

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

## **Meeting Minutes**

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

March 2, 2016

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

John O'Brien called to order the meeting of the Zoning Board of Appeals at 7:00 PM on March 2, 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, Kat Brennan and Wade Keene.

**Members Excused:** Lee Berger

**Also Present:** Roger Laporte, Carol Mitchell, Jim Halloran, Steve Pedro, Gary Bourne, Maureen Atkins, Zach Basinski and Ryan Austin.

**Documents** – Agenda and documents pertaining to the hearings for Special Permit **2016-SP3**, Special Permit **2016-V4**, Special Permit **2016-SP5** and Special Permit **2016-SP2**.

### **III. Agenda Items**

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

Mr. O'Brien entertained a motion to accept the minutes as submitted of the February 17, 2016 meeting. **Mr. Keene moved to accept the minutes as submitted of the February 17, 2016 meeting. Mr. Kalick seconded.** With no discussion, the motion carried. 6-0.

Mr. Keene will draft the decisions for this meeting.

#### **2. 7G Hideaway Road** – Special Permit, **2016-SP3**, Requesting a Special Permit per section 2320 and 2450 of the Bourne Zoning By-law, under M.G.L., Ch. 40A, Sec 9 to install wooden patios of 12'x 12' and 12'x 14'.

Sitting on this hearing are John O'Brien, Timothy Sawyer, Harold Kalick, Kat Brennan and Wade Keene. Also present is Amy Kullar.

Jim Halloran, who recently purchased this property, addressed the committee. He indicated there is nowhere to sit outside on his property. He would like to

install two-tiered pressure treated decks. He stated they would not be attached to the dwelling, they don't encroach on anyone's property and there are 8' high shrubs around the perimeter.

Mr. O'Brien stated when dealing with requests from Hideaway Village, the applicant usually submits a letter of approval from their board. Mr. Halloran stated he spoke with George in Maintenance at Hideaway Village who gave him permission to build the decks. Mr. Halloran began framing but has since stopped because he was unaware that a Special Permit was required.

Mr. Laporte explained that there's a two- step process that Mr. Halloran would have to follow. The first, is to obtain written approval from Hideaway Village. Mr. Halloran indicated he included the approval letter with the plans he submitted to the board. A brief discussion pertaining to the approval letter transpired.

Mr. O'Brien asked if the board members had any questions. They did not.

Mr. O'Brien asked if anyone in the audience would like to be heard on the issue. The owner of 7F Hideaway Rd addressed the committee. He described Mr. Halloran's property and indicated he does not oppose the project.

With no further comment, Mr. O'Brien entertained a motion to close the hearing for **2016-SP3. Mr. Kalick motioned to close the hearing for 2016-SP3. Ms. Brennan seconded.** With no discussion, the motion carried. 5-0.

Mr. O'Brien entertained a motion on **2016-SP3. Mr. Keene made a motion to grant Special Permit, 2016-SP3 to install a wooden patio 12'x 12' and a 12' x 14' at 7G Hideaway Road. Mr. Sawyer seconded.** With no discussion, the motion carried 5-0.

3. **282 Main St** – Special Permit, **2016-V4**, Request for Variances from the following sections of the Bourne Zoning By-law; Section 2885c. Monument or Freestanding Signs. Remove existing freestanding sign and replace with a new non-conforming sign to exceed height and design requirements.

Sitting on this hearing are John O'Brien, Timothy Sawyer, Harold Kalick, Amy Kullar and Wade Keene. Also present is Kat Brennan.

Steve Pedro from Ayoub Engineering spoke on behalf of Nouria Energy, the gasoline supplier, and Gary Bourne, the property owner and operator.

Mr. Pedro explained that previously, the site was a Sunoco station. The station is now a Shell and new signage is needed to reflect the name change.

At Special Town Meeting, the Town approved amending the By-law with regard to sign height restrictions from 6' to 8'. The amendment also allows the Design Review Committee, on a case by case basis, the authority to approve as high as 12'. Mr. Pedro's proposed sign is 25'. He stated there are three other businesses within the station and the new sign is needed to properly advertise these businesses. He stated the DRC would not approve this sign because it does not comply with the amended By-law. He and the owner are seeking a Variance to replace the freestanding sign and to modify the canopy; allowing for logos and internal lighting. He added that an existing roof sign, the existing freestanding Sunoco sign and two price signs will be removed; thus, reducing the total square footage of signage.

