

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
Thursday, April 11, 2019**

On April 11, 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. Ms. Murray, recording secretary, was audio recording, and LakeCAM was making a video recording of the meeting.

Members present:

Brian Hoeg, Chair; Sylvester Zienkiewicz, Vice-Chair; Peter Conroy, Mark Knox, and Barbara Mancovsky

Welcome new Board member and vote on reorganization of the Board

Mr. Hoeg welcomed new Board member Mr. Mark Knox. He thanked Mr. Knox for offering his services to the Town.

Mr. Conroy then asked Mr. Hoeg if he would consider a motion for him to continue as Chairman of the Board. Mr. Hoeg said that he would. Mr. Knox seconded the motion. The **vote** was **unanimous for**.

Mr. Conroy made a motion, seconded by Ms. Mancovsky, to nominate Mr. Zienkiewicz as Vice-Chair. The **vote** was **unanimous for**.

Meet with Nyles Zager from Zenith Consulting Engineers, LLC regarding a proposed 40B development on Rhode Island Road

Mr. Zager was present. He stated he thought the majority of the Board was aware of this proposal. This is a 40B project that will be filed with the Zoning Board of Appeals but, prior to that, they like to inform different Boards, Committees, and Commissions what is going on so there are no surprises. At this time, the project is in the preliminary stages. It has been submitted to Mass Housing, and they are waiting for an eligibility letter. They have done some conceptual designs and are now getting into some definitive design. The plan before them is conceptual in nature with the idea of the project being twelve single family units. 25% of those, or whatever is approved by the Zoning Board, will be affordable.

Mr. Zager then displayed and explained the plan. He advised that this plan has been brought before the Fire Department and has gotten their approval. Each home would have its own septic system, municipal water, and off street parking. He also showed what the typical style of the homes would be. Mr. Zager asked if there were any questions. Mr. Knox asked if these would be owner-occupied units or rentals. Mr. Zager believed they were to be owned. Ms. Mancovsky would like to have a greater understanding of the environmental contamination on the parcel and the distance

of it to this site. Mr. Zager replied he did not have that information yet, but it is something that will be put in when they do the entire project. He stated that was completely separate from this as far as this lot goes. Ms. Mancovsky noted that they should be aware there are financing limitations for properties that have a distance from an environmentally contaminated site; particularly FHA who will take issue with that. She thought they did have to have a very good understanding of where the contamination exists relative to these properties and whether or not it is on this parcel as it may impact this development. Mr. Zager said that was understood. Ms. Mancovsky said they would also be interested in finding out the progress of the Mass DEP on the restoration of that parcel, and what exactly is happening over there. Mr. Hoeg also thought that was relevant. Mr. Zager felt that was more of a Conservation issue.

Mr. Maksy then spoke. He explained, as the owner of the parcel in question, which is approximately 1,100 yards of material, DEP gave the following three options back in 2006:

1. It can be removed or replaced with clean soil.
2. It can be capped.
3. It can stand alone.

Currently, he is planning on leaving it as a stand-alone landfill. They have done a lot of testing and have not come up with anything harmful in the water. Mr. Knox asked what distance would possibly impact FHA financing. Ms. Mancovsky replied she would have to check on that. Mr. Hoeg asked if a 40R rather than a 40B had been looked at. Mr. Zager replied they have been working with Mr. Turner's counsel, but that is something they could look into.

Ms. Mancovsky asked who would own the drainage field. Mr. Zager said this will not be a town owned road but would be private. A Homeowners Association (HOA) would be responsible for maintenance. She also asked if leaching fields would in front of the properties and if they needed to be replaced, would there be a location on the lot where they could be replaced. Mr. Zager replied these are conventionally designed lots with a primary and reserve area.

Mr. Maksy then addressed the Board and read a statement that he had prepared. He was not a proponent for this 40B proposal as the Town has permitted beyond the State requirements. When he acquired the Hospital property, he met with most of the Boards and citizens and gave them his word that he would develop the property with residents and the neighbors in mind. He sold the property to Mr. Turner with the understanding that he was going to build one single family house per lot #4 and lot #5. The purchase and sales agreement states that any development would be subject to Planning Board approval.

