

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
July 15, 2021
Remote meeting**

On July 15, 2021, the Zoning Board held a remote meeting. It was called to order by Chairman Olivieri at 7:00 p.m. LakeCam was recording, and it was streaming on Facebook Live.

Members present:

John Olivieri, Jr., Chair; Jeffrey Youngquist, Vice-Chair; Nora Cline, Clerk; Gerald Noble, Vice-Clerk; Christopher Campeau, Associate; Christopher Sheedy, Associate

Others present:

Charles Bilikas, applicant; Todd Freitas, applicant; James Murray, Andy O'Connor, abutters

Agenda item #1

Mr. Olivieri read this item into the record. It was an explanation of how the provisions of Chapter 20 of the Acts of 2021 allowed the Board to continue to meet remotely.

Bilikas hearing – 7 Helen Street

Mr. Olivieri opened the Bilikas hearing at 7:00 p.m. and read the legal ad into the record. Mr. Bilikas was present. He advised that currently there is a cottage on the property. They are looking to live there full time so they want to raze the outdated house and rebuild it in the same footprint. Mr. Bilikas stated that if they did expand the footprint, it would be on the right where he had an additional 50 feet. It would be 12 to 15 feet at the maximum.

Mr. Olivieri then read the July 8, 2021, letter from the Health Agent, Edward Cullen. He stated that the Board of Health requires a Title V inspection to be done on the existing septic system if the plan was to continue to use it for the proposed house. Mr. Bilikas said he did plan to use the same one. It was his understanding that it was installed approximately 15 to 20 years ago. When they connect to the water main, they will do a Title V. The July 13, 2021, memo from the Planning Board had no comment regarding the petition. The July 14, 2021, memo from the Conservation Commission had no concerns as there were no wetlands on the property.

There were no comments or questions from members or other interested parties.

Mr. Youngquist then made a motion, seconded by Ms. Cline, to approve the petition with the following conditions:

1. The new structure will meet all setbacks.
2. The lot coverage will not exceed 25%.

Roll Call Vote: Mr. Youngquist-Aye, Ms. Cline-Aye, Mr. Sheedy-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:12.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of July 8, 2021

Planning Board correspondence of July 13, 2021

Conservation Commission correspondence of July 14, 2021

Freitas hearing – 5 Bartelli Road

Mr. Olivieri opened the Freitas hearing at 7:12 p.m. and read the legal ad into the record. Mr. Olivieri asked Mr. Campeau to participate in this hearing as Mr. Youngquist had recused himself. Mr. Olivieri noted that he had received quite a bit of correspondence from abutters in regards to this hearing. He advised that the Board would need to focus on this project and this petition. Unfortunately, they would not be able to get into things that were outside the purview of this petition. Mr. Freitas was present and then explained the project. This was a single-family home that was built in 1930. They want to demolish that structure and build a new one that will fit really well in the existing neighborhood. It will be larger but it will meet all the setbacks. He believed that it would also not exceed the 25% coverage requirement.

Mr. Olivieri then read the July 8, 2021, letter from the Health Agent, Edward Cullen. He stated that the Board of Health would require a septic plan showing the footprint of the new house with the location of the proposed septic and well location. Mr. Freitas said that he had met with the Board of Health. The July 13, 2021, memo from the Planning Board recommended that any relief given by the Zoning Board of Appeals limit any business use to stay within the residential requirements of the property. Mr. Olivieri asked if there was an intention to run a business out of the home. Mr. Freitas replied not at all. The July 14, 2021, memo from the Conservation Commission had no concerns as there were no wetlands on the property.

Mr. Olivieri stated for the record that they have received quite a few letters and pieces of information which is all in the public record. All the Board members should have this information. He would not read it all as it was quite lengthy, but after Board members comment, he will open it up to public comment. He noted that it appears they are meeting all the setbacks, and they are not going over the 25% coverage. The proposed home will be more in line with what is in the neighborhood and would not have a negative impact.

Mr. Andy O'Connor of 12 Bartelli Road then spoke. He asked what the process was and then what was involved in terms of if he decides to appeal. Mr. Olivieri said there is an appeal process that he could go through. He would recommend reaching out to the Building Commissioner for additional information. Mr. O'Connor then asked if he didn't appeal and they were to proceed, he

would like to have some restrictions attached to the Special Permit. For example, hours of operation, how long it will take for the structure to go up, vehicles, and the status of the current violation on Lot 7 with the container.

Mr. Olivieri replied as far as other violations going on other pieces of property, they didn't really have any oversight on that. In regards to the length of time that it takes to put up the structure, he felt that also fell outside of their purview. They do have bylaws that allow for certain hours to construct which is usually for new developments. Whereas this is a mature neighborhood if there are concerns about putting restrictions on hours of construction, he would encourage them to ask now and it would be up to the Board to see if they wanted to condition that. Mr. O'Connor replied that he would like to discuss that. Usually, you would see normal working hours, i.e. 8:00 a.m. to 5:00 p.m. and many Saturdays, but not Sundays. In this case, they have seen hours that have gone beyond that.

