

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

August 7, 2019

I. Call to order

Chair Amy Kullar called to order the meeting of the Zoning Board of Appeals at 7:00 PM on August 7, 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 and Beth Treffeisen were recording the meeting.

Members Present: Amy Kullar, John O'Brien, Wade Keene, Harold Kalick, Kat Brennan and Associate Member, Jim Beyer.

Members Excused: Associate Members, Deb Bryant and Chris Pine.

Also Present: Roger Laporte, Carol Mitchell, Paul Gately, Beth Treffeisen, Susan Harris, Jon Callahan, Theresa Callahan, Beth Thompson, Andrea Chiros, Debbie Forand, Lewis Perry, Andrew Campbell, Dana Anderson, Jose Pichardo, Viveanna Eloranta, William Eloranta, David Arnold, Julie Arnold, Mick Elia, Carol Flansburg Jacobs, Jose Pichardo, Phil Jacobs, Dennis Mascetta, Dave Peterson, Laura Lorusso Peterson and Diane Tillotson.

Amy Kullar will be writing the Decisions.

II. Agenda Items

1. Approval of Minutes – Ms. Kullar entertained a motion to approve the minutes of the July 17, 2019 meeting. **Mr. Keene moved, Ms. Brennan seconded to approve the minutes of the July 17, 2019 meeting.** With no discussion, the motion carried. 3-0-2. Ms. Kullar and Mr. Kalick abstained.

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

2. 7 Pine Ridge Road, Special Permit #2019-10SP- Animal Kennel Special Permit sought per Section 2200 of the Bourne Zoning Bylaw, under M.G.L., Ch. 40A, Sec. 9 for the maintenance of an animal kennel for more than three dogs in an R-80 district.

Materials – Public Hearing Notice, Abutter’s List, Board of Health Memorandum, Application for Special Permit, Assessor’s Data Card, Picture of Dogs, Directions to the Property.

Susan Harris addressed the members. Ms. Kullar read a memorandum from the health agent, Terri Guarino, into the record.

Board Comment – None.

Ms. Kullar explained the Board of Appeals does not have kennel regulations and approval of a Special Permit is contingent upon Board of Health Approval.

Ms. Harris provided background regarding the dogs. She explained that she will not be breeding the dogs or offering doggie daycare. She stated she will not want to keep more than four dogs.

Ms. Kullar asked the applicant if she would be opposed to the members imposing a four dog limit. Ms. Harris stated she is not opposed to that.

Public Comment – Jon Callahan discussed the 4 dog limit.

Beth Thompson and Andrea Chiros introduced themselves. Ms. Thompson asked whether any dogs will be replaced. Ms. Kullar explained a condition disallowing more than four dogs will be placed on the Special Permit.

Ms. Kullar asked whether there are any noise concerns. Ms. Thompson stated she does not hear the dogs.

Ms. Chiros asked for clarification on waste disposal and the leash law when the dogs are on the beach that is located on her property. Ms. Kullar stated dogs are required to be leashed. Ms. Kullar asked whether there has been a problem with waste disposal. Ms. Chiros stated no; however, the dogs are not leashed while being walked on the beach. Ms. Kullar stated the Department of Natural Resources (DNR) enforces the leash law and then explained the board’s purview.

Terry Callahan commented that many dogs are walked on the beach without a leash not just Ms. Harris. Ms. Kullar suggested the abutters file a complaint with the DNR if they continue to experience problems.

Ms. Kullar entertained a motion to close the public hearing. **Mr. O'Brien moved, Mr. Kalick seconded to close the public hearing.** The motion carried. 5-0-0.

After a brief discussion, **Mr. O'Brien moved, Ms. Brennan seconded to approve the request for Special Permit #2019-10SP per Section 2200 of the Bourne Zoning Bylaw, under M.G.L., Ch. 40A, Sec. 9 for the maintenance of an animal kennel for not more than four dogs in an R-80 district. The kennel will be restricted to the existing four dogs as described; (1) Irish Setter, (1) West Highland Terrier and (2) Yorkshire Terriers and will not automatically be replaced in the future.** The motion carried. 5-0-0.

3. 19 Old Bridge Road, Special Permit #2019-12 Animal Kennel Special Permit sought per Section 2200 of the Bourne Zoning Bylaw, under M.G.L., Ch. 40A, Sec. 9 for the maintenance of an animal kennel for more than three dogs in the Downtown Neighborhood (DTN) district.

Materials – Public Hearing Notice, Abutter's List, Board of Health Memorandum, Application for Special Permit, Assessor's Data Card, Picture of Dogs, Directions to the Property.

