

Board of Health Meeting Minutes July 15, 2015

The Lakeville Board of Health held a meeting on **July 15, 2015** in the Lakeville Town Office Building. Present at this meeting were Board Members, Robert Poillucci, Derek Maxim and Terrence Flynn. Health Agent Lawrence Perry, Health Inspector Kevin Bernardo and recording secretary 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 the Board of Health and LakeCAM.

Public Hearing – To consider adopting tobacco regulations entitled “Regulation Restricting the Sale of Tobacco Products and a “Regulation Prohibiting Smoking in Workplaces and Public Places”.

Chairman Poillucci read the legal notice that was advertised in the Middleborough Gazette on July 2 and 9, 2015:

“A Public Hearing will be held by the Lakeville Board of Health at the Town Hall, 346 Bedford Street on July 15, 2015, at 6:00 pm to consider adopting tobacco regulations entitled “Regulation Restricting the Sale of Tobacco Products.” The regulation includes policies to restrict the sale of tobacco products and nicotine delivery products, including cigar packaging, ban non-residential roll your own machines, and ban on the sale of tobacco in educational institutions. The Board will also be considering “Regulation Prohibiting Smoking in Workplaces and Public Places. “The regulation includes a policy to prohibit the use of electronic nicotine delivery devices wherever the Massachusetts Smokefree Workplace Law applies.” The proposed regulations are available for inspection during regular business hours at the town hall.”

Health Inspector Bernardo was present to ask the board to consider tobacco regulations that were prepared by Administrative Assistant Jo Lima with help from MAHB Senior Staff Attorney Cheryl Sbarra. The tobacco vendors that were present were under the impression that the Board of Health was proposing to ban cigarettes in general in the Town of Lakeville. Inspector Kevin Bernardo began the discussion by saying that was not the case. He said this first started when the Board of Health had received some correspondence from the state regarding their compliance checks. There were three establishments in town that had sold cigarettes to minors. He said he then decided to approach the board to change the regulations to include a few items. A list of 17 questions provided by the state was presented to members where they could either add or not add to the regulations. He spoke on what members had voted previously at the July 15, 2015 meeting.

He said some stores sell cigars for .99 cents or less. He said by increasing the price it would hopefully deter under aged individuals from buying these and using them for illegal purposes. Inspector Bernardo asked Cheryl Sbarra to speak on this. She began by saying that this piece of the proposed regulation would prohibit the sale of cheap single cigars. It would prohibit one from selling a cigar that cost less than \$2.50 individually. Those are the cigars targeted towards kids. Machine made, made of cheap product, flavored and brightly colored. She said it wouldn't ban the sale completely but it would just require any cigar costing less than \$2.50 has to be packaged in a package of two or more and has to retail at \$5.00. It's basically a youth pricing strategy. She

said you can exempt out retail tobacco stores because this is not the audience that this regulation is trying to address. It's trying to address the products that kids can buy for less than .50 cents and are targeted toward kids. Adults could still purchase them but in a tobacco store, where kids are not allowed.

Chairman Poillucci addressed the audience for comments and some discussion was held.

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

VOTED: To to close the hearing at 7:31 p.m. Unanimous vote in favor.

A discussion was held by Board Members who felt that if an individual could go to the next town over and purchase cigars, they were not comfortable including this because it could affect local business sales.

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

VOTED: With regard to the "Regulation Restricting the Sale of Tobacco Products", members voted not to include these items in the regulations as previously voted: "Prohibit the sale of single cigars unless the cigar is priced at \$2.50" and "Requires cigars to be sold in the original packaging of two or more at the cost of \$5.00."

And voted to include in the regulations: "Regulate all nicotine delivery products including electronic cigarettes as tobacco products", (which would mean e-cigarettes or any other nicotine delivery product), "Restrict the sale of nicotine delivery products including e-cigarettes to persons over the age of 18". (This would mean only persons over the age of 18 could purchase these), "Prohibits the sale of tobacco products and nicotine delivery products including e- cigarettes in educational institutions". And with regard to the "Regulation Prohibiting Smoking in Workplaces and Public Places", the members voted to include: "Prohibits the use of nicotine delivery products in the workplace."

