

**Planning Board  
Lakeville, Massachusetts  
Minutes of Meeting  
January 28, 2021  
Remote meeting**

On January 28, 2021, the Planning Board held a remote meeting. It was called to order by Chairman Knox at 7:00. LakeCam was recording, and it was streaming on Facebook Live.

**Members present:**

Mark Knox, Chair; Barbara Mancovsky, Vice-Chair; Peter Conroy, Michele MacEachern, Jack Lynch

**Also present:**

Richard Rheume, engineer, Prime Engineering; Paul Turner, Atty. Michael O'Shaughnessy

**Agenda item #1**

Ms. Mancovsky, who was acting as Chair, read this item into the record. It was an explanation of the Governor's Order Suspending Certain Provisions of the Open Meeting Law related to the 2020 novel Coronavirus outbreak emergency which was why the Board was meeting remotely.

**Colpat Drive – Meet with Richard Rheume from Prime Engineering regarding Colpat Drive subdivision**

Mr. Rheume explained that several years ago Mr. John Reilly, of 37 Hill Street, submitted a subdivision to the Planning Board that was approved. The plans were recorded at the Registry of Deeds along with the Certificate of Action and Covenant. He noted the Town of Lakeville has a bylaw where a subdivision expires after seven years. When the subdivision had not been built after that time, Mr. Reilly re-drew and submitted the plans and went through the public hearing process and the plans were approved again. This second set of plans along with the Decision and Covenant were also recorded but have also since expired. After an informal discussion with the Planning Board, Mr. Reilly was told to re-draw the plans and go through the public hearing process again. He noted that they have now been asked to re-draw the plans but asked if the Planning Board would consider having them file, go through the public hearing but refer to the existing plans that are on record to avoid the expense of having to draw the plans for a third time.

Mr. Knox said he spoke to the Building Commissioner about this. He advised that in the interim of the last seven years, Lakeville has changed the bylaw so there is no longer an upland circle but it is now called a front yard circle. It is also now 160 feet instead of 150 feet. It would be wise to make sure the plan complies with the front yard circle and also complies with the latest State requirements for drainage. Mr. Rheume replied that previously when a subdivision was approved

the zoning standards of that time were frozen for seven years which has since been changed to eight years. He was unsure of when Mr. Reilly last did this but if his plan was approved seven years ago, the old standards still apply. The Town might have misunderstood the freezing of the zoning versus the expiration of the subdivision. Subdivisions do not expire in other Towns in Massachusetts. Mr. Rheume stated they would be able to present to them at a public hearing whether it meant that upland circle and the zoning has expired. If it didn't, then the requirement is to either re-draw the plan with the right circle or get a variance. Mr. Knox said this is the advice from the Zoning Enforcement Officer, although his argument about the freeze in zoning is compelling. It would be advantageous to draw it and show that the 160-foot front yard circle can be met. That would be his recommendation based on the information he had received, but he was not speaking for the Board.

Ms. Mancovsky said that it appeared that the last time this development was approved was in 2012. That would put it outside of the window. Mr. Rheume said it was right then that the zoning was not frozen, and he could at least see if it meets the upland circle before coming to the Board. If the existing plans meet that and he could demonstrate that informally to the Board, they would still have the ability to approve the plan with the knowledge that it met current zoning. Ms. Mancovsky said she would rather be signing a plan that is in compliance at the time it's signed and recorded. She felt that the history can get lost when things don't make it to the Registry. They want to be cautious about the quality of the things they are pushing through. She asked if anyone else had comments.

Mr. Knox replied his understanding was there may be some other subdivisions that were not built and would also not comply with current zoning. They don't want to set a precedent for ones that may be far less compliant or not compliant at all. They would need to see that front yard circle notation as it is no longer called the upland circle in Lakeville. Mr. Rheume said that he also believed the circle had to be either touching the front yard setback or the actual roadway. Mr. Knox said that it is also 160 feet now and not 150 feet. Mr. Rheume added that as far as the stormwater standards, that applies to subdivisions that are more than four lots. Mr. Knox said that he would need to have the calculations on the plan then. Mr. Rheume said he would do that and thanked the Board for its time.

#### **Ledgewood Estates – Review Environmental Peer Review Letter**

Mr. Knox advised they had received a letter from Environmental Partners that stated that everything looked good at Ledgewood. He believed it was on the agenda so nothing would be done without the Board's approval. It had previously been voted pending that letter and an approval which they have now received. He said they could back up their vote but he thought it was time to release whatever bond they are holding minus the amount for the length of the roadway. Atty. O'Shaughnessy agreed that the Board had already voted to approve pending this review.

