

Town of Bourne
Zoning Board of Appeals
Meeting Minutes

Zoom Meeting Platform
Meeting ID: 810 6695 1893
February 16, 2022

I. Call to Order

Chm. James Beyer called to order the meeting of the Zoning Board of Appeals at 7:00PM on Wednesday, February 16, 2022, held via Zoom Platform. Chm. Beyer explained the Board is governed by the laws under M.G.L., Section 40A and 40B, and that all appeals must be filed with the Town Clerk within 20 days of the filing of the decision.

Note: The meeting was being held via the Zoom platform, and was being recorded, as noted per the “Recording in Progress” icon that was displayed. The proceeding listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may be discussed, and other items not listed may be discussed due to the limited extent permitted by the Open Meeting Law. All items within the meeting agenda are subject to deliberation and vote(s) by the Zoning Board of Appeals.

Members present: James Beyer, Chris Pine, Pat Nemeth, John O’Brien, Wade Keene, Associate Member Karl Spilhaus

Excused members: None

Others in attendance: Ken Murphy, Paulette and Richard Beardmore, Alan and Jenna Furtado, Raphael Fraga, “hidea”, Ken Joyce, and “5087597645”

II. Approval of Meeting Minutes:

- December 1, 2021, meeting minutes
 - Chm. Beyer confirmed that all members have received the minutes from this hearing date. All members confirmed receipt of the minutes. Corrections were sent to the administrative assistant by Ms. Nemeth and were made. No additional corrections requested.
 - Motion made by Ms. Nemeth and seconded by Mr. Keene to approve the minutes with corrections. **Mr. Pine – yes, Ms. Nemeth – yes, Mr. Keene – yes, Mr. O’Brien – yes, Chm. Beyer – yes. Minutes are approved.**
- December 15, 2021, meeting minutes
 - Motion made by Mr. O’Brien and seconded by Mr. Pine to approve the minutes. **Mr. Pine – yes, Ms. Nemeth – yes, Mr. Keene – yes, Mr. O’Brien – yes, Chm Beyer – yes. Minutes are approved.**

III. Agenda Items:

1. Address: 55 Pasture Road

Materials reviewed: Application for Variance, Petition for Variance, Property Map, Certified Plot Plan, Abutters List, Driving Directions with Map, Property photos

Request for a variance 2021-V27 for 2 feet, 3 inches from the side yard setback requirement for a carriage house that has been constructed on the property, in reliance of a surveyed plan, which turned out to be incorrect.

At the request of the applicants, this matter has been continued to March 2, 2022, due to pending negotiation of a solution between the applicants and their neighbor. A brief discussion ensues. Mr. Pine suggested extending the continuance to March 16, 2022, to allow for adequate time of a resolution between the applicants and their neighbors. Ms. Nemeth suggested extending the continuance to April 6, 2022. Chm. Beyer stated that the applicant requested March 2, 2022, and it is believed that will be an adequate amount of time for them.

Motion made by Mr. Pine, and seconded by Ms. Nemeth. **Mr. Pine – yes, Ms. Nemeth – yes, Mr. Keene – yes, Mr. O’Brien – yes, Chm. Beyer – yes. Continuance granted to March 2, 2022.**

Chm. Beyer requested that Mr. Pine write that decision when the time comes. Mr. Pine agreed to this request.

2. Address: 3 Cranberry Road

Materials reviewed: Application for Special Permit, Assessors Map, Certified Plot Plan, Driving Directions, Supplemental Letter from the applicant, Supplemental Photos; of the property, and the dogs, Letter submitted by abutter

Request for Special Permit Kennel 2022-SP01 to house four dogs on their residential property.

Ms. Jenna Furtado, the property owner, spoke to the matter. She discussed the reasoning behind the request. She made note that the four dogs on the property are all spayed and neutered. She further explained that her husband, Mr. Alan Furtado, went to obtain licenses for the dogs, and was informed of the need for a kennel license due to the number of dogs on the property.

