

Town of Lakeville
Conservation Commission
August 3, 2022 7pm

Members present: Mark Knox, Fred Frodyma, Joseph Chamberlain, Josh Faherty, Nancy Yeatts, and John LeBlanc. Members absent: Robert Bouchard, Chairman. This meeting was recorded by LakeCam.

This was a joint meeting with Planning Board, Open Space, and Board of Health to discuss the proposed Open Space Residential Development bylaw.

Chairman Knox of the Planning Board, called the meeting to order. Present were: Chairman Knox, Michelle MacEachern, Peter Conroy, and Jack Lynch.

Member Knox of the Conservation Commission, called the meeting to order. Present were: Mark Knox, Fred Frodyma, Joe Chamberlain, Josh Faherty, Nancy Yeatts, and John LeBlanc.

Present for Open Space was Fred Frodyma (there was no quorum).

Chairman Spratt said the preliminary meeting regarding the Open Space Residential Development (OSRD) was just one member from each board. He thought that from that meeting, the participants thought this proposed bylaw needed more work. Member Poillucci said he didn't have a problem with open space. He thought cluster zoning was the only way to get open space without having to get money from the residents. His biggest concern is with the physicality of it; not fitting the way it's drafted. For this to work, it needs to be, everybody's backyard percs, the well goes in the front yard (or vice versa). All it would take is a couple of people that don't get the perc rate and they put their well in the back and the septic in the front, it will block out other septs. He showed a drawing of an OSRD subdivision with well radius'. If there just a couple of people that move their wells, some of the lots won't be able to put in septs anymore. If there was town water, there would be no problem. In some of the town OSRD bylaws he reviewed, they state a public water supply could be put in the open space. Common septic systems could also be used. One potential problem is, some places that have treatment plants, are billing people exorbitant amounts of money. When a common septic or public water supply fail, if everyone has to kick in \$15,000 and some people don't have the money, they are putting the other residents in a bad place because they don't have the money to fix it. The only way the government has gotten around that is with a super lien. If someone doesn't pay their fees or betterment, the bank pays it because they don't want the house to go to foreclosure. The bank pays it and works out an agreement with the homeowner. If these developments are put in a proprietorship, a super lien can be placed on the property. Chairman Spratt said he thinks some of these properties that people would look at doing something like this, may be difficult to begin with going in. He thought of one property that has a ton of ledge. Some of the earlier discussion was about nitrogen loading and keeping agriculture out of the open space because that affects the nitrogen loading. Member Maxim agreed with Member Poillucci. He didn't know how you would do this on a 30,000sf lot without public water or common septic. Some of these subdivisions have underground drainage for the roof drains, which would have to go on the lot, and the separation from