When the ANR was approved by this Board, it was for single family house lots that met all current Town Zoning. At the 2006 Town Meeting, a Mixed Use Overlay District was established specific to this property. The Article was well thought out and was met with Town satisfaction and approval. To not follow the will of the people and allow a project of this density would be a shame. Mr. Maksy also believed that the Planning Board should be the permitting authority as that had been authorized at the annual Town Meeting.

Regarding the land fill as he had explained earlier, it is the way it is and will probably stay that way. As they know the Hospital Property is an attractive nuisance with all the empty buildings and the landfill, even though he does have 24-hour security there. He would also suggest the developer have a restriction not allowing the use of private wells for any reason. Mr. Maksy said the

developer should also provide proof as to the visual line of site for entering Route 79 and disclose these issues.

Mr. Maksy noted that the 55+ age restriction that is currently on the property is probably why the applicant is trying to do a 40B. If the developer went the route of the Planning Board, which he would encourage, they would then all be market rate units; the Planning Board would have some say over how it is done; and when he comes in with the next phase it will all be done by the Planning Board. He believed this would allow the developer to build the same project without violating the bylaw and be more profitable. Mr. Maksy continued that eventually the rear portion of the property will be getting developed, and he could not deed restrict 40B housing. He would prefer to go the Planning Board route and do what they promised the Town they would do. The reason is the Planning Board would provide oversight and develop the property as authorized at Town Meeting. He was willing to work with the developer if additional assistance was needed.

Mr. Maksy then asked the Board if they would consider asking Town Counsel's opinion on the following:

- Are they required to accept this proposal?
- Can they change the 55+ age requirement?
- Does the Planning Board have jurisdiction?

Finally, if this moves forward as planned, Mr. Maksy believed the developer should have a fence around the developer's property to provide safety for the families who purchase one of the 12 homes. Mr. Maksy then submitted his statement for the record.

Mr. Hoeg said that he would entertain a motion to send this to Town Counsel to have them look at the Zoning and advise them on what they are able to do. He would still like to see if a 40R could be entertained as well. Ms. Mancovsky also asked if the applicant should be required to provide information regarding the environmental contamination proximity to this site. Mr. Maksy said that he would be happy to provide a document from the DEP outlining what their conditions are and the testing that had been performed. Ms. Mancovsky also felt there should be a deed restriction that would prohibit any secondary well to be installed on this property. Mr. Zager said he believed that would all be done through the Board of Health.

Mr. Knox then made a motion, seconded by Ms. Mancovsky, to refer to Town Counsel regarding the mixed use zoning currently in place on this property regarding the 55+ age restriction to see how it affects the 40B usability of this proposed project and property and how the proximity of the environmental site would affect financing. The vote was **unanimous for**. Members also discussed the Overlay District and what is allowed within it.

Meet with Nyles Zager from Zenith Consulting Engineers, LLC regarding ANR submittal for 56 Main Street and 1 Ebony Farm Road

Mr. Zager explained that this is a commercial site and there were two separate parcels, 56 Main Street and a portion of 1 Ebony Farm Road. The purpose of this plan is to extinguish the line between the two parcels and have one single property. The use of the land was then discussed. Mr. Zager replied the design that was approved last year included a waiver on the impervious lot, including both lots together. There is no room for additional development.

Mr. Zienkiewicz made a motion, seconded by Mr. Conroy, to endorse the ANR plan for 56 Main Street and 1 Ebony Farm Road. The **vote** was **unanimous for**.

Discuss April 1, 2019, letter from Jepsky & Sack regarding removal of land from MGL Chapter 61A and ANR submitted for the same parcel

Mr. Zager stated that he could speak to the ANR plan submitted, but he thought the applicant was supposed to be present to provide an update on the Chapter 61A portion. Mr. Zager explained that lot #1 was created through a previous ANR plan. They are now creating an additional four lots. He also knew that the applicant had been in front of the Selectmen in regards to the Chapter land. He believed the Town had no intention of taking it, but he was not sure. Mr. Zienkiewicz stated the Selectmen's comments were due on April 18th for their meeting on April 22nd. Did they want the Planning Board to take action before that process had been completed? He was not in favor of that.

