

**Town of Bourne
Zoning Board of Appeals
Meeting Minutes
September 21, 2022**

PRESENT: Vice Chairperson Chris Pine, John O'Brien, Harold Kalick, Wade Keene.

ABSENT: Chairman Jim Beyer, Karl Spilhaus (Associate).

STAFF: Ken Murphy

PUBLIC: Roger Forget, James Stack, John Lauzon, Alyshe Audette

Vice Chairperson Pine called the meeting to order via Zoom at 7:00pm.

Public Hearing for Amendment to Comprehensive Permit No. 08-18: *Cont'd from 8.17.22.
230 Sandwich Rd. Chase Estates.*

Mr. O'Brien makes a Motion to Continue the Public Hearing for Amendment to Comprehensive Permit No. 08-18 until October 5th, 2022. Mr. Keene seconds the motion.

Roll Call Vote as Follows: Harold Kalick – YES, John O'Brien – YES, Wade Keene – YES, Vice Chairperson Pine – YES.
The Motion Passes.

Approval of Minutes: 7.6.22

Wade Keene made a Motion to approve the minutes, seconded by John O'Brien. Roll call vote as follows:

Roll Call Vote as Follows: Harold Kalick – YES, John O'Brien – YES, Wade Keene – YES, Vice Chairperson Pine – YES.
The Motion Passes.

Public Hearing for Special Permit #2022-SP13: *Cont'd from 9.7.22. 9 Dawe Lane. James Stack. Convert garage for an accessory dwelling for daughter.*

Mr. Pine informs the audience that since there are only four board members present, they will need a unanimous vote for approval of a Special Permit. Mr. Pine asks Mr. Kalick to write the decision on this item.

James Stack introduces himself as the applicant. He explains that his daughter rented an accessory dwelling from an older couple for 20 years until they recently passed away.

Now without a place to live, she finds herself struggling to find adequate housing in today's market. He describes the accessory dwelling as an apartment with one bedroom, a bath, and a living area. He states that they will need electrical and plumbing permits. However, they have already started construction because she will need to be out of her current rental in six weeks. He hopes the board will be okay with this since she is unmarried and does not have kids. He states that the abutters they know are pleased with this arrangement.

Mr. Keene asks for some clarification on the plans submitted by Mr. Stack. He confirms that the accessory dwelling will only be one floor.

Mr. O'Brien inquires if the ZBA has received any documentation from the Board of Health if the septic will be acceptable with an additional bedroom.

Mr. Stack states that they got a plumber involved immediately because they knew this would be an issue. He states that the tank is a large 1500sqft tank capable of a 5-bedroom home. Mr. O'Brien explains that there are a list of things they need to approve a special permit, and approval from the Board of Health is one of them. Mr. Stack claims that they were unaware of this, but understands that they need the documentation. Mr. Keene asks how many bedrooms the house has now, and Mr. Stack states that it is a four-bedroom house.

Mr. Pine states that the board has the capability to make an approval conditional upon the septic system approval. However, there are other requirements, such as sufficient paved parking. Mr. Stack claims that there is parking for approximately six cars behind the garage, not visible from a drive by.

Mr. Pine explains that they will also need Mr. Stack's daughter's name, and explains the conditions of the three year time limit on the accessory dwelling. Mr. Stack states that her name is Erika Stack.

Mr. Kalick confirms that the permit will be conditional upon the approval from the Board of Health. He asks Mr. Murphy if the town has signed off on the project. Mr. Murphy states that if the board approves it, the project will still have to go through the building permit process, and if something else pops up from another department as it goes through the queue, they will deal with it then. Mr. O'Brien states that although they have done this in the past, they really should have all the information before they make the approval. Mr. Kalick agrees and states that ever since the meetings have gone to Zoom, the list of items needed for approval has not been adhered to. He admits that it is an inconvenience to Mr. Stack, but it is better to get everything taken care of now before lots of money is spent. He would like to see Mr. Stack get all his information in because it does take all four of the board members present for the approval. Mr. O'Brien states that he is not against approving it tonight, but he thinks that they really ought to start adhering to having the whole packet completed before approval. He also states that they used to get the packet in hard copy through the mail beforehand, and they are not presently which makes it difficult.

Mr. Stack states that he was not aware of all the documents required for approval. He says that the size of their septic holding tank is on record at Town Hall. He states that his daughter needs to leave her current residence in five weeks, although he admits that is not the ZBA's problem, he would ask for some special consideration given the circumstances. He states that he spoke with the Building Department several times and was not aware.

Mr. Pine states that he believes that they can move forward tonight, but just so Mr. Stack is aware, that checklist is in the application packet and the items listed there are the requirements for an accessory dwelling. Mr. Stack states that the questions in the application packet could at times be quite overwhelming for them, as older folks.

Mr. Keene makes a Motion to Close the Public Hearing for Special Permit #2022-SP13. Mr. O'Brien seconds the Motion.

Roll Call Vote As Follows: Mr. Kalick – YES, Mr. O'Brien – YES, Mr. Keene – YES, Vice Chairperson Pine – YES.
The Motion Passes.

