

Board of Health Meeting Minutes February 4, 2015

The Lakeville Board of Health held a meeting on **February 4, 2015** in the Lakeville Town Office Building. Present at this meeting were Board Members, Robert Poillucci, Terrence Flynn and Derek Maxim. Health Agent Lawrence Perry and Administrative Assistant Jo Lima were also present.

Chairman Poillucci called the meeting to order at 6:00 p.m. and noted that this meeting was being recorded by LakeCAM, to be televised at a later date.

24 Hickory Lane (043-009-013)

An email dated January 8, 2015 was received from Engineer Nyles Zager from Outback Engineering, Inc. requesting to be on the agenda to discuss the status of the existing house and septic system and how the Board would like them to move forward with it. Engineer Nyles Zager was present for discussion in behalf of homeowner Steven Maguire who was also present. He explained that this is a tiny lot with an existing cottage that has been there for years. He said the new homeowners live next door and purchased it with the intent of using it as a summer cottage. He said the major problem is because it is in a flood zone if it gets treated as a repair or an upgrade, a tight tank can be installed, but if it's treated as new construction, that can't be done. He showed board members pictures of the cottage and said that when it was purchased by the new homeowners, they removed the toilet. He said there is no evidence of piping or any components but it was obvious that the intent was to have a bathroom there and that it is being assessed as such. He said they would like to put in a tight tank, but that it will be a hurdle if the board sees it differently. Chairman Poillucci told Nyles that the previous homeowner had come into the office when he received a letter from the Board of Health stating that a Title V should have been performed when the property was sold, and that he conveyed that the cottage was actually a shed. It was later clarified in the discussion that it was actually the new homeowner, Mr. Maguire who represented it as such and felt that a Title V was not necessary because there was no plumbing there. Chairman Poillucci said Health Agent Perry said there was no evidence of a cesspool. Mr. Maguire spoke and said he was the one who came in and stated that it was a shed because he wasn't sure what to call it. Chairman Poillucci asked him if it was being used as an outhouse to which he replied yes. Nyles said he could see some staining and signs of use but he is just going by what he knows, which isn't much. Chairman Poillucci said he's never dealt with this before and that he would have to do more research. Nyles said he has upgraded houses with outhouses with no other components but it would depend on how the board interprets it. Member Maxim asked if it was going to be seasonal to which Nyles replied yes. He said Mr. Maguire does not want to spend the money to make it a year round property. He said there is no water source there and water was probably being drawn in from the pond. Nyles said they would propose to install a new well as there is enough room. Member Flynn asked Health Agent Perry if there had been a Title V inspection conducted there, would it have failed? Agent Perry said it would depend on what was there. He said it was presented to him as there was nothing there to inspect. Mr. Maguire said obviously what was done there wasn't right and they want to make it a proper set up. Nyles said he was fine with the Board doing more research before making their decision. Chairman Poillucci said before he could vote intelligently he would need more information. Member Maxim said it's obvious from the pictures that the structure is more than just a shed; it's a two story dwelling. Health Agent Perry recommended possibly a shared system if Mr. Maguire owned the land next door or if he combined the lots somehow and shared the well. He said if it's all in common ownership he doesn't see why that

can't be done. Nyles stated they are not in common ownership. It was mentioned that the Clark Shores Water Association also owns a strip of land between the two lots. Board members agreed to table the discussion to the next meeting.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To table the discussion to the next meeting on February 25, 2015. Unanimous vote in favor.

2 Hollis Ave.(042-006-008)

Engineer Nyles Zager from Outback Engineering, Inc. was present for discussion with regard to upgrading the current septic system. Board Members reviewed the plans dated July 23, 2014 and associated variance request letter dated January 22, 2015 listing the following variances:

- 1) 310 CMR 15.405(1)g to reduce the setback from a proposed leaching system to the onsite private well from the State required 100 feet to only 90 feet.
- 2) An after the fact variance to allow a well and septic system on a lot less than 20,000 SF whereas the existing lot is only approximately 12,197 SF.
- 3) An after the fact variance to allow a well to be less than 20 feet from a road layout, whereas the existing well is only approximately 6' from Hollis Avenue.
- 4) An after the fact variance to allow a well to be less than 20 feet from a road layout, whereas the existing well is only approximately 17 feet from Clark Road.

Chairman Poillucci asked if the property was on a seasonal water supply. Health Agent Perry said he searched back to 2002 and it wasn't shown so he figures the well went in sometime in the late 90's. He said it passed the required water analysis. Chairman Poillucci asked if the water association should be notified and Agent Perry said he didn't believe they need to be notified on a well.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To approve the above variances as listed. Unanimous vote in favor.

