

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

January 6, 2016

I. Call to order

John O'Brien called to order the meeting of the Zoning Board of Appeals at 7:00 PM on January 6, 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, Harold Kalick, Timothy Sawyer, Amy Kullar and Kat Brennan

Members Excused: Lee Berger and Wade Keene

Also Present: Roger Laporte, Carol Mitchell, Peter Grasso, Allison Grasso, Donald Lynde, Paul Huehmer, Eda Cardoza, Barbara Frappier, Joe Desorcy and Mrs. Desorcy

Documents – Agenda and packets pertaining to hearings for Variance # **2015-V28**, Special Permit # **2015-SP29**.

III. Agenda Items

1. Approval of Minutes -

Mr. O'Brien entertained a motion to approve the minutes of the December 16, 2015, meeting. **Ms. Kullar moved to accept the minutes of the December 16, 2015, meeting. Ms. Brennan seconded.** With no discussion, the minutes were approved 4-0-1 with Mr. Kalick abstaining.

Mr. O'Brien announced the first hearing.

2. 37 Buttermilk Way - Variance #2015-V28, Request for a Variance from the following section of the Bourne Zoning By-law: Section 2453 *Maximum Gross Floor Area* pertaining to Gross Floor Area (GFA) requirements of Non-conforming Lots and also from Section 2457 Departure which allows relief of an additional 10% increase in GFA via Special Permit from the Zoning Board of Appeals through "good cause".

Peter Grasso a resident for ten years of 30 Buttermilk Way, is requesting a Variance to add garage doors to the lower level of his new home located at 37 Buttermilk Way. He stated that when the house was built, it met all of the

permitting requirements. Because the home is located in a flood zone, it had to be built 9' in the air, leaving the lower level open, exposed to the elements as well as animal activity. Adding garage doors would prevent this and would also be aesthetically pleasing.

Mr. Grasso then showed the committee photos of other houses in the neighborhood with similar garage doors that the ZBA approved at previous hearings.

Mr. Laporte informed the committee that the homeowner of 7 Wright Ln had requested and received a similar Variance several months ago. He went on to explain that per the Small Lot By-law, the area below the house is uninhabitable and has to be left open; therefore, the square footage does not count toward the GFA. Installing garage doors would not change that.

Mr. O'Brien questioned the submitted paperwork. He inquired as to whether adding the garage doors would add to the gross flooring. If so, that would add 1,674 feet of GFA. The By-law only allows 10%. Mr. Laporte stated the area is already there. Whether or not the doors and siding are added to make it aesthetically pleasing won't make a difference; it's still there. When the Small Lot By-law was adopted, no one took into consideration the flood zone; where people would have to elevate their houses. Adding the doors will not change the square footage of the home.

Ms. Brennan inquired as to why the home has to be elevated. Mr. Laporte explained that the Army Corps of Engineers has determined the elevation at which a flood is going to come. A home cannot be built below the elevation because of FEMA regulations. He added that in a velocity zone, there are different requirements that would allow a rush of water to come in and move out; i.e., breakaway walls. He further explained that Mr. Grasso currently has the ability to build a separate garage, under 480 sq. feet if he wanted to and would still be within the by-law requirements. Ms. Brennan stated that if he parks his car under the house, as water rises, items from the vehicles would enter the water. Mr. Laporte stated the same thing would happen if he parked his car in the driveway or a car port. He feels the Small Lot By-law should be amended for people who live in flood zones.

A brief discussion transpired pertaining to the photos Mr. Grasso submitted and the number of doors on the Wright Lane property.

Mr. Grasso stated that while walking near the property last week, the police had to be called because he saw someone running from under the house. Mr. Laporte added that security is also a big factor in adding the garage doors.

Mr. Kalick inquired as to the type of flooring that's currently there, how the doors would be secured and what the age of the house is. Mr. Grasso stated the house is brand new. He then went on to explain how the doors would be secured.

Mr. Kalick inquired as to whether or not a building permit would have been issued if the current plans were presented at the inception. Mr. Laporte stated no, the permit would not have been issued. Mr. Kalick feels that there are too many ways of circumventing the zoning laws in the town and is frustrated by this. Mr. Laporte stated in this case, he doesn't feel the homeowner is doing that. A brief discussion ensued.

Mr. O'Brien doesn't know if the board has the authority to approve this request. Mr. Laporte stated that in some instances there are flaws in the by-laws and until they're amended, appealing to the board is the only way an applicant can find relief.

Ms. Brennan feels that approving the request will set a precedent for the rest of the neighborhood. Mr. Laporte is hoping the Small Lot By-law will be corrected to prevent this. A brief discussion ensued.

