

Town of Bourne Zoning Board of Appeals Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

October 3, 2018

I. Call to order

Chair Amy Kullar called to order the meeting of the Zoning Board of Appeals at 7:00 PM on October 3, 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.

Members Present: Amy Kullar, Harold Kalick, Tim Sawyer, and Associate Members, Kat Brennan and Deb Bryant.

Members Excused: John O'Brien, Wade Keene, and Associate Member Chris Pine.

Also Present: Roger Laporte, Carol Mitchell, Christopher Kirrane, Esq., Kevin Reardon, Joseph Cecchinelli, Thomas Johnston, Chris Byrne, Nancy Byrne, Elaine Heath, Joyce Dalton, Marie Coleman, Chris Belanger, Jim Dineen, Greg Siroonian, Lisa Eldridge and David Eldridge.

Tim Sawyer will be writing the Decisions.

II. Agenda Items

- 1. Approval of Minutes** – Ms. Kullar entertained a motion to approve the minutes of the September 19, 2018 meeting. **Mr. Sawyer moved, Ms. Bryant seconded to approve the minutes of the September 19, 2018 meeting.** With no discussion, the motion carried. 3-0-2. Mr. Kalick and Ms. Brennan abstained.

Sitting on the hearing; Amy Kullar, Harold Kalick, Tim Sawyer, Kat Brennan and Deb Bryant.

- 2. 165 Jefferson Road, Special Permit 2018 SP11, 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.

Materials – Letter to withdraw without prejudice.

Attorney Christopher Kirrane addressed the members to request the petition be withdrawn without prejudice. He explained that the lot measurements were based on Mean High Water taken in the 1950s that refer to a 1920s plan; therefore, their lot calculations are incorrect.

Board Comment - Ms. Brennan asked if the lot size will be more or less as a result of their findings. Mr. Kirrane stated the lot size will now be less.

Ms. Kullar asked if he anticipates any further issues that will cause another withdrawal. Mr. Kirrane stated he does not.

Mr. Laporte asked if the swimming pool issue has been resolved with FEMA. Mr. Kirrane stated he believes it has been resolved. A brief discussion transpired regarding the proposed pool.

Ms. Kullar entertained a motion to allow the representative to withdraw the application without prejudice. **Ms. Brennan moved, Ms. Bryant seconded to grant a withdrawal without prejudice.** With no discussion, the motion carried. 5-0-0.

3. 594 Circuit Avenue, Special Permit 2018-14 – Requesting Special Permit under M.G.L., Ch. 40A, Sec. 9 and the Bourne Zoning Bylaw: Sections 1331; 2320; 2450: 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.

Materials – Public Hearing Notice, Special Permit/Supportive Finding Application, Architectural Plan, Gross Floor Area Calculation Worksheet, Abutters List, Board of Health letter dated 10/3/201, and Directions to the property.

Greg Siroonian described the proposed project. Mr. Siroonian explained that in 2015 the board granted a Special Permit for a sewer design, stating the new owners that had purchased the property wanted to increase the dwelling size and make some changes to the site which resulted in a septic upgrade. Mr. Siroonian then explained the differences from what had previously been approved.

Board Comment – Ms. Kullar asked if the proposed structure will be FEMA compliant. Mr. Siroonian stated yes and explained the proposed structure will be built on concrete piles vs. wood piles as previously designed.

Ms. Brennan made note that although the new design is not much different than the previously submitted design, it is very different than what's existing. Mr. Siroonian agreed.

Mr. Siroonian then discussed the allowable Lot Coverage, the Gross Floor Area and the easement that was granted by the Town for the proposed septic system.

Ms. Kullar opened a brief discussion regarding the new design. She questioned the building inspector as to why a Variance isn't needed vs. a Supportive Finding. A brief discussion ensued.

Public Comment – None.

Ms. Brennan voiced her concern over the amount of waterfront construction being allowed and the sizes of the new structures. She suggested the board begin to limit such projects. A discussion ensued.

