

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
March 20, 2014**

Members present:

Donald Foster, Chair; David Curtis, Vice-Chair; Eric Levitt, Member; Joseph Urbanski, Associate Member; Janice Swanson, 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 and the secretary were making an audio recording of the meeting, and that LakeCam was making a video recording.

Mr. Gouveia made the motion, seconded by Mr. Urbanski, to approve the Minutes of the February 20, 2014, meeting.

VOTE: Mr. Urbanski, Mr. Gouveia, Mr. Foster – **AYE**
Mr. Curtis, Ms. Swanson – **ABSTAIN**

Mr. Levitt joined the meeting.

LeBaron Residential LLC hearing, M26-B3-L10:

Mr. Foster opened the LeBaron Residential LLC hearing at 7:15 and read the legal ad into the record. Mr. Foster advised that at their last meeting the Board had decided that the change that LeBaron was requesting was substantial and therefore, a public hearing would be required. This gave abutters an opportunity to comment on the proposed change. This also allowed certain conditions or restrictions to be attached to any Decision made by the Board. Mr. Foster then read the March 20, 2014, letter from Atty. Mather. Atty. Mather was requesting a continuance of the hearing for one month, until the April scheduled meeting.

Mr. Levitt then made the motion, seconded by Mr. Curtis, to continue the LeBaron Residential LLC hearing until April. The date would be April 17, 2014. The time would be at 7:15. The **vote** was **unanimous for**.

The hearing closed at 7:17.

New Cingular Wireless PCS (“AT&T”) hearing, 100 Fern Avenue:

Mr. Foster opened the New Cingular Wireless PCS (“AT&T”) hearing at 7:17 and read the legal ad into the record. He also read the March 20, 2014, email from Mr. Perry, Health Agent for the Board of Health. Mr. Perry stated that there were no water or waste water utilities associated with the proposal. There were also no dangers to the public health or safety and the petition would be in compliance with FCC requirements with respect to frequency emissions. He saw no reason to object to the petition. The March 14, 2014, letter from Mr. Darling also stated that he had no concerns with the petition.

Mr. Foster then summarized that the request was to add twelve radiators to an existing tower. The only issue was the request for a waiver to the height which would be five inches taller than what is allowed. There was also a mention of the generator being slightly louder than is permitted. Atty. Adam Kurth, counsel for AT&T was present. He advised that was correct. He stated that Elizabeth Rutkowski, site consultant of Tower Resource Management, was also present. Atty. Kurth continued that AT&T was able to redesign the ground equipment and they did have those new designs for the Board. The height had been lowered so that it now complies with the bylaw. The HVAC units have been moved to another wall in the shelter which allows them to comply with the noise level bylaw. There was also an updated noise level report which indicated this information.

Atty. Kurth also wanted to note that they originally applied for a Building Permit but were told that they must apply for a Special Permit. He did want to bring their attention in their packets to where they discussed Section 6409. This is a Federal Law which basically states that certain types of installations on existing structures and towers must be approved provided that the proposed facility does not substantially change the dimensions of the existing station or tower. AT&T would submit that based on that Federal Law, they are entitled to an approval, and they would request that they proceed directly to a Building Permit.

Mr. Foster said that he could not see that there was anything here that they would be concerned with. Ms. Swanson advised that a Special Permit is designated for a Wireless Communication Facility which is the reason that Mr. Darling sent them to the Zoning Board, as he did not have the authority to issue that. Ms. Swanson asked Atty. Kurth for a clarification. Were they requesting the waiting period be waived? Mr. Foster stated that they could not do that. Atty. Kurth asked that the Board consider making a finding that AT&T is entitled to proceed directly to a Building Permit. Mr. Foster stated again that they could not waive the waiting period as that was State law. He did not think it was in their authority to overrule that waiting period as it was part of the public process.

Mr. Levitt then made a motion, seconded by Mr. Urbanski, to grant the petition for a Special Permit. The **vote** was **unanimous for**.

Mr. Foster then explained the timing of the filings, the appeal period, etc.
The hearing closed at 7:28.

Island Terrace, Inc. hearing, 57 Long Point Road:

Mr. Foster opened the Island Terrace, Inc. hearing at 7:30 and read the legal ad into the record. Mr. Foster then read several communications from Town Boards. The March 14, 2014, letter from Mr. Darling stated that he had no specific concerns with the petition. The March 20, 2014, email from the Board of Health advised that the oversight and permitting for this project is under the purview of the Department of Environmental Protection. They did have some concerns regarding the timing and coordination of the facilities as the new systems are brought on line.

Mr. Kevin Kline, engineer for the project, was present. He advised that Island Terrace was originally built in 1920 and converted to a nursing home in 1957. About ten years ago, DEP and the Board of Health identified that the existing waste water disposal systems needed to be upgraded. The nursing home has been working with DEP to come up with a plan to do this and they have been under an administrative consent order that requires them to build an innovative alternative treatment system. That system will be installed on the east side of the nursing home. The leaching system will be located in the back. All this is permitted through DEP. It is required that this be built by August 28, 2014.

In order to do this, they are upgrading the facility. They have eliminated one of the residences that had four bedrooms, and they are going to add two nursing beds. They have been to the Conservation Commission and the Planning Board for site plan approval. The Building Inspector recommended that they come to the Zoning Board for a Special Permit for what they have there and the expansion, as they had never had one as the property predates zoning. The expansion is an approximately 5,000 square foot footprint off of the east wing. They would also have expanded kitchen and dining facilities and then two residential floors above that. Mr. Kline clarified that the number of beds is increasing by two but the number of bedrooms is increasing significantly. The rooms will now be larger and will now allow for more privacy for the residents. Mr. Kline then briefly explained the new septic system which is a movable bed bioreactor.

Mr. Foster asked what the lot coverage would be. Mr. Kline replied that he thought it was 24.6%. He noted that a small portion of the parking would be over the leaching area. This was a necessity as they had to keep the parking as far away from the wells as they could. Mr. Foster then asked if anyone present had any comments or questions. There were none.

Mr. Foster advised that the Special Permit would be for the entire property as well as the expansion, and the Board should consider carefully how they would word it and if there should be any restrictions attached to it. Mr. Levitt asked Mr. Foster if he had any restrictions in mind. Mr. Foster said that the coverage might be a concern but if there was a future expansion they would have to come back to the Board.

Mr. Foster asked if there was anything additional. No one spoke. Mr. Curtis then made a motion, seconded by Ms. Swanson, to approve the petition for a Special Permit. The **vote was unanimous for.**

Mr. Foster then explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:56.

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

Meeting adjourned at 8:00.