Atty. O'Shaughnessy then asked if the Board would also be issuing a Certificate of Completion that they could record at the Registry of Deeds. Mr. Turner would like to present this to the Town for acceptance. Mr. Knox said they would have to send that to Town Counsel for review from a

legal standpoint that they were in good standing with doing that action. They could vote pending Counsel's review. Atty. O'Shaughnessy noted the regulations say a way shall be eligible for acceptance as a public way at the expiration of two years from the date of the release of the surety but the regulation seems to talk about something the Board has denied. He asked if that prohibited them from pursuing that. Mr. Knox asked for a clarification of the question. Atty. O'Shaughnessy said that it appeared there was an inconsistency of what needs to be done. One paragraph talks about upon completion of the ways and the security of performance if the work is done correctly, the money is released. Then in the following paragraph it talks about the Board determines if the construction installation has not been completed it shall specify to the applicant in writing. Then below that it talks about the two years but it refers to the paragraph that deals with the roadway not being complete.

Atty. O'Shaughnessy added it is just not clear what it's intended to do. Is the intent, if the roadway is not complete and the Board determines that, then he could see the two-year window being applicable. However, if you issue a Certificate of Compliance and the roadway is done, he didn't read that as requiring them to have to wait two years to bring this to the Town for acceptance. Mr. Knox said that he would defer to Mr. Conroy as to how it has been done in the past. His thought was from the time it was completed, from the time of the topcoat being put on maybe would start the time clock for the two years.

Mr. Conroy said that is how they have done every road so far. Every road that is becoming a public road has the two-year waiting. He couldn't say if they have been doing it 100% accurately but that is how they've done every road so far in the past eight years. That is when the topcoat is complete, they carefully watch that date and that is the two-year mark. Then it is eligible for that second Town Meeting in the second year. The road is then accepted and turned over to the Town for maintenance and plowing. Mr. Knox asked when the top coat was applied. Mr. Turner believed it was in May of 2020.

Mr. Knox asked Mr. Conroy if that is what would start the clock. Mr. Conroy replied that is how he understood it. If it was different, he was not aware of it. Mr. Knox said they could also ask Counsel for clarity. Atty. O'Shaughnessy added he was questioning it because it was not clear. He thought he knew what the Board's intent was because it was their practice, but it doesn't read that way, and they might want to run it by Town Counsel. Mr. Conroy advised the intent was to show durability of the road for two full years. If someone did walk away from a project, for the small amount of money they hold, they could repair the road with it if it got damaged and then still pass Town Meeting.

Ms. Mancovsky asked if there was a motion. Mr. Knox made a motion to reaffirm that they will release to the applicant the remaining bond minus the amount of retainer they hold based on the length of the footage of the roadway until it's released at the Town meeting. Mr. Conroy seconded the motion. Ms. Mancovsky amended the motion that it would be subject to review by Town Counsel for compliance and consistency with existing laws. Mr. Knox moved the amendment.

**Roll Call Vote:** Mr. Knox-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Ms. Mancovsky-Aye

### **Floodplain Bylaw – Review and discuss revisions for public hearing.**

Ms. Mancovsky advised that FEMA has revised their floodplains around the country. The floodplain review that they conducted was based on scientific evidence and to make sure the existing Federal flood insurance plan stays intact and is offering proper coverage. The floodplain bylaw will revise the maps in the Town and it was her understanding if the bylaw did not pass they would not have access to Federal funds for flood insurance. That would be a significant impact on homeowners around the water. She was very much in favor of making sure that this gets adopted at the spring Town Meeting.

Mr. Knox stated that he had tried to delve into this on his own, but had noticed that this was basically a boilerplate document provided by the State that all Towns need to adopt. They need to go through it and fill in some blanks. He then highlighted some of those areas. He felt that in some of those areas the Conservation Commission should weigh in. He also spoke to who should be designated as the Town's official Floodplain Administrator. Currently, this is the Building Commissioner's responsibility but, in his opinion, where it is more of a wetlands issue, he circulated this between the Building Department and Conservation and has not yet heard back from either one. He would like everyone to look through this and wait for that feedback from those other departments.

Ms. Mancovsky noted the only place they would be making any changes within the content of this bylaw proposal would be specific to filling in the blanks. They are not doing anything else with this other than adopting what the State is proposing because they essentially have to. This is not a negotiable situation. Mr. Knox said that was correct.

