

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
July 18, 2019**

Members present:

Donald Foster, Chair; Janice Swanson, Vice-Clerk; Chris Carmichael, Associate Member; Joseph Urbanski, Associate Member

Members absent:

David Curtis, Vice-Chair; John Olivieri, Jr., Clerk, and Daniel Gillis, Associate Member

Regular Meeting:

Mr. Foster opened the regular meeting at 7:00 p.m. He 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 wanted to point out that they only had four members present tonight. They normally had five. This means any votes taken pertaining to petitions will require a unanimous approval or denial.

Arruda hearing – 13 Cottage Lane

Mr. Foster opened the Arruda hearing at 7:02 and read the legal ad into the record. Ms. Arruda was present. Her son Brandon was the contractor for the project and was also present. Ms. Arruda advised originally she had planned on maintaining the original foundation and adding up. After speaking with several contractors, they have advised her best option is to raze and rebuild the home.

Mr. Foster said that before they continued with the hearing, he wanted to confirm that Ms. Arruda would like to proceed with four members. The alternative would be to request the hearing be continued until next month. Ms. Arruda replied that she would proceed with the hearing. Mr. Foster said her plan is to take down the old house and build a new house with a garage. Ms. Arruda said that was correct, and it would be in the same footprint. The last time she was in front of the Board she had received a Special Permit to build the garage which she still intended to do.

Mr. Foster said one of the things that concern them on small lots is lot coverage. He noted that it would increase from 47% to 52%. He said the side setback shown is 15.9'-16.1' but the shed or boathouse is 4.7' from the side according to the plan submitted. He noted that would establish a new setback on that one side. He said this is to be a two story house with what he assumed was a finished basement. She replied it would be semi-finished.

Mr. Foster then read the correspondence from various Town Boards into the record. The July 15, 2019, letter from the Conservation Commission stated due to the extensive activity in the buffer zone a Notice of Intent was required. The Planning Board in their July 1, 2019, memo said they had no comments on the petition. The Board of Health's July 18, 2019, memo indicated it had allowed the set back of 6' to a septic tank to a foundation. A poly-barrier/liner must be added at the time of construction. It also noted the system was designed for two bedrooms with no increase in flow.

Mr. Foster asked Board members if they had any comments. Mr. Urbanski had no problem with the petition. Mr. Carmichael also did not have a problem as Ms. Arruda was staying within the existing footprint.

Mr. Foster asked if anyone present would like to speak for or against the petition. Mr. Les Dakin, of 15 Cottage Lane approached the Board. He said he had no issue with the home that Ms. Arruda wanted to build. However, as he mentioned at her previous hearing, this proposal would add approximately 619 square feet of watershed and replace it with concrete and structures. The rainfall will now be displaced and has to go somewhere. He does have a concern about flooding on his property. He would request the same condition included on the Special Permit for the garage be inserted on this Special Permit.

Mr. Carmichael recalled they had talked about dry wells, as well as a swale, between the properties. Would Mr. Dakin be okay with that? Mr. Dakin replied as long the condition was worded the same way. Mr. Arruda explained what was proposed. Mr. Dakin said that as long as it was approved by an engineer and it states there would be no additional run-off to his property. Mr. Foster said they will use the same language in the restrictions. He asked Board members if there were any additional comments. There were none.

Mr. Carmichael then made a motion, seconded by Mr. Urbanski, to approve the petition as submitted with the following condition:

1. Plans stamped by an engineer will be approved by the Building Commissioner and will show that there will be no additional run-off to the property located at 15 Cottage Lane.

The **vote** was **unanimous for**.

The hearing closed at 7:16

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of July 18, 2019

Conservation Commission correspondence of July 15, 2019

Planning Board correspondence of July 1, 2019

Anchor Sign, Inc. hearing – 56 Main Street

Mr. Foster opened the Anchor Sign, Inc. hearing at 7:16 and read the legal ad into the record. Ms. Anna Halluch was representing Dollar Tree. She advised the first relief they are seeking is for the wall sign. They are asking that a sign that is 105.86 square feet be allowed. This is the general standard size of the signs for this store. They are manufactured in bulk and then shipped out as needed. Also on the wall sign, the regulations have a maximum height of 20 feet from grade; the current proposal is 23 feet and 2 inches.

Mr. Foster said that have faced this dilemma several times with Walgreens, CVS, Urgent Care, etc. When they came in asking for the same thing, they all agreed to a smaller sign and there appears to have been no loss to their business. The issue that an enormous sign is needed where smaller signs clearly do the job, to him, is a false argument. Ms. Halluch replied that the designer did a quick rendering of what the allowed 32 square feet would look like and because the façade is so large the letters did look rather small. Ms. Halluch then submitted that rendering for the record.

