

# **Town of Bourne Zoning Board of Appeals**

## **Meeting Minutes**

Wednesday, July 7, 2021 at 7:00 PM  
Bourne Community Building, Room 2  
239 Main St, Buzzards Bay

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### **1. Call to order**

Chair Jim Beyer called to order the meeting of the Zoning Board of Appeals at 7:00 PM on July 07, 2021. Mr. Beyer 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.

Members Present: Jim Beyer, Chris Pine, John O'Brien, Harold Kalick, Wade Keene, and Associate Member Pat Nemeth.

Members Excused – None.

Also Present: Ken Murphy, Steven Solari, Darryl and Dawna Gauvin, Michael Draper, Peter Freeman and all members of the team for Cape View Way.

### **Agenda Items**

- 1. Approval of Minutes** – Approval of meeting minutes for hearing 05.19.2021. **Ms. Nemeth made a motion to approve the meeting minutes for hearing dated 05.19.2021. Mr. Keene second the motion. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

*Mr. O'Brien made a motion to move item #2. Cape View Way to second to last on the agenda. Ms. Nemeth second the motion. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.*

- 2. 144 Mashnee Rd, Request for a Special Permit (2021-SP09) applicant is looking for relief of the 20' front setback to construct a 6'x14' open sided front porch.**

*Materials: Application for Special Permit, Abutters Map, Assessors Card, Abutters List, images of finished proposed, driving directions, Site Plan, GFA signed by Assistant Town Planner on 04.28.2021, Assessors Card.*

Mr. Solari reviewed the project, indicating it is the smallest lot in the area. It will be an open porch with no sides.

Mr. Beyer confirmed there will be a dormer roof over the porch.

There was a discussion between Board members and applicant in regards to it being a non-conforming lot and the setbacks.

Mr. Solari confirmed house to lot line is 20ft, request will be 14ft from lot line.

Ms. Nemeth questioned the distance.

Mr. Pine expressed desire for setbacks on a plan.

Me. Nemeth said other houses in the area also have small lots and approving this will set a precedent .

Mr. Solari said the applicant has a smaller lot due to an easement on her lot.

Mr. Beyer asked if there were any questions from the public. There were none.

Mr. Beyer asked if there were any questions from the Zoning Board of Appeals members. There were none.

**Mr. Beyer entertained a motion to close the public hearing. Mr. O'Brien made a motion. Mr. Pine Seconded. Roll call vote: Mr. Pine- Yes, Mr. Keene- yes, Mr. O'Brien- yes, Mr. Kalick- yes, and Mr. Beyer- yes.**

Mr. Beyer Entertained a motion to approve 144 Mashnee Rd, Request for a Special Permit (2021-SP09) applicant is looking for relief of the 20' front setback to construct a 6'x14' open sided front porch. **Mr. Pine made a motion. Mr. Keene seconded the motion. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

*Mr. Pine will be writing this decision.*

**3. 10 Quaker Ln, Request for Special Permit (2021-SP10) to build an Accessory Dwelling unit in basement.**

*Materials: Application for Special Permit for an Accessory Dwelling, Abutters Map, Assessors Card, Site Plan, GFA worksheet signed by the Assistant Town Planner 4.26.2021, Existing vs. Proposed Floor Plan, Driving Directions, Abutters List, Time Waiver signed by the Applicant on 07.02.2021*

**Mr. Beyer read the request to continue from the applicant.**

**Mr. Beyer entertained a motion to continue this agenda item to July 21, 2021. Mr. Keene made a motion to continue this item to the hearing on July 21, 2021. Mr. Kalick seconded the motion. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

- 4. 29 Sheppard Rd, Petition for a Variance (2021-V11) from the provisions of Section 2500 and Section V definition lot frontage of Bourne Zoning Bylaw in order to be able to build a single family residence. The Petitioner is seeking as easement over the paper road knows as Shaw/Mayflower.**

*Materials: Application for a variance, abutters map, Cliffside Estates Open Space Community Map, Sewage Disposal Site Plan showing existing vs proposed easement, driving directions, Copy of Building Permit and Comments from the Department Heads, Abutters List.*

Michael Draper, applicant, reviewed the project request and the history of the lot and easement.

Mr. Pine questioned if the Zoning Board of Appeals can move an easement or if that falls under the Planning Department.

