

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
June 18, 2009**

Members present:

Donald Foster, Chair; David Curtis, Vice-chair; Eric Levitt, Member; John Oliveiri, Jr., Associate Member; Carol Zimmerman; Associate Member, Joseph Urbanski, Associate Member

Regular Meeting:

Mr. Foster opened the regular meeting at 7:10 p.m.

Roll called. Bills signed.

Mr. Foster advised that they would start the evening with a request from LeBaron Residential. They had put forward a request for a small modification to their Comprehensive Permit. One is an administrative change that reflects the change in Phase II from condo units to rentals. They must make appropriate changes in the Comprehensive Permit to reflect that. The second change is a stipulation that they had in the Comprehensive Permit that gave first choice to Lakeville retirees, residents, children, etc. Atty. Mather clarified that when this was first done you could give preference to not only Lakeville residents, but also their parents and their children. That has been changed by Mass Housing so that you can no longer give preference to the parents and the children of Lakeville residents. The other preference levels such as municipal employees, town residents, etc. are still valid.

Mr. Foster said that this modification to the Comprehensive Permit would bring it into line with State Regulations. Atty. Mather replied that was correct and the first change was to correct an error. Mr. Foster said that the Board would now have to decide if they felt these changes were insubstantial or substantial. He reminded them that insubstantial changes were effective as soon as they voted on them and Town Counsel would then update the Comprehensive Permit. If they decided that either of the changes was substantial a public hearing would then have to be scheduled. Mr. Foster said that in his opinion, these were small changes and would not have any impact on the progress of the project. He asked what other members thoughts. Members agreed that the changes were insubstantial.

Mr. Oliveiri questioned when the State changes the law if there is any type of grandfathering. Atty. Mather replied that it was his understanding that they did not have to make the change, but Mass Housing would then not give them credit for the units.

Mr. Curtis then made a motion, seconded by Mr. Levitt, that they consider both of the changes to be insubstantial. The vote was **unanimous for**.

Marzelli hearing, 7 Pine Bluff Road – continued:

Mr. Foster opened the continued Marzelli hearing at 7:15. Atty. Mather advised that there is still an issue with the septic system location as it is underneath an abandoned right of way. He was confident that DEP would acknowledge that there is no prohibition from locating the system there. Mr. Foster said that when they finally did come back with this, the Board would want them to start all over again. Atty. Mather said that he fully expected to do that. He requested that they continue this hearing until their August meeting.

Mr. Curtis made the motion, seconded by Ms. Zimmerman, to continue the Marzelli hearing until August 20, 2009. The time would be at 7:15. The **vote was unanimous for**.

The hearing closed at 7:19.

DeMoura hearing, 129/127 Hemlock Shore Road:

Mr. Foster opened the continued DeMoura hearing at 7:20. Mr. Paul Spurling was present. He advised that there had been some confusion about some of the paper work that had been provided. Mr. Foster then read a letter from the Conservation Commission that had been submitted. It advised that an Order of Conditions had been approved and issued for the property. Mr. Foster also read the June 4, 2009, letter from the Board of Assessors regarding the combination of lots 127 and 129. It was noted that either address could be used for the newly created lot. Mr. Spurling advised that since 129 had been used on all the paperwork, they would continue to use that number.

Mr. Spurling also advised that Mr. Pink had met with the Planning Board to discuss the issues and concerns that they had with the petition. According to Mr. Pink, after reviewing the plans there were no issues with the property as a whole but a memo had not yet been received from them. Pauline Ashley, the Planning Board Secretary, was present. She advised that the Board had agreed that they would not take into consideration the easement because of the size of the lot as Mr. Pink had shown them a new plan with a minimum easement. The Planning Board said that they did not have a problem with it as long as the Zoning Board was okay with it. She stated that Mr. Pink was supposed to get back to her regarding that and as of yet he had not done so which was why she had not sent a letter to the Zoning Board.

Mr. George Pedranti of 129A Hemlock Shore Road was present. He advised that right now there is a shared well and cesspool. This system would be better for both properties. The DEP has verbally approved the system but they are waiting for the written approval.

Mr. Foster noted that the request of the petition is to demolish three structures and to build a new home and he felt that they should address that request only. The condition of the structures was then discussed. Mr. Foster asked if anyone present would like to speak for or against the petition. Mr. Dan Maus, of 123 Hemlock Shore Road, was in favor of the petition. He felt that it was an improvement to the neighborhood.

Mr. Foster stated that this project will reduce the total footprint, reduce the number of buildings from three to one, eliminate one bedroom, as well as improve the septic system. Mr. Spurling said that was correct. Ms. Zimmerman asked what would happen if there was a change in ownership. Mr. Spurling replied that this would be recorded in the deed.

Mr. Foster asked if this plan was consistent with what was already in the neighborhood. It was found to be that it was. Mr. Curtis said that the only problem that he had with the plan was the door in the study located on the first floor. Mr. Spurling said that this was an arched opening with no door. Mr. Curtis said that he would like to see that door to the bathroom from there eliminated and be replaced with a solid wall. Mr. Spurling said that was designed to make it easier for children swimming to use this bathroom instead of running through the house. Mr. Foster asked if they would be willing to make that a restriction. Mr. Spurling said that they were agreeable to that. Mr. Foster asked if there was anything further. No one spoke.

Mr. Oliveiri then made the motion, seconded by Mr. Levitt, to approve the petition with the following condition:

1. The door to the bathroom will be eliminated and made a solid wall. The arched opening will remain as stated in the plan.

The vote was **unanimous for**.

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

The hearing closed at 7:45.

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

Meeting adjourned at 8:00.