

# ***Town of Bourne Zoning Board of Appeals***

## ***Meeting Minutes***

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

June 6, 2018

### **I. Call to order**

Chair Amy Kullar called to order the meeting of the Zoning Board of Appeals at 7:02 PM on June 6, 2018. Ms. Kullar explained under M.G.L., Section 40A, all appeals must be filed within 20 days of the filing of the decision with the Town Clerk.

Ms. Kullar announced the meeting was being recorded and asked if anyone in the audience was recording the meeting to please acknowledge such to the board. She noted Carol Mitchell was recording the meeting.

### **II. Members Present:** Amy Kullar, Wade Keene, Tim Sawyer and Associate Members, Kat Brennan, Deb Bryant and Chris Pine.

**Members Excused:** John O'Brien and Harold Kalick.

**Also Present:** Roger Laporte, Carol Mitchell, Herb Roberts, Deborah Roberts, Ellen Ferguson, James Ferguson, Ron Bukoski, Cindy Bukoski, Paul Maiolini, Paul Dunn and Lucie LaPierre.

*Amy Kullar will be assisting Chris Pine with writing the Decisions.*

### **III. Agenda Items**

- 1. Approval of Minutes** – Ms. Kullar entertained a motion to approve the minutes of the May 16, 2018 meeting. **Mr. Keene moved, Ms. Brennan seconded to approve the minutes of the May 16, 2018 meeting.** With no discussion, the motion carried. 5-0-1. Ms. Bryant abstained.

*Sitting on this hearing; Wade Keene, Tim Sawyer, Amy Kullar, Kat Brennan and Deb Bryant.*

- 2. 6 Scraggy Neck Road Extension, Special Permit 2018-06** – Animal Kennel - Special Permit sought under the Bourne Zoning Bylaw: Section 2200: and M.G.L. Ch. 40A, Sec. 9 for the maintenance of an animal kennel for more than three dogs in an R-40 and B-2 district.

*Materials – Special Permit Application, Assessor’s Data Card, Plot Plan, Google Maps Directions, Memorandum from Board of Health and Abutters List.*



6 Scraggy Neck Ext  
Rd. BOH Meeting o

Ellen and Jim Ferguson addressed the board. Mrs. Ferguson stated she was notified that she had to obtain a kennel license after reporting on her census that her household has four dogs.

Board Comment – Ms. Kullar asked if the applicant has appeared before the Board of Health. Mrs. Ferguson stated they have.

Ms. Kullar stated the Board of Health (BOH) granted a conditional approval of a kennel because they require three Variances from their regulations. Mrs. Ferguson stated essentially, the kennel is their home. Ms. Kullar agreed, explaining this will not be not be a commercial kennel; their property is treated as the kennel site and all Board of Health regulations have to be met.

Ms. Kullar asked if the applicants will be conducting commercial breeding or trading of dogs. Mrs. Ferguson indicated no.

Ms. Brennan asked if any neighbors have ever complained about barking. Ms. Ferguson stated one abutter contacted the Board of Health to express concerns over barking; but to her knowledge, he’s never actually complained about barking.

Ms. Kullar asked how long the four dogs have lived at the property. Mrs. Ferguson stated since October 2017; prior to that, there were always two or three dogs.

Ms. Kullar asked what the breeds are. Mrs. Ferguson stated three are mini long-haired Dachshund and one is a Papillon.

Mr. Keene opened a brief discussion regarding the Board of Health conditions.

Ms. Kullar read aloud the Variances requested in the Board of Health’s Memorandum.

Additional Board Comment – None.

Public Comment – None.

Ms. Kullar entertained a motion to close the public hearing. **Ms. Brennan moved, Mr. Sawyer seconded to close the public hearing.** With no discussion, the motion carried. 5-0-0.

After a brief discussion, Ms. Kullar entertained a motion. **Mr. Keene moved, Mr. Sawyer seconded to grant Special Permit 2018-06 – Animal Kennel under the Bourne Zoning Bylaw: Section 2200 and M.G.L. Ch. 40A, Sec. 9 for the maintenance of an animal kennel for not more than four dogs in an R-40 and B-2 district including the conditions imposed by the Board of Health.** With no discussion, the motion carried. 5-0-0.

*Sitting on this hearing; Wade Keene, Tim Sawyer, Amy Kullar, Kat Brennan and Deb Bryant.*

**3. 21 Hilltop Drive, Special Permit 2018-07 - Animal Kennel -** Special Permit sought under the Bourne Zoning Bylaw: Section 2200 and M.G.L. Ch. 40A, Sec. 9 for the maintenance of an animal kennel for more than three dogs in an R-40 district.

