

Town of Bourne Zoning Board of Appeals

Meeting Minutes

24 Perry Ave., Buzzards Bay, MA 02532

September 2, 2020

Meeting ID: 950 0778 9294

1. Call to order

Chair Amy Kullar called to order the meeting of the Zoning Board of Appeals at 7:00 PM on September 2, 2020. 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 some attendees are participating by video conference. She explained the ground rules associated with conducting the remote meeting, he confirmed the members of the board who were present, identified the building inspector and verified a representative was present for each filing listed on the agenda.

Members Present: Amy Kullar, John O'Brien, Harold Kalick, Kat Brennan and Associate Members, Chris Pine, Jim Beyer and Pat Nemeth.

Members Absent: Wade Keene

Also Present: Ken Murphy, Zachary Basinski, Donald Uitti Jr., Jill Spatola, Ford O'Connor, Sam Lorusso and Dave Peterson.

Agenda Items

2. Approval of Minutes – Minutes from hearing on August 19, 2020 were discussed and some changes notes. Ms. Kullar entertained a motion approving the minutes of the August 19, 2020 meeting. Mr. O'Brien moved, Mr. Pine seconded approving the minutes of the August 19, 2020 meeting. The motion carried. Roll Call Vote: Mr. O'Brien – Yes, Mr. Kalick – Yes, Ms. Brennan, Ms. Nemeth – Yes, Mr. Pine- Yes , and Mr. Beyer- Yes. Ms. Kullar abstained from voting.

Sitting on the hearing; Amy Kullar, John O'Brien, Harold Kalick, Kat Brennan, Pat Nemeth, Chris Pine and Jim Beyer.

3. 14 Bosuns Ln Requesting to Withdraw Special Permit (2020-SP11) to change and expand the primary use of the property to operate a Drug and Alcohol Rehabilitation Facility. (Continued from 8.19.2020)

Materials Reviewed: Withdrawal request.

Ms. Kullar entertained a motion to approve the withdrawal request. Mr. Pine moved. Mr. Beyer second the motion.

The motion carried. Roll Call Vote: Mr. O'Brien – Yes, Mr. Kalick – Yes, Ms. Nemeth – Yes, Ms. Kullar, and Mr. Pine.

Sitting on the hearing; John O'Brien, Harold Kalick, Pat Nemeth, Chris Pine, Amy Kullar.

4. 9 Park Street Special Permit (2020-SP17) to raze and rebuild a preexisting non-conforming single-family dwelling.

Materials: Public Hearing notice, Application for Special Permit, GFA worksheet (not signed by Town Planner), project narrative, assessors card, assessors map, Deed, Directions, Floor plans, septic plans.

Mr. Zachary Basinski, Professional Engineer with Bracken Engineering, representing the homeowner; reviewed the request for a special permit for a supportive finding including the existing conditions, the history of the property, and project overview. Mr. Bracken shared his screen with everyone present to give visual support to his overview to maintain preexisting lot coverage.

Mr. Beyer questioned if the heights of the structure are staying the same. Mr. Basinski confirmed they are increasing, but will be within what is allowed.

Ms. Nemeth asked to see the plot plan again on the screen share, and inquired about the access to the garage and any changes to the driveway. Mr. Basinski explained the garage will not be for parking cars, the paved driveway will not connect to garage.

Mr. Kalick requested Mr. Basinski detail how he achieved the calculations on the GFA worksheet. Mr. Basinski did so, detailing they are not seeking a special permit for the increased area, they are looking to be granted a supportive finding to keep existing GFA.

Ms. Kullar asked Mr. Murphy to confirm that when a pre-existing non-conforming structure is razed and rebuilt and exceeds GFA the Zoning Board of Appeals still has to approve the 10% over, it is not automatically approved. Mr. Murphy confirmed.

Ms. Kullar also questioned if the GFA worksheet had been approved by the Town Planner Office as there was no signature and dating showing this. Mr. Basinski felt the Assistant Town planner had reviewed. Ms. Kullar explained that a signature and date indicating the worksheet was approved by their office is required.

Mr. Basinski reiterated the request for a supportive finding, and detailed what the bylaw 2320; Extension or alteration of preexisting nonconforming structures entails. The Board members, Mr. Murphy and Mr. Basinski discussed the bylaw. Mr. Basinski suggested asking for a continuance to obtain a signed copy of GFA worksheet from the Town Planners Office and to allow the Board Members and himself time to review and interpret the bylaw.

Mr. Basinski clarified what coverage is existing and what is over if new structure and looking to expand and when 10% over would apply. Since the existing structure is already over they are looking for a supportive finding, reducing overall GFA.

