

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
March 21, 2024**

On March 21, 2024, the Zoning Board held a meeting at the Lakeville Public Library. The meeting was called to order by Chairman Olivieri at 7:38 p.m. LakeCam was making a video recording. No one else was recording the meeting.

Members present:

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

Also present:

Atty. Amy Kwesell, Town Counsel

Simmonds Hills LLC

Before Mr. Olivieri opened the hearing, he advised that they had underestimated the number of people that would attend tonight. They made an accommodation to extend the meeting room in the Children's Library, but was told that people had been turned away. Once they find out that people have been turned away, if they were to continue with anything other than opening the hearing, they would be in violation of Massachusetts Open Meeting Law. He was going to open the hearing because the Town is obligated to do so within a certain time frame, or else they are then at a disadvantage and have to automatically approve the project. Therefore, they have asked the developer to continue the hearing, which he has agreed to do so.

Mr. Olivieri then said they will need to continue this hearing to a date specific, time, and location, and will have to coordinate with the schools so the hearing can be held in one of the auditoriums, cafeteria, or where it can be accommodated. It will be continued to their next scheduled meeting on April 25. All that they will be doing at that meeting is confirming with the developer and setting the date, location, and time of this meeting. They can come to the meeting, but that is all that will be done. That is the process.

Mr. Olivieri then opened the hearing and read the legal ad into the record. He asked the petitioner if he would like to ask for a continuance. Mr. Paul Cusson of Delphic Associates said that they agree to continue the hearing until April 25, 2024. It was his understanding that at that meeting the Board will decide the time for a subsequent meeting in May when they could be heard in full. Mr. Olivieri clarified that they would like to continue this hearing until April 25, 2024, at their next regularly scheduled Zoning Board meeting, to strictly and only set a date for the hearing to continue in May. Mr. Cusson answered in the affirmative.

Atty. Kwesell asked if they would be extending the 180 days also or just continuing? Mr. Cusson said they prefer not to do that at this time. If a 180-day extension is required at some point in time, they would be glad to discuss it and would agree at that time.

Mr. Noble made a motion, seconded by Mr. Campeau, to continue the Simmonds Hill LLC hearing until April 25, 2024. The time would be at 7:00 p.m.

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

The hearing closed at 7:45.

Atty. Kwesell then discussed the 180-day time frame. She advised once the hearing is opened, there is 180 days for the Board to act. That date is September 17, 2024. They have requested a continuance for 30 days and were specifically asked if they would be extending the 180 days that same amount of time, which is somewhat common, but not always, and it is their choice. Mr. Cusson said clearly that he would not be extending the 180 days at this time. Atty. Kwesell said that she would also clarify that when an application is filed with the Town Clerk, this Board has 30 days to open it, and if they did not open the hearing tonight it would be subject to constructive approval. That means the project would be approved as it was filed. She noted that with 40Bs throughout the 180 days the project does change and evolve, and they try to get a better project. They had no choice but to open this tonight.

Mr. Olivieri asked if the Board had said no, then the applicant walks out and does whatever they want? Atty. Kwesell replied that is correct on the 31st day they file a Notice of Constructive Approval with the Housing Appeals Committee, and they get the project they applied for. Mr. Olivieri said that would be a bigger problem. He said to the people in attendance that they would all have an opportunity to speak and be able to tell the Board what they did like, and what they did not like.

Dixon hearing - 36 Main Street

Mr. Olivieri opened the Dixon hearing at 7:55. Ms. Dixon explained that they were proposing to put a small addition onto their reception area. The intent is to make it safer and more accommodating for dogs. Currently, there is one door that goes in and one door that goes out, and sometimes when dogs have to pass in close proximity it can cause issues. They are proposing to extend this area by 133 square feet. They will have an 'in' door and an 'out' door, and that way the dogs will not have to pass in the middle. The addition will be on a slab and replace a flower bed currently there. This proposed change will make it more efficient and safer.

Mr. Olivieri then read the February 28, 2024, letter from the Board of Health into the record. The proposed extension would not result in an increased flow to the septic system and the footprint of the addition would not affect the system. Therefore, they had no objections to the proposed addition. The March 15, 2024, letter from the Planning Board had no comments regarding the petition. Mr. Olivieri noted they also had the plan from Zenith Consulting Engineers that they had reviewed. Were there any comments or questions from any of the Board members?

