

Town of Bourne Zoning Board of Appeals
Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

July 19, 2017

I. Call to order

Chair Amy Kullar called to order the meeting of the Zoning Board of Appeals at 7:00 PM on July 19, 2017. 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.

II. Members Present: Amy Kullar, Timothy Sawyer, Harold Kalick and Associate Members, Kat Brennan and Debbie Bryant.

Members Excused: Wade Keene and John O'Brien.

Ms. Kullar announced that Lee Berger is no longer an Associate Member of the Board of Appeals. She stated the selectmen declined to reappoint him.

Also Present: Roger Laporte, Carol Mitchell, Steven Pedro and Joseph Povoas.

Documents: Agenda and documents Variance, **2017-V13** and Special Permit, **2017-SP14**.

Sitting on tonight's hearings are; Amy Kullar, Timothy Sawyer, Harold Kalick, Kat Brennan and Debbie Bryant.

Timothy Sawyer will be writing the Decisions.

III. Agenda Items

1. Approval of Minutes -

Ms. Kullar entertained a motion to approve the minutes of the June 21, 2017 meeting. **Ms. Brennan moved and Mr. Sawyer seconded to approve the minutes of the June 21, 2017 meeting as written.** With no discussion, the motion carried. 5-0-0.

2. 77 Lewis Point Road, Variance 2017-V13— request for a Variance from Section 3560 of the Bourne Zoning Bylaw; to install a 7 foot high fence and exceed height requirements of fencing by 1 foot. Proposed fence is to be installed on the southerly boundary shared with 73 Lewis Point Road.

Property owner, Joe Povoas, addressed the Board and discussed the proposed project. He explained that his abutting neighbor's driveway is approximately 4' higher than his, adding that his neighbor has a large amount of unsightly material that he stores directly on the property line which has become an eyesore, particularly in the winter months when the trees are bare. Mr. Povoas stated he installed a 4' high chain link fence that runs the length of the property and the unsightly material in the neighbor's yard is stacked higher than the fence. He would like to install a 7' wood stockade fence not only for privacy but to alleviate the unsightly appearance of the neighbor's yard. The neighbor has submitted a letter of endorsement to the Board. Mr. Povoas stated the topography of the land; i.e., the difference in grade, does not allow for privacy which is a hardship.

A brief discussion transpired concerning the location of the proposed fence.

Board Comment – Mr. Sawyer stated he performed a site inspection and commented on the amount of debris in the neighbor's yard. He questioned whether or not the neighbor has pledged not to stack more debris higher than the proposed 7' fence resulting in the need for an even higher fence. Mr. Povoas stated he will not go higher than 7' because anything higher wouldn't be aesthetically pleasing. He stated he has planted some vegetation to serve as natural screening; however, the fence would provide the privacy he's seeking.

Ms. Brennan asked if there was a way to stipulate that the neighbor cannot stack material any higher. Ms. Kullar stated the ZBA doesn't have that authority.

Mr. Povoas informed the Board that only 64' of the fence will be 7' high, stating it will transition down to 6'. He offered a brief description of where the transitioning will begin.

Public Comment – None.

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

Ms. Kullar stated she feels the topography of the lot is causing a hardship and doesn't feel that the installation of the fence will cause any substantial detriment to the public good. Several board members agreed and acknowledged the thoroughness of the completed application that was submitted by the property owner.

Ms. Kullar noted that Mr. Povoas' mailing address is in California and questioned why he would like to install the fence if he isn't here during the months when the leaves are sparse. Mr. Povoas stated he is here frequently during the winter and early spring.

After a brief discussion, Ms. Kullar entertained a motion. **Ms. Brennan moved and Ms. Bryant seconded to grant the Variance allowing the applicant to install a 7' high fence for a stretch of 64' beginning at his home to run along the border of his property, due to the topography of his land there is a substantial hardship, the fence will not cause a substantial detriment to the public good.** With no discussion, the motion carried. 5-0-0.

3. 15 Meetinghouse Lane, Special Permit, 2017-SP14, request for a Special Permit pursuant to section 3210(h) of the Bourne Zoning Bylaw, under M.G.L., Ch. 40A, Sec. 9, to permit the repair and re-installation of a thirty-four foot, three inch (34'-3") free-standing sign.

Steven Pedro of Ayoub Engineering, representing McDonalds Corporation, addressed the Board. He stated the free-standing sign is the only component remaining on the site from when the original building was built approximately 20 years ago. The sign suffered damage from a storm and was removed for repairs. There has since been a change to the Bylaw with regard to signage that now requires a Special Permit for any sign being altered and/or is over 15' in height. The applicant is seeking a Special Permit to repair the damaged sign and reinstall it in the original location.

Ms. Brennan briefly discussed the Bylaw that now restricts the height allowed for a sign. She commented on a neighboring business' sign, Dunkin' Donuts, which is in compliance with the Bylaw. She feels the smaller sign is more tasteful.

Ms. Kullar asked why the 15' requirement isn't adequate. Mr. Pedro discussed the topography of the site stating the location is somewhat of a depressed area. He briefly discussed the Special Permit Bylaw section which allows the Board to grant a Special Permit up to 35'. Ms. Kullar stated that's correct, provided the five criteria is met. She doesn't feel the information provided on the application demonstrates that.

Mr. Laporte asked how much lower is the area where the sign will be located than the road. Mr. Pedro stated the area is approximately 5 feet lower than the road.

Ms. Kullar stated the neighboring business, Dunkin' Donuts, has a sign that complies with the Bylaw and doesn't understand why McDonalds can't also comply. Mr. Laporte stated he performed a site visit and in his opinion, because the grade of the location of the sign is 5' lower, to grant a Special Permit for the additional 5 feet is reasonable. Ms. Kullar agreed. Mr. Pedro argued that the existing sign is 35 feet, it was damaged and they're simply looking to repair the damage and reinstall the sign. A brief discussion

transpired with regard to the change in the Sign Bylaw since the original sign was installed.

Mr. Kalick feels it is in the best interest of the town to conform to the Bylaw. He agreed with Mr. Laporte that because of the difference in grade, allowing an additional five feet is reasonable; the Board agreed.

After a lengthy discussion with regard to modifying the design of the sign, the applicant requested to withdraw the application without prejudice.

Public Comment – None.

Ms. Kullar moved to accept the applicant's request to withdraw without prejudice. Ms. Brennan seconded. With no discussion, the motion carried. 5-0-0.

4. Old Business – Ms. Kullar mentioned that the selectmen declined to reappoint Associate Member, Lee Berger, because he is no longer a registered voter in the Town of Bourne. Ms. Brennan stated she was offended by the way it was handled and wondered if the Board should submit a letter to the Select Board, as the selectman are now called, questioning their decision. A discussion ensued. Ms. Kullar stated applications are being accepted to fill Lee's position.

5. New Business – None.

6. Public Comment – None.

IV. Adjournment –

Mr. Kalick moved and Ms. Brennan seconded to adjourn the meeting. With no discussion, the motion carried 5-0-0. The meeting adjourned at 7:35 PM.

Minutes Submitted By: Carol Mitchell