Ms. Kullar entertained a motion to continue until 9.16.2020. **Mr. O'Brien moved. Ms. Brennen seconded the motion.**

The motion carried. Roll Call Vote: Mr. O'Brien- Yes, Mr. Kalick – Yes, Ms. Brennen – yes, Ms. Kullar- yes, and Ms. Nemeth – Yes.

Sitting on the hearing; Ms. Kullar, John O'Brien, Harold Kalick, Kat Brennen, and Pat Nemeth.

5. 785B County Rd Special Permit (2020-SP18) for construction of a 2nd story addition for an accessory dwelling.

Mr. Pine recused himself for this agenda item. Mr. Beyer will be sitting on.

Materials Reviewed: Public Hearing notice, Application for Special permit, Abutters List, Assessors map, Certified Plot Plan, Hand Drawn Floor Plan, Driving Directions, GFA worksheet signed by Assistant Town Planner, Letters of support from Abutters.

Mr. Donald Uitti Jr, applicant, reviewed the request for an accessory dwelling to be constructed over the garage. He recently purchased the property from his father in July and would like his parents to remain on the property and they have chosen to live in what would be the accessory dwelling built above the garage. The only change to the exterior of the structure will be an egress deck. Board of Health has approved the septic system for this addition. Mr. Uitti Jr's current home is on the market to be sold and will be relocating to this property as his main residence.

Ms. Kullar opening the meeting to the Board Members.

Ms. Nemeth praised Mr. Uitti Jr on wanting to keep his parents in their home, but questioned having elderly live on a second floor due to the potential for deteriorating mobility. Mr. Uitti Jr reviewed that it is his parent's preference as they would like to reduce the size of the home they are maintaining.

Mr. Kalick stated he has no problem with approving this project as the Board of Appeals has approved accessory dwellings such as this in the past and it is in the best interest for the family.

Mr. O'Brien agrees with Mr. Kalick, and would like Mr. Uitti Jr. to designate whom will reside permanently in the accessory dwelling prior to approval.

Mr. Beyer suggested making the approval contingent on the sale of Mr. Uitti's previous home. Ms. Kullar stated she is uncertain a contingency of that nature is allowed or required in order to approve.

Mr. Murphy explained that whomever is living in the accessory dwelling is required to give notice of whom is occupying to the Town of Bourne.

Ms. Kullar reiterated that this accessory dwelling approval is only good for 3 years.

Mr. Uitti Jr. agreed and stated he will ensure proof of residence is provided.

Ms. Kullar entertained a motion to close the public hearing. Mr. O'Brien moved. Mr. Beyer second to close the hearing to the public.

Mr. O'Brien expressed he feels there is no reason to question this project any further and that it can be approved without a contingency.

Ms. Kullar entertained a motion to approve the request for Special Permit (2020-SP18) for construction of a 2nd story addition for an accessory dwelling. **Mr. O'Brien moved and added it will be occupied by Donald and Judy Uitti. Mr. Kalick second.**

The motion carried. Roll Call Vote: Mr. O'Brien- yes, Mr. Kalick – Yes, Ms. Brennen – yes, Mr. Beyer- Yes, and Ms. Kullar- yes.

Sitting on the hearing; John O'Brien, Harold Kalick, Kat Brennen, Jim Beyer and Amy Kullar.

6. 60 Wamsutta Ave Special Permit (2020-SP12) the alteration of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood. **(Continued from 8.19.2020)**

Materials Reviewed: Revised hand drawn Plot Plan with setbacks submitted by homeowner, photographs of the areas of discussion provided by homeowner, updated GFA worksheet signed by the Assistant Town Planner.

Mr. Pine rejoined the Board.

Jill Spatola, homeowner, reviewed the project she is applying for, would like to turn existing exterior shower and attached shed into a full interior bathroom. Had submitted a revised hand drawn plot plan and supporting photographs of the areas involved. The assistant town planner had also provided an updated Gross Floor Area (GFA) sheet calculated from the updated plot plan Ms. Spatola had provided.

Mr. Beyer stated he supports the project, but had asked at the previous hearing for Ms. Spatola to provide a clear plot plan indicating setbacks for the existing and proposed project, Mr. Beyer does not feel the revised plans submitted meet this request.

Ms. Spatola explained she worked with Mr. Murphy on identifying the setbacks.

Ms. Kullar questioned if a certified plot plan had been requested at the past meeting.

Mr. Beyer confirmed the board had not requested a certified plot plan as they felt Ms. Spatola could produce documentation to support her request.

