

**Zoning Board of Appeals  
Lakeville, Massachusetts  
Minutes of Meeting  
July 26, 2012**

**Members present:**

Donald Foster, Chair; Joseph Beneski, Member; Eric Levitt, Member; Carol Zimmerman, Associate Member; Joseph Urbanski, Associate Member; Janice Swanson, Associate Member

**Regular Meeting:**

Mr. Foster opened the regular meeting at 7:14 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.

**O'Connor hearing, 121 Nelsons Grove Road – continued:**

Mr. Foster stated that as he recalled the Board had requested that Mr. Pink, the engineer of this project, and Mr. O'Connor take another look at the plan and see if the scale of the project could be reduced somewhat. There was a question about the garage, as well as, the increase of the footprint on a lot that was approximately 9,000 square feet. Mr. O'Connor replied that the plan did call for a little larger footprint but that he was reducing the driveway. Mr. Foster noted that a paved driveway would certainly not percolate but that even a gravel driveway after being driven on and packed down over the years would still not percolate.

Mr. Foster then asked if the garage in the back was something that he could do away with. Mr. O'Connor said that if it was necessary, but he had thought it would not be a factor as it was on a separate lot. Mr. Foster asked if he used the garage for a car. Mr. O'Connor replied that it was for the storage of tools, etc. Mr. Foster asked what Board Members thought. Mr. Beneski noted that the footprint had still not been reduced. Mr. Foster also wanted to mention that because two of the Board Members present had not been at the first hearing, they would not be voting on this petition. That meant that there were only four members present that would be allowed to vote and that it would have to be a unanimous decision. Mr. O'Connor did have the right to continue until next month if he chose to do so.

Mr. Foster advised that one suggestion he had was with the proposed deck which was 12 feet from the water. The original setback on the property was 14 feet. Would they

reduce the deck to maintain the setback? This was then discussed. Mr. Stephen Nespiian, the abutter from across the street advised that this petition represented an increase of 20% to the footprint from 1,450 square feet to 1,740. This house has had the original porches enclosed which also represent an increase in the living space. He felt that this was going to be a huge two-story home compared to the surrounding homes. The easiest way to shrink this footprint was to eliminate the garage and move the house to the right so that it could meet all the setbacks. Mr. Foster replied that when they have an existing non-conformity, the owner can continue to have the non-conformity but the Board has to be careful to not allow an increase to that non-conformity. In this case, they were going from a 7-foot setback to a 13-foot setback which was an improvement.

Mr. Beneski asked if this was a seasonal or year round home. Mr. O'Connor replied that it was a year round home. After further discussion, Mr. Foster said that as they only did have four members present that would be able to vote on this petition, he would suggest that Mr. O'Connor continue until next month. This would allow time for Mr. O'Connor to discuss with his builder specific ways to cut down the scope of this project that might better satisfy the Board as well as the neighbors. Mr. Peter Nyberg, an abutter, also spoke. He said that he was in favor of maintaining the same amount of living space.

Mr. Urbanski then made the motion, seconded by Ms. Swanson, to continue the O'Connor hearing until August 16, 2012. The time would be at 7:15. The vote was **unanimous for**.

The hearing closed at 7:46.

#### **Reilly hearing, 19 Hilltop Acres Drive:**

Mr. Foster opened the Reilly hearing at 7:47 and read aloud the legal ad. Mr. Reilly was present. He advised that his family bought this home approximately five years ago, and had been using it as a summer home and renting it out the balance of the year. However, they had recently decided that they would like to make it their full-time residence. This plan does not change the footprint of the home and it does not change the impervious cover. It does add square footage through the addition of another level. He felt that it was an improvement to the home as well as the neighborhood.

