

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
June 21, 2012**

Members present:

Donald Foster, Chair; David Curtis, Vice-chair; John Olivieri, Jr., Member; Carol Zimmerman, Associate Member; Joseph Urbanski, Associate Member; Janice Swanson, Associate Member

Regular Meeting:

Mr. Foster opened the regular meeting at 7:09 p.m.

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

Mr. Foster then welcomed Ms. Janice Swanson to the Board as their latest member. He also advised that they were supposed to vote Mr. Eric Levitt as their representative to the Casino Sub-Committee or the Casino Advisory Committee. He hadn't felt it was necessary to call a meeting for this so he was asking for a motion to do so now.

Mr. Olivieri then made the motion, seconded by Mr. Curtis, to appoint Mr. Levitt as the representative of the Zoning Board on the Casino Advisory Committee. The **vote** was **unanimous for**.

Mr. Foster advised that they had a scheduling problem for July. An event had been scheduled in the Library for the third Thursday of that month so he would like to schedule their meeting for the fourth Friday, July 26, 2012, if one was required.

The next issue discussed was the Zoning Board's Account with TMLP. Mr. Foster stated that they have had this account for several years which consisted of a web page and some email accounts. He has been unsuccessful in trying to get access to this account but they have still been billed for its use. He is trying to get a refund but asked members if they felt that they should continue to keep this account for web space. It was noted that the Town has its own web site now and the Zoning Board could add to that page. Members felt that they could discontinue their account with TMLP but no official decision was made.

Lions Club hearing, Lot 4, Staples Shore Road, M58-B8-L1A:

Mr. Foster opened the Lions Club hearing at 7:15 and read aloud the legal notice. Mr. Leo Bisio was present. Mr. Foster then read the April 12, 2012, letter from Mr. Iafrate, the Building Commissioner. Mr. Foster asked how big the lot was. Mr. Bisio replied that it was 70,000 square feet, and it met all the bylaw requirements. Mr. Foster asked if anyone present would like to speak for or against the petition. No one spoke.

Mr. Foster next read the June 19, 2012, letter from the Conservation Commission into the record. They had no concerns or issues with the petition. The June 20, 2012, letter from the Board of Selectmen had no comment regarding the petition. Mr. Foster also read the June 21, 2012, letter from the Board of Health where they stated that they saw no health issues involved with the petition. Mr. Foster said he felt there were no issues with this and asked if Board members had any comment regarding the petition. There were none.

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

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

The hearing closed at 7:22.

O'Connor hearing, 121 Nelsons Grove Road:

Mr. Foster opened the O'Connor hearing at 7:23 and read aloud the legal notice. Mr. Jonathan Pink, the engineer for the project was present. He explained that the project was to raze the existing house and rebuild the home. The footprint would be slightly larger. As the project would also impact the impervious area, they plan to remove the circular driveway and replace it with crushed stone. Mr. Foster said that the Board appreciates that but he thought that technically, crushed stone was still impervious. Mr. Pink replied that there is a type of matting that could be used underneath and that would maintain the perviousness of the area.

Mr. Foster asked if it was correct that the lot was 9,000 square feet. Mr. Pink replied that it was also combined with another smaller lot which made the total approximately 11,330 square feet. Mr. Foster asked what the square footage of the new home would be. Mr. Pink responded that it was 1,740 square feet. There was to be no increase in the living space.

Mr. Foster asked if anyone present would like to speak for or against the petition. Mr. Peter Nyberg of 123 Nelsons Grove Road was present. He advised that he had also wanted to extend his home but at the time Mr. Darling said that it would not be possible. Mr. Foster noted that the petition tonight was dealing only with 121 Nelsons Grove Road. Mr. Nyberg also felt that the septic system was inadequate to deal with the present home never mind an expansion. Mr. Foster then asked how many bedrooms the present home

had. Mr. Pink replied that there were four and the property had a deed restriction on it. Mr. Foster said that they would have to presume then that the flow would remain the same as that was indexed to the number of bedrooms. Mr. Foster asked Mr. Nyberg if he was opposed to the petition. Mr. Nyberg replied that he was not in favor of it. Mr. Foster asked if that was because in years past he was denied a similar request as Mr. Foster noted that he wanted to have a clear understanding of Mr. Nyberg's opposition. Mr. Nyberg stated that at the time the Building Commissioner said that an expansion could not be done. It was noted that although Mr. Nyberg had the right to appeal that decision, he had not filed a petition with the Zoning Board.