Chm. Beyer shared that there is an objection that was submitted by an abutter. He proceeded to read the objection letter from the abutter, Ms. Lois Rehrig, 7 Cranberry Road, Buzzards Bay, submitted on February 15, 2022. In the letter, Ms. Rehrig describes a 20-25’x8’ area of land that abuts Ms. Rehrig’s property line. She further described that this area of land is where the applicant has been “throwing the [dog] feces” and in turn, causing rat and odor issues for Ms. Rehrig. She states that “unless this feces situation is rectified, I cannot approve of this

request.” Chm. Beyer addressed the property owner, questioning whether they were aware of this objection. Mr. Furtado responded. He confirmed that he was aware of the objection and has since met with the Board of Health to come up with a solution for the issue regarding the disposal of the species. He reviewed the solution with the board and discussed the current process he goes through when disposing of the feces, including the use of an enzyme, and watering it down.

Member comment: Ms. Nemeth stated she believes that having four dogs on a property of this size is “a lot.” While she respects the reasoning for the applicants’ request, she believes that this number of dogs may cause issues for abutting neighbors with waste removal, as well as noise. Mr. Furtado appreciated Ms. Nemeth’s comment. He responded stating that while they have four dogs at the present moment, their oldest dog is ten, and affirmed they will not be getting anymore dogs. He described the training the dogs have gone through, his property size, and the wellness maintenance of the dogs as well. He questioned the comment made regarding the potential for a noise issue. He commented on the difference between the noise of three and the noise of four dogs, and stated: “if I could have three dogs, well wouldn’t three dogs just bark?” Ms. Nemeth appreciated Mr. Furtado’s comments and expressed her concern with greater than two dogs gaining “pack” mentality. Mr. Keene stated four dogs in that neighborhood would be excessive. Mr. Keene questioned the breeds of the dogs. Mrs. Furtado provided the requested information regarding the breeds of the four dogs: Border Collie, Catahoula Leopard Dog, Chocolate Lab, and Beagle.

Public comment: Mrs. Paulette Beardmore, 4 Bayberry Road, an abutter behind the applicant requested to comment. She stated there is an excessive amount of flies coming from the property. She also described the process that the applicants go through to attempt to quiet the dogs, adding that the dogs are not always immediately addressed when barking.

Mr. Pine questioned how long the permit would be approved for. Mr. Beyer responded and provided the possibility of making the permit conditional on a one-year approval. He requested confirmation from Mr. Ken Murphy regarding the enforcement agents on this matter; whether it would be the Board of Health, or the Building Inspector. Mr. Murphy confirmed that both departments would be enforcing agents on this matter, and he differentiated the jurisdiction of each agent. Mr. Keene questioned whether there have been any complaints filed regarding this matter. Mr. Murphy declined any knowledge of any current complaints filed. Mr. Beyer stated there have presently been two complaints filed during this meeting; with the written letter that was read into the record by Ms. Rehrig, as well as the verbal complaint brought up at this meeting by Ms. Beardmore. Mr. Keene noted previous situations that were brought before the board where neighbors had filed complaints, and the property owners needed to come back before the board to redo their permit. Mr. Spilhaus provided comment that with approval of the permit one year, the complaints that have been brought

up by the abutters are not addressed. Mr. Beyer agreed with Mr. Spilhaus. Mr. Beyer questioned the applicants and confirmed their knowledge of the kennel regulations put forward by the Board of Health. Ms. Furtado responded, stating that she misread the regulation set forth by the Town of Bourne. She interpreted the regulation to mean that if there were *more* than four dogs on a property, a kennel license would need to be obtained, when the regulation states that *greater than* three dogs necessitate a kennel license.

