

**Zoning Board of Appeals  
Lakeville, Massachusetts  
Minutes of Meeting  
November 15, 2018**

**Members present:**

Donald Foster, Chair; David Curtis, Vice-Chair; Daniel Gillis, Associate Member; Joseph Urbanski, Associate Member

**Members absent:**

John Olivieri, Jr., Clerk; Janice Swanson, Vice-Clerk; Chris Carmichael, Associate Member

**Regular Meeting:**

Mr. Foster opened the regular meeting at 7:04 p.m.

Roll called.

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

Mr. Foster advised they had some administrative items they could take up while they waited for additional Board members to arrive. The first item was the reorganization of the Board. As they knew, Mr. Gouveia had stepped down from the Board so they needed to move one of the Associate Members up to full member and the Selectmen have asked for a recommendation. He noted that the policy and practice they have used in the past is to move up the Associate Member with the most seniority on the Board.

Mr. Foster stated that of the three Associate Members, he believed that Mr. Urbanski had the most seniority but he wanted to open discussion up to Mr. Curtis and Mr. Gillis who were present. Mr. Gillis and Mr. Curtis thought that was an appropriate action. Mr. Foster asked if they would be okay if he passed on to Ms. Garbitt their recommendation that Mr. Urbanski be moved from Associate to full Member. They should also be looking for another Associate Member.

**Trichome Health Corp. hearing – 475 Kenneth Welch Drive, Request to withdraw application**

Mr. Foster advised regarding this application, Mr. Mazin had submitted this application in the correct name in case his Special Permit could not be corrected. However, it had never been advertised or came to fruition. Mr. Mazin had then emailed a request to withdraw the application. Mr. Foster felt it would be prudent to have a motion to accept the request for withdrawal.

Mr. Curtis then made the motion, seconded by Mr. Gillis, to accept the request to withdraw the petition for Trichome Health Corp. The vote was **unanimous for**.

**GAM Realty Trust hearing – 7 & 9 Keith Avenue**

Mr. Foster opened the GAM Realty Trust hearing at 7:07 and read the legal ad into the record. Atty. Mather was present. Mr. Foster wanted to note they only had four out of five members present tonight so he had the right to request a continuance until they had five members. Atty. Mather said he understood but he would go forward with four members. Atty. Mather stated he represented Paul and Eleanor Gamache, owners of the property at Keith Avenue for 69 years. He then distributed some additional materials.

Atty. Mather advised this was part of a subdivision that was done 1909 called Orchard Park. This property is lots 29-35. There are two houses on the property. The first house was built in 1930 on lots 29, 30, and 31 which is 7 Keith Avenue. The second house was built in 1948 on the remaining four lots which is 9 Keith Avenue. When zoning was adopted in Lakeville, they were under sized lots. In 1976 and 1978, lots 3B and 3C were acquired by the Gamaches. As those lots did not have frontage and they were in the same name, they merged with the other properties.

Atty. Mather continued, if they would look at the second exhibit, that is how 7 and 9 Keith Avenue are today. He has confirmed with the Building Inspector that they could be sold that way but there are some problems with that. First, the property line division is less than two feet from the corner of the house. Additionally, the property that is behind 9 Keith Avenue is not part of 9 Keith Avenue but part of 7 Keith Avenue. The third page is the Form A plan which is the way they would like to divide the properties. He noted that with this division both lots would have the required 175 feet of frontage which is the reason for the small jog on the plan.

Atty. Mather stated the reason he was here was twofold. These are valid pre-existing, non-conforming lots. They want to change the lot configuration and the bylaw allows that when the Board of Appeal makes a finding that the change is not substantially more detrimental than the existing non-conforming use is. They think it is less detrimental as they have made it a little bit more conforming. The procedure is cumbersome as they have to go to the Planning Board and the Zoning Board. Normally the Planning Board could not sign a plan that doesn't comply with zoning but there is a provision in the

Subdivision Control Law which says the division of a tract of land, on which there are two or more buildings that were standing when Subdivision Control Law went into effect, into separate lots on each of which such buildings remain standing will not constitute a subdivision. This will be an ANR or Approval Not Required. Although this does allow the Planning Board to sign it, you still have to go to the Zoning Board and get permission to separate them.

Atty. Mather stated that he had hoped to go to the Planning Board before appearing before the Zoning Board just in case they wanted to move the line at all, but he had been unable to get on the agenda in time. He would suggest they either issue a preliminary approval and come back in December to confirm it, or if they choose to approve it is "as may be amended by the Planning Board." Mr. Foster asked if they had anything scheduled for December. Ms. Murray, recording secretary, replied they did. Mr. Foster recommended they come up with the words to complete the hearing tonight.

Mr. Curtis said the only thing he could see that they might do is keep that one line going up at an angle. Mr. Foster replied they would need to say that in a way that would allow it. They will also need to state the Special Permit runs with the property. Mr. Foster said that he did not have any additional questions. There was some haziness about what the Planning Board does and what the Zoning Board does. He did know that the Zoning Board does not do property lines. Atty. Mather replied the Zoning Board is basically allowing the separation of title with the new line division. It will also be indicated that the Planning Board's endorsement is not a determination of conformance with zoning.

Mr. Foster noted that there was no change to the outer dimensions. There is no impact on the neighbors or neighborhood. The lots will more closely approach conformity or will be less non-conforming. He did not see anything wrong with it. He then asked what the new lot sizes would be. Atty. Mather replied 9 Keith would be 54,014 square feet and 7 Keith would be 40,075 square feet. Mr. Foster advised that if approved there should be a restriction that their approval is pending approval of the Planning Board.

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

1. This is subject to Planning Board approval and any adjustments that they may make to the plan.

The vote was unanimous for.

The hearing closed at 7:28.

**Documents distributed for the hearing:**

Petition packet

Legal ad

Board of Health correspondence of October 15, 2018

Mr. Curtis made a motion, seconded by Mr. Urbanski, to approve the Minutes from the September 20, 2018, meeting.

**VOTE:** Mr. Curtis, Mr. Urbanski, Mr. Foster – **AYE**  
Mr. Gillis – **ABSTAIN**

Mr. Urbanski made a motion, seconded by Mr. Curtis, to approve the Minutes from the October 18, 2018, meeting.

**VOTE:** Mr. Curtis, Mr. Urbanski, Mr. Foster – **AYE**  
Mr. Gillis – **ABSTAIN**

Mr. Foster adjourned the meeting at 7:35.