

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
April 16, 2019**

Members present:

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

Members absent:

Daniel Gillis, Associate Member

Regular Meeting:

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

Johnson hearing, continued – 7 Rustic Drive

Mr. Foster opened the continued Johnson hearing at 7:05. Mr. Bissonnette was present. Mr. Foster advised he believed last month they had continued this hearing in order for Mr. Bissonnette to explore with the owner the possibility of a pervious driveway and downspouts with dry wells. Mr. Bissonnette replied that was correct. The new plan shows a gravel driveway and downspouts with a roof drainage system into an underground infiltration system. Mr. Foster said he believed that they had then taken care of any potential runoff issues. Mr. Bissonnette said that was correct.

Mr. Foster asked if Board members had any questions for Mr. Bissonnette. There were none. He then asked if anyone present would like to speak for or against the petition. Ms. Jeanine Constantine of 2 Ivy Lane questioned the placement of the deck which she felt was very close to her property. It was an overhanging deck and very intrusive. Could it be modified to a patio? Mr. Foster replied that according to the plans and what was submitted to the Board, the deck is a little bit more than 20 feet from the setback which makes it conforming to the bylaw. Ms. Constantine then approached the Board and consulted the plan.

Mr. Foster then stated he was required in accordance with the Open Meeting Law, to announce 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. Foster asked if there were any additional issues. Ms. Constantine replied some of their concerns were the size of the proposed home, and if it could be scaled back. According to 7.4.1.1, this does not seem to be socially desirable according to the majority of the abutters. It is also not being built on the existing foundation of the camp. Mr. Foster said that replacing what essentially is a shack with a home that could be considered habitable is socially desirable. Although they might not like the looks of it, the Zoning Board does not concern itself with aesthetics.

Mr. Foster asked if there was anything additional. Ms. Constantine said that according 7.4.1.3 there is no other reasonable alternative to accomplish this goal. She wanted to revisit why the existing footprint was no longer a reasonable alternative. Mr. Foster then asked how much larger the new footprint was compared to the existing. After consulting the plan, he advised the proposed footprint is 660 square feet. Mr. Bissonnette added that the Assessors had the existing building's gross area at 513 square feet. Ms. Constantine noted that the current living area was 361 square feet. Mr. Bissonnette said that did not include the deck.

Mr. Foster asked what Board members thought. Mr. Curtis said he had no problem with this petition. Ms. Swanson said that she did remember them going over all this with the neighbors as well as the concern about the size. She thought that had been addressed, and the major concern had been the drainage which had also been addressed tonight. She recalled, although not speaking for the Board, they had thought this was an improvement to the neighborhood. She was not against it.

Mr. Bissonnette said that he did have a note with the third issue being a concern about the pine trees. Mr. Foster said for them to address the pine trees would be a friendly request. They did not really have authority over that issue. Mr. Bissonnette said that it had been mentioned to the owner, but he could not commit if it was going to be done or not.

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

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

The hearing closed at 7:20.

Documents distributed for the hearing:

Updated plan

Kellihor hearing – 350 Bedford Street

Mr. Foster opened the Kellihor hearing at 7:21 and read the legal ad into the record. Mr. Foster said it was his understanding the shed was already built. Mr. Kellihor said that was correct, and they had been unaware that a Special Permit was required. This shed

houses the infrastructure that was required for this system. It is completely built, and they have notified the power company which is their next step.

Mr. Foster then read the April 4, 2019, letter from the Board of Health into the record. They recommended approval of the petition. He next read the April 12, 2019, letter from the Planning Board. They had no comment on the petition. The April 10, 2019, letter from the Conservation Commission indicated they had no concerns. Mr. Kellihor advised that the plan had been presented to all the Boards in the permitting process.

Mr. Foster noted the concern was the shed was in the side yard. Mr. Kellihor stated that it was eight feet off the property line. The setback should be 40 feet but that would put them in the middle of the parking lot causing the loss of several parking spaces. Some photos were then submitted for the record.

Mr. Foster asked if anyone present would like to speak for or against the petition. No one spoke.

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

The hearing closed at 7:29.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of April 4, 2019

Conservation Commission correspondence of April 10, 2019

Planning Board correspondence of April 12, 2019

Rogers hearing – 47 Nelson Shore Road

Mr. Foster opened the Rogers hearing at 7:30 and read the legal ad into the record. Mr. Tim Andrews was present for the applicant. Ms. Rogers was also present. Mr. Foster asked if he was putting a room where there currently was a deck. Mr. Andrews said that was correct. It was stated that would mean taking the deck down and putting in a proper foundation. Mr. Foster noted that he would not be any closer to the property line or any higher than the existing house. Mr. Andrews said that was correct. Mr. Foster asked if the room was going to be a bedroom. Mr. Andrews replied that it was to be a family room.

Mr. Foster asked if anyone present would like to speak for or against the petition. No one spoke. Mr. Foster asked Board members if they had any comments or questions on the petition. Mr. Carmichael noted that it was no closer to the setbacks already established and no more non-conforming. Mr. Foster agreed. Mr. Urbanski said he had no problem with the petition.

Mr. Foster indicated the Planning Board had no comment on the petition and the Conservation Commission could not make a determination as no site plan had been provided.

After a brief discussion, Ms. Swanson made the motion, seconded by Mr. Olivieri, to approve the petition as submitted. The vote was **unanimous for**.

