

**Zoning Board of Appeals  
Lakeville, Massachusetts  
Minutes of Meeting  
May 18, 2023**

On May 18, 2023, the Zoning Board held a meeting at the Lakeville Public Library. The meeting was called to order by Chairman Olivieri at 7:02 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; Anthony Zucco, Associate

**Others present:**

Marc Resnick, Town Planner

**Thompson hearing – 4 Hollis Avenue**

Mr. Olivieri opened the Thompson hearing at 7:02 and read the legal ad into the record. Mr. Olivieri then read the May 10, 2023, letter from the Board of Health into the record. It noted that the plan did not show the location of the footings to support the deck. 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 May 12, 2023, memo from the Planning Board had no comment on the petition.

Mr. Mark Thompson was present. He said he was adding on to an existing deck. He understood the Board of Health's concerns, and he could accommodate that. The sonotubes would be inside the deck not outside, so they would be outside of the five feet required by the Board of Health. Mr. Olivieri noted that the existing deck was already within the side boundary and this would only extend it and not intrude further. There was an existing shed which appeared to also be well within the setback. He asked if members had any comments. There were none. There were also no comments from anyone present.

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

1. The proposed expansion of the deck will comply with the Board of Health regulation that no structure, such as sonotubes, decks, sheds, etc., shall be within five feet of any septic component.

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

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

The hearing closed at 7:07.

**Documents distributed for the hearing:**

Petition packet  
Legal ad  
Board of Health letter of May 10, 2023  
Planning Board memo of May 12, 2023

**Darling hearing – 13 Dunbar Road**

Mr. Olivieri opened the Darling hearing at 7:07 and read the legal ad into the record. He then read the May 10, 2023, letter from the Board of Health. It stated that as long as there was to be no living space in the garage, the Board would have no objections to the proposed garage. The May 12, 2023, memo from the Planning Board had no comment on the petition.

Mr. Darling was present. He distributed plans to the Board for the record. He advised he had purchased the property and razed the original old, dilapidated cottage. The house he then built has become his permanent full-time residence. It is a small lot with a few issues such as the septic location and proximity to the porch, the grade behind the garage, the well, and the lot size. This plan had been drawn up when he built the house so he would have an idea of what he could do in the future. He noted that it is a two-bedroom house with no storage, and he needed a place to store his vehicles. Originally, there was a storage shed on the property line, but he has since removed it. The proposed garage has been sited as best as the lot allows.

Mr. Olivieri asked if there was an intention to have electricity or plumbing. Mr. Darling said if he could, he would put in a light, but it is strictly for storage and there would be no second floor. It would be a slab on grade and 12' x 20'. Mr. Youngquist asked if the garage could be spun a bit to get it further from the property line. Mr. Darling said he had asked the engineer, but if he moves it one way it then goes closer on another side. If he spins it, it will then be closer to the corner of the porch. There are just not too many places to go with it.

The roadway that goes through the property was then discussed. Mr. Darling explained the road comes in and goes around the corner and crosses through everybody's property and is used by everyone. Mr. Youngquist asked if he had thought of attaching the garage to the house. Mr. Darling replied that financially, he would not be able to do that, and the proposed plan was the best he could do. Mr. Noble asked about the proximity of the garage to the road. Mr. Darling said it is one foot off the property line, but probably about fourteen feet from the road so there will be room to access the garage. Mr. Noble asked if it would be where the storage unit is. Mr. Darling replied that is the amount of space between the road. The storage unit was only a temporary solution, and the garage will be placed either there or maybe a little further back. He would be removing it and replacing it with the garage, if he is able to get the permit.

Mr. Youngquist asked if he had an easement to go over the road. Mr. Darling said yes there is, for them to drive over it and along it. He clarified that whether there was a garage in his yard or not, nothing would change as that is his driveway, and he has to back out of it. Mr. Olivieri said he thought the concern was that Mr. Darling was going to get very close to property that he does not own. Even with a Special Permit, it does not preclude there being a problem down the road. Mr. Youngquist said that he also wanted Mr. Darling to be aware of the fact that if he does not own that, what if the next owner of the property does not allow that access use to continue. Mr.

Youngquist said that is why he mentioned turning the garage, because then he could continue to have access, without crossing that other property.

Ms. Kelley Fess of 12 Dunbar Road then spoke. She said that people are crossing that now, and she did not think she could say she now wants that piece for her yard. This is working for the neighbors, and she was not looking to blow that up. Mr. Youngquist said he was not saying that it could be changed, but just making her aware of the fact. Ms. Fess was not opposed to the garage. Other neighbors present were also in favor of the proposed garage.

Mr. Noble asked about the plans for construction of the garage. Mr. Darling said he had included a picture of his house, and he would make something similar to match it. He noted that the idea of turning the garage was a good one, but the problem it creates is that the way everything is laid out it would wind up being right in front of the house. That is why the engineer had gone with the proposed layout angle.

