

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

## ***Meeting Minutes***

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

October 2, 2019

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

Chair Amy Keller called to order the meeting of the Zoning Board of Appeals at 7:00 PM on October 2, 2019. Ms. Kullar 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.

Ms. Kullar announced the meeting was being recorded and asked if anyone in the audience was recording the meeting to please acknowledge such to the board. She noted Carol Mitchell was recording the meeting.

**Members Present:** Amy Kullar, John O'Brien, Wade Keene, Harold Kalick, Kat Brennan and Associate Members, Deb Bryant, Chris Pine and Jim Beyer.

**Members Excused** – N/A

**Also Present:** Roger Laporte, Carol Mitchell, Greg Siroonian, David Maclean, Brenton Taylor, Taasha Taylor, Chad Rossi, Pat Murphy, Annie Para, Steven J. Para, Kathleen Haynes, Cheryl Archer, Robert Dutch, Sean Scully, David Anslem, Ann Anslem, Steven Downey, James Pavlik, Thomas Pappas, and Drew Hoyt.

*Kat Brennan will be writing the Decisions.*

### **II. Agenda Items**

**1. Approval of Minutes** – Ms. Kullar entertained a motion to approve the minutes of the September 18, 2019 meeting. **Mr. Keene moved, Ms. Brennan seconded to approve the minutes of the September 18, 2019 meeting.** The motion carried. 3-0-2. Mr. Kalick and Ms. Kullar abstained.

*Sitting on the hearings; Amy Kullar, John O'Brien, Wade Keene, Harold Kalick and Kat Brennan.*

**2. 18D Windy Hill Rd, Special Permit #2019-SP16** Special Permit sought under M.G.L., Ch. 40A, Sec. 9 and the Bourne Zoning Bylaw Section 1330 and a Supportive Finding under Section 2300 that the alteration of an existing single-family structure and

construction of a new non-conforming, single-family structure and construction is not substantially more detrimental than the original structure to the neighborhood.

*Materials – Public Hearing Notice, Approval from Hideaway Village, Assessor’s Data Card, Application for Special Permit, Directions to the Property and Site Plan of Record.*

Greg Siroonian addressed the members stating the property is located in Hideaway Village and is a straightforward replacement of a single-family structure. He stated he was informed the day before that a surveying error had occurred; so, he was submitting a revised plan adjusting the size of the proposed deck.

Board Comment - Ms. Kullar asked whether the property is located in a Velocity Zone. Mr. Siroonian stated it is not.

Public Comment – Chad Rossi, the operations manager of Hideaway Village, addressed the board. He and the general manager, Patrick Murphy, were present on behalf of the board of directors to inform the members that the Hideaway Village Board has not approved the revised plan.

Ms. Kullar asked when the Hideaway Village Board will meet again. Mr. Rossi stated they recently held their monthly board meeting and will not meet again for another thirty days. Additionally, the abutters will have to be renotified.

Mr. Siroonian asked the board to consider approving the amended filing pending Hideaway Village’s approval. Mr. Rossi voiced opposition to that request. He suggested the applicant move forward with what was originally submitted since that was already approved by the Hideaway board.

After a brief discussion, Mr. Rossi again encouraged the representative to move forward with the original plan because he felt certain the board of directors would not approve the larger deck that’s being proposed on the amended plan. The representative agreed.

Board – Mr. O’Brien and Ms. Kullar suggested the representative follow Mr. Rossi’s advice.

**Mr. O’Brien moved, Ms. Brennan seconded a motion to close the public hearing.**  
The motion carried 5-0-0.

Mr. Siroonian informed the members that the site plan being submitted has an erroneous property line; however, the deck design is accurate. Mr. Laporte suggested conditioning the permit requiring a corrected site plan be submitted.