- a. Mr. Beyer reviewed the Board of Health bylaw regarding waste removal regulations with the applicants. Mr. Beyer read from the regulations the following requirements: *Animal wastes shall be removed from the premises, regularly, at a minimum of once per week, and until removal shall be stored in a container or area to prevent odor, flies, and run-off. Such material maybe composed is said pile is kept odor, and insect-free.*

Mr. Furtado responded, stating that the Board of Health has been out to the property, and he is willing to work with them. Mr. Beyer entertained a motion to close the public hearing. Motion made by Mr. Pine and seconded by Mr. Keene to close the hearing. **Mr. Pine – yes, Ms. Nemeth – yes, Mr. O’Brien – yes, Mr. Keene – yes, Chm. Beyer – yes. The hearing is closed.**

Mr. Beyer entertained a motion to approve the Special Permit Kennel 2022-SP01 to house four dogs on the property of 3 Cranberry Road, with the stipulation that the kennel regulations of the Board of Health of the Town of Bourne be included with the approval. Motion made by Mr. Pine and seconded by Mr. Keene to approve the permit with recommended stipulation. **Mr. Pine – yes, Ms. Nemeth – no, Mr. Keene – yes, Mr. O’Brien – yes, Chm. Beyer – no. Special Permit 2022-SP01 is approved, with aforementioned stipulation.**

Chm. Beyer requested that Ms. Nemeth write this decision when the time comes. Ms. Nemeth agreed to this request.

3. Address: 749 Head of the Bay Road, Unit 29D

Materials reviewed: Special Permit Application, Property Map, Certified Plot Plan, Abutters List, Driving Directions with Map, Hideaway Village Notification Form, Construction Application, Certified Building Plan

Request for Special Permit 2022-SP02 to extend bathroom and room by a total of 770ft².

Mr. Ken Joyce, property owner, and his contractor, Mr. Raphael Fraga, addressed the board. He reviewed the reasoning behind the application for the Special Permit. Mr. Joyce is retired and is requesting the permit to make the living space more comfortable for himself and his wife.

Member comment: Mr. O’Brien reviewed an approval from the Board of Directors of Hideaway Village. Mr. Beyer visited the site this afternoon, and

acknowledged that the applicant took the time to frame out the area proposed to be extended. Mr. Beyer commented that he does not believe the area to be anymore “intrusive” than anything else in Hideaway Village. Ms. Nemeth agreed with Mr. Beyer.

Mr. Beyer entertained a motion to close the public hearing. Motion made by Mr. O’Brien and seconded by Mr. Keene to close the public hearing. **Mr. Pine - yes, Ms. Nemeth – yes, Mr. O’Brien – yes, Mr. Keene – yes, Chm. Beyer – yes. Public hearing is closed.**

Mr. Beyer entertained a motion to approve the Special Permit 2022-SP02 for 749 Head of the Bay Road Unit 29D. Motion made by Mr. O’Brien, and seconded by Mr. Pine. **Mr. Pine – yes, Ms. Nemeth – yes, Mr. O’Brien – yes, Mr. Keene – yes, Chm. Beyer – yes. Special Permit 2202-SP02 is approved.**

Mr. Beyer will write this decision.

IV. New business:

- Discussion and possible amendments to the 40 A and 40 B Application Packets, and the Decision Template for 40B projects.
- Mr. Beyer commended Ms. Nemeth’s efforts to update the application packet updated to conform to the latest decision template.
- Ms. Nemeth reviewed the proposed amendments. She noted that the “Submittal Requirement for Substantive Changes” had been revised based on Mr. Pine’s proposed edit. This change would be added to both the 40A and 40 B Application Packets. Then the 40 B Application Packet was extensively edited in order for it to mirror the kind of detail required in the review of a Comprehensive Permit. Similar changes were made to the Decision Template for 40 B projects. Mr. O’Brien and Mr. Spilhaus thanked Ms. Nemeth for her work. This matter will be discussed further at the next meeting on March 2, 2022.
- No additional new business

V. Old business: None.

VI. Additional public comment: None.

VII. Adjournment:

- Motion made by Mr. O’Brien, and seconded by Mr. Keene to adjourn the meeting. **Mr. Pine – yes, Ms. Nemeth – yes, Mr. Keene – yes, Mr. O’Brien – yes, Chm. Beyer – yes. Meeting adjourned at 7:46PM.**

Respectfully submitted by: Fallon Doyle