Ms. Mancovsky then made a motion to postpone discussion on this pending feedback from Conservation and continue to their next meeting. Mr. Knox seconded the motion.

**Roll Call Vote:** Mr. Knox-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Ms. Mancovsky-Aye

### **Site Plan Review Bylaw – Review and discuss revisions and requirements for public hearing.**

Mr. Knox advised he had attempted to make some changes to this. He is trying to work with the Building Commissioner because he recognizes there is some ambiguity or unclarity in how it's drafted and interpreted. He then read the section in question, 6.7.2. He advised there are two reasons to try to amend this. For example, they had just reviewed 149 Bedford Street and originally that building came in at 1,498 square feet so that entire project would have gone without Site Plan Review because it was not 1,500 square feet. The MS4 permits might be a way to catch that with all Site Plan Review for all construction even residential being triggered if you disturb just over 43,000 square feet or one acre.

Mr. Knox said with business and industrial he amended the bylaw with a draft to change 6.7.2 to read "applicants for a building permit for new construction or addition to a business or industrial

structure that creates a disturbance in lot coverage of 1,500 square feet or more in the aggregate or if a change in occupancy increases the previously approved occupant load by ten percent or more shall submit six copies of the Site Plan.” Mr. Knox said he is trying to do two things for clarification. They have had concerns with if there is a change in tenant, which is not necessarily a change in use, does that trigger a Site Plan Review or not? Ms. MacEachern asked what would gauge that 10% load. Mr. Knox replied it would be the original Site Plan Review. He stated that something else they might add is if a change in occupancy increases the previously approved occupant load by 10% or more but this needs to be caught cumulatively.

Ms. Mancovsky asked if it would be appropriate to have a further discussion with a Planning Resource or Consult to go through what is proposed before it is sent off to legal. She is in support of what he is trying to do but her question has to do with the change in use. For example, retail is retail but there are a bunch of different types of uses just as there are in office. She didn't know if change of use deserves any further delineation and maybe it doesn't, maybe it is sufficient the way it is. She did not want to get overly bureaucratic. Mr. Knox thought the change of use was a good point and maybe they should have it in there, but he was just trying to catch it by using the change in occupancy. He would want to speak to the Building Commissioner again in regards to this, but they shouldn't force Site Plan Review if the change in occupancy doesn't trigger any changes. They are just trying to take out the ambiguity.

Mr. Knox said he would send out what he had done to members, and that he was just looking for some feedback from them over the next two weeks if they would like to add, alter, or change what he's done so far. This should be placed on their next agenda. Ms. Mancovsky added that she thought additional clarification would really help them a lot. She stated that if there were no additional comments, they would move on to their next agenda item.

### **Master Plan Implementation – update**

Mr. Knox advised they had appointed Mr. Lynch to the Master Plan Implementation Committee at their last meeting. He had gotten some feedback from the Board of Selectmen that they may also want Ms. MacEachern to sit in on some of those meetings. Mr. Lynch said his appointment had been approved, and he had stayed for the Master Plan Implementation Committee (MPIC) meeting. He noted one of the overriding comments at the meeting had been that not much had changed, and they were trying to get this to move forward. Ms. Mancovsky said that one of the things they had tackled by putting this on their agenda was to take the action items that are listed on the Master Plan and actually start making progress on them. She believed the last item they were working on was a fee structure.

There was then a discussion on how people can get more informed and find out more about what is going on in Town, and how to get that word out. He would be willing, once the virus is under control, to host a presentation for his neighbors at LeBaron concerning the Master Plan as well as what the Planning Board is about. Then people would have some idea of what is going on in Town for the taxes that they pay. She said that Master Plan had done several outreaches that had been held at the Public Library.

After further discussion, Mr. Knox made a motion, seconded by Ms. Mancovsky, to appoint Ms. MacEachern as the Associate Planning Board Member to the MPIC.

**Roll Call Vote:** Mr. Knox-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Ms. Mancovsky-Aye

Ms. MacEachern wanted to mention a few things that had stood out from that meeting. The first was it had been asked what the Planning Board had discussed as far as senior housing needs. This is something the Board should put on its radar. It was also discussed that there is a part-time salaried position available for a Town Planner which she had not been aware of. The question had come up again as to whether or not the Planning Board is looking to pursue a Planner, or just stay with a Peer Reviewer on an as needed basis.