Ms. Kullar entertained a motion. **Mr. O'Brien moved, Ms. Brennan seconded to approve Special Permit request 2019-SP16, 18D Windy Hill Rd., and grant a Supportive Finding under Section 2300 that the alteration of an existing single-family structure and construction of a new non-conforming, single-family structure is not substantially more detrimental than the original structure to the neighborhood with the condition that a revised plan be submitted to the building inspector prior to a Building Permit being issued.** The motion carried. 5-0-0. Roll Call Vote – Harold Kalick – yes, Amy Kullar – yes, John O'Brien – yes, Kat Brennan – yes, and Wade Keene – yes.

**3. 243 Scraggy Neck Rd,** Special Permit #2019-SP17 Special Permit sought under M.G.L., Ch. 40A, Sec. 9 and the Bourne Zoning Bylaw Section 1330 and a Supportive Finding under Section 2300 that the alteration / addition of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood.

*Materials – Public Hearing Notice, Application for Special Permit, Plot Plan, Directions to the Property, Site Photographs and Site Plan of Record.*

The architect, David Maclean, addressed the members and discussed the proposed project to add a bathroom to an existing log cabin on the landward side of the property.

Board Comment – Ms. Kullar asked whether Board of Health approval is required. Mr. Maclean stated it is not.

Mr. Laporte asked the representative to pinpoint the location of the proposed addition on the plot plan. Mr. Maclean stated the red dot on the plan accurately depicts the proposed location of the addition.

Public Comment – None.

Ms. Kullar entertained a motion. **Mr. O'Brien moved, Mr. Keene seconded to close the public hearing.** The motion carried. 5-0-0.

**Mr. Keene moved, Ms. Brennan seconded to grant Special Permit #2019-SP17 Special Permit sought under M.G.L., Ch. 40A, Sec. 9 and the Bourne Zoning Bylaw Section 1330 and a Supportive Finding under Section 2300 that the alteration / addition of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood. Per the plans submitted August 30, 2019.** The motion carried. 5-0-0. Roll Call Vote – Harold Kalick – yes, Amy Kullar – yes, John O'Brien – yes, Kat Brennan – yes, and Wade Keene – yes.

**4. 3 Rainbow Circle,** A Variance #2019-V07 under M.G.L., Ch. 40A, Sec. 10, from the Bourne Zoning Bylaw Section 2500 to exceed side setback (15 feet required) by 4 feet. Proposed garage addition would have a final setback of 11 feet. (Renewal of previous Variance # 2017-V17 granted on 6/21/2017)

*Materials – Petition for a Variance, Decision from June 21, 2017, Site Plan of Record, Architectural Plans, Narrative from Steven and Annie Para, and Letter of Support from Cheryl Archer.*

Brent and Taasha Taylor were present to discuss the request.

Ms. Kullar stated she is surprised to see the applicants before the board and questioned why the proposed project wasn't completed before the Variance that was previously granted expired. Mr. Taylor explained the cause for the delay surrounded the hiring of an architect.

Board Comment – Ms. Kullar asked if anything about the proposed project has changed. Mr. Taylor stated nothing has changed.

Ms. Kullar read the previous board's decision.

Public Comment – Abutters, Steven and Annie Para, expressed their support of the proposed structure; however, they urged the board to deny the applicants' request to keep the temporary storage unit on their property; which has been on the property for nearly a year. Ms. Kullar stated she was unaware of this request. Mr. Para explained that the abutter's notification states the applicant is also requesting to keep his temporary storage unit on the property until the proposed construction is complete.

Mr. Laporte explained, under the Town's bylaw, only temporary storage units are allowed on a residential property. He sent the property owners an enforcement letter asking them to remove their storage unit because the bylaw only allows 60 days for the unit to be stored on their property. The property owners requested they be allowed to keep the storage unit until the construction of the garage has been completed. Mr. Laporte explained only the Board of Appeals has the authority to grant that request. Ms. Kullar asked whether discussion concerning the storage unit is even allowed since the board hasn't seen the request. Mr. Laporte stated the request was received by the Building Department, it just wasn't included in their packages.

Abutter, Cheryl Archer, informed the board she has no objection to either the construction of the garage or allowing the storage unit to remain in place until the construction is completed.