Mr. Olivieri made a motion, seconded by Mr. Zucco, to approve the petition with the following condition:

1. The storage shed will be removed upon the completion of the garage.

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

The hearing closed at 7:29.

**Documents distributed for the hearing:**

- Petition packet
- Legal ad
- Board of Health letter of May 10, 2023
- Planning Board memo of May 12, 2023

**Bell hearing – 113 Staples Shore Road**

Mr. Olivieri opened the Bell hearing at 7:27 and read the legal ad into the record. Mr. Olivieri then read comments from the Town Boards into the record. The May 10, 2023, letter from the Board of Health advised that the plan submitted would be defined as a 4-bedroom dwelling, but the septic system is designed for a 3-bedroom dwelling. Therefore, the proposed house would not be compliant with the existing septic system, and the Board of Health recommends a redesign of the proposed house. In the May 17, 2023, follow up letter from the Board of Health, it was indicated that the plan had been revised to a 3-bedroom dwelling and was now compliant. The Board of Health now had no objection to the revised, proposed 3-bedroom dwelling. The May 12, 2023, memo from the Planning Board had no comment regarding the petition.

Mr. Bob Forbes from Zenith Consulting Engineers was present. Mr. Forbes then displayed the proposed plan. They were asking for a Special Permit to raze the existing house and build a new house very close to the same location. It is an existing, non-conforming lot and this proposed structure slightly increases one of the side setbacks and meets the other side setback. It still meets

the front setback. He advised the proposed structure is slightly larger than the existing, so they have removed some of the driveway to maintain the current lot coverage.

Mr. Forbes advised there is a 5'2" setback in the back towards the water. This structure is built too low in the flood zone and needs to be built to conform to FEMA regulations so it was raised up approximately three feet. This resulted in needing additional steps, with the resulting setback dimension being 4'2" or about one foot closer to the water. Mr. Olivieri asked members if they had any questions. Mr. Sheedy asked if the steps were the full width of the structure. Mr. Forbes said they were not being shown as that right now. There is a rear deck with a balcony overhang that will extend over the top of the deck. These steps come around and do not go the full width.

Mr. Zucco asked if the steps could go on the side of the porch. Mr. Forbes said that the way the house is designed, he did not believe they could be moved to the side, and they would then extend into the side setback. They had looked at putting the house closer to the road, but they had to maintain the setback from the septic tank. Mr. Forbes said they had discussed this with the Building Commissioner, and he believed that he had said that it wasn't considered a part of the actual structure. Mr. Resnick asked if they had filed with the Conservation Commission. Mr. Forbes replied they had not yet done that. It was then discussed whether they could either shorten the deck or move the stairs. Mr. Olivieri noted that decision would have to be made by the Conservation Commission.

Mr. Sheedy made a motion, seconded by Mr. Youngquist, to approve the Special Permit for the proposal with the following condition:

1. The proposal will require Conservation Commission approval.

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

The hearing closed at 7:41.

**Documents distributed for the hearing:**

- Petition packet
- Legal ad
- Board of Health letter of May 10, 2023
- Board of Health letter of May 17, 2023
- Planning Board memo of May 12, 2023

**Lakeville Nursery Redevelopment LLC hearing – 5 Harding Street**

Mr. Olivieri stepped down as Chair. Mr. Youngquist opened the hearing at 7:42 and read the legal ad into the record. Atty. Robert Mather was present and represented the applicant. Mr. Forbes, engineer from Zenith Consulting Engineers, was also present for this hearing. Atty. Mather advised the site, 5 Harding Street, borders Lakeville and Middleboro. They were asking for a Special Permit to allow an automotive repair facility in the Business District. He noted that this project had started in October of 2019. A plan had been prepared for contractor bays, and the Site Plan had been approved by the Planning Board. The site had not been constructed due to Covid and other miscellaneous issues. He noted that previously auto service had been an allowed use in

the Business Zone. His client could construct this building tomorrow, and it could be used for assorted contractor bays for a plumber, electrician, well driller, etc., but not an auto service.

Atty. Mather advised that his client had been approached by an auto dealer who is looking to purchase the entire site for additional space, but wanted to know that auto repair would be allowed. The Building Commissioner had pointed out that previously an allowed use in the Business District, it had been changed to be allowed by Special Permit only. The Zoning By-Law Review Advisory Committee (ZBRAC) had recommended the change as auto or boat sales could be a large facility that should not be allowed by right with no regulation, it should be by Special Permit. He advised if this dealership purchases this, they would probably change the configuration of the building. That would not be their issue, but they would have to return to the Planning Board for Site Plan Review. Tonight, they were just looking to receive approval for the use of auto repair.

Mr. Forbes then spoke. He said that he had done the original design in 2019 and helped with the permitting process. He explained there is an entrance that snakes through a couple of wetlands, with a 24-foot wide driveway as required. Once they get into the other area, they have 30 feet going around the building. There is parking and offices in the front and around the back, it is set up for garage overhead doors so that you could pull a vehicle in. The site was designed so that it could be used for a number of different things, including auto repair. Anywhere you have overhead doors, building code requires floor drains going into a tight tank.

