

**Board of Selectmen
Minutes of Tuesday, June 18, 2019
Bourne Veterans' Memorial Community Center
Buzzards Bay, MA**

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TA Tom Guerino
ATA Glenn Cannon

Selectmen

Judy Froman, Chair
James Potter, Vice Chair
George Slade, Clerk
Jared MacDonald
Peter Meier - Excused

2019 JUL 30 PM 3:22
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Note this meeting is being televised and recorded. If anyone in the audience is recording or videotaping, they need to acknowledge such at this time – Michael Rausch Bourne Enterprise and Beth Treffeisen Cape Cod Times.

All items within the meeting agenda are subject to deliberation and vote(s) by the Board of Selectmen.

Documents

6:30 p.m. Call Public Session to order in Open Session

Meeting Called to Order

Madam Chair Froman called the meeting to order at 6:30 p.m.

Moment of Silence for our Troops and our public safety personnel /Salute the Flag

Vision: Bourne is a community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community, embraces excellent education, and the amenities that it affords and offers to citizens a healthy, active lifestyle.

Mission: Bourne will maximize opportunities for social and economic development while retaining an attractive, sustainable and secure coastline and environment for the enjoyment of residents and visitors. Through responsibility and professional leadership and in partnership with others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.

1) Hearing – 6:30 p.m. Maxim demolition hearing: 328 Main Street, Buzzards Bay

Voted George Slade moved and seconded by Jared MacDonald to open the public hearing. Roll Call Vote: James Potter – Yes; George Slade – Yes; Jared MacDonald – Yes – Judy Froman – Yes. Vote 4-0-0.

Mr. Maxim said he spoke with Coreen Moore last Tuesday told her he'll be meeting with the site plan engineer; we are moving forward on a project and we will be taking the building down. Engineer will draw up plans, hopefully he will be able to make it to the next meeting, he will be asking what can and cannot be done. I'll be submitting a site plan to Coreen Moore within the next two to three weeks. We are looking to do a 2 bedroom apartment above and office space below. It is a flood zone so it will have to meet the flood zone requirements.

James Potter questioned the time frame for taking the building down. Mr. Maxim said once we have the plan approved and the building permit, then we will take the building down and put up a new building.

Judy Froman said the time frame is important because we keep hearing "down the road". One aspect we can consider is the blight bylaw, that can be a direction to go. If the building does not look like it is abandoned it has window, it would be a way to buy some time to put together the long-term plan.

Jared MacDonald suggested to set a time frame for the demolition – maybe 60-90 days for demo then every day after that it will be a blight bylaw violation.

Mr. Maxim said he doesn't think that is reasonable because we are on the state highway so we have to meet their regulation for the setbacks. If we use the foundation that is already in the ground, we could have grandfathered clause by the state as far as the setbacks. Our plan is to use the foundation that exists and build it up to take it out of the flood zone. If we can't do that we will be taking the foundation out and rebuilding a new foundation. Don't have a problem with taking the building down if the Board grandfathered me in, and I could build on the foundation. I would also take out the foundation if I have to if I can keep my grandfather clauses. I don't want to lose the grandfathered status that is available to me by law.

Tom Guerino said don't know where that would be grandfathered in the bylaw.

Jared MacDonald said we could give Mr. Maxim a time frame so he can address that issue.

Roger Laporte said there's no grandfathered clause from the state. Any building that is abandon and not used for more than two years you'd lose all protection under zoning. So that lot now has to meet zoning. If it doesn't meet zoning it has to have relief from the Board of Appeals.

Judy Froman said whether Mr. Maxim is going to use the footprint for the building or not still seems to be unknown. There is a possibility of having the Town Administrator enforce the blight bylaw. That has parameters with specifics on the upkeep of the building, specifics on windows, and making it look like it is a habitable non abandoned building. It also includes keeping the property clean/maintained. I'm moving towards having the blight bylaw enforced.

Mr. Maxim said at the first or second meeting he did offer to put the windows back in and was told it wasn't necessary. I believe I have met everything I was asked to do at that time. Would like his engineer to find out if there are any bylaws restrictions. Would like to use the foundation and build it up out of the flood zone, because it would save my family money. Don't have a problem taking the building off the foundation as long as I maintain the grandfathered laws, if they apply. The engineer we have been working with believes there are grandfathered clauses on a state highway. Mr. Maxim said he did submit a structural engineer's letter stating he went through the building and it is structurally sound.

James Potter said the state doesn't have any grandfathering over our local zoning. They may be able to grandfather the curb cut. On your land the state doesn't have any jurisdiction to the zoning we have in town.

Mr. Laporte said there is a curb cut; once you do a change of use with the state you have to apply for a new curb cut. Our zoning trumps the state. State Law Enabling Act enables the town to make its own zoning. I am the Zoning Enforcement Officer, if you don't like my decision you can appeal to the appeals court.

Judy Froman said this has gone on for a year and a half maybe two years; we need to move this forward.

James Potter said the hearing has been the application of the bylaw; if the building appears it is inhabited, and the property is maintained, then it is not in violation of the blight bylaw. Judy Froman said the building isn't falling apart; so if we move forward directing the Town Administrator to enforce the blight bylaw that has strict guideline that includes timeframes and it includes fines.

Mr. Maxim said he would be in agreement with that decision if it was postponed until the next meeting so he can have an engineer here with the plans, and they could have spoken to the state.

