

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
Thursday, March 28, 2019**

On March 28, 2019, the Planning Board held a meeting at the Lakeville Senior Center. The meeting was called to order by Chairman Hoeg at 7:30 PM. LakeCAM was making a video recording of the meeting.

Members present:

Brian Hoeg, Chair; Sylvester Zienkiewicz, Vice-Chair; Peter Conroy, and Janice Swanson

Members absent:

Barbara Mancovsky

Meet with Fire Chief Michael O'Brien and Deputy Chief Will Purcell

Deputy Chief Purcell introduced the Fire Chief. He advised they were both new at their jobs. They would like to be more involved than they might have been in the past and keep an open line of communication with the Planning Board. Mr. Hoeg asked if they were notified and got tours of new buildings in Town. Chief O'Brien replied that they sometimes do during the open house of the building but other times they must be more proactive and seek this out. He is still getting a feel for the process. Deputy Chief Purcell advised their goal had been to just introduce themselves and let the Board know they are willing to come to any meeting if that is needed. Chief O'Brien added he was looking forward to working with them and making the process better if it was required.

Mr. Hoeg noted that going forward the Fire Department should be receiving a copy of any Site Plan. Chief O'Brien said that he was. Mr. Zienkiewicz added that Site Plans should show hydrants, connections, sprinkler systems, etc. Mr. Jamie Bissonnette displayed a Site Plan that would be addressed later in the agenda. He discussed a sliding gate that the Fire Department would need access to. He would like the owners to come down and find out what the preferred method would be for Fire and Police. Mr. Bissonnette also noted that when Site Plans are submitted there is only a ten day time frame for comments.

Mr. Hoeg then announced the remainder of the meeting would be audio recorded.

Meet with Paul Turner regarding a modification to Ledgewood Estates

Mr. Turner was present. He displayed the plan for the Board members. He explained that the proposal is to add a garage which would require an additional curb cut. After consulting the plan, Mr. Zienkiewicz made a motion, seconded by Mr. Conroy, to take no action but to have the change be reflected in the final As-built. The vote was **unanimous for**.

Meet with Outback Engineering, Inc. regarding ANR submittal for 18 Howland Road

A representative from Outback Engineering was present. He displayed the plan for members. He stated that as the lot was odd shaped, he had also consulted with the Building Commissioner regarding this plan. An email from the Building Commissioner was submitted for the record. Mr. Conroy then made a motion, seconded by Mr. Zienkiewicz, to approve the plan as submitted. The vote was **unanimous for**.

Meet with Jamie Bissonnette from Zenith Consulting Engineers, LLC regarding Site Plan Review for 415 Millennium Circle

Mr. Bissonnette advised what they are looking to do here is marijuana cultivation inside the building. The Site Plan details what they are proposing to do as far as parking, site improvements, etc. They have also attached an architectural with a basic floor plan. Mr. Bissonnette then presented and explained the plan. He then displayed the existing building and what was proposed. The building will be getting a facelift with new paint, an update to the windows, and a wall to break up the façade. He asked if there were any questions.

Mr. Conroy asked if there was a drawing that displayed the proposed gate. Mr. Bissonnette replied they did not have the sliding gate on a profile. It is a six foot high gate on a rolling slide. It will be in front of the building. It was his understanding that it will be closed all of the time unless someone keys in. Mr. Zienkiewicz said that he had gone by the Site the other day. He asked about signage. Mr. Bissonnette advised that he had spoken with the Building Commissioner, and they will be under the allowed area. He then submitted some additional information for the record regarding the proposed signs.

Mr. Conroy asked if the generators would be near the parking area as they should be more protected. Mr. Bissonnette replied they would be in the fenced in area on the side. The gas meters were also discussed. It was noted that it would be a security issue if they left the gas meter open and in the front. They will be moved and also fenced in. Mr. Zienkiewicz said he did support the plan. Mr. Hoeg said he also supported the plan as long as the meters were adjusted and protection was placed around the generators.