*Materials – Public Hearing Notice, Application Checklist, Photograph of dogs, Assessor’s Field Card, Site Plan, Special Permit Application, Illustration of the proposed setbacks, Abutters List, Aerial View, Memorandum from the Board of Health and Directions to the property.*

Cindy and Ron Bukoski addressed the board. Mrs. Bukoski explained she and her husband recently acquired a fourth dog. As a result, they are seeking a Special Permit.

Board Comment – Ms. Kullar asked if they intend on having more than four dogs at any time. Mrs. Bukoski stated no.

Ms. Kullar stated the application is clear that this would be a non-commercial kennel. She asked the applicants if they’ve been before the Board of Health yet. Mrs. Bukoski indicated they have not. Ms. Kullar read from the BOH Memorandum stating more information is needed as to whether this kennel will meet the requirements of the Board of Health regulations. Should the prospective kennel not meet the requirements, a public hearing before the Board of Health will be required for a Variance or waiver.

Ms. Kullar explained that the Zoning Board can’t issue a decision until the Board of Health establishes whether their property requires Variances. Mrs. Bukoski stated she does not have a kennel. Ms. Kullar and Mr. Laporte explained that the applicants’ home will be treated as the kennel.

Ms. Kullar suggested continuing the matter until the applicants have appeared before the Board of Health.

Mr. Bukoski opened a brief discussion regarding the permitting process.

Public Comment – Abutter, Paul Maolini, discussed a previous barking issue.

Ms. Brennan asked Mrs. Bukoski if she was aware of the issue. Mrs. Bukoski explained approximately one year ago, the dogs continually barked at the neighbor while he was working in his yard. Mr. Bukoski stated their dogs are not left unattended when outside and after that one incident a year ago, he's tried to be very courteous to their neighbors.

Ms. Kullar asked how long they've had four dogs on the property. Mrs. Bukoski stated approximately one year to a year and a half.

Ms. Kullar reiterated the need to appear before the Board of Health and suggested the matter be continued. Mrs. Bukoski agreed.

Ms. Brennan asked if there's any type of noise enforcement for barking dogs. Mr. Laporte explained there's a barking dog ordinance enforced by the DNR. However, if the board issues a kennel permit and the building inspector receives noise complaints, he will require the permit holder to appear before the board to address those complaints.

Ms. Kullar entertained a motion to continue the matter. Mr. Laporte suggested continuing the matter to August 1<sup>st</sup> and if the applicants have not settled the matter with the Board of Health, they will continue again. **Mr. Keene moved, Mr. Sawyer seconded to continue the matter to August 1, 2018 at 7:00 PM.** With no discussion, the motion carried 5-0-0.

*Sitting on this hearing; Wade Keene, Tim Sawyer, Amy Kullar, Deb Bryant and Chris Pine.*

**4. 42 Yearling Run Road, Special Permit 2018-08** – Accessory Dwelling – Requesting Special Permit per section 4120-4123 of the Bourne Zoning Bylaw, under M.G.L. Ch. 40A, Sec. 9 to remodel an existing 1,248 square-foot structure into an accessory dwelling in an R-80 zone.

*Materials – Public Hearing Notice, Site Photographs, Assessor's Field Card, Site Plan, Special Permit Application, Abutters List Aerial View, Memorandum from the Board of Health and Directions to the property.*

Deborah and Herb Robert addressed the board. Mrs. Robert stated they are seeking a Special Permit to allow their daughter to move into an existing apartment in a separate dwelling on the property. The separate dwelling is pre-existing. Mr. Robert explained their daughter recently lost her home to foreclosure and has been unsuccessful with finding alternative affordable housing. Therefore, they'd like her to move into the apartment.

Board Comment – Ms. Brennan asked if the apartment was a rental apartment previously. Mr. Laporte read a Memorandum from the Board of Health that mentioned several concerns with the accessory dwelling. The Memorandum states the existing structure does not have an approved water supply or adequate sewage disposal.

Mr. Laporte asked the applicants if they're doing anything to address the Board of Health's concerns. Mr. Robert stated they are having plans drawn up for a proposed septic system that will accommodate just the apartment.

Mr. Laporte asked the applicants if they are aware that they will also need a Variance from the Board of Health regulations. The Roberts indicated no. Mr. Laporte provided them with a copy of the Board of Health Memorandum.

