

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Virtual Hearing via Zoom

August 18, 2021

Meeting ID: 862 2837 5789

2021 NOV -9 PM 4: 25
TOWN CLERK BOURNE

RECEIVED

1. Call to order

Vice Chair Chris Pine called to order the meeting of the Zoning Board of Appeals at 7:00 PM on August 18, 2021. Mr. Pine 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. Pine 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.

Members Present: Chris Pine, John O'Brien, Harold Kalick, Wade Keene, and Associate Member Pat Nemeth.

Members Excused – Jim Beyer.

Also Present: Ken Murphy.

Agenda Items

- 1. Approval of Minutes** – Approval of meeting minutes for hearing 07.21.2021 and 08.04.2021. The minutes were not received in time to review. These will be approved at a later hearing.
- 2. 51 Bellavista Dr., Request for Special Permit (2021-SP15) for existing non-conforming shed that was located on a property for approximately 40-50 years with existing poured 12'x16' concrete foundation. The setback dimensions of existing foundation do not meet the current building codes.**

Materials: Application for Special Permit, GFA worksheet signed by the Assistant Town Planner on 06.24.2021, Abutters Map, Driving Directions, Disposal System Site Plan, Abutters List, Building Plans, Plot Plan.

Theodore Carey, 51 Bellavista Dr., owner, is present for the hearing. He noted a correction, the agenda had his shed at 12'x16' and his application showed it as a 12'x18'. He then gave an overview of the project, he had an existing shed which was beyond repair, which he removed and replaced with this new shed. The previous and current shed do not meet property line setbacks.

Mr. Pine asked if there were any questions from the Zoning Board of Appeals members.

Ms. Nemeth stated she had been on site and stated there was a portion of an old shed in the driveway, Mr. Carey stated that is a separate shed which he obtained a shed registration form for. Ms. Nemeth asked if the abutters were contacted about replacing the shed in question. Mr. Carey stated he had talked to his abutters and there was even some tree/limb cutting. He states his abutters were in support of this project. Ms. Nemeth commented on the nice appearance of the shed and asked if it will be made into something other than a shed. Mr. Carey stated it will be a she-shed for his wife.

Mr. O'Brien clarified the applicant is seeking retroactive approval to which the applicant agreed. Mr. Carey also explained they will be keeping the second smaller shed and completing a registration form.

Mr. Pine remarked that this proposed shed is beyond the definition of a shed and feels it is another type of structure and asked Mr. Murphy to weigh in. Mr. Murphy stated this could be a supportive finding and there is support from the neighbors so it is up to the Board to decide.

Mr. Pine asked if there were any Board members with questions or comments. There were none.

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

Mr. Pine Entertained a motion to approve 51 Bellavista Dr., Request for Special Permit (2021-SP15) for existing non-conforming shed that was located on a property for approximately 40-50 years with existing poured 12'x16' concrete foundation. **Mr. Keene made a motion. Ms. Nemeth seconded the motion. Roll call vote: Mr. O'Brien- Yes, Mr. Kalick- yes, Mr. Keene- yes, Ms. Nemeth- yes, and Mr. Pine- yes.**

Harold Kalick will be writing this decision.

3. **13H Knollview Rd., Request for Special Permit (2021-SP16) to construct 8'x10' shed.**

Materials: Application for a Special permit, Approval Letter from Hideaway Village Association, Property Map, Abutters List, Driving Directions, Plot Plan, Building Plan.

Michael Debroisse is present for the hearing.

There was a discussion between Board members and Mr. Murphy in regards to what size shed requires a permit and which require only a shed registration form.

Mr. Pine asked if there were any questions from the Public. There were none.

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

Mr. Pine asked if there are any Board members with questions or comments. There were none.

Mr. Pine Entertained a motion to approve 13H Knollview Rd., Request for Special Permit (2021-SP16) to construct 8'x10' shed. **Mr. O'Brien made a motion. Mr. Kalick seconded the motion. Roll call vote: Mr. O'Brien- Yes, Mr. Kalick- yes, Mr. Keene- yes, Ms. Nemeth- yes, and Mr. Pine- yes.**

Chris Pine will be writing this decision.

- 4. 64 Siasconset Dr., Request for Supportive Finding (2021-SP17) to raze the existing deck and associated steps and construct 3-season porch with stoop and steps in approximately the same footprint.**

Materials: Application for a Supportive Finding, GFA worksheet signed by the Assistant Town Planner on 07.09.2021, Project Narrative, Property Map, Abutters List, Driving Directions, Plot Plan.

Zac Basinski of Bracken Engineering is present and representing the homeowner.

Mr. Basinski gave an overview of the project and request.

Mr. Pine asked Mr. Basinski to elaborate on the 3 season room.

Mr. Basinski shared his screen and reviewed the proposed plans.

Mr. O'Brien confirmed this is a supportive finding.

Mr. Pine asked if there were any questions from the public. There were none.

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

Mr. Pine asked if there are any Board members with questions or comments. There were none.

Mr. Pine Entertained a motion to continue 110 Circuit Ave, Request for Supportive Finding (2021-SP14) to extend or alter a pre-existing non-conforming structure under section 1131, section 2320, contingent upon approval of septic system. **Ms. Nemeth made a motion to approve. Mr. Keene Seconded. Roll call vote: Mr. O'Brien- Yes, Mr. Kalick- yes, Mr. Keene- yes, Ms. Nemeth- yes, and Mr. Pine- yes.**

John O'Brien will be writing this decision.

5. 93 Cedar Point Dr., Request for Special Permit (2021-SP18) in accordance with Sect. 2457 of the bylaw for a departure of 279 s.f. over the allowed max gross floor area.

