

Town of Bourne Zoning Board of Appeals

Meeting Minutes

Virtual Hearing via Zoom

October 21, 2020

Meeting ID: 991 1004 2008

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TOWN CLERK BOURNE

Call to order

Chair Jim Beyer called to order the meeting of the Zoning Board of Appeals at 7:00 PM on October 21, 2020. Mr. Beyer 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. Beyer 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: Jim Beyer, Chris Pine, John O'Brien, Wade Keene, and Associate Members Pat Nemeth.

Members Excused – Harold Kalick

Also Present: Ken Murphy, Zachary Basinski,

Agenda Items

- 1. Approval of Minutes** – There were no minutes for approval at this time.
- 2. 975 Shore Rd Special Permit (2020-SP22)** to raze a detached garage and replace with attached 2 car garage with master bedroom above. This item has been withdrawn.

Materials: Public Hearing notice, Application for Special Permit, GFA worksheet (signed by Town Planner 9.18.2020), project narrative, assessors card, assessors map, Deed, Directions, Floor plans.

Chris Pine has recused himself.

Mr. Beyer entertained a motion to accept the withdrawal without prejudice. Ms. Nemeth made the motion. Mr. O'Brien second the motion.

Roll call vote: Mr. O'Brien- yes, Mr. Keene- yes, Ms. Nemeth- yes, and Mr. Mr. Beyer- yes.

Sitting on the hearing; John O'Brien, Wade Keene, Pat Nemeth and Jim Beyer.

Jim Beyer will be writing the decision.

3. **41 Bourne Neck Dr Special Permit (2020-SP23)** to replace existing front 3'x5' porch with 6'x26' porch.

Materials: Public Hearing notice, Application for Special Permit, GFA worksheet (signed by Town Planner 8.28.2020) assessors card, assessors map, Deed, Directions, Floor plans, plot plan with project drawn in by applicant.

Mr. Pine is rejoined the Zoning Board of Appeals.

Dave Montgomery, homeowner, reviewed his project to replace his existing covered porch, enlarging his porch and roof.

Mr. O'Brien questioned the impact on the setbacks this deck increase will have.

Mr. Montgomery replied that his existing porch does not currently meet setbacks and the proposed porch will retain these same setbacks.

Mr. Pine and Mr. Beyer clarified the setbacks with the homeowner. It should meet 30ft setbacks and on the plan it shows 17ft from the proposed deck to the property line. Mr. Montgomery clarified 17ft is to allow for stairs.

Mr. Beyer asked the homeowner if he had spoken with his abutters. Mr. Montgomery confirmed he has spoken with his abutters, they have been notified and there are no concerns.

Ms. Nemeth stated she does not feel this will be significantly more detrimental to the property, she feels with this new farmer's porch and roof this will enhance the property and be an asset to the community.

Mr. O'Brien clarified that a special permit is necessary to approve the 17ft setback. Mr. Murphy confirmed.

Mr. Beyer stated he visited the neighborhood and feels this project is similar to the abutting homes.

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

Mr. Beyer entertained a motion to approve the request. Mr. Pine made a motion to approve the application for Special Permit (2020-SP23) to replace existing front 3'x5' porch with 6'x26' porch providing the setback is 17' is observed as submitted on the plans. Mr. Keene second the motion. The motion carried. Roll call vote: Mr. Pine- yes, Mr. O'Brien- yes, Ms. Nemeth, Mr. Keene- Yes, and Mr. Beyer- yes.

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

Mr. Pine will be writing the decision.

4. **54 Valley Farm Rd Special Permit (2020-SP24)** for a supportive finding to raze and rebuild a pre-existing non-conforming single-family dwelling.

Materials: Public Hearing notice, Application for Supportive Finding, GFA worksheet (signed by Town Planner on 9.17.2020), project narrative, assessors card, assessors map, Deed, Directions, Floor plans.

Zachary Basinski PE of Bracken Engineering, representing the applicant, reviewed the project. He screen shared to review the documents submitted. It is a pre-existing non-conforming property with two dwellings as it does not meet lot minimum lot area Last year they were granted permission to raise and rebuild the cottage (2nd dwelling) on the property. Since then the owner would like to raze and rebuild the main house and leave the cottage as is. No impact on setbacks. New septic system will be installed.

Mr. O'Brien questioned if there are new owners since the last hearing. Mr. Basinski replied it is the same owners.

Mr. O'Brien spoke to the visual impact of the lot describing some debris and broken vehicles around the cottage. Mr. O'Brien expressed concern about the building be used. Mr. Basinski confirmed the cottage is used throughout the year, and reiterated the owners want to raze and rebuild both buildings, the cottage was originally approved for raze and rebuild last year, but has choose to raze and rebuild the main building.