Ms. Dixon wanted to note for the record that this will not in any way affect the capacity they currently have. Mr. Olivieri said for the record there will be no more dogs than they already have. As there was still a lot of background noise, Mr. Olivieri summarized what had been presented. The petition is to extend the reception area, which will be on a slab and go over an existing flower bed. There will be no additional dogs or capacity, and it will only affect that flower bed. The

Board of Health had no issues with it, and the Planning Board had not made any comments. There were no questions from the Board, so he opened up to public comment.

Mr. Daniel Ferreria of 1 Patrick Thomas Court then spoke. He said he opposes this addition, as he had also opposed the previous addition and expressed his concerns then. He noted the traffic and parking has gotten worse, and the number of dogs has increased. He did not know what the numbers are and said the Town cannot tell him how many dogs are there during the day or overnight. If they say the numbers won't increase, there is nobody policing it, and there is only one inspection from the State which has nothing to do with dog numbers.

Mr. Ferreira said they have outgrown the place where they are, and are now parking at Baldi's because they are not able to park on Patrick Thomas Court. As a neighbor, this is not a detrimental thing that they need approval for, and he did not see the need for it. Mr. Olivieri said that he empathized with what he was saying, but with these points when it comes to enforcement in certain aspects, they don't have any control over monitoring. Mr. Ferreira said they had control over what they do in the future, and there is already a problem with an abutter. He is giving them his concerns that this is affecting his home.

Mr. Olivieri asked if this new addition will affect it. Mr. Ferreira said that it would, because there would be that much less space for them to use for parking and what they need for their use. Mr. Olivieri said they would take those comments, look at the plans, and the Board can make their decision. Ms. Dixon then said that Pet Recess was there before Mr. Ferreira bought his property, and he has a deed to use the access way that is State-owned. For many years, they had been allowed to use it, and it is the only access to the rear of the property. The Town had requested they use it for parking, but Mr. Ferreira got in touch with the State and told them he did not want them using it for parking. They are now not allowed to have access. She approached Baldi's and explained the situation, which is similar to his, because the State property goes onto his land. He has agreed to allow them to park on his property. She noted the parking out front would not be affected by this new addition. It is a flower bed, and not a parking spot. This addition is out front and will not make any difference to his property which is way out in the back. She noted that they are licensed and inspected every year.

Mr. Olivieri said if they were to grant the permit, would she be okay with no parking spaces being eliminated. Mr. Ferreira stated they are adding on and the number of dogs will not increase, but no one can tell him how many dogs they have. The only answer he could get at the Town Clerk's office was they have paid a fee to have 10 to 15 dogs overnight. He did not understand if they were not following the rules now, and no one knows how many dogs they have, why do they keep giving them permits to add on. Mr. Olivieri clarified they do not know if they are following the rules or not. Mr. Ferreira said he has asked the Animal Control Officer, Mr. David Frates, to ask him if there is an overnight inspection on how many dogs there are. If the kennel license is for 10 to 15 dogs after hours and no one inspects it, they could have 100 dogs overnight.

Mr. Olivieri reiterated that they were not an Enforcement Board. Mr. Ferreira said then to return to the Zoning issue, they have already had additions on this building so why do they have bylaws about setback, land size, and permeability? This is a convenience thing. Ms. Dixon clarified that they have 100 dogs a day at daycare. The other addition referred to is a nap room, where the dogs nap from 12:00 to 2:00. They have 28 kennels, and the most dogs they have boarded is probably about 35. They have cameras and her maintenance manager, Wayne Daugherty, lives a few feet

away from the kennel. They are inspected by Mr. Frates, who knows how many dogs they have and how they are kept. She advised that this addition is for the safety of their clients and dogs.

