

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Virtual hearing via Zoom

Meeting ID: 947 7615 8742

24 Perry Ave., Buzzards Bay, MA 02532

August 19, 2020

I. Call to order

Chair John O'Brien called to order the meeting of the Zoning Board of Appeals at 7:00 PM on August 19, 2019. Mr. O'Brien 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. O'Brien 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: John O'Brien, Wade Keene, Kat Brennan Harold Kalick and Associate Members, Pat Nemeth, Chris Pine and Jim Beyer.

Members Excused – Amy Kullar.

Also Present: Ken Murphy, Drew Hoyt, Michael Solitro, Janine Giambarresi, James Halloran, Jill Spatola, Richard Qualter, Ford O'Connor, John O'Donnell, Thomas Houston, Drew Hoyt, and multiple abutters for the agenda items.

II. Agenda Items

1. Approval of Minutes – Mr. O'Brien expressed there were no minutes available for review.

Mr. O'Brien will hear the following agenda item out of order.

2. (Formerly item #7) **14 Bosuns Ln** Requesting Special Permit (**2020-SP11**) to change and expand the primary use of the property to operate a Drug and Alcohol Rehabilitation Facility.

Materials Reviewed: Public Hearing notice, Application for Special permit, Letters of un-support from abutters, signed petition against the project from abutters, and comment from the Health Agent.

John O'Brien read in a request to continue this hearing item to a later date.

Michael Solitro, representing Mr. Thomas Pappas, reviewed the request to continue based on the petition submitted by abutters.

Board Comment- The Board discussed amongst itself to determine a date. The Board also discussed the possibility to have an open meeting in a public space to accommodate the large number of abutters.

Peter Meier, Selectman, explained there is a limitation to 25 people for public meetings due to the pandemic.

Mr. O'Brien entertained a motion to continue the agenda item. Mr. Pine moved, Ms. Brennan seconded.

Mr. Kalick stated he does not support the motion, feels the date of 9.16.2020 to be too soon, and would prefer the hearing to not be virtual.

Public Comment – Mr. Sean Scully, an abutter, supports a public meeting to facilitate the large number of abutters as opposed to virtual, and also feels the date of 9.16.2020 to be too soon.

Mr. Pine withdrew his motion, Ms. Brennan withdrew her second.

Mr. Kalick made a motion to continue the item for 60 days, hearing date of 10.21.2020. Mr. Beyer seconded the motion.

Ms. Brennan expressed concern with a public hearing due to the pandemic.

The motion carried. Roll Call Vote: Mr. Keene – Yes, Mr. Kalick – Yes, Mr. Pine – yes, Ms. Brennan – Yes, and Mr. O'Brien – Yes.

Sitting on this hearing; John O'Brien, Wade Keene, Harold Kalick, Chris, and Kat Brennan.

3. **21F Nautical Way Special Permit (2020-SP13):** Supportive Finding for permission to extend or alter a pre-existing non-conforming structure or use and/or application for Special Permit.

Materials Reviewed: *Public Hearing notice, Application for Special permit, Abutters List, Assessors map, Driving Directions, Unit Plan, Hideaway Village Condominium Association/Approval, Hand drawn floor plan.*

Janine Giambarresi, homeowner, reviewed her request to replace the front deck and extend the rear deck.

Ken Murphy, Building Inspector, gave an update that the dwelling has been removed due to rot that was discovered during renovations to the roof.

Mr. Beyer would like to see a site plan showing setbacks, proposed rebuild of the home and decks. Mr. O'Brien would like to see the application for the rebuild of the home prior to giving approval for the decks.

Pat Murphy, Hide Away Village Association General Manager, reviewed that he gave approval for the rebuild of the decks. He had not known the house would be removed, but has since reviewed the plans and application and has given approval for the rebuild of the dwelling.

Discussion between board members about approving the decks prior to approving the rebuild of the dwelling.

Mr. O'Brien entertained a motion to approve the Special Permit (2020-SP13) for a Supportive Finding for permission to extend or alter a pre-existing non-conforming structure or use and/or application for Special Permit to replace the front deck and rebuild and extend the back deck. **Mr. Kalick moved, Mr. Keene seconded the motion.**

Ms. Nemeth commented that she does not support approving the deck without the application and plans to rebuild the dwelling. Mr. Keene reviewed that it will be up to the building inspector to review and approve the building application.

