

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Virtual Hearing via Zoom

October 7, 2020

Meeting ID: 980 2324 3930

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1. Call to order

Vice Chair John O'Brien called to order the meeting of the Zoning Board of Appeals at 7:00 PM on October 7, 2020. 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: O'Brien, Wade Keene, Harold Kalick, Chris Pine and Jim Beyer, Associate Members, Pat Nemeth.

Members Excused – none

Also Present: Ken Murphy, Jill Spatola, Joshua Bows, Ford O'Connor

Agenda Items

- 2. Approval of Minutes – Mr. O'Brien entertained a motion to approve the minutes of the September 16, 2020 meeting. Ms. Nemeth moved, Mr. Pine seconded approving the minutes of the September 16, 2019 meeting. The motion carried.**

Sitting on the hearing: Wade Keene, Chris Pine, Jim Beyer, Pat Nemeth.

- 3. 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. **(Continued from 8.19.2020)**

Materials Reviewed: Revised certified Plot Plan with setbacks, updated GFA (gross floor area) worksheet signed by the Assistant Town Planner (10.07.2020).

Jill Spatola gave a brief overview of the project and the newly submitted plans.

Ms. Nemeth expressed confusion on the proposal as both options exceed what is allowed.

Jill Spatola stated she had discussed this project with Ken Murphy and Jennifer Copeland and understands she is requesting a Supportive Finding.

Mr. O'Brien stated the Zoning Board of Appeals has no authority to approve exceeding 10%

Mr. Murphy reviewed that the lot is already non-conforming, Ms. Spatola is making it less non-conforming, which is why she is requesting a supportive finding.

Mr. Beyer asked what supportive finding would allow.

Mr. Murphy reviewed it would allow already non-conforming to go less non-conforming as it is not detrimental to the neighborhood.

Mr. Beyer asked if Ms. Spatola can appeal the decision. Mr. Murphy confirmed.

Mr. Pine and Mr. Murphy discussed the GFA worksheet and the inclusion of the shed size on the worksheet.

Ms. Spatola clarified that she will be making the master bathroom using the attached shed area, and removing the detached shed from her property.

Mr. Kalick agreed with Mr. O'Brien's previous statement, reiterating the Zoning Board of Appeals can only approve 10% over what is allowed.

Ms. Nemeth stated that per the bylaw her lot is non-conforming and this puts her on the GFA table allowing only 10% over.

Mr. Keene clarified the discussion is about lot coverage and not GFA.

Mr. O'Brien stated the project exceeds both GFA and lot coverage allowed.

There was a discussion between all parties confirming the lot coverage and gross floor area proposed and allowed.

Ms. Nemeth asked Ms. Spatola if she understands she cannot exceed 1288sf and if there is a project she would like to present that can get her to meet this size allowed. Ms. Spatola confirmed she understands and agreed her project does not meet this size.

Mr. Kalick again clarified what is considered GFA.

There were no further comments from the public.

Mr. O'Brien entertained a motion to close the public hearing. **Mr. Beyer moved, Mr. Pine second the motion. The motion carried.** Roll call vote: Mr. Pine- yes, Mr. Kalick- yes, Ms. Nemeth- yes, Mr. Beyer- yes, Mr. Keene- yes, and Mr. O'Brien- yes.

Mr. O'Brien entertained a motion to deny a Special Permit (2020-SP12) for the alteration of an existing single-family structure is not substantially more detrimental than the original structure to the neighborhood. **Mr. Beyer made the motion, Mr. Keene second the motion. The motion carried.** Roll call vote: Mr. Pine- yes, Mr. Kalick- yes, Mr. Beyer- yes, Mr. Keene- yes, and Mr. O'Brien- yes.

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

4. 18D Windy Hill Rd for Special Permit (2020-SP20) alter a preexisting nonconforming deck.

Materials Reviewed: Revised hand drawn Plot Plan with setbacks submitted by homeowner, photographs of the areas of discussion provided by homeowner, updated GFA worksheet signed by the Assistant Town Planner.

