

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
February 28, 2013**

Members present:

Donald Foster, Chair; David Curtis, Vice-chair; Member; Eric Levitt, Member; John Olivieri, Jr. Member; Joseph Urbanski, Associate Member; Jim Gouveia, Associate Member

Regular Meeting:

Mr. Foster opened the regular meeting at 7:05 p.m.

Roll called. Bills signed. Mr. Foster advised that in accordance with the Open Meeting Law he was announcing publicly that he was making an audio recording of the meeting. He advised that the secretary was also making a recording.

Mr. Curtis made a motion, seconded by Mr. Urbanski, to approve the Minutes from the December 20, 2012, meeting. The **vote** was **unanimous for**.

Weydemeyer hearing, 16 Old Powderhouse Road:

Mr. Foster reopened the Weydemeyer hearing at 7:15. He advised that although five members were present tonight, only four had attended the first hearing. This meant that only those four members would be able to vote on this petition. Mr. Foster noted that the Weydemeyers were entitled to have five voting members. They would have the option to continue until they had five members or proceed with the hearing. While they think about that, they may want to go over some other things. There had been three issues that the Weydemeyers needed to resolve since the last hearing. The first was a letter from the City of Taunton, the second was the approval of the Conservation Commission, and the third was to get a septic system plan.

Mr. Foster then read the January 14, 2013, letter from the Board of Health. There were no Board of Health issues with the petition as long as the structure was not moved. If it was moved, they would require that it be kept a minimum of 20 feet from the septic components. Mr. Foster felt that the main issue was with the Conservation Commission. He then read their January 17, 2013, letter into the record. They had received a filing and the hearing was scheduled for February 12, 2013. The Conservation Commission had requested that the Zoning Board continue this hearing until Mr. Weydemeyer complied

with the conditions that they had requested. Mr. Foster noted that they could take action on this tonight, but it would be to Mr. Weydemeyer's benefit to first resolve this issue.

Mr. Pink advised that they had attended the Conservation Commission meeting and had been denied. However, at that time it had been left open so that they could return. In his opinion, some of the conditions that the Commission are requesting do not have to do with the building of the cabana. Mr. Foster felt that the real issue was still the position of the Conservation Commission. He felt that they could not possibly make an affirmative decision unless they had their approval because they were so close to the property line and the wetlands.

Mr. Foster said that they are really asking for two things here. The first is an appeal of the decision of the Building Inspector and the second is a Variance. Their view of how to handle Variances is very narrow because of the way their bylaw is written. It was really only based on a topographical or geographical issue. Based on that and the position of the Conservation Commission, he would recommend a continuance.

Mr. Weydemeyer replied that they are ready to address two issues tonight. They would like to keep the cabana where it is now located, first because it is not hurting or impacting anyone, and second because of the cost factor involved in moving it. However, they are prepared to move the cabana portion but would request that they be allowed to leave the pool shed where it is. This shed is covering a filter and a pump. Mr. Foster said this was a good direction to go in, and Mr. Weydemeyer should sit down and discuss this plan with Mr. Iafrate. It was asked how close to the property line the shed was. Mr. Weydemeyer replied it is about 1.5 feet from the line. Mr. Foster said they would need to speak to the Building Inspector and see if the cabana was moved out of the setback would the protective shed be allowed to stay.

Mr. Pink noted that Conservation wants them to receive authorization from Taunton to stabilize the bank area, but that area is hard. Mr. Foster thought maybe if the structure was moved this problem would go away as well. Mr. Urbanski asked if that hill was on Taunton property. He wondered if the Town had the authority to require any work be done on that land if it was not within their jurisdiction. The letter that had been received from the City of Taunton was also discussed. Mr. O'Brien, Supervisor of Water, noted that there could be an issue with the maintenance of the existing trees that abut the property.

Mr. Foster felt that if approval could be gotten from Mr. Iafrate and the Conservation Commission, they could then consider a Variance for the pool shed. Mr. Pink then submitted the modified plan. It would meet the setback and also would leave the cabana more than 25 feet from the wetlands. Mr. Foster thought the plan was reasonable. He asked when they would like to continue to. The ZBA's next scheduled meeting was March 21, 2013. They felt that would be enough time and agreed to continue until then.

Mr. Olivieri then made the motion, seconded by Mr. Levitt, to continue the Weydemeyer hearing until March 21, 2013. The time would be at 7:15. The vote was **unanimous for**.

The hearing closed at 8:00.

Mr. Levitt made the **motion**, seconded by Mr. Curtis, to adjourn the meeting. The **vote** was **unanimous for**.

Meeting adjourned at 8:02.