Ms. Swanson said she knew they had given Special Permits for a lot of the signs on Main Street for different reasons. She did not think they needed a huge sign but she also thought they should be reasonable. Mr. Foster stated before they continued they only had four members. He needed to make sure Ms. Halluch was comfortable in proceeding with this hearing. Ms. Halluch said that she was okay continuing with the hearing tonight. She also submitted drawings for two different alternatives: the first was for 40 square feet and the second one was for 60 square feet. These were still over the regulation, but not as large as the original proposal.

Mr. Carmichael thought, of the different options, the medium alternative had a good scale to it. Mr. Urbanski said that of the signs in the area some are larger and some are smaller. He would like to come up with something that would work for all of them. Ms. Swanson noted that there were houses across the street that are being used as residential but the whole area is zoned business including Woods Edge. She would also be okay with a compromise. Mr. Foster said they could compromise on the height above the grade of the sign. Ms. Halluch replied if they went with the 40 or 60 square foot option which was just the letters, Dollar Store didn't want the logo anymore. They could then move that down a bit and be at about 20 feet.

Mr. Foster said personally he would like to see the 40 foot sign. Ms. Halluch said the height above grade for that option would be 19 feet, 4 ½ inches. Ms. Swanson was agreeable to either one. Mr. Foster thought if they would be willing to go with the smaller façade sign, they could look with a little more flexibility at the pedestal sign. He asked for information on that sign.

Ms. Halluch said there is room at the bottom of the free standing sign for another retail store or restaurant that would also be located there. Mr. Foster noted they meet the height requirement but instead of a 24 inch overhang, they propose a 42 inch overhang. Ms. Halluch said that was correct. She advised that with what is proposed the letters would be 7 inches. If they bring it down to the bylaw, the letters are reduced to less than 6 inches. Mr. Foster asked if the sign would be lighted. Ms. Halluch replied it will be internally illuminated. It would be on a timer so the lights would be on when the store is open but off when the store is closed.

Mr. Foster then read the correspondence from various Town Boards into the record. The July 9, 2019, letter from the Board of Health stated they had no issue with the petition at this time. The July 15, 2019, memo from the Conservation Commission stated there were no wetlands in the area so they had no opinion on the project. The Planning Board requested, in its July 16, 2019, memo, the Zoning Board look online to see how many other types and/or sign designs are available. There were pictures attached but as the dimensions were not included, Mr. Foster noted the information was qualitative not quantitative.

Mr. Foster also read some opinions from Ms. Doreen McCloud into the record. She was unable to attend the meeting but had called in to express her opposition to the petition. Mr. Foster then read the July 11, 2019, email from Ms. Mary Murphy of 2 Lori Lane. She felt that the tenants at 56 Main Street should abide by the Town's Zoning bylaws. Mr. Foster asked if anyone present would like to comment on the petition. Ms. Kerry Palaiologos said they have a business on Main Street. She, as did everyone in Lakeville, knew a Dollar Tree Store was coming to Town. In her opinion, she did not think there was a need for a huge sign.

Ms. Pat Rand of 1 Lori Lane stated that her property abuts Baldies. He worked with the Town and everything is very aesthetic to what they wanted the Town to look like. Dollar Tree is a commercial organization and if you allow a big sign, it takes away from the quaintness of the Town. She is not opposed to commercial development but thought it could be done tastefully. Ms. Eileen Golub of 92 Main Street also respectively requested that Dollar Tree either stay within the bylaw or there be a reasonable compromise.

Ms. Claire Lapointe of 61 Main Street said she did appreciate all the businesses coming in to Town. However, currently there are a lot of small signs on Main Street that seem to fit the businesses there. She did not want a precedent to be set and other businesses come in and have large signs. She would like the Board to stay consistent and go by the bylaw. Mr. Jesse Medford of 47 Highland Road stated that the citizens of Lakeville had voted for these bylaws at a Town Meeting, and he thought they should stick by their wishes unless

the time comes when they are changed. Mr. Shawn Stad of 5 River Bend said that he agreed with what others had said before him. There is a reason for the bylaws. He felt that 32 square feet would do the job effectively. He also felt the street sign should not be internally lit but should be lit externally. He would like the character of the Town to be maintained.

Mr. Foster would like to point out the difference between the externally lit versus the internally lit sign. The external sign would shine into the eyes of oncoming traffic which would be a safety issue they need to think about. The externally lit sign does have more of the old time country style but, in his opinion, is not as safe as an internally lit one. Mr. Ken Gordon of West Vaughan Street said that he enjoyed the rural character of the Town. The bylaws have been set up to observe what the people want and it would be appreciated if that was adhered to. He did not want a precedent to be set.

