

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
June 16, 2022**

On June 16, 2022, the Zoning Board held a meeting at the Lakeville Public Library. The meeting was called to order by Chairman Olivieri at 7:05 p.m. LakeCam was making a video recording.

Members present:

John Olivieri, Jr., Chair; Jeffrey Youngquist, Vice-Chair; Gerald Noble, Vice-Clerk; Chris Carmichael, Member; Christopher Campeau, Member; Christopher Sheedy, Associate

Others present:

Marc Resnick, Town Planner

Solana hearing, continued – 29 Pilgrim Road

Mr. Olivieri opened the continued Solana hearing at 7:05. He advised last month the Board had requested an updated engineered and surveyed plan. There were also some questions from Board members and neighbors concerning the setback distances. Mr. Olivieri said they have received a new plan that more accurately depicts what the Board is looking for. He asked the Board if they had any questions regarding the submittal. Mr. Youngquist noted that the plan is dated December 1, 2020. Did the surveyor, Mr. Lamon Healy, actually draw the proposed building? Ms. Solana replied they had just had it updated. It had been updated by Frank Westgate who works for Mr. Healy. The Board then looked at the plan that had been revised on June 12, 2022.

Mr. Campeau said it appears that the proposed garage is being pushed back a little from the prior plan. Mr. Solana said he had relocated it approximately eight feet from the original plan. Mr. Carmichael asked how far out from the existing dwelling is the proposed garage going to stick out. Mr. Solana said only four feet. Ms. Solana said that because they did concede, they are losing a living room window. Mr. Youngquist said there had been some concern about the size and whether it was 16' or 20'. Mr. Solana said he thought because he had pushed the garage back, he could go back to the original size of 20' x 20'.

Mr. Noble said at the last meeting, they had also discussed the drainage issue off the structure itself. None of that information seems to be included in tonight's update. Ms. Solana said that she thought this hearing was only about the garage and the drainage system was going to be separate. Mr. Solana said he had just installed a raised septic system and everything had passed. The reason he was going to do a drainage system was to satisfy the neighbors. He said there is no water because everything runs down to the street. There is nothing on the plans that require him to install drainage.

Mr. Olivieri then asked if anyone present would like to speak to the petition. Mr. Michael David King of 27 Pilgrim Road then spoke. He is on the downhill side of this property. He has been looking into several surveyors. One of the first things they have told him is they are going to come out and put stakes in the ground and cap them, so they know where the property lines are. He noted that since the last meeting two truckloads of dirt have been delivered, and there is a piece of property in the back corner that has been staked off. Mr. Olivieri advised him that if he had an issue with what is being done on the property right now, he could go to the Building Commissioner's office and file a complaint as that is the proper procedure to follow. Mr. King asked about the screen house that already comes off of the house. Do they have that on their plot? Mr. Olivieri said that if something has been done without a permit being pulled, he can go to the Building Commissioner's office and file a complaint.

Ms. Leigh Brienzo of 25 Pilgrim Road spoke next. She had submitted a letter dated June 14, 2022, which she then read into the record. They were not in favor of the petition and asked if it were to be granted, the Board require the garage to be pushed back to where the house begins. Ms. Brienzo said they were very concerned about the impervious situation and exactly how much of the lot is being covered and if it will need a Variance. She said she understood that as far as the building, the open permits, and the lack of permits for electrical work done on the addition, that the Board could not consider these items. However, now that the size of the garage had been increased could the Board look at how that will affect the lot coverage.

Mr. Olivieri asked Mr. Solana what the lot coverage was as it was not stated on the plan. He thought it might be 22%. Mr. Olivieri said they could condition the permit to not exceed 25%, if they were to approve it. Ms. Brienzo was still hoping they would keep the garage aligned with the house. Mr. Solana then submitted pictures that showed the view from his house, the Brienzo house, and the house next to him. Mr. Olivieri asked for a clarification on the used car issue. Mr. Solana said that business runs out of 18 Staples Shore Road and is grandfathered. The Town has told him when he sells that property, that will not be reissued. That will not be coming with them, and they would not be applying for anything.

Mr. Carmichael asked if this is a one or two car garage. Mr. Solana said it is one and a half. There will be a nine-foot door on it. Mr. Olivieri then asked Mr. Resnick for his comments. Mr. Resnick replied the lot coverage should be calculated and shown on the plan if the size needs to be adjusted. Mr. Noble said that the garage has been moved back four feet and in exchange, it has been widened. Mr. Solana said it was 20' wide and 22' long. He could shift it back an additional four feet, but because of the angle it would go further into the setback. Mr. Olivieri asked if he would be willing to reduce the width to 18'. Mr. Solana said that would be no problem.

Mr. Carmichael asked if there was a shed to the rear of Mr. King's property line. Mr. King said it was approximately four feet off the property line. Mr. Carmichael said that he was concerned about the proximity of the buildings across the lot line. Mr. King wanted to reiterate that the land has not been surveyed since 2019, and the posts have been buried by dirt. Mr. Olivieri responded that Mr. Solana was relying on the stamped survey he got from the surveyor, and the Board has to move forward with it. Mr. King can still have a survey done and if he finds out that it's wrong, then it would knock everything out even if they were to approve this. Mr. King then approached the Board and indicated on the plan where Mr. Solana had placed a deck. He noted that if he comes 20' off the house, it would put him within two feet of his property. He asked who would be following up and monitoring this project. Mr. Olivieri said it would be the Building

Commissioner. Mr. King asked what the minimum distance is that is acceptable. Mr. Olivieri said it is what the Board decides.

Mr. Olivieri asked if Board members had additional comments. Mr. Carmichael said he would like to see the garage reduced to 18' x 22' and pushed back even with the front of the dwelling. He would like a calculation on area as he can see from a Google map from last year that there is a large addition on the back. That needs to be included in the calculation for impervious coverage so that they are not exceeding the 25% allowed. If not, he would have to come back for a Variance as well. Mr. Olivieri said they should condition the permit to make sure that the revised stamped plan shows everything that is currently there and that it does not exceed 25%. Mr. Carmichael said they should have an as-built where they could condition the permit when they confirm the coverage.

Mr. Carmichael then made a motion to approve the petition with the following conditions:

1. The garage will be reduced to 18' x 22', parallel to the long angle of the lot or perpendicular to the road.
2. The front of the garage will be even with the front of the house. Mr. Solana said that was not possible as there was an electrical service there, and it could not be moved inside. After discussion, Mr. Carmichael said that if the garage cannot be moved back, he would not be in favor of this petition. There was no second to the motion.

Mr. Carmichael then made a motion, seconded by Mr. Noble, to close the hearing. The **vote** was **unanimous for**.

Mr. Carmichael then made a motion to approve the petition with the following amendments/conditions:

1. The garage will be reduced to 18' x 22' and will be even with the front of the house.
2. There will be roof drains on the garage which will empty into a dry well.
3. An As-built plan will be submitted to the Building Commissioner and will include the calculated impervious land area which will stay within the 25% allowed.

The motion was seconded by Mr. Campeau.

Mr. Youngquist, Mr. Carmichael, Mr. Campeau, Mr. Olivieri – **Aye**; Mr. Noble – **Nay**; The motion carries.

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

Dixon hearing – 36 Main Street

Mr. Olivieri opened the Dixon hearing at 7:47 and read the legal ad into the record. He asked Ms. Dixon to explain what it was that she was proposing to do. Ms. Dixon replied that she was the owner of Pet Recess located at 36 Main Street. They currently have a steel building which is part of the daycare and a converted garage which is the nap room, where the dogs take a nap between 12 and 2. They are looking to relocate that nap room. They would like to construct a 15' x 44'

room that is going to be attached to the side of the daycare. In that room, which will be insulated, heated, and air conditioned, will be dog crates that will confine the dogs safely during that time. The area that it will free up is already part of the indoor daycare, so it gives them a little more space for the dogs. Ms. Dixon added that there will be no plumbing or water. She had spoken to the Health Agent who did not have a problem with the proposed project.

Mr. Olivieri then read the June 6, 2022, letter from the Board of Health into the record. As the proposal does not contain any plumbing or sewer and the number of dogs will not increase, the addition will not affect the septic system. Therefore, the Board of Health had no objection to the proposed addition. The June 13, 2022, letter from the Conservation Commission stated there were no impacts to any wetlands in this area so the Commission had no objection to the project. The June 13, 2022, memo from the Planning Board had no comment regarding the petition.

Mr. Olivieri asked if Board members had any comments or questions regarding the petition. Mr. Youngquist said that he did. Regarding the plan, there is a proposed building where it appears the proposed addition is to be added on. Ms. Dixon said that was not the correct plan and an updated one had been provided. That building was approved and has now been up for seven years. Mr. Youngquist asked if there was an As-built. Ms. Dixon then approached the Board and explained what was already built and what was proposed. Members then discussed what the proposed setbacks were to be as the plan submitted was not clear. Mr. Youngquist said the Board would need to start having a formalized process for when applications come in. They need a plan with setbacks of the proposed building, lot coverage, etc.

Mr. Carmichael then displayed the existing conditions on the GIS so the Board could get a better understanding of what the current site looked like. After discussion, it was agreed that submittal requirements need to be tightened up. There were no additional comments from Board members. Mr. Olivieri then opened the hearing to the public.

Mr. Daniel Ferreira of 1 Patrick Thomas Court then spoke. He stated that the right of way on the plan is Patrick Thomas Court. It is a driveway with his house being the only one out in the back which abuts the daycare. He noted the lines and measurements on that plan were arbitrary. There is a 40 foot right of way going through 1 Patrick Thomas Court. He didn't know if the right of way goes through part of her property. He then approached the Board and indicated where the gravel road turns into asphalt, and then goes down to his driveway. There is a 40-foot-wide easement for his house which he was unsure was from the center of the road or off one side or the other. There could potentially be no room there at all.

Mr. Olivieri said they need accurate dimensions so that when this is being put on, they are not assuming distances. Mr. Ferreira said his other question is if this is considered frontage or a side setback. He noted that they have been great neighbors and he bought the house after it was already a dog daycare. His biggest concern is the further the building comes out will impact where the employees are going to park. Is it going to block access to his house? Mr. Olivieri said they need to clarify that easement because that could create a lot of problems if they act not knowing where it is.

Ms. Dixon replied that she had originally walked the property and been allowed to have trees taken down. If it wasn't her property in the first place, why was she able to do that. She noted the property has been surveyed multiple times. Mr. Ferreira said that as long as she knew what the

accurate measurement is from the property line to the building that is already there. He felt taking a measurement from the building she has to the edge of the road doesn't count as an accurate measurement. Mr. Carmichael said the building is going to have an As-built, so she would have to include a land surveyor which is generally done, but he was not sure of the requirements of the Town's Building Commissioner.

Mr. Resnick stated that this plan from 2015 does not clarify what this right of way is. It says Commonwealth of Mass and that it is a 40 foot right of way, also known as Thomas Patrick Court. It doesn't say if it's a strip of land that goes with the fields in the back, if they both have a right of way, or if it's a private way in which the abutters wherever they are own half way to the center. The surveyor needs to clarify what this is so the Board can determine which setback applies and where. Ms. Dixon said she did not own the right of way. Mr. Resnick said that someone has the fee in the land of the right of way. Mr. Ferreira said the Commonwealth owns the right of way. His point with this was they knew this was already non-conforming, but they don't know how far non-conforming as far as what the setbacks are.

Mr. Olivieri asked if they could get that map from the Commonwealth. He would like Ms. Dixon to get this for them. If she finds out that the right of way is, for example, only eight feet from the building and this addition for 15 feet will put it within the right of way. He did not think they could approve anything like that. Mr. Olivieri asked if there were any other questions or issues.

Mr. Ferreira said he was concerned about the right of way and setbacks mostly because of the parking. Where everyone parks now is already lined up to the road. Mr. Resnick noted that when he went by there, there were several cars parked along the side up to about the addition. He asked how far down do employees park because it looks like all along the building. Mr. Ferreira said it depends how busy it is. Mr. Resnick said if they added this addition, they are going to lose a lot of the parking. Mr. Noble asked Mr. Ferreira if he had ever had any access problems. He replied once in a great while if there is a weekend event at the facility.

Mr. Olivieri said he understood Mr. Ferreira's issue to be that he wanted to guard against putting an addition on that is going to impact access and encroach that right of way. Mr. Ferreira said that once they determine the property lines, it's probably not going to work even if he didn't oppose it. Mr. Carmichael asked how he felt about the noise level. Mr. Ferreira replied it's a dog kennel, but he didn't want it any worse. Ms. Dixon said there would not be any additional dogs. Mr. Ferreira asked how many dogs were approved for now. Ms. Dixon replied about 100. Mr. Ferreira asked if the Board knew the capacity of the dogs. He had called the Building and Planning Departments, but normally when a business comes in there will be a parking plan, the number of dogs that are allowed to be there, a dumpster plan, disposal of waste, etc. He couldn't find anything on record.

Ms. Dixon replied the operation was not getting bigger. That would be a safety issue. She is not going to put any of the dogs in her care at risk, and the more dogs you have the more risk. Mr. Olivieri asked what Board would have that information. Mr. Resnick said that it could be with the Building Commissioner for when they originally built the building and expanded it. There might have been some representation or a number approved. Secondly, a business license could have limited the number of animals. Finally, he was unsure if licensing was required by some State office that inspects. Ms. Dixon replied she is inspected locally by Animal Control. She noted that she bought this business after it had been a commercial kennel for 30 years. She had to be approved for a boarding kennel because the Animal Control Officer had not issued a correct kennel license

for that kennel in 30 years. Requiring a \$900 application fee, she made sure she did everything by the books. This had been an embarrassing situation for her to buy this kennel and find that it hadn't been licensed for that amount of time. That is not right. She always gets the correct permission from the correct source, and it will continue to be that way.

Mr. Olivieri said at this point the first step would be to find out exactly where that easement is and how far it goes into the property and supply the Board with this updated, engineered plan. Mr. Youngquist said he would also like to see where the existing, new building is in relationship to the parking lot. He wants to see where the proposed addition with the distance from that to the property line. He also wants to know where the easement is. Mr. Noble would also like to see the parking for customer and employees and if the addition impacts the right of way and easement, how it might be adjusted.

Mr. Carmichael then made a motion, seconded by Mr. Noble, to continue the Dixon hearing until July 21, 2022. The vote was **unanimous for**.

The hearing closed at 8:22.

Documents distributed for the hearing:

- Petition packet
- Legal ad
- Board of Health correspondence of June 6, 2022
- Conservation Commission email of June 13, 2022
- Planning Board correspondence of June 13, 2022

TAC VEGA MA Owner, LLC hearing – 310 Kenneth W. Welch Drive

Mr. Olivieri opened the TAC VEGA MA Owner, LLC hearing at 8:23 and read the legal ad into the record. Mr. Terrence Russell from Epstein, located at 600 West Fulton Street in Chicago, was present. He represented Vega Strategic, the engineering company that put together the drawing that was now in front of the Board. Mr. Olivieri then asked for a summary of the proposal. Mr. Russell replied that this started back in January. They have been working with the Planning Board for one of the tenants in the building to add additional parking. He noted the building was originally built as a storage facility. There are now two cannabis growers operating out of it, and the parking requirements have changed dramatically since it was built. The cars tend to line up on Kenneth W. Welch Drive and park on each side. The Planning Board advised them they needed to go to the building owner and do a comprehensive Site Plan that considers not only one of the tenants but both tenants in the building. They were hired in March to do the following things:

- Re-delineate the wetlands that are on the site. This has been done and surveyed.
- To come up with a comprehensive parking plan for both tenants where there would be enough space to park on the property and not on the street.

Mr. Olivieri clarified that the 3% is then needed to comply with the Planning Board's request to eliminate the parking problem. He then read comments from the Town Boards into the record. The June 6, 2022, letter from the Board of Health stated they were concerned with the grading in the parking area over the leaching area. A grading plan proposed removing more than 1.58 feet

rendering the field unusable. The Board of Health requests a plan be submitted showing the elevation of the existing septic system and the proposed grading to ensure the existing septic system is not altered. The Board objects to any change that would alter the existing septic system. The June 13, 2022, letter from the Conservation Commission stated that due to the extensive wetland areas within the 100' buffer zone and the nature and extent of the disturbed area, the Commission will require the submittal of a Request for Determination of Applicability. The June 13, 2022, memo from the Planning Board recommended the Zoning Board continue this petition hearing until after the Planning Board has received a satisfactory site and landscape plan.

Mr. Resnick then gave the Zoning Board an overview regarding this proposed project. He advised this site has come back to the Planning Board multiple times as the businesses on the site have grown and expanded. A new owner has now purchased the property. The present storage facility in the building will be leaving, and the entire building is going to be operated by a split between the two current growing operations. That has led to the need for additional parking. Currently, everything is very tight which is why some people have been parking on the street. He advised that the parking shown on the back corner of the westernmost parking area is all new. They have been to the Planning Board in various stages and are now trying to make one Site Plan for the entire site. The Planning Board's concern is they want an enhanced landscape plan based on zoning that allows them 70% lot coverage. This is why they have asked that the petition be continued.

Mr. Olivieri said it sounds like they weren't opposed to the additional 3% because it solves an issue that's problematic within the Industrial Park, but they would like them to take care of business first on their end before the ZBA moves forward. Mr. Resnick said that is correct. Mr. Olivieri asked Mr. Russell if they had talked to the Board of Health regarding the concern in their letter. Mr. Russell said this was the first he had heard of this concern. There is a leaching field on site, and their investigations cannot prove it is active. The connection to it by the tenant on the east side is not active and has been disconnected. The other tenant cannot be verified. He knew that for one tenant all the waste goes to a tank that has been buried and is pumped every other day. These facilities produce a lot of waste water that goes into different tanks. They will do some further investigation.

Mr. Olivieri asked if there were any questions regarding the 3% so the applicant could do the research before their next meeting. Mr. Carmichael noted when this had come before the Board with the circular parking in front, he had not been in favor. Was there any thought in redoing that front area and redesigning it? Mr. Russell said that it is on the plan. Mr. Youngquist asked how many employees there were. Mr. Russell replied that was difficult to answer. There were two operations, and they were both expanding and had multiple shifts. He estimated the maximum per shift would be 80. Mr. Noble asked if that number was expected to grow with expanded operations. Mr. Russell replied that he knew Northeast Alternatives was currently expanding further into the building, but he believed that had been considered. Mr. Olivieri would like that clarified and the maximum potential for their next meeting.

Mr. Youngquist then made a motion, seconded by Mr. Noble, to continue the TAC VEGA MA Owner, LLC hearing until July 21, 2022. The vote was **unanimous for**.

The hearing closed at 8:39.

Documents distributed for the hearing:

Petition packet
Legal ad
Board of Health correspondence of June 6, 2022
Conservation Commission email of June 13, 2022
Planning Board correspondence of June 13, 2022

Approve meeting minutes

Mr. Noble made a motion, seconded by Mr. Youngquist, to approve the meeting minutes from the May 19, 2022, meeting.

Mr. Youngquist, Mr. Noble, Mr. Carmichael, Mr. Campeau, Mr. Olivieri – **Aye**;
Mr. Sheedy – **Abstain**

Old Business

There was no old business.

New Business

There was no new business.

Next meeting

The next meeting is scheduled for July 21, 2022, at 7:00 p.m.

Adjourn

Mr. Youngquist made a motion, seconded by Mr. Carmichael, to adjourn the meeting. The vote was **unanimous for**.

Meeting adjourned at 8:40.