Janine Giambarresi reiterated that her plans to rebuild the dwelling have already been approved by Patrick Murphy, the Hideaway Village Condo Association General manager.

Ken Murphy, Building Inspector, confirmed he has seen these plans and the approval letter.

Mr. Keene stated the Board has not given approval to rebuilding the dwelling at this time, and the approval is only for the decks. Mr. Pine confirmed Mr. Keene's statement.

The motion carried. Roll Call Vote: Mr. Keene – Yes, Mr. Kalick – Yes, Ms. Brennen – yes, Ms. Nemeth – Yes, and Mr. O’Brien – Yes.

Sitting on the hearing; John O’Brien, Wade Keene, Harold Kalick, Kat Brennen, and Pat Nemeth.

4. **66D Bogview Dr** Special Permit (**2020-SP15**) Supportive Finding for permission to extend or alter a pre-existing non-conforming structure or use and/or application for Special Permit.

Materials Reviewed: Application for Special permit, abutters list, Unit Plan, Approval letter from Hideaway Village Condominium Association (unapproved- no signature), hand drawn floor plan, driving directions.

Mr. Jim Halloran reviewed his request for a special permit to extend his deck, and reviewed that he has approval from the Hide Away Village Condo Association.

Ken Murphy, Building Inspector, confirmed receipt of this letter.

Patrick Murphy, Hide Away Village Condo Association General Manager, also confirmed the approval of this project.

There was a brief discussion between board members in regards to this letter and the request.

- Mr. O’Brien entertained a motion to approve the application for Special Permit (**2020-SP15**) Supportive Finding for permission to extend or alter a pre-existing non-conforming structure to extend the existing deck. **Mr. Keene moved, Mr. Beyer seconded the motion.** The motion carried. Roll Call Vote: Mr. Keene – Yes, Mr. Kalick – Yes, Ms. Brennen – yes, Mr. Beyer – Yes, and Mr. O’Brien – Yes.

Sitting on the hearing; John O’Brien, Wade Keene, Harold Kalick, Kat Brennen, and Jim Beyer.

5. **60 Wamsutta Ave** Special Permit (**2020-SP12**) the alteration of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood.

Materials Reviewed: Application for Special permit accessory dwelling, driving directions, Plot Plan with hand drawn measurements, abutters list, hand drawn elevations, GFA worksheet dated 02.27.2015, Assessors map, Plot Plan dated 9.14.1981, GFA worksheet dated 5.7.2020

Jill Spatola, homeowner, reviewed her request to repurpose existing outdoor shower and tool shed and turn them into a bathroom, and make existing half bath into a closet.

The Board members discussed the renovation of walls, and the location of the foundation.

Mr. Pine requested a structural plan showing the proposed vs existing floor plan.

Mr. Beyer requested a site plan with setbacks showing existing outdoor shower, tool shed, and any other structures vs proposed.

Mr. Beyer made a motion to continue the hearing for Special Permit **(2020-SP12)** the alteration of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood to 9.2.2020 requiring submission of plot plan and floor plans showing proposed vs. existing including setbacks. **Ms. Brennen second the motion** to continue the hearing.

Discussion between Board members and applicant to clarify plot plan and floor plans.

The motion carried. Roll Call Vote: Mr. Keene – Yes, Mr. Kalick – Yes, Ms. Brennen – yes, Mr. Beyer – Yes, and Mr. O’Brien – Yes.

Sitting on the hearing; John O’Brien, Wade Keene, Harold Kalick, Kat Brennen, and Jim Beyer.

6. **6 Jones Ln Special Permit (2020-SP14)** Extension or Alteration of a Pre-Existing Non-Conforming structure or Use.

Materials Reviewed: *Hearing Notice, Application for Special permit, Driving Directions, Abutters List, Plot Plan, Proposed Deck Plans, Assessors map, Letter from abutter.*

Richard Qualter, homeowner, updated the board on his request. He has a pre-existing non-conforming deck and the rebuild will change the shape. Reiterated the existing deck is within the setbacks but was never shown on the plans.

Mr. Beyer confirmed the applicant will be holding setbacks, just extending length of deck. Discussion between Board Members and applicant about size/shape/location of deck.