Mr. Noble asked how often they were at maximum capacity. She replied Wednesday, Thursday, and Friday for daycare. The other days maybe between 75 to 85 dogs. They have 20 staff members. Mr. Ferreira then submitted the license fee for the record. Ms. Dixon explained that there are two categories for dog kennels, residential which is up to four dogs, and commercial which is up to fifteen dogs. If you have that many dogs or more, that is what you pay and she has always paid that. When she bought the property, it had been a kennel for 30 years and never had a commercial kennel license. Mr. Olivieri asked who oversaw the commercial license. Ms. Dixon said it was Mr. Frates. Mr. Olivieri said they could then confirm with him that everything is done right, it is not over capacity, and it is a safe haven for the dogs. Would she be okay with a condition that Mr. Frates had no issues with it? Ms. Dixon said that would be fine. Mr. Sheedy questioned the lot coverage. It was found to be 36.1% with the proposed addition.

Mr. Ferreira said the Board should make this contingent upon them being in compliance with the number of dogs. She has already told them that they are not. Mr. Olivieri said that Mr. Frates would be the authority for that. Mr. Ferreira said that he has spoken to him four times, and he says that he cannot go in there after hours. This is already non-conforming and the Zoning Board does not have to approve everything. Mr. Olivieri noted that this addition is no further intruding into the setback than the existing front of the building.

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

1. The Animal Inspector, Mr. David Frates, will confirm the applicant is in compliance with all rules and regulations.

There was a discussion regarding the lot coverage, but it was found to be well within the 50% allowed for business.

The vote was unanimous for.

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

The hearing closed at 8:17.

Documents distributed for the hearing:

- Petition packet
- Legal ad
- Board of Health memo of February 28, 2024
- Planning Board memo of March 24, 2024

Joyce hearing - 51 Shore Avenue

Mr. Olivieri opened the Joyce hearing at 8:18, and read the legal ad into the record. He then read the February 28, 2024, letter from the Board of Health. The Board of Health had no objection to

the proposed shed as it would have no connection to water or septic and the footprint would not interfere with the existing septic system. The March 15, 2024, letter from the Planning Board had no comments regarding the petition. Mr. Joyce advised that their house is setback 15 feet from the road, and they would like to place the proposed shed 20 feet back. Mr. Olivieri asked if there were any questions from the Board. There were none. Mr. Olivieri asked if anyone in the audience had any comments. No one spoke.

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

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

The hearing closed at 8:20.

Documents distributed for the hearing:

- Petition packet
- Legal ad
- Board of Health memo of February 28, 2024
- Planning Board memo of March 24, 2024

Meeting minutes

Mr. Sheedy made a motion, seconded by Mr. Campeau, to approve the meeting minutes from the February 15, 2024, meeting.

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

Benatti hearing, continued – an appeal related to 434 Bedford Street

Mr. Olivieri opened the continued Benatti hearing. He advised the applicant is still working toward a resolution with his neighbor and has submitted a request for a continuance until their April meeting.

Mr. Youngquist made a motion, seconded by Mr. Noble, to continue the Benatti hearing until April 25, 2024. The time would be at 7:00 p.m. The **vote** was **unanimous for**.

Meet with Eric Anderson regarding opening on the Zoning Board

Mr. Olivieri advised that Mr. Anderson had submitted a letter of interest to the Select Board in regards to an open spot for an Associate member on the Board. Mr. Olivieri noted to Mr. Anderson that they did not normally have such large meetings, and that he could not recall a situation where they had that many people. He advised that public comment was a very important part of the process. He asked if he had any questions. Mr. Anderson replied he understood from tonight, and it was pretty straight forward. Mr. Olivieri said if something is at the Board of Appeals it is because it doesn't fit into the square. They need to see if it is more detrimental, if there is a benefit, and

how to weigh that and figure out if an exception is needed. However, 40B is completely different because the State is extremely involved in it. Mr. Noble asked Mr. Anderson what would make him good for the ZBA. Mr. Anderson replied he has been in construction his whole life, so he has a good understanding of the process with people wanting to building things but having to get their projects approved.

Mr. Zucco then made a motion, seconded by Mr. Youngquist, to recommend the Select Board appoint Mr. Eric Anderson to fill the opening for an Associate Member of the ZBA. The **vote** was **unanimous for**.

Next meeting

The next meeting is scheduled for April 25, 2024, at 7:00 p.m. at the Lakeville Public Library.

Adjourn

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

Meeting adjourned at 8:31.