Mr. Zienkiewicz then made a motion, seconded by Mr. Conroy, to approve the site plan with the following conditions:

1. The location of the gas meters will be adjusted.
2. The generators will be protected.

The vote was **unanimous for**.

Meet with residents regarding a drainage issue at Fuller Shores

Mr. Ted Lang of 42 Fuller Shores Road spoke first. He advised he was the President and Treasurer of the Fuller Shores Association. He advised that he originally sent a letter to the Planning Board which outlined the problems they were having in the Fuller Shores area. He explained that a lot of the trouble began in 2014 after the development of Justine's Way off of Fuller Shores Road. It was believed that when digging began for Justine's Way a spring was hit that released more water with more pressure than what had been there before. They began to see water coming up through the

ground onto what was then land but then became a road. Eventually, that water then came over to Fuller Shores Road and then went west toward the water and a small amount came back toward Bedford Street. Over the past four or five years, the problem has become increasingly difficult. In the summer months the water will pool or flood on the streets. In the winter months due to the amount of water that comes up, the snow, and the drop in temperature, the freezing causes icing and severe ruts, at times as deep as six inches and as long as one to two hundred feet, making the road dangerous and almost impassable for driving. They are concerned for the children that need to make it down to the bus stop as well as emergency vehicles. The situation is getting worse and in the past two years alone, they have spent over \$7,800 trying to repair the road. This past year was notable as even though there was not a lot of snow, they still spent a considerable amount in road treatment.

Mr. Lang said they have spoken to various people and various Committees in Town trying to seek some type of remedy, but nothing came from those meetings. At the same time, they do feel there are some things that can and should be done by the Town. It has become clear to them that the problem has occurred almost entirely since the development of Justine's Way. It was unknown if this was because of faulty judgement, lack of knowledge regarding the drainage, or lack of knowledge regarding the various flows of water and/or pressure. They feel, as a group of 52 residences, that the people who developed Justine's Way, the professionals and contractors, should have investigated and assessed the situation for what it was and then taken care of it. They had been told that the Planning Board had not taken out a bond for this particular development. They were not sure why that hadn't been done but they feel that the damage has been done and the damage needs to be repaired. It should not be their responsibility, but based on the regulations, it should fall to the Town.

Mr. Hoeg replied Fuller Shores is a private road as is Justine's Way. Although the Town of Lakeville does look at the plans and will comment on them, they do not really have any recourse because it is a private road off of a private road. He noted that in the past the Town had gone to Court, spent a considerable amount of money over the development of another private road and had lost. Mr. Hoeg said that he did recall this project, and they were not much in favor of it because it was a private road off of a private road but there was not a lot they could do. They could review it and make suggestions but that was about all that could be done. He noted they could only hold a bond on a road that is going to be public or off a public road. A resident then stated if they had been aware of that they would have been much more vocal in their opposition. They had made it very clear there was a water issue down there.

Ms. Kerry Palaiologos of 18 Fuller Shores Road said that what they were saying was they couldn't do anything about this. Was whoever hit that water underneath aware of this? Mr. Hoeg said yes but that was a civil matter between the Fuller Shores Association and/or Mr. Poillucci and/or who this was sold to. Mr. Tim James of 44 Fuller Shores Road asked if the road had been permitted. Mr. Hoeg replied permits are not issued for private roads off of private roads. Ms. Palaiologos asked if notices are sent out to abutters. Mr. Hoeg replied if there is a hearing, they will get a notice.

