

Town of Bourne Zoning Board of Appeals
Meeting Minutes

Virtual Hearing via Zoom

January 19, 2022

Meeting ID: 815 8462 1361

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TOWN CLERK BOURNE

Call to order

Chair Jim Beyer called to order the meeting of the Zoning Board of Appeals at 7:00 PM on January 19, 2022. Mr. Beyer 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.

Mr. Beyer announced the meeting was being recorded and some attendees are participating by video conference. He explained the ground rules associated with conducting the remote meeting, he confirmed the members of the board who were present, identified the building inspector and verified a representative was present for each filing listed on the agenda.

Michael Rausch indicated he was recording the hearing.

Members Present: Jim Beyer, Chris Pine, John O'Brien, Wade Keene, Pat Nemeth, Associate Member Karl Spilhaus.

Members Excused –None.

Also Present: Ken Murphy.

Agenda Items

1. **Approval of meeting minutes for hearings dated December 1, 2021.** The minutes were not available for review at this time.
2. **55 Pasture Rd, Request for a variance 2021-V27 for 2 feet, 3 inches from the side yard setback requirement for a carriage house that has been constructed on the property in reliance of a surveyed plan which turned out to be incorrect. (request to continue)**

Materials: Application Packet for a Variance, Property Map, Plot Plan, Abutters List, Driving Directions, Photos of project, request to continue and time waiver.

Mr. Beyer read in the request to continue and time waiver.

Mr. Beyer entertained a motion to continue 55 Pasture Rd, Request for a variance 2021-V27 for 2 feet, 3 inches from the side yard setback requirement for a carriage house that has been constructed on the property in reliance of a surveyed plan which turned out to be incorrect to February 16, 2022. **Mr. Pine made a motion. Mr. Keene seconded the motion. Roll call vote: Mr. Pine- Yes, Ms. Nemeth- yes, Mr. Keene- yes, Mr. O'Brien and Mr. Beyer- yes.**

3. 230 Sandwich Rd, Chase Estates, Request to amend the Comprehensive Permit No. 08-18. (Continued from 12.15.21)

Materials: Notice of Project Change (July 2021), proposal from the peer reviewer Thomas Houston, Renderings and Slope Protection plan, Supplemental Information Letter, Elevations Site Section 3, Rendered Elevations, Town Engineer Memo, Letter from Fire Dept, Concept Condominium Plan and Road Profile, Revised Concept Condominium Plan and Road Profile.

Jim Pavlik from Outback Engineering, shared his screen to show the revised plan as 24 units in a condominium layout. He reviewed the slope of the road and the transition of the grade up the hill.

Ms. Nemeth asked if they had read the comments from the Fire Department. Mr. Pavlik stated he had not but felt the study they did shows adequate clearance and met all town requirements on town fill. He reviewed they shortened the street to include a shared septic system. He moved the road turnout south to enlarge turning radius. Mr. Beyer asked if they had read the Town Engineers comments. Mr. Pavlik replied he had but it was late in the date.

Mr. Pine stated he feels this is still a conceptual plan will need to significant update initial binder and continue for 2-3 months to update plans, complete discussions with department heads, and fully develop concepts. Mr. Pavlik agreed. Mr. Beyer stated the applicant should work out the issues with the Fire Department, Town Engineer, and MassDOT prior to coming back before the Board and sending to Town Council.

Attorney Drew Hoyt suggested the hearing be continued for 1 month.

Mr. Beyer stressed his concern that if the applicant comes back in a month and they are still not ready for peer review he will move to dismiss the application.

Mr. Thomas Pappas, owner, shared his feeling of lack of support from the Board as he feels he has been making changes as requested and was disappointed to hear Mr. Beyer mention moving to dismiss.

Mr. Beyer clarified that if they can satisfy the needs of the Fire Department, MassDOT, and the concerns of the Town Engineer the Board will be able to send the application to Peer Review, Mr. Beyer does not want to meet again unless that has been satisfied and encouraged the applicant to choose a date for the next hearing with this goal in mind.

Ms. Nemeth reiterated Mr. Beyer's sentiments and shared she does not know if the project is viable as drawn but and stressed how difficult it is for the Board to evaluate with drawings that come in either the day of a hearing, or in formats that are unable to be read online.

Mr. Beyer said it is not appropriate to design the project by hearing. There are 3 main concerns; the radius of the turn, steepness of the grade, and danger of the septic system in its current grade.

Mr. Pappas asked what funds are left for peer review from prior. Mr. Beyer replied he had asked Mr. Murphy to take lead of this. Mr. Murphy stated he had been in contact with the Finance Department and was waiting to hear back from them.

Attorney Hoyt summarized what was needed prior to coming back before the Board. He identified the 3 problem areas and the agencies to be in agreement with and understood the conceptual plan needed detail work prior to Peer Review.

