

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
April 20, 2023**

On April 20, 2023, the Zoning Board held a meeting at the Lakeville Public Library. The meeting was called to order by Chairman Olivieri at 7:15 p.m. LakeCam was making a video recording.

Members present:

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

Others present:

Marc Resnick, Town Planner

Eiseman hearing – 26 Rush Pond Road

Mr. Olivieri opened the Eiseman hearing at 7:15 and read the legal ad into the record. Mr. Olivieri then read the April 10, 2023, letter from the Board of Health. It noted that the applicant would need to confirm with the Board of Health that no sonotube would be within five feet of the existing septic tank prior to construction, or they would need to request a waiver. The April 18, 2023, memo from the Planning Board had no comment on the petition.

Mr. Scott Donahue representing T & A Contracting was present. He advised they were building a farmer's porch off the front of the house. They are coming out two feet at the step. He found out they were 34 feet from a roadway on what he thought was 120 feet to the edge of the cul-de-sac and 100 feet from the neighbor's driveway, which runs up the other side of the front yard on a two-acre parcel. He had not known he was encroaching in any way. He also noted that he is far enough away and not seeking to place a sonotube near the septic system. He is at least twelve to fifteen feet off of the tank. The leaching field is on the other side of the driveway and approximately 75 to 80 feet away from the proposed deck. When asked by Mr. Olivieri, Mr. Donahue said that he could confirm that he would not be within five feet of any component of the structure related to the septic.

Mr. Olivieri reviewed that Mr. Donahue was looking for relief from the front setback. He advised that he had driven by the house and personally, he did not see any issues or any potential detriment to the neighborhood. He asked if Board members had any questions. Mr. Noble questioned that the distance to the sonotube would be less than allowed. Mr. Donahue said the sonotubes were set back and not in the vicinity of the tank. He could meet with the Board of Health so there would be no confusion. After further discussion regarding this, Mr. Olivieri said if the Board votes to approve this, it could be conditioned. Mr. Donahue said he would do whatever was needed to comply with the Board of Health. Mr. Olivieri asked if there were any comments from the audience. There were none.

Mr. Youngquist then made a motion, seconded by Mr. Sheedy, to approve the petition with the following condition:

1. The proposed porch will comply with Board of Health regulations.

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

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

The hearing closed at 7:25.

Documents distributed for the hearing:

- Petition packet
- Legal ad
- Board of Health letter of April 10, 2023
- Planning Board memo of April 19, 2023

McCready hearing – 14 Coombs Street

Mr. Olivieri opened the McCready hearing at 7:25 and read the legal ad into the record. Mr. Olivieri then read comments from the various Town Boards. The April 19, 2023, memo from the Planning Board had no comment regarding the petition. The April 10, 2023, letter from the Board of Health advised they had no objection to the proposed shed.

Mr. McCready and his wife were present. Mr. McCready advised they were requesting a Variance on the right side of their property for a setback of ten feet instead of twenty. When they bought the shed, they were not aware of the zoning issue. If they put the shed in the middle of the yard, it would be in front of a leaching field. If they put it to the right, it would give them more clearance from that field.

Mr. Olivieri asked members if they had any questions. Mr. Sheedy asked what the height of the shed was. Mr. McCready said it was an 8' x 12' shed. He was unsure of the height, but it was only one story. Mr. Youngquist asked if it was on a permanent foundation. Mr. McCready said they would probably have crushed stone under it, but it was movable. Mr. Olivieri asked if there were any structures close to the property line on that side of the neighbor's yard. Mr. McCready said the neighbors also had a shed, but it was further back so the sheds would not be close to each other. Mr. Noble asked about the orientation of the shed. Mr. McCready said it would be angled towards them. Mr. Olivieri then asked if anyone in the audience had any questions or comments. No one spoke.

Mr. Youngquist made a motion, seconded by Mr. Sheedy, to approve the Variance as applied for. The **vote** was **unanimous for**.

The hearing closed at 7:31.

Documents distributed for the hearing:

- Petition packet

Legal ad
Board of Health letter of April 10, 2023
Planning Board memo of April 19, 2023

Discuss proposed Zoning amendment – Mr. Dan Cooney

Mr. Daniel Cooney of 58 and 59 Main Street was present. He advised that he had an Article on the Warrant that he would like to explain to the Board. It is regarding an amendment that would allow more non-impactful, small businesses to locate on Main Street. He has been working on this over two years and has talked to the Planning Board about it. He noted they were not in favor of the ZBA being named as the Special Permit Granting Authority (SPGA.) The Planning Board said that the ZBA was more lenient, and this would set a precedent. Mr. Cooney said he did not think that any of that was true, so he wanted to explain what the proposed amendment is. He said he and his wife have a small business and own a small piece of land that is commercially zoned. This Article has tried to design something for small businesses, like his own, where they are allowed to have a small space for storage of inventory. The key to it is that the space can never increase. There is also a retail component with office space. It is friendly and is for small impact businesses.