8 Pierce Ave. (014-001-004)

Darren Michaelis from Foresight Engineering was present for discussion on behalf of a prospective buyer. His request was that the Board allow expired percolation testing and soil evaluations be used for new construction rather than performing new holes/percs. He said Agent Perry approved a repair at the house next door a few years back which matches up with the water table and the soils done in 2002. Darren showed a sketch to the board and said the site has remained unchanged. Member Flynn said he didn't want to open up a can of worms by accepting the old percs as good. He recommended the Health Agent witness a perc at the open-hole inspection at the time of construction. He said the only person taking the risk would be Darren. Agent Perry said technically a plan cannot be approved without valid soil evaluation percs. He said we have nothing considered valid right now. He suggested possibly accepting a confirmatory test hole. Darren's concern was that the good soils are down at 8' and he won't know when it will be dry enough to get down there and run a perc. Member Maxim said he would have no problem accepting the percs, but he wasn't here when the board voted not to accept them. Darren said he has never had an issue with his soil evaluations in the past 25 years working in Lakeville. He said he knows the soils are there because the soil logs next door confirm it. He said he is the only one that stands to lose if he goes out there and does a bottom hole and there are no sands. He said if the board is concerned he can bump the perc rate up. Chairman Poillucci said if he designed it for

a ten minute perc rate and Larry witnessed the bottom of the hole he would be fine with it. Board members agreed.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To accept the four perc holes done in January 2002 with the condition that the Health Agent witnesses the open hole and the system is designed for ten minute rate instead of five. Unanimous vote in favor.

22 Beechtree Dr. (043-009-002)

Board members reviewed a variance request letter dated January 21, 2015 and revised plan dated February 3, 2015 for a local regulation variance for a proposed in-ground pool and spa on an undersized lot. The request was for a setback reduction from 20' to 8' from pool/spa to foundation. Chairman Poillucci mentioned that he didn't know why this had anything to do with the Board of Health because it doesn't state it in Title V. Agent Perry said the pool to the building setback is in Board of Health regs but Title V only states pool setbacks to septic components.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To approve the variance as requested. Unanimous vote in favor.

149 Staples Shore Road (064-003-003)

Engineer Nelson Bernardo and homeowner Kevin Bernardo were present for a lengthy discussion. Board Members reviewed the multiple variances requested in a revised letter dated January 22, 2015 as associated with revised plans dated January 30, 2015. Nelson began the discussion by saying that he has been working with Presby and Agent Perry to minimize the impact of the system on what is a "tricky lot". He said in front of the house is Assawompset Pond and behind the house is a tributary. He said there is a well on the property but it has not been tested yet because there is no electricity on site. If it does not pass they are proposing a new well. He said they came up with a Presby Advanced System which minimizes the foot print. He said for the first three years they will be inspecting and testing the effluent two times a year to ensure everything is working correctly. He said a treatment system would be installed for the well if necessary. The following variances were requested:

State Variances Requested:

- 1.310 CMR 12.211: A reduction of the setback of the proposed leach field from a tributary to a surface water supply (Assawompset Pond) from 200' to 60' minimum. Shown as 61' on plan. Presby AES system design.
- 2.310 CMR 12.211:A reduction of the setback of the proposed septic tank to a surface water supply (Assawompset Pond) from 400' to 70' minimum. Shown as 72' on plan.
- 3.310 CMR 12.211:A reduction of the setback of the proposed pump chamber to a surface water supply (Assawompset Pond) from 400' to 80' minimum. Shown as 85' on plan.
- 4.310 CMR 12.212:A reduction of the separation of the proposed leach field from the groundwater table from 5' to 3'.
- 5.310 CMR 12.255:A reduction of the overdig from 5' to 2'.
- 6.310 CMR 12.227:A reduction of the separation of the tank inlets & outlets from the required 12" above water table to *into* water table a) 3" S.T. inlet; b) 6.2" S.T. outlet;
- 7.310 CMR 12.227:A reduction of the separation of the pump chamber inlet from the groundwater table from required 12" above to 7.1" *below* the water table

- 8.310 CMR 12.211: A reduction of the separation of the proposed distribution box to the property line from 10' to 5'.
- 9.310 CMR 12.211: A reduction of the distance of the proposed septic tank to an existing well from 50' to 28' (becomes 41' if new well required).
- 10.310 CMR 15.029: A reduction of the distance of the proposed well to an existing cesspool at #147 Staples Shore Road from 100' to 81'.
- 11.310 CMR 15.405: A reduction of the distance of the proposed leach field to an existing well at #147 Staples Shore Road from 100' to 85'.
- 12.310 CMR 15.405: A reduction of the distance of the proposed well to the proposed leach field from 100' to 92'.

