

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
August 20, 2009**

Members present:

Donald Foster, Chair; David Curtis, Vice-chair; John Veary, Clerk; 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 7:05 p.m.

Roll called. Bills signed.

Mr. Curtis made the motion, seconded by Mr. Urbansky, to approve the Minutes of the May 21, 2009, meeting.

VOTE – Mr. Curtis, Mr. Levitt, Mr. Oliveiri, Ms. Zimmerman, Mr. Urbansky,
Mr. Foster - **AYE**
Mr. Veary – **ABSTAIN**

Mr. Foster advised that he had an email communication with Atty. Mather regarding LeBaron. He said that he had asked him to prepare a brief summary for them outlining the status of Phase I, with particular focus on the percentage of affordable units. Atty. Mather had also informed him that they would be coming back in front of the Board fairly soon so that they could speak about Phase III.

Marzelli hearing, 7 Pine Bluff Road – continued:

Mr. Foster opened the continued Marzelli hearing at 7:15. He read the August 18, 2009, letter from Atty. Mather into the record. Atty. Mather had requested, on behalf of his client, that the petition be withdrawn without prejudice. He anticipated that once the outstanding issues were resolved, Mr. Marzelli would resubmit the petition.

Mr. Curtis made the motion, seconded by Mr. Oliveiri, to accept the withdrawal of the Marzelli petition without prejudice. The vote was **unanimous for**.

The hearing closed at 7:16.

Walsh hearing, 38 Shore Avenue:

Mr. Foster opened the Walsh hearing at 7:16 and read aloud the legal ad. Mr. Foster then read the August 12, 2009, letter from the Board of Selectmen. They noted that Zoning Bylaws 6.1.2, 6.1.8, and 6.1.3 may apply to the petition, but they did not make a recommendation. The Planning Board recommended approval in their August 17, 2009, letter. The August 6, 2009, letter from the Board of Health stated that a well plan was approved on June 25, 2009, but to date the well had not been installed. The Board had no problem with the petition but they wanted the new well installed and a copy of the analysis submitted to them, for approval by the Health Agent, before a Building Permit could be issued.

Mr. Walsh advised that a well analysis had been done and it had passed. He was waiting for the sign off from the Board of Health. Mr. Foster replied that he had received an email concerning the As-Built plan but they would not be getting involved in that issue as that was the purview of the Board of Health. Mr. Foster asked what the status of the property was now and what it was that they wanted to do. Mr. Walsh responded that the house is empty and gutted. The foundation is completely collapsed and needs to be repaired. The Conservation Commission has approved this. The house will be jacked up and then the foundation replaced.

Mr. Foster asked if the tight tank was functional. Mr. Walsh replied that it has been approved twice. He has a contract and it is regularly pumped. Mr. Foster asked how big the lot was. Mr. Walsh stated that the lot was just less than 10,000 square feet but it was found that because of the shape of the lot 7,000 to 7,500 square feet was more accurate. Mr. Foster said that it appears that all they needed from the Board was a Special Permit to repair the foundation due to the lot being less than 20,000 square feet. He asked if they would be doing anything substantial to the structure of the house. Mr. Walsh replied that they were repairing the foundation and repairs done to the interior would remain on the same footprint. Currently, the house is a two-bedroom home with an approved three-bedroom septic.

Mr. Foster asked if anyone present would like to speak for or against the petition. None spoke.

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

1. All Board of Health requirements must be complied with before an occupancy permit can be issued.

The vote was **unanimous for**.

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

The hearing closed at 7:50.

Mr. Foster said that they were now going to have an informal discussion regarding 325 Pond Lane. Mr. Foster said that originally the request was to raze the roof and put the new septic system for the house on an adjacent piece of property. Mr. Foster said that the bylaw states that when you reserve space for a septic system the footage for that leaching field is deducted from the lot size and that would make that non-conforming lot more non-conforming. Mr. Foster said that he recalled this property was also seasonal although he heard there was some debate about that. Mr. Richards replied that the house was fully occupied for 15 to 20 years. The property was bought in 1938. He subsequently bought the property next door and that family had also lived there year round. Although they do not live there year round as they have another house, it has always been occupied as a year round home. Mr. Foster replied a questionnaire had been sent out by the Town asking property owners if the house was lived in seasonally or year round. That is one set of data. The other set, according to the bylaws which is more quantitative, is that a year round property has to have potable water and a bona fide Title V septic system. Town Counsel has said that a tight tank is Title V with a Variance not a true Title V. Mr. Foster felt the discussion could be a moot issue. If Mr. Richards believed the property was year round, he should confirm that fact. If he takes care of that before a petition is submitted, that is something they would not have to then consider.

Mr. George Collins, of Collins Engineering, advised that he would like to give a synopsis of the property and the plans for it. It is 7,600 square foot lot right on Long Pond. There are a couple of things that they will resolve before they file for a Special Permit. Their plan is to tie into the Association water supply and eliminate the tight tank. They will then put in a new state-of-the-art two-bedroom septic system and he has spoken with the Health Agent concerning this.

Mr. Collins noted that on the previous application the style of the house was not conducive to what was typically seen on the Pond. They do have some preliminary architectural renderings that are a more traditional look that is similar to existing homes. He felt that these were a few of the items that they would have completely solved by the time that they do come before the Board again. Their intention tonight was to discuss their plans at a preliminary level and get some feedback from the Board. They also plan to get Conservation approval and other Board approvals prior to coming back to the Zoning Board for a Special Permit.

Mr. Foster suggested that once they felt they had their petition and plans clarified that they should start review with the Planning Board and the Board of Health. The reason would be that they would give them valuable ideas and thoughts and let them know if modifications to the plan are still needed. His impression was that this was a handsome plan but that they would still need to work with the Board of Health concerning the septic system. Mr. Foster noted that they would also have to consider the 25% lot coverage limitation in their new plan. Mr. Foster asked if there were any further questions. There were none.

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

Meeting adjourned at 7:50.