Joshua Bows reviewed the project and materials. The initial plan for reconstruction had an initial survey which wrongly determined the existing deck over the property line. Between submitting the plan and the final ok the old plan was approved. This is a new filing to correct the mistake. Request is to construct deck in same location as previously existing deck.

Mr. Murphy reviewed the deck was rebuilt larger than the plan was approved or. This was brought to his attention, the homeowner and everyone are all in agreement to go back before the Zoning Board of Appeals.

There were no further comments from the public.

Mr. O'Brien made a motion to close the hearing to the public. **Mr. Pine made the motion. Mr. Beyer second the motion. The motion carried.** Roll call vote: Mr. Pine- yes, Mr. Kalick- yes, Mr. Beyer- yes, Mr. Keene- yes, and Mr. O'Brien- yes.

Mr. O'Brien entertained a motion to approve Special Permit (2020-SP20) alter a preexisting nonconforming deck. **Mr. Keene made the motion. Mr. Kalick seconded**

the motion. The motion carried. Roll call vote: Mr. Pine- yes, Mr. Kalick- yes, Mr. Beyer- yes, Mr. Keene- yes, and Mr. O'Brien- yes.

- 5. 8, 9, 10 Cape Cod Lane Special Permit (2020-SP21) to build a single family dwelling combining two non-conforming lots and make the consolidated new lot and the one new dwelling less non-conforming than the existing houses and lots.**

Materials Reviewed: Revised hand drawn Plot Plan with setbacks submitted by homeowner, photographs of the areas of discussion provided by homeowner, updated GFA worksheet signed by the Assistant Town Planner.

Ford O'Connor reviewed the project and materials presented.

Mr. O'Brien confirmed there are 3 dwellings coming down.

Mr. O'Connor clarified that lot 10 has a dwelling and lot 8 has a dwelling, lot 9 does not have a dwelling. The two existing dwellings will be removed. Project is with the Planning Department as well and cannot be approved until the ownership changes, and this cannot change until there is Zoning Board of Appeals approval. Mr. O'Connor reiterated they are requesting a supportive finding and special permit, as they are looking for a supportive finding for the location of the dwelling as shown on plan it doesn't not exceed what is allowed, and requesting a special permit for the percentage more GFA. Two houses would be removed. The new home meets setbacks and would be sold and owned as 1 dwelling.

Mr. Beyer clarified the allowed vs requested max GFA.

Mr. O'Connor reviewed he received the data from the Assistant Town Planner.

Mr. Pine clarified they are discussing 1% of the lot not the building.

Mr. Beyer questioned what the hardship is and asked if square feet can be reduced to accommodate this.

Mr. O'Connor replied that this can happen upstairs by not building an attic and having a cathedral ceiling.

Ms. Nemeth questioned who was responsible for the parking lot.

Mr. O'Connor stated the Planning Board approved the A & R and found the road adequate to service the house.

There was a discussion about the setbacks to the property lines and how many buildings are currently on the properties.

Jerry Congdon, abutter at 46 Saco Ave, stated he has no concern with the building, his concern is the impact of the houses on Cape Cod Lane and the access for construction vehicles to Cape Cod Lane. When SP32-2017, Cape Cod Lane received its permit, there was a requirement that at no time should the subject property enter through Cape Cod Lane. Mr. Congdon reported damage to his property, including irrigation heads damaged, wires ripped down, construction vehicles parking on his property when 6 Cape Cod Lane was worked on. Concerns with water flowing downhill into neighboring properties. Mr. Congdon expressed he is representing the other abutters as they are intimidated and feels there is a negative impact on the neighborhood due to this project.

Mr. O'Brien reiterated what to do; contact the Building Inspector or police if and when this happens.

Tim Santos of Holmes and Mgrath, representing the applicant, proposed to move the dwelling 11ft off the lot line, and has spoken to the applicant who agrees to move the house 12ft off the lot line.

Mr. O'Brien confirmed there are 2 items in the motion; reduction in square feet and side setbacks to meet 12ft.

Mr. Kalick suggested that it be required the applicant be responsible for any damage that might arise from the construction.

