

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

On July 20, 2023, the Zoning Board held a meeting at the Lakeville Public Library. The meeting was called to order by Chairman Olivieri at 7:00 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:

Atty. Amy Kwesell, Town Counsel; Marc Resnick, Town Planner

Mazin/Bud's Goods hearing – 475 Kenneth W. Welch Drive, continued

Mr. Olivieri opened the Mazin/Bud's Goods hearing at 7:00. Atty. Phil Silverman was present for the applicant. He advised that what they were seeking to do was to amend the existing Special Permit and change Bud's Goods and Provisions with an affiliate entity called Bud's Goods and Services. This was largely for tax purposes and financial benefits. There is no change in the operations. He advised this Permit was originally granted in 2018 under the name of Alexander Mazin which was corrected to Alexander Mazin and Trichome Health Corp. Trichome Health Corp then underwent a name change to Bud's Goods and Provisions. That is how it exists now, and they want to transfer that to Bud's Goods and Services MA Corp. Atty. Silverman continued that the second part of the application is to expand the hours of operation from 6:00 a.m. to 10: p.m. They think they can run two shifts here, as there is a lot of interest in what this company provides.

Mr. Olivieri then read the June 12, 2023, memo from the Planning Board into the record. They had no comments regarding the petition. The Board of Health letter from June 8, 2023, indicated they had no objection to the change in the name. The Conservation Commission memo from June 8, 2023, indicated there were no wetland issues at this site. He also noted that the Select Board had approved the updated Host Community Agreement, (HCA) at their last meeting. Atty. Kwesell also had no comments regarding the name change.

Mr. Olivieri asked if Board members had any questions. There were none. He noted for the record that the original hours had been Monday through Friday 8:00 a.m. to 9:00 p.m.; Saturday 9:00 a.m. to 6:00 p.m.; and Sunday 10:00 a.m. to 6:00 p.m. As this was in the Industrial Park, he personally did not see any significant issue with the requested hours.

Mr. Youngquist made a motion, seconded by Mr. Noble, to approve the modification of the name change and the extended hours of operation from 6:00 a.m. to 10:00 p.m. The **vote** was **unanimous for**.

The hearing closed at 7:05.

Documents distributed for the hearing:

Petition packet
Legal ad
Board of Health letter of June 8, 2023
Conservation Commission memo of June 8, 2023
Planning Board memo of June 12, 2023

NSA Property Holdings, LLC hearing – 156 County Street

Mr. Olivieri opened the NSA Property Holdings, LLC hearing at 7:05. He advised the applicant had submitted an email requesting the hearing be continued for one month, which he then read into the record. He noted the applicant had received fairly substantial comments from the Fire Chief, and they were reevaluating the project.

Mr. Youngquist made a motion, seconded by Mr. Noble, to continue the NSA Property Holdings, LLC hearing until August 17, 2023. The time would be at 7:00 p.m. The **vote** was **unanimous for**.

The hearing closed at 7:06.

Terra hearing – 8 Birch Street

Mr. Olivieri opened the Terra hearing at 7:06 and read the legal ad into the record. Mr. Olivieri then read comments from the various Town Boards. The July 10, 2023, letter from the Board of Health advised that as long as the addition did not increase the number of bedrooms, the Board of Health had no objection. They requested the applicant supply a layout of the rooms to confirm that fact. The July 17, 2023, memo from the Planning Board had no comment on the petition.

Mr. Tom Terra was present. He advised they were trying to go ten extra feet towards the road. That would leave a 30-foot front setback. As far as the bedrooms, the plan is to only enlarge the ones that are existing. Mr. Olivieri asked if there were any questions. Mr. Youngquist noted that it looks like when the dwelling is expanded, it would not be 20 feet from the septic. He said that if the Board of Health did not have a problem with it, he would also be okay with it. Mr. Terra said that the 20 feet would only be if there was going to be a cellar. That portion of the house would only be a crawl space. There were no additional questions from the Board or audience.

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

1. A floor plan will be submitted to the Board of Health.

The vote was **unanimous for**.

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

The hearing closed at 7:11.

Documents distributed for the hearing:

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

The hearing closed at 7:06.

Chapin hearing – 24 Beechwood Avenue

Mr. Olivieri opened the Chapin hearing at 7:11 and read the legal ad into the record. Mr. Olivieri then read comments from the Town Boards into the record. The July 10, 2023, letter from the Board of Health advised they had no objection to the proposed addition. The July 17, 2023, memo from the Planning Board had no comment on the petition.

Mr. Chapin was present. He advised that he had bought a small home with 560 square feet. He was looking to increase that to make the home more livable. This home does not have a cellar, so he is trying to create more storage, and increase the square footage to 760 square feet. That would be approximately 15% lot coverage. He would not be further encroaching on any of the setbacks. He also wanted to increase the pitch of the roof from three to six. This is not to increase the living space, but to provide a little more storage space. There were no additional questions from the Board or audience.

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

The hearing closed at 7:14.

