

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
March 21, 2019**

Members present:

Donald Foster, Chair; David Curtis, Vice-Chair; Janice Swanson, Vice-Clerk; Joseph Urbanski, Associate Member

Members absent:

John Olivieri, Jr., Clerk, Chris Carmichael, Associate Member; Daniel Gillis, Associate Member

Regular Meeting:

Mr. Foster opened the regular meeting at 7:05 p.m. He advised they only have four members present so for each of the three hearings they have, the option will be given to either engage in the hearing tonight or to open it and then continue until next month when they will have a fifth member. He explained that in order for a petition to be either passed or denied it requires a super majority which is four votes. With a full Zoning Board, you could have one person opposed and the petition would still pass, but with four members you need a unanimous vote so there is a slight disadvantage or risk to petitioners when that happens.

Mr. Foster stated in accordance with the Open Meeting Law, he was announcing that he and the secretary were 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. Curtis made a motion, seconded by Mr. Urbanski, to approve the Minutes from the June 21, 2018, meeting. The vote was **unanimous for**.

Chainay hearing, continued – 153 County Road

Mr. Foster opened the continued Chainay hearing at 7:10. Mr. Foster asked Mr. Chainay if he had understood what he had said about having four members and the choice he had to either proceed with the hearing or continue his hearing until next month when hopefully they would have a full Board. Mr. Chainay replied he would like to proceed with the hearing tonight. Mr. Foster said last month some reservations had been expressed about the requested position for a proposed garage because it intruded into the

setback yet Mr. Chainay had an oversized lot. Mr. Chainay said what he has done is reduce the size of the length of the building to 50 feet from 55 feet. The width is the same. This has allowed him to reduce the request from 10 feet off the property line to 17 feet. The measurement from the house to the garage is 10 feet which will still allow him enough access to get a machine in there to get to the septic tank or the leaching field if needed.

Mr. Foster then read into the record a letter from Mr. Thomas Motta, the abutter from 151 County Street. He had no objection to the petition. Mr. Chainay stated on the second drawing he submitted, he has indicated the different obstacles he faced on the property. Ms. Swanson said she had been objecting to the size of the garage, and it had been reduced. The proximity to the neighbor had also been discussed but the neighbors do not oppose the garage. She felt that Mr. Chainay had listened to their concerns and taken them under consideration. She noted this property is right across from Lakeville Storage where there are many items on display which is why she did not think this was a detriment to the neighborhood. In her opinion as the neighbors did not object, she would be in favor of the petition.

Mr. Curtis said because Mr. Chainay had been able to increase the setback to 17 feet, he was much more comfortable with the petition. Mr. Urbanski agreed. Mr. Foster then stated, in regards to the wetlands issue, they are legally defined. There may be land, on the property, that is wet but it is not considered or legally defined as wetlands. Mr. Foster asked if any water control mechanism would be planned off the garage. Mr. Chainay replied yes there would be gutters that would drain into the back.

Mr. Foster asked if anyone present would like to speak for or against the petition. Mr. Wallace McCarroll of 147 County Street was in favor of the petition. Mr. Foster noted it appears they were in agreement that the changes Mr. Chainay is proposing to his plans are no more detrimental to the neighborhood or the environment than if he was in full compliance with the zoning as there is now only a three foot intrusion into the setback.

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

1. The granting of this Special Permit does not define a new setback.

Mr. Foster explained that normally when there is a structure that is inside of a setback line, then on that one side of the property, it defines a new setback line. This restriction means if you wanted to build something else on that side of the property within the setback line, you would still have to come back to this Board.

The vote was **unanimous for.**

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

The hearing closed at 7:21.

Documents distributed for the hearing:

Updated plans

Lemelin hearing – 31 Pilgrim Road

Mr. Foster opened the Lemelin hearing at 7:22 and read the legal ad into the record. He noted that Mr. Lemelin was the contractor not the property owner. Mr. Foster advised he had called the property owner for some clarification on the drawings submitted with the petition. He stated that when they face some kind of an addition on a small lot, they like to have an indication of the percent of impervious coverage. Mr. Lemelin said that amount would be 16.8%. It includes a shed, carport, and the house structure.