Mr. Olivieri asked Mr. Freitas what hours he anticipated the builder to be working. He responded he understood the impacts of construction on the neighborhood. As far as the times, he would think that a typical time is usually 7:00 a.m. to 3:30 p.m. during the week. Sometimes Saturdays are required to get the project moving along and depending on the Town could be a 9:00 a.m. start. Sundays are typically a no. He was sure they could be accommodating for the neighborhood. Mr. Olivieri said that he did not think 7:00 to 3:30 or 4:00 during the week was unreasonable. He would be more concerned with the weekends. It appears that there is no intention for work on Sundays so maybe they could restrict that as much as possible and move the start times on Saturday back a bit. The issue here is this is a neighborhood that has been established for a significant amount of time and not expected to have a construction project going on. Would he be amenable to restricting Sundays and starting later on Saturdays? Mr. Freitas replied he thought that could be accommodated and would work out fine. All parties agreed to 8:30 a.m. for a Saturday start time.

Mr. O'Connor asked if there was anything they could do in terms of if anything happens to the road during construction. Mr. Olivieri thought that was outside of their purview where it was a private road. He would assume if a truck causes damage to a road that it becomes a civil matter. Mr. O'Connor asked if the approval is pending septic and well or if the approval includes that. Mr. Olivieri said the Board of Health has purview over that. Even if the Zoning Board approved the Special Permit, with or without conditions, the Building Commissioner would not be able to issue the Building Permit until they got the sign off and approval from the Board of Health. Mr. Freitas said the Board of Health had approved the septic.

Mr. James Murray of 10 Bartelli Road then spoke. He asked how often the Board approves these non-conforming lots where the structure is actually being destroyed and then relocated on the lot and enlarged. Is this a precedent? Mr. Olivieri replied the Zoning Board does not set precedent. He did not know how often it has been done, but noted that this is not the first case where someone has razed a structure and put up another one in a different area with additional square footage. It has to do with the size of the lot and the available area that the individual can build on. If you can meet the setbacks and not go over the 25% impervious coverage, it's not a detriment to the neighborhood or its character. Historically, the Board has granted those in most cases.

Mr. Murray asked specifically if this was a concern on this lot. This was a rental unit for many years and used on and off for the last 20 years. Now it is going to be 5 times larger with a continuous use of a non-conforming lot. Mr. Olivieri responded that it was up to the Board as a whole. They will determine if they think it falls into the character of the neighborhood or it is a detriment. If Mr. Murray thought it was a detriment, he could state that for the record and it was his right to do so. Mr. Murray replied that it was not bigger than all the other houses in the neighborhood, but it is a different use of a non-conforming lot.

Mr. Murray said that it was his understanding that Mr. Freitas would not be occupying the home and it will be occupied by the builder, who is currently living on the street in a different home. Over the last year, the builder has disrupted the neighborhood and has been operating his construction business from the neighborhood with many commercial vehicles existing on lots 5, 7, and 3. This is a small private road where these vehicles have also been parked. He did not think it was to the benefit of the neighborhood to have a commercial enterprise being run on a regular basis or to have it continue to run in a new home. They have addressed this situation with the Planning Board and the Building Inspector but also wanted to bring it to the attention of the Zoning Board that this house will be used for the storage of commercial vehicles. Mr. Olivieri replied that the Zoning Board has no oversight on who lives in the house, or what's done out of the house. That is an enforcement issue. The enforcement of the structure during and after construction falls with the Building Commissioner's office. If anyone was going beyond the Town's bylaw, it was not the purview of the Zoning Board to enforce or monitor that.

Mr. Murray said he was tying it to the point of whether or not this home would be a detriment to the neighborhood. He would suggest that given the occupation and the way this person has used it in the past, it will be a detriment to the neighborhood going forward. Mr. Murray said that he had also sent in some pictures of the drainage that has been altered with the development of Lots 5 and 7, or the change in topography that is taking place due to the land clearing and creation of the driveway. With these new curb cuts and the new driveway for Lot 5, is this counted in the square footage requirement of 25%? Mr. Olivieri said it normally is, but engineered plans were submitted that show the impervious area will be no greater than 25%. Mr. Murray asked if there was a copy of the driveway plan.

Ms. Cline stated there was a gravel semi-circle driveway noted on the plan. Mr. Murray said that is what currently exists. Mr. Freitas added that would be the driveway. Mr. Murray said on the plan it shows the front of that circular driveway going through the front of the garage shown. Mr. Freitas replied it goes into the garage. The lines do fall through the house but that's not the case. Mr. Murray said that is the way it appears on the plan. The bays of the driveway of the proposed house appear to be on the left side of the building, but the depicted circular driveway goes through the front of the house. Mr. Olivieri said on the plan it is confirmed that they will not go in excess of 25%. Mr. Olivieri said they could condition that.

Mr. Murray said the issue is with the additional drainage that is coming off the street as depicted in the pictures that he had sent. He noted the drainage system they have is very fragile. He was concerned with the new driveway cuts that are being put in and the driveway that was installed on Lot 7. It might overwhelm the existing drainage system on the road. Could that be a condition of the Special Permit that any alteration of a failed drainage system would be the responsibility of those who created the issue? Mr. Freitas said the existing driveway is going to stay. Right now,

it's the half-moon shown on the drawing but it is going to be just half of that. It's not changing much of a curb cut for the drainage, but it is the existing driveway that's been used. Mr. Olivieri asked if he was okay with a condition that the curb cuts for the driveway were to be in the same areas that they are now. Mr. Freitas said that was correct.

Mr. Olivieri asked if there were any additional comments or questions. Mr. O'Connor asked if there was any way to confirm that any of the construction related equipment and machines will be off the road during construction. Mr. Olivieri asked if he meant parking for the night. He thought that was reasonable.

Ms. Cline then made a motion, seconded by Mr. Noble, to grant the Special Permit under 6.1.3 and 7.4.6 with the following conditions:

1. The hours of construction will be 7:00 a.m. to 4:00 p.m. Monday through Friday and 8:30 a.m. to 2:00 p.m. on Saturday. There will be no construction on Sundays.
2. Construction equipment will not be allowed on the road on nights and Sundays when construction is not being conducted.
3. The impervious area will not exceed 25%.
4. The current curb cuts are to remain.

Mr. Olivieri asked if Mr. Freitas was agreeable to not operate a business that is outside of the Home Occupation Bylaw. Mr. Freitas said that was correct. There will be no business running out of that home.

Roll Call Vote: Ms. Cline-Aye, Mr. Sheedy-Aye, Mr. Noble-Aye, Mr. Campeau-Aye, Mr. Olivieri-Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:51.

Documents distributed for the hearing:

Petition packet
Legal ad
Board of Health correspondence of July 8, 2021
Planning Board correspondence of July 13, 2021
Conservation Commission correspondence of July 14, 2021
Andy & Rena O'Connor correspondence
Diana Murray correspondence of July 13, 2021
Jim Murray email of July 14, 2021

Approve meeting minutes

Ms. Cline made a motion, seconded by Mr. Noble, to approve the meeting minutes from the May 20, 2021, meeting.

Roll Call Vote: Mr. Sheedy-Aye, Ms. Cline-Aye, Mr. Campeau-Aye, Mr. Youngquist-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Ms. Cline made a motion, seconded by Mr. Youngquist, to approve the meeting minutes from the June 17, 2021, meeting.

Roll Call Vote: Mr. Sheedy-Aye, Ms. Cline-Aye, Mr. Campeau-Aye, Mr. Youngquist-Aye, Mr. Olivieri-Aye, Mr. Noble-Abstain

Old Business – Sign bylaw update or discussion

Ms. Cline said the comparison in their packets was between Lakeville, Duxbury, and Scituate. She thought in organizational manner and specifics to the sign regulations she found Lakeville's to be more encompassing and easier to understand. Duxbury's square footage of a sign is less at 25 square feet but Scituate is 100 square feet. She was not in favor of going as low as 25 square feet but also not in favor of going as high as 80 square feet. She didn't find any significant differences among the samples.

Mr. Olivieri agreed that there were not any glaring differences from one community to the next. He thought the Planning Board had not been looking specifically for something from the sample Towns but if there was something in general that they didn't think should be allowed, or if there was something that should be allowed by right so they wouldn't have to come to the Zoning Board. Mr. Sheedy added that it should be black and white. It is the square footage. Perhaps, there should be a restriction on illumination and flashing. It should relate to the business operating out of the building. If they have a reasonable square footage, as they do now, they should just go with that.

Mr. Olivieri said if there were any additional comments or suggestions, it can be consolidated. He asked that they email that to Ms. Murray. It has been on the agenda for a while so if they have any more comments, they can put them together and get it over to the Planning Board before the summer is over and then remove it from their agenda.

New Business

Members discussed if meetings would start to be held in person. Mr. Olivieri said his inclination was to start in person meetings again unless there was a compelling reason to hold one remotely. Ms. Murray noted the library was available but they will still have to social distance as that is the Town's policy. In August, she was expecting the Nature's Remedy petition to be held which would require Town Counsel to be present. In that case, a remote meeting would better accommodate Atty. Kwesell.

Adjourn

Mr. Youngquist made a motion, seconded by Mr. Noble, to adjourn the meeting.

Roll Call Vote: Mr. Sheedy-Aye, Ms. Cline-Aye, Mr. Campeau-Aye, Mr. Youngquist-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Meeting adjourned at 8:03.