Mr. Forbes said Poquoy Brook, which is also the town line separation, is known as a cold-water fishery which gets special consideration when you are doing a storm water design. It requires a higher standard than a typical site, and there were special Best Management Practices (BMPs) that they had to incorporate. He indicated the wetlands that surround the property on the plan and noted that portions of the site are in a Natural Heritage Endangered Species Program area. Anything that is beyond the indicated development portion of the site had to have a Conservation Restriction put on it, so it cannot be spread out in any direction. If anything does change, it will be within the footprint of what was already proposed. There is really no option to do anything different. Mr. Forbes displayed the aerial plan. He noted that the site is surrounded by wetlands and the closest house is on Cross Street. That house is 480 feet away from the development. The area in between is a turtle nesting area that had to be constructed by the owner of the property, and that can never be changed.

Atty. Mather then confirmed that there would be only one entrance and exit to the property. They could not go out to Cross Street, and it would be an only out to Route 44. He then read the May 12, 2023, memo from the Planning Board into the record. They had concerns regarding the property and stated that there should be no public access to the back of the building. They also wanted clearly designated parking for automotive repair customers. Atty. Mather said this is not a contractor's yard. There will not be equipment out there, and all of the work is to be done inside the units. Customers will have to drive in the back and pull in, and then go up to the waiting room.

Atty. Mather then read the section of the bylaw that related to auto/boat sales, rentals, or service. It must be compatible with the surrounding area and is subject to Site Plan Review by the Planning Board. He believed this site was the most compatible area in Town, and the bylaw had been changed for areas like Main Street that were a lot more sensitive as to what might go there. This area is surrounded by commercial businesses.

Mr. Sheedy asked if the building would have a second floor for office space. Atty. Mather said it would have one floor only. Mr. Youngquist then read the May 10, 2023, letter from the Board of Health into the record. As this building will be connected to municipal water and the upland was sufficient to install a septic system, they had no objection to the proposed commercial building. He then asked if anyone present would like to speak.

Mr. Wayne Cardoza of 43 Cross Street then spoke. He said he did not agree that auto service was a good use for this property. It was a very environmentally sensitive area, and he was concerned about hazardous fluids. Mr. Campeau asked when this business was separated out from by right businesses, what were some of the things that were brought out as considerations of possible items that should be conditioned. Atty. Mather replied not really any. When this site was designed, it was contemplated to have all types of businesses, including automotive repair.

Mr. Resnick said he understood this was a dealer's yard, and they operate differently from a regular garage. Oftentimes, there are significantly damaged vehicles waiting for repairs, parts, etc., and they are stored outside. He thought there should be some sort of limitation or condition placed on the outdoor storage of vehicles or the length of time they can be stored outside. It is an environmentally sensitive area and although well designed, he felt having some sort of limitation placed on that specific portion of storage of vehicles would be a wise thing to do. Mr. Youngquist said that most car dealers don't deal with wrecked vehicles. He thought it would be mostly routine maintenance, oil changes, tune-ups, etc. Atty. Mather said that he would agree.

Mr. Campeau asked if auto repair was allowed, what would happen if the site got purchased and a new design was proposed. Mr. Resnick said the redesign would go back to the Planning Board for a new Site Plan Approval. The Planning Board could also attach certain conditions based on what would be discussed in the new site design or layout. Mr. Zucco said that he felt that a dealership would be less of an impact on the environment than contractor bays.

After further discussion, Mr. Sheedy said that the concern is that down the road, if the dealership does not go in, you could have five independent auto repair shops. Atty. Mather responded, environmentally, it would be fully regulated, and all work is done inside and nothing outside. Would it really be any different? Mr. Sheedy said it goes back to the point of storing vehicles outside, with the possible leakage of fluids. It is not like a dealership where they get it in for repair and get it out. With an independent contractor, what precautions are there to contain whatever could be leaking? Atty. Mather said that is regulated, but if the Board would want to put a provision in that if the entire facility is not used for an auto repair service, there be no outside storage of vehicles that are worked on. He did not think they would have a problem with that.

Mr. Campeau made a motion, seconded by Mr. Sheedy, to approve the petition with the following conditions:

1. No vehicles are to be stored or worked on outside.
2. When the vehicle repair is completed, the vehicle and/or equipment must leave the yard within 24 hours.

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

The hearing closed at 8:23

**Documents distributed for the hearing:**

Petition packet

Legal ad

Board of Health letter of May 10, 2023

Planning Board memo of May 12, 2023

**Meeting minutes**

Mr. Noble made a motion, seconded by Mr. Youngquist, to approve the meeting minutes from the March 30, 2023, meeting. The **vote** was **unanimous for**.

**Next meeting**

The next meeting is scheduled for June 15, 2023, at 7:00 p.m. at the Lakeville Public Library.

**Adjourn**

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

Meeting adjourned at 8:24.