Local Upgrades Requested

- 1.A reduction of the setback of the proposed leach field from a property line from 10' to 5' minimum.
- 2.A reduction of the setback of the proposed distribution box from a property line from 10' to 5' minimum.
- 3.A reduction of the setback of the proposed leach field from a surface water supply (Assawompset Pond) from 400' to 120' minimum. Shown as 129' on plan. Presby AES system design.
- 4.A reduction of the setback of the proposed septic tank to a surface water supply (Assawompset Pond) from 400' to 70' minimum. Shown as 72' on plan.
- 5.A reduction of the setback of the proposed pump chamber to a surface water supply (Assawompset Pond) from 400' to 80' minimum. Shown as 85' on plan.
- 6.A reduction of the setback of the proposed leach field from a property line/street layout from 10' to 7'.
- 7.A reduction of the setback of the proposed leach field from an abutting well from 100' to 80' minimum. Shown as 85' on plan.
- 8.Relief from 3.0 from 3.0 Registered Land Surveyor stamp required. The property lines shown on the drawings with bearings and distances.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To approve the request for the above variances with the stipulation that the following are received: abutter notification cards, copy of a well water analysis and a two bedroom deed restriction. Unanimous vote in favor.

4 Jeanine St. (039-002-013)

Registered Sanitarian Scott McGann was present for discussion. Abutter cards were submitted. Scott began the discussion by saying the house is a two bedroom and he is not proposing any increase in flow. He said the well is currently being tested. Member Maxim asked if the well was a shallow well but Scott said he didn't know. Board members reviewed a revised letter dated January 13, 2015 and associated revised plans dated January 26, 2015 requesting the following multiple variances:

310 CMR 15.211 Minimum Setback Distances

1. 4 Jeanine St - 54' setback from their potable water well to their proposed S.A.S.
2. 2 Jeanine St. - 79.5' setback from their potable water well to the proposed S.A.S.
3. 6/8 Jeanine St (well shared) – 93.0' setback from their potable water well to the proposed S.A.S.
4. Requesting a setback from a public surface water supply of 339.5' to the proposed S.A.S when 400' is required.

5. Requesting a setback variance from a public surface water supply of 343.8' for the proposed septic tank when 400' is required.
6. Requesting a setback variance to the property line (road layout). We propose to be 5.5' from the required 10' setback.
7. Requesting an allowance of 16.0' from the proposed S.A.S. to a foundation crawl space when 20' is required.
8. One soil evaluation due to lot constraints.
9. Requesting the allowance of a two-bedroom S.A.S be constructed and deed restricted to two bedrooms.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To approve the nine variances listed above. Unanimous vote in favor.

201 Main St. (058-003-005)

Homeowner Michelle Barengo and her neighbor Michelle Dwyer were present for discussion. Board members reviewed a letter dated January 16, 2015 requesting a variance from the Lakeville Board of Health Stable Regulations. She stated that she was attempting to gain possession of additional acreage through potentially leasing land to use for two horses. Chairman Poillucci began the discussion by saying that of all the votes he looks back on, he feels like he made a mistake granting her the permit for one horse when they really should not have because she didn't have the acreage for it. He said there was no hardship and that he doesn't know if the board even had the legal authority to approve the one horse. He personally did not want to make things worse. Member Maxim stated she would be the first to lease land for horses and that he would have to agree with Chairman Poillucci. Animal Inspector Jared Darling was present and was under the impression that she wanted to lease the land across the street. He said that if she was able to lease the land behind her and tie it into the stable permit where if they lost the lease, they would have to remove the additional horse, that maybe that would work. Member Maxim asked if the property she wanted to lease abuts her property and she said no. Board members denied her request.