Mr. O'Brien asked if any board members had further questions. They did not. He then asked for public comment.

Donald Lynde of 37 Academy Dr. addressed the committee. He stated 8 years ago he was told by the building inspector he could not add or change the living space of his home. He questioned why the Buttermilk Way residence was allowed to have more living space. Mr. Laporte explained that at one point, the majority of Taylor's Point was in a velocity zone. The flood zone maps changed last year and the Army Corps took all but 4 homes out of the velocity zone. Mr. O'Brien explained that according to the existing by-laws, there's a percentage of the lot that can be covered. A brief discussion transpired pertaining to lot sizes and percentages. Mr. Lynde then inquired about rebuilding a non-conforming use building if it's been knocked down. Mr. Laporte explained that the Town of Bourne by-law allows up to two years to rebuild. Mr. Lynde was happy to hear he has the ability to expand his home.

Paul Huehmer of 39 Buttermilk Way addressed the committee. He stated that allowing the doors to be installed would add value to the homes in the neighborhood.

Eda Cardoza of 16 Wright Ln addressed the committee. She inquired as to whether she'd be allowed to add on to her property and whether or not she'd have to have breakaway walls. Mr. Laporte stated that as of right now, because her home is no longer in a velocity zone, she can add on and she would not have to have breakaway walls.

Mr. O'Brien entertained a motion to close the hearing on Variance #**2015-V28**. **Mr. Sawyer moved to close the hearing. Ms. Brennan seconded.** The motioned carried. 5-0.

Mr. O'Brien entertained a motion on the request for a Variance under #**2015-V28**. **Mr. Sawyer moved to grant the Variance to Peter Grasso and Allison Grasso of 30 Buttermilk Way for a Variance to exceed the allowable floor space for their property to enclose and put siding according to the plans that have been submitted limited to a garage and storage only, no habitable space and no functional plumbing. Ms. Kullar seconded.** With no discussion, the motion passed unanimously 5-0.

Mr. Grasso thanked the committee.

Mr. O'Brien announced the next hearing.

3. **144 Jefferson Rd** Special Permit # **2015-SP29**, Requesting a Special Permit under section 1331, 2320 and 2450 of the Bourne Zoning By-laws and M.G.L., Ch 40A, Sec 9 to build a 10'x12' addition to the pre-existing non-conforming dwelling.

Barbara Frappier of Warwick & Associates addressed the committee on behalf of the property owner, Joe Desorcy. She explained the homeowner would like to build a 10'x12' addition on the existing dwelling, which due to its setbacks from the property line, is a pre-existing, non-conforming structure. The work as proposed would not make it any more non-conforming and is compliant with the square footage GFA by-law. She submitted letters from abutters stating they do not object to the addition. Ms. Frappier mentioned the addition will be used as utilitarian space only.

Mr. O'Brien asked the board members for questions.

Mr. Sawyer inquired as to the type of room it will be. Ms. Frappier stated it will be a laundry/storage room.

Mr. O'Brien asked for public comment. There wasn't any.

With no other discussion, Mr. O'Brien entertained a motion to close the hearing on Special Permit # **2015-SP29**. **Ms. Kullar moved to close the hearing. Ms. Brennan seconded.** With no discussion, the motion carried. 5-0.

Mr. O'Brien entertained a motion on Special Permit request # **2015-SP29**, **Ms. Kullar moved to grant the Special Permit pertaining to sections 1331, 2320 and 2450 to the Desorcys to build a 10'x12' addition to the pre-existing non-conforming dwelling. Ms. Brennan seconded.** With no further discussion, the motion passed. 5-0.

Ms. Frappier thanked the committee.

4. **Old Business** – None
5. **New Business** – Mr. Sawyer stated he's pleased that Mr. Lydon attached a cover sheet to all of the packets now. Mr. O'Brien agreed and stated Mr. Lydon is doing a great job.

Ms. Brennan asked to be exempt from writing decisions for a short time as she is having computer problems. After a brief discussion, the board agreed to allow Ms. Brennan time to resolve her computer problems and abstain from decision writing.

Mr. O'Brien stated there are two hearings for the January 20, 2016, meeting; **SP30 and V31**

IV. Adjournment

Mr. O'Brien entertained a motion to adjourn the meeting. **Mr. Sawyer motioned to adjourn the meeting. Ms. Kullar seconded.** With no discussion, the motion carried 5-0. The meeting adjourned at 7:43 PM.

Minutes submitted by: Carol Mitchell