Mr. Rocky Savas said if the Association was against the road going in, how did the road get in? Mr. Hoeg replied the Town doesn't grant them permission to build the road. It is a private road off of a private road. They have the ability to build the road, and they have the ability to subdivide it per the Town's standards. The Town can neither approve nor deny the road. Mr. Savas asked about the permits issued. Mr. Hoeg explained the permits were issued through the Building Department

because they had the correct frontage and land area. Mr. Savas said so the Planning Board had nothing to do with the Association. Mr. Hoeg replied no. Mr. Savas said so there is no responsibility. Mr. Hoeg said no, and it is the same with Nelson Shore, Staple Shore, etc. Mr. Mike Irvine of 50 Fuller Shores Road asked who has oversight. Mr. Zienkiewicz said it was a Form C with a private road. Mr. Hoeg said the law is they can neither approve it nor deny it.

It was asked if anyone had approached Mr. Poillucci regarding this issue. Mr. Lang said he was not aware of that. Mr. Branco of 28 Fuller Shores Road expressed his frustration with local government. He felt it was supposed to be there to protect people but they are being bounced from Board to Board with no resolution. Do they have to take civil action against the people involved. He felt it was very unfair.

Mr. Zienkiewicz clarified the Board was a volunteer Board. They did not receive a stipend or any compensation. He would speak to the water and ice issue only. On this particular road, there is only a 16 foot drop and the drainage was done by a professional engineer. It appears to him that there is a ditch that runs all the way down the street and underneath everybody's driveway. He indicated the highest point on the street, and said it was icing up there as well. He noted where there were some rocks with a ditch that had been dug and the water and is running through it. He could not understand where the water on the uphill side was coming from. Residents said that it was coming out of the ground. Mr. Brian Clarey of 43 Fuller Shores Road stated there was an enormous amount of water on that hill. When a foundation hole was dug for the house across from Justine's Way, it filled up with four feet of water that day. When that property got disturbed, it diverted that water and now it is going west bound on Fuller. He noted that they had pushed someone out of ice that was ten inches thick. This isn't something they are making up. The question is if the Town is not going to assume any responsibility, the only recourse is to go after the developer which he felt was pretty lousy and where they are left.

Mr. Rocky Savas added there was never a problem on the top of the hill until this happened. There is a pipe two or three houses past that going down the hill. It flows underneath and goes to the end of the road where there is a little swamp. He asked if he could read something into the record. There was no objection. He then read "on 1/24/19 Mr. Clarey, a Fuller Shores resident, stopped by to speak to Mr. Darling again and was told by Mr. Darling that he couldn't do anything because the building lots had been sold. Mr. Poillucci was no longer with the development. Additionally, he explained that the Lakeville Planning Board which normally will require a bond be held on any new developments for just this type of problem had not held a bond for this project. Mr. Hoeg responded a bond is required on roads that are built per the Town's requirements off of a Town road. This is not a Town road. He suggested a return to the Building Inspector to ask him what is the Town's requirement for having a bond posted for a road off of a private road. Mr. Savas then asked what responsibility this Board has for that development. Mr. Hoeg said they do not deny or approve them. The Town does not have any responsibility. These laws are mandated by the State and a private road off of a private road is not the purview of the Planning Board.

Residents then asked what the point of the abutters meeting is. Mr. Hoeg replied it is an opportunity for them to voice their opinion. It was asked why they hadn't been informed at that meeting that no bond would be held, and they would be left holding the bag if anything went awry. It was requested those minutes from that meeting be supplied. The resident noted he was at that meeting, and he had heard no opposition from the Board. He also said as the issue seems to be that Fuller Shores Road is a private road, what would it take to make it a public road? Mr. Hoeg replied he did not think the layout for that road meets the Town's standards. He recalled that

originally this project was to be a 40B project and there had been some pushback on that proposal. It had not gone through and was then modified.

Mr. Roger Freeman of 23 Fuller Shores Road said he recalled another project that called for seven lots. That plan which he had a copy of showed all kinds of drainage going down to a detention pond with catch basins. He did not understand why that plan, with those drainage provisions, was scrubbed. They do have a detention pond now, and they were supposed to do a swale from Justine's Way which was not been done. Therefore, a lot of the water that is supposed to be going down into that detention pond is not going down there. You can see by all the contours that everything is funneling right down on Justine's Way. They did that swale to bring all that water down to Fuller Shores. He did not understand how that could have even been done.