Mr. Murphy, Building Inspector, clarified the existing deck was never permitted and the applicant is looking for approval to rebuild and extend this existing deck. Mr. Murphy also asked how long the deck has been there before the home was purchased by Mr. Qualter.

Colette and Donald Edwards, direct abutters to the property, stated they have no issue with the project. They did confirm the deck is close to their bedroom. Expressed concerns with any future owners, as the current owners are quiet and respectful.

Ms. Brennen asked if the deck can be relocated to the other side of the dwelling. Mr. O'Brien confirmed the proposed deck will be where the existing deck is located.

Mr. Qualter, homeowner, clarified size of proposed deck, decreasing intrusion to setbacks.

Mr. Pine questioned if the deck can be moved.

Mr. Qualter, homeowner- reviewed reasons deck is in optimal location- fireplace, patio, access to bulk head, neighborhood traffic would have sight line to deck area if moved.

Colette and Donald Edwards, direct abutters to the property- would like to see the plans and review setbacks and clarify scope of project.

Mr. Pine made a motion to approve the application for Special Permit (2020-SP14) Extension or Alteration of a Pre-Existing Non-Conforming structure or Use. **Mr. Beyer second the motion.** The motion carried. Roll Call Vote: Mr. Keene – Yes, Mr. Kalick – Yes, Ms. Brennen – no, Mr. Pine – Yes, and Mr. O'Brien – Yes.

Sitting on the hearing; John O'Brien, Wade Keene, Harold Kalick, Kat Brennen, and Chis Pine.

7. **137 Jefferson Rd** A Special Permit (2020-SP16) that the alteration of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood.

Materials: Application for Special permit, Hearing Notice, Abutters List, GFA worksheet signed and dated 6.23.2020, Driving Directions, Assessors map, Proposed vs existing floor plan, Site Plan, and comment from the Health Agent.

Mr. Ford O'Connor, representing the homeowner, identified all documents submitted with the application and reviewed the request.

Mr. O'Brien questioned what the hardship is.

Mr. O'Connor Older home, need to square off to make it workable.

Ms. Brennen asked what the large structure on the plot plan is. Mr. O'Connor replied it is a garage.

Mr. O'Brien again asked about the hardship, questioned the house size/layout not working. Mr. O'Connor confirmed, and explained the kitchen size and layout is not suitable, needs squaring off and renovating.

Mr. Pine addressed the letter from the Health Agent, Terri Guarino, stating the current septic does not support the current number of bedrooms stated on the plans.

Mr. O'Connor discussed revising plans to include upgrade to septic.

Ms. Brennen requested approval of septic prior to approving. Ms. Nemeth stated she feels the remodel will be an asset to the house, but agrees she would like to see the approval for the upgraded septic prior to approving.

Mr. O'Connor discussed requesting to continue for 4 weeks.

Ms. Nemeth made a motion to continue this item to the hearing on 9.2.2020, requested updated plans prior to hearing.

Mr. O'Donnell, homeowner- reviewed the layout of the second floor, height of ceilings, inability to use 4th room as bedroom.

Ms. Nemeth questioned if the second floor is incorrectly labeled on plans.

O'Donnell clarified the bedrooms and rooms.

Brennen reiterated she would prefer to have the septic updated.

O'Connor stated he would have the plans redesigned and submit to the Health Department for review/ approval.

O'Brien asked Mr. Murphy if he would confirm that during the Building Permit application process the health department will have to review and sign off on plans prior to issuance of building permit. Mr. Murphy confirmed.

Mr. Beyer reiterated the plans need to be updated.

Ms. Brennan second the motion. The motion carried. Roll Call Vote: Mr. Keene – Yes, Mr. Kalick – Yes, Ms. Brennen – no, Mr. Beyer – Yes, and Mr. O'Brien – Yes.

Sitting on the hearing; John O'Brien, Wade Keene, Harold Kalick, Kat Brennen, and Jim Beyer.

8. **230 Sandwich Rd**, Chase Estates, Peer Review Peer review of Comprehensive Permit No. **08-18**.

Materials: Peer Review of Comprehensive permit no. 08-18, and comment from the Health Agent.

Mr. Thomas Houston, peer reviewer, is present for this hearing.