Mr. Murphy explained that the original easement was built across the neighbor's yard and they are trying to avoid having neighbors move their yard, the applicant wants to keep the easement within the paper road.

Mr. Beyer asked if there were any questions from the public.

The owners of 30 Sheppard Rd support moving the easement to the right-hand side of the paper road.

Ms. Nemeth stated denying this would restrict access to the buildable lot.

Janice Smalley of 27 Sheppard Rd stated that she is in support of moving the driveway to their side of paper road.

Mr. Kalick asked if there will be in changes to the hill. The applicant replied there will not.

Mr. Beyer asked if the plan was to construct a gravel driveway. The applicant replied yes.

Mr. Pine voiced concern over approval to change the easement.

Mr. Beyer asked what provision of Section 2500 the applicant is looking for relief from.

Ms. Draper replied they are a non-conforming lot with not enough frontage because Mayflower was abandoned and made into a paper road.

Mr. Beyer stated this Variance is from the 125' minimum lot frontage required in Section 2500.

**Mr. Beyer entertained a motion to close the public hearing. Mr. Kalick made a motion. Mr. Keene Seconded. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

Mr. Beyer asked if there are any Board members with questions or comments. There were none.

Mr. Beyer entertained a motion to approve 29 Sheppard Rd, Petition for a Variance (2021-V11) from the provisions of Section 2500 and Section V definition of lot frontage of Bourne Zoning Bylaw in order to be able to build a single family residence. The Petitioner is seeking as easement over the paper road knows as Shaw/Mayflower. **Mr. O'Brien made a motion. Mr. Pine seconded the motion. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

*Mr. Kalick will be writing the decision.*

- 5. 25 Pleasant St, Request for Special Permit (2021-SP12) Applicant wishes to construct a landing 5'x8' and stairway to existing grade within sideline setback area.**

*Materials: Application for Special Permit, Property Map, Certified Plot Plan, Structural Plans, Abutters List, Driving Directions, Signed GFA by Assistant Town Planner 4.27.21, Copy of a letter from Town Engineer; Tim Lydon,*

Darryl and Dawna Gauvin of Gauvin Builders reviewed the project request.

Mr. Beyer asked if there were any questions from the public. There were none.

There was a discussion between Board Members and the applicant about existing conditions vs. proposed. Currently there is no door, deck, or stairs. There is a right of way abutting. They determined it will not be detrimental to the neighborhood.

**Mr. Beyer entertained a motion to close the public hearing. Mr. Kalick made a motion. Mr. Keene Seconded. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

Mr. Beyer asked if there are any Board members with questions or comments. There were none.

25 Pleasant St, Request for Special Permit (2021-SP12) Applicant wishes to construct a landing 5'x8' and stairway to existing grade within sideline setback area. **Mr. Keene made a motion. Kalick seconded the motion. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

*Mr. Kalick will be writing the decision.*

**6. Cape View Way 40B, Comprehensive Permit (#2021-CP06) to construct and operate 51 affordable rental units on 2.94 acres.**

*Materials: Letter of Support from Falmouth Housing Trust, Traffic Impact Report, Peer Review of the Traffic Impact Report, Response to the Peer Review of the Traffic Impact Report.*

Mr. Beyer stated the Peer Review has been started and they should receive it by the next hearing.

Mr. Kuchar of Horsley Witten Group gave an update on the project. He reported the Board of Health commented on the landscaping plan and they have eliminated the variance requests from the Board of Health. He stated the Fire Department and North Sagamore Water district met on June 15, 2021 to review the water layout and flow. Requested updated hydrant flow test.

Ms. Nemeth asked about the Transportation Study. It states that for 51 units and 100 cars, there will be only 18 vehicles trips in the morning. Please explain the logic behind the math.

Mr. Kuchar stated there is no traffic engineer present at this hearing; but they will provide an answer to the question.

Mr. Beyer pointed out the Traffic Impact Assessment avoided mentioning the peak traffic hours in summer; and this also needs to be addressed

Mr. Beyer asked if there were any members of the public with questions or comments.

Tom Kheir, Bourne Resident, Works for Cape Cod Transport Authority, says he works closely with H.A.C. He reviewed the current transit lines nearby. He is in favor of the project.

Paula McConnel, representing the Bourne Housing Authority. Stated she is very supportive of the project. She reviewed the merits of the location.

Jennifer Beal, . stated she feels affordable housing on this side of the bridge is paramount.