Mr. Freeman then approached the Board and consulted the plan. He tried to indicate on the plan where the swale was located. He explained when they started building they had filled in a hole so water could not get down, and it resulted in an overflow of water. When the road was cut in, they brought in a lot of large stones and a large hole was dug where the stone was dumped resulting in a good leaching area. However, it is forcing the water right up through the blacktop and causing it all to break down and then run down to the catch basin which is about 600 feet further down. He described it as a volcano effect and felt that a spring had been uncapped. They still have water coming down there now, and there hasn't been any rain for a while. He advised that they have an estimate of \$30,000 to put in a French drain and catch basin to try to solve this water problem. Mr. Zienkiewicz asked if he knew who cut the recent trench that is there. Mr. Freeman replied that had always been there. Originally, there was a bank and it had been higher.

Mr. Branco asked if they had the right to ask the Town or the Selectmen to put something in the budget to alleviate a problem that is worthy of helping the citizens. Is this something, besides civil action that could be done? Mr. Hoeg replied they did have the right to ask the Selectmen anything they wanted. Mr. Branco asked if this Board would support them in this need. Mr. Hoeg said that if the Selectmen came to him and asked him what his thoughts were on the Town's standing regarding a private road off of a private road, he would have to say they previously went to Court on another project. Mr. Branco interrupted and said the question was not to the legal requirement that had been addressed before but if the Board would support the facts and the need that this warrants action. Mr. Hoeg responded he would support the fact that he has a need to get that fixed. However, would the Town be willing to take funds and direct it towards that; he did not know. Mr. Branco said that they did have the right to ask. Mr. Hoeg said they did.

Mr. Zienkiewicz noted this was a wet area and there was nothing an engineer could do to make it less wet, all he could do was get the water moving. Mr. Lang thought that if you looked at it from an engineering point of view, there ought to be some ways you could divert the water in various directions to at least alleviate the situation considerably. Mr. Lang then read from the Planning Board rules and regulations Section 1, Subsection C. There are certain parts that they felt applied particularly to this situation. "These subdivision Rules and Regulations are enacted for the purpose of protecting the safety, convenience, and welfare of the inhabitants of Lakeville, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways." Mr. Lang said that he would not read all of it as it was rather lengthy but there were some important and relevant points. He also read "for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment."

Mr. Lang said with all due respect to the Board but the answers they are getting tonight are incompatible with what seems to be laid out in the rules and regulations that are supposed to be governing this group. He thinks that is part of the frustration of a lot of the residents here. The fact that they felt they did not have a loud enough voice in trying to stop whatever occurred and even the fact that there was one private road that was not supposed to be allowed to hitch into a private road without the consent of the people who lived on the larger and more established private road. It happened and from their perspective, it's an injustice. Now this situation is just complicating and compounding the problem even more.

Mr. Zienkiewicz said that you are not going to get a chance to consent in any situation. If there is an empty piece of land zoned residential, the owner is allowed to build residences. Their charge is to make sure they can access that property safely. Mr. Clarey noted about three years ago his wife had fallen on the ice and they had to call the Lakeville Fire Department. They came through the ice and the paramedic that came in was aghast at the condition of the road. He was really concerned that they might lose emergency services because they can't get down there. He said there are so many issues tied to this which is why there are so many people present tonight hoping for some help. Mr. Branco added the mail has also stopped service on several occasions. Mr. Conroy said if they did see the Selectmen that was an excellent point. The fire and safety issue has to be brought forward.

Mr. Hoeg said he wished they had more control over it as a Board. It was asked what they should do now. They have no choice but to take it to Civil Court. Mr. Hoeg replied yes. Another resident asked Mr. Hoeg if he agreed they had an issue. Mr. Hoeg said yes they had an issue. The resident then suggested that someone from the Board contact Bob Poillucci. Then someone from the Board, Ted, Roger, and Mr. Poillucci could sit down and see if something could be worked out before they have to sue somebody. Mr. Hoeg replied he would give Mr. Poillucci a call.