A brief discussion transpired regarding how the project meets the criteria of a Variance.

After much debate over whether to allow the applicants to keep the storage unit on their property, it was decided to allow them until December 2, 2019 to remove it from their property.

Ms. Kullar entertained a motion to close the public hearing. **Mr. Keene moved, Ms. Brennan seconded to close the public hearing.** The motion carried. 5-0-0.

Ms. Kullar entertained a motion regarding the storage container. **Ms. Brennan moved, Mr. Keene seconded that the storage container must be removed by December 2, 2019.** The motion carried. 5-0-0.

Ms. Kullar entertained a motion concerning the Variance. **Mr. O'Brien moved, Ms. Brennan seconded to grant the Variance #2019-V07 under M.G.L., Ch. 40A, Sec. 10, from the Bourne Zoning Bylaw Section 2500 to exceed side setback (15 feet required) by 4 feet. The proposed garage addition will have a final setback of 11 feet per the Architectural Plans as submitted with the application.** The motion carried. 5-0-0.

**5. 230 Sandwich Road, Special Permit #18-08-40B** – Request to amend the Comprehensive Permit from 16 units to 20 units.

**(Continued from September 18, 2019)**

*Materials – Preliminary Subdivision Plans and Preliminary Drainage Reports.*

Jim Pavlik of Outback Engineering provided background on his personal experience and his firm's experience with designing residential subdivisions and 40B projects. He presented the proposed project and the changes being proposed. Mr. Pavlik described the proposed drainage and the proposed entrance into the subdivision; which he believes meets Mass DOT requirements.

Board Comment – Ms. Kullar stated she'd like to hear more about the site's access as this has been an area of concern in the past.

Ms. Brennan discussed the steepness of the site and expressed concern over flooding on the street below. Mr. Pavlik explained they are proposing to install catch basins to collect runoff. Also being proposed is a crown in the road which will direct stormwater runoff to the catch basins. A discussion regarding the proposed catch basins ensued.

Mr. Beyer opened a brief discussion regarding the individual septic systems being proposed.

Next, Mr. Pavlik discussed the proposed layout of the site and their intentions to provide a buffer and screening around the abutting school property. Ms. Kullar stated she would like to see dense screening be installed to separate all abutters. Mr. Laporte asked whether the proposed buffer will require deed restrictions be placed.

Mr. Pavlik discussed previous concerns over an existing access road to Bosun's Lane at the end of the development. Those concerns will be alleviated by the proposed hammerhead turnaround and the two homes being proposed in that location. A split-rail fence is also being proposed. Mr. Laporte suggested continuing the landscaped, no access buffer around the entire property.

Mr. Pine opened a brief discussion concerning a previously proposed stub road which would have allowed another access point. The property owner, Thomas Pappas, stated the proposed stub road was not permitted by Mass Highway.

Sean Scully, a resident of Port of Call, elaborated on the previously proposed stub road.

Mr. Pavlik discussed the proposed lot sizes and the number of affordable units that will be offered.

Ms. Kullar asked how long the representative will need to present all of the material. Attorney Hoyt stated they are hoping to return one additional time to address concerns and answer any additional questions.

Ms. Kullar made note that the previously proposed Community Building and pool have been eliminated under the revised plan.

Mr. Hoyt discussed the individual septic systems being proposed on each lot. Each will require its own Title V permit from the Board of Health.

Mr. Keene questioned the proposed size of each lot. Mr. Pavlik stated the average size of each lot will be approximately 7,000 – 8,000 square feet.

Ms. Kullar asked that an architectural plan be submitted. Mr. Kalick stated he would like to see Board of Health and Fire Department approval before any decision is rendered. He also questioned whether the Water Department has been contacted yet.

Mr. Kalick asked what the market rate will be per house. Mr. Pappas stated he is hoping to sell each unit at \$499,000 and under. Mr. Kalick asked who will be constructing the homes. Mr. Pappas stated he will be constructing the houses.

A brief discussion transpired regarding the construction timeline.

