

**Town of Bourne  
Zoning Board of Appeals  
Meeting Minutes  
August 2<sup>nd</sup>, 2023**

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2023 SEP -7 AM 11:03

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

**ABSENT:** None.

**STAFF:** Ken Murphy.

**PUBLIC:** Paul Palo.

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

**Minutes:** 7.19.23

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

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. Keene – YES. Ms. Bystrom – YES. Mr. Kalick – YES. Chm. Beyer – YES.

The Motion Passes.

**Public Hearing for Variance #2023-V1:** 7 Olofson Dr, Cataumet. Paul Palo. Request for a variance to reduce minimum front yard setback from 30ft to 10ft for a detached 2 car garage.

Paul Palo introduces himself as the applicant. He states that they would like to build a simple two car garage, however their lot was unfilled when they first bought it; it was basically a large hole. They put a house in and filled between the street and the house. Where it was not filled, it is about 20ft below the street level. Mr. Palo states that because of these drastic elevations, it would be too expensive to build a garage while meeting setbacks. They are trying to move the garage towards the street where the fill is.

Mr. Murphy states that he had a conversation with Mr. Palo ahead of time and it was his recommendation to not go further with construction drawings because it might be approved.

Mr. Palo's application is shared via Zoom. The application states that this is a topography hardship. The garage will be 24'x24' with no bathroom or kitchen. Mr. Palo shows the elevation chart of the property and shows that if the garage was to meet setback

requirements, it would be dangling on the lowest part of the lot, where a large amount of money would have to be spent to fill and construct the garage. Mr. Palo also presents a plan for an alternate location of the garage. The plan shows that on the other side of the house, it is unworkable. This side of the house is even narrower with the setback and there is a steeper drop off. Mr. Palo also has three letters from abutters stating that there is no objection to this. The owner of the undeveloped lot closest to the proposed garage did not respond to Mr. Palo's request for a letter of support, but Mr. Palo states that he contacted him two hours before the hearing and is in support of the project.

Mr. Keene makes a Motion to Close the Public Hearing for Variance #2023-V1. Mr. Pine seconds the Motion.

Roll Call Vote as Follows:

Mr. Pine – YES. Mr. Keene – YES. Ms. Bystrom – YES. Mr. O'Brien – YES. Chm. Beyer – YES.

The Motion Passes.

Chm. Beyer asks for the board's thoughts. Mr. Pine says that he sees the need for a variance and the hardship. He does not see any problems with impact to the neighborhood. He says considering that the septic is in the rear of the lot, he thinks this is the best solution, and he would support it.

Mr. Keene states that he supports it as a variance because it has the topography, hardship, and the shape of the lot.

Ms. Bystrom states that she supports this project, because it sits at the end of a cul-de-sac and also because the topography makes placing the garage difficult within the setbacks.

Mr. O'Brien states that when he first saw the project, he was surprised by the 10ft, but now hearing about the undeveloped property, he does not have an objection.

Chm. Beyer responds that he agrees and believes that it is well thought out.

Chm. Beyer asks Mr. Murphy if he requires a registered survey for a building permit. Mr. Murphy confirms this is correct.

Mr. Pine makes a Motion to Approve Variance #2023-V1. Ms. Bystrom seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. Keene – YES. Mr. O'Brien – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

### **Election of Officers**

Mr. O'Brien states that after reading Chapter 40A, they are supposed to elect officers yearly. Chm. Beyer confirms and states that they have not done this for 3 ½ years, and he did not realize that this was there.

Mr. O'Brien makes a Motion to Close the Nominations for Chairman. Mr. Pine seconds the Motion.

Mr. Pine makes a Motion to Nominate James Beyer to Continue as Chairman of the Bourne Zoning Board of Appeals. Mr. Keene seconds the Motion.

Roll Call Vote as Follows:

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

The Motion Passes.

Mr. O'Brien makes a Motion to Nominate Chris Pine to Continue as Vice Chairperson. Mr. Keene Seconds the Motion.

Roll Call Vote as Follows:

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

The Motion Passes.

