

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
September 18, 2008**

Members present:

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

Regular Meeting:

Mr. Foster opened the regular meeting at 7:05 p.m.

Roll called. Bills signed.

Mr. Foster said that before they got into hearings, he wanted to bring an issue up that had been brought forth by Mr. Castignetti of Long Built Homes in regards to the Sakwa hearing which was held in July. They had approved a Special Permit for three bedrooms and when he wrote the final decision, he inadvertently made it two bedrooms. He will take care of that error tomorrow morning with the Town Clerk. Mr. Castignetti thanked him for his attention to the matter.

Mr. Beneski made a motion, seconded by Mr. Curtis, to approve the July 10, 2008 Minutes of the Meeting. The **vote** was **unanimous for**.

Mr. Foster advised that Mr. Veary could not attend tonight. He asked Ms. Zimmerman to be a voting member.

Marzelli hearing - continued:

Mr. Foster opened the continued Marzelli hearing at 7:15. He stated that he had received an email a few hours ago which he read into the record. Atty. Mather had requested the hearing be continued until the October meeting.

Mr. Curtis made the motion, seconded by Mr. Beneski, to continue the Marzelli hearing until October 16, 2008. The time would be at 7:15. The **vote** was **unanimous for**.

The hearing closed at 7:16.

Ieronimo hearing-continued

Mr. Foster opened the continued Ieronimo hearing at 7:16. He advised that he had a letter dated September 18, 2008 which he read into the record. Mr. Ieronimo requested to withdraw his petition without prejudice.

Mr. Foster explained that because he had requested to withdraw without prejudice, Mr. Ieronimo could return at any time with another request for a Special Permit. If he had not done that, he would be restricted to a two-year time period where he would not be able to file a similar petition.

Mr. Beneski made the motion, seconded by Mr. Curtis, to accept the withdrawal. The **vote was unanimous for.**

The hearing closed at 7:20.

Urbansky hearing – continued:

Mr. Foster opened the continued Urbansky hearing at 7:25. He advised that this petition was an attempt to prevent Mr. Ieronimo from doing business at his site in a fashion that was detrimental to the neighborhood. He asked Mr. Urbansky what he wanted to do. Mr. Urbansky asked if he should continue his hearing for a certain period of time. Mr. Foster replied that was one option. He could also withdraw without prejudice which would allow him to come back at any time. If he asked the Board to vote, they would most likely vote to deny the request as there was nothing there to enforce.

After further discussion, Mr. Urbansky asked if they could get the wording from the Supreme Court Decision in regards to what constitutes natural products to Mr. Iafrate so that they have some teeth here if something does happen in the future. Mr. Foster thought that he would seek it out as it sounded like it was good information. Mr. Urbansky said he would then be comfortable in dropping his end of this matter. Mr. Beneski suggested that Mr. Urbansky drop off a copy of that decision with Mr. Iafrate. Mr. Urbansky then decided that he would request to withdraw his petition without prejudice.

Mr. Beneski made the motion, seconded by Mr. Curtis, to accept the withdrawal. The **vote was unanimous for.**

The hearing closed at 7:35.

Black hearing:

Mr. Foster opened the Black hearing at 7:35 and read aloud the legal ad. He read the September 16, 2008 letter from Shawn Masterson where he stated that he was

withdrawing his need for a Home Occupation Permit because he had been unable to come to agreeable terms with the property owner for the sale of the 403 Bedford Street property. Mr. Foster noted that the Home Occupation Permit had been surrendered and with that in mind there was nothing for the Board to do. Mr. Foster advised Ms. Black that she could proceed if she wanted to, she could withdraw without prejudice, or she could continue for six months to see if something happened on the property, but it was his opinion that nobody would come back to that property with a dog obedience or daycare operation.

Ms. Black felt that a continuance might be more appropriate in case someone else might come in and try to do the same thing. In answer to a question from an audience member, Mr. Foster said that he felt any discussion about the problems that existed with that permit were a waste of time as the permit no longer existed. Mr. Oliveiri clarified that this permit has been withdrawn and if anybody else did come in for the same thing, the appeal would have to start all over again as it would be a different permit and this petition could not be used. Mr. Foster agreed and said there was now nothing to appeal. After further discussion, Ms. Black decided to withdraw her petition without prejudice.

