

**Town of Bourne Zoning Board of Appeals**  
**Meeting Minutes**

Virtual Hearing via Zoom

December 1, 2021

Meeting ID: 868 5577 5017

TOWN CLERK BOURNE

2022 FEB 28 AM 10:07

RECEIVED

**Call to order**

Chair Jim Beyer called to order the meeting of the Zoning Board of Appeals at 7:00 PM on December 1, 2021. 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.

Michael Rausch indicated he was recording the hearing.

Members Present: Jim Beyer, Chris Pine, John O'Brien, Wade Keene, Harold Kalick  
Associate Members Pat Nemeth and Karl Spilhaus.

Members Excused –None.

Also Present: Ken Murphy.

**Agenda Items**

1. **Approval of meeting minutes for hearings dated October 6, 2021 and October 20, 2021 and site visit November 18, 2021. Approval of meeting minutes for hearing October 6, 2021. Mr. Pine made a motion to approve. Mr. Kalick second the motion. Roll call vote: Mr. Pine- Yes, Mr. Kalick- yes, Mr. O'Brien- yes, Mr. Keene- yes, Mr. Beyer- Yes. Approval of meeting minutes for hearing October 20, 2021. Ms. Nemeth made a motion to approve. Mr. O'Brien second the motion. Roll call vote: Mr. Pine- Yes, Mr. Kalick- yes, Mr. O'Brien- yes, Mr. Keene- yes, Mr. Beyer- Yes. Approval of minutes for site visit on November 11, 2021. Ms. Nemeth made a motion to approve.**

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

**2. 17 Portside Dr. Request for Special Permit 2021-SP24 for accessory dwelling unit.**

*Materials: Application for Special, Abutters list, Authorization of Agent to Act on Property Owner's Behalf, License, Assessor's Map, mortgage Inspection Plan, Proposed Floor Plans, and Driving Directions.*

Mark Medeiros and Breanna Flague, owners and applicant for 17 Portside Dr, present for the hearing.

Ms. Flague shared her screen and presented a slideshow reviewing the project. They had a permit to renovate the garage in the past. They are proposing changes to create an in-law apartment including removal of the Jack and Jill bathroom and adding high efficacy kitchen as well as change the bedroom to living area. The in-law apartment will be for their son to grow in. She explained they will be installing a new 4 bedroom septic system.

Mr. Beyer confirmed receipt of letter from Health Agent stating "occupancy should be contingent on the installation of a new septic system adequate for the total number of bedrooms and property owners have this in the works already".

Mr. Beyer asked if there were any questions from The Board.

Mr. Kalick confirmed they are applying as a 4 bedroom house with permit for 4 bedroom septic. Applicants confirmed.

Mr. O'Brien reiterated that the applicant will have to identify who will be occupying the unit and update every 3 years with Building Inspector.

Mr. Murphy explained a site visit and bedroom count was conducted confirming what is applied for.

Mr. Keene asked for the name of who will be residing in the accessory dwelling. Mr. Beyer read from the application that it will be "Caton Medeiros".

Ms. Nemeth complimented the homeowner on their application and presentation.

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

Mr. Beyer 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. Pine- Yes, Mr. Keene- yes, Mr. O'Brien- yes, Mr. Kalick- yes, and Mr. Beyer- yes.

Mr. Beyer entertained a motion to approve the request for Special Permit 2021-SP24 for accessory dwelling unit at 17 Portside Dr. Ms. Nemeth made a motion to approve. Mr. Pine seconded. Roll call vote: Mr. Pine- Yes, Mr. Keene- yes, Mr. O'Brien- yes, Mr. Kalick- yes, and Mr. Beyer- yes.

*Mr. Keene will be writing the decision.*

**3. Cape View Way 40B, Comprehensive Permit (#2021-CP06) to construct and operate 51 affordable rental units on 2.94 acres. (Continued from 11.17.21)**

*Materials: Response to Peer Review Comments letter with attachments, Revised Cape View Way Permitting Plans, Revised Stormwater Report, including the Operation and Maintenance Plan, Revised Zoning Bylaw waivers list, Revised Subdivision Regulation waivers list, Peer Review of the second submittal of Civil Engineering Design/Septic Design, Comments from North Sagamore Water District, Peer Review noncompliant yard setback, Draft Decision, Tudor Cherry Investors Condition of Comprehensive Permit, Comments from North Sagamore Water District, Passive House Foundation, Landscape and Retaining Wall Plans, Freeman Law Group Response to Comments from North Sagamore Water District.*

Mr. Beyer stated the purpose of the hearing that evening was to go through the draft comprehensive permit. He also explained they are waiting on advice from the Town Administrator if Town Council would like to review it as well.

