

**Zoning Board of Appeals  
Lakeville, Massachusetts  
Minutes of Meeting  
May 16, 2013**

**Members present:**

Donald Foster, Chair; David Curtis, Vice-chair; Joe Beneski, Member; 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 was making an audio recording of the meeting. He advised that the secretary was also making a recording.

Mr. Foster asked if everyone had the chance to read the minutes. Mr. Curtis advised that he would like to make a correction. In the Weydemeyer hearing, it stated that the shed would be moved 20" but it should be 20'. Mr. Foster noted that it should also say Mr. Weydemeyer had received a permit not has receiving. Mr. Curtis then made the motion, seconded by Mr. Gouveia, to approve the Minutes from the April 18, 2013, meeting as amended.

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

**Donnelly hearing, 31 Bedford Street:**

Mr. Foster opened the Donnelly hearing at 7:15 and read the legal ad into the record. Mr. Donnelly was present. Mr. Foster advised they had some recommendation letters from the other Town boards which he then read into the record. The May 1, 2013, letter from the Planning Board unanimously recommended approval of the petition. The Board of Health letter of May 16, 2013, stated that the plan provided by the applicant was not current and did not show the location of the well. The Board recommended not releasing any permits until this information was provided. In the April 24, 2013, memo from the Board of Selectmen, they noted the conditions required for a Variance and stated that lot size did not qualify.

Mr. Foster then read the definition of a Variance to Mr. Donnelly. He noted it was allowed when it was caused by the soil, shape, topography, or some other deficiency of

the lot. Mr. Foster noted that it appeared that the building of his business occupies all of the usable land. He was not asking to intrude into the setback because of a deficiency in the property but rather because essentially the lot is small. Mr. Foster stated that interpretation of the bylaw, in his opinion, was outside of the scope of what they were allowed to grant. Mr. Foster asked Mr. Donnelly if he would like to explain the rationale behind his request.

Mr. Donnelly first stated that he had a letter from the owner of Joe's Gas, an abutter to the property, indicating that he was in favor of the petition. Mr. Donnelly explained that there used to be a fence on the property but that it had gotten rather shabby. There had been several break-ins into that area and some equipment had been stolen. Last fall, he finally had to take the fence down, and he was now just trying to put up a building to house the equipment.

Mr. Foster responded that the wording of the bylaw narrowly defined the scope of their authority in regards to a Variance. A deficiency in the lot would be considered ledge, wetlands, a precipice, etc. He felt that lack of size would be outside the bounds of what they could consider. Mr. Beneski felt that the building design could be changed to be within the setbacks. Mr. Donnelly did not think that would be feasible.

Mr. Foster asked if anyone on the Board would like to speak. No one spoke. Mr. Foster asked if anyone present would like to speak. Mr. Bausmer, of 27 Taunton Street, said that he was in favor of the petition. Mr. Foster asked if there was anything further. He then asked for a motion.

Mr. Beneski then made the motion, seconded by Mr. Urbanski, to deny the petition. The **vote was unanimous for.**

The hearing closed at 7:29.

### **Couture hearing, 8 Oak Street:**

Mr. Foster opened the Couture hearing at 7:30 and read the legal ad into the record. Mr. Couture noted that the deck already existed and was there when he bought the house. Mr. Foster advised that they had several memos. The first one was from the Board of Selectmen and was dated April 24, 2013. They stated that they had no comment except that the bylaws should be conformed to as much as possible. Mr. Foster then read the May 1, 2013, letter from the Planning Board. They did not make a recommendation for lack of enough information. There were two memos from the Board of Health. The first one was dated April 5, 2013, and stated that the Board could approve variances for a two-bedroom system but the plans would have to be revised if it was to be a three-bedroom dwelling. The recent memo from May 16, 2013, stated that the plan submitted with the petition was for a three-bedroom system but that they could only approve a two-bedroom system at this time.

Mr. Couture noted that the home was to be a two-bedroom home. The engineer had suggested three-bedrooms for the future, if they sold the home, but it was going to be a two-bedroom. Mr. Foster said that they would not even consider the petition if the plans submitted were not the same as what they were being told. Mr. Couture replied that he did not want to resubmit as they had been working on this since January.

Mr. Beneski then asked what was in the basement. Mr. Couture responded that it was only the washer and dryer. Mr. Beneski noted that he understood his frustration but they can only go by the information in front of them, which is a different plan. The plan does not indicate what is being done. Ms. Couture said that they are adding on a second floor, and Mr. Couture showed on the plan where they were adding a second floor as well as an office. Mr. Foster noted that the plan does say that there is a 17' x 12' proposed deck. Mr. Couture replied that must be a mistake. The deck is already there.

Mr. Foster asked what the purpose of the proposed addition was. Mr. Couture said they were adding square footage so there would be two bedrooms upstairs and an office downstairs. Mr. Foster said their concern would be that in the future that office could be converted into a bedroom. The bathroom was also discussed. Ms. Couture said that she would be willing to change it to a powder room without a tub or shower. Mr. Foster said the concern is the long standing problem with septic systems in the Clark Shore area. They look very carefully at any renovations in homes in this area.

Mr. Foster asked if anyone would like to speak. Mr. Martin Taylor, of 6 Oak Street, stated that he was in favor of this petition. He felt that it would be an improvement to the neighborhood. Mr. Foster asked if Board members had any comments about the petition. Members were in support of the petition. Ms. Swanson then advised that she had looked at the property. The lot next to it is empty and the property next door is a two-story home. She also spoke to a neighbor who was in favor of the petition. Her concern would be the full bath but she would be comfortable if it was modified as had been discussed.

Mr. Beneski then made the motion, seconded by Mr. Curtis to approve the petition for additions with the following conditions:

1. The downstairs bathroom will be a lavatory only. There will be no shower or tub.
2. The downstairs office area will be constructed as to remain an office. There will be no privacy door.
3. The house will remain a two-bedroom dwelling.

The **vote** was **unanimous for**.

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

The hearing closed at 8:00.

Mr. Beneski made the **motion**, seconded by Mr. Curtis, to adjourn the meeting. The **vote** was **unanimous for**. Meeting adjourned at 8:01.