

**Town of Bourne  
Zoning Board of Appeals  
Meeting Minutes  
May 3rd, 2023**

RECEIVED  
2023 MAY 18 AM 11:34  
TOWN CLERK BOURNE

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

**ABSENT:** Karl Spilhaus (Associate).

**STAFF:** Ken Murphy.

**PUBLIC:** Brian Mazzilli, Sharon Mazzilli, Christopher Kirrane, Michel Wigney, Kathy Fox Alfano, Paul Alfano, Kathy Hallam, Michael Hallam, Steve Cook, Roseanne Bottaro, Kurt Duane, Kevin Keller, Paul Johnson.

---

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

**Minutes:** 4.19.23

Mr. Keene makes a Motion to Approve the Minutes. Mr. O'Brien seconds the Motion.

Roll Call Vote As Follows:

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

The Motion Passes.

**Public Hearing for Special Permit #2023-SP03:** 1025 Sandwich Rd. Request for a Special Permit for Change of Use from a restaurant to a 2-bedroom dwelling.

Chm. Beyer reads in a letter from Terri Guarino, Health Agent for the Town of Bourne, into the record. In summary, it states that a new sewage disposal system will be needed. As part of the special permit, it would be in the best interest of the other residential cottages on the property to be addressed to meet current sanitary and building code standards. A site visit and inspection of the structures by the building department would also be beneficial to assure that the existing conditions are habitable and suitable for year-round use.

Brian and Sharon Mazzilli introduce themselves as representatives of this project. Mr. Mazzilli states that this used to be a two-bedroom home that was converted to a diner,

and they would like to convert it back to its original use. About five years ago they got a special permit to reopen the restaurant, but after seeing what it would do to the traffic, they decided that wouldn't be the best use of the property and decided not to reopen the diner. He states that they have had the septic systems upgraded for all the other units that are there. Chm. Beyer inquires about the current septic system, and Mr. Mazzilli confirms that it has been abandoned. When they redid the septic for all the other systems they did not have a plan for this particular unit, so it was never tied into the new septic systems. Chm. Beyer asks for Mr. Murphy's view on Terri Guarino's request for a site visit. Mr. Murphy states that based on what she mentioned, there are a number of cottages that aren't heated or have insulation. Mr. Mazzilli states that this isn't true, and Mr. Murphy replies that they would do an inspection and verify each cottage, because each cottage would have to be upgraded along with the main house. Chm. Beyer asks if it is all one property. Mr. Mazzilli responds that there are two lots and Eversource came in about four years ago and upgraded all the heating systems. They also insulated the units, and they've have been operating as year round rentals now for about 20 years. Chm. Beyer and Mr. Pine ask if the former restaurant on a separate plot of property. Mr. Mazzilli clarifies that the former restaurant and several cottages/houses are on one lot, and another lot has more cottages/houses right next to them. Mr. Pine asks if all these properties share a septic system. Mr. Mazzilli explains that there are 3 septic systems for all of the properties.

Mr. Mazzilli states that he wants to make something that is rentable, and right now it is just sitting there and has no use. Mr. Keene asks what kind of septic system he is planning on putting in. Mr. Mazzilli states that he is putting in a new system for a two-bedroom house. Ms. Bystrom asks what kind of condition the building is in. Mr. Mazzilli states that they must upgrade the inside and out, including the roof and a full renovation inside.

Mr. Keene makes a Motion to Close the Public Hearing. Mr. Kalick seconds the Motion.

Roll Call Vote as Follows:

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

The Motion Passes.

Chm. Beyer asks for any addition comments from the board, stating that they could approve this with the condition of the septic system approval, or they could continue after a site visit from Ken and Terri. Mr. O'Brien restates his hesitation from another meeting about giving applications approval without Board of Health approval. Mr. Kalick asks if they should have architectural drawings instead of just a floor plan. Mr. Murphy states that he doesn't believe that is necessary and he will meet with the applicants when the time comes.

Mr. Pine states that he appreciates Mr. O'Brien's comments and agrees that it would be beneficial but it's more procedural and inefficient, but sometimes it's difficult to get

approval without plans in place. Mr. Kalick adds that it comes down to accepting packages that aren't complete, and someday they will have to decide if they want to keep accepting packages that aren't complete. Ms. Bystrom adds that they have proposed something that would meet a Title V regulation, so she would be okay with this.

Mr. Pine makes a Motion to Approve Special Permit #2023-SP03 with the condition that the septic system be approved by the Board of Health and there is a successful site visit from the Building Inspector. Mr. Keene seconds the Motion.

Roll Call Vote As Follows:

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

The Motion Passes.

**Public Hearing for Supportive Finding #2023-SF03:** *165 Jefferson Rd. To make alterations to an existing single-family home including expanding the existing dwelling, adding a deck, and adding a 12'x12' patio to the existing cottage.*

Chm. Beyer clarifies that they are hearing a supportive finding on three items: expanding the existing dwelling, adding a deck, and adding a 12x12 patio. Chm. Beyer also states that he must read an objection from an abutter. Mr. Pine adds that this will most likely need to be continued because there is no GFA sheet, and at that point the letter from the abutter will be part of the record. Mr. O'Brien adds that the agenda says 165 Jefferson but the application says 164 Jefferson.

