

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

## ***Meeting Minutes***

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

November 16, 2016

### **I. Call to order**

Vice chair O'Brien called to order the meeting of the Zoning Board of Appeals at 7:10 PM on November 16, 2016. Mr. O'Brien 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:** John O'Brien, Wade Keene, Timothy Sawyer, Harold Kalick, Amy Kullar and Associate Members, Kat Brennan and Lee Berger.

**Members Excused:** N/A

**Also Present:** Roger Laporte, Carol Mitchell, Joseph Lucido Jr., Sharon Lucido, Don Bracken, Joshua Bows, Liz Karl, Karen Pelletier, Patrick Pelletier, Mary Andrews and Drew Hoyt.

**Documents:** Agenda and documents pertaining to Special Permit, **2016-SP31**, Variance, **2016-V27** and Comprehensive Permit, **#08-18**.

### **III. Agenda Items**

#### **1. Approval of Minutes -**

Mr. O'Brien entertained a motion to approve the minutes of the November 2, 2016, meeting. After a brief discussion pertaining to 282 Main Street, **Mr. Sawyer moved and Mr. Keene seconded to approve the minutes of the November 2, 2016 meeting as submitted.** With no discussion, the motion carried. 5-0-2. Mr. Berger and Mr. Kalick abstained.

**2. Reorganization of the Board -** Ms. Kullar suggested deferring the Reorganization of the Board until all of the hearings have been heard. The board agreed.

*Sitting on tonight's hearings are John O'Brien, Wade Keene, Tim Sawyer, Harold Kalick and Amy Kullar. Also present are Associate Members, Lee Berger and Kat Brennan. Lee Berger will draft the Decisions.*

**3. 25G Hideaway Rd., Hideaway Village** – Special Permit **2016-SP31**, Requesting Special Permit Supportive Finding per section 2320 and 2450 of the Bourne Zoning By-law, under M.G.L., Ch. 40A, Sec. 9, that razing the existing dwelling and building a new dwelling is not more detrimental than the pre-existing non-conforming structure.

Joshua Bows spoke on behalf of the applicant. He discussed the dilapidated condition of the existing cottage and described the proposed project. The project has been approved by the condo association. The letter of approval was included with the materials submitted.

Ms. Brennan asked if the retaining wall will be rebuilt. Mr. Bows stated a portion of the existing retaining wall will be removed and a new portion will tie into the existing stairwell.

Mr. Keene discussed the floor plan. Mr. Bows stated the existing square footage is approximately 477 sq. ft. of living area inside. The proposed is just over 500 sq. ft. of living area inside.

Mr. O'Brien asked for the size of the lot. Mr. Bows stated the lot is 1,766 sq. ft.

Mr. Berger asked if the number of bedrooms will remain the same. Mr. Bows stated yes, there is one bedroom. The architect, Liz Karl elaborated further. She referred to the floor plan and discussed the proposed layout.

Mr. O'Brien asked what the height of the structure will be. Ms. Karl stated from the lot level to the top of the roof, the height will be 23'.

Mr. Berger inquired about Fire Department approval. Ms. Karl stated she was under the impression that ZBA approval was the next step in the approval process. Mr. Berger stated Fire Department approval should be obtained beforehand. He would like a condition added requiring Fire Department approval.

Public Comment – None.

Mr. O'Brien entertained a motion to close the public hearing. **Mr. Kalick moved and Ms. Kullar seconded to close the public hearing.** With no discussion, the motion carried 5-0-0.

Mr. O'Brien entertained a motion on the request. **Mr. Keene moved and Mr. Sawyer seconded to grant the Special Permit, 2016-SP31, razing the existing dwelling and building a new dwelling that is not more detrimental than the pre-existing non-conforming structure, pursuant to the submitted plans and contingent upon an**

**approval letter from the Fire Department.** With no discussion, the motion carried. 5-0-0.

**4. 56 Meetinghouse Road, Variance 2016-V27**– requesting a Variance from the following sections of the Bourne Zoning By-law: Section 2500. Intensity of Use Schedule regarding the minimum requirements for lot size. Requesting mixed use of a non-conforming lot in a B-2 zone where lots are required to be 20,000 sq. ft.

Don Bracken, representing the applicants, Sharon and Joseph Lucido, addressed the board. He discussed the reason for the request, the B2 zoning district and he provided a brief history of the project. The project was originally approved as a three story office; however, the applicant would like to have her real estate office on the main floor and one bedroom studio apartments on both the lower level and the top level. Both apartments will be designated as affordable units in accordance with the Zoning By-law. The proposed office space will be approximately 1,000 sq. ft. the proposed upper studio will be approximately 900 sq. ft. and the lower studio will be approximately 600 sq. ft.

Board Comment – Mr. Laporte asked if the applicant is seeking a Dimensional Variance. Mr. Bracken stated he is seeking Dimensional Variance because the lot is under 20,000 sq. ft.

Mr. Berger opened a brief discussion with regard to the lot size and questioned why this lot isn't grandfathered, precluding the need for a Variance. Mr. Laporte referred to section 2452 of the Bourne Zoning By-law and stated the grandfather provision is only for residential use; the lots are not grandfathered for business use. A discussion ensued.