Mr. Peter Freeman, of Freeman Law Group, representing the applicant, supported the desire to review the draft comprehensive permit but made note that the Board has asked for updated plans and will present those first.

Gemma Kite, Engineer with Horsley Witten Group, shared her screen to review the updated landscape plan. She showed the following; reduced building footprint and unit count, proposed grass lawn and benches near playground, additional large greenspace on side of building, southern property line will have a larger and longer retaining wall reducing the evergreen screening close to wall but increase in the island, the wastewater leachfield has been reduced allowing increase of the tree planting, the wastewater leachfield also has green open space with access path, precast concrete cast retaining wall with 6ft chain-link fence on top of wall.

Michelle Waldon of ICON architecture, shared her screen to show green features of Building. She explained they will be designing to passive house standards which provides reduced carbon footprint, a comfortable building, increased indoor air quality, thermally stable and lowers utility bills, heating and cooling demands are reduced. The energy

footprint will be 90% less than typical building for heating and 66% less for total energy used.

Ms. Nemeth felt there should be adequate benches and requested the locations be noted on the landscape plan. Ms. Kite identified the location of the benches on the plan. Ms. Nemeth requested benches be located in the open play area by the parking lot. Ms. Kite confirmed they are all weather benches with backs.

Ms. Nemeth asked if the landscaping as proposed will comply with the scale of the landscaping shown in the architectural drawings. Ms. Kite said she can get the tree size information to the Board.

Ms. Nemeth reiterated her question as to what they have architecturally rendered in terms of landscapes is what they are proposing to install, and if they are proposing smaller sizes she would like this clarified in detail.

Ms. Nemeth also asked what type of fence will be installed between Cape View Way and Tudor Hill abutters. Mr. Freeman was unsure what was agreed upon. Ms. Nemeth requested these specific details and an exhibit be provided.

Mr. Beyer expressed concern about the retaining walls aesthetic and the chain link fence.

Mr. Pine expressed a safety concern with cars turning near the retaining wall.

Ms. Nemeth asked what STC (Sound Transmission Class) was proposed for the hallway walls and the walls between the units? She is looking for a STC rating that would preclude normal conversation from being heard between units.

Mr. Beyer stated that most building code regulates noise.

Mr. Freeman stated the 6ft vinyl privacy fence between then continuing to the right rear will be chain link fence.

Mr. Nemeth asked Mr. Murphy if the current building code will ensure normal conversations will not travel between units. Mr. Murphy replied it will meet minimum standards but did not know the specifics.

Ms. Waldon stated it exceeds code minimum with floor truss and between units at demising wall and corridor walls. Ms. Nemeth requested that they provide the specific STC number that will be required for the construction.

Mr. Keene asked if there were interior bike stands. Ms. Waldon stated there will be 1 storage unit per unit which can accommodate bikes.

Mr. Keene asked what the main source of heat will be. Ms. Waldon replied it will be electric. Mr. Keene asked if there will be a backup generator. Ms. Waldon stated they are looking into options.

Mr. Beyer asked if there were any questions from the Board. There were none.

Mr. Beyer asked if there were any questions from the Public.

Cassandra Sullivan, 7 Andrew Rd, abutter, directly abuts the proposed play area and wanted clarification on the buffer area.

Ms. Kite shared her screen and identified a retaining wall and existing vegetative brush line. Ms. Sullivan asked for details on the retaining wall height and materials. Ms. Waldon stated it will be about 6 inches higher than grade near her yard. Ms. Nemeth requested a cross section view of this area.

There was a discussion between the Board and applicants about adding more fencing which would reduce the amount of existing vegetative buffer.

Mr. Kalick asked who is responsible is paying the electric bill. Mr. Fellows replied that this will be a high efficiency building, POAH will pay for heat, residents will pay for TV's, power loads, and such.

Ms. Sullivan asked if the fence could extend further to discourage future tenants from accessing her property.

There was an observation by Ms. Kite that the limit of work did not include the proposed fence.

Ms. Sullivan asked if there could be the option of a fence type offering more privacy.

Mr. Beyer said he thought Cherry Hill Tudor had proposed a stockade fence.

Mr. Check Sabbot, representing Cherry III, shared his screen and clarified what they had agreed to.

Mr. Beyer suggested the vinyl fencing be used in the area in discussion behind the proposed play space abutting Ms. Sullivan's property. Mr. Fellows confirmed. Ms. Sullivan requested a rendering of the view from her yard. Mr. Beyer suggested this be a condition of approval.

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

Mr. Beyer began the review of the comprehensive permit. He confirmed the Board Members had read the Comprehensive Permit.