71 Highland Road (032-004-004C)

Jon Pink from Azor Land Sciences, Inc. was present for discussion. He began the discussion by saying that the abutter notifications that were sent out had an incorrect meeting date listed. The letter stated the meeting was being held February 3, 2015 when in fact the meeting was February 4, 2015. He said he contacted two of the abutters and the third was supposed to be present at this meeting. Administrative Assistant Lima said she also put a posting on the door in case anyone showed the night before. He wasn't sure if the board could discuss it. He said they still need to go to Conservation and didn't want the board to be uncomfortable talking about it. Chairman Poillucci said they could preliminarily discuss it until the next meeting. Mr. Pink submitted a revised variance letter dated January 20, 2015 along with associated revised septic plans dated January 23, 2015. He was requesting three state variances. He stated that the lot was created in 1986 and has been dormant since. They are looking to make it a buildable lot at this time. He said the lot will lose all of its value if it cannot be built on. Chairman Poillucci said that the only issue appears to be that the property does have a stream that runs through the middle of it. He said the Board of Health does have the discretion over that type of variance even though it's a new lot and that Agent Perry had previously looked into this. He said that board members could not vote on anything tonight but asked audience members if there were any concerns.

Board members agreed they didn't see a problem with this. Discussion tabled.

Board of Appeals Petition – 36 Main St. – (062-001-010)

Board Members reviewed the petition submitted by the Board of Appeals on January 26, 2015. Petitioner was seeking a proposed addition.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To send a letter to the Zoning Board of Appeals stating that they saw no health issues involved to recommend or deny the petition. Unanimous vote in favor.

Discussion on Water Testing

A very lengthy discussion was held regarding radionuclides in water. Licensed Site Professional Susan Jason from Prime Engineering, Inc. was present for discussion as well as Builder Greg Maroney from Maroney Building and Contracting, Inc. Mr. Maroney wanted to discuss the situation with the water at his property at Lot 10, Robbins Lane. Chairman Poillucci asked Health Agent Perry to update him on the status of the water testing at this particular property. Agent Perry said the testing for gross alpha originally came back at 190. It was retested by the well driller and came back at 0. There was no uranium or radium. He said Prime Engineering came to the determination that it was probably radon. It was tested and it came back somewhere around 20,000 pCL. He said he was going to sign off once they put in an aeration system for radon and retested and it was just a matter of whether or not that should be disclosed in the form of a deed restriction for the owner. Susan said she had been having conversations with Agent Perry and was just at this meeting to provide information and answer questions. She said the Board of Health can establish whatever parameters they want locally but in regards to EPA's interpretation of radon data what they do is when you sample a proposed drinking water well, if you have over 10,000 pCL they call that an action limit. It's a limit at which they ask you to look at things a little more closely but it's not a regulated mandatory treatment system at that point. The reason it is set at 10,000 is it's a number that they believe won't contribute a significantly greater amount than what's already in alien air. There is radon everywhere and there is a certain amount that we are all exposed to all the time. So they use that action limit to basically address looking at the level of increased risk. It's generally a rule of thumb that with 10,000 pCL in the water that could contribute up to 1 pc in air. The recommended action limit in air is 4. So purely on this data set the 10,000 is a number that we would use. This particular well came back at 21.7, so there is radon present in the water and it is above the EPA's action limit so it does trigger some reasons to look more closely at it, but it may or may not locally be a mandatory treatment system installation. In regards to the other radionuclides, there was no uranium or radon 226 or 228 present, so the data does look like it is radon related. Member Flynn said he thought they ruled out radon the first time because they boiled the water before they tested it. Susan said the first 190 set when it was given to Agent Perry did not come in with any radon analysis. She said when the radionuclides are prepared for the lab a multiple set of bottles is prepared, so technically speaking that should be the case, that a bottle that is prepared for a gross alpha analysis is not a small airtight encapsulated vial that does not allow gas to escape, that said, it's not impossible that if some radon was left in a gross alpha sample that was containerized a different way, especially if you have higher levels of radon. The instrumentation that the lab uses can detect it generally speaking it should likely not be present or be present at really low levels by the time a non properly containerized sample gets to the lab. The only sample she can speak directly to is the one that Prime collected and she can say