Materials: Application for a Special Permit, GFA worksheet signed by the Assistant Town Planner on 07.09.2021, Project Narrative, Property Map, Abutters List, Driving Directions, Site Plan, Demo Plans.

Zac Basinski of Bracken Engineering is present and representing the homeowner.

Mr. Basinski gave an overview of the project and shared his screen. Project is to remove bedroom in main house and build up garage. The hardship is due to the flood zone. Conservation and Health Department approval has been acquired.

Mr. O'Brien confirmed above the garage will be an open room with bathroom. No increase in bedroom. Mr. Basinski agreed.

There was a discussion between the Board Members and Ms. Basinski on the setbacks and whether this application will need a special permit or supportive finding.

Ms. Basinski confirmed the project will need both a special permit for the extra square footage and a supportive finding for the 10ft setback.

Mr. Murphy stated the Board can choose to approve as both a supportive finding and special permit or they can choose to approve individual.

Mr. Basinski confirmed he will continue the hearing for this project and apply for a supportive finding as well.

Mr. Pine asked if there were any questions from the public. There were none.

Mr. Pine entertained a motion to continue 93 Cedar Point Dr., Request for Special Permit (2021-SP18) in accordance with Sect. 2457 of the bylaw for a departure of 279 s.f. over the allowed max gross floor area. **Mr. O'Brien made a motion to continue this item. Mr. Kalick seconded the motion. Roll call vote: Mr. O'Brien- Yes, Mr. Kalick- yes, Mr. Keene- yes, Ms. Nemeth- yes, and Mr. Pine- yes.**

Wade Keene will be writing this decision.

6. **23 Head of the Bay Rd., Request for Special Permit (2021-SP19) in accordance with section 2320 of the bylaw to construct a proposed accessory dwelling unit to serve an aging family member.**

Materials: Application for Special Permit, GFA worksheet signed by the Assistant Town Planner on 07.09.2021, Project Narrative, Property Map, Abutters List, Driving Directions, Proposed Plot Plan, Site Plan, Elevations, Detail Sheet.

Zac Basinski of Bracken Engineering is present.

Sharon Steele, homeowner, is also present.

Mr. Pine requested the name of the family member who will be residing in the accessory dwelling. Mrs. Steele replied her that mother's name is Arlene Whittier.

Mr. Kalick questioned the two addresses and looked for clarification on the property.

Mr. Basinski explained it is 1 lot with 2 dwellings and 2 separate house addresses per the Fire Department.

Mr. Murphy clarified the breezeway clarifies the home and accessory dwelling in discussion as 1 unit. He also reviewed the requirement to update the Zoning Board of Appeals every 3 years in regards to who is residing in the accessory dwelling.

Mr. Pine asked if there were any questions from the public. There were none.

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

Mr. Pine asked if there are any Board members with questions or comments. There were none.

Mr. Pine Entertained a motion to continue 23 Head of the Bay Rd., Request for Special Permit (2021-SP19) in accordance with section 2320 of the bylaw to construct a proposed accessory dwelling unit to serve an aging family member. **Ms. Nemeth made a motion. Mr. O'Brien seconded the motion. Roll call vote: Mr. O'Brien- Yes, Mr. Kalick- yes, Mr. Keene- yes, Ms. Nemeth- yes, and Mr. Pine- yes.**

Mr. Pine will be writing this decision.

New Business – Chase Estates: Hearing to Determine whether Proposed Changes submitted by applicant on August 2, 2021 are “substantial” or “insubstantial” pursuant to 760 CMR 56:05 (11(a).

Attorney Drew Hoyt is present for this hearing.

Attorney Hoyt stated the plans are substantial.

Ms. Nemeth stated she would like to see an explanation of how the prior peer review comments lead to these changes in future hearing. Attorney Hoyt confirmed.

Mr. O'Brien questioned the length of time between the last final decision and this submission. Attorney Hoyt explained the applicant wanted to present a full application.

Mr. Pine reviewed the last permit was denied without prejudice and the Board had looked into the length of time that had passed and had it reviewed by Town Council as well.

Mr. O'Brien questioned if there would be low income housing made available. Attorney Hoyt confirmed 25% of the units will be low income.

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

Mr. Pine Entertained a motion to continue to Determine whether Proposed Changes submitted by applicant on August 2, 2021 are “substantial” pursuant to 760 CMR 56:05 (11(a). **Ms. Nemeth made a motion to find the changes substantial based on the following items:**

- 1. Increase in the number of units on the property from 16 to 24 units.*
- 2. Revision of the project from a condominium to a subdivision.*
- 3. Modification of the road layout, including the deletion of the road spur to the adjacent Upper Cape Cod regional Vocational and Technical School, and decreasing the road width to 20 feet.*
- 4. Revision of the wastewater disposal plans.*

5. Elimination of the condition that would allow the Town of Bourne to purchase units for the purpose of renting them to low and moderate income tenants.

Mr. Kalick seconded the motion. Roll call vote: Mr. O'Brien- Yes, Mr. Kalick- yes, Mr. Keene- yes, Ms. Nemeth- yes, and Mr. Pine- yes.

Ms. Nemeth will be writing this decision.

Old Business – Mr. Kalick had a discussion with the Board Members and Ken Murphy about Table 2456 of the Bourne Zoning Bylaws to ensure all Board Members agree on the interpretation of the table.

Public Comment – None.

Adjournment –

Mr. Pine entertained a motion to adjourn the hearing. Mr. O'Brien moved, Mr. Kalick seconded to adjourn the meeting. Roll call vote: Mr. O'Brien- Yes, Mr. Kalick- yes, Mr. Keene- yes, Ms. Nemeth- yes, and Mr. Pine- yes. The meeting adjourned at 8:26pm.

Respectfully submitted,
Cassie Hammond