Mr. Foster asked Mr. Lemelin what he was proposing to do. He replied to construct an addition for another bedroom. They are not adding an additional bedroom but just making the rooms larger. Mr. Foster then read the March 8, 2019, letter from the Board of Health. It stated that the property had a recently approved septic system and well plans. The dwelling would be restricted to two bedrooms with no increase in flow. In their March 15, 2019, memo the Planning Board indicated they had no comment regarding the petition. Board members had no concerns with the petition. Mr. Foster then asked Mr. Lemelin if he would like to proceed tonight with four members or continue until next month. Mr. Lemelin stated he would proceed.

Mr. Foster asked if anyone present would like to speak for or against the petition. Mr. Martin Levin of 35 Pilgrim Road asked how close they would be to the wall. Mr. Lemelin replied they were going four more feet past it. Mr. Levin said that he was in favor of the petition. Mr. Foster asked if anyone present would like to speak for or against the petition. No one spoke.

Mr. Curtis then made the motion, seconded by Ms. Swanson, to approve the petition. The **vote** was **unanimous for**.

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

The hearing closed at 7:30.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of March 8, 2019

Planning Board correspondence of March 15, 2019

Johnson hearing – 7 Rustic Drive

Mr. Foster opened the Johnson hearing at 7:30 and read the legal ad into the record. Mr. Jamie Bissonnette, from Zenith Consulting Engineers, was representing the applicant. He advised they are requesting a Special Permit to take down an existing two-bedroom dwelling on the lot and construct a new one. The lot is less than 20,000 square feet and also falls in the Business District. They have been in front of the Board of Health and have received approval for a Title V compliant septic system.

Mr. Foster asked if this was a private way. Mr. Bissonnette said that it was. Mr. Foster asked how large the property was. Mr. Bissonnette said it was 7,500 square feet. Mr. Foster asked if the footprint would remain the same. Mr. Bissonnette believed the footprint was a little larger. The setbacks have been improved, so they are slightly less non-conforming. Mr. Foster noted the front setback had been doubled, and they meet the rear setback.

Mr. Foster asked if the house was presently lived in. Abutters present said that it was not a house and questioned how it could be two bedrooms when it was only three rooms. It was noted it had not been advertised as an existing two bedroom home, but the Assessors' records indicate it as such. Mr. Foster asked what it had currently for a septic system. Mr. Bissonnette thought it had a cesspool but the records were very scarce.

Mr. Foster then read the March 8, 2019, letter from the Board of Health into the record. The property has a recently approved septic system and well plans. The dwelling would be restricted to two bedrooms with no increase in flow. The March 18, 2019, memo from the Conservation Commission advised there were no wetlands or issues related to wetlands identified. The Planning Board memo of March 15, 2019, had no comment regarding the petition.

Mr. Foster then asked who would like to speak for or against the petition. Ms. Jennifer Jewell of 10 Rustic Drive advised all the roads in that area are dirt roads and there is a huge problem with drainage. Her biggest concern would be the paved driveway. They really cannot have any more water in that area. They have standing water that stretches out over several houses and it stays wet for days at a time. She did not know if they could address that here, or if the property owner would be willing to keep the driveway as crushed stone. Mr. Foster asked if Mr. Bissonnette could speak on behalf of the property owner in regard to the driveway. Mr. Bissonnette said that he could not, but he could ask.

Mr. Foster asked if the plans for the new construction include control for runoff from the roof such as gutters or drywells. Mr. Bissonnette replied there is nothing proposed on the plan for roof runoff. Mr. Foster advised that is something that should be kept in mind. Mr. Bissonnette asked Ms. Jewell if she felt something like roof infiltration, instead of swapping out the paved driveway, would be effective. Ms. Jewell did not think so. She felt the driveway would create a mess especially because it does pitch down toward Rustic Drive. Mr. Bissonnette said that he would bring this concern up to the owner.

Ms. Jeanine Constantine of 2 Ivy Lane said her concern is the septic system and the fact the leaching field would be 65 feet from her shallow well. She also had questions regarding the proposed house and its setbacks. She was then able to consult the proposed plan. She advised they had been under the impression that anything that was built would have to stay on the existing footprint especially with the well issue.