The proposed sign is 25' high 6 - 6" wide, double poled that includes an internally lit Shell logo, LED price panel, and illuminated Subway, Honey Dew and FoodMart panels. They also would like to install two internally illuminated Shell logos on the canopy which includes an internally illuminated red band along the bottom.

Mr. Keene asked Mr. Pedro if he was aware of the Town By-law on the do's and don't's on signage. He replied that he's seen the By-law.

Mr. Laporte clarified that in addition to the height, they are also seeking a Variance to have the signs internally illuminated.

Mr. Keene explained that the Town has a certain look that they want signs to look like; the proposed sign is not in compliance.

Mr. Laporte advised the committee to be specific with their decision because current guidelines specifically state no internal illumination. Mr. Pedro explained how the lights will be illuminated. He stressed the fact that across the street, Job Lot's sign has internal illumination as does the Dunkin' Donuts sign right next door; adding, that because of its location on the rotary, a larger sign will allow the driver to safely identify the branding and services offered. Mr. Kalick suggested ways to revise the sign to conform to the By-law. A discussion ensued.

A brief discussion transpired pertaining to signage that may be grandfathered and other businesses in different parts of town that have illuminated signs.

Mr. Bourne explained that his station is the last parcel within the Downtown District. He understands the reasoning behind the sign restrictions that have been set for the downtown area; however, his business is far enough removed from the Downtown District and feels his sign should be exempt. The

committee referred to pictures of permissible signs displayed in the Zoning By-law book and discussed possible alternatives; including, lowering the sign. The applicant discussed safety concerns with lowering the sign. A discussion ensued.

Mr. Pedro proposed adjusting the sign to 16'. This would change the original request of 128 sq. ft. down to 62 sq. ft. of sign. Mr. Kalick expressed concern that the request is still substantially over the allowable 12' and proposed shortening the pole height. Mr. Keene stated for safety reasons; particularly with snow banks, a 6' clearance under the sign should be considered. Mr. Bourne stated that the rotary represents the one commercial part or highway area of Buzzards Bay.

Further discussion pertaining to internal illumination transpired.

Ms. Brennan expressed concern in setting a precedent if this sign is approved. Mr. O'Brien stated the board makes determinations on a case by case basis and looks at each individual circumstance.

Mr. O'Brien asked if anyone in the audience would like to be heard on the issue. Maureen Atkins, a resident, stated the rotary is treacherous and feels that signage should be clearly visible. She added that this part of town isn't quaint Main St.; there's so many cars coming, going and yielding. Proper signage will enable the driver to make a safe, quick decision.

Mr. O'Brien asked if the board members had any further questions. They did not.

Mr. O'Brien entertained a motion to close the hearing. A brief discussion pertaining to Mr. Pedro submitting a revised plan to the committee transpired. He stated he would do that the following day. **Ms. Kullar made a motion to close the hearing for 2016-V4. Mr. Sawyer seconded.** With no discussion, the motion carried. 5-0.

Mr. O'Brien entertained a motion on Special Permit, **2016-V4. Mr. Kalick made a motion to grant a Variance from the following sections of the Bourne Zoning By-law; Section 2885c. Monument or Freestanding Signs. Remove all existing freestanding signs located at 282 Main St. with the exception of the existing, non-illuminated drive-thru sign and replace with one internally lit monument sign as per plan specifications submitted on 3/3/2016, of a monument sign no more than 16' tall x 4 - 10 3/4 " wide and two insignia signs internally lit, no more than 2 - 9 1/2 " square, mounted on the existing canopy. Mr. Sawyer seconded.** With no further discussion, the motion carried. 5-0.

4. **11 Phillips Road** – Special Permit, **2016-SP5**, Requesting Supportive Finding per section 2320 and 2450 of the Bourne Zoning By-law, under M.G.L., Ch. 40A, Sec 9 that the addition of a proposed two car garage onto a non-conforming structure is no more detrimental than the existing structure.

Sitting on this hearing are John O'Brien, Timothy Sawyer, Harold Kalick, Kat Brennan and Wade Keene. Also present is Amy Kullar.

Zack Basinski of Bracken Engineering represented the property owner, Mr. Sweetman. Mr. Basinski gave a brief history of the property and when it was built. He displayed photos of the existing site and explained that the property owner is seeking to add a garage onto an existing structure. The existing studio is 5 ½ feet from the sideline setbacks. Setback requirements for this property are 12' side yard setbacks and 20' front yard setbacks. The proposed structure is 673 sq. ft. and will maintain the existing side yard setback but would meet the 20' front yard setback. No additional drainage is required.