Jean Curry, 155 Presidents Rd, stated she is in support of the project. She said there is an extreme need for affordable housing, as business owners need workers. She feels the project is appropriately sized and located.

Steve Lucas, 101 Harmony Hill Dr., stated people are working 2-3 part time jobs with limited housing options. These people deserve housing that is affordable and safe. He encouraged compassion for this project.

Amy Sharp, Eldridge Ext., stated she is in support of affordable housing. She acknowledged the large working class in Bourne.

Charles Sabatt, Tudor Cherry Investors, Client Cherry Hill Apartments is a direct abutter. Their project began as an affordable housing project. He shared concern over the lack of a vegetated buffer. He stated they are worried children from Cape View Way will be attracted to the Cherry Hill Apartments location and the residents of Cape View Way will gravitate to their recreation area. He also explained concern over the Cape View Way parking lot location, the noise and headlights impacting Cherry Hill Apartments due to lack of vegetation. Mr. Sabatt shared a drone shot if the aerial view of the area with the site plan provided by Cape View Way superimposed over to show the existing vs. proposed vegetated buffer. There was a discussion about this image between Mr. Sabatt, the Board members, and the applicant. Mr. Sabatt requested a condition for the applicant to construct and maintain a stockade fence along the boundary line. After another discussion between Mr. Sabatt, the applicant and the Board members, Mr. Sabatt concluded that he will write a letter requesting this condition and include plant type. Mr. Kuchar clarified the vegetation type on the site plan.

Megan, 5 Andrew Rd, stated she feels the complex is too large for the space. She is not against affordable housing; but, the project is too large as evident by the number of requested variances.

Eileen Fitzpatrick, 6 Homestead Rd, stated she is not against affordable housing; but, this location is designed for a smaller project. It is out of place for the local community. She shared concerns that the nearby wetland is not being cleaned and it is full of debris.

Maria, 9 Andrew Rd, shared concerns about children entering her backyard from the project. The proposed building is too large for the area. She stated they will see the 3 stories from the road and it will not look scenic.

A member of the audience asked to obtain the pro forma to determine what the rates are going to be. Mr. Beyer stated this is not within their preview.

Mr. Beyer asked Mr. Freeman for an update on the progress on the draft of the comprehensive permit. Mr. Freeman stated there is no progress to report.

Mr. Kalick stated they are in favor of affordable housing and asked to clarify why the number of units has to be 51 units to be economically feasible. He had questions about the area of median income and the rent structure. He would like to know what the pro forma looks like to see if it is based on 80% median income.

Mr. Freeman stated they had submitted the rent structure and it is 60% of area medium income is the majority of units. He explained a lot of these developments have varied income and they have a waiting list. He continued saying not all projects have to be 51 units and every site is different. He stated economic feasibility is paramount. He also indicated the other developments in the area are nice and well developed. He indicated they are waiting for the Peer Review.

Mr. Beyer stated there is a time when they will be allowed to see the pro forma, but it is not right now.

Ms. Nemeth stated the most troubling thing about this project is the 7ft setback to the abutters. She suggested the proponents consider how they can provide the required 15'. For example they could increase the setback by buying an 8ft strip, or reduce the number of units. This would then allow for Fire Department truck access to the back side of the building.

Mr. Murphy stated the code will require the building to have sprinklers throughout.

Mr. Freeman said they have met with the Fire Department and will comply with all codes.

Mr. Beyer Entertained a motion to continue Cape View Way 40B, Comprehensive Permit (#2021-CP06) to construct and operate 51 affordable rental units on 2.94 acres to August 4, 2021. **Mr. Keene made a motion. Mr. O'Brien seconded the motion. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

**7. Discussion and vote on revised Zoning Board of Appeals Decision Forms.**

Mr. Beyer Entertained a motion to continue this discussion until the next hearing on July 21, 2021. **Mr. Pine made a motion. Mr. O'Brien seconded the motion. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

**Old Business – None.**

**New Business – None.**

**Public Comment – None.**

**Adjournment –**

**Mr. Beyer entertained a motion to adjourn the hearing. Mr. O'Brien moved, Mr. Kalick seconded to adjourn the meeting. Roll call vote: Mr. Kalick- Yes, Mr. Pine- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

The meeting adjourned at 9:07pm.

Respectfully submitted,  
Cassie Hammond