Mr. Knox replied he knew that in past years, the Planning Board has tried to put in about \$80,000 for a budget request for a full-time Planner. This year at their last meeting they decided to request \$40,000 for some sort of administrative help in a planner peer capacity. He didn't want that to be viewed as they were giving up on the Planner. Maybe they revisit that and request \$120,000 with \$80,000 for the Planner and \$40,000 for that additional help. If they don't get the Planner, they are getting the approval of the other request and the Planner stays on the radar, as he did not want to go backward on this effort. Ms. Mancovsky agreed. She said they have gotten some peer review going in the last year but they don't have a Planning Consult with a specialty in Planning. Then depending on how big the need is, maybe they identify they do need a full-time Planner. They would probably have a better idea after they work with somebody in that capacity of what exactly they are looking for in terms of qualifications.

Mr. Knox thought they should request communication with the Board of Selectmen either at a meeting or they draft something prior to official budget hearings in March. He thought a conversation would be better served. He asked if the Board would be alright with him discussing this with the Board of Selectmen and if there was any other input to pass that along to him. Board members were all okay with that and had no objection. Mr. Knox said if members wanted him to do this, he just wanted their input and clarification as to what they wanted him to request prior to budget season. Ms. Mancovsky suggested if members had any thought on this topic, they email Mr. Knox directly by next week and do not copy each other. He can then share their feedback with the Board of Selectmen.

Mr. Knox then left the meeting.

### **Development Opportunities District (DOD) - Update**

Ms. Mancovsky asked if anyone had feedback on this topic. She reviewed that they were looking to narrow down the locations by which that sort of zoning exists. She knew there had been a map of Lakeville where locations had been circled that were close to highway access. It was important for them to narrow this down and get it proposed in order to meet the deadline for Town Meeting submittals. Ms. MacEachern said she believed the last time they had talked about this, it had been discussed about doing an overlay over two areas that were by the highway ramps. The language

of the current DOD seems almost as easy as putting those underlying names in. She would be happy to send that over to Town Counsel to see what she thinks.

Ms. Mancovsky said they would need to have those tax id parcel numbers included in the bylaw as it narrows it down. She noted that she did not want to have a parcel with the same owner bisected because it has an impact on the valuation and use of that property. Ms. MacEachern thought it was the Planned Special Purpose Overlay they had looked at and also the Mixed Use. Ms. Mancovsky said that was right. Ms. MacEachern reviewed the parcels were the section south of Route 44 and the one close to I-495, although they were both close to I-495. Mr. Conroy clarified that it was the one that was I-495 and Main Street. Ms. MacEachern said that was right.

Ms. Mancovsky noted these parcels were 25 acres or greater and because it is considered an opportunity district it's sort of expedited permitting. One of the goals of what they are attempting to do is limit where these size developments can go in the Town and make sure if permitted they limit the traffic going through the community. Mr. Conroy asked if after 2021 they should just get rid of the overlay. It was just a thought if it was created just for this one parcel. Ms. Mancovsky said there were no geographical limitations, just the limitations of the size of the parcel. If they don't want to do an overlay and want to remove it next year, between now and next year, anybody that has a parcel of 25 acres or more could start this process on their land. Mr. Conroy said that was correct. He noted that there were not many parcels left that financially would make sense.

Mr. Lynch added that at the Master Plan Committee this was one of the issues that had been discussed and where in the Town are there opportunities for more industrial growth. After further discussion, Ms. MacEachern asked if they were suggesting to have a discussion with the Master Plan Committee concerning this. Ms. Mancovsky replied she would like to know if they would be in support, or if it is self-defeating. The Smart Overlay District came into play since the Master Plan was developed 20 years ago. She knew the intention behind it, so before they support abolishing it, she would like to have their feedback. They should at the least be talking about Town Meeting to put in specific locations and limit what's already happening.

### **Review the following Zoning Board of Appeals petitions:**

1. Bauer – 4 Pilgrim Road

Mr. Conroy made a motion, seconded by Ms. Mancovsky, to make no comment on the Zoning Board of Appeals petition for Bauer – 4 Pilgrim Road.

**Roll Call Vote:** Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye,  
Ms. Mancovsky-Aye

2. Furtado – 17 South Avenue

Mr. Conroy made a motion, seconded by Ms. Mancovsky, to make no comment on the Zoning Board of Appeals petition for Furtado – 17 South Avenue.

**Roll Call Vote:** Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye,  
Ms. Mancovsky-Aye

### **Old Business – Recodification**

Ms. MacEachern advised they had a meeting regarding the recodification of the Zoning By-laws. The Planning Board Rules and Regulations had not been included in this project which would have been an additional cost. She advised she believed there had been two options. It could be done all together or it can be added at a later date to the updated version. Her concern is that if there are so many inconsistencies right now between the Zoning bylaws and the Planning Board Rules and Regulations and those changes haven't been made to date, when would it get done. Personally, she would like to see this included. How did the Board feel about it?