Documents distributed for the hearing:

Petition packet

Legal ad

Conservation Commission correspondence of April 10, 2019

Planning Board correspondence of April 12, 2019

Houle hearing-- 23 Twin Oaks Road

Mr. Foster opened the Houle hearing at 7:35 and read the legal ad into the record. He also read the April 4, 2019, from the Board of Health. They recommended that approval of the petition be held off until an H2O septic tank is installed or modifications are made to meet the minimum H2O loading. They also wanted a restriction mandating the structure be temporary. The April 12, 2019, memo from the Planning Board made no comment. The April 10, 2019, letter from the Conservation Commission stated two following areas of concern: the extent of the stone wall realignment and if the floor would remain gravel. It was noted that a Request for Determination of Applicability be submitted.

Mr. David Fredette was present and representing Ms. Houle. He advised the last time they were in front of this Board, their design was for a permanent structure, but the Board of Health will not allow that. The Board has recommended a temporary structure be considered. Mr. Fredette noted they have been able to improve the setbacks from 1 foot to 3.2 feet at one corner and 4.4 feet from the street line at the other corner. They are trying to keep it in line with the existing wall. The current drawing shows the proposed stone wall being relocated in order to square it off as right now there is an angle, and they are trying to get it so the carport fits square into the stonewall area.

Mr. Fredette advised they would not be putting a paved or concrete surface on the driveway. It will remain gravel, but some will be added so that it will be level. If this is approved tonight, they will be submitting a Request for Determination of Applicability. With respect to the Board of Health, they have agreed that they will do whatever has to be done regarding the tank. If it is not an H2O design they will ensure that the slab that is reinforced gets placed over it so that it becomes an H2O design. He explained an H2O design is stronger. The top slab of the tank is six to eight inches instead of four. Therefore, it can withstand the weight of a heavy machine or truck going over it.

Mr. Foster noted the tank is under the gravel drive so clearly they want this to be able to withstand the load of anything that could be driven into that spot. That seems to be pretty

logical. Mr. Fredette replied he is still working with his client regarding this issue. They believe that the system was installed as an H20 design as that was what had been called for. He will need to dig on the outside, clear away the top, and get a measurement down to the top and another measurement down to the soffit inside to confirm what the actual thickness is.

Ms. Houle explained when it was designed; the review design described when you use an H10 and an H20. If it is any different than an H20, it is up to the engineer that did the As-built to write that exception on the plan, and nothing is indicated. Mr. Foster said he did think it was a valid concern. They don't know if this information being left off is correct or an error by the engineer. If this were to collapse, it would be a disaster for Ms. Houle. Ms. Houle noted that she had been driving over it for 20 years.

Mr. Foster noted there is a stone wall built adjacent to the next property and it looks to be about seven and a half feet. Mr. Fredette replied it was ten feet. In order to get it to square off, it will go down to the seven and a half feet. Mr. Foster then read the recommended restriction from the Board of Health that the structure could only be temporary. Did he feel this product was of that nature? Mr. Fredette said this product they have is considered temporary. Their original submittal was a generic design and they had been awaiting the specific design that was particular to this site. Ms. Houle then submitted that design for the record.

Mr. Foster asked if there was a neighbor on that side of the property. Ms. Houle said it was an empty lot. It was not buildable. Mr. Foster asked Board members what they thought. Mr. Carmichael did not have a problem with it as long as it complied with the Board of Health and Conservation. Mr. Olivieri agreed. Mr. Foster clarified the request for a Special Permit was for the carport, but was one needed for the wall which was closer to the property line. Ms. Swanson asked the height of the wall. Mr. Fredette replied at the highest point maybe two feet. She stated she did not think that would constitute a structure and a Permit would not be required.

Mr. Foster noted there was no one present to speak for or against the petition. Did Board members have anything further? No one spoke. He asked if anyone would like to make a motion.

Mr. Olivieri made the motion, seconded by Mr. Curtis, to approve the petition for a Special Permit with the following conditions:

1. Board of Health approval is required.
2. Conservation Commission is required.
3. The carport will not establish a new setback.

The vote was **unanimous for.**

The hearing closed at 7:54

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of April 4, 2019

Conservation Commission correspondence of April 10, 2019

Planning Board correspondence of April 12, 2019

Mr. Foster noted in their packets was a letter from Citizens Housing and Planning Association (CHAPA.) Their job is to communicate with them, and they advised the Board there had been one refinancing request and one resale at Woods Edge in 2018. He noted that there was also a proposed Zoning bylaw amendment for them to review. He suggested they do that at their leisure.

Mr. Olivieri made a motion, seconded by Mr. Curtis, to approve the Minutes from the July 19, 2018, meeting.

VOTE: Mr. Curtis, Mr. Olivieri, Mr. Foster – **AYE**

Mr. Carmichael, Ms. Swanson, Mr. Urbanski – **ABSTAIN**

Mr. Carmichael made a motion, seconded by Mr. Curtis, to approve the Minutes from the January 31, 2019, meeting.

VOTE: Mr. Carmichael, Mr. Curtis, Ms. Swanson, Mr. Urbanski, Mr. Foster – **AYE**

Mr. Olivieri – **ABSTAIN**

Mr. Curtis made a motion, seconded by Mr. Urbanski, to approve the Minutes from the February 21, 2019, meeting.

VOTE: Mr. Curtis, Ms. Swanson, Mr. Urbanski, Mr. Foster – **AYE**

Mr. Carmichael, Mr. Olivieri – **ABSTAIN**

Mr. Foster said that he might have a commitment the date of their June meeting. He would like to explore the possibility of having their meeting on Tuesday, June 18th. He would send out an email to them so they could check their calendars. If people are available, they would then try to find a location to meet.

Mr. Carmichael noted that he had read the proposed bylaw change. He had no problem with it.

Mr. Foster adjourned the meeting at 8:12.