Documents distributed for the hearing:

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

Garbitt/Pike hearing – 29 Staples Shore Road

Mr. Olivieri opened the Garbitt/Pike hearing at 7:14 and read the legal ad into the record. Mr. Olivieri then read the comments from Town Boards. The July 10, 2023, letter from the Board of Health advised they had no objection to the proposed porch or two utility connections. The July 17, 2023, memo from the Planning Board had no comment on the petition.

Mr. Jamie Bissonnette from Zenith Consulting Engineers was present for the applicant. He advised that earlier this year, he was in front of the Board for this property. They had received a Special Permit to raze and construct a new dwelling on the site. During construction, there was an

issue where the house was constructed a couple of feet forward, but still met the setback, but the porch would be closer to the street, than previously thought. They have returned to the Board for a Special Permit or Variance for that. It was also noticed during construction that there were two meters on the house. There is a section in the Zoning By-law that only allows one service. These two meters were existing.

Mr. Olivieri asked if the second meter was for the accessory apartment. Mr. Bissonnette said he believed it was. Mr. Sheedy asked if there had been an accessory apartment prior to construction. Mr. Bissonnette replied there had been a kitchen in the back portion of the house, which led to the mistake of the building going forward. The wall had an internal jog, that had not been caught by the architect, so when the modular house was constructed and set in the front, there was that three-foot jog from the kitchen. Mr. Sheedy asked what the need was for two meters at this point. Mr. Bissonnette said there really isn't one except for the fact that the electricians have already wired the house that way.

Mr. Noble noted it appears that this would now be a multi-unit residence. Mr. Bissonnette said the people that live there have lived there for a long time. It is the mom in the in-law apartment. Mr. Olivieri asked Counsel if the Board conditioned this that it is only to be used by family, would it hold up if someone was to resell it down the road and rent it out? Atty. Kwesell responded the Special Permit will restrict it to family. Mr. Olivieri said the concern is if they have the two meters. Mr. Noble asked what the justification was for the second meter. Mr. Bissonnette said it is a hardship because the work is done. He believed the meter had been on the house before, and it had gone out to a barn in the back. The electricians had tied into it not knowing the Zoning Code.

Atty. Kwesell said it could be problematic by having that second meter because it is no longer accessory and incidental to the main house. Mr. Noble asked what the burden would be to redo the electric. Mr. Olivieri asked if there were any comments from the audience. No one spoke. Mr. Olivieri noted that it sounds like the Board would like to know a little more about what the burden would be. He asked if there were any comments in regard to the first part of the petition. Mr. Resnick asked if all the other utilities would be common. Mr. Bissonnette said they would be. He believed the apartment met all the other criteria for an accessory apartment.

Mr. Resnick asked if the apartment was no longer being used as an accessory apartment, if it could be re-incorporated into a single-family home. Mr. Bissonnette said that he thought they would have to take apart the kitchen, but it could be done. Mr. Olivieri asked if Mr. Bissonnette would like to find out what the burden would be or if he would like him to call for a vote. Atty. Kwesell said that you would need to know what the burden is, to know what the hardship is. Mr. Resnick asked why they couldn't redo the meter box with a single meter feed off both, or a sub-panel. This is a minor fix. Mr. Olivieri said based on Mr. Resnick's and Atty. Kwesell's comments, he would suggest a continuance so Mr. Bissonnette could bring back additional information to measure the hardship.

Mr. Noble made a motion, seconded by Mr. Youngquist, to continue the Garbitt/Pike hearing until August 17, 2023, at 7:00 p.m. The vote was **unanimous for**.

The hearing closed at 7:27.

Documents distributed for the hearing:

Petition packet
Legal ad
Board of Health letter of July 10, 2023
Planning Board memo of July 17, 2023

Barbosa hearing – 20 Second Avenue

Mr. Olivieri opened the Barbosa hearing at 7:27 and read the legal ad into the record. Mr. Olivieri then also read comments from the Town Boards into the record. The July 10, 2023, letter from the Board of Health stated they had no objection to razing and building a new two-bedroom home, provided there is a deed restriction limiting the dwelling to two-bedrooms and seasonal use until a year-round potable water supply is available. It noted there was area to install a tight tank. The July 17, 2023, memo from the Planning Board had no comment on the petition.

Mr. Jamie Bissonnette from Zenith Consulting Engineers was present for the applicant. He advised that there is an existing single-family dwelling that the owner would like to tear down and rebuild. In their packet, they should have a set of architectural plans, which show a huge improvement to the property compared to what is there. They are also going to take down a portion of the existing garage and reconstruct a garage in its place. Both structures will be new and code compliant. Mr. Bissonnette advised they have done a tight tank design which has been submitted to the Board of Health for their review and approval. They understood about the potable water supply and that they would need to have year-round water for this to be a non-seasonal dwelling.

Mr. Olivieri asked if there were any comments or questions from the Board. There were none. Mr. Resnick asked if the water supply was accessible in this area. Mr. Bissonnette replied he believed it was. He didn't know if they were able to tap into it yet. His client believes they will be able to tie into it and would intend to do so. They will bring in proof when they have attached to it. Ms. Dawn Collins of 7 Carrie Street asked if this was going to remain a seasonal home. Mr. Olivieri replied it will be only seasonal unless they have water hooked up. They cannot live in it year-round unless they have potable water.