Mr. Basinski believes the Supportive Finding could be granted. He discussed how the project will not have an impact on pedestrian or vehicle access to the neighborhood, it will not impact the utilities or pole services to the area, there's no impact on the natural environment, or to the neighbors and meets the GFA requirements.

A discussion transpired pertaining to the access of the proposed garage, the existing structures on the property and the placement of the proposed structure.

Mr. Sawyer inquired as to why the proposed garage can't be placed to meet side yard setbacks. Mr. Basinski stated there's an existing tree that the homeowner would like maintain. A brief discussion ensued.

Ms. Kullar feels the proposed garage is not a true modification of the pre-existing structure when it's not on the same foundation or footprint. The board suggested finding another location on the property to build the garage that meets the required setback.

Mr. O'Brien asked if anyone in the audience would like to be heard on the issue. There wasn't anyone.

The board briefly discussed the side line setback.

Mr. O'Brien asked the board for additional questions or comments. Mr. Sawyer stated he'd like the project to meet the 12' setback. Ms. Brennan concurred. A discussion ensued.

Mr. O'Brien entertained a motion to close the hearing. **Mr. Keene moved to close the hearing of 2016-SP5. Mr. Sawyer seconded.** With no discussion, the motion carried. 5-0.

Mr. O'Brien entertained a motion relative to the Supportive Finding Request under **2016-SP5. Mr. Kalick motioned under 2016-SP5, to deny the request for a Supportive Finding per section 2320 and 2450 of the Bourne Zoning By-law, in regard to 11 Phillips Road, Sagamore Beach, for the addition of a two car garage as per plans and specifications submitted by Bracken Engineering dated 1/25/16. Mr. Sawyer seconded.** With no discussion, the motion carried. 4-1 with Mr. O'Brien voting no.

5. **410 Barlows Landing Road** – Special Permit **2016-SP2**, Requesting a Special Permit per section 4120-4123 of the Bourne Zoning By-Law, under M.G.L., Ch. 40A, Sec 9 for conversion of a space within existing building footprint for an accessory dwelling.

Sitting on this hearing are John O'Brien, Timothy Sawyer, Harold Kalick, Amy Kullar and Wade Keene. Also present is Kat Brennan.

Ryan Austin of Jill Neubauer Architects spoke on behalf of the property owners and residents, David and Rochelle Rottenberg. He explained that the proposal is to convert existing interior space to accessory dwelling by adding a kitchen. The project would not change the building footprint; it would only add electrical, plumbing, cabinetry and standard kitchen appliances. A voluntary Title V inspection was performed. The owner replaced the holding tank and received a passing Title V Certificate.

Mr. Austin explained this is currently a seasonal residence; however, the Rottenbergs intend to retire here for 4-6 months out of the year. The main house will be used by their daughter and her family, the Rottenbergs will reside in the detached accessory building. He explained that without a kitchen, they would have to traverse their yard to the main house, which will be difficult. Adding that a letter has been submitted with the application indicating the Rottenburgs will never rent the property. The committee reviewed the submitted plans. A discussion ensued.

Mr. O'Brien asked the board members for further questions. There weren't any.

Mr. O'Brien asked if anyone in the audience would like to be heard on the issue. There wasn't anyone.

Mr. O'Brien entertained a motion to close the hearing. **Ms. Kullar moved to close the hearing of 2016-SP2. Mr. Keene seconded.** With no discussion, the motion carried. 5-0.

Mr. O'Brien entertained a motion to grant a Special Permit for an accessory dwelling. **Ms. Kullar moved to grant a Special Permit for an accessory dwelling under section 4120 of the Bourne Zoning By-law, per the submitted revised plans dated 1/19/16, the accessory dwelling shall only be occupied by David and Rochelle Rottenberg located at 410 Barlows Landing Road. Mr. Sawyer seconded.** With no discussion, the motion carried. 5-0.

6. **Old Business** - None
7. **New Business** – None

#### **IV. Adjournment**

Mr. O'Brien entertained a motion to adjourn the meeting. **Mr. Sawyer motioned to adjourn the meeting. Mr. Kalick seconded.** The motion carried 6-0. The meeting adjourned at 8:50 PM.

Minutes submitted by: Carol Mitchell