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

VOTED: To adopt the regulations in the legal summary with changes referenced above to be effective September 1, 2015. Unanimous vote in favor.

4 Montgomery St. - Board members met with Land Surveyor Bob Phinney associate of Crowell Engineering to discuss requested variances for a proposed septic repair/upgrade. Abutter receipts were received. Septic Plans dated June 23, 2015 and associated variance letter dated July 1, 2015 were reviewed. The following was requested:

From 310 CMR 15.211 Minimum Setback Distances – A wetland bordering a surface water tributary water supply or tributary thereto.

1. 100 ft. from an SAS to 67.5 ft
2. 100 ft. from a septic tank to 80 ft.

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

VOTED: To approve the two variance requests. Unanimous vote in favor.

323 Pond Lane – Board Members met with Engineer George Collins from Collin's Engineering Group, Inc. to revisit discussion for multiple variance requests for proposed septic repair/upgrade. Members had requested at a previous meeting that the Health Agent meet with the applicant and their engineer onsite to verify if the garage bedroom meets bedroom standards with respect to State regulations/definitions. Members reviewed the revised septic plans dated April 17, 2015 and associated amended variance request letter dated July 14, 2015. The following was requested:

REQUESTED LOCAL UPGRADE APPROVALS:

1. VARIANCE IN ACCORDANCE WITH DEP POLICY #BRP/DWM/PEP-POO-1, ALLOWING A PERCOLATION RATE TO BE ESTABLISHED VIA GRAIN SIZE DISTRIBUTION ANALYSIS IS REQUESTED.
2. VARIANCE FROM SECTION 310 CMR 15.211 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 10' SETBACK FROM A PROPERTY LINE TO A LEACHING FACILITY. VARIANCE ALLOWING A REDUCTION FROM 10' TO 1' IS REQUESTED (STREET LAYOUT ONLY - PRIVATE WAY).
3. VARIANCE FROM SECTION 310 CMR 15.212 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 4' VERTICAL SEPARATION BETWEEN THE HIGH GROUND WATER ELEVATION AND THE BOTTOM OF THE SOIL ABSORPTION SYSTEM WITH A PERCOLATION RATE GREATER THAN 2 MINUTES PER INCH. A VARIANCE ALLOWING A REDUCTION FROM 5' TO 3' IS REQUESTED.
4. VARIANCE FROM SECTION 310 CMR 15.227 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 12" VERTICAL SEPARATION BETWEEN THE HIGH GROUND WATER ELEVATION AND THE LOWEST TANK INVERT. A VARIANCE ALLOWING A REDUCTION FROM 12" TO A MINIMUM OF 1" IS REQUESTED.
5. VARIANCE ALLOWING A SEWER LINE TO CROSS A WATER SERVICE (SLEEVE PROVIDED).

REQUESTED VARIANCES:

1. VARIANCE FROM SECTION 310 CMR 15.211 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 400' SETBACK FROM A SURFACE WATER SUPPLY (LONG POND) TO A SAS. VARIANCE ALLOWING A REDUCTION FROM 400' TO 80' IS REQUESTED.
2. VARIANCE FROM SECTION 310 CMR 15.211 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 400' SETBACK FROM A SURFACE WATER SUPPLY (LONG POND) TO A SEPTIC TANK. VARIANCE ALLOWING A REDUCTION FROM 400' TO 66' IS REQUESTED.
3. VARIANCE FROM SECTION 310 CMR 15.211 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 400' SETBACK FROM A SURFACE WATER SUPPLY (LONG POND) TO A PUMP CHAMBER. VARIANCE ALLOWING A REDUCTION FROM 400' TO 66' IS REQUESTED.
4. VARIANCE FROM SECTION 310 CMR 15.211 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 100' SETBACK FROM WETLANDS BORDERING A SURFACE WATER SUPPLY (LONG POND) TO A SAS. VARIANCE ALLOWING A REDUCTION FROM 100' TO 62' IS REQUESTED.

