

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

May 15, 2019

I. Call to order

Chair Amy Kullar called to order the meeting of the Zoning Board of Appeals at 7:00 PM on May 15, 2019. 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.

Members Present: Amy Kullar, John O'Brien, Wade Keene, Tim Sawyer, Harold Kalick and Associate Member, Chris Pine.

Members Excused: Associate Members, Kat Brennan and Deb Bryant.

Also Present: Roger Laporte (7:05), Carol Mitchell, Robin E. Pierson, F. Roberta Thomas, Richard P. Thomas, Kenneth R. Blanchard, Donna L. Blanchard and Doug Troyer.

Chris Pine will be writing the Decisions.

II. Agenda Items

1. Approval of Minutes – Ms. Kullar entertained a motion to approve the revised minutes of the April 17, 2019 meeting. **Mr. Kalick moved, Mr. Keene seconded to approve the minutes of the April 17, 2019 meeting as revised.** With no discussion, the motion carried. 3-0-2. Mr. Sawyer and Mr. O'Brien abstained.

Sitting on the hearings; Amy Kullar, Tim Sawyer, Wade Keene, John O'Brien and Harold Kalick.

2. 78 Scraggy Neck Road, Special Permit SP07-2019– sought under M.G.L., Ch. 40A, Sec. 9 and the Bourne Zoning Bylaw from Section 2340 to change one non-conforming use to a different non-conforming use in a Village-Business (V-B) District.

Materials – Public Hearing Notice, Abutters List, Application for Special Permit, Assessor’s Data Card, Site Photograph, Existing Floor Plan, Preliminary Floor Plan and Directions to the Property.

Robin Pierson addressed the members. She stated she and her significant other purchased the property last year in hopes of residing there.

Board Comment – Ms. Kullar stated the entire building is now used as professional office space. She asked whether the applicant intends to use the entire structure as their primary residence dwelling. Ms. Pierson explained she currently has an in-home permit for her business, which she makes her product in; but are sold at a separate location. She said she intends to use one room of the house as a studio to design her products.

Ms. Kullar asked what the name of her business is. Ms. Pierson stated her business name is Reflections by Robin. She reiterated she intends to sell her products at her retail location.

Ms. Pierson mentioned she hired an architect but has only submitted a preliminary Floor Plan in case the the Board denies her request.

Ms. Kullar commented that this project does not require any other boards’ approval.

Mr. O’Brien asked whether the Board has the authority to change the zoning designation. Mr. Laporte referred to Section 2340 of the bylaw, stating only the use is being changed; not the zoning. Ms. Kullar summarized the bylaw.

Ms. Kullar asked if both occupants have one vehicle each. Ms. Pierson stated, yes.

Mr. Kalick questioned whether the applicant will have tenants in the building. Ms. Pierson indicated there will not be any tenants other than her own business.

Public Comment – Richard Thomas questioned whether the property will remain residential if the change is granted and the property were to ever change hands. Mr. Laporte explained once a Special Permit is issued, it is recorded at the Registry of Deeds and is attached to the deed, not the property owner. If a new owner wants to make changes to the Special Permit, Board approval is required.

Mr. Thomas asked if the town has any control over short-term rentals. Mr. Laporte stated the Board of Health is currently working on short-term rental regulations.

Mr. O’Brien moved, Mr. Keene seconded to close the public hearing. The motion carried. 5-0-0.

Ms. Kullar entertained a motion. **Mr. O'Brien moved, Mr. Sawyer seconded to grant Special Permit SP07-2019, under M.G.L., Ch. 40A, Sec. 9 and the Bourne Zoning Bylaw Section 2340, to change the non-conforming business use to a non-conforming residential use in a Village-Business (V-B) District.** The motion carried. 5-0-0. Roll Call Vote: Ms. Kullar – yes, Mr. Keene – yes, Mr. Kalick – yes, Mr. O'Brien – yes, Mr. Sawyer – yes.

3. 4-6 MacArthur Blvd. - Extension of Variance V21-2016 – Requesting an extension of a Variance per Section 2500 of the Bourne Zoning Bylaw under M.G.L., Ch. 40A, Sec. 10 to permit construction of a convenience store more than thirty-five (35') feet in height for a post-construction height of thirty-eight and one half (38.5') feet.

Materials – Public Hearing Notice, Letter from Attorney Troyer, Attachments A, B and C.

Doug Troyer, representing Cumberland Farms, addressed the members. He briefly discussed the height Variance his client received in September 2016 and the Special Permit his client received from the Planning Board that is currently being appealed in the Land Court because of a condition added restricting egress back to the rotary. He explained a significant amount of time has been spent with the Planning Board to reach an alternative. A pending settlement is awaiting town counsel approval. He mentioned that a status report must be submitted to the Land Court by the first week of June and if an agreement can't be reached, the matter will go to trial. A brief discussion transpired regarding the previously granted six-month extension and the reason for the additional extension request.

Board Comment – Mr. O'Brien doesn't think an extension is necessary due to pending litigation. Mr. Laporte agreed; however, because the applicant is appealing a Planning Board's decision and not the Zoning Board's, the applicant is requesting the extension in order to avoid potential future litigation.

Public Comment – Ken Blanchard, along with his wife, Donna, wanted to be sure the applicant isn't requesting any changes to what was originally granted. Ms. Kullar explained no changes are being proposed; the applicant is seeking to preserve the exact same Variance that was previously granted.

Ms. Kullar entertained a motion to close the public hearing. **Mr. O'Brien moved, Mr. Keene seconded to close the public hearing.** With no discussion, the motion carried. 5-0-0.

Ms. Kullar entertained a motion to grant a six-month extension. After a brief discussion, **Mr. Kalick moved, Mr. O'Brien seconded to grant a six-month extension of**

Variance V21-2016 per Section 2500 of the Bourne Zoning Bylaw under M.G.L., Ch. 40A, Sec. 10. The motion carried. 5-0-0.

Old Business – A brief discussion transpired regarding the Planning Board’s decision pertaining to the 165 Jefferson Road hearing.

New Business – A brief discussion transpired regarding the status of the proposed Kennel Bylaw.

Public Comment – None.

III. Adjournment –

Mr. Kalick moved, Mr. Sawyer seconded to adjourn the meeting. With no discussion, the motion carried 5-0-0. The meeting adjourned at 7:24 PM.

Minutes Submitted by: Carol Mitchell