Mr. Joe Abbanato of 62 Fuller Shores Road then spoke. He stated he built his house in 1999, and it is at the corner where the ice buildup had been observed. He has a French drain in his basement and never had a drop of water. Ever since that road was put in, the water table is six inches below his slab with his French drain. That is how much water is running through there now. He also noted that whole corner, on both sides of that property at the street at Fuller Shores Road, was never dressed off. The piles of gravel were never spread out. It was never loomed or seeded. Both sides of that roadway were never dressed. Aren't there rules and regulations that would address that? Mr. Hoeg replied no one approved it because it is not a Town way.

Ms. Kathy Stoffle from 23 Fuller Shores Road then asked if this was a private road, they could pretty much do anything they wanted then? Nobody has any oversight? Mr. Hoeg replied as far as the Planning Board goes, then no. Mr. Clarey asked what the next step would be. Mr. Hoeg said he would like to first review the minutes, and he would also call Mr. Poillucci. Another resident noted that at the first meeting Mr. Poillucci had been asked, where there was to be an increased amount of homes, what he was going to do for Fuller Shores Road. Mr. Poillucci publicly stated that he was going to work with them to make sure that Fuller Shores Road would not be affected by this project. Mr. Hoeg stated he would like to close this hearing now and move on to the next item on the agenda. The residents thanked the Board for its time.

Discuss the March 22, 2019, memo from ZBRAC regarding scheduling public hearings for four proposed Zoning By-Law Amendments for the Annual Town Meeting

Ms. Swanson advised that a public hearing must be scheduled. Ms. Garbitt, Town Administrator, had suggested their first meeting in May. That would be May 9, 2019. Mr. Zienkiewicz noted the verbiage has to be completed and available in Town Hall before they could advertise. That should give them sufficient time to complete that. Members agreed they would hold the hearings on May 9th. Mr. Zienkiewicz advised he had been working on an Open Space Bylaw and would like to go over that. Ms. Swanson stated that was not going to be on this Town Meeting. At the last Selectmen meeting, it had been decided there was not enough time to work on this bylaw, and it would be addressed at the Fall Town Meeting. Mr. Zienkiewicz then distributed the draft that he had been working on.

Mr. Conroy also advised the Board that ZBRAC is basically just cleaning up some of the bylaws and trying to make it easier and more streamlined for their Building Commissioner to do his job. That is the case with the temporary licenses. This allows the Building Commissioner to issue a permit for a temporary trailer promptly rather than having someone have to wait for a Selectmen meeting. The next item was to add some appropriate screening for Large Scale Ground Mounted Solar Photovoltaic Installation. Regarding the next proposed change, Site Plan Review Residential Procedure will actually become helpful to them. Right now at 3,000 square feet, every new construction home would require a Site Plan Review. The proposed change to 43,560 square feet will trigger them to take the Site Plan Review, a residential version, much more seriously.

Update on the Notice of Intent to Layout Satucket Trail

Ms. Swanson stated it appeared that the Town is still waiting for a letter from the Town's Consulting Engineer. Mr. Zienkiewicz asked if anyone had called the engineer. Mr. Hoeg said that he had not done so. It was unknown if Ms. Murray had yet tried to contact the engineer for the Board.

New business

There was some correspondence that had been placed under new business for the members to review. The first was from the Middleboro & Lakeville Herring Fishery Commission, and the second was in regard to a Community Outreach Meeting that had been held before their meeting.

Next meeting

Mr. Hoeg advised the next meeting is scheduled for Thursday, April 11, 2019, at 7:30 PM at the Lakeville Senior Center.

Adjourn

Mr. Conroy made a motion, seconded by Mr. Zienkiewicz to adjourn the meeting. The **vote** was **unanimous for**.

Meeting adjourned at 9:25.