

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

December 6, 2017

I. Call to order

Chair Amy Kullar called to order the meeting of the Zoning Board of Appeals at 7:02 PM on December 6, 2017. 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.

II. Members Present: Amy Kullar, John O'Brien, Harold Kalick, and Associate Member, Deb Bryant.

Members Excused: Wade Keene, Timothy Sawyer and Associate Member, Kat Brennan.

Also Present: Roger Laporte, Carol Mitchell, Jim Mulvey, Steven Pedro, Paula Meridan, Kimberly Selby, Stan Budryk, Vasco Conte Reol, Rosemarie Flanagan Cronin, Eileen Flanagan, Newman Flanagan, James Drowne, Josh Bows, Larry Maddoch, Jacques Lapointe, Jonathan Bowden, Don Bracken and Elizabeth Warden.

Ms. Kullar informed all in attendance that only four members were present. She advised that with a four member panel, a unanimous decision would need to be rendered. Each applicant will have the ability to continue their matter if they choose.

Harold Kalick will be writing the Decisions with assistance from Ms. Kullar.

III. Agenda Items

1. Approval of Minutes - Ms. Kullar entertained a motion to approve the minutes of the November 15, 2017 meeting. **Mr. O'Brien moved, Ms. Kullar seconded to approve the minutes of the November 15, 2017 meeting as written.** With no discussion, the motion carried. 4-0-0.

Sitting on the hearings; Amy Kullar, John O'Brien, Harold Kalick and Associate member, Deb Bryant.

2. 31D The Hollow, Hideaway Village, Special Permit, 2017-SP24, Requesting a Special Permit Supportive Finding per sections 2320 and 2450 of the Bourne Zoning Bylaw, under M.G.L., Ch. 40A, Sec. 9 that the construction of a 17' 6" x 9' 8" wood deck with stairs is not more detrimental than the pre-existing, non-conforming structure.

(Continued from November 15, 2017)

Materials - Public Hearing Notice, Assessor's Card, Application for Supportive Finding/Special Permit, Building Permit Application, Application Packet Checklist, Hideaway Village Construction Application, Proof of Insurance, Contractor's License, Abutter Notification List, Site Photographs, Site Plan, Directions to property, and EOPSS Verification

Ms. Kullar asked the representative if he wanted to proceed with four members. Mr. Hughes stated he did.

Benjamin Hughes addressed the board and discussed the proposed project, the construction of a wooden deck.

Board Comment - Ms. Kullar made note that the condo association has approved the proposed project.

Public Comment – None.

Ms. Kullar entertained a motion to close the public hearing. **Mr. Kalick moved, Mr. O'Brien seconded to close the public hearing.** With no discussion, the motion carried. 4-0-0.

Board Comment – Ms. Kullar stated she visited the site and feels the proposed project will be an improvement.

Ms. Kullar entertained a motion. **Mr. O'Brien moved, Ms. Kullar seconded under Special Permit 2017-SP24 that the Board of Appeals approve the requested Finding and Special Permit to construct a 17' 6" x 9' 8" wood deck with stairs which is not more detrimental than the pre-existing, non-conforming structure, pursuant to the plans and specifications as submitted.** With no discussion, the motion carried. 4-0-0.

3. 6A Thompson Road, Hideaway Village, Special Permit 2017-SP25, Requesting a Special Permit under M.G.L., Ch. 40A, Sec. 9 and per sections 1331, 2320 and 2450 of the Bourne Zoning Bylaws to construct a second story dormer off the existing dwelling to extend the pre-existing, non-conformity of the structure not to extend beyond the existing footprint with additional living space of 76 square feet.

Materials - Public Hearing Notice, Assessor's Card, Application for Supportive Finding/Special Permit, Building Permit Application,, Hideaway Village Construction Application, Abutter Notification List, Site Plan, Architectural Plans and Directions to property.

Prior to presenting the proposed project, the representative, Joshua Bows, questioned whether or not his client would be given the opportunity to continue the matter to a future meeting when five members are present. Ms. Kullar stated he would be allowed to continue.

Mr. Bows discussed the proposed project, to add an additional bathroom to the existing home. He provided a brief history of the home and discussed the proposed layout.

Mr. Laporte asked if the property is located within the Flood Zone. Mr. Bows stated the Flood Zone is located in the middle of the property. He referred to the site plan to pinpoint the location of the VE and AE Flood Zones. Mr. Laporte reminded the representative of a special condition prohibiting any structure located within a Velocity Zone in Hideaway Village or Taylor's Point from adding living space. Mr. Bows stated he was aware of the restriction; however, only a small section of structure lies within the Velocity Zone. Mr. Laporte explained that if even an inch of the structure touches the Flood Zone line, then according to FEMA, this is considered a Velocity Zone dwelling. Mr. Bows argued that he's been before the board with similar projects in the past and this issue has never been raised. Furthermore, his assumption is that a bathroom is not considered living space.

Board Comment - Mr. Kalick opened a brief discussion concerning possible changes that may have recently occurred with the flood zone maps. Mr. Laporte stated Taylor's Point mapping was changed; however, Hideaway Village's mapping was not.

Ms. Kullar stated she needs to better define the term, living space. After a brief discussion, Mr. Laporte suggested that the representative continue the matter until he's gone before the Board of Sewer Commissioners. If they agree with his argument, then it will make ZBA's decision easier to grant the Special Permit.

In an effort to expedite the process, Mr. Bows asked if the Appeals Board would consider rendering a decision based on the project meeting the criteria of a Special Permit. Ms. Kullar stated she agrees that the proposed project meets the criteria for a Special Permit; however, legally the board cannot grant the permit if it's not allowable.

Public Comment – None.

After a brief discussion, the representative agreed to sign a waiver and continue the matter to January 3, 2018.