### **New Business:**

- Discussion of an Agenda for Addressing the Structure and Procedure of Future Board Meetings

Chm. Beyer states that this item of new business is in response to Mr. Kalick's request during the last meeting. There has also been talk over the last few months to get a policies and procedures manual, like Ms. Bystrom's checklist for the site plan. Chm. Beyer sent around an outline for the things they need for policies and procedures. He states that he imagined the final format of this to be like a booklet that describes how meetings are conducted, and the definitions of important terms like special permits, supportive finding, etc. Mr. Pine thinks this is a great idea but is struggling to understand how they might proceed to move through this. He wonders if maybe a Town Hall staff member would fill in some of the things that are pre-existing, and get a working group to fill in the blanks. Chm. Beyer responds that Cassie and Ann have already contributed a description of the "Timing Checklist" for applications, and Ms. Bystrom has a checklist for the site plan. Chm. Beyer believes that perhaps a working committee is necessary, even though everyone is busy.

Mr. Kalick states that he printed out the Open Meeting Law Guide and Educational Materials that is on the Commonwealth of Massachusetts website. It shows what the state wants for the different boards. The point that Mr. Kalick is trying to get across is that when they conduct a meeting, there are certain things that are required. One of them is that when they meet, the applicant's packet is supposed to be complete. Mr. Kalick estimates that 8 out of 10 times it's not complete. Even though the board is not the police for that, it is up to the Building Department. Mr. Kalick uses tonight's hearing as an example that the applicant did not have construction drawings because they were too costly and they weren't sure if the board would vote on it. Mr. Kalick states that a variance has four requirements and the applicant is supposed to meet all four requirements, and tonight they talked about only three requirements. Also during tonight's hearing, the board members did not talk about their feelings regarding the application until the hearing was closed, which Mr. Kalick believes is important. Mr. Kalick hopes that some good comes out of this and they have something definitive that they can follow for rendering a decision. He believes it is up to the Chairman and the Vice Chair to put them in a position where they do not compromise the procedures of the Board of Appeals. Mr. Kalick states that he will try to put together something and send it to the members. He hopes that they as a board can do a better job in enforcing the town's matters.

Mr. Murphy states that part of cleaning their act up is not showing up two minutes before the meeting and finding the packet is missing information, which seems to happen a lot. Accusing the secretaries of not providing the information in the packet two minutes before the meeting starts is not fair. He states that they are on the board and they should be reviewing these things with ample amount of time before the meeting. They give them time to review and there should be site visits. If they're going to do this duty, they should take it seriously. Mr. Murphy restates that opening up the packet and saying that things are missing is not fair to his department members, and accusing them of missing things does not help. Mr. Murphy says that there are only a few members who do the site visits. If there is something missing, the secretaries can provide them with the information within a reasonable amount of time. He adds that everything that they get is posted on the website. If they feel that something is missing from the checklist, they should check the website or let them know so they can take care of it. Mr. Murphy states that coming to meetings unprepared is inconsistent with other boards.

Ms. Bystrom says that the outline was great for her as a new member and would help her understand how the board works in general. She states that if they put together a working committee, she will put together this information because for her writing is a way to learn. She agrees with Mr. Kalick that this would be good for the board going forward if there are new members. In response to Mr. Murphy's comments, she believes that there should be one member who checks the application to make sure it is complete, and if it not complete, that person should contact the secretaries. She adds that she can do it if no one else does, but there should be one person who checks the completeness of the applications.

Mr. Keene states that the application packets they get vary from member to member. He says that he doesn't have the time to follow through and check the website. He needs all the information in front of him at the time of the meeting. He adds that this has never been his procedure and he will not start at this time.

Mr. Murphy responds that things are now more complicated than they have been in the past, so they should take time beforehand to review. Mr. Keene responds that he does, but he wants everything in his packet in hard copies because that's how its written in state code. Mr. Murphy responds that when an application comes in, they have their checklist and the secretaries send them off to the board members. If they want to make sure that everything is the same, but that isn't how things have been done before. Mr. Keene responds that sometimes they do not know what is presented in the packet, only to find out later that it was on the website. Mr. Keene says that he does not have time for this.

