On July 25, 2019, the Planning Board held a meeting at the Lakeville Senior Center. The meeting was called to order by Chairman Hoeg at 7:30 p.m. 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, Barbara Mancovsky

**Meet with Don Foster regarding Site Plan Review for Marijuana Uses.**

Mr. Foster advised now that all marijuana uses are the responsibility of the Zoning Board a question had come up regarding the Site Plan Review. It had been noticed the fee that is charged is $1,240 and that $1,000 of that is for the Site Plan Review. He noted the Zoning Board does not do Site Plan Review but that is the purview of the Planning Board. He stated that the Zoning Board would charge a $240 fee for the Special Permit and the Planning Board would continue to charge $1,000 for the Site Plan Review. The question he would ask is what Board the petitioner should engage with first. This sequence should be clearly identified so there are no misunderstandings.

Mr. Hoeg replied when they were in the process of doing Site Plan Review and Permitting there were a lot of things to be considered such as hours of operation, traffic flow, etc. They do a Site Plan Review for any business. Mr. Foster said the Zoning Board also gets involved in hours of operation, traffic review, and so forth. He did not think it was bad that their questions and their responsibilities can overlap particularly with something that is so critical, and can also be so controversial, like marijuana.

Mr. Knox said that in the bylaw it does state “Applicants for a building permit for new construction or for modification of or addition to a business or industrial structure resulting in floor area of over 1,500 square feet in the aggregate shall submit six copies of a site plan for the Planning Board.” He noted if either of those two things are triggered, new construction or the 1,500 square feet, Site Plan Review would still go through the Planning Board. Maybe it would not make sense for the Zoning Board to go first because the Decision would be pending Site Plan Review.
Mr. Foster said that was an excellent point. The Zoning Board does ask for input from various Boards and Committees. It seems reasonable that the Planning Board would do the Site Plan Review first and then forward a memo to the Zoning Board which could also give the ZBA some guidance.

Members then discussed a change of use for a building which would not typically trigger a Site Plan Review. Mr. Knox wondered if they should pursue a way to change the way the review gets triggered. It was suggested Site Plan Review could also be added as a condition to a Special Permit if it was felt that would be necessary.

Mr. Foster suggested the following be implemented:

- The Planning Board will do Site Plan Review for marijuana uses.
- The Planning Board will assess the $1,000 fee for that review.
- The Planning Board will review the Site Plan prior to the Zoning Board’s review of the Special Permit application.

Meet with Zenith Consulting Engineers, LLC regarding ANR for 44 and 46 Rhode Island Road

Mr. Jamie Bissonnette was present. He stated he would be happy to answer any questions regarding the Form A plan in front of them. Mr. Zienkiewicz said that he did have some comments. The lot line between Lot 4 and Lot 5 is being extinguished, but what is important about this particular lot is that it abuts the former solid waste disposal area. It would appear that the land being cut off the back of these two lots is following the line of the estimated limits of the solid waste line area. He noted that all of the land abutting that was coming up for auction on August 15th.

Mr. Zienkiewicz stated he would like to see more information on this submittal including the estimated limits of the former solid waste disposal area. He noted there were other parcels identified incorrectly as owned by the entity “Lakeville Mixed Use Development.” It might just need the letters LLC but this needs to be corrected. Mr. Bissonnette explained the purpose of the area in the back is that the Department of Environmental Protection (DEP) has asked them to prepare that area. They are unaware of any solid waste on the site but DEP implements a 100 foot buffer around it. They have asked them to prepare this plan as their requirements. He did not believe it would be combined until DEP allowed it. Mr. Zienkiewicz requested a copy of the letter from DEP be forwarded to the Planning Board. Mr. Bissonnette was unaware if there was a letter. This information resulted from the attorneys meeting with each other.

Mr. Bissonnette explained that he was here in place of Atty. Michael O’Shaughnessy. When Atty. O’Shaughnessy reviewed the plan, he said that it meets all Form A requirements and he specifically asked if the plan is denied or continued that a reason be defined. Mr. Zienkiewicz said that it does not have enough information, it does not show where the dump is, and it misidentifies some of the parcels. Mr. Bissonnette did not think that was a requirement under the ANR statute. If there was information that was
needed they could bring that back, but he thought the 20 days would expire prior to the next Planning Board meeting. Mr. Hoeg said that would then be considered approved. Mr. Zienkiewicz replied that was only if they did nothing, but they are taking an action in turning it down.