Mr. Hoyt acknowledged the board's concerns with designing a safe intersection at the entrance to the subdivision. Although he appreciates the board's input, he reminded the members that the design of the intersection falls under Mass DOT's purview and not the Zoning Board's.

Mr. Kalick feels that the applicant is presenting the proposed project to the Board of Appeals prematurely. A discussion ensued.

Ms. Kullar asked the applicant to provide the board with additional information as to why there is an increase in the number of units being proposed. Mr. Hoyt stated they are happy to return with additional details.

Public Comment – Sean Scully asked whether Town Counsel is reviewing the submissions. Ms. Kullar said they have special counsel assisting with the review. Mr. Scully suggested the board contact Jon Witten. Ms. Kullar stated that is who is assisting.

Bob Dutch, Bourne resident and superintendent of the Upper Cape Technical Regional School, asked if the conditions that were required under the previous permit are still in effect. Ms. Kullar stated they are; however, the applicant is seeking to amend some of them. Mr. Dutch stated as of now, the school's primary concern is safety and traffic.

Mr. Dutch discussed the school's requirement to install a wastewater treatment facility to alleviate concerns that in the event of a system failure, the school's septic waste would run down the hill into the canal. He asked whether a similar requirement will be imposed on this project. Mr. Laporte explained that would be based on total gallonage produced. This proposed project will produce an estimate 6,600 gallons. Anything over 10,000 gallons requires a sewer treatment plant.

Mr. O'Brien stated some facilities with wastewater treatment plants that don't maximize their total gallonage often times allow other properties to tie into theirs and asked whether that might be an option for this project. Mr. Dutch indicated that would not be an option.

A brief discussion transpired regarding the existing access road to the Port of Call neighborhood.

Jim Mulvey opened a discussion regarding traffic and parking concerns, the need to involve Police, Fire and the DPW and the possibility of septic leaching into the proposed catch basins.

Mr. Laporte suggested the applicant meet with other town departments; i.e., Water, Fire, Board of Health, to obtain their approval of the proposed project prior to the next hearing.

Ms. Kullar discussed dates for a continuance. She also asked the applicant to clarify a trustee appointment and file it because there was a trustee resignation and no appointment was made.

With no further discussion, Ms. Kullar entertained a motion to continue the matter to November 6, 2019. **Mr. Keene moved, Ms. Brennan seconded to continue the matter to November 6, 2019.** The motion carried. 5-0-0.

**Old Business** – Ms. Kullar explained she is in communication with their legal counsel and Town Counsel regarding the Chase Estates submission. She will keep the members informed of any developments.

Mr. Beyer asked whether the board will render a decision prior to other town department's approval. Ms. Kullar stated any decision rendered will be subject to other department's approval. Mr. Kalick feels the Town should not spend additional money on legal fees until the other departments have reviewed and approved the plan as proposed. Mr. Laporte reiterated that he suggested the applicant obtain approval of the proposed project from other town departments prior to their next Board of Appeals hearing. Ms. Kullar stated she will be asking for opinions from all town departments that are impacted.

Mr. Kalick feels this project, if approved, will be an asset to the community.

Ms. Kullar provided the members with a 40B handbook and asked that they familiarize themselves with it.

Mr. Pine opened a brief discussion regarding Mass DOT's role in the project.

**New Business** – Ms. Brennan discussed the possibility of holding an Executive Session regarding the Chase Estates matter.

Ms. Brennan discussed the Housing Assistance Corporation's one day training which will address the shortage of affordable housing on Cape Cod. The event will be held at the Cape Codder Resort on November 15, 2019 from 8:30 AM-6 PM.

**Public Comment** – Mr. Mulvey asked how many units at the Chase Estates development will be affordable. Ms. Kullar stated five units will be classified as affordable.

### **III. Adjournment –**

**Mr. Kalick moved, Ms. Bryant seconded to adjourn the meeting.** The motion carried 5-0-0. The meeting adjourned at 9:03 PM.

Minutes Submitted by: Carol Mitchell