



TOWN OF LAKEVILLE MEETING POSTING & AGENDA

Town Clerk's Time Stamp
received & posted:

LAKEVILLE TOWN CLERK
ROUD 2023 SEP 14 PM 12:58

48-hr notice effective
when time stamped

Notice of every meeting of a local public body must be filed and time-stamped with the Town Clerk's Office at least 48 hours prior to such meeting (excluding Saturdays, Sundays and legal holidays) and posted thereafter in accordance with the provisions of the Open Meeting Law, MGL 30A §18-22 (Ch. 28-2009). Such notice shall contain a listing of topics the Chair reasonably anticipates will be discussed at the meeting.

Name of Board or Committee:	Zoning Board of Appeals
Date & Time of Meeting:	Thursday, September 21, 2023 at 7:00 p.m.
Location of Meeting:	Lakeville Public Library 4 Precinct Street, Lakeville, MA 02347
Clerk/Board Member posting notice:	Cathy Murray

Cancelled/Postponed to: _____ (circle one)

Clerk/Board Member Cancelling/Postponing: _____

A G E N D A

1. **NSA Property Holdings, LLC hearing – 156 County Street, continued**– request to modify a Special Permit under 7.4 to add three (3) additional storage buildings.
 - Accept request to continue
2. **Benatti hearing, continued** – Appeal from Decision of the Building Inspector/Zoning Enforcement Officer relative to business activity in the residential district at **434 Bedford Street**
 - Accept request to continue
3. **Approve Meeting Minutes for August 17, 2023.**
4. **Updating of the ZBA Rules and Regulations**
 - Application
5. **Meet with the Lakeville Planning Board to discuss possible amendments to the Zoning by-law.**
6. **Correspondence**
7. **Next meeting . . . Thursday, October 19, 2023 at the Lakeville Public Library.**
8. **Adjourn**

Please be aware that this agenda is subject to change. If other issues requiring immediate attention of the Zoning Board of Appeals arise after the posting of this agenda, they may be addressed at this meeting

Cathy Murray, Appeals Board Clerk

From: John Benatti <jpsd1105@msn.com>
Sent: Wednesday, September 13, 2023 12:04 PM
To: Cathy Murray, Appeals Board Clerk
Subject: Re: ZBA APPEAL JOHN B

Hello Cathy, This is John Benatti. I'm respectfully requesting a continuance of my hearing until October. Please confirm. Thank you. John B.

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October 19

Cathy Murray, Appeals Board Clerk

From: Garrett Piccirillo <gpiccirillo@gpinet.com>
Sent: Wednesday, September 13, 2023 3:05 PM
To: Cathy Murray, Appeals Board Clerk
Cc: Brian George; Marc Resnick; David Jordan
Subject: RE: ZBA hearing-156 County Street

Hi Cathy,

We are requesting a continuance to the October hearing. We have test pits scheduled for September 20th for the septic relocation.

Thank you for checking in.

GPI Garrett Piccirillo, P.E.
d 603.898.9486
Greenman-Pedersen, Inc., *An Equal Opportunity Employer*

October 19

From: Cathy Murray, Appeals Board Clerk <cmurray@lakevillema.org>
Sent: Wednesday, September 13, 2023 2:53 PM
To: Garrett Piccirillo <gpiccirillo@gpinet.com>
Cc: Brian George <bgeorge@rightspacestorage.com>; Marc Resnick <mresnick@lakevillema.org>; David Jordan <djordan@gpinet.com>
Subject: RE: ZBA hearing-156 County Street

Hi Garrett,

I was just checking in to see if you will be attending the ZBA's meeting scheduled for September 21st?

Cathy

From: Garrett Piccirillo <gpiccirillo@gpinet.com>
Sent: Wednesday, August 9, 2023 3:45 PM
To: Cathy Murray, Appeals Board Clerk <cmurray@lakevillema.org>
Cc: Brian George <bgeorge@rightspacestorage.com>; Marc Resnick <mresnick@lakevillema.org>; David Jordan <djordan@gpinet.com>
Subject: RE: ZBA hearing-156 County Street

Hi Cathy,

Thank you for passing this along. We are requesting another continuance to the September meeting. We have made revisions to the site plan per recent coordination with Chief O'Brien and we now need a bit more time to iron out the septic design, as previously requested by the Board.

