cullen said it would have to be by Title V and there are restrictions. Member Poillucci wanted to find out if there was some language that could be added for condo complexes and condo fees. Are condo fees considered super liens on the property? If people stop paying their condo fees, does it supersede the mortgage. He would like to have that added to the bylaw if they are going to have a common septic system. Mr. Resnick asked if the common septic would be part of the homeowner's association and be part of the super lien. Member Poillucci said he thought that was just for a condo fee, not the association fee. That's what he would like to find out from town council. Chairman Spratt asked if they want to push for individual tanks so the life of the system can be longer. Member Poillucci said as long as they have the ability to include pumping in the fee that everyone pays. You could get one guy that stops pumping his tank and sending everything down and he ruins the field for everyone. Mr. Resnick asked if the Board could adopt rules and regulations pertaining to shared systems beyond the Title V requirements. Member Poillucci explained they could pass a regulation making it stricter after a public hearing. They have never approved a shared system for new construction. There's paperwork that needs to be filled out for DEP. There was some continued discussion. Member Maxim thought they should continue discussion at the next meeting. Mr. Resnick said he would make some revisions and then review them with Agent Cullen and then send them out to the Board. Conservation had a change, putting a minimum lot size because they don't want 2- or 3-acre little pieces of open space. The only exception of the 20-acres would be if the open space abuts some other protected land and the group that owns it, whether it's the town or the state, would like to acquire that and add it to their space. That's the only exception. There was already language about restricting the open space land from being changed, but there's a statute, Article 97. They added that reference which makes it even harder to change the use because it requires the state legislature to approve the change. Member Poillucci said probably the safest thing would be to have Wildlands Trust or someone like that do a conservation restriction.

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

Voted: to continue until the next meeting on August 16<sup>th</sup>.

Unanimous approval.

**11 Apple House Road** - Continued discussion from July 19, 2023 regarding a complaint from a resident regarding a sewage pumping company. Agent Cullen said there have been no other complaints called in. Chairman Spratt asked if there was anything related to this company in the last year or so. Agent Cullen said there was nothing. Chairman Spratt recommend they send a warning letter and put a copy in the file.

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

Voted: to send a letter.

Unanimous approval.

**Continued discussion from July 19<sup>th</sup> 2023 regarding changes to the Lakeville Board of Health Regulations pertaining to subsurface disposal systems and water.** Member Maxim said they had spoken about nitrogen loading and making some changes. They spoke with Darren Michaelis from Foresight at the last meeting to give some input. This would be a big cost, and it's not mandated by Title V. For new construction, it is, but not a repair. They had asked residents to come in if they had

any comments, but no one came in. Adding a denitrification system is an additional \$10,000 to your septic repair. Agent Cullen said the reason they're doing this is for people's health and safety. There are areas of Lakeville where the water is seriously contaminated. It's a cost to the homeowner, but cancer treatment is a cost to homeowners; birth defects are a cost to homeowners. These are real costs that can happen, it's not imaginary. Nitrates are bad. The reason DEP has the 440 gallons per day is to prevent that. Now, we have 70,000sf lots. But there were 5,000sf lots where, if it was a lot today, would have 14 septic systems and 14 private wells. You can't ignore that and just grandfather it. That will never solve the problem. Member Poillucci said they're only supposed to waive what they absolutely have to, to get as close to the current regulations as possible. Maximum feasible compliance. Agent Cullen said they're trying to get to that 440 gallons per day. They're not going to tear down half your house and say, now you have 1-bedroom. But, putting in a denitrification system, you're giving the equivalent of a 1-bedroom. There was continued discussion. Chairman Spratt said on the Cape, towns have two options. The town can opt in for a watershed management program or a regional municipality where you pay a monthly or quarterly fee, almost like you were on sewer, but they take care of your septic. If enough towns opt in for the regional municipality, it will attract state and federal money going for sewer and keep cost down. Agent Cullen said there was a state tax rebate of \$6,000 for septic. Since septic systems are so expensive, they are looking at increasing that. The bill hasn't passed yet, but the rebate could be as high as \$18,000. Member Maxim said someone suggested the regulation should just put denitrification in the watershed mapped areas from DEP. That would include about 80% of Lakeville. Would that be a possibility? Agent Cullen asked if they were looking to protect the ponds or wells. His biggest concern is private wells. That's what people are drinking. He was for protecting the ponds as well, but put a higher priority on private wells. When you're talking about watersheds, it's protecting ponds, wetlands, and tributaries. Member Maxim said that's what DEP is doing on the cape right now. It's the watershed area, and making it mandatory. Agent Cullen explained that a lot of towns have a 400' rule. Wareham says if you're within 500' of a surface water you need denitrification. Any type of surface water; that would include wetland, tributary, even if it's not a reservoir. These regulations are more to protect the environment. But in Lakeville, his highest priority is private wells that are already contaminated with nitrates. In the areas where this is happening, there are more houses being built, abandoned houses being flipped, so it's more and more nitrates. More houses going from seasonal to year-round. Member Maxim said a variance could be given to the regulation by coming to the Board.

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

Voted: to continue to the next meeting.

Unanimous approval.

#### **Adjournment** - (7:26pm)

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

Voted: to adjourn.

Unanimous approval.