Mr. Beneski made the motion, seconded by Mr. Curtis, to accept the withdrawal. The **vote** was **unanimous for**.

The hearing closed at 7:55.

Allen-Prevette hearing – continued:

Mr. Foster opened the continued Allen-Prevette hearing at 7:55. Mr. Prevette had submitted new plans. He advised that he had also distributed them to all the other Boards. Mr. Foster read the letter of August 21, 2008 from the Health Agent. Mr. Perry stated in the letter that because of additional information, they were modifying their approval on the building permit sign off. Their sign off may remain but with the added stipulation that an official Title V inspection take place before any construction begins. Mr. Prevette said that he had no problem with that.

Mr. Foster asked how many bedrooms the house had. Mr. Prevette replied that it was a two bedroom. Mr. Foster asked him to refresh his memory as to what he proposed. Mr. Prevette said that he wanted to enclose the deck for a three season porch. Mr. Beneski noted that the deck has to be reconstructed because it is not attached to the house and that is the reason the Title V is required. Mr. Foster asked if he was going to insulate. Mr. Prevette said that he probably would insulate. Mr. Foster also asked if he had any plans for heat or water. Mr. Prevette replied that he did not, only electricity. Members then discussed possible restrictions if they approved the petition.

Mr. Beneski then made the motion to approve the petition. After further discussion he modified his motion so that it would be to approve a Special Permit for a deck, the size to

be exactly as the current deck. The motion was seconded by Mr. Curtis. There were three conditions:

1. There will be no water in the porch.
2. There will be no heat in the porch.
3. The property must meet Title V requirements.

The vote was **unanimous for**.

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

The hearing closed at 8:04.

Lee hearing

Mr. Foster opened the Lee hearing at 8:05 and read aloud the legal ad. Mr. Foster then read the requirements required for a Variance. Mr. Foster said that this is the third time that this property has been before the Board. Mr. Foster understood that Mr. Lee had gone in front of the Planning Board and he now had a signed Form A for a non-buildable lot, and this plan was signed for conveyance only.

Mr. Foster read the September 11, 2008 letter from the Board of Selectmen. They stated that they would not object to the granting of the Variance if Mr. Lee could meet the intent of all the current Zoning Bylaws. They also recommended that the lot be reconfigured to make to make it more symmetrical and conforming.

Mr. Lee then submitted a sketch of the land for the record. He advised that it was just to show that under the Zoning Bylaws, he does have appropriate frontage for two houses on that property. Mr. Foster replied that under the Zoning Bylaws, the property could be divided properly and legitimately into two buildable lots. Mr. Foster said the fact that the house is there prevents Mr. Lee from doing this, but the fact that the house is there is not a hardship. He wanted to state that in his opinion, the plan is not satisfactory and does not meet the requirements of the bylaw as in a Variance they are very strictly and tightly controlled.

Mr. Foster asked what Board members thought. Mr. Curtis said that his feeling was that it did not meet the frontage requirement. Mr. Foster agreed and said he was not inclined to approve as it failed the bylaw. He felt that if it was approved several things could happen. For example, they could be taken into Court and they would have no defense there. This could also open up the floodgates for other people that have similar misshapen lots and now want to try to make a buildable lot out of a non-buildable lot. Members were all in agreement with Mr. Foster.

Mr. Foster did not know if this was an option but suggested that Mr. Lee find out from the Planning Board about the possibility of putting in a private road. He felt it was at

least worth discussing with them. After further discussion, Mr. Lee requested to continue his hearing until the November meeting.

Mr. Beneski made the motion, seconded by Mr. Curtis, to continue the Lee hearing until November 20, 2008. The time would be at 7:15. The **vote** was **unanimous for**.

The hearing closed at 8:30.

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

Meeting adjourned at 8:35.