Mr. O'Brien agreed to add anything reasonable into a motion as allowed.

Mr. O'Connor stated he has spoken with the applicant and they agree to move the proposed dwelling 12ft from the lot line and have agreed to submit architectural plans to Jennifer Copeland, Assistant Town Planner to show GFA will be under the 20% rule and feels they no longer need a special permit and would like to request to withdraw the portion of the application that deals with a special permit. They will still need a permit for a supportive finding allowing the construction of the building with the two changes of the building being 12ft from the property line and the GFA will not exceed 20%.

Mr. Pine questioned if this is all one lot at this time. Mr. O'Connor clarified the process with the Planning Board and that the lots are waiting to be owned by the same owner.

Mr. Beyer questioned the difference between special permit and supportive finding within this project. Mr. O'Connor clarified. There was discussion on whether a special permit is still required.

Mr. Beyer suggested to make a motion to continue until reviewed plans can be submitted and reviewed that show the changes referenced in this hearing as discussed.

Mr. Murphy agreed that he would like to confirm the frontage and side setbacks with Jennifer Copeland.

There was discussion that there may not be a need to return for a hearing if setbacks and

MaryAnn Carroll, 6 Cape Cod Lane, stated that they tried to be unobtrusive during construction of her home and understands the road is in disrepair and has spoken with neighbors about taking the responsibility to repair the roads. She understands construction vehicles nuisance but feels they made the best effort to adhere to the guidelines in her permit.

Mr. O'Brien entertained a motion to continue the hearing for 8, 9, 10 Cape Cod Lane Special Permit (2020-SP21) to build a single family dwelling combining two non-conforming lots and make the consolidated new lot and the one new dwelling less non-conforming than the existing houses and lots until October 21, 2020. Mr. Beyer made the motion. Mr. Pine second the motion. The motion carried. Roll call vote: Mr. Pine- yes, Mr. Kalick- yes, Ms. Nemeth-yes, Mr. Beyer- yes, Mr. Keene- yes, and Mr. O'Brien- yes.

6. Old Business – 665 Scenic Highway, Cape Cod Aggregates: Update from the Building Inspector on site visit.

Mr. Murphy confirmed the paperwork needs to be signed by the Zoning Board of Appeals members, as the selectman voted to approve at their hearing last night. The members can call the office and the secretary will be able to facilitate the signing.

7. New Business

- Reorganization of the Zoning Board of Appeals Members.

Mr. Pine made a motion to nominate Jim Beyer as new Chair of the Zoning Board of Appeals. Mr. Kalick second the motion. Mr. Beyer accepted. The motion carried. Roll call vote: Mr. Pine- yes, Mr. Kalick- yes, Ms. Nemeth- Yes, Mr. Keene- yes, Mr. O'Brien- yes, Mr. Beyer- abstained.

Mr. Beyer spoke his support and appreciation for Mr. John O'Brien.

Mr. Beyer made a motion to nominate Chris Pine as the new vice chair for Zoning Board of Appeals. Mr. Kalick second. Mr. Pine accepted. The motion carried. Roll call vote: Mr. Beyer- yes. Mr. Kalick- yes, Ms. Nemeth- Yes, Mr. Keene- yes, Mr. O'Brien- yes, Mr. Beyer Mr. Pine- abstained.

- 56 Meetinghouse Ln- Bourne Housing Partnership

Ms. Nemeth reviewed the emails received from the Bourne Housing Partnership and questioned what the next step is.

Mr. Murphy stated this will be reviewed at a later hearing to review the status once all parties are present.

Ms. Nemeth questioned the process, Mr. Murphy reviewed.

- *Mr. Kalick stated he will be out for some time with a medical concern, he will be out for the next 3 months roughly.*

8. Public Comment – None.

Adjournment –

Mr. Kalick moved, Mr. Beyer seconded to adjourn the meeting. The motion carried. Roll call vote: Mr. Beyer- yes. Mr. Kalick- yes, Ms. Mr. Keene- yes, Mr. O'Brien- yes, Mr. Beyer Mr. Pine- yes. The meeting adjourned at 8:15PM.