Christopher Kirrane identifies himself as representative of the applicants. He confirms that the property address is 165 Jefferson Rd, not 164. Atty. Kirrane states that he has not seen the letter from the abutter and has not had a chance to read and refute. He states that they can continue the hearing due to this letter and he can amend the application address and address the cottage renovation for the bathroom and the ridgeline. Chm. Beyer states that the best thing for them to do is continue the hearing. Atty. Kirrane agrees and states that he will address the cottage because there is interior information for the bathroom and they are raising the height of the cottage, but there is no expansion of the footprint.

Mr. Kalick states that in the letter from the abutter, the attorney speaks of the Planning Board, and wants to know if this is a mistake, because this should be a ZBA issue. Mr. Murphy confirms that this issue should only be through the ZBA. Mr. Kalick believes that the attorney should correct the mistakes in the letter submitted.

Chm. Beyer asks if it would be a hardship for the abutter to continue the meeting on June 7<sup>th</sup>. Michel Wigney introduces herself as attorney of the abutter at 163 Jefferson Rd, and states that it would not be a hardship.

Mr. O'Brien states that he has a GFA worksheet, but it is not signed or stamped by anyone at Town Hall. Chm. Beyer states that they are still working on it at Town Hall but they do not have the worksheet they need yet. Mr. Pine suggests clarifying on what is existing and what is proposed for the property.

Keith Guilmette of 9314 Riviera del Sol Blvd, Bakersfield California, a member of the public, makes a comment. Mr. Guilmette states that he is a trustee of the trust that owns 174 Jefferson Rd, and wants to be added to the service list so he can get notices. Chm. Beyer responds that the notices will be publicly posted on the ZBA website.

Mr. Pine notes that another member of the public named Kathy Fox Alfano posted a message on the Zoom chat asking "There are at least a half dozen citizens here to support the applicant what is the deadline for objections? Thanks." Chm. Beyer says that it is 2pm on the afternoon of the next hearing. The board members discuss that this doesn't seem to be enough time, using the example of the letter they received that day as an objection.

Paul Alfano introduces himself and his wife Kathy Fox Alfano as abutters at 160 Jefferson Rd, and are in favor of the property in question, and there are a number of neighbors who also support this property. He states that they find it highly unusual that the notice went out at the last minute, and the attorney didn't get it, so now it must be put off for another month. He states that the applicants are looking to build quickly, and this has been going on for a year or two. Mr. O'Brien responds that there are other problems with the application, and they will resolve this when all the information is in order. Mr. Kalick responds that he agrees with Mr. Alfano and this is the third time that they have discussed this and the last meeting was very frustrating. Mr. Kalick believes that they should give the applicants' attorney all the problems they have identified, otherwise the next hearing will be continued again. Mr. Kalick states that if you have one abutter that says it's going to harm the neighborhood and ten other neighbors that say it will not, there is a problem.

Kathy Hallam introduces herself as a neighbor in support for this project who is also frustrated with the delays.

Steve Cook from Cotuit Bay Design introduces himself as the project designer for this project. He asks what clarifications on the plans that they are looking for. Chm. Beyer responds that there is confusion on what's existing and what's new. Also, Chm. Beyer states that there seems to be some things that are on the site plan that are not on the application. The objection letter also raises the point that there is no clear demarcation of what the existing non-conformities on the site are.

Chm. Beyer also addresses the concerns of some of the public, stating that since the letter came in before the deadline, they must address the issues raised in the letter. Also, that there will not be endless delays on this application, and they will get resolved either at this meeting or the next.

Mr. Kalick states that the letter alleges that this is not a year-round property. Chm. Beyer adds that the letter also says that there are two residences on a single lot which is a non-conformity, and that would require a special permit for accessory use. Chm. Beyer adds that there are five other things that they need. They need a site plan showing the existing versus the new (including building height). They need further information on the site plan and on the approvals, such as septic system and if it is approved for year-round use. They need to know if the owners' possess a special permit for an accessory use on this site. They also need to set a deadline for receipt of any information for the next hearing of the previous Friday at noon, which would be June 2<sup>nd</sup> at noon.

Mr. Kalick asks if this case is still in land court, and Atty. Kirrane states that he wasn't involved in that but as far as he knows that case was dismissed. This application is for something completely different from the previous case.

Roseanne Bottaro of 40 Lamont Rd, Bourne, makes a comment. She states that the reason she supports this project is because they're not just going to tear down a good building, but preserve the history of this home. Paul Alfano agrees with Ms. Bottaro. Kathy and Michael Hallam of 158 Jefferson Rd state that they are across the street from the applicants and they fully support the project.

Mr. Murphy states that he will review everything at the deadline and make sure that it is consistent before dispersing it to all the ZBA members.