Mr. Drew Hoyt, representing Mr. Thomas Pappas, is present for the hearing.

Mr. Beyer asked Mr. Hoyt if he had read the peer review. Mr. Hoyt replied he had read, but has not had time to comprehensively review.

Mr. Beyer stated he feels this peer review is extensive and points out many items to correct, and Mr. Hoyt should review and present comments, changes, agree or disagree to abide by the suggestions.

Mr. Hoyt explained the next step is to receive a response form the applicant addressing the various points made in the peer review and feels many of the items would be included in the final plans.

Ms. Nemeth stated there is a dead end street that exceeds the city standards for adequate fire safety and feels this should be corrected prior to the final plans. Have not shown capacity from the water district to serve the project, haven't submitted traffic impact analysis to support circulation system no analyses to show comply states chapter 40B design review guidelines.

M. Beyer Agrees with Ms. Nemeth, and feels the peer reviewer did a compressive review.

Mr. Hoyt clarified his statement about items being addressed in the final report to imply he assumed these items would be amended for the final report but will ensure they are addressed sooner.

Mr. Beyer stated would like to see a set of comprehensive plans showing what is intended to build.

Mr. O'Brien would like to see items shown in peer preview addressed with explanation of house.

Ms. Brennen and Mr. Hoyt discussed how there has been much time spent reviewing this project.

Mr. Thomas Houston, peer reviewer, stated he has reviewed over 75 40B projects and has a clear understanding of what the limits of information are that the Zoning Board of Appeals can request and his reports breaks down the items needing to be provided prior to decision vs items that can be provided in the final plan.

Mr. O'Brien stated the Board is not in a position to make any decisions and they need more answers and clarification to the peer review from the applicant and questioned when the Board can expect a comprehensive report.

Ms. Nemeth- feels the applicant should take time to revise then submit to Thomas Houston and produce the traffic study.

Mr. Hoyt feels the traffic study is not within the preview of the Zoning Board of Appeals and this will happen at the curb cut, and due to the nature of the 40B will require waivers.

Mr. Houston The traffic study is within preview of the Zoning Board of Appeals and MasDOT does have jurisdiction over roadway and final determination of improvements.

Mr. Pine States the peer review was informative and helpful and will take time and engineering and he does not feel confident the applicant can have this done comprehensively within 30days.

Mr. Beyer Agrees it will take time to refine the design, and this should be continued until the applicant responds to the peer review, and this response has been properly reviewed.

Gregory R, abutter- states the property and area is blighted, there have been many meetings and hearings in regards to this application, feels the site is in disarray.

Mr. O'Brien reviewed that 14 Bosuns Ln and 230 Sandwich Rd are separate projects and will be addresses separately.

Sean Scully, abutter- has been attending these hearings for 13 years. States Mr. Pappas has an approved plan but does not have a building permit. Mr. Scully would like to see the peer review, and would like to see the response from the applicant once submitted.

A discussion between abutters and Board members ensued about possible cross roads created by Mr. Pappas between the Port of Call neighborhood in the development at 230 Sandwich Rd. Mr. Murphy will follow up with an inspection. If there are any concerns with traffic/illegal roads residents are urged to call police.

Mr. Beyer made a motion to continue the hearing item 230 Sandwich Rd, Chase Estates, Peer Review Peer review of Comprehensive Permit No. 08-18 to 10.14.2020. Ms. Brennen second the motion and clarified the hearing date this item is continued to is 10.21.2020.

Maureen Downey, abutter- supports the statements made by neighbor Sean Scully and reiterated the traffic between 14 Bosuns Ln and 230 Sandwich Rd through illegal roads.

Mr. O'Brien reiterated the need for people to call police when this occurs.

Mr. Keene clarified this will be a 2 step process. The applicant's response to the peer review, and the peer review of the applicant's response.

The motion carried. 5-0-0. Roll Call Vote: Mr. Keene – Yes, Mr. Kalick – Yes, Ms. Brennen – yes, Mr. Pine – Yes, and Mr. O'Brien – Yes.

Old Business – None.

New Business – None.

Public Comment – None.

Adjournment –

Mr. Pine moved, Mr. Beyer seconded to adjourn the meeting. The motion carried 5-0-0. The meeting adjourned at 8:58 PM.