Ms. Kullar asked if this property will be owner occupied or if the property owner will list the property on Airbnb. Mr. Siroonian stated he believes the property will be utilized by family members.

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

Ms. Kullar entertained a motion. **Mr. Kalick moved, Mr. Sawyer seconded to grant a Supportive Finding under Special Permit 2018-14 to raze and reconstruct a new non-conforming, single-family structure that is not substantially more detrimental than the original structure to the neighborhood per the requirements as stated in the Board of Health letter dated October 3, 2018 and the Architectural Plans dated September 4, 2018.** With no discussion, the motion carried. 4-1-0. Ms. Brennan opposed.

Mr. Laporte recused himself from discussion of the next hearing.

4. 6 Arlington Drive, Special Permit 2018-13 – Requesting Special Permit 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-40 district.

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

Ms. Coleman and Mr. Belanger addressed the members.

Ms. Kullar stated the matter had to be continued because the applicants were not in attendance at the previous hearing. Mr. Belanger stated they never received notification of the hearing. Ms. Kullar said she spoke with the board’s administrative secretary who informed her that the applicant’s notification was sent by certified mail. Ms. Coleman reiterated they never received notification. Ms. Kullar explained the matter was continued as a courtesy and the board is happy to hear their presentation.

Mr. Belanger explained they are seeking a Special Permit for a kennel license because they moved to town with 4 dogs in September of 2017. He stated the four dogs have been individually licensed with the town and they are seeking the Special Permit for their four dogs plus one for their occasional short-term visitors. He said this will be a non-commercial kennel license, that they have met the Board of Health regulations and their property meets Variance requirements.

Board Comment – Ms. Brennan voiced concern as to whether she is allowed to participate in the hearing since she was not in attendance at the first hearing. Mr. Laporte stated because the applicant did not appear at the original hearing, the matter is able to be heard by all members in attendance that evening.

Ms. Kullar asked for the breed of their dogs. Ms. Coleman said they have a two Black Lab mixes, a Hound mix and a Redbone Coonhound. She reiterated that they are all individually licensed with the Town of Bourne and explained that they obtained four animals through fostering.

Ms. Kullar asked If anyone is home all day with the dogs. Ms. Coleman stated she works from home and is there with the animals all day. She stated they are contained in the backyard which is fenced in. Mr. Belanger elaborated stating they have 2 fenced areas within the backyard; an outer perimeter fence and the dogs have their own fenced in area.

Ms. Bryant asked if they will continue fostering animals. Ms. Coleman stated no, they are seeking permission for the additional dog because they have out of state family who visit

occasionally and bring their dog with them; they are not seeking to add a fifth dog to the household.

Mr. Kalick asked for the ages of the dogs. Mr. Belanger stated their ages range from 2 through 6.

Public Comment - Joyce Dalton expressed her opposition with granting the license. She doesn't feel the neighborhood is suitable for a kennel. Ms. Kullar discussed the bylaw's definition of a kennel. Mr. Sawyer asked Ms. Dalton to pinpoint her property's location on the site plan.

Elaine Heath also expressed her opposition, stating the barking from four dogs will be excessive. Mr. Sawyer asked Ms. Heath to pinpoint her property's location on the site plan.

Mr. Kalick asked if the barking is constant or occasional. Ms. Heath stated the barking isn't excessive now; she's more concerned about future barking. Mr. Kalick asked if she has a dog. Ms. Heath stated she does not currently have a dog but she has owned a dog in the past; adding that she is not anti-dog.

Mr. Kalick reiterated that the applicants will not be breeding dogs.

Abutter, Kevin Reardon, pinpointed his property's location on the site plan. He stated he hears the dogs bark at night. He thinks there are currently more than four dogs on the property and expressed concern that if the license is granted, the applicants may obtain up to nine dogs. Ms. Kullar assured Mr. Reardon that the board can limit the number of dogs the applicants may obtain.