Kurt Duane of 51 Guilded Rd, Bourne, makes a comment. He states that because many of the houses in Grey Gables are very old, almost all of them have had some additions or changes made. That is all that the applicants are trying to do, the same as everyone else. Mr. Duane states that he supports the project.

Mr. Keene makes a Motion to Continue the Public Hearing for Supportive Finding #2023-SP03 until June 7<sup>th</sup> 2023. Mr. Pine seconds the Motion.

Chm. Beyer restates the items they expect to be presented at the next hearing. They are: (1) A site plan delineating the existing versus the new (2) Further information on the site plan on exactly what is being applied for (3) Whether or not there's a sewage system approved for rear round use (4) Whether year-round use is permitted (5) Whether a special permit required. All this should be submitted by June 2<sup>nd</sup> at noon.

Mr. Kalick notes that adding a 12'x12' patio does not need to be included in GFA and does not require a permit. Mr. Murphy confirms this is true and Atty. Kirrane states that he can amend the application to take this out.

Chm. Beyer encourages the two attorneys to work together to address the objections in the letter.

Roll Call Vote as Follows:

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

The Motion Passes.

**Public Hearing for Special Permit #2022-SP04:** 15A Wales Dr. Reopened and continued request for Special Permit to replace deck with sunroom on a pre-existing non-conforming lot.

Chm. Beyer states that this application has been reopened and continued after it was remanded back to the ZBA for settlement by the applicants who appealed the decision. Atty. Christopher Kirrane introduces himself as representative of this project. Atty. Kirrane states that this case came before the board several months ago for a sunroom. The board vote two to three, which was a denial. After consulting with the Town Counsel, they discussed submitting revised plans back to the ZBA in order to avoid litigation. In the revised plans, the applicants have revised plans which moves the sunroom further into and behind the house. The original plan that came before the board put the sunroom at the edge of the deck closest to the sideline. In this, it is moved so it is even further inside of the corners of the rear. The sunroom will be 10.2ft off the side yard and it will be conforming to the side rear setback. Atty. Kirrane states that this should address some of the concerns from the board members regarding the visual aspects of the sunroom. The sunroom is wholly behind the house so it should be hidden from view from the street. There is no increase in GFA or footprint that would trigger the 25% because this lot is under 6,000sqft.

Mr. Pine asks if the sunroom that is currently proposed the same size as the sunroom that was previously proposed. The general contractor Kevin Keller responds that it is, and that the GFA that they received before is still accurate. Chm. Beyer commends them on the solution proposed because it answers all the objections he had the first time.

Paul Johnson of 11 Wales Drive, makes a comment. He states that as an abutter, there are no visibility concerns with this new plan and his property is the only one that would be affected. He states his support the project.

Atty. Kirrane states that he received a copy of letter of support from abutters at 17 Wales Drive, at 4pm the day of this hearing.

Mr. O'Brien makes a Motion to Close the Public Hearing for Special Permit #2022-SP04. Mr. Pine seconds the Motion.

Roll Call Vote as Follows:

Mr. Pine – YES. Mr. Kalick – YES. Mr. Keene – YES. Mr. O'Brien -- YES. Chm. Beyer – YES.

The Motion Passes.

Mr. O'Brien makes a Motion to Approve Special Permit #2022-SP04. Mr. Pine seconds the Motion.

Roll Call Vote as Follows:

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

The Motion Passes.

### **New Business:**

Mr. Pine suggests that instead of having the deadline for submitting new materials for hearings be at 2pm, that the deadline be 72 hours before or the Friday before the hearings. Chm. Beyer agrees and says that he thought that they already set that rule but it is not being enforced. The problem is that some information will not be accepted and that will cause delays and inconveniences to the public. Chm. Beyer says that this new deadline could be construed as unreasonable. Mr. Kalick states that if the applicant comes in with a package that isn't complete, it should not be reviewed by the board. Mr. Murphy states that there are often unavoidable delays for his secretaries, but if the board is happy with a 12pm deadline on Friday, that would work for him.

The board then discusses the pros and cons of having two meetings a month instead of one so there is only one deadline. Mr. Kalick brings up the point that once an application is submitted, it must be heard within two weeks. Chm. Beyer suggests having on meeting a month, but if they cannot get to them all, that they have a continuance date. Mr. Murphy states that it would be much more efficient for his office to have just one meeting per month.

**Old Business:**

Ms. Bystrom asks if it would be possible to ask applicants to make site plans uniform across the board. Chm. Beyer responds that it would be helpful if she made a list of what should be on the site plan and then they can implement this. Mr. Murphy states that he tells everyone to get a certified site plan, however most people do not want to spend the money on it. Mr. Kalick notes that it now takes at least five months to get a site plan done. Chm. Beyer responds that this would be detrimental to the community if everyone had to wait this long. The board members then discuss if they would like their packages mailed to them or provided electronically.

**Public Comment:**

None.

**Adjournment**

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

Roll Call Vote as Follows:

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

The Motion Passes.

With no further business before the Board, the meeting was adjourned at 8:36PM.

Respectfully Submitted,  
Ina Sullivan