Mr. Beyer identified corrections to the dates on page 1 and confirmed Board Member who had attended.

Ms. Nemeth identified the Board will not be identifying limited dividend organization, the finding will be made by someone else. The eligibility letter will be an attachment.

Mr. Beyer said on page 3 the development agreement will be included as an attachment.

Ms. Nemeth said #14 should be significant expanded.

Mr. Beyer suggested #19 and #21 the Board will not overrule the Water District.. He feels the applicant will comply with the requirements of the North Sagamore Water District regarding water connections and water connection fees. Ms. Nemeth expressed her agreement with Mr. Beyer..

Mark Melchionda, Water Commissioner, praised the Board for their professionalism. He explained they do not intend to impede the project, but it is a large change in use for the district and it is their job to ensure the district is not harmed. He stated that they count by parcels and lots and this project was originally slated for 4 house lots and this will be a big change of use. They will need some sort of mitigation for this project due to the change in use. They will have a problem with capacity moving forward and will need to put in a moratorium.

Mr. Pine asked what mitigation would be necessary.

Mr. Melchionda said he was looking to upgrade the water mains in that area.

Mr. Beyer stated #19 and #20 should state the applicant should comply with the Water District.

There was a discussion between Board Members and Mr. Freeman in regards to the wording.

Ms. Nemeth said #22 should be modified to say approval of Health Department to be obtained prior to Building Permit issued.

Mr. Beyer reviewed the following items; #24 should site the document referenced, #25 should reference the attached letter, on #26 a typo was noted.

There was a discussion on how best to incorporate the revised design into the comprehensive permit between the applicant and Board Members. They will continue to discuss this as the Comprehensive Permit is finalized.

Mr. Beyer asked why #26 and #28 were included. Mr. Freeman stated he will combine them.

Ms. Nemeth stated she felt #27 should be before #26 and #28. She asked if the Comprehensive Permit could acknowledge #27.

There were no comments on the regulatory conditions.

The applicant and Board members discussed the general conditions section. Please see the following comments.

Mr. Beyer identified some formatting issues he would like to see fixed.

Ms. Nemeth would like to see a will serve letter from the Water District and a waste disposal system approval from the Board of Health under prior construction conditions.

Mr. O'Brien requested the formal definition of a Comprehensive Permit. Mr. Freeman will provide via email.

Ms. Nemeth said she would like to see the language in regards to the safety of the box turtles prior to issuance of the final certificate of occupancy conditions.

Ms. Beyer discussed the desired wording for #3 in regards to the Water District permits.

Ms. Nemeth reviewed the wording for request for final water, Stormwater, retaining wall, fences and other hardscapes.

Mr. Kalick made note that the binder course of pavement takes some time to settle.

Ms. Nemeth said in #7 she would like to see the language expanded. Mr. Beyer said he felt it was not necessary. Mr. Freeman said he will make a modification for the review next time.

Mr. Beyer and Ms. Nemeth agreed that #9 should read "shall".

Mr. Beyer stated #10 should have the language to include "water sense compliant".

Ms. Nemeth said she is looking to add language to identify the location of the benches and would like to see a common barbeque. Mr. Murphy said he would discuss the request

for the common barbeque with the fire department. Ms. Fellows said he would look into the insurance cost and liability of the common barbeque request.

Ms. Nemeth said she would like to see the area for children waiting for the bus to include a roof. She would also like the parking lot lighting to have lens shields.

Mr. Beyer said he would like to see a set of final drawings with updates listed sheet by sheet with titles, including updated landscape, lighting, Stormwater management, traffic assessment, peer review drawings and plans.

Mr. Beyer stated that exhibit B is confusing and would like cohesive formatting.

Mr. Beyer entertained a motion to continue Cape View Way 40B, Comprehensive Permit (#2021-CP06) to construct and operate 51 affordable rental units on 2.94 acres continuance to December 15, 2021. **Mr. O'Brien made a motion. Mr. Kalick seconded the motion. Roll call vote: Mr. Pine- Yes, Mr. O'Brien- yes, Mr. Keene- yes, Mr. Kalick and Mr. Beyer- yes.**

**Old Business – None.**

**New Business – None.**

**Public Comment – None.**

**Adjournment –**

**Mr. Beyer entertained a motion to adjourn the hearing. Mr. Kalick moved, Mr. Pine seconded to adjourn the meeting. Roll call vote: Mr. Pine- Yes, Mr. O'Brien- yes, Mr. Keene- yes, Mr. Kalick and Mr. Beyer- yes. The meeting adjourned at 9:40pm.**

Respectfully submitted,  
Cassie Hammond