

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
January 18, 2018**

Members present

Donald Foster, Chair; David Curtis, Vice-Chair; John Olivieri, Jr., Clerk; Janice Swanson, Vice-Clerk; Jim Gouveia, Member; Chris Carmichael, Associate Member; Daniel Gillis, Associate Member; Joseph Urbanski, Associate Member

Regular Meeting

Mr. Foster opened the regular meeting at 7:00 p.m.

Roll called. Bills signed.

Mr. Foster stated that in accordance with the Open Meeting Law he was announcing that he and the secretary were making an audio recording of the meeting. He asked if anyone present was making a recording. There was no response. Mr. Foster advised that LakeCam was also making a video recording.

Mr. Foster advised before they started with their hearings he would like to ask for a motion to approve Mr. Nick Lanney as their review engineer for the new proposed 40B that may occur. He noted that in the past they have used Mr. Lanney on a number of projects. He also knew the project petitioner needs to have approval for the engineer.

Mr. Curtis then made the motion to approve Mr. Lanney as their consulting engineer. It was seconded by Mr. Urbanski. The **vote was unanimous for.**

Brown hearing, continued – 448 Bedford Street

Mr. Foster reopened the Brown hearing at 7:01. His recollection of the hearing was there was a concern about the noise and disruption caused by the unloading and spreading of asphalt, but there had been no issue with anybody in the neighborhood concerned about the noise from the trucks. He noted that this was a business that has operated for a considerable length of time. Mr. Foster advised that he had spoken to Town Counsel and the only avenue that seemed reasonable for them to pursue was a continued non-conforming use of the property. If they decide that is a reasonable way for them to go and grant Mr. Brown what he wants, they could then consider the possibility of restrictions on a Special Permit. Mr. Foster asked for comments from the Board.

Mr. Olivieri stated he thought there had been a lack of communication between the petitioner and the neighbors as to what was happening on the property, and they were going to try to work it out. They would then return with some type of resolution for restrictions to guard against anything further being done on the property that had not been done previously. Mr. Foster said that it was his impression that the neighbors liked the business, and it was also a benefit for the Town.

Mr. David Smith of 444 Bedford Street said that he was the primary abutter to the property. He advised that Mr. Brown has been very cooperative and helpful. He has done away with the asphalt material as it was the placement of that which had been a problem so that issue was resolved. Mr. Brown has also put up a ten foot berm in place of the wooded area that had been cut down, so he has gone through a considerable expense to repair the wrong. He and his wife were very happy with these improvements.

Mr. Curtis stated he felt that one of the restrictions that should be attached to the Special Permit is if the property is sold; it is sold as a residential property. Mr. Foster said that he would recommend a restriction for no further expansion of the business. Mr. Foster then asked if anyone present would like to speak on this.

Mr. John Benatti of 436 Bedford Street asked if they were going to know how many trucks there would be going in and out and what time of the day. Would it be early and would there be any restriction on that? Mr. Foster replied that he thought they had discussed something about that noise, and it was pointed out that the property across the street would accommodate the business and Mr. Brown would be free to come and go as he pleased. There is a logical issue to this that they need to recognize. He did not know if they would put restrictions on the hours that snow plows or sanders could run as that would be a public safety issue.

Mr. Benatti said he was not really talking about that but the frequency of the trucks. Last year at the height of the project, there were trucks running day and night. If another project was taken on at the scale of last year's, there would be the same problem of a constant and steady stream of trucks. That is his concern. Mr. Foster replied that was certainly fair but how does the Board quantify that amount. Mr. Benatti responded with a time restriction. He thought no earlier than 6:00 a.m. was reasonable. He noted that he was not talking about snow removal vehicles.

Mr. Olivieri asked, with the exception of public safety, what time do the vehicles normally leave. Mr. Brown replied it is usually about 6:00 a.m. or sometimes 5:45a.m., depending on what time they need to be at the job. The trucks usually return between 4:00-4:30 p.m. Saturdays are only a half day. He said that Mr. Benatti is referencing to last year when he was bringing in the asphalt material. Mr. Foster then suggested a restriction that excluding public safety, nothing leave the property prior to 5:00 a.m. or return later than 6:00 p.m. Mr. Benatti thought 5:00 a.m. was too early. Mr. Brown suggested 5:30 a.m. Ms. Swanson noted that Bedford Street was a heavily traveled road, and it is not just Mr. Brown's trucks that are traveling on it.

Mr. Foster stated that it appeared that they were moving toward granting Mr. Brown's request to overturn the Building Commissioner's Cease and Desist order and grant a Special Permit. He asked for a motion. Mr. Olivieri made the motion. It was seconded by Mr. Curtis. Conditions for the permit were then discussed.

Members agreed on the following conditions:

1. There will be no further expansion of the existing business.
2. Hours of operation will be 5:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to 6:00 p.m. on Saturday. Excluded from this restriction are operations that are related to Public Safety.
3. When the property is sold, it is to be sold as a residential property.

The vote was **unanimous for**.

Mr. Brown was given information that explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:15.

Vermette hearing – 37 Clark Road & 1 Hollis Ave.