Mr. Zienkiewicz suggested the plan be withdrawn without prejudice. It could not be determined who owned lot #1 and who was paying taxes on it. There were also some issues with the land across the street which their Assessor was also working on. Mr. Zager was unsure of what the implications were to withdrawing. After further discussion, Mr. Zager requested the ANR plan be withdrawn without prejudice.

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

Review the following petitions from the Board of Appeals for:

1. Kellihor – 350 Bedford Street

Mr. Conroy made a motion, seconded by Mr. Knox, to make no comment on the Zoning Board of Appeals petition for Kellihor–350 Bedford Street. The **vote** was **unanimous for**.

2. Houle – 23 Twin Oaks Road

Mr. Conroy made a motion, seconded by Mr. Zienkiewicz, to make no comment on the Zoning Board of Appeals petition for Houle–23 Twin Oaks Road. The **vote** was **unanimous for**.

3. Rogers – 47 Nelson Shore Road

Ms. Mancovsky made a motion, seconded by Mr. Conroy, to make no comment on the Zoning Board of Appeals petition for Rogers–47 Nelson Shore Road. The **vote** was **unanimous for**.

Discuss April 5, 2019, memo from the Town Administrator regarding the scheduling of a Public Hearing for a proposed Zoning By-Law Amendment for Medical Marijuana Dispensaries and Adult Use Recreational Marijuana Establishments

Mr. Conroy advised that ZBRAC did not bring this amendment change forward. They did discuss it at length at their meeting and some of the reasons why it had been proposed. After hearing the opinions for it, he did feel that the Zoning Board of Appeals was the correct Board to be handling these applications as they handle uses. Mr. Hoeg questioned why they had then originally given this charge to the Planning Board. Mr. Conroy said that right now the ZBA sees medical marijuana applications but not recreational and if most companies coming forward are going to carry both, why should they be required to go to two separate Boards.

Mr. Hoeg asked if the Board would still be doing Site Plan Review. Mr. Conroy replied it was being struck. He believed if there were changes in a lot such as drainage or storm water, they would still see it. Mr. Hoeg felt there still needed to be Site Plan Review by the Planning Board for a dispensary whether it was a change of use or not. There needs to be close scrutiny of traffic flow, lot coverage, parking, etc. These are all done within Site Plan Review. This is within their purview.

Ms. Mancovsky said her understanding of this was that the ZBA would streamline the process. She noted there had been discussion at SRPEDD about what is going to be happening at the Cannabis Commission and the possibility of marijuana cafes. She thought retail use and cafes materially change the character of the community and for that reason she would not be in favor of putting this in front of the ZBA. She realized the importance of wanting to streamline the process but she did not know what benefit it would bring to the community.

Mr. Knox noted that in Article E, Number 2, detailed Site Plans is taken out. As that is the Planning Board's purview, he would recommend that stay within their scope. Mr. Zienkiewicz asked what the Zoning Board thought of this change. Ms. Murray replied they would see this at their next meeting. She also noted that Mr. Knox, as an abutter to any business in the Industrial Park, would not be able to vote on any Special Permit. This would leave only four voting members and an applicant is entitled to five.

Mr. Conroy then made a motion, seconded by Mr. Knox, to add the proposed Zoning By-law Amendment for medical marijuana dispensaries and adult use recreational marijuana establishments hearing on the same night as the other scheduled Amendments. The **vote** was **unanimous for**.

Appoint Commission Member for SRPEDD

Mr. Conroy nominated Ms. Mancovsky to continue in this position if she was still interested. Ms. Mancovsky said that she was. The motion was seconded by Mr. Zienkiewicz. The **vote** was **unanimous for**.

Approve Meeting Minutes

Mr. Conroy made a motion, seconded by Ms. Mancovsky, to approve the Meeting Minutes from December 13, 2018.

VOTE: Mr. Conroy, Ms. Mancovsky, Mr. Zienkiewicz Mr. Hoeg – **AYE**
Mr. Knox – **ABSTAIN**

Old Business-update on the Notice of Intent to Layout Satucket Trail

Mr. Conroy stated Mr. Lanney was not involved in the inspection of Satucket Trail. Ms. Murray replied that he does not do that type of work. Members then reviewed the April 11, 2019, from Mr. Ryan Trahan, of Environmental Partners Group. It detailed several items that should be acted upon before the Town accepts the road.