Mr. Foster then read the February 13, 2012, letter from Mr. Iafrate, the Building Commissioner. He also read the June 20, 2012, letter from the Board of Selectmen. They noted that the deck was closer to the pond which made the dwelling more non-conforming. The June 21, 2012, letter from the Board of Health stated that they must receive a passing Title V inspection report before they would sign off on any building permit. There was also a current email from Mr. Perry, the Health agent, who indicated that since that letter had been written he had spoken to Darren of Foresight Engineering who said that the reason the tanks had backed up was that someone had turned off the breakers/power to the pump and alarm. Darren did get the power back on and everything was working as it was supposed to and tank levels had returned to normal. Therefore, Mr. Perry felt that as soon as they received the report and contract from Foresight, there would be no other issues and they could sign off on the proposed work.

Mr. Foster also read the June 17, 2012, letter from the Conservation Commission. This project was approved and an Order of Conditions was issued. Mr. Foster said that an interesting point had been raised by the Selectmen concerning the deck. Was it closer to the water? Mr. Pink noted that there was an overhang of the balcony on the second floor. Members said that it appeared to be about two feet in difference. It was noted that the proposed structure did meet some of the setbacks and it was actually less non-conforming because of that.

Mr. John Morse of 119 Nelsons Grove then spoke. He was not entirely opposed to this project but felt that it was too big for the lot especially with the garage. Mr. Foster said that it sounds like the neighbors have raised some concerns about the increase in size as well as the garage. He asked Mr. Pink if he would go back to his client and ask him if he would consider reducing the scope of the house either by reducing the patio, the garage, or possibly even eliminating the garage. It was then discussed ways the project could be reduced.

Mr. Olivieri then made the motion, seconded by Mr. Curtis, to continue the O'Connor hearing until July 26, 2012. The time would be at 7:15. The **vote** was **unanimous for**.

The hearing closed at 8:03.

Tarlow hearing, 123 Hackett Avenue:

Mr. Foster opened the Tarlow hearing at 8:04 and read aloud the legal notice. Mr. Foster noted that he had visited the property and talked with the owner and had viewed the shed that had already been constructed without a building permit. At least on one side of the property, it intrudes into the setback. It also intrudes into the setback on the other side but that had been previously defined by the original shed.

Mr. Edward Staats of 121 Hackett Avenue was present. He stated that he had no problem with the shed. Mr. Foster noted that essentially the Building Inspector had said to tear down the shed. That was indicated in his March 27, 2012, letter which Mr. Foster read into the record. He advised members that they should have within their packets the site plan which showed the position of the original and new shed. The new shed has a 9 foot setback from the street which is 10 feet closer than the original shed. Mr. Foster then asked members to look at the photos in their packet. He said that he and Mr. Tarlow had discussed building a foundation and then sliding the shed back so that it would conform to the original setback. Mr. Iafrate also thought that was a reasonable solution. Mr. Tarlow said that he had spoken to a builder and that it was possible to do this and it would cost approximately \$1,000 to have this work done.

Mr. Foster then read the June 21, 2012, letter from the Board of Health. They did not have enough information to make a recommendation. The June 20, 2012, letter from the Board of Selectmen had no comment on the petition.

Mr. Foster said that the Board had been petitioned for a Special Permit, but he felt that since they had figured out how to satisfy the Building Inspector that would not be necessary. Mr. Tarlow said he thought that was accurate but that he had not been able to contact the Building Inspector prior to tonight's meeting. Ms. Swanson said that Mr. Iafrate had wanted all mitigation to be handled through the Zoning Board. Mr. Foster said that they could approve the request for a Special Permit provided that it conformed to the same setbacks as the original shed, they could deny the Special Permit with the understanding that Mr. Tarlow was going to take the necessary steps to make it conform in the way Mr. Iafrate wanted it to, or Mr. Tarlow could also withdraw the petition without prejudice. Mr. Foster felt the best option would be to grant the Special Permit with the restriction that the shed conform to the setbacks of the original shed. Board members agreed that would be the best alternative.

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

1. The setbacks of the new shed will intrude no more than as defined by the old shed.

The vote was **unanimous for**.

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

The hearing closed at 8:18.

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

Meeting adjourned at 8:19.