Mr. Beyer asked the applicant to concentrate on the technical aspects to present to Peer Review.

Mr. Beyer entertained a motion to continue the request for 230 Sandwich Rd, Chase Estates, Request to amend the Comprehensive Permit No. 08-18 to March 16, 2022. Ms. Nemeth made the motion. Mr. O'Brien seconded. Roll call vote: Mr. Pine- Yes, Ms. Nemeth- yes, Mr. O'Brien- yes, Mr. Keene- yes, and Mr. Beyer- yes.

4. Cape View Way 40B, Comprehensive Permit (#2021-CP06) to construct and operate 51 affordable rental units on 2.94 acres. (Continued from 01.05.22)

Materials: Response to Peer Review Comments letter with attachments, Revised Cape View Way Permitting Plans, Revised Stormwater Report, including the Operation and Maintenance Plan, Revised Zoning Bylaw waivers list, Revised Subdivision Regulation waivers list, Peer Review of the second submittal of Civil Engineering Design/Septic Design, Comments from North Sagamore Water District, Peer Review noncompliant yard setback, Draft Decision, Tudor Cherry Investors Condition of Comprehensive Permit, Comments from North Sagamore Water District, Passive House Foundation, Landscape and Retaining Wall Plans, Freeman Law Group Response to Comments from North Sagamore Water District, Draft Comprehensive Permit, "Meetinghouse Place" modifications of definitive subdivision plan, Stormwater Analysis and Drainage Report Revised December 2021, Revised Photometric, Revised Fire Access, Revised Architectural, revised Project Narrative, Cover Letter and Updated Draft Comprehensive Permit and Exhibit C, D, F, I; Revised Civil/Site Plans, revised project Narrative, Revised Photometric Plan, Draft Decision Comprehensive Permit, Exhibits A-I to Decision, Exhibit I Tudor Cherry Final Condition of Comprehensive Permit.

Corey Fellows of POAH shared that Mr. Freeman is double booked this evening and would be joining the hearing shortly. He also shared there is nothing new to review and there is no presentation for this evening.

Mr. Beyer stated that Town Council engaged directly with Mr. Freeman on the Comprehensive Permit.

Mr. Beyer asked if there were any questions or comment from The Board.

Mr. Pine stated he is satisfied with the dialog and ready to vote.

Mr. Beyer asked if there were any questions or comment from the public.

Chuck Sabatt, representing the abutters at Tudor Cherry Investors, LLC., shared that he had submitted an updated exhibit "T" related to fencing between properties.

Mr. Beyer said he would like this exhibit to reflect all the fencing including the fencing against the other abutter.

Brian Kuchar, of Horsley Whitten Group, Civil Engineer and Landscape Architect; shared his screen to show the latest landscape plan to show the privacy fence in discussion.

Mr. Freeman, representing the applicant, joined the hearing.

Ms. Nemeth had a question on condition 25 and why it had been struck out. Mr. Beyer replied he had authorized Town Council to with this out with Mr. Freeman directly and feels confident in their final product.

Mr. Beyer asked if there were any further questions or comment from The Board. There were none.

Mr. Beyer entertained a motion to close the public hearing. Mr. Pine made a motion to close the public hearing. Mr. Keene seconded. Roll call vote: Mr. Pine- Yes, Ms. Nemeth- yes, Mr. O'Brien- yes, Mr. Keene- yes, and Mr. Beyer- yes.

Mr. Beyer entertained a motion to approve Cape View Way 40B, Comprehensive Permit (#2021-CP06) to construct and operate 42 affordable rental units on 2.94 acres with conditions. **Mr. Pine made a motion. Mr. Keene seconded the motion. Mr. Pine- yes, Ms. Nemeth- yes, Mr. Keene- yes, Mr. O'Brien- no and Mr. Beyer- yes.**

Old Business – Ms. Nemeth brought up concerns about documents and/or PDF's to be submitted in a timely manner and in a readable scale within adequate time for review. Ms. Nemeth will compile changes in the application packet and distribute for review prior to the next hearing.

New Business – None.

Public Comment –

Stephen Mealy, resident of Bourne, wanted to comment members of the Board on their effort reviewing the Cape View Way project.

Mike Melchionda, chairman of the NSWDC also wanted to praise the Board on their hard work and professionalism with the Cape View Way project and congratulated Ms. Nemeth on becoming a full Board member.

Adjournment –

Mr. Beyer entertained a motion to adjourn the hearing. Mr. Pine moved, Mr. Keene seconded to adjourn the meeting. Roll call vote: Mr. Pine- Yes, Mr. O'Brien- yes, Mr. Keene- yes, Ms. Nemeth- yes and Mr. Beyer- yes. The meeting adjourned at 8:10pm.

Respectfully submitted,
Cassie Hammond