

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

April 20, 2016

I. Call to order

Mr. O'Brien called to order the meeting of the Zoning Board of Appeals at 7:00 PM on April 20, 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, Amy Kullar and Kat Brennan.

Members Excused: Lee Berger, Wade Keene and Timothy Sawyer.

Also Present: Roger Laporte, Carol Mitchell, Lawrence Perrault, Joseph Agrillo Sr., Joseph Agrillo Jr., Joseph Agrillo III, Patti Cox, Ron Cox, Jonathan Bankston, Michael Dean and Marissa Russo.

Documents: Agenda, documents pertaining to Special Permit, **2016-SP7**, Special Permit, **2016-SP8** and a letter from Mr. & Mrs. Lively.

Ms. Kullar will draft tonight's decisions.

III. Agenda Items

1. Approval Of Minutes

Mr. O'Brien entertained a motion to approve the minutes of the March 16, 2016 meeting. **Mr. Kalick made a motion to approve the minutes of the March 16, 2016 meeting. Ms. Kullar seconded.** With no discussion, the minutes were approved. 3-0-1. Mr. O'Brien abstained.

2. 576 Shore Road – Special Permit - 2016-SP7, requesting a Special Permit per section 1331, 2320 and 2450 of the Bourne Zoning By-law, under M.G.L., Ch. 40A, Sec 9 to extend the non-conformity by constructing a garage addition to change the setback from 15 feet to 12 feet.

Lawrence Perrault, property owner, explained that he'd like to add a bay and a half to the existing garage which would provide storage space for tools and would also create a small work area for him to complete projects. He discussed the layout of the addition, the pitch of the roof and the need to reduce the size of the existing deck in order to accommodate the addition.

Mr. O'Brien asked if any board members had questions.

Ms. Kullar asked Mr. Perrault if he would face a substantial hardship should the project not be approved. Mr. Perrault stated if the project was not approved, he'd be faced with two alternatives; keep the existing storage trailer that's there, wait for good weather to pull the tools out to perform work on the gravel area or gouge out a large area coming up the driveway; which would not be aesthetically pleasing.

Mr. Kalick inquired as to whether or not any of his neighbors object to the project. Mr. Perrault stated that neither Mr. Gilbert, who lives on one side, nor his sister, who lives on the other side, have any objections.

A brief discussion transpired pertaining to the setback requirements.

Mr. O'Brien asked if anyone in the audience would like to be heard on the matter. There was not.

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

Mr. O'Brien entertained a motion on Special Permit - **2016-SP7. Mr. Kalick moved to grant Special Permit 2016-SP7, to extend or alter a pre-existing, non-conforming structure per section 1331, 2320 and 2450 of the Bourne Zoning By-law, by constructing a garage addition to change the setback from 15 feet to 12 feet, as per plans and specifications dated 2/9/2016, with the attached plot plan by Warwick & Associates, and design drawings by Perrault Construction, dated 01/13/2016. Ms. Kullar seconded.** With no discussion, the motion carried. 4-0.

- 3. 79 County Rd – Special Permit 2016-SP8**, requesting a Supportive Finding per section 2320 and 2450 of the Bourne Zoning By-law and M.G.L., Ch. 40A, Sec 9 that constructing a solar car port on a pre-existing, non-conforming commercial use in an R-40 zone is no more detrimental than the existing structure.

Joseph Agrillo Jr., discussed his desire to build a 100'x30' solar car port which has the potential to generate 25 kilowatts of power and would allow several of his commercial vehicles / equipment to be parked out of the weather and out of sight. He stated the addition of the car port will not change any of the day-to-day operations being performed at the facility; it will simply protect the equipment from the elements and will generate power. It will not be heated and will not allow for occupancy. Mr. Agrillo stated he submitted the plans to the fire department and the chief's only request is that a fire alarm / early warning system be installed and tied into the existing fire alarm system. Mr. Agrillo introduced

his son, Joe, who reiterated the proposed structure will not change the day-to-day operations.

Mr. O'Brien referred to the submitted plans. He discussed the layout of the property, the location of the proposed car port and the direction that Mr. Agrillo's vehicles would approach the car port from. A discussion ensued.

Ms. Brennan discussed the deplorable condition of Great Rock Rd. She inquired about the setback requirements from the road and asked if the area was zoned residential or commercial. Mr. Agrillo stated Great Rock Road is an ancient road that he is responsible for maintaining. He explained that the sandpit business he owns is grandfathered which is why residential homes have been built all around it.

Mr. O'Brien discussed ongoing concerns over the number of vehicles used on the site. Mr. Agrillo explained that he previously agreed to a limit of 5 pieces of land moving equipment and a limit of 6 commercial trucks. He is at that limit; therefore, no additional vehicles can be obtained.

Mr. Agrillo then gave the committee a brief history of the types of businesses that have been on this site over the years.