5. VARIANCE FROM SECTION 310 CMR 15.211 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 100' SETBACK FROM WETLANDS BORDERING A SURFACE WATER SUPPLY (LONG POND) 48' IS REQUESTED.
6. VARIANCE FROM SECTION 310 CMR 15.211 OF THE STATE SANITARY CODE WHICH REQUIRES A MINIMUM 100' SETBACK FROM WETLANDS BORDERING A SURFACE WATER SUPPLY (LONG POND) TO A SAS. VARIANCE ALLOWING A REDUCTION FROM 100' TO 48' IS REQUESTED.

A deed restriction must be recorded documenting the Advanced Enviro-Septic Leaching system at this address and the associated State required O &M contract for effluent testing and the site limitation of 3 bedrooms maximum.

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

VOTED: To approve the variance requests as listed on the amended variance request letter dated July 14, 2015. Unanimous vote in favor.

197 County St. – Board Members met with Engineer George Collins from Collin's Engineering Group, Inc. representing Hugh Rogers, Jr. (present) and Roger and Hope Pinard to discuss request for well setback variance(s) to allow a well setback to a property line of 2'. They reviewed and discussed a public well relocation plan and associated variance request letter dated July 1, 2015. Engineer Collins explained that he had prepared this plan for both owners of both properties (Rogers lot for the existing public well on 1 Cassidy Lane and the Pinard Lot for the proposed public well on 197 County). Agent Perry stated that DEP had been consulted prior to the meeting and the BOH could only approve the local variance regarding the property line setback and preliminary approval for the PWS relocation, because the ultimate approval and oversight for public wells (existing and proposed) including their protective zones and all work within, lies with the DEP (drinking water section). He said contractors have already applied to the Board of Health for a permit to abandon the existing onsite septic components at 1 Cassidy Lane, but it cannot be issued until verification of DEP approval and any associated conditions.

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

VOTED: To approve the well variance as listed in the July 1, 2015 letter. Unanimous vote in favor.

213 County St. – Engineer Jamie Bissonnette from Prime Engineering, Inc. met with Board Members to discuss multiple variance requests for a proposed septic repair/upgrade. Abutter cards were submitted. Engr. Bissonnette stated that they were also proposing a new well and bottomless sand filter and a UV light in the pump chamber to sterilize the water after it's treated. He said essentially what they are doing is getting as far away from the water as they can, putting in the new well and keeping it as far away from the septic location that they possibly can. He said it's a tight location and they are doing the best they can. A gentleman was present for an abutter on the north side. He was just questioning the well and septic being on a lot this small. Jamie said the BOH does have a regulation that says that wells and septic are not allowed on lots with less than 20,000 sq. ft. He said because there is already a well and septic there which predated the regulations. He said in these cases, you try to fix it to the best degree possible. He explained this particular well is way out front and it should not

affect her. He explained this would be a huge improvement. Agent Perry asked Bissonnette if the catch basin shown on County Road is a leaching catch basin or a catch basin. Bissonnette said he wasn't sure, but thought it was a catch basin because it is filled with water. Agent Perry said if it is a leaching, he would need another variance because the setback is 25' and it's at 22'. He asked that it get added to the requests at 20'. Members reviewed plans dated June 15, 2015 and associated variance request letter dated June 24, 2015. The following variances were requested:

1. A local upgrade approval from section 310 CMR 15.211 of Title V which requires the soil absorption system to be at least 10' from property line. The following reduction is requested (county street) from 10' to 1' from the property line in accordance 310 CMR 15.405 (1)(a).
2. A local upgrade approval from section 310 CMR 15.211 of Title V which requires the soil absorption system to be at least 100' from a private water supply well. The following reduction is requested assessors map 037, block 001, lot 001 (215 County St.) From 100' to 80' from an abutting private water supply well in accordance 310 CMR 15.405 (1)(g).
4. A local upgrade approval from section 310 CMR 15.104 & 15.242 of Title V which requires a percolation test to be completed on site. A sieve analysis in place of the percolation test is requested in accordance 310 CMR 15.405 (1)(i).
5. A local upgrade approval from section 310 CMR 15.102 (2) of Title V which requires two deep holes per disposal area be completed on site. A reduction from 2 deep holes to 1 deep hole is requested in accordance 310 CMR 15.405 (1)(k).
6. A variance from section 310 CMR 15.211 of Title V which requires the soil absorption system to be at least 400' from a surface water supply or tributary thereto. A reduction from 400' to 25'+ is requested in accordance 310 CMR 15.405 (1)(g).
7. A variance from section 310 CMR 15.211 of Title V which requires the septic tank to be at least 400' from a surface water supply or tributary thereto. A reduction from 400' to 20'+ is requested in accordance 310 CMR 15.405 (1)(g).
8. A variance from section 310 CMR 15.211 of Title V which requires the pump chamber to be at least 400' from a surface water supply or tributary thereto. A reduction from 400' to 20'+ is requested in accordance 310 CMR 15.405 (1)(g).
9. A variance from section 310 CMR 15.227 (5) of Title V which requires that the pump chamber inlet and outlet invert elevations be at least 12" above the high ground water elevation. A reduction from 12" above to 12" below the water table is requested in accordance 310 CMR 15.405 (1)(j).
10. A variance from section 310 CMR 15.227 (5) of Title V which requires that the septic tank inlet and outlet invert elevations be at least 12" above the high ground water elevation. A reduction from 12" above to 12" below the water table is requested in accordance 310 CMR 15.405 (1)(j).
11. A local upgrade approval from section 310 CMR 15.221 of Title V to allow a new private drinking water supply well which is required to be 100' from a soil absorption system. A reduction from 100' to a minimum of 50' is requested in accordance 310 CMR

15.405 (1)(g).

12. A local upgrade approval from section 310 CMR 15.029 of Title V to allow a new private drinking water supply well which is required to be 100' from a soil absorption system. A reduction from 100' to a minimum of 80' is requested in accordance 310 CMR 15.405 (1)(g).

13. A variance from section 2.0 of the Lakeville board of health regulations that requires a lot to have 20,000 sf minimum for both a well and a sewage disposal system. A requested is being made to allow both on this lot.

14. A variance from section 2.6 of the Lakeville board of health regulations that requires no structure be (like sonotubes, decks, sheds, etc.) Be located within 5 feet of any component. A reduction from 5' to 1' is requested.

15. A variance from section 12.1 of the Lakeville board of health regulations that requires that a well not be permitted within 10' of a side lot line. A reduction from 10' to 5' is requested.

16. A variance from section 4.4a of the Lakeville board of health regulations that requires that a system not exceed 24" to the top of SAS above the natural elevation at the location where percolation test was performed. An increase from 24" above grade to 54" is requested.

After considerable review and upon motion made by Member Flynn and seconded by Member Maxim, the Board:

VOTED: To approve the 16 variance requests including one additional variance not included on original variance request letter for a reduction in the distance from the leaching catch basin to the bottomless sand filter of 25' down to 20'. Unanimous vote in favor.

39 Shore Ave. – Engineer Jamie Bissonnette from Prime Engineering, Inc. met with Board Members to discuss multiple variance requests for a proposed septic repair/upgrade. Abutter cards were submitted. Engineer Bissonnette said he was proposing insulation around part of the field, in between the wall and the field. He feels it is good engineering practice because they are wrapping the site with a retaining wall itself. He said the reason they are doing that is because they are anticipating the flood maps coming out with the elevation changes. They are proposing to raise the existing structure and build a new flood compliant structure. They have reduced the size of the dwelling square footage to accommodate the septic tank, treatment, pump chamber and the bottomless sand filter on the front. He said there is a tight tank there presently because that was the only option because of the size limitations. He said it is tied into the seasonal water service. They will convert the existing well to an irrigation well. He said there will be a retaining wall around the top and stacked block around the entire part they will have an engineered wall. A PE will stamp it because it will help to hold the foundation as well. Agent Perry said the plan shows an existing well and wondered why they didn't just put in a new well. Bissonnette said if the members would allow it, he would love to find the room providing it was far enough away from the abutting tight tanks. Chairman Poillucci said the lot is only 4,500 sq. ft. and they would need to have more discussion on this for consistency reasons. He said if that area is going to

eventually get year round water there, this is something that needs to be discussed. Members reviewed plans and associated variance request letter dated June 10, 2015.