that to the septic system, to the house. Some houses might want a swimming pool and they're not going to have the room with a septic and a reserve and drainage on this size lot. Also, anything over a three-bedroom would have to go to DEP for approval because of nitrogen loading, they don't meet it on a 30,000sf lot. Chairman Knox (Planning Board) said that had been crafted in there, that a four-bedroom would be 40,000. He said that Town Planner Marc Resnick said at their last meeting that some of the efforts actually create a few conflicts within the bylaw. Mr. Resnick said he had discussed septic designs with Health Agent Ed Cullen. If they did 10,000sf per bedroom (the smallest house being a three-bedroom) and you would be restricted on the number of bedrooms, 3 for 30,000 and 4 for 40,000. They also had written in that the locations of wells and septic on the definitive plan for the cluster, would have to be approved by the Board of Health so that the right distances are maintained. He said not all the lots are going to be configured perfectly, but not all the lots are going to be 30,000sf minimum, and they'll be odd shapes and they'll be configured partially based on soil conditions. A developer will need to perc all those lots before he gets final approval. If a lot doesn't perc and there's ledge 3' under, he's going to keep going until he finds a place where he can site a system. If a lot isn't good, he'll have to combine it with the next two, split it and get one less on the cluster. Member Poillucci said the first run through, you'd have to have all the wells and all the septic designed so you know it's going to fit. He said there is one town where they have to prove every lot. They put the wells in, prove they have a good well and a septic design. The septic doesn't have to be in, but they have to have a design. That town was allowing a percentage of lots to be done at a time. One town has a 100-foot buffer around all the lots, which gives you a little more room. You couldn't put the septic or well on it, but you could use that land as your radius, as setbacks. If any of those solutions could work, either proving a lot with a well and a septic design, public water supply or shared septic, he would be fine with it. Chairman Spratt said when this originally went before town meeting, it seemed a little rushed and the Board had some questions. He understood the interest in wanting to have something simple, that's understandable, but they don't want to be fixing stuff after the fact. They deal with enough tight stuff, there are certain neighborhoods with 5,000sf lots and 10,000sf lots and it's a nightmare for the Board. Member Yeatts (Conservation Commission) asked if Chairman Spratt could elaborate a little more about the agriculture part, the nitrogen loading. Chairman Spratt said for example, we have a lot of cranberry bogs in town. Someone may look to do a development next to this. There is already way too much nitrogen sitting in the bog. You're going to add that to all the nitrogen from the houses you're putting in. It doesn't work as far as nitrogen loading. Other agriculture land, if it remains agriculture land, they're going to be adding fertilizer to that too. It doesn't help with the nitrogen loading problems. Pulling agriculture out of that open space part, makes it easier. Chairman Knox (Planning Board) asked if when they speak of nitrogen loading, they're referring to a leaching field and people fertilizing their lawn, all combined. Chairman Spratt said yes, and most of us know that not all that fertilizer is going to stay on the lawn, it's going to the street and running down. Member MacEachern (Planning Board) said when she met with Chairman Spratt, Member Yeatts, and Agent Ed Cullen, they discussed adding some language into the bylaw. They discussed deed restrictions with the 30,000sf lot, State approval and compliance with State code. They added three-bedroom with 30,000sf and four-bedroom with minimum 40,000sf. They also added wording that formal percolation depth to groundwater test shall be conducted on all lots shown on the conventional plan and on the OSRD development area. Member Poillucci said the only way he thought this could work is with town water or shared septic. Chairman Knox (Planning Board) said he believed there were stringent requirements for a public water supply. On top of a 200' radius, it needs to be fenced in so it would rob some of the open space. Agent Cullen said it depends on how much yield. If you had a ten-lot subdivision the fenced area would be Zone-One. It would be pretty small, but if you get a larger 40 or 50 lot, you're going to get a much larger area. The Zone-One does have to be fenced in, but it's also the outer radius which is the