Ms. Mancovsky said that she would like to have Mr. Knox's input before they moved forward on this. She would ask if there would be cost savings if they did it now as opposed to doing it later. Ms. MacEachern replied she thought if they did it later it would be something they would internally have to update, and then it would be uploaded to the website. Mr. Conroy asked when they would be doing this. Would it be before May or June? Ms. MacEachern replied it was a multi-step process, and she thought it was by the end of the summer. Mr. Conroy said that maybe they could have everything in order as far as their rules and regs and then roll it in. They could then get the savings by having them do it all at once. Was that correct? Ms. MacEachern replied they could update them and then just upload it themselves, or if they want them to do it for them, they could roll it all into the beginning for that additional charge. Ms. Mancovsky said she would like to know the cost and the need. She suggested finding out the cost and then checking with Mr. Knox as well as Mr. Darling.

### **New Business – Sign Bylaw - Review and discuss revisions for public hearing**

Ms. MacEachern advised she had researched a couple of other Towns and found that the Town of Duxbury had a very well written and encompassing sign bylaw. She didn't know if they would like to go through each item or send it out and then have comments sent back. Mr. Conroy said he would like to do that and go through it but he had noticed that both Duxbury and Scituate, the other Town bylaw that had been distributed, allowed for a larger sign than they did. He did like how they referenced sign height to the building that's on the property it's associated with, or if there is no building nearby then you take an average of the existing buildings. It can't be taller than the building it's representing. He noted he would like some time to read them all and then would be happy to reply with an email. They could then go through it at their next meeting.

Mr. Lynch thought that was a good idea. He asked if anyone had seen anything in there that spoke to the rolling signs like the one that had been reviewed at Route 79 and Route 18. Ms. Mancovsky then read their own sign bylaw prohibitions. She did not understand why they had even entertained that sign as clearly animation, flashing, and lights are prohibited. She thought they were all in agreement that more comprehensive sign regulations are needed in Town. She also agreed with Mr. Conroy's earlier point that businesses deserve to be supported and represented but she thought that both could be accomplished. You can maintain that rural character while also giving appropriate coverage for the community. They just need to strike that balance. Her concern is they are coming up to Town Meeting, and they may not have time to accomplish this in light of the fact of the other things that need to be done.

Mr. Conroy added that he had been involved in several changes to zoning in the past couple of years. Some, he wished he hadn't gone along with. He really thinks that they need to be very careful with absolutely everything they change or do. To set deadlines in January and to have to have it to the Selectmen in two weeks is too short of a time frame as far as he was concerned. If they want something for a May Town Meeting, they need to be approaching it in October or November of the prior year and work it out thoroughly. Mr. Conroy noted that because the Zoning Board of Appeals (ZBA) has to make allowances for the bylaws, they should almost be on every page with them.

Ms. Mancovsky agreed and noted that these were big decisions that they were making. Right now, she was not even sure why they needed a change to their bylaw. As it reads, it seems to be representing what they want. If they were in alignment with ZBA and the ZBA was in agreement with the bylaw, then they should see very few exceptions, if any, ever. Mr. Conroy agreed but if the opposite was happening and they were granting relief constantly then it should be changed. He felt it was a balancing act. The existing one may not be perfect but he was wary about changing it to some of the material that he read in the Duxbury sample.

Ms. MacEachern stated that this was a Master Plan item. Were they saying they wanted to put this on the back burner for now? Mr. Conroy said he didn't want to do that but they did have a lot on their plates right now, and he liked the flexibility of the fall meeting. He would rather they take their time and have something solid to present. Ms. Mancovsky agreed it was too rushed. She would like to get feedback from the ZBA and the Master Plan Implementation Committee (MPIC.)

After further discussion, Ms. Mancovsky made a motion, seconded by Mr. Lynch, to send a memo to Mr. Darling, the ZBA, and the MPIC asking for their feedback on the existing signage regulations and include the two samples that had been distributed as a comparison.

**Roll Call Vote:** Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Ms. Mancovsky-Aye

#### **Next meeting**

Ms. Mancovsky advised the next meeting is scheduled for February 11, 2021, at 7:00 p.m.

#### **Adjourn**

Mr. Conroy made a motion, seconded by Mr. Lynch, to adjourn the meeting.

**Roll Call Vote:** Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Conroy-Aye, Ms. Mancovsky-Aye

Meeting adjourned at 8:31.