

**Town of Bourne  
Zoning Board of Appeals  
Meeting Minutes  
April 5th, 2023**

TOWN CLERK'S OFFICE

2023 MAY 15 PM 12:41

RECEIVED

**PRESENT:** Chairman James Beyer, Vice Chairperson Chris Pine, Wade Keene, John O'Brien, Elza Bystrom (Associate), Karl Spilhaus (Associate).

**ABSENT:** Harold Kalick.

**STAFF:** Ken Murphy.

**PUBLIC:** Doug Troyer, Catherine Smolinsky, Michael Smolinsky, Robert Dewar, Allen Schofield

---

Chairman Beyer called the meeting to order via Zoom at 7:00pm.

**Minutes: 2.15.23**

Mr. Spilhaus makes a Motion to Approve the Minutes. Mr. Keene seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Ms. Bystrom – RECUSED. Mr. Spilhaus – YES. Mr. Keene – YES.  
Chm. Beyer – YES.

The Motion Passes.

**Public Hearing for Extension of Variance #2016-V21-A:** *4-6 MacArthur Blvd, Bourne.  
Cumberland Farms, Inc. For height limit extension variance.*

Doug Troyer introduces himself as the representative of Cumberland Farms. He states that in April of 2022 they came before the ZBA to seek a modification of a variance that was granted to the Cumberland Farms location at the Bourne rotary. After many years, Cumberland Farms was able to obtain a special permit for this location. Cumberland Farms needed a variance of 6.6ft due to the topography of the site. The new location of the Cumberland Farms will be where the old shopping plaza was, and the grade of the site slopes down greatly in the rear where fill will need to be brought in. Due to the measure of height, the town measures pre-construction. Atty. Troyer states that in essence the height is to code with the zoning bylaws but requires a variance of 6.6ft. The ZBA granted the variance in April of 2022. However, in January of 2023, a resident and abutter brought to the town's attention "the shed." However, pursuant to the documents

construction there will be significant landscaping that will provide a buffer between the properties. Mr. Smolinsky asks how many drive-thrus are being planned. Atty. Troyer responds that there will be one for the restaurant and one for Cumberland Farms. Chm. Beyer asks if there will be any egress to the rotary, which Atty. Troyer responds that there will not.

Mr. O'Brien makes a Motion to Close the Public Hearing. Mr. Spilhaus seconds the Motion.

Roll Call Vote as Follows:

Mr. Pine – YES. Mr. Keene – YES. Mr. Spilhaus – YES. Mr. O'Brien – YES. Chm. Beyer – YES.

The Motion Passes.

Mr. Spilhaus makes a Motion to Approve Extension of Variance #2016-V21-A. Mr. Pine seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. Keene – YES. Mr. Spilhaus – YES. Mr. O'Brien – YES. Chm. Beyer – YES.

The Motion Passes.

**Public Hearing for Supportive Finding #2023-SF01: 2 Jefferson Rd, Bourne. Arthur Hallam**  
*III. Request to raze and rebuild a two-bedroom guest cottage.*

Robert Dewar of Bracken Engineering introduces himself as representative of the project. Mr. Dewar shares his screen via Zoom and shows an arial image of the property. He states that one of the goals of the raze and rebuild is to move the cottage out of a flood zone. They are seeking a supportive finding because this is an R40 zoned parcel. It is approximately 28,000sqft, and there are two pre-existing single-family houses on one lot. The side yard setback will be met, and they are slightly increasing their lot coverage and GFA but are still well under the maximum. Both the house and the cottage will be upgraded to a Title V compliant septic.

Mr. Spilhaus asks if two families live on the property and Mr. Dewar responds that it is mostly just used as a guest cottage. Mr. Spilhaus asks if it will be considered accessory use for family members and Mr. Dewar responds that it is not deeded that way.

Mr. Murphy replies that it will need to be deeded in a certain way and that it cannot be for renters unless permitted correctly. Chm. Beyer states that if they were to approve this, they would have to stipulate the occupants are family members and it couldn't be a guest cottage.

member for the accessory use in this case. Chm. Beyer adds that maybe the condition could be that the dwelling is not used commercially.

Ms. Bystrom asks if they applicants have considered making the cottage more conforming since it will be razed and rebuilt. Mr. Dewar responds that it is the main house that has a non-conforming setback, but the new cottage in question meets all applicable setbacks.

Mr. O'Brien states that they do not have written approval from the Health Dept. regarding the septic. Mr. Dewar responds that it is in the process of approval right now.

A member of the public, Allen Schofield of 12 Bell Rd, shares questions with the board. He asks if the basement of the new cottage will be below the flood zone. Mr. Dewar responds that there are bedrooms in the basement of the new cottage, but the new cottage has been moved entirely out of the flood zone. Mr. Schofield asks if the plan is for a walkout basement, and Mr. Dewar responds that it is a bulkhead basement. Mr. Schofield asks if the decks are included in the GFA. Mr. Dewar answers that they are not, and they do not need to be unless they are covered. Mr. Dewar shares blueprints of the basement plan and discusses how the basement is not located in a flood zone.

Mr. Keene asks if there will be any mechanicals in the basement. Mr. Dewar answers that he is not completely sure but there is a closet under the stairs that may be used for a water heater. Mr. Murphy explains that the applicants can do this if the cottage is not in a flood zone.

Chm. Beyer responds that they might want to add a third condition, which asks for construction details because of the possibility of flood.

Mr. Schofield points out that there are no elevations provided, and Mr. Murphy responds that this is not usually required. Chm. Beyer agrees and says however that unless Mr. Schofield would like to challenge that this would be detrimental to the neighborhood, elevations could be requested. Ms. Bystrom asks what the outcome would be if Mr. Schofield saw the elevations. Mr. Schofield responds that if the applicants built up to the height limit, it would be detrimental because it is very close to his house. Mr. Schofield also states that the silt fence doesn't seem to protect the cove at all, and that it stops short of where would actually protect the waterfront. Mr. Murphy responds that this may be addressed by Conservation when the permit is through the system. Mr. Schofield responds that they will be disturbing a lot of ground that could effect other properties and the canal.

Mr. Keene asks Mr. Dewar if 19 feet is required for the flood zone. Mr. Dewar responds that it is not, that 19 feet is due to the topography. The top of the flood zone in that elevation is at 15ft.

Mr. Dewar addresses some concerns of Mr. Schofield, and states that they have an order of conditions from Conservation already. The building height will be below the maximum.

None.

**Adjournment**

Mr. O'Brien makes a Motion to Adjourn, seconded by Mr. Spilhaus.

Roll Call Vote as Follows:

Mr. Pine – YES. Mr. Keene – YES. Mr. Spilhaus – YES. Mr. O'Brien – YES. Chm.  
Beyer – YES.

The Motion Passes.

With no further business before the Board, the meeting was adjourned at 8:18PM.

Respectfully Submitted,  
Ina Sullivan