Mr. Kalick says that he met with the Chelsea Zoning Board of Appeals this week. He states that they have an independent person who sits on the board that does not vote. He is kind of like a sheriff. He supervises the meeting to explain issues like a "professor" of the board. Mr. Kalick adds that he is not defending anyone or condemning anyone, but they all get the same package. If one person is missing something, they are all missing it. Mr. Keene replies that it is the applicant not completing the packet. Mr. Kalick says that the "sheriff" in Chelsea looks at the packet, and if it is missing anything, it does not go any further. Mr. Murphy responds that this is where the board would come in and continue the hearing. Mr. Kalick responds that whoever in the office receives the package and notes that it is not complete, it should be kicked back and when it is complete, heard by the board. Mr. Kalick also adds that they used to have to have a letter from the Fire Department stating that they could get in and out, but he hasn't seen anything from the Fire Department in years.

Mr. Murphy responds that this is where the board can put on the package, if anything is missing it will be rejected. This way, the secretaries can say we're not taking this. Mr. Kalick responds that he will work with Ms. Bystrom to create a list of what is required in the packet. Mr. Kalick states that there is a list now, but wonders if it is complete. As a board, they all know that certain things should be in the packet. However, Mr. Kalick concedes that it is expensive to get things like certified plot plans. Mr. Murphy responds that right now it is roughly four to eight months to get a site plan. Mr. Pine states that if they clarified on the cover letter of the application that the applicant is responsible for these documents, it would make sense for everyone. Ms. Bystrom adds that creating checklists for procedures would be great for everyone involved.

Chm. Beyer states that obviously this will take some time. He says that although they would love to be rigid in their execution of the rules, there are times like tonight when they can say that the applicant does not need a certified plot plan. Perhaps there should be a means for the applicant to request that type of lenience. What this will

come down to is having a series of checklists and documents that spell out exactly what they want that they can give to the members of the board and the public. Chm. Beyer suggests tabling this discussion to the next meeting in Old Business.

The board discusses what is on the docket for the future. Chm. Beyer inquires regarding the 40B applications. Mr. Murphy anticipates those to come up in September or October after the Planning Board has finalized their application.

Mr. O'Brien questions what would trigger the need for a response from the Fire Department, in response to Mr. Kalick's earlier point.

Mr. Kalick discusses tonight's application in which the applicant was told he does not need construction drawings. However, they approved an application without knowing the full extent of the plans, and they have accepted hand-drawn plans before, so the applicant should come with something. The board discusses that the applicant stated that there would be no second floor, but Chm. Beyer says that if the applicant came in with requests for an elaborate garage, Mr. Murphy would have the right to refuse the permit because that was not in keeping with the variance. Mr. Pine adds that also the GFA would be different because that did not allow for a second floor either.

The board comes back to the discussion regarding when the Fire Department's approval is required, and note that it is required when developments like Chase Estates is in question, but when they are discussing an accessory dwelling, there is no guidance as to whether this is required or not. Chm. Beyer responds that for 40B applications they have a very comprehensive checklist, and what they are saying is that they need this for a regular application as well, and they need to enforce it.

Mr. Murphy adds that for Cape View Way, after it was approved they had to go back and create their preliminary drawings based on what the board wanted. After that, it took another three months to do a construction drawing. Mr. Murphy states that he only got the drawings a few weeks ago, and he is meeting with the engineers and architects to go over the comprehensive report to remind them exactly what the board wants. Mr. Murphy's point is that sometimes they cannot get everything in right away that meets their requirements. Chm. Beyer responds that this speaks to the need that they must codify what they require for each application that they have. Although they can be loose in certain situations, there should be a basic requirement that is met every time. Chm. Beyer states that he will try to add more detail to the outline he created under each heading.

Mr. Murphy informs the board that the Planning Board will be presenting some changes to the ZBA's bylaws at the next Town Meeting. Mr. Kalick suggests waiting to see what the Planning Board comes up with and going over what Pat Nemeth created previously created for the board. There is no rush and they want to get it right this time.

### **Old Business:**

None.

**Public Comment:**

None.

**Adjournment**

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

Roll Call Vote as Follows:

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

The Motion Passes.

With no further business before the Board, the meeting was adjourned at approximately 8:05 PM.

Respectfully Submitted,  
Ina Sullivan