Thank you

GPI Garrett Piccirillo, P.E.
d 603.898.9486
Greenman-Pedersen, Inc., *An Equal Opportunity Employer*

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
August 17, 2023**

On August 17, 2023, the Zoning Board held a meeting at the Lakeville Public Library. The meeting was called to order by Chairman Olivieri at 7:06 p.m. LakeCam was making a video recording.

Members present:

John Olivieri, Jr., Chair; Jeff Youngquist, Vice-Chair; Gerald Noble, Clerk; Christopher Campeau, Member; Christopher Sheedy, Member

Others present:

Atty. Amy Kwesell, Town Counsel; Marc Resnick, Town Planner

NSA Property Holdings, LLC hearing, continued – 156 County Street

Mr. Olivieri opened the continued NSA Property Holdings, LLC hearing at 7:06. He advised the applicant had submitted an email requesting the hearing be continued for one month, which he then read into the record.

Mr. Youngquist made a motion, seconded by Mr. Noble, to continue the NSA Property Holdings, LLC hearing until September 21, 2023. The time would be at 7:00 p.m. The **vote was unanimous for.**

The hearing closed at 7:07.

Garbitt/Pike hearing, continued – 29 Staples Shore Road

Mr. Olivieri opened the continued Garbitt/Pike hearing at 7:07. Mr. Jamie Bissonnette from Zenith Consulting Engineers was present for the applicant. Mr. Bissonnette advised that at the last hearing there had been discussion regarding the electrical services and the hardship. Since that time, the applicant has had an electrician change, and they now have one meter on the house. Therefore, they would like to withdraw their Variance request.

Mr. Bissonnette said they are still in need of a Special Permit for the setback. He asked if there were any questions. There were none.

Mr. Youngquist made a motion, seconded by Mr. Sheedy, to approve the Special Permit requested under Section 7.4 and Section 6.1.3. The vote was **unanimous for.**

The hearing closed at 7:09.

Benatti hearing, continued – an appeal related to 434 Bedford Street

Mr. Olivieri opened the continued Benatti hearing at 7:09. He advised this was an appeal from the decision of the Building Inspector, Zoning Enforcement Officer, relative to business activity in the residential district at 434 Bedford Street. Mr. Olivieri wanted to point out that there has not been a decision issued by the Building Commissioner at this point. He was going to go forward and asked Mr. Benatti to come up and present the information he had. He first asked Atty. Kwesell to clarify the burden of proof that needs to be taken into consideration by the Board.

Atty. Kwesell stated that this is an appeal under 40A, Section 8 and Section 15. Procedurally, there is an issue because there is nothing being appealed because there was nothing in writing from the Building Commissioner. Under 40A, Section 7, you can request the Building Commissioner undergo zoning enforcement. The Building Commissioner has 14 days to respond. However, there is clear case law that the 14 days is directory, not mandatory, so the Building Commissioner, technically does not have to respond. She noted that in this case, there wasn't a lot of evidence, so the Building Commissioner did not issue a written response, but the applicant had appealed to the ZBA. In those cases, the applicant has the burden of proof. The applicant is claiming the business at 434 Bedford Street is an unpermitted, illegal, commercial business in a residential zone. Therefore, it is his burden of proof to show this Board that it is unpermitted. It is not pre-existing, non-conforming use, and either it has been in existence since 1959 or at a later time when the Zoning Bylaw changed making that commercial use unpermitted.