A brief discussion transpired concerning the side yard setback requirements. Mr. Berger referred to section 2500 (j.) and stated the applicant specifically requested a Variance on the application listing this footnote. Mr. Bracken stated this footnote isn't applicable because of the B2 zoning. A discussion ensued.

A brief discussion transpired with regard to the parking area setback requirements and whether or not the loading zone that is listed on the site plan is necessary. Mr. Bracken referred to section 3370 of the By-law which discusses this requirement. He stated the loading zone could be eliminated if the board doesn't feel it's necessary to have it. Mr. Laporte stated the loading zone would make for easier access to the dumpster. A brief discussion transpired concerning trash removal.

Mr. O'Brien questioned whether or not the board has the authority to grant this Variance based on the square footage. Mr. Berger stated generally the board would not

grant size Variances; however, if there are no objections, the board may use its best judgment in granting the Variance.

Public Comment – None.

Mr. O'Brien entertained a motion to close the public hearing. **Mr. Keene moved and Mr. Sawyer seconded to close the public hearing.** With no discussion, the motion carried. 5-0-0.

Mr. O'Brien entertained a motion on the request. Ms. Kullar asked for the definition of Affordable Housing and asked if a specific condition may be added stipulating the two apartments be made affordable. Mr. Kalick read section 2650 (e) of the Bourne Zoning By-law which pertains to subsidized units, and isn't applicable in this instance. Mr. O'Brien then read the definition of Bourne Affordable Housing from the Definitions section of the Bourne Zoning By-law.

After a brief discussion, **Mr. Kalick moved and Ms. Kullar seconded to grant a Variance in accordance with the plans submitted for 2016-V27, allowing a Variance from sections 2220 (footnote 3), 2500 (footnotes J and P) to reduce the size of the lot and a reduction of the sidelines of the lot with the conditions that it (1) complies with the definition of a Bourne Affordable Housing Unit from the Definitions section of the Bourne Zoning By-law and (2) the applicant returns to the Planning Board for a Site Plan Review to obtain approval in accordance with section 4250.** With no further discussion, the motion carried. 5-0-0.

**5. Chase Estates**, Comprehensive Permit **#08-18**, requesting a further two-year extension for construction of a sixteen-unit affordable housing subdivision at 230 Sandwich Road.

Drew Hoyt, representing the property owner, Thomas Pappas, addressed the board. He is requesting an extension of the Comprehensive Permit.

Ms. Brennan asked when the initial permit was issued. Mr. Hoyt stated the original application was filed in 2008; he provided a timeline of events leading up to the current extension request.

Mr. O'Brien asked if Mr. Pappas has given any indication as to when he may begin construction on this lot. Mr. Hoyt stated Mr. Pappas is currently overseeing several other projects; adding, he will either begin construction, sell the property or find a different use for it within the next two years. Mr. Hoyt stated Mr. Pappas would prefer to build the units because the housing is needed and he's invested a lot in the plans and permits.

Mr. Keene asked if any changes to the original request is planned. Mr. Hoyt stated there are no changes planned. Mr. Berger stated it's a written permit that's been recorded and can't be changed; adding, the board has the authority to deny the request, to grant a one year extension or the two years as requested. He expressed his concern that the project will not come to fruition. A discussion ensued.

Mr. Kalick expressed his support in granting the extension and the possible ramifications of not granting the extension. Mr. Berger stated if the board denies the request, the applicant may appeal the decision or could start the application process over again.

Mr. O'Brien expressed his support in granting the extension and briefly discussed the original hearing.

Public Comment – None.

Mr. O'Brien entertained a motion to close the public hearing. **Mr. Kalick moved and Mr. Sawyer seconded to close the public hearing.** With no discussion, the motion carried. 5-0-0.

Mr. O'Brien entertained a motion on the request. **Mr. Sawyer moved and Mr. O'Brien seconded to grant Chase Estates under Comprehensive Permit #08-18, a two-year extension for construction of a sixteen-unit affordable housing subdivision at 230 Sandwich Road.** Mr. Berger stated he will contact the Planning Department to see when the previous extension expires. With no further discussion, the motion carried. 5-0-0.

**6. Reorganization of the Board** – Mr. O'Brien discussed the positions requiring nominations; chair, vice chair and clerk.

Mr. O'Brien requested nominations for the chair position. **Mr. Kalick nominated Amy Kullar and Mr. Sawyer seconded.** After a brief discussion, Ms. Kullar was nominated as chair. 3-2-0. Mr. Keene and Mr. O'Brien were opposed.

Ms. Kullar entertained a motion for vice chair. **Ms. Kullar nominated John O'Brien as vice chair. Mr. Sawyer seconded.** With no further nominations, Mr. O'Brien was nominated as vice chair 5-0-0.

**Mr. O'Brien nominated Wade Keene as clerk. Mr. Sawyer seconded.** After a brief discussion and with no further nominations, the motion carried. 5-0-0.

**7. Old Business** – None.

**8. New Business** – The next meeting will be held on December 7, 2016.

**9. Public Comment** – None.

**IV. Adjournment** –

**Mr. Berger moved to adjourn the meeting. Mr. O'Brien seconded.** With no further discussion, the motion carried 5-0-0. The meeting adjourned at 8:30 PM.

Minutes Submitted By: Carol Mitchell