specifically that it was collected and containerized properly. They did get gross alpha of 20 and then with a properly contained radon vial they got 21,700. With the gross alpha result they also did the other species of gross alpha emitters and they didn't have uranium or radium. So this data set may indicate that there was radon present in the gross alpha analysis. She said she can also speak to Prime's sample because it was collected and analyzed one day later, the holding time on radon at the lab is three days, and that's based on the amount of time that it is anticipated that the gas will off gas. Chairman Poillucci asked if she felt that the sample that Prime took is safe and doesn't need any treatment. She said she's confident in the data that the Prime sample came back with. The Prime sample to her says that the radon in water is above the EPA's action limit that asks you to look a little more closely at the potential for it to be contributing to indoor air. EPA does not recommend that you immediately go out and install radon mitigation, you can elect to, but there are a couple of avenues that can be discussed in terms of this particular data. Chairman Poillucci said that it was voted the last time they met that if people have an engineer like you that can come in and do it and if you said it was alright that you can give us a letter that states they don't need any treatment and Agent Perry can give them an occupancy permit. He asked her if her letter would say that the water is safe to drink. She said her letter would say that the water exceeds an action level at which the EPA recommends a homeowner evaluate their indoor air concentration of radon. The discussion continued and Agent Perry recommended to board members that maybe an advisory should be placed on the Town website. Board members agreed and felt that people should be made aware and they recommend everyone test their water. Administrative Assistant Jo Lima suggested maybe an insert going out with the tax bills, but wasn't sure that was possible. Susan said some towns do that. Chairman Poillucci suggested keeping the Board of Health water analysis parameters the way they are currently until recommendations or a guideline comes out from the state. Board members agreed.

2015 Various License & Permit Renewals

Board Members reviewed a list dated February 4, 2015 from Clerk Fran Lawrence.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To approve the above licenses / permits as listed on the February 4, 2015 memo. Unanimous vote in favor.

Acceptance of Meeting Minutes

Board Members reviewed the Board of Health meeting minutes from December 10, 2014 and January 7, 2015.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To accept the Board of Health meeting minutes from December 10, 2014 and January 7, 2015 as typed. Unanimous vote in favor.

Review and discuss outstanding stable permit fees- No discussion needed.

FY16 Annual Budget Discussion

Board Members reviewed and discussed the Board of Health budget. Chairman Poillucci brought up the fact that even though the Animal Inspectors are sub-contracted they are somewhat considered employees, but they aren't in any union. He said Animal Inspector Jared Darling had requested a pay increase. Chairman Poillucci suggested

researching when the last time an increase or cost of living raise was given. Member Maxim said that if farm regs are instituted, that will require more inspections. He asked if the increase that was requested was for what the animal inspectors are doing currently. Chairman Poillucci said yes. Member Flynn said there will have to be a fee for farm inspections which will justify that increase. Chairman Poillucci said he feels this be can presented reasonably to the Selectman and they should understand that if we adopt these regs the fee for the inspections need to be funded. He said nothing will be adopted until we have the money to pay them. After some discussion Board Members requested a \$300 – (5% increase), from \$6,000 to \$6,300 - Acct# 12462 53011 - Contracted Professional Services (Animal Inspector) which will be discussed at Joint Budget Meeting. They also requested that an account be created for \$250 for Tobacco Compliance. This would cover the cost of tobacco products, youth hourly rates and signs/literature required.

Discussion regarding Loon Pond Lodge Licensing

Chairman Poillucci said all documents for the licensing has been submitted except for the anti-choking. He said that they will be receiving that certification from the Fire Dept. on Friday, February 6, 2015. He asked Agent Perry once that cert is received, would they be considered legal. Agent Perry said providing that one person responsible is present at every function. Member Maxim reiterated that was the whole purpose that the person in charge (PIC) has to be there. Chairman Poillucci said that will be a condition of the license as well as issuing it as limited to the catering part because some of the kitchen equipment isn't operable yet. He said the caterers can use the kitchen for refrigeration, warming food by using stove, but not for food preparation. He said they (the bartending service) can certify others going forward to be the PIC if they want to.

VOTED: To approve a limited license pending receipt of the anti-choking certification and a pre-operation inspection with the PIC. Unanimous vote in favor.

2 Morrison Way (040-004-008)

At the last meeting Board Members voted to allow a one month extension at the last meeting to submit a required water analysis and to call and schedule a required walk-thru for bedroom/design flow confirmation. Agent Perry said she was actually just in the office and said she could not stay for the meeting. He said she has rescheduled the walk-thru several times, but sent him an email during the meeting stating that she was having the walk-thru done Monday and was having the lab take a water sample to be analyzed. He said she is basically asking for another extension. Board members agreed to give her until the next meeting in three weeks.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To approve an additional three week extension to have a walk-thru and water analysis done. Unanimous vote in favor.

FEMA Letter Review

Board Members reviewed a FEMA Letter dated January 16, 2015 regarding proposed Flood Hazard Determinations affecting the Flood Insurance Rate Map and Flood Insurance Study Report for the Town of Lakeville.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To adjourn the meeting at 8:50 p.m. Unanimous vote in favor.

ACCEPTED AS TYPED 3-18-15JL