interim well head protection area that's even more nitrogen sensitive. It would be great to put in the open space, but it's a radius, so it's tough. You would actually have to go into the open space, put it in the middle and fence it off. You couldn't just put it on the edge because half of that would be in the subdivision. Public water supplies also require a licensed operator. Chairman Knox (Planning Board) said that would require frequent monitoring and testing which would be a perpetual cost to the residents. Member Poillucci said it would be nowhere near the cost of a treatment plant. There was a discussion about potential options to provide lots with public water or shared septic. Member Poillucci explained that the Middleboro bylaw that leaves 100' around the edge, and the Sherborn bylaw allows for a public water supply to be placed in the open space. Mr. Resnick (Town Planner) said that this is something they should continue to work on. Public water solves a lot of the issues. Member Poillucci said he liked the Middleboro bylaw with an area of the 100' all the way around because you're going to have a ball field with 30,000sf lots. There's not going to be a tree left. Leaving the 100' around the edges is going to help if your wells are in the back, it gives you half the radius. The radius goes from 200' to 100' because you can use the open space. Member Poillucci stressed the fact that without putting in the wells and doing the perc tests, you don't know if it works. So, someone is going to go through the whole process of doing a subdivision and going through all the meetings and start, and then realize it doesn't work. Member Frodyma (Open Space) said he thought they would have to, in order to get approval for this OSRD. Member Poillucci stated that they would need to put in the wells and septic before it gets approved, to prove that it can work. Mr. Resnick (Town Planner) asked if the Board would feel more comfortable if the language were strengthened, beside working on the technical issues that have been discussed in this meeting. Member Poillucci then added that there would need to be a deed restriction that it has to go there. If someone buys a lot and decides they want to build a different house and they want to move things, its no, that's where it's going unless you can come back again and prove. Nate Darling (Building Commissioner) stated that in the past with the Zoning Bylaw Review Committee, this is how they've gotten things done. This is how we do what's right for the Town of Lakeville, we have a discussion and we hash it out. No good idea is going to be one person's idea. It's going to be a group of people's ideas. He wondered if this could be treated like a definitive subdivision where they can put a covenant on all of the lots; if they didn't release the lots until the Board of Health has approved the lots. There might be a scenario that you don't have to do all of the wells and have them tested and do all the septic and have the designs. In a preliminary plan, when you're figuring out how many are going to fit, you have to put the percs on the lots and come up with a number. They do the open space design and you only release those lots once the well is in and tested and the septic system is designed and approved by the Board of Health. He thought it would be incumbent upon the developer to make them work and not on a resident. Do you make a provision to have vacant lots on purpose by design? You could make a utility easement on those lots. If there was an emergency need from a public health perspective, if someone's reserve area didn't work for some reason, you could put a well on that vacant lot. Member Poillucci reiterated that until the wells go in, you don't know if the plan will work. Mr. Resnick said that's why Member Poillucci's point, about the town that did require them to install wells in each section, you know that you're not going to have an issue. Chairman Knox (Planning Board) said they could release five of the lots, don't release the one adjacent to the next grouping of lots. Member Poillucci added, or because those weren't locked in yet and recorded, those other lots, if they had to be bigger to make it work, you still have that ability. Nate Darling (Building Commissioner) asked if in a project like this would you typically see a plan approval and then lots held independently, or would the developer actually be building them to suit? That's the other piece, if you sold a vacant lot, now the buyer has to get a well and septic, and that's a problem. Member Maxim said no developer is going to carry all these lots. There's a different owner and a different developer every third lot. No one talks to each other and everyone's doing their own thing. Member Poillucci didn't think

it would be a hardship asking the developer to put in the wells. If anything, it makes them more marketable. If a lot has a well and a septic, or at least a perc, they can sell the lot comfortably and don't have to worry about moving anymore lot lines down the road. Chairman Knox (Planning Board) said that Mr. Resnick (Town Planner) would work on amending the language and circulate the document. It will come back to the Planning Board and if they're satisfied they will send it to the Board of Health for comment. They would like to get it on fall town meeting. Member Yeatts (Conservation Commission) said she would like to discuss the bylaw with her board. She's still not sure how the open space is going to be held. She thought they might need some legal advice on that. She wants to make sure the open space stays open space. It needs to be in perpetuity and there are still some questions surrounding that. Chairman Spratt said they could look into options besides the town or the abutters owning the land. There are some options for outside agencies that maintain stewardship of it. Member Maxim asked Agent Cullen if with all the Zone-A's in town, did he feel the cluster zoning could affect a Zone-A. You need to just be 400' off the pond to get outside the Zone-A. Just beyond that 400', outside the Zone-A, if they put in 30 lots in a small area, would the nitrogen loading affect it? Agent Cullen said yes it would affect it, but it would be legal. You can't build in a Zone-A, but at 401' it's outside the Zone-A. Member Maxim asked if that should be a concern for the Board of Health as far as approving something like this? Agent Cullen answered that it would be a concern, but they could question it during the review. Nate Darling (Building Commissioner) asked if it could be written into the bylaw that it would require advanced treatment for denitrification because of the density. Agent Cullen thought it could be on a case by case basis.

Member Knox (Conservation Commission) closed the Conservation Commission hearing.

Upon a motion made by Member Knox (Conservation Commission), seconded by Member Yeatts (Conservation), it was:

Voted: to adjourn

Unanimous approval. (7:15pm)

Chairman Knox (Planning Board) closed the Planning Board hearing.

Chairman Knox (Planning Board) made a motion, seconded by Member Conroy, it was:

Voted: to adjourn

Unanimous approval (7:15pm)

The adjournment was for the Conservation Commission and Planning Board only. The Board of Health continued their meeting.