Ms. Nemeth questioned if there are any road improvements proposed with this project. Mr. Basinski replied there are not.

Mr. Beyer questioned what the cottage is used for. Mr. Basinski replied it is for family guests to stay when they visit.

Mr. Beyer again asked if it is rented or for guests. Mr. Basinski reiterated it is for family only. The owners understand it is in disrepair and have intent to raze and rebuild. Due to limit of funds they would like to start with the main building instead.

Ms. Nemeth asked if this is a year round residence for the owners. Mr. Basinski stated the owner lives in New York and uses this property in the summer. Ms. Nemeth continued to express concern for people living within the dwellings with the level of disrepair mentioning broken glass windows.

Mr. Pine questioned if there are any code violations or concerns in regards to the level of disrepair.

Mr. Murphy responded that all vehicles need to be registered, allowing for 1 unregistered and the necessity for public safety. Mr. Beyer mentioned tractors and bulldozers.

Mr. Beyer questioned why the applicant is not requesting an application for an accessory dwelling. Mr. Basinski explained it is already on the property and it is a pre-existing non-conforming as they are requesting a supportive finding.

Mr. O'Brien agreed this does not meet the need for an accessory dwelling.

Mr. Beyer questioned parking, referencing two spaces per dwelling. Mr. Basinski confirmed and used screen share to indicate where on the plot plan the parking is shown.

Mr. O'Brien stated a new house would be a big improvement.

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

Mr. Beyer entertained a motion to approve 54 Valley Farm Rd Special Permit (2020-SP24) for a supportive finding to raze and rebuild a pre-existing non-conforming single-family dwelling per plans dated September 9, 2020.

Mr. O'Brien made the motion. Ms. Nemeth second the motion. The motion carried. Roll call vote: Mr. Pine- yes, Mr. O'Brien- yes, Ms. Nemeth, Mr. Keene- Yes, and Mr. Beyer- yes.

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

Ms. Nemeth will be writing the decision.

5. 230 Sandwich Rd, Chase Estates Comprehensive Permit No. 08-18. Applicant's response to Peer Review.

Materials: No new materials had been submitted.

Attorney Drew Hoyt is present for the hearing. Attorney Hoyt indicated he had expected the applicant Thomas Pappas to be present at the hearing as well per a conversation earlier.

Attorney Hoyt explained he understood from the last hearing Chase Estates was to respond to the Peer Review adopting or following the recommendations and guidelines. He explained the engineer have been in communication with the Peer Reviewer in regards to drainage and the recommended changes can be accommodated or whether these recommendations will necessitate changes to the design of the project. He stated he had a letter written asking the Board to continue the hearing for a month to allow time for these conversations. Mr. Pappas had wanted to approach the Board himself to have a discussion. Attorney Hoyt apologized for Mr. Pappas absence and requested the continuance.

Mr. Beyer clarified the applicant had been given a very thorough Peer Review and eventually the recommendations in the peer review need to be addressed in the plan. He continued to say that it had been expected that a written response would have been provided from the applicant.

Attorney Hoyt expressed that once the discussion with the engineer is complete he feels there will be a written response to the peer review.

No further questions or comments from the public.

Mr. Pine questioned how long it will take for the applicant to provide the written response comfortably and questioned if it should be longer than 30days.

Mr. Beyer reminded everyone that once the response to the peer review has been submitted, the board will need additional time to review prior to a hearing date.

Attorney Hoyt agreed that 30days will not be enough time.

There was a discussion about what date to continue this hearing to, it was decided December 2, 2020 would suffice.

Brian Jenson, abutter at 12 Bosuns Lane, explained that his understanding from being present at the last hearing was that at this hearing the applicant would be present and responding to the peer review either stating they were in favor or not. He continued to

stress the amount of years this has been ongoing with the applicant not responding with a clear response. He also stressed his concern that the applicant was not present this evening. Mr. Jensen further expressed his concern that the board would continue this item again.

Mr. O'Brien acknowledged the concerns of the abutter and feels the Peer Review is quite technical and feels the engineers for Chase Estates have to communicate with the peer reviewer and respond to the Board whether they can or cannot meet the requirements and until that is clarified he feels the Board cannot make a vote. He would like to get to a point where the Peer Reviewer replied to the Board after talking with the Engineers.

Mr. Beyer agreed, and further expressed how comprehensive this Peer Review response will take.

Sean Scully, abutter at Bosun's Lane, states he agrees with Mr. Jensen. He also reiterated the sentiment of what Ms. Nemeth said and encouraged all the Board Members to go back and review the minutes and recordings of the past hearings. He also expressed concern over the many continuances and suggested a later date than December, perhaps February, with a hard stop in mind. Mr. Scully also requested the applicant reach out to all other departments involved with this application to ensure all measures are met.