1. A local upgrade approval from section 310 CMR 15.211 of Title V which requires the soil absorption system to be at least 10' from property line. A reduction from 10' to 5' from the property line (assessor map 041, block 009 lot 015) in accordance 310 CMR 15.405 (1)(a).
2. A local upgrade approval from section 310 CMR 15.211 of Title V which requires the soil absorption system to be at least 10' from property line. A reduction from 10' to 6' from the property line (Shore Ave) in accordance 310 CMR 15.405 (1)(a).
3. A local upgrade approval from section 310 CMR 15.211 of Title V which requires the soil absorption system to be at least 100' from a private water supply well. A reduction from 100' to 70' from an abutting private water supply well (assessors map 041, block 009, lot 013) in accordance 310 CMR 15.405 (1)(g).
4. A local upgrade approval from section 310 CMR 15.104 & 15.242 of Title V which requires a percolation test to be completed on site. A sieve analysis in place of the percolation test is requested in accordance 310 CMR 15.405 (1)(i).
5. A local upgrade approval from section 310 CMR 15.102 (2) of Title V which requires two deep holes per disposal area be completed on site. A reduction from 2 deep holes to 1 deep hole is requested in accordance 310 CMR 15.405 (1)(k).
6. A variance from section 310 CMR 15.211 of Title V which requires the soil absorption system to be at least 400' from a surface water supply or tributary thereto. A reduction from 400' to 70'+ is requested in accordance 310 CMR 15.412.
7. A variance from section 310 CMR 15.211 of Title V which requires the septic tank to be at least 400' from a surface water supply or tributary thereto. A reduction from 400' to 70'+ is requested in accordance 310 CMR 15.412.
8. A variance from section 310 CMR 15.211 of Title V which requires the pump chamber to be at least 400' from a surface water supply or tributary thereto. A reduction from 400' to 70'+ is requested in accordance 310 CMR 15.412.

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

VOTED: To approve the eight variances requested on the June 10, 2015 letter, and include a change from the wood retaining wall to a block wall. Unanimous vote in favor.

New Application for "Mobile" Food Establishment License – Dukes Dawgs Deli & More. Members reviewed the application.

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

VOTED: To approve the food establishment license for Dukes Dawgs Deli & More. Unanimous vote in favor.

Review letter from Prime Engineering., Inc. regarding EEA# 15383 – ENF Lakeville Gas, Lakeville, MA – Members reviewed the letter.

Discuss Board of Health “Hazardous Material Regulation”

To be discussed at a future meeting.

Board of Appeals Petitions

In a memo from the Board of Appeals dated, the Board of Health was asked to review and comment on **12 Main St.**, B.I.G. Corp. Board Members reviewed a site plan dated March 10, 2015. No septic information shown.

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

VOTED: To send the Board of Appeals a letter stating that with the limited information they were given, they saw no health issues and that plans for the septic and water will be reviewed once they are submitted to the Board of Health. Unanimous vote in favor.

Board Members also reviewed the site plan for 24 Lounsbury Trust/Huerth - **53 Nelson Shore Road** revised April 30, 2015. Agent Perry stated the septic plan was already approved.

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

VOTED: To send you a letter stating that they saw no health issues involved to recommend or deny this petition. Unanimous vote in favor.

Discuss Board of Health “Noise Regulations”

Board Members briefly reviewed the Noise Regulations. Chairman Poillucci said he felt that some changes may need to be made so that straightforward responses can be given for people that inquire about hours that certain equipment can be used. He felt that the regs were geared more toward a business that produces noise on a daily basis. Members agreed to revisit the discussion at a later date once they have fully reviewed the regulations.

Acceptance of Meeting Minutes

Board Members reviewed the Board of Health meeting minutes from May 20, and June 10, 2015.

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

VOTED: To approve the Board of Health meeting minutes from May 20, and June 10, 2015. Unanimous vote in favor.

Chairman Poillucci discussed scheduling of the Board of Health Meetings on the first and third Wednesday of each month so there will not be less time in between meetings.

VOTED: To adjourn the meeting at 7:55 p.m. Unanimous vote in favor.