Ms. Kullar explained to those in attendance that there is a noise ordinance in the town and if a dog barks in excess of 10 minutes consistently, a complaint may be filed with the Department of Natural Resources for enforcement.

David Eldridge pinpointed his property's location on the site plan. He stated he cannot support the kennel because while the dogs do not bark consistently, when they do bark it's very loud and carries throughout the neighborhood. He explained that he is a real estate agent and feels that allowing an excessive number of number of dogs on one property will be a detriment to property values. He doesn't feel that granting the license is in the best interest of the neighborhood.

Joseph Cecchinelli pinpointed his property's location on the site plan. He stated he is planning on selling his property and is worried of repercussions should a kennel be allowed in the neighborhood. He said he hears howling at night, not barking.

Ms. Brennan expressed empathy with the possibility that the applicants may be required to reduce the number of pets they have.

Ms. Kullar asked how many people live at the property. Ms. Coleman stated it is just she and Mr. Belanger. Ms. Kullar made note that when she performed a site visit there were four cars at the property. Ms. Coleman explained that she has a personal vehicle, Mr. Belanger has a personal vehicle as well as a commercial vehicle and her mother and sister are visiting.

Ms. Kullar reiterated that the reason the applicants were not in attendance at the previous hearing was because they did not receive notification. Ms. Coleman agreed.

A brief discussion transpired regarding mail delivery issues in the neighborhood.

Mr. Cecchinelli stated there are currently more dogs in the neighborhood than there are people.

Ms. Coleman said there are multiple dwellings on one parcel in the neighborhood and that has at least five dogs. She said she and Mr. Belanger are trying to obtain a license for the five dogs in a proper, legal way. She said she has never received a noise complaint from any of the neighbors but is willing to put a barking collar on the dogs in an attempt to prevent them from barking excessively. She stated she likes the neighborhood and wants to be a good neighbor.

Mr. Sawyer asked if the dogs are kept indoors at night. Mr. Belanger stated they are except when they are let out for their final potty break.

Ms. Kullar asked if the dogs are ever loose outside of their property. Ms. Coleman stated they are not.

Mr. Cecchinelli discussed the breed of dogs that one of his tenants in the neighborhood has.

Ms. Kullar explained to the applicants that at the previous hearing several of the neighbors voiced their concern about excessive barking; particularly at night. She

suggested that the applicants take this into consideration and prevent the dogs from barking at night should the kennel license be granted.

Mr. Reardon asked how many dogs are currently on the property. Ms. Coleman stated there are five dogs currently on the property; four are their own and one is her sister's whom they dog sit for when she travels for work. A discussion ensued.

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

After a brief discussion, Ms. Kullar entertained a motion. **Ms. Bryant moved, Ms. Brennan seconded to grant Special Permit 2018-13 at 6 Arlington Drive, 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-40 district. The kennel license shall be limited to the four dogs that are presently residing and licensed at the property; Alice, Bo, Cameron and Elsa and should the number of dogs at the property ever become less than the four currently listed, a new dog may not be added to replace the loss of the animal. Commercial breeding is prohibited.** With no further discussion, the motion carried. 5-0-0.

Old Business – Ms. Kullar distributed the most recent draft template she created for decisions relating to kennels. Ms. Kullar entertained a motion to approve the draft template. **Mr. Kalick moved, Ms. Bryant seconded to approve the draft template form for decisions pertaining to kennels.** With no discussion, the motion carried. 5-0-0.

New Business – Mr. Kalick suggested writing a thank you letter on behalf of the board to Attorney Troy for his assistance with Harbor Way. A discussion ensued.

Public Comment – None.

III. Adjournment –

Mr. Kalick moved, Ms. Brennan seconded to adjourn the meeting. With no discussion, the motion carried 5-0-0. The meeting adjourned at 8:01 PM.

Minutes Submitted By: Carol Mitchell