Ann Anslem, an abutter, expressed her agreement with Mr. Scully and her concern with the 30 day continuance proving to not be enough time for the applicant to provide a response. She suggested a longer continuance time and no more hearings if the response is not provided.

Len Casey, an abutter Port of Call, has been attending meetings since the summer of 2007. Expressed concern about access and traffic from the Port of Call neighborhood to the Chase Estates. Mr. Beyer confirmed that the Board has not seen any plans showing a connection road.

Mr. Scully stated there had been an access connection road between the Port of Call Neighborhood and the Chase Estates in plans. Mr. Beyer again stressed the most recent plans which were sent to the Peer Review, did not show such a connection road.

Ms. Nemeth stated she will contact the Town Hall to access and review the history of this project.

Steven Downy, 12 Bosun's Lane Abutter, reiterated comments from his neighbors. Has seen cars from Chase Estates enter the neighborhood.

Mr. Beyer stated that there cannot be any more continuances and encouraged Attorney Hoyt to choose a hearing date that will allow enough time to have a comprehensive

response. Mr. Hoyt responded that he will choose December 16, 2020 and clarified they will have a point-by-point response to the Peer Review and will have this response to the Board prior to the hearing.

Mr. Beyer made entertained a motion to continue the hearing on December 16, 2020.

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

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

Mr. Beyer will be writing the decision.

6. **8, 9, 10 Cape Cod Lane Special Permit (2020-SP21)** for a supportive finding 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. **(Continued from 10.07.2020)**

Materials: Updated Plot Plan with setbacks, and updated GFA worksheet signed by J. Copeland 10.21.2020

Mr. Beyer stated the Board has not been given significant time to review the newly submitted material as it had only been sent today.

Mr. Ford O'Connor reviewed the changes discussed at the previous hearing and at that time he did not feel approval by the Board would be required if these changes were made. As they were looking at the plans the proposed building was going to be closer to the road than the bylaws allows, but wanted to look closer at a provision allowing the average setbacks of adjacent lots and hired a survey crew. They will be proposing a front setback that does not need relief. Mr. O'Connor feels this is up to the Building Inspector to determine if their interpretation of the bylaws is correct.

Mr. Murphy, Mr. Beyer and Mr. O'Connor discussed which properties qualify as adjacent abutting properties to use for the average.

Mr. Beyer questioned what the new side setbacks are, Mr. O'Connor clarified they are 12ft. Mr. O'Connor expressed that if Mr. Murphy approved the 12ft side setbacks and 17ft front setback this project will no longer require relief from the Zoning Board of Appeals.

Ms. Nemeth reiterated the materials had not been sent in a timely manner. Mr. O'Connor replied that it is his understanding that Mr. Murphy can approve and would withdraw the

application without prejudice. Ms. Nemeth stressed that the Board would still have to vote and reiterated the need to have the material in a timely manner.

Mr. Beyer questioned what the zoning district is for this property. Mr. O'Connor explained that when the lots were created there were no zoning districts, and explained the history of the zoning bylaw for these lots.

Mr. Murphy and Mr. O'Connor discussed moving the side yard setbacks to 15ft and the average of the adjacent lots for the front setback. Mr. O'Connor asked Mr. Murphy if he would approve these changes. Mr. Murphy replied that the Board would have to decide.

Mr. Pine agreed the need for the Board to have new materials showing these proposed changes prior to allowing a vote. Mr. O'Connor stated they will sign any continuance forms. Ms. Nemeth reiterated the need to show the setbacks. Mr. O'Connor stated he will have to check with his clients to ensure the location of septic or views.

Mr. Beyer referenced the plot plan and asked if the Cape Cod Lane right of way, Mr. O'Connor confirmed and explained it is waiting for Planning Board approval.

Mr. Beyer entertained a motion to continue **8, 9, 10 Cape Cod Lane Special Permit (2020-SP21)** for a supportive finding 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.

There was a discussion about hearing dates between the Board members and Mr. O'Connor.

Ms. Nemeth made the motion to continue to December 2, 2020. Mr. Pine second the motion. Roll call vote: Mr. Pine- yes, Ms. Nemeth- yes, Ms. Mr. Beyer- yes, Mr. Keene- yes, and Mr. O'Brien- yes.

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

Mr. Beyer will write the decision

Old Business – None.

New Business – None.

Public Comment – None.

Adjournment –

Mr. O'Brien moved, Mr. Pine seconded to adjourn the meeting. The motion carried
Roll call vote: Mr. Pine- yes, Ms. Nemeth- yes, Ms. Mr. Beyer- yes, Mr. Keene- yes,
and Mr. O'Brien- yes. The meeting adjourned at 8:20 PM.