Mr. Foster asked Ms. Halluch how her client would react if they could come to a compromise on the pedestal sign and a size that would be more in keeping with the neighborhood. Ms. Halluch said that they probably would not be happy but as the representative that was something she willing to do. She noted the reason they were going with the 84 inches was because the graphic designers were looking at the lettering which came out to 7 inches. If they shrink the sign down, they could go to 6 inches but if you go too small then it would be hard to see, even if everyone does know it is a Dollar Tree Store.

Mr. Foster suggested splitting the difference between the request and the bylaw. He asked how Board members felt. The sign would be 66 inches wide. Mr. Carmichael thought that was a good compromise. Ms. Swanson agreed. Discussion then returned to the other sign. Ms. Halluch noted that the 40 foot sign does not seem that much bigger than the 32 feet the bylaw allows but it does make a difference. Mr. Foster then stated the length of the 32 square foot sign is about 17 ½ feet; 42 square feet is 21 ½ feet; and the request of 105 square feet is 32.1 feet. Ms. Halluch said that although the bylaw is 32 square feet, they would like to ask for the 40. That would give them a little more square footage on that large façade.

Mr. Foster said that in his opinion, they should stick with what the bylaw requests because the difference between the two appears rather trivial. Ms. Swanson said she would be willing to do that or with the 40. Mr. Halluch added that the 40 square feet is just to make it a little more proportional to the facade. Mr. Foster then invited audience members to approach the Board and view the options that had been presented.

A resident from County Street noted that the Town has bylaws for a reason. He felt that if the Dollar Store is allowed to go bigger, a precedent will be set, and they will have to do it for everyone else. Mr. Foster said the Zoning Board does not set precedent. Mr. Carmichael added they are having a Public Meeting where everyone is allowed to speak. If everyone feels it is a good idea, they proceed. They are not setting a precedent.

Mr. Foster said it appears they are focused on staying within the constraint of the bylaw for the façade sign. He believed if they did, the height of the sign off the ground would not exceed the 20 feet. Ms. Halluch said that was correct. Mr. Foster then read bylaw 6.6.3.2. He felt that the intent of that bylaw was to apply to a free standing pedestal sign and not a façade sign.

Mr. Foster returned discussion to the pedestal sign. The request for was for 84 inches wide and the bylaw allowed 48 inches. He would recommend they split the difference. Board members were okay with that suggestion. He asked for comments from the public. An audience member felt that bylaws were bylaws. They did not see why they had to allow anything additional. Mr. Foster replied that in the past they have given a little more flexibility on the signs in front of stores.

A resident asked why they were going to give them relief to increase the width of the pedestal sign. Was there a reason in regards to the letters? Ms. Halluch replied when the sign is shrunk down to the allowed size, the letters become very small. The requested size would allow for about 7 inch letters. She noted since there would be another company there, they like to do one simple line per company.

Mr. Foster said he would like to move forward with this hearing. They have agreed with a 32 square foot façade sign and because of that, the request for the waiver of the height is moot. This leaves the request for an 84 inch wide pedestal sign. He thought they could go to a 66 inch wide sign which would be half way between the bylaw and the request. He asked the Board if they were in agreement. Members did agree with this.

Mr. Carmichael then made a motion, seconded by Mr. Urbanski, to deny the request for a large façade sign and accept the compromise put forth for a 66 inch wide pedestal sign with the following condition:

1. The sign will be lit during business hours only.

The **vote** was **unanimous for**.

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

The hearing closed at 8:30.

Documents distributed for the hearing:

- Petition packet
- Legal ad
- Board of Health correspondence of July 9, 2019
- Conservation Commission correspondence of July 15, 2019
- Planning Board correspondence of July 16, 2019
- Doreen McCloud transcribed comments from
- Mary Murphy email of July 10, 2019

Mr. Foster said the last item on the agenda was regarding the Adult Use Marijuana Bylaw. Ms. Murray explained the Special Permit Granting Authority has been changed from the Planning Board to the Zoning Board. The information that had been distributed to the Board included marijuana definitions, the amended bylaw, and a sample of a submittal checklist. Mr. Foster said they would need to be familiar with this when they grapple with the next applicant. He noted they would need to use the checklist to assure themselves that the applicant has completed all the required steps and done the necessary work to comply with State law and the bylaw.

Ms. Murray advised the checklist was what the Planning Board was using. She had made some basic changes but still had some questions in regards to the fee and the Site Plan Review. The Planning Board was charging \$1,240 which included \$240 for the Special Permit fee and \$1,000 for the Site Plan Review. She asked if the Planning Board would still be doing that Review. Did they then want a sign off from the Planning Board? Members felt the Planning Board should continue to do the Site Plan Review. Mr. Foster asked when the next Planning Board meeting was. Ms. Murray stated it was next Thursday, July 25, 2019. Mr. Foster said if he was available, he would like to attend and discuss this issue.

Mr. Foster adjourned the meeting at 8:45.