William and Viveanna Eloranta addressed the members. Mr. Eloranta explained his four dogs are family dogs and they've all been spayed/neutered.

Ms. Kullar read the memo from the health agent explaining that approval of a Special Permit is contingent upon Board of Health Approval.

Board Comment – None.

Public Comment – None.

Ms. Kullar discussed conditioning the permit to allow only the four existing dogs.

Ms. Kullar asked the ages of the dogs. Miss Eloranta stated the dogs are two, three, four and six.

Ms. Kullar entertained a motion to close the public hearing. **Mr. Keene moved, Ms. Brennan seconded to close the public hearing.** The motion carried. 5-0-0.

Ms. Kullar entertained a motion. **Mr. Keene moved, Mr. O'Brien seconded to grant Special Permit 2019-12 Animal Kennel per Section 2200 of the Bourne Zoning Bylaw, under M.G.L., Ch. 40A, Sec. 9 for the maintenance of an animal kennel for more than three dogs in the Downtown Neighborhood (DTN) district. The kennel will be restricted to the existing four dogs.** The motion carried. 5-0-0.

4. 35 Lafayette Ave, Special Permit #2019-11 Requesting Special Permit – Supportive Finding per Sections 1330, 2450 and 2500 of the Bourne Zoning Bylaws and M.G.L., Ch. 40A, Sec. 9 to construct a 13’x 20’ second floor addition within the existing first floor footprint of a single-family dwelling currently located within the 20’ front and 12’ side setbacks; and a Supportive Finding under Section 2300 that the alteration of an existing single-family dwelling is not substantially more detrimental than the original structure to the neighborhood.

Materials – Public Hearing Notice, Abutter’s List, Gross Floor Area Worksheet, Application for Supportive Finding, Plot Plan of Record, Directions to the Property and Site Plan of Record.

Dennis Mascetta addressed the members and described the proposed project.

Board Comment – Ms. Brennan asked whether there is an existing second floor. Mr. Mascetta stated on part of the house there is. They are seeking to remove the existing shed roof, install a floor system, build the walls and construct a peak roof.

Mr. O’Brien asked why the Supportive Finding is necessary. Mr. Laporte stated the proposed project doesn’t meet setback requirements. Mr. O’Brien asked if that is the only issue. Mr. Laporte replied that is the only issue.

Public Comment – Abutter, Carol Jacobs expressed support for the project.

Mick Elia thanked the members.

Mr. Keene asked if there is an existing septic system. Mr. Mascetta explained there is an existing three-bedroom septic system which will be inspected prior to construction to ensure it meets Title V regulations.

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

Ms. Kullar feels the project, per the plans and specifications submitted, will not be substantially more detrimental to the neighborhood than the original structure.

Ms. Kullar entertained a motion. **Ms. Brennan moved, Mr. Keene seconded to grant the Supportive Finding per Sections 1330, 2450 and 2500 of the Bourne Zoning Bylaws and M.G.L., Ch. 40A, Sec. 9 to construct a 13’x 20’ second floor addition within the existing first floor footprint of a single-family dwelling currently located within the 20’ front and 12’ side setbacks; and a Supportive Finding under Section 2300 that the alteration of an existing single-family dwelling is not substantially**

more detrimental than the original structure to the neighborhood. The motion carried. 5-0-0.

5. 39 Tide Way Road, Special Permit #2019-13 Special Permit sought under M.G.L., Ch. 40A, Sec. 9 and the Bourne Zoning Bylaw Sections 1330 and 2457 for a departure from the requirement of table 2456 to construct a single-family dwelling and such departure will be within 10% allowable Gross Floor area; and a Supportive Finding under Section 2300 that the proposed alteration to a preexisting, non-conforming, single-family dwelling is not substantially more detrimental than the original structure to the neighborhood.

Materials – Public Hearing Notice, Abutter’s List, Gross Floor Area Worksheet, Application for Supportive Finding, Plot Plan of Record, Directions to the Property and Site Plan of Record.

Jose Pichardo of Green Seal Environmental addressed the members and described the proposed project.

Board Comment – Ms. Kullar discussed the proposed Gross Floor Area.

Ms. Brennan questioned why the proposed house will be built on the same footprint, stating the front stoop is extremely close to the road. Mr. Pichardo explained the lot is very small and because of the location of the new septic system, they will use the existing footprint.

Ms. Kullar asked whether the proposed project will require the Conservation Commission’s approval. Mr. Pichardo stated it does and they will present the project to the Conservation Commission next Thursday because the entire lot is located within the AE Flood Zone.

Ms. Brennan asked why the proposed structure can’t be placed further back toward the left corner of the lot. A lengthy discussion transpired regarding the possibility of adjusting the location of the proposed house on the property.