Mr. Foster noted the change in location of the foundation of this new house is an improvement in terms of zoning and the bylaws. The existing shack is very close to the front property line, but the new position they are proposing is much more compliant with the bylaws. It doesn't quite meet them, but it is closer. He advised the frontage would be on Rustic Drive, and their bylaws call for 40 feet. The setbacks are 20 feet for the side and rear. Ms. Constantine asked what the square footage of the home was. Mr. Bissonnette replied it appears to be 660 square feet, and it is two stories. Mr. Bissonnette said the Town shows, with the enclosed porch, 513 square feet so it is an approximate 20% increase.

Ms. Karen Quinn of 15 Rustic Drive said that she has heard it said this is not a bad looking house and it's not, but she thought it was subjective to what the neighborhood looks like. You're putting a two bedroom, year round house in this area and it looks nothing like what is around it. It was a stretch from what the property was originally intended for, and what it was originally used for. Mr. Foster asked her to find something in the bylaw that would address the aesthetic issue. She replied no but she thought that a lot of the people present were concerned with the nature of what that neighborhood is. There are several properties for sale, and this will set a precedent as to what is going to happen in that neighborhood.

Mr. Foster asked if anyone else would like to speak for or against the petition. It was asked if the lot had been surveyed. Mr. Bissonnette replied that it had. An abutter noted that when his lot was surveyed, it showed a corner of the lot in the middle of Ivy Lane. The reason being when the lots were cut, there was a nice tree on the property they did not want to take down for the road so they cut into this lot. If the tree is coming down, does he get a portion of his lot back? Mr. Bissonnette replied they are not planning on doing any cutting in the right of way.

The abutter also asked if this contaminates the neighbor's well, would the Town be liable. Mr. Foster said that would be a Board of Health issue. He did not think they could address it. It was asked if there were two septic fields. If one fails, where would they put the second one? Mr. Bissonnette replied that is done on new construction. On upgrades and repairs you only have to show one. Some residents asked about the type of well and noted water on the site had come from a hose from the neighbor. Mr. Foster advised the issues around septic and water belong to the Board of Health, not the Zoning Board. They are concerned about zoning which would be setbacks from the property line. They do to try to address the issues in a way that makes sense for the property owner and the engineer who is faced with these design dilemmas.

Mr. Foster stated the concerns he has heard so far are the driveway and runoff, which will be addressed with the property owner. He advised that it be kept in mind the new house is approximately 20% larger than the existing house, but they are living with that existing runoff. The new house will have only a slight bit more.

Mr. Foster asked what other concerns there were that could be addressed in zoning. Ms. Constantine questioned if the trees between the properties would be removed. She wanted them removed because they were pine trees and some had already come down in recent storms. However, she asked if there could be a buffer between the properties as they have always had those trees there. Ms. Swanson said the property owner has the right to take down the trees. She wondered if both of them could do something to alleviate that problem.

Mr. Foster reviewed with Mr. Bissonnette the questions he could take back to the property owner concerning the driveway, the runoff control from the roof, and the discussion over the pine trees, although that specifically was not their purview. Mr. Foster asked if there were other comments or questions. There was a question about the driveway. Would it be adequate as you could not park on the street in that area? Mr. Bissonnette replied the driveway was approximately 37 feet long. It is off of Rustic going to the side of the home.

Mr. Foster said they have one more question before them which they need to consider. He asked Mr. Bissonnette if this was zoned Business. Mr. Bissonnette replied that it was. Mr. Foster stated they do have to consider a dwelling in a Business Zone. He thought they could do that when they reconvene. Could they continue until next month? Mr. Bissonnette replied before they did, someone brought up that they weren't aware there was going to be a basement. He noted that it was in the plans. There was a concern from a resident that it could affect a shallow well.

Mr. Curtis then made the motion, seconded by Mr. Urbanski, to continue the Johnson hearing until April 16, 2019. The time would be at 7:00. The **vote was unanimous for.**

The hearing closed at 8:10.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of March 8, 2019

Planning Board correspondence of March 15, 2019

Conservation Commission correspondence of March 18, 2019

Mr. Foster adjourned the meeting at 8:10.