Mr. Knox then made the motion, seconded by Ms. Mancovsky, to accept Satucket Trail as a Town road pending the completion of the checklist put forward by Ryan Trahan along with that checklist being re-inspected by the Highway Department and Ryan Trahan for approval. The **vote** was **unanimous for**.

Mr. Zienkiewicz noted there was a detailed process involved for the acceptance of the road. Part of it was the Planning Board agreeing that this was a subdivision road and also agreeing with it becoming a Town road subject to whatever the engineer has indicated. The motion should include the name of the subdivision as well as the developer. He advised this would then go to the Board of Selectmen and there are several other documents involved in the process. Mr. Knox then retracted his original motion.

Mr. Knox made a motion, seconded by Mr. Conroy, to accept Satucket Trail with a positive recommendation for the Board of Selectmen to approve this road, pending completion of the recommended remedies detailed on the April 11, 2019, letter from Ryan Trahan of Environmental Partners and a final inspection by the Highway Superintendent and Ryan Trahan at the completion of these remedies and the submittal of an updated As-built. The **vote** was **unanimous for**.

New Business-Sign bill and establish procedure going forward

Ms. Murray asked the Board what procedure they would like to establish in regards to approving bills. She advised the bill they have in front of them is for advertising for Nature's Remedy. She has received payment from Nature's Remedy for this, but payable to the Town. This will allow the Town to forward their own payment to the newspaper.

Ms. Mancovsky recommended if a bill being incurred is a "wash" to the Town as this one is, Ms. Murray would be able to sign off and process the bill. In addition, she would also have the authority for any expense up to \$50; any expense greater than that must be reviewed and approved by the Planning Board. Members discussed and agreed this would be beneficial for the Board.

Ms. Mancovsky then made a motion, seconded by Mr. Conroy, that any bill that was a “wash” where funds had been received from an applicant or was \$50 and under may be processed by Ms. Murray; and any expense over that amount will require approval from the Planning Board. The vote was **unanimous for**.

New Business-Discuss FY2020 budget

Members had received a copy of the FY2019 budget in their packets. Ms. Murray asked them if they would like to have a more accurate budget with detailed line items. Currently, many of their expenditures were being paid somewhere out of the Selectmen’s Budget. After some discussion on the matter, Mr. Conroy made a motion, seconded by Mr. Knox, to continue discussion concerning their budget at their next scheduled meeting. The vote was **unanimous for**.

New Business-Town Clerk acknowledgements

Paperwork had been provided to Members from the Town Clerk regarding Conflict of Interest training that needed to be signed and returned.

Ms. Mancovsky stated that she had an additional item under New Business. After the Dollar Tree came before them, they had talked about getting together some Architectural standards for revision to the bylaw. Ms. Carboni had advised her proper protocol would be to give the Board some proposals they could discuss. They could then get it on for the Town Meeting as an amendment to the bylaw. She asked the Board if they were in agreement that something like that was needed. Mr. Conroy said he was in favor. Ms. Mancovsky said that she would spend some time investigating this and maybe have something to share with them for their next meeting.

Ms. Mancovsky advised the following items that had been discussed at the last SRPEDD meeting.

- A presentation had been given on Dynamic Open Access. There are companies that are looking to build internet service for municipalities and provide the service to the residents of the community with the benefit going to the municipality. In one community, people were able to get high speed, fiber optic internet for only \$25 a month. The resiliency from that savings is very meaningful for families. She stated the secondary resiliency has to do with Homeland Security. If there was a terrorist attack, a municipal service would have a secondary level for internet service so they could still communicate within their Town or with anybody that was on their secondary network. The Town already has some of this in place in conjunction with TMLP. SRPEDD is talking about doing something regionally as a cost savings and benefit. She would keep them posted on any updates.
- Regarding the Brayton Point Power Plant, on April 27, 2019, the towers will be taken down.
- The FCC is changing the law that allows them to be recorded for the community. That is paid for by fees from Comcast and other providers. The change means these operations will not have the same resources. This would be detrimental to public access television.
- The last item concerned recycling. They could expect a major change in the cost of trash removal specific to recycling. This will be a major issue.

Adjourn

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

Meeting adjourned at 9:45.