Atty. Kwesell said that 40A, Section 6 states that a Building Commissioner cannot enforce a pre-existing, non-conforming use if the use is being undertaken with an original building permit. In that case, the Building Commissioner only has six years to seek enforcement and if in those six years, it was found out that the building with the building permit was issued in error. That was not the case here. This is a pre-existing, non-conforming use. In 2016, 40A, Section 7 was amended to provide that if an unpermitted structure has been in existence for 10 years, it becomes a lawful non-conforming structure, but that does not apply to uses. They are looking for the applicant to provide evidence that this is an unpermitted business.

Mr. Benatti then addressed the Board. He stated this is a tough thing to find out. There is no indication of it in the bylaw and it is asking a lot to have this kind of knowledge of all these things. He said it was not fair, and he didn't present a case to that effect. He was asking that he get a decision from the Building Inspector that he may or may not appeal. He noted that it has been one year.

Mr. Olivieri said that he understood Mr. Benatti's frustration but the Board has to comply with how they handle things based off of legal counsel and precedent set by the Courts. They have parameters they have to operate within. They can't just listen to what he has to say and make a decision. They don't have the right or ability to even do so. He reiterated that they don't make the rules or set the parameters, but they have to operate within them. Mr. Benetti is appealing a decision, in which no decision has been made.

Atty. Kwesell advised the applicant can appeal to the Court. The ZBA does not have the authority to tell the Zoning Enforcement Officer to issue something in writing. Mr. Olivieri suggested Mr. Benatti ask for a continuance. He could ask Counsel as far as where her decision came from and

how he can research that. He can then go down to the Building Commissioner's Office and ask Mr. Darling to give him a decision one way or the other.

Mr. Benatti said the Board had Counsel but he has nothing, and would now have to digest all this information. Mr. Olivieri summarized that what Town Counsel had said was if there was a decision to be appealed, that in order for him to have a ruling in his favor, he will have to prove that at some point in time, there was not a business operating there. Mr. Olivieri clarified that at the last meeting they did not discuss anything because they did not have a full Board. Atty. Kwesell added to be clear, every applicant that comes before the Board has the burden of proof. Mr. Benatti said that he was just asking this Board to move and apply the bylaws as they are written. Mr. Olivieri said their role at this point is, if there is a decision made by the Building Commissioner, and he wanted to appeal it, their role is strictly defined that they have to decide if they agree with that decision or not. As of now, they don't have anything to make a decision about.

Mr. Benatti left the room briefly. When he returned he said that he would like to continue. Mr. Noble made a motion, seconded by Mr. Sheedy, to continue the Benatti hearing until September 21, 2023 at 7:00 p.m. The **vote** was **unanimous for**.

The hearing closed at 7:25.

Meeting minutes

Mr. Noble made a motion, seconded by Mr. Youngquist, to approve the meeting minutes from the July 20, 2023, meeting. The **vote** was **unanimous for**.

Next meeting

The next meeting is scheduled for September 21, 2023, at 7:00 p.m. at the Lakeville Public Library.

Adjourn

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

Meeting adjourned at 7:26.

TOWN OF LAKEVILLE
MASSACHUSETTS

ZONING BOARD OF APPEALS
PETITION FOR HEARING

Name of Petitioner: _____

Mailing Address: _____

Name of Property Owner: _____

Location of Property: _____

Property is located in a _____ residential _____ business _____ industrial (zone)

Registry of Deeds: Book No. _____ Page No. _____

Map _____ Block _____ Lot _____

Petitioner is: _____ owner _____ tenant _____ licensee _____ prospective purchaser

Nature of Relief Sought:

_____ Special Permit under Section (s) _____ of the Zoning Bylaws

_____ Variance from Section (s) _____ of the Zoning Bylaws.

_____ Appeal from Decision of the Building Inspector/Zoning Enforcement Officer

_____ Date of Denial

Brief to the Board: (See instructions on reverse side – use additional paper if necessary.)

I HEREBY REQUEST A HEARING BEFORE THE ZONING BOARD OF APPEALS WITH REFERENCE TO THE ABOVE PETITION OR APPEAL. ALL OF THE INFORMATION ON THIS PETITION, TO THE BEST OF MY KNOWLEDGE, IS COMPLETE AND ACCURATE AND CONFORMS TO THE REQUIREMENTS ON THE BACK OF THIS PETITION FORM.