Mr. Olivieri said that he has described the proposal well, but that the Board did not need to get into any specifics. Mr. Youngquist noted that this was probably already allowed in Middleborough. Mr. Cooney said that was true, and it was something that was allowed in a lot of Towns. He said that it is small, low impact, and would be a good transition between the Woods Edge community. He asked if there were any questions. Mr. Noble asked how he had come up with 7,000 square feet. He said the plan is actually 2,000 square feet of office space and retail, and 6,000 square feet of storage space. He noted that 6,000 square feet is half of the Dollar Store. When asked, Mr. Cooney said the maximum storage space allowed would be 7,000 square feet, and that would be by Special Permit only. There were no other questions.

Mr. Cooney asked the Board how they felt about something like this that was low impact, multi-use, and neighborhood friendly. He hoped he would have their support at Town Meeting.

North Bedford Crossing LLC hearing – 109 Bedford Street - continued

Mr. Olivieri turned over the Chair position for this hearing to Mr. Youngquist. Atty. Mike O'Shaughnessy was present for the applicant. Mr. Jamie Bissonnette from Zenith Consulting Engineers was also present. The draft Decision was then distributed to the Board. Mr. Resnick stated that he had talked to Atty. O'Shaughnessy, and they had reviewed several items and conditions that had been incorporated into the draft. It has also been reviewed by Town Counsel, Atty. Kwesell, and she made some edits to the document. However, there was still one item that needed to be discussed.

Atty. O'Shaughnessy said a proposed condition on page 14, number 3e states that a "building permit shall not be issued for any building until all utilities, drainage, and the road is constructed with a base coat of asphalt. He advised, traditionally, the thought was to construct buildings as the road was being constructed. Following this sequence would mean they would install everything

such as the base coat and then bring heavy equipment back in to excavate for the foundations. He understood the intent, but it seemed wasteful. The last projects have been done with roadways and driveways constructed in concert with foundation work and the stick building of the structures. Therefore, he did have some concern with this condition. Mr. Youngquist said usually when they do a subdivision road, they don't get a building permit until they have the blacktop in place. Atty. O'Shaughnessy said he understood, but the practice in Town has been to allow it. He cited for an example, a similar size project that had been constructed on Rhode Island Road. The roadway construction and utility construction coincided with some of the housing construction. He had not been prohibited from moving forward until everything was done. He noted there was a condition stating he would not get the last two Certificates of Occupancy until everything is done, unless a bond is posted to cover everything.

Mr. Resnick said they could not have people moving in and living on a street that is not constructed. The other issue is often times unless the road is completed, the drainage isn't going to function, which could cause problems for the neighbors. This has been an issue in Town. Sometimes as a concession to the developer, the house on the corner, which is sometimes a Form A lot, is often allowed to pull a permit to get started. As far as the rest of the development, usually the road needs to go in. Atty. O'Shaughnessy asked if a building permit would preclude a foundation permit from being issued. Mr. Youngquist said some Towns will give you a foundation permit, but it is at your own risk. Atty. O'Shaughnessy said that is also what the Building Commissioner had said. He would ask the Board if they were not willing to remove this condition to at least clarify it such that the Building Inspector could at his discretion, and at the applicant's risk, seek and be granted a foundation permit.

Mr. Bissonnette then stated that on the back side of some of the houses, in their waivers, they have a 12- or 15-foot setback to the tree line in the back-property line once its constructed. On the front side, they have their septic systems that will be going in. In this manner, if they are building they can't go over the front because they have the septic to contend with. In the back, they have decks and stairs, so this could become problematic. To clarify, they are not looking to get Occupancy Permits before the binder is down, but their concern is they would like to get started where the road goes in, drainage goes in, and then be able to start putting in foundations so they can continue working and moving forward. He knew this has been done several times. He understood Mr. Resnick's point, but they are asking for an exception here to what Lakeville has allowed in the past.

Mr. Resnick said the utilities and the road could be in and constructed prior to the first Occupancy Permit, so regardless what house is built first, when he wants to get an Occupancy Permit, he has to base coat that roadway. Mr. Bissonnette said they were in agreement with that. The plan is to build three or four houses at a time and in sections for better pricing. Then you will have the binder course and most likely posting a bond for the remaining two lots. Mr. Resnick said if it was going to be done that way, he thought the bond should be posted as soon as the base coat is down for the remainder of the site work, regardless of whether there are two houses left or ten. Mr. Bissonnette said based on his conversation today, he did not think that would be an issue. The lots themselves actually held more value than what the actual bond would be. He did not think there would be any problem with that.