Ms. Kullar explained that the Board of Health has raised concerns that the Zoning Board of Appeals has no control over. Once the BOH approves their project, they can return to the Zoning Board for their decision. Mr. Robert asked if there was a way to proceed and receive Zoning Board approval contingent on approval by the Board of Health. Mr. Laporte stated that is impossible because if they don't receive the Variances from the Board of Health, then there will be a Special Permit in limbo. Ms. Kullar added that the two go together and currently the BOH has the use listed for the existing structure as a barn; therefore, the ZBA can't authorize humans to live in it.

Mr. Laporte explained that the project requires a septic system, adequate water and a Variance from the Board of Health regulations.

After a brief discussion, the applicants agreed to continue the matter to August 1, 2018 at 7:15 PM.

Public Comment – None.

Ms. Kullar entertained a motion to continue the matter to August 1, 2018. **Mr. Pine moved, Mr. Keene seconded to continue the matter to August 1, 2018 at 7:15 PM.** With no discussion, the motion carried. 5-0-0.

*Sitting on this hearing; Wade Keene, Tim Sawyer, Amy Kullar, Deb Bryant and Chris Pine.*

**5. 9 Harlow Farm Road, Special Permit 2018-09 - Animal Kennel - Special Permit** sought under the Bourne Zoning Bylaw: Section 2200 and M.G.L. Ch. 40A, Sec. 9 for the maintenance of an animal kennel for more than three dogs in an R-40 district.

*Materials – Public Hearing Notice, Assessor’s Field Card, Site Plan, Special Permit Application, Abutters List, and Directions to the property.*

The applicant, Marc Civilinski, was not in attendance. Ms. Kullar stated this applicant has not been before the Board of Health; therefore, the matter will have to be continued. Mr. Laporte suggested continuing the matter to August 1, 2018 and he’ll advise the applicant that they have to appear before the Board of Health.

Ms. Brennan asked how this affects the abutters in attendance. Mr. Laporte explained they can come back on August 1, 2018.

The two abutters in attendance, Lucie LaPierre and Paul Dunn, expressed their disappointment with having to continue the matter. Ms. Kullar explained that it’s possible the applicant had an emergency; therefore, she’ll allow a continuance one time. Ms. Kullar suggested that the abutters attend the Board of Health hearing if they want to voice concerns on the matter. Mr. Laporte explained Board of Health approval is also required.

After a brief discussion regarding the new kennel regulations, it was decided to continue the matter to August 1, 2018 at 7:20 PM.

Ms. Kullar entertained a motion to continue the matter to August 1, 2018. **Mr. Sawyer moved, Ms. Bryant seconded to continue the matter to August 1, 2018 at 7:20 PM.** With no discussion, the motion carried. 5-0-0.

*Sitting on this hearing; Wade Keene, Tim Sawyer, Amy Kullar, Kat Brennan and Chris Pine.*

**6. 165 Jefferson Road – Special Permit 2018 SP04, Requesting Special Permit under M.G.L. Ch. 40A, Sec. 9 and the Bourne Zoning Bylaw: Sections 1331; 2320; 2450, 2500:** Supportive Finding that the alteration of an existing single-family structure and construction of a new non-conforming single-family structure is not substantially more detrimental than the original structure to the neighborhood. **(cont. from 5/16/18)**

**At the request of the applicant’s representative, the matter is continued to June 20, 2018.**

*Materials – Letter of Continuance, letter of support from Gloria Dionne and Letter from Attorney Joyce.*

Attorney Joyce, representing abutters, Jeffrey Lau and Ingrid Hammond, was present. He submitted a letter requesting that the Zoning Board continue the matter to July 18<sup>th</sup> because he'll be out of town on June 20<sup>th</sup>. He discussed guidelines that require the Zoning Board to act on a petition within 100 days; unless there's a written agreement by the applicant allowing time constraints to be waived. He stated the 100<sup>th</sup> day falls on July 13<sup>th</sup> so he'd be amiss to ask for a continuance at this point. Attorney Joyce stated he will withdraw his request for an extension.

After a brief discussion, Ms. Kullar entertained a motion to continue the matter to June 20, 2018 at 7:00 PM. **Ms. Brennan moved, Mr. Pine seconded to continue the matter to June 20, 2018 at 7:00 PM.** With no discussion, the motion carried. 5-0-0.

**Old Business** – None.

**New Business** – A brief discussion transpired regarding the new regulations surrounding kennels.

**Public Comment** – None.

#### **IV. Adjournment –**

**Ms. Bryant moved, Mr. Keene seconded to adjourn the meeting.** With no discussion, the motion carried 6-0-0. The meeting adjourned at 7:42 PM.

Minutes Submitted By: Carol Mitchell