Mr. Foster opened the Vermette hearing at 7:15 and read the legal ad into the record. Mr. Foster then read the January 9, 2018, letter from the Board of Health into the record. It stated that a new septic system had been approved with the condition that there would be no increase in flow and that the water would be tied into within one year of the installation of the year round water main. The December 11, 2017, letter from the Planning Board advised that no action had been taken.

Mr. Foster asked Mr. Vermette if there was currently a house on the property. Mr. Vermette replied that the property is made up of two lots and there are houses on each lot. He would like to rebuild one and convert the other one to a garage. Mr. Foster asked what the condition was of the houses. Mr. Vermette said both houses were in decent shape. Mr. Foster clarified that what was needed was permission to build the house in the setback. He asked if the proposed garage was in the setback. Mr. Vermette said the house was already there, and he was converting it to a garage. Mr. Foster asked what the setback was for the new, proposed house. Mr. Vermette replied that it would intrude no further than what existed. Mr. Foster said that it appeared that it was closer to Clark Road than what was there presently. It was noted that this would be caused by the porch. Mr. Foster thought a porch might be excluded as he knew a stoop was.

Ms. Swanson believed that Lakeville did consider a porch part of the setback. She noted that Mr. Vermette is going to improve the property by removing one of the houses, as well as a shed. Mr. Vermette said that he would actually be taking down two sheds. Mr. Foster asked how big the property is. Mr. Vermette replied it is 16,400 square feet. Mr. Foster asked how many square feet would be paved for the driveway. Mr. Vermette responded maybe 500 feet. Mr. Foster said their concern would be the amount of

impervious coverage. Mr. Vermette stated that he would be agreeable to keeping it as dirt. Mr. Foster replied that as long as the coverage did not exceed 25%, it would be alright.

Mr. Foster then said it appeared the only issue they needed to deal with was the 20.8 foot front setback. Mr. Carmichael asked Mr. Vermette if he had the measurement from Clark Road to the nearest corner of the porch. Mr. Vermette replied that he just had the 25.5 foot coming off of Central Avenue. Mr. Carmichael asked how deep the porch was. Mr. Vermette said it was 6 feet. Mr. Curtis suggested moving the house more perpendicular to Clark Road. Mr. Olivieri stated that the reason they have setbacks is for accessibility for safety reasons. The whole side yard was a street so there would be access to the entire property from the street. Ms. Swanson noted that Mr. Vermette was not obstructing anyone or infringing on a neighbor. She felt that the project had more benefits to the neighborhood and the Town than disadvantages. Mr. Vermette said if the rear setback was twenty feet he was willing to shift and twist the back of the house.

Mr. Foster asked what kind of foundation was under the old house. Mr. Vermette believed it was cement blocks. Mr. Foster asked if he was going to dig that up and take it out. Mr. Vermette replied that he was. Mr. Foster asked if there was any reason that he couldn't move the house ten feet to the right towards Central Avenue. Mr. Vermette replied the neighbor's property line goes right along the back. It was an odd shaped lot. Mr. Vermette then indicated the line on the plan. Mr. Foster felt that they were not intruding on a neighbor and this was a small lot and was to be expected. Mr. Vermette was also improving the property. He thought no harm was done and there was no reason not to grant this. Ms. Swanson agreed.

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

Mr. Vermette was given information that explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:32.

Mr. Foster stated that there were still a few things they needed to discuss. He assumed that they had received his email advising them there was a meeting here next week with the Planning Board. One of the things they would be discussing is the bylaws. Mr. Foster believed that the meeting had already been posted.

Nemasket River Landing and Residences at Nemasket River

Mr. Foster advised that they had been asked to offer any thoughts on issues or concerns they might have on the proposed and planned 40B by the Train Station. The State has asked the Selectmen for this input. He would like them to articulate their concerns which he would capture in an email and send to Ms. Garbitt, Town Administrator. He felt that

one of the issues that should be raised is a Traffic Study, and the impact of additional residents at that intersection.

Mr. Carmichael noted that his concern would be the proposed road that circumnavigates the project is cut in half by a stone wall. There is only one access to the rear of it and two to the front. He thought this would create confusion for emergency vehicles and problems for snow plows and drainage. He would like to see that as one consistent road.

Mr. Gouveia said that his concerns which were fire hydrants, sprinklers, and things along that line had been addressed by Mr. Poillucci at their last meeting. Mr. Urbanski noted his first concern was traffic. His second concern would be the impact that this project, as well as others that have gone into Town, is having on the Fire Department and Police Department. He did not know if there was something this project could do to address this public safety concern. Mr. Curtis said he was somewhat concerned about how the area would be impacted. However, he felt that the Conservation Commission seemed to be on top of those concerns already.

Mr. Foster advised that he would compile all of the items they had noted in an email to Ms. Garbitt and "cc" the Board. Mr. Chamberlain from Conservation clarified that all they had done so far, in the absence of any filing, was to confirm the wetlands boundary that was marked decades ago. Mr. Foster asked if there were any further comments. There were none.

Mr. Curtis made the motion, seconded by Mr. Carmichael, to approve the Minutes from the August 17, 2017, meeting.

VOTE: Mr. Curtis, Mr. Olivieri, Mr. Gillis, Mr. Gouveia Mr. Urbanski,
Mr. Foster – **AYE**
Mr. Carmichael, Ms. Swanson – **ABSTAIN**

Mr. Foster adjourned the meeting at 7:42.