

**Town of Bourne
Zoning Board of Appeals
Meeting Minutes
August 16th, 2023**

2023 SEP 7 AM 11:05
TOWN CLERK'S OFFICE

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RECEIVED

PRESENT: Chairman James Beyer, John O'Brien, Harold Kalick, Wade Keene, Elza Bystrom (Associate).

ABSENT: Vice Chairperson Chris Pine.

STAFF: Ken Murphy.

PUBLIC: Gregory Roche.

Chairman Beyer called the meeting to order via Zoom at approximately 7:00pm.

Minutes: 8.2.23

Because not all board members received the minutes, this item will be tabled until the next meeting.

Public Hearing for Variance #2023-V2: 51 Canal Drive, Unit 3, Sagamore Beach. Gregory B. Roche. Request for a variance to build a deck to the left of the home.

Gregory Roche introduces himself as the applicant at 17 Edith Ave, Buzzards Bay. He states that the homeowner, Carol Toomey wished to put the deck on the front of the house, but after engineering drawings, they realized that this would be on town property. Chm. Beyer clarifies that Mr. Roche is the builder in relation to the homeowner. Mr. Roche confirms. He states that they moved the deck to the lefthand side, where other decks are on similar properties (which is not on town property, but very close to town property). Chm. Beyer asks if any board members have not visited the site, and Mr. O'Brien responds that he has not, but is familiar with the neighborhood. Chm. Beyer offers to show some pictures if needed, but along Canal Drive there are three structures, of which two of them already have decks that look to be extremely close to the property line. He states that this request is for the third house to add a deck in a similar orientation to the other two, which would be 1.7ft off the property line. Mr. Roche confirms. Chm. Beyer asks if this is a condominium, and Mr. Roche responds that he believes it is an association in which every plot of land is individually owned, but with thirteen units. Mr. Roche adds that the association has approved the homeowner putting on a deck. Chm.

Beyer responds that they have not seen any documentation from the association regarding this matter, which is a problem. Mr. Kalick adds that the plot plan says "condominium."

Chm. Beyer says that what the applicant is asking for is a 1.7ft setback from the property line off of Canal Drive. Mr. O'Brien asks if it is off the street or from the neighbor. Chm. Beyer responds that the street that runs along the canal is not Canal Drive. Canal Drive is a spur from the street that runs along the canal, and this is a dead end with three houses on it. The first two houses have decks that are located similarly to the request. Mr. Kalick responds that he believes that this is something they should not have to hear, and it should be up to the condominium association. In order to grant a variance, there are numerous requirements. Chm. Beyer agrees and says that in order to grant a variance, there must be a demonstration of hardship, which he does not see here. The mitigating situation would be that this is a condominium, but they do not have a letter from the condominium association (if there is such a thing) that it is okay to do this. He is inclined to put that matter back to Mr. Roche to get a letter from the association to see if they are okay with it and bring it back to them with a continuation. Mr. Roche says that this should be no problem.

Mr. Murphy adds that he will review the letter before it is submitted to the board, and prepare Mr. Roche for the next meeting. Mr. Murphy says that had he known it was a condo, he would have given Mr. Roche the advice to get the letter.

Ms. Bystrom says that on the Google Street map, it says "private," meaning this is a private community.

Mr. O'Brien makes a Motion to Continue the Public Hearing for Variance #2023-V2 until September 6th, 2023. Mr. Keene seconds the Motion.

Roll Call Vote as Follows:

Ms. Bystrom – YES. Mr. Keene – YES. Mr. O'Brien – YES. Mr. Kalick – YES. Chm. Beyer – YES.

The Motion Passes.

New Business:

Chm. Beyer announces that they received notice of an appeal of the 165 Jefferson decision.

Mr. Murphy states that the town has notified them that they must have their own Zoom account, so he will let Mr. Pine know that they are providing him with their account. He can still manage it, but it will have to be a town account.

Mr. Kalick asks if there is a copy of the complaint for 165 Jefferson, and Mr. Murphy confirms that they only have the cover letter. He says that he will check with Town

Counsel to see if there is anything additional. Mr. Kalick states that he understands that an applicant can appeal a decision, but wonders if it is possible for a neighbor to file an appeal. Mr. Murphy responds that the neighbor can appeal the decision during the timeline for an appeal. Mr. Murphy says that he can provide the board with documentation regarding what their rights are as neighbors via email.

Mr. O'Brien points to what they state in the introduction to each meeting, which is that "anyone aggrieved by a decision may make an appeal within 21 days." Mr. Murphy states that they will check to make sure it is within 21 days.

Ms. Bystrom states that she believes the main objection is that it was converted from seasonal to year-round dwelling.

Old Business:

Mr. Murphy asks if all the members have been sworn in. Mr. Kalick and Ms. Bystrom conform that they were sworn in.

Chm. Beyer states that he would like to address Mr. Kalick's concern over the Zoom meetings, and would like to put this to a vote of the committee, but would like to do it when they are all there. Mr. Kalick asks if it is up to them to decide, and Chm. Beyer confirms, stating that he spoke to the Select Board Chair, and she responded that it is up to them. Mr. Kalick asks if this is indefinite. Chm. Beyer says no, and the authorization from the Governor will expire. They previously voted to keep it going, but in light of Mr. Kalick's concern, he would like to put it to another vote.

Mr. Murphy reminds the board that the Bourne Bridge repair will be happening soon.

Public Comment:

None.

Adjournment

Mr. Kalick makes a Motion to Adjourn, seconded by Ms. Bystrom.

Roll Call Vote as Follows:

Mr. Keene – YES. Mr. O'Brien – YES. Mr. Kalick – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

With no further business before the Board, the meeting was adjourned at approximately 7:25 PM.

Respectfully Submitted,
Ina Sullivan