

**Town of Bourne
Zoning Board of Appeals
Meeting Minutes
December 6th, 2023**

PRESENT: Chairman James Beyer, Chris Pine (Vice-Chair), John O'Brien, Wade Keene, Elza Bystrom, Steven Kahain (Associate).

ABSENT: None.

STAFF: Ken Murphy.

PUBLIC: Michael Rausch, Eliza Cox, Joe Procopio, Greg Siroonian, Marian Rose, Derek Redgate, Theresa Sprague, Christopher Dorsay, Kathy Reilly, John York, William Fideli, Lisa Fideli.

Chairman Beyer called the meeting to order via Zoom at approximately 7:00pm.

Minutes: 11.15.23

Mr. Keene Makes a Motion to Approve the Minutes. Mr. O'Brien Seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. O'Brien – YES. Mr. Keene – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

Public Hearing for Supportive Finding #2023-SF06: Continued from 11.1.2023. 56 Samoset Rd, Sagamore Beach. Peter Flynn. Request for supportive finding to raze and rebuild pre-existing, non-conforming structure with detached garage and pool on a non-conforming lot under section 2320. *Request to continue to 1.17.24*

Mr. O'Brien Makes a Motion to Continue the Public Hearing for Supportive Finding #2023-SF06 until January 17th, 2024. Mr. Pine Seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. O’Brien – YES. Mr. Keene – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

Public Hearing for Special Permit #2023-SP18: 1140 Route 28A, Cataumet. Monroe RE, LLC. Request for a 30-bed residential Social Service Facility within an existing structure to provide care and treatment for adolescents.

Eliza Cox introduces herself as representative of this project. Atty. Cox shares her screen via Zoom. She states that this property is approximately 4 acres, and almost entirely within the B2 Zoning District, but a small corner is in the B40 Residential District. The building and parking are entirely within the B2 portion of the site. It meets all dimensional zoning requirements. The zoning allows a maximum of 50% lot coverage, and this building only covers 10%. The bylaw requires that there be a minimum of 20% of green space, and there is 75%.

In terms of prior zoning approvals, the ZBA approved three different special permit requests in 2000, 2003, and 2004. Collectively, this allowed for 56 beds which provides services to adults. In 2021, Gosnold obtain permits to intensify the level of treatment acuity. The Planning Board approved a 33-bed inpatient program treating patients with psychiatric and co-occurring substance abuse disorders. This higher level of acuity requires that the building be locked down 24/7