Petitioner: _____

Date: _____

Signed: _____

Telephone: _____

Owner Signature: _____
(If not petitioner)


Owner Telephone: _____

Email: _____

WILL YOU HAVE A REPRESENTATIVE OTHER THAN YOURSELF?

_____ Yes _____ No

(Name and Title)

Appeal Number:	 <p style="text-align: center;">Town of Lakeville ZONING BOARD OF APPEALS 346 Bedford Street Lakeville, MA 02347 774-776-4350</p>	Received by Town Clerk
Hearing Date:		
EXHIBIT "A"		

ZONING BOARD OF APPEALS APPLICATION
PETITION FOR HEARING

Property Address: _____

Zoning District: _____ residential _____ business _____ industrial

Map _____ Block _____ Lot _____

Registry of Deeds: Book No. _____ Page No. _____

Applicant (Petitioner)	Owner
Applicant's Name:	Owner's Name:
Applicant's Address:	Owner's Address:
City, State, ZIP:	City, State, ZIP:
Phone:	Phone:
Email:	Email:
Applicant's Signature:	*Owner's Signature:
	<i>*Must be signed if not the applicant</i>
Engineer (If any)	
Name:	Phone:
Mailing Address:	Email:
Representative (If any)	
Name:	Phone:
Mailing Address:	Email:

Nature of Relief Sought:

_____ Special Permit(s) under Section(s) _____ of the Zoning Bylaw.

_____ Variance(s) from Section(s) _____ of the Zoning Bylaw.

_____ Appeal from Decision of the Building Inspector/Zoning Enforcement Officer.

_____ Date of Denial

Lot area: _____ Frontage: _____

Setback	Required*	Existing	Proposed
Front Setback			
Rear Setback			
Right Side Setback			
Left Side Setback			
Lot Coverage	Maximum allowed	Existing	Proposed

*See Lakeville Zoning Bylaw-Section 5.1-Intensity Regulations

Description of Proposal and/or Decision Being Appealed. Please attach separate narrative if additional space is needed. _____

I HEREBY REQUEST A HEARING BEFORE THE ZONING BOARD OF APPEALS WITH REFERENCE TO THE ABOVE PETITION OR APPEAL. ALL OF THE INFORMATION ON THIS PETITION, TO THE BEST OF MY KNOWLEDGE, IS COMPLETE AND ACCURATE AND CONFORMS TO THE REQUIREMENTS OF THE ZONING BOARD OF APPEALS OF THE TOWN OF LAKEVILLE.

ARTICLE 9: To see if the Town will vote to amend the Lakeville Zoning By-Laws Section 270-6.6.F. Special Permits by adding the following text in bold and to renumber the remainder of the Section accordingly and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Lakeville:

Section 270-6.6 F. Special Permits

(3) Changeable copy signs, electronic message board signs, and internally illuminated or the portion of a sign that is changeable copy, an electronic message board or internally illuminated shall require a special permit **by the Zoning Board of Appeals.**

or take any other action relative thereto.

ARTICLE 10: To see if the Town will vote to amend the Lakeville Zoning By-Laws Section 270-7.4 by adding the following text and to renumber the remainder of the Section accordingly and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Lakeville:

(30) Signs - Changeable copy signs, electronic message board signs, and internally illuminated signs.

These signs must meet the following standards in order to receive a Special Permit by the Zoning Board of Appeals.

- (a) The parcel where the sign is proposed shall not abut properties on either side or across the street that are zoned Residential, **or contain a single-family dwelling.**
- (b) If the property cannot meet the above standard (a) a Special permit may still be issued only if the sign is for a use that identifies municipal or public safety buildings, medical facilities, or retail stores that sell medical supplies.
- (c) It must be determined that the sign is not detrimental to the character of the neighborhood.

or take any other action relative thereto.