Mr. Pine asks if there is any more discussion from the board. Mr. Kalick asks Mr. Murphy how Mr. Stack did not get an application packet. Mr. Stack claims that he did receive it. Mr. Kalick continues that they must start getting people to adhere to the requirements in the application packet. Mr. Murphy states that he will make sure that whoever takes in the packets confirms that they are complete. He states that there should be a certified plot plan, as well a letter from the Health Department, and an Inspection Report. Mr. Kalick asks if any of this was in the packet. Mr. Murphy states that oftentimes when they see that a septic plan that meets requirements, it can move from there. Mr. Kalick asks if there is a certified plot plan. Mr. Pine answers that it is not stamped by an engineer. Mr. Stack states that they were told it would be alright. Mr. Murphy states that they were told it is alright because it is an existing garage and nothing is being added on.

Mr. Kalick makes a Motion to Approve Special Permit #2022-SP13 subject to the following conditions:

- approval of the septic system with the Board of Health
- a certified plot plan is required before the building permit is issued.

Mr. O'Brien seconds the Motion.

Roll Call Vote As Follows: Mr. Keene – YES, Mr. Kalick– YES, Mr. O'Brien – YES, Vice Chairperson Pine – YES.
The Motion Passes.

Public Hearing for Variance #2022-V03: *Cont'd from 9.7.22. 31 Center Ave. John Lauzon and Alyshe Audette. For an addition 6.7 feet from the property line.*

John Lauzon introduces himself as the applicant. He states that he did see the application checklist and that the board should have a complete packet. He directs the board's attention to a certified plot plan which shows that the property line juts out on the side of the addition, starting at 6.7 feet in the back, but then reaches 15 feet in the front.

Mr. Keene states that they do not have plans for the addition. Mr. Lauzon confirms and states that he did not want to spend the money on an engineer until he got the approval to build the addition. Mr. Keene says that they need to see a plan as part of the approval. Mr. Kalick adds that it does not need to be an engineered plan, but they need to have an outline or sketch with a floor plan. Mr. Keene states that they need the chart with the area and lot coverage, which they do not have either. Mr. Pine states that they do have the GFA and it does meet lot coverage.

Mr. Pine explains that there are three criteria for the evaluation and approval of a variance. Special conditions must exist which effect the subject's parcel of land--there must be something wrong or unusual about the parcel of land. These conditions pertain only to the shape (not size), soil conditions, and topography of the parcel. Mr. Pine asks Mr. Lauzon what makes his parcel of land qualify as in need of a variance.

Mr. Lauzon states that it is the shape of the lot, and it is the only place on the property to put an addition for a growing family. He states that none of the abutters are upset about the proposed addition. Mr. Pine asks why he couldn't put the addition on any other part of the property. Mr. Lauzon states that the addition couldn't go on the left side of the house because that's where the septic and utilities come in, and in the back there is only 10 feet. Mr. Lauzon asks the board why the absence of a floor plan would make it so they are unable to vote, when he explains that he wants a 26x30ft addition. Mr. Murphy explains that the board needs to know what he wants to put inside the addition in terms of bedrooms, bathrooms, and living space, especially when it comes to a variance, which in its essence is breaking the zoning bylaws.

Mr. Lauzon explains to the board his vision for the addition, which would be a garage with a 26x30ft room above, hopefully a bedroom. Above that, there would be a storage attic. Mr. Keene describes to Mr. Lauzon how he could move the addition to the left side of the house by slightly tweaking the septic plans. Mr. Lauzon states that he did consider that, but he felt that it would be too close to the septic and it would be aesthetically unpleasing. He says that he is trying to have the addition to be harmonious with the rest of the house.

Mr. Pine states that the purpose of the zoning bylaws is to give everyone a standard playbook. In order to approve a variance, there must be hardship and there should be no other choices. If the board were to allow one person to build 7ft off the property line, it often causes problems down the road. Mr. Pine suggests that they look at Plan B, which

would be building on the left side of the house, and that would only require a building permit.

Alyshe Audette states that they already have two children who play sports, and if they did the addition on that side of the house they would have no yard to play in. Also if the addition was on that side, it would increase the cost of the addition because they would have to move utility lines.

Mr. Kalick suggests making the addition smaller. He states that a 6.5ft setback is unacceptable, and it would even be difficult to get machinery in without going on the neighbor's property.

Mr. Lauzon states that he understands what the board is saying, but adds that there are many properties within the 15ft setback. He says that they will come back and look at their options and decide what the best path forward is. Mr. Murphy invites Mr. Lauzon to his office to come up with ideas before the addition is abandoned.

Mr. Pine agrees and suggests a withdrawal without prejudice. Mr. Pine states that he will write the decision for this item.

Mr. O'Brien makes a Motion to Close Public Hearing for Variance #2022-V03. Mr. Keene seconds the Motion.

Roll Call Vote As Follows:

Mr. Kalick – YES, Mr. O'Brien – YES, Mr. Keene – YES, Vice Chairperson Pine – YES.

The Motion Passes.

Mr. O'Brien Makes a Motion to Accept the Withdrawal of Variance #2022-V03 Without Prejudice. Mr. Keen seconds the Motion.

Roll Call Vote As Follows:

Mr. Kalick – YES, Mr. O'Brien – YES, Mr. Keene – YES, Vice Chairperson Pine – YES.

The Motion Passes.

New Business:

None.

Old Business:

None.

Adjournment

Mr. Kalick makes a Motion to Adjourn, seconded by Mr. Keene.

Roll call vote as follows:

Mr. O'Brien – YES, Mr. Kalick – YES, Mr. Keene – YES, Vice Chairperson Pine -- YES
The Motion Passes.

With no further business before the Board, the meeting was adjourned at 8:00PM.

Respectfully Submitted,
Ina Sullivan