

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

## **Meeting Minutes**

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

August 21, 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 21, 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, Wade Keene, Harold Kalick, Kat Brennan and Associate Members, Deb Bryant, Chris Pine and Jim Beyer.

**Members Excused** – John O'Brien.

**Also Present:** Roger Laporte, Carol Mitchell, Dana Anderson, Mike Ellerbrook, Jose Pichardo, Robert Dutch, Ann Anslem, David Anslem, Sean Scully, James Berry, Kathy Boudreau, Robert Boudreau, Maryann Dill, Drew Hoyt, Tom Pappas and Roger Forget.

*Harold Kalick will be writing the Decisions.*

### **II. Agenda Items**

**1. Approval of Minutes** – Ms. Kullar entertained a motion to defer the approval of the minutes of the August 7, 2019 meeting. **Ms. Brennan moved, Mr. Keene seconded to defer the approval of the minutes of the August 7, 2019 meeting.** With no discussion, the motion carried. 4-0-0.

*Sitting on the hearings; Amy Kullar, Wade Keene, Kat Brennan, Harold Kalick and Jim Beyer.*

**2. 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.*

**(Continued from August 7, 2019)**

Jose Pichardo of Green Seal Environmental addressed the members and discussed the revisions the board had requested at the previous hearing. He explained that he attempted to revise the plan; however, the end result would have further adverse impacts to the neighborhood than what was originally proposed. Mr. Pichardo noted that there weren’t any abutters in opposition to the project and respectfully requested the board approve the original plan that was submitted.

Board Comment – Ms. Brennan opened a brief discussion regarding parking in the neighborhood.

Ms. Kullar acknowledged the representative’s efforts with attempting to revise the plan as previously requested by the board.

Mr. Beyer discussed the existing footprint.

Ms. Brennan questioned whether the property owner was opposed to the revisions requested by the board. The property owner, Mike Ellerbrook, stated it was always his intention to rebuild in the same footprint. He said every existing house on the street sits parallel to the street so he is opposed to turning it because it will look out of place. Also, he would like to have some backyard and will lose it if the house gets pushed back nine feet on the property line as previously requested by the board.

Mr. Pichardo mentioned that the Conservation Commission has issued an Order of Conditions.

Additional Board Comment – Mr. Pine asked if the existing shed will remain. Mr. Pichardo stated it will be removed.

Mr. Beyer questioned the purpose of the red line that’s depicted on the plan. Mr. Pichardo explained the red line outlines the limits of work, which is required by the Conservation Commission.

Mr. Beyer reviewed the revised and original plans side-by-side. A discussion ensued.

Mr. Pine opened a brief discussion regarding the existing and proposed house elevations.

Ms. Kullar feels what's being proposed meets the character of the neighborhood.

Public Comment – None.

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 commented that the proposed project will not conform to the setbacks; however, none of the houses in the neighborhood do. She thinks the proposed construction will be less detrimental to the neighborhood and noted the Conservation Commission and the Board of Health have approved the proposed project.

Ms. Kullar entertained a motion. **Mr. Beyer moved, Ms. Brennan seconded to grant Special Permit #2019-13 per the original plans and specifications submitted 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.** The motion carried. 5-0-0.

**3. 230 Sandwich Road, Special Permit #18-08-40B** – Requesting to amend the Comprehensive Permit from 16 units to 20 units.

*Materials – Revised Plan of Record and revised Narrative.*

Attorney Drew Hoyt was present representing the applicant.

Ms. Kullar stated the board received a late submission from the representative the previous evening and due to the size of its content, it was impossible to review for this meeting. She asked that the matter be continued because the revised material will need to be reviewed by a third party on behalf of the board. Attorney Hoyt agreed to continue the matter to September 18, 2019. He also agreed to waive the time requirements under 40B. Ms. Kullar asked that any future submissions, particularly any as large as this size, be submitted at least a week in advance. Mr. Hoyt agreed.

Public Comment – Robert Dutch spoke on behalf of Upper Cape Cod Regional and as a concerned resident. He stated he is seeking clarity of the proposed changes.

Abutter, Sean Scully, discussed the numerous changes to the project the property owner has proposed over the years. He too is seeking additional information on the proposed

changes. Mr. Laporte explained the request is to change the number of proposed units from 16 to 20 units. He stated the members have asked the applicant to identify all of the amendments he'd like to make to any of the conditions that were required under the previously granted Special Permit.

Mr. Dutch asked whether the public will be able to obtain a copy of the proposed changes the applicant is requesting. Mr. Laporte indicated they will be available to the public.

A brief discussion transpired regarding the process for amending the conditions required under the existing Special Permit.

Mr. Scully expressed concern that a connection road which runs from Chase Estates into the Port of Call subdivision is being used even though a cease desist was issued to prevent cars and trucks from using it. Ms. Kullar stated she was not aware that the road was being used and thanked Mr. Scully for notifying the board.

With no further discussion, Ms. Kullar thanked those who provided testimony and suggested all concerned parties return on September 18, 2019.

Ms. Kullar entertained a motion. **Mr. Keene moved, Ms. Brennan seconded to continue the matter to September 18, 2019.** The motion carried. 5-0-0.

**Old Business** – Ms. Kullar discussed the need to hire an outside consultant to interpret the documents that were submitted the previous evening by Attorney Hoyt, the representative for Chase Estates.

Ms. Kullar mentioned the Harbor Way matter will be back before the board sometime in November. A discussion ensued.

**New Business** – None.

**Public Comment** – None.

### **III. Adjournment –**

**Mr. Keene moved, Ms. Brennan seconded to adjourn the meeting.** The motion carried 5-0-0. The meeting adjourned at 7:37 PM.

Minutes Submitted by: Carol Mitchell