Mr. Foster then read the May 24, 2012, letter from the Building Inspector. He also read the July 12, 2012, letter from the Conservation Commission where it was stated that the project would not impact the resource area. The June 14, 2012, letter from the Board of Health indicated approval provided a favorable Title V Inspection Report was received. Mr. Reilly advised that he expected to have that report back in a couple of days. Mr. Foster also read the July 12, 2012, letter from the Board of Selectmen. They recommended approval subject to a satisfactory Title V inspection and Conservation Commission approval. Mr. Foster then read the July 12, 2012, letter from the Planning Board into the record. They recommended disapproval as they felt the size of the home appeared to be too large for the size of the lot.

Mr. Foster advised Mr. Reilly that there was a general concern in Town about the size of home expansions, particularly those that are close to the water. Mr. Reilly said that he understood, but that he was not increasing the footprint. He was going up and over the basement level which extends 12 feet from the second floor. Mr. Reilly had new plans which were newer and clearer but still indicated the same project.

Mr. Beneski felt the expansion was very large. He then discussed that the plan showed a two-bedroom home with bedrooms in the basement. He noted that the plan also showed a full bath on each level. Mr. Foster agreed that the office near the second full bath looked like a bedroom. Mr. Reilly noted that there was no door on the large open room and it was going to be a family room. Mr. Foster advised that he would recommend removing the door between the new office and the full bath. Mr. Reilly said that he would agree to that. A discussion was then held on different ways to modify the plan.

Mr. Foster asked what other Board members thoughts. Ms. Zimmerman agreed with Mr. Beneski. Mr. Urbanski asked how many bedrooms the current septic plan was approved for. Mr. Reilly replied that it was approved for two but it was big enough for three. Mr. Reilly then discussed the size of his septic system.

Mr. Foster asked if anyone present would like to speak for or against the petition. No one spoke.

After Mr. Reilly indicated which home was his, Ms. Swanson noted that the other homes in the surrounding area were of comparable size. Mr. Foster suggested to Board members if they chose to move forward with the petition, it should be with some conditions such as the door between the office and the bathroom should be removed and there be no further expansion of the patio or deck, and they not be enclosed. Mr. Foster asked if there was any additional discussion. Mr. Beneski requested that they receive approval from the Board of Health.

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

1. There will be no door between the second floor office and the full bath.
2. There is to be no expansion of the deck and patio, and they are not to be enclosed.
3. The Building Inspector must receive Board of Health approval before a Building Permit will be issued.
4. There will not be a door to the entrance of the office area.

The vote was **unanimous for**.

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

The hearing closed at 8:18.

**Lomp hearing, 137 Precinct Street:**

Mr. Foster opened the Lomp hearing at 8:19 and read aloud the legal ad. He then read the June 7, 2012, letter from the Building Inspector. Mr. Foster asked Mr. Lomp if he had read the bylaw regarding a Variance. He said that he had reviewed it. Mr. Foster then advised that a Variance was very different from a Special Permit and much more restrictive. He then read the definition. Mr. Foster explained that a Variance was to waive some of the requirements of the bylaw if there was some unique characteristic to a property such as a vernal pool, ledge, or a precipice, etc., something that prohibited you from complying with the bylaw. A lot that is too small would not satisfy this requirement.

Mr. Lomp stated that there was an addition on the house now that was of poor workmanship, and he planned on removing that. He wanted to then extend the living space. He said that he did not have any ledge or anything on that side of the property so he could go back and redesign. Mr. Lomp then indicated on the plan what he had planned to do. He noted that he did have room on the other side of the property. Mr. Foster asked if the intended addition could be redesigned to be within the setback. Mr. Lomp replied that he could but that it would alter the roof line and it would not look as nice.

Mr. Mark Downey, an abutter, was present. Mr. Foster asked if he was for or against the petition. Mr. Downey said that he was present to get a clearer picture of exactly what Mr. Lomp planned to do. After further discussion, Mr. Foster then suggested that the plan be redesigned to maintain the proper setback.

Mr. Levitt made the motion, seconded by Mr. Beneski, to continue the Lomp hearing until August 16, 2012. The time would be at 7:15. The **vote** was **unanimous for**.

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

Meeting adjourned at 8:40.