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

The hearing closed at 7:32.

Documents distributed for the hearing:

Petition packet
Legal ad
Board of Health letter of July 10, 2023
Planning Board memo of July 17, 2023

LeBaron Residential, LLC – Notice of Project Change

Mr. Youngquist left the meeting at this time. Mr. Olivieri advised the Board had received a letter regarding a Notice of Project Change. It asks the Board if they feel the change is substantial or insubstantial. Atty. Mather was present and represented LeBaron Residential. He distributed some additional information for the record. He advised, as they knew, LeBaron was a 40B development that was entering into its 20th year of the project. He noted that after a Comprehensive Permit is granted, if there are any changes, a Notice of Project change must be sent to the Board. The Board then has 20 days to decide if the change is substantial or insubstantial. If the Board finds the change is substantial, it requires a Public Hearing. If the Board determines the change is insubstantial, then the request is granted. He advised what they were asking for is a change to Phase 3, which was the 77 single family homes. This phase is nearing completion, except for these three lots which are going to be closest to the next phase, Phase 6. He showed on the plan that there were three lots and a right of way. The developer was negotiating with the owners of the adjoining land, but he was not successful in purchasing it. Therefore, they are now proposing to eliminate the right of way and change the configuration of the three lots. The purpose of this is to provide some separation between Phase 3 and Phase 6. Parcel A will be added to Phase 6.

Atty. Mather noted that this does not change the number of buildings or lots in Phase 3. It will not change the number of units in Phase 6. It was just to provide separation. They respectfully request the Board make a determination that the modification is insubstantial and that a public hearing is not necessary. Mr. Sheedy asked what the plan was for Parcel A. Atty. Mather said there will be no building on it. It may be left as open space or used for parking. Mr. Olivieri asked Atty. Kwesell if she had any comments. She replied that she did not, and noted that the change is not a change that falls under the examples that are found in the regulations. In her opinion, it did not seem substantial, but that was a decision of the Board.

Mr. Resnick added that the right of way provides access to the land behind the house lots and wraps all the way around toward the Town land, and then to where the wetlands are which provides a buffer all through that area. There are a couple of other access points to that property, but given that there is going to be 100 +/- units in the next phase, there should be a plan to have some sort of access from that phase into this woodland. The other issue that has come up, as there are 300 units now with more anticipated, that the developer plan to provide some type of recreation area for the children that are now living there. Atty. Mather noted that there will be an additional access point to the open area at the end of LeBaron Circle.

Mr. Oleksandr Gandzyuk of 80 LeBaron Boulevard said that as a parent, they have been noticing a need of some space so their children are not playing in the streets. He was supportive of what Mr. Resnick had said as a resident and as a parent.

Mr. Noble made a motion, seconded by Mr. Campeau, to consider the change requested as insubstantial. The **vote** was **unanimous for**.

Benatti hearing – an appeal related to 434 Bedford Street

Mr. Olivieri opened the Benatti hearing at 7:49 and read the legal ad into the record. Mr. Olivieri then read comments from the Town Boards. The July 10, 2023, letter from the Board of Health

stated they had received a complaint regarding the noise. The Health Agent found that the noise level was not loud enough to warrant a violation. The July 17, 2023, memo from the Planning Board had no comment on the petition.

Atty. Kwesell noted that this is a 40A, Section 15 appeal and the vote would need to be four out of five. The applicant might want to know that there are now only four votes here. Mr. Olivieri said Mr. Benatti could continue the hearing until there was a full board, or he could start the hearing. However, there may be restrictions on who can then participate depending if the hearing is continued multiple times. After discussion and consideration with his daughter, Mr. Benatti said that he would like to continue.

Mr. Noble made a motion, seconded by Mr. Sheedy, to continue the Benatti hearing until August 17, 2023 at 7:00 p.m. The **vote** was **unanimous for**.

The hearing closed at 7:56.

Documents distributed for the hearing:

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

Meeting minutes

Mr. Sheedy made a motion, seconded by Mr. Noble, to approve the meeting minutes from the May 18, 2023, meeting. The **vote** was **unanimous for**.

Mr. Campeau made a motion, seconded by Mr. Sheedy, to approve the meeting minutes from the June 15, 2023, meeting.

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

Review and approve local preference letter for 109 Bedford Street

Mr. Olivieri advised this had been unanticipated and had been added to the agenda. He advised they had a letter asking that there be local preference for this project and read the three preferences into the record. They were for present residents of the Town, employees of the Town, and teachers employed by the School system. Mr. Resnick said Atty. O'Shaughnessy had requested the letter as justification to DHCD to incorporate a local preference. Atty. Kwesell noted that as local preference is in the Decision, Mr. Resnick could just sign it. They would only need the Board's endorsement if they were deviating from the condition, which they are not doing.

There was one more administrative item. The ZBA rules and regulations were distributed. Mr. Resnick said they would be updating these. He said that at a future meeting, they could discuss any comments and any modifications the Board might recommend.

Next meeting

The next meeting is scheduled for August 17, 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 8:01.