Mr. O'Brien moved, Ms. Kullar seconded to continue Special Permit 2017-SP25 to January 3, 2018. With no discussion, the motion carried. 4-0-0.

4. 15 Meetinghouse Lane, Special Permit 2017-SP27, Requesting for a Special Permit pursuant to M.G.L., Ch. 40A, Sec. 9 under section 3210 (h) of the Bourne Zoning Bylaw, to permit the replacement of a thirty-four foot, three inch (34'-3") free-standing sign with a twenty foot (20') free-standing sign.

Materials - Public Hearing Notice, Assessor's Card, Application for Supportive Finding/Special Permit, Building Permit Application, Application Packet Checklist, Abutter Notification List and the Revised Site Plan dated 10/19/2017.

Steve Pedro addressed the board. He stated he came before the board approximately six months ago relative to the thirty-four foot high sign that was damaged in high winds and removed as a precaution. The repair person attempted to pull a permit to reinstall the sign and was told a Special Permit would be required. At the previous hearing, the ZBA recommended that the representative reduce the size of the sign because a thirty-four foot high sign would not be approved. Mr. Pedro briefly described the revisions that were made to the sign. A brief discussion ensued.

Board Comment – Several members expressed their approval of the redesigned sign.

Public Comment – None.

Mr. Kalick moved, Ms. Kullar seconded to close the public hearing. With no discussion, the motion carried. 4-0-0.

Ms. Kullar moved, Mr. O'Brien seconded to grant Special Permit 2017-SP27, to replace the existing thirty-four foot, three inch (34'-3") free-standing sign with a twenty foot (20') free-standing sign in accordance with the exact specifications as submitted by Ayoub Engineering, Inc. with a revised date of October 19, 2017. With no discussion, the motion carried. 4-0-0.

5. 24G Hideaway Road, Hideaway Village, Special Permit 2017-SP28, Requesting a Special Permit under M.G.L., Ch. 40A, Sec. 9, and per sections 1331, 2320 and 2450 of the Bourne Zoning Bylaws to replace existing exterior stairs with new stairs, ramp and lift to meet Americans with Disabilities Act compliance.

Materials - Public Hearing Notice, Assessor's Card, Application for Supportive Finding/Special Permit, Building Permit Application,, Hideaway Village Construction Application, Project Drawing, Abutter Notification List and Directions to property

A brief discussion transpired as to whether or not the proposed project was approved by Hideaway Village Condo Association.

Property owner, James Drowne, addressed the board and discussed the proposed project.

Board Comment – Ms. Kullar asked who created the drawing that was submitted of the proposed project. Mr. Drowne stated he did and that he's going to build the proposed project himself. He presented photos of a model he designed.

Ms. Kullar reiterated that the condo association has approved the proposed project.

Mr. O'Brien opened a brief discussion pertaining to the design of the project.

Public Comment – None.

Mr. O'Brien moved, Ms. Kullar seconded to close the public hearing. With no discussion, the motion carried. 4-0-0.

Ms. Kullar stated the proposed project seems straight forward and entertained a motion.

Mr. O'Brien moved, Ms. Kullar seconded to approve Special Permit 2017-SP28, Requesting a Special Permit under M.G.L., Ch. 40A, Sec. 9, and per sections 1331, 2320 and 2450 of the Bourne Zoning Bylaws to replace existing exterior stairs with new stairs, ramp and lift in accordance to the plans submitted with the application. With no discussion, the motion carried. 4-0-0.

6. 10 Harbor Way, Appeal 2017-A20– Request to appeal the Building Inspector's decision under M.G.L., Ch. 40A, Sec. 8 and the Bourne Zoning Bylaw, Sections 1210, 2420 and 2450. The applicant is appealing the decision of the Building Inspector of denying a permit application to construct a single-family dwelling on a contiguous lot and appeal of gross floor area calculation.

(Continued from October 18, 2017)

Ms. Kullar explained to the representative that Associate Member Bryant listened to the record and has signed an affidavit stating she is able to participate in this hearing. She stated because only four members were present, the decision would have to be unanimous. She asked the representative if he would like to proceed. The representative, Attorney William Rosa, stated in light of the fact that there is a short board, they would like to continue the matter. He expressed his displeasure with having to continue because the applicant flew in from California specifically to testify. He noted that the builder and engineer were also present.

Ms. Kullar offered a sincere apology stating two board members were dealing with personal medical issues and a third member suddenly canceled at 6:00 PM; otherwise she would have provided notice.

The property owner, Elizabeth Warden, stated she understood and acknowledged those in attendance who came to support her. She mentioned that the builders, the designer and the engineer were also present.

Ms. Kullar apologized again, stating she hopes the Board of Selectmen appoint a new member quickly to prevent a similar situation from occurring in the future. She asked the representative if he would like to continue the matter to January 3, 2018. After a brief discussion, the property owner requested that the matter be continued to January 17th not the 3rd.

Ms. Kullar moved, Mr. O'Brien seconded to continue Appeal 2017-A20, to January 17, 2018. A member of the Flanagan family stated she was there to speak on behalf of her father who had recently passed away. Ms. Kullar offered her condolences and apologies. With no further the discussion, the motion carried. 4-0-0.

7. Old Business – None.

8. New Business – Ms. Kullar requested that if a member is unable to attend a future meeting to please inform her as soon as possible or by 4:00 PM the latest.

9. Public Comment – A member of the public opened a brief discussion with regard to matters being continued. Ms. Kullar explained the process.

IV. Adjournment –

Mr. O'Brien moved, Ms. Bryant seconded to adjourn the meeting. With no discussion, the motion carried 4-0-0. The meeting adjourned at 7:44 PM.

Minutes Submitted By: Carol Mitchell