Mr. Laporte said the state regulates the curb cut but does not regulate what goes on the lot or setbacks. Mr. Laporte also said if the house was taken down that foundation/its location is grandfathered for two years on a special permit from the Zoning Board of Appeals to change a non-conforming use.

George Slade said one option is to remediate the building so we can avoid the blight, which will buy him more time.

Mr. Maxim said the project we have now is what we had two years ago, except it is a little smaller. I did have two offers. I am going to go ahead with this project, I would like the Board to postpone any decision until the next meeting so I can bring in the engineer. George Slade said one way to postpone the obstacle is to do the remediation. This has been going on for two years. There should be a time certain to either raise the foundation to prep it for the new building, or at least remediate the building and maintain the property for an acceptable appearance from the street. Judy Forman said that will buy you some time; then you will have more time to check with the state and get your plans finalized. Would like to move this forward.

Jared MacDonald suggested giving Mr. Maxim 4 weeks. Judy Froman suggested to ask the Town Administrator to enforce the Blight bylaw; that would mean remediation of the building and the property.

Mr. Maxim said he is requesting 2 weeks; he feels he has been compliant to what the Board has been asking. He said he cleaned the lot, and painted the building.

Mr. Guerino said you have two options demolition or the blight bylaw. If Mr. Maxim is moving forward with the engineering plans for an office space/apartments that would be in a new building and the current building would be demolished; so the building would be coming down anyway. It would seem the Board would enforce the demolition bylaw and not drag the building out relative to the blight bylaw and put a date cap, the Board determines, on the demolition.

Mr. Maxim said the problem with the building coming down would mean I have to bring machinery there, knock the building down, and cap the foundation. It would cost a lot. The plan is once I have the permit in hand to start moving forward.

Tom Guerino said Mr. Maxim indicated that if he had to meet the blight bylaw specifications that would cost him money. One way or another Mr. Maxim will have to spend some money, either to tear it down or get it out of blight.

Glenn Cannon said if you vote to enforce the blight bylaw, that would give professional staff a chance to work with the applicant to bring the building up to standards. The building being reconstructed is going to take months. To enforce the blight bylaw it improves the look of the building, the owner can decide if he wants to knock it down or put money back into it. It gives the staff a chance to work with him.

Jared MacDonald said the least expensive way is to give Mr. Maxim until the 9th to get the building out of blight. After that we can engage the Town Administrator at that meeting and enforce the blight bylaw. If he can make it look presentable for the time, it gives him time to put final plans together.

Voted Jared MacDonald moved and seconded by James Potter that by July 9th the building will be within the standards of the blight bylaw. If not, then it will fall under the

blight bylaw violation and appropriately fined; under the direction of the Town Administrator.

George Slade questioned who will make the decision whether it satisfied the blight bylaw? Tom Guerino suggest it be Roger Laporte and Coreen Moore.

Roll Call Vote: Jared MacDonald – Yes, George Slade – Yes; James Potter – Yes; Judy Froman – Yes. Vote 4-0-0.

Mr. Maxim said the blight bylaw states it is blight if it hasn't been lived in for 45 days. Mrs. Froman said to work with the Town Administrator and the staff. James Potter said there is some leeway, it has to look inhabited.

Voted James Potter moved and seconded by Jared MacDonald to continue the hearing until July 9th. Roll Call Vote: Jared MacDonald – Yes; George Slade – Yes; James Potter – Yes; Judy Froman – Yes. Vote: 4-0-0.

2) Selectmen's Business

a. Waste Water Facility – State Revolving Fund (SRF) – Authority To File

b. Waste Water Facility – State Revolving Fund (SRF) – Enterprise Fund Certification

Judy Froman read the Authority to File: Whereas, the Town of Bourne (the Applicant), after a thorough investigation, has determined that the work activity consisting of: a Wastewater Treatment Facility, Pump Station and Force Main is both in the public interest and necessary to protect the public health, and that to undertake this activity, it is necessary to apply for assistance; and

Whereas, the Massachusetts Department of Environmental Protection (the MassDEP) and the Massachusetts Clean Water Trust (the "Trust") of the Commonwealth of Massachusetts, pursuant to Chapter 21 and Chapter 29C of the General Laws of the Commonwealth are authorized to make loans to municipalities for the purpose of funding planning and construction activities relative to Water Pollution Abatement Projects; and

Whereas, the Applicant has examined the provisions of the Act, Chapter 21 and Chapter 29C, and believes it to be in the public interest to file a loan application.

Now, therefore, be it resolved by the Board of Selectmen of the Town of Bourne as follows:

1. That the Town Administrator is hereby authorized on behalf of the Applicant to file applications and execute agreements for grant and/or loan assistance as well as furnishing such information, data and documents pertaining to the applicant for a grant(s) and/or loan(s) as may be required; and otherwise to act as the authorized representative of the Applicant in connection with this application.
2. That the purpose of said loan(s), if awarded, shall be to fund construction activities.
3. That if said award is made the Applicant agrees to pay those costs which constitute the required Applicant's share of the project cost.

Voted James Potter moved and seconded by Jared MacDonald to approve. Vote 4-0-0.

**2.b. Waste Water Facility – State Revolving Fund (SRF) – Enterprise Fund
Certification**

Voted James Potter moved and seconded by Jared MacDonald to certify the authority to file for the Wastewater Facility State Revolving Enterprise Fund. Vote 4-0-0.

3) Adjourn

Voted George Slade moved and seconded by James Potter to adjourn. Meeting adjourned at 7:10 pm. Vote 4-0-0.

Respectfully submitted – Carole Ellis, secretary.