Ms. Spatola stated she had measured the setbacks herself, and will obtain a certified plot plan when she applies for the building permit as she understands this will be required at that stage.

Mr. Murphy reviewed that he was comfortable with the hand drawn plot plan for this stage in the process and will expect a certified plot plan at time of building application.

Ms. Nemeth expressed the revised plot plans are difficult to read and would like clear concise plans when making a decision.

Mr. Pine detailed that there are two options being presented and feels the project should be streamlined.

Mr. Murphy suggested that Ms. Spatola is including her outdoor shower in the existing GFA, and it cannot be included. Removing this from the existing GFA will cause both options to increase in GFA size. Perhaps the existing detached shed will need to be reduced in order to maintain allowable GFA.

A discussion ensued between Board Members, Mr. Murphy, and Ms. Spatola about the two separate options presented, their GFA, and allowable 10% over.

Ms. Kullar expressed the Board is in favor of the spirit of the project but feels they cannot vote on a hypothetical project. She offered Ms. Spatola to either continue or withdrawal

the project until a certified plot plan can be produced which shows the proposed project she is requesting.

There was another discussion among Board Members, Mr. Murphy, and Ms. Spatola about the allowable maximum GFA for her lot 1294SF, and the need for a certified plot plan.

Ms. Kullar entertained a motion to continue this project until 10.07.2020. Ms. Nemeth moved. Mr. O'Brien second.

The motion carried. Roll Call Vote: Mr. O'Brien- yes, Mr. Kalick- Yes, Ms. Nemeth- Yes, Ms. Brennen- yes, Ms. Kullar- Yes.

Sitting on the hearing; John O'Brien, Harold Kalick, Pat Nemeth, Kat Brennen, and Amy Kullar

7. 137 Jefferson Rd Special Permit (2020-SP16) that the alteration of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood. (Continued from 8.19.2020)

Materials Reviewed: Revised Floor plan showing 3 bedroom dwelling, Letter to Board Members from Randall Collette Esq. detailing revisions to floor plan.

Mr. Ford O'Connor, applicant, reviewed the project and the updated floor plans provided, showing there are 3 bedrooms and a family room.

There was a discussion between Board Members, Mr. Murphy, and Mr. O'Connor about what defines a bedroom. Mr. Murphy confirmed there has to be no closet, and a 4ft cased opening to not be classified as a bedroom.

Mr. O'Connor suggested approval of the project with a restriction to 3 bedroom dwelling unless a 4 bedroom septic system is installed and documentation for the registry of Deeds showing the dwelling as 3 bedroom.

Ms. Kullar entertained a motion to close the public comment. Mr. Beyer moved. Mr. O'Brien second.

Mr. Obrien- yes, Mr. Kalick- yes, Ms. Brennen- yes, Mr. Beyer- yes, and Ms. Kullar- yes.

Ms. Kullar entertained a motion to approve the request for Special Permit (2020-SP16) that the alteration of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood. Mr. O'Brien moved, and included this is a 3 bedroom dwelling. Mr. Kalick second.

The approved site plan will be attached to the decision.

The motion carried. Roll Call Vote: Mr. O'Brien- yes, Mr. Kalick- Yes, Ms. Brennen- No, Mr. Beyer- yes, Ms. Kullar- yes.

Sitting on the hearing; John O'Brien, Harold Kalick, Kat Brennen, and Jim Beyer, Amy Kullar.

8. Old Business

665 Scenic Highway, Cape Cod Aggregates- review of aerial drone photographs of the progress for this project.

Dave Peterson and Sam Lorusso are present.

Amy Kullar screen shared her computer screen to display the pictures as discussed.

Mr. Murphy stated he has been to the site numerous times, the equipment has been removed, and the grass is growing. M. Murphy feels the remainder of the items to address can be done administratively within the Town Hall.

Ms. Kullar stated there will not be a decision made this evening, this will be an agenda item in the next hearing.

Mr. Beyer questioned the lawsuit the ZBA members received from Harbor Way.

Ms. Kullar reviewed that the Board Members have been served a law suit, although it is a lawsuit against the Zoning Board of Appeals, not the individual members. Town Counsel will be managing this lawsuit. Ms. Kullar explained that Town Counsel will provide an update at some time.

Ms. Kullar assigned Mr. Kalick to write the decision for 785B County Rd. Ms. Kullar will write the decision for 137 Jefferson Rd.

9. New Business – None.

10. Public Comment – None.

Adjournment –

Ms. Kullar entertained a motion to close the hearing. Mr. O'Brien moved. Ms. Nemeth second. The meeting adjourned at 8:28 PM.