Ms. Kullar asked whether the lower level of the home will have breakaway walls. Mr. Laporte stated because the property is located within an AE Flood Zone so breakaway walls are not required.

A brief discussion transpired regarding the site’s elevation.

Mr. Keene opened a brief discussion regarding the proposed septic system.

Public Comment – None.

Mr. Kalick and Mr. Beyer discussed the depiction of the bulkhead and back staircase on the plan.

After further discussion regarding front and side backs and the possibility of turning the home on the plan, it was decided that the representative will return on August 21st with a revised plan. Mr. Beyer discussed the importance of holding the rear 9' setback to prevent abutter opposition.

Dana Anderson, the potential builder, stated all of the existing homes in the neighborhood run parallel to the street and thinks turning the home will look awkward.

A brief discussion transpired regarding whether the home will be a seasonal home.

Ms. Kullar entertained a motion to continue the matter. Mr. Kalick moved, Ms. Brennan seconded to continue the matter to August 21, 2019. The motion carried 5-0-0.

Old Business – For discussion purpose only: Update on Cape Cod Aggregates 665 Scenic Hwy. – Completion of Restoration Agreement Decision #04-23 –

Materials – Site Photographs, Letter regarding bond amount and Proposal to dismantle and relocate equipment and an email from Dave Peterson with a cost breakdown for remaining restoration work.

Diane Tillotson, Dave Peterson and Laura Lorusso Peterson discussed the progress of the restoration.

Board Comment – Ms. Brennan asked if the processing plant has been dismantled. Ms. Tillotson said the plant has ceased operations but hasn't been removed. Mr. Peterson added, the connect conveyor which brings crushed material to the wash tower has been removed as has two sand conveyors and one stone conveyor; so even though the actual plant hasn't been removed, it's not operable. The wash tower is slated to be removed next and then the crushing plants.

Ms. Brennan asked if the equipment will be brought somewhere else. Mr. Peterson stated yes, but they aren't sure where some of the equipment will be relocated to. He said the two crushers will be dismantled and brought to their Falmouth operation; however, an outside company must be hired to relocate some of the larger equipment. Mr. Peterson mentioned there are limited companies who perform such work. The company they've received a proposal from isn't available until September so he discussed the need to store larger equipment on the property until the outside company is available. Ms. Kullar stated she does not have any issues with larger equipment being stored on the property as long as it doesn't interfere with the restoration work.

Public Comment – Lewis Perry commented on the amount of dust the site creates. Mr. Perry attempted to question Mr. Peterson about mail he received from the company but Ms. Kullar reminded the public that it was not a public hearing and such discussion would not be allowed.

Mr. Perry attempted to again discuss mail he said he received from Lorusso Corp. Ms. Kullar advised him the matter would not be discussed that evening.

Additional Board Comment – Ms. Brennan opened a lengthy discussion regarding the bond amount that was required to be increased at a previous hearing and the cost estimate to complete the remaining restoration work. Mr. Peterson reassured the members that the restoration work will be completed because their goal is to redevelop the property.

Ms. Kullar stated the board's previous decision to increase the bond amount will have to be amended. Ms. Kullar asked the representative to have information available at the next hearing regarding the maximum bond amount the surety company will allow.

Additional Public Comment – Debbie Forand feels cost estimates for the shut down and restoration work should have been factored into a long-term business plan. A discussion ensued.

Ms. Tillotson requested a public hearing be scheduled to revisit the bond amount. Ms. Kullar suggested the members perform a site visit prior to the public hearing.

Additional Board Comment - Mr. Kalick expressed concern that the town will be responsible for the cost of the remaining restoration. Mr. Peterson reassured the members that the company will complete the restoration work. Mrs. Lorusso Peterson discussed the challenges the company has faced.

Mr. Keene discussed the cost to purchase a \$250,000 bond. He asked whether the company would be willing to post a cash bond. Mrs. Lorusso Peterson stated the company is not willing to do that. Mr. Peterson agreed. A discussion ensued.

Mr. Peterson discussed the original settlement agreement that was reached.

The matter to reconsider the bond amount was continued to September 18, 2019.

New Business – Ms. Brennan submitted a New York Times article regarding affordable housing for the members to review.

Ms. Brennan discussed televising the meetings. Several members voiced their opposition to televising the meetings.

Public Comment – None.

III. Adjournment –

Mr. O’Brien moved, Mr. Keene seconded to adjourn the meeting. With no discussion, the motion carried 5-0-0. The meeting adjourned at 8:37 PM.

Minutes Submitted by: Carol Mitchell