Ms. Kullar asked if he was building this just for the solar power or was he planning on building a car port anyway? She also asked if the car port is necessary to operate the business. Mr. Agrillo stated the solar car port will be beneficial not only because it will generate power; but, because it will also prolong the life of his equipment.

Ms. Brennan asked if the activity on the road would be increased as a result of the car port. Mr. Agrillo stated the proposed car port would most likely lessen the vehicle activity on the road.

A brief discussion transpired pertaining to the applicable by-laws.

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

Ms. Brennan asked for confirmation that the structure would meet the required 30' setback from the road. Mr. Agrillo agreed that the structure would meet the required setback.

Mr. Kalick discussed the location of the proposed structure. He inquired as to whether or not the tree line would impact the sun's ability to reach the solar panels. A discussion ensued.

Mr. O'Brien asked if anyone in the audience would like to be heard on the matter.

Patti Cox, an abutter, addressed the committee. She explained that when Mr. Agrillo received a Special Permit previously, it was to build a structure to store equipment as well as an apartment. He then received another Special Permit to build a second apartment on the site. She explained that use of the site has grown tremendously and now Mr. Agrillo runs his commercial business there. She wonders how much more expansion will be allowed on the property. She explained that the increase in dust, noise and traffic is creating a nuisance and feels that the car port isn't necessary to protect his equipment which has been exposed to the elements for years.

Ron Cox, an abutter, explained what was once a small sandpit, has since exploded into a complete junkyard. He stated Mr. Agrillo subleases the land to other contractors, who use the roadway for travel when it's not allowed. He added the constant truck activity, throughout the day, is too much for a neighborhood to ask for.

Jonathan Bankston, an abutter, agrees with Mr. Cox. He feels that a new building will cause further disruption. He stated that trees have already been cleared at the site giving him a full view into the contractor's yard from his property. The noise level has also increased substantially since the tree buffer has been removed.

Several of the abutters approached the committee's table to review the submitted plans and to discuss the location of their property in relation to the ancient road and the contractor's yard.

Mr. O'Brien reminded those in attendance that although the board appreciates the information provided by the abutters, the purpose of this hearing is to decide whether or not the construction of the solar shed is more detrimental to the neighborhood.

Michael Dean, an abutter, addressed the committee. He gave a brief history of his relationship with Mr. Agrillo and supports the project.

Marissa Russo, a resident at Tradewinds, stated that since she's owned her condo, activity and noise at the site has increased. She is concerned about her property value if future expansion is allowed. Mr. O'Brien explained that because the property is non-conforming, any future building on that property, would require permission. He reiterated the purpose of the current hearing. A discussion ensued.

Mr. Kalick suggested that Mr. Agrillo enhance the property with some minor alterations; i.e., install a fence, add plantings, pave the road, remove the disabled boat and antiquated equipment on Great Rock Rd. He feels this gesture may appease the neighbors.

Mrs. Cox stated that Mr. Agrillo removed the vegetation that lined her property which served as a buffer. The removal of the buffer now gives her a full view into the pit. She would like the property owner to replace the buffer.

Joe Agrillo Sr. expressed his sense of pride in his son's achievements.

Mr. O'Brien asked for other comments.

A brief discussion pertaining to landscaping transpired.

Mr. O'Brien read a letter submitted from an abutter, Mr. & Mrs. Lively, who support the project.

Mr. O'Brien entertained a motion to close the hearing. **Ms. Kullar moved to close the hearing. Ms. Brennan seconded.** With no discussion, the motion carried, 3-1. Mr. Kalick opposed closing the hearing.

Mr. O'Brien entertained a motion on the Request for a Supportive Finding **2016-SP8**. After a brief discussion, **Mr. Kalick, with regard to Special Permit 2016-SP8, 79 County Rd., Bourne, MA moved to grant a Supportive Finding per section 2320 and 2450 of the Bourne Zoning By-law, to allow Joseph Agrillo Jr., to construct a solar car port on a pre-existing, non-conforming commercial use in an R-40, with the following conditions; a berm 15' from the sideline on the Cox property line with vegetation to provide screening must be installed, the boat and any material; i.e., timbers, machines, or other antiquated equipment on Great Rock Rd must be removed and vegetation must be planted to create a site that is aesthetically pleasing, the car port is required to meet the 30' setback from the road and must be constructed according to the plans and specifications submitted by Rescom Architectural Inc. dated 4/21/14. Mr. O'Brien seconded.** With no discussion, the motion passed. 3-1 with Ms. Kullar voting no.

4. **Old Business** - None
5. **New Business** – None
6. **Public Comment** - None

IV. Adjournment –

Ms. Kullar moved to adjourn the meeting. Ms. Brennan seconded. With no further discussion, the motion carried 4-0. The meeting adjourned at 8:10 PM.

Minutes submitted by: Carol Mitchell