Mr. Bissonnette then consulted with the owner, Mr. Paul Turner. Mr. Bissonnette then advised the intention of that piece is on the plan. It is to complete the DEP process with the solid waste landfill. He understands the concern, but he believed this plan meets all the ANR standards. Mr. Zienkiewicz said if there was evidence of the DEP instructing the requirement of getting rid of the land, he thought that would be adequate. Mr. Zienkiewicz then made a motion they deny the ANR plan for 44 and 46 Rhode Island Road pending the receipt of further information including evidence of the DEP requirements and the extent of the effects of the limit on the plan.

Ms. Mancovsky said she was concerned about the contamination area behind it and thought it should be delineated on this plan. Mr. Bissonnette said if things go the way they project, that piece will go with the landfill to whoever will be taking care of completing it, whether it is capping, reclamation, or whatever DEP decides has to happen with it. Unfortunately, his client does not own the solid waste landfill property and so the discussions on what they’re doing and the decisions are not made by him. They have somewhat limited access as to the true details of what is going to take place, but they were asked to provide the 100 foot buffer as that is the DEP policy.

Mr. Conroy asked when this gets recorded Parcel C will be owned by Paul Turner. Mr. Bissonnette said that was correct. He believed, at first, it will be Mr. Turner’s and there will be an easement over it. Once DEP comes up with its final determination, it will probably be deeded but they did not know. If it is required that he transfer it to the owner of the solid waste parcel, Mr. Turner wants to be able to do that. In the meantime, he was hoping they could just have an easement and that DEP will allow them to move forward with the 40B. Mr. Conroy asked what the harm would be in waiting until they asked for ownership of this and then carving it out after.

Mr. Bissonnette replied it was pure title. He explained that if they issue a “Notice of Solid Waste Landfill” it will affect the overall deeds of all the properties within 100 feet and they will be so labeled. If they subdivide it like this and they have the two separate pieces, they have been told the back piece will be labeled but not the front. They were unaware of any other 100 foot buffers associated with the solid waste landfill. That is why they are here to get things corrected so they can move forward, and keep clean title on the front without having the 100 foot buffer solid waste land fill affect the overall parcel.

Mr. Zienkiewicz asked if Atty. O’Shaughnessy could then write a letter for their next meeting stating that. Mr. Bissonnette said that he saw no problem with that. He then noted that Atty. O’Shaughnessy was just getting out of a meeting and could head down here to discuss this with the Board. Mr. Knox then made a motion, seconded by Mr.
Zienkiewicz, to table this item until Atty. O'Shaughnessy arrived. The vote was unanimous for.

Review the following petitions from the Board of Appeals for:

1. Maksy – 139 Staples Shore Road

   Mr. Conroy made a motion, seconded by Mr. Knox, to make no comment on the Zoning Board of Appeals petition for Maksy – 139 Staples Shore Road. The vote was unanimous for.

2. Martin – 42 Taunton Street

   Mr. Conroy made a motion, seconded by Mr. Knox, to make no comment on the Zoning Board of Appeals petition for Martin – 42 Taunton Street. The vote was unanimous for.

Meet with Zenith Consulting Engineers, LLC regarding ANR for 44 and 46 Rhode Island Road-continued

Atty. O'Shaughnessy arrived and stated he would try to answer any questions from the Board. Mr. Hoeg said the Board is wondering about the DEP requirement. Atty. O'Shaughnessy said as he understood it, the 100 foot buffer is a DEP policy issue. When they met with them, they said to carve off a piece of the lot and they have agreed for now to do this in the form of an easement. The only work that would be done on that parcel is testing and monitoring. Their intent, if the Board is inclined to approve this, is to draft the form of an easement to the landowner that DEP would then approve. If their 40B is approved, what DEP ultimately wants to see is that parcel conveyed back to the property owner where the land fill is and that property be combined into one parcel. That is what they are trying to do.

Mr. Hoeg said what they have been able to ascertain is that this parcel being subject to DEP will taint the deed for the remaining parcel. Atty. O'Shaughnessy said it would not. The way it is typically done is there is a Notice of Land Fill Operations that is supposed to be recorded at the Registry of Deeds. For whatever reason, that was never done here and all these lots were created. That is the problem. When they met with DEP two weeks ago what they said was once they do this and are in agreement with what the easement is supposed to say, they would like a letter that tells them DEP is comfortable with them moving forward with their project. Atty. O'Shaughnessy noted they have the same concerns as the Planning Board and would be happy to share this letter with them. Mr. Turner also did not want to move forward unless he had some protection from DEP.

Maureen Candito, Town Administrator, advised her office had received a copy of a letter from DEP today that was just emailed to her. She said that it states that Mr. Maksy is in
violation if he subdivides any portion of the landfill prior to recording that it is a landfill that is still open. He would not be able to go through with the auction. Ms. Mancovsky replied that it could not be subdivided, but that it should be able to be transferred. Ms. Candito then read the following which was the last line of the letter into the record. “The purpose of this Notice of Landfill Operation is to ensure proper closure of the landfill and adherence to post closure monitoring requirements and to ensure any person who is purchasing the property is aware of their roles and responsibilities as a landfill owner.”

Ms. Mancovsky asked how a prospective property owner would know that unless it was recorded. Mr. Zienkiewicz asked if the property they were talking about included the 100 foot buffer. Atty. O’Shaughnessy said it does not include it. It is overlapping onto other people’s property which is the issue. Atty. O’Shaughnessy said the reason they are here today is to set it up as an easement originally and then if they can get their Permit from the Zoning Board, they don’t need the area to satisfy other requirements. Then they will be happy to say they can add it to the back parcel. If for some reason their project does not go through, they would probably come back to the Board with an ANR plan trying to re-establish the lines they are taking out today and that would give them the two lots they already have.

Mr. Hoeg thought this plan was what was needed to be done to provide to DEP. Mr. Zienkiewicz would like something written for the record that would summarize their discussions with DEP. Atty. O’Shaughnessy said that he could send an email with that information. Mr. Zienkiewicz said that he would be willing to sign the plan then.

Mr. Knox then made the motion, seconded by Mr. Conroy to endorse the ANR plan for 44 and 46 Rhode Island Road. The vote was unanimous for.

**Approve Meeting Minutes**

Mr. Zienkiewicz made a motion, seconded by Mr. Knox, to approve the Meeting Minutes from July 11, 2019. The vote was unanimous for.

Mr. Zienkiewicz then read part of the minutes from April 11, 2019, into the record. It detailed the three options that DEP had given regarding the landfill back in 2006 and also a conversation the Board had regarding how this would affect financing on the proposed 40B project. Mr. Zienkiewicz noted that this topic is not anything new but an ongoing issue.

Mr. Knox made a motion, seconded by Mr. Conroy, to approve the Meeting Minutes from April 11, 2019. The vote was unanimous for.
Old Business-Marijuana Zoning change update regarding correcting indexing issues

Mr. Zienkiewicz advised the ad was in the paper today so the freeze on marijuana zoned properties is in effect and will be until Town Meeting. The problem that came up was nothing had been included for the Establishment of Districts. It was also realized they had not established Districts the last time they had done this, for the Smart Growth District, so there is more work to be done. Town Counsel has advised this is something they can fix without any additional advertising as this is just an indexing matter. Mr. Zienkiewicz stated what they had been doing with marijuana is working out of the Table of Uses as the moving part in the bylaw. Town Counsel has taken that out completely. These are all non-issue items. Mr. Conroy thought this had been a very good and important thing that had been done.

Mr. Knox questioned what the timing would be to get something on the Town meeting agenda. He noted they had talked tonight about the things that trigger Site Plan Review. He would imagine that is something that would have to go to Town Meeting if they wanted to make changes to those triggers. Mr. Zienkiewicz said that would be something to discuss for the Spring Town Meeting.

Plan Approval Authority for DHCD annual update

Mr. Zienkiewicz stated a few months ago it was mentioned that they would have to start having meetings as the Plan Approval Authority (PAA) for the 40R development. These meetings have to be posted separately. They are supposed to be held monthly but he thought they could have them quarterly if that was agreed upon. Mr. Zienkiewicz also noted that by July 31st a report that is to be done by the Town Administrator, is due. A copy of this report should be sent to them upon its completion.

Mr. Zienkiewicz suggested these meetings be held before their regular scheduled meeting at 7:15. Mr. Poillucci, Mr. LeBlanc, and Atty. O’Shaughnessy would be invited. Town Counsel would also be invited if the topic warranted it. It was discussed when they should hold their first meeting. Mr. Zienkiewicz made a motion, seconded by Mr. Conroy, to hold their first PAA meeting on September 12, 2019. The vote was unanimous for.

Next meeting

Mr. Hoeg advised the next meeting is scheduled for Thursday, August 8, 2019, at the Lakeville Senior Center.

Adjourn

Ms. Mancovsky made a motion, seconded by Mr. Knox, to adjourn the meeting. Meeting adjourned at 9:06.