Mr. Resnick said that could be phrased, "A building permit shall not be issued for any building until all utilities, drainage, and the gravel base for the road is constructed. Prior to the first

Occupancy Permit, a base coat of asphalt shall be installed. Within six months, a bond shall be agreed upon and posted to complete the roadway and other site improvements.

Mr. Campeau made a motion, seconded by Mr. Sheedy, to approve the amendment to the Decision that had been read into the record by Mr. Resnick.

Vote: Mr. Campeau, Mr. Sheedy, Mr. Youngquist - **Aye**; Mr. Noble – **Nay**; Mr. Olivieri - **Abstain**

Mr. Noble made a motion, seconded by Mr. Campeau, to authorize the Vice-Chair, Mr. Youngquist, to sign the Comprehensive Permit on behalf of the Board.

Vote: Mr. Noble, Mr. Campeau, Mr. Sheedy, Mr. Youngquist - **Aye**; Mr. Olivieri - **Abstain**

Mr. Noble made a motion, seconded by Mr. Campeau, to authorize the Vice-Chair, Mr. Youngquist, to sign the Plan on behalf of the Board.

Vote: Mr. Noble, Mr. Campeau, Mr. Sheedy, Mr. Youngquist - **Aye**; Mr. Olivieri - **Abstain**

Mr. Noble made a motion, seconded by Mr. Campeau, to authorize the Vice-Chair, Mr. Youngquist, to sign the Regulatory Agreement on behalf of the Board.

Vote: Mr. Noble, Mr. Campeau, Mr. Sheedy, Mr. Youngquist - **Aye**; Mr. Olivieri - **Abstain**

Mr. Campeau made a motion, seconded by Mr. Sheedy, to approve the Comprehensive Permit for 109 Bedford Street, also known as North Bedford Street Crossing LLC.

Vote: Mr. Campeau, Mr. Sheedy, Mr. Youngquist - **Aye**; Mr. Noble – **Nay**; Mr. Olivieri - **Abstain**

Mr. Campeau made a motion, seconded by Mr. Sheedy, to approve the waivers that had been requested for 109 Bedford Street, also known as North Bedford Street Crossing LLC.

Vote: Mr. Noble, Mr. Campeau, Mr. Sheedy, Mr. Youngquist - **Aye**; Mr. Olivieri - **Abstain**

The Residences at LeBaron Hills, LLC hearing – continued

Mr. Youngquist did not participate in this hearing. Mr. Olivieri said that they have in front of them the Comprehensive Permit document that has been reviewed by both their Counsel and the applicant's Counsel. There are two conditions that he recommended be included. The Conservation Commission received their peer review back, and they should include as a condition that the applicant comply with those recommendations.

Mr. Resnick noted that in the updated draft they had, that had been included as condition #12 and #13. He advised a condition had also been added regarding site inspections. Mr. Olivieri clarified this means there will be third party inspections to make sure that certain aspects of the project are being completed correctly. Mr. Noble asked if third party inspections would be a requirement just for this particular project. Mr. Resnick replied this is something they have begun to also do for Planning Board, for Site Plans and Subdivisions. He has done inspections for smaller projects, but

for something substantial like this which includes more engineering, they will have a local engineer come in to do it.

Mr. Campeau made a motion, seconded by Mr. Olivieri, to approve the waivers that had been requested for the modification of the LeBaron Hills Residential LLC Comprehensive Permit.

Vote: Mr. Noble, Mr. Campeau, Mr. Sheedy, Mr. Olivieri - **Aye**; Mr. Youngquist - **Abstain**

Mr. Noble made a motion, seconded by Mr. Campeau, to approve the modification to the LeBaron Hills Residential LLC Comprehensive Permit.

Vote: Mr. Noble, Mr. Campeau, Mr. Sheedy, Mr. Olivieri - **Aye**; Mr. Youngquist - **Abstain**

Mr. Noble made a motion, seconded by Mr. Sheedy, to authorize the Chair, Mr. Olivieri, to sign the Comprehensive Permit, the Plan, and the Regulatory Agreement on behalf of the Board.

Vote: Mr. Noble, Mr. Campeau, Mr. Sheedy, Mr. Olivieri - **Aye**; Mr. Youngquist - **Abstain**

Next meeting

The next meeting is scheduled for May 18, 2023, at 7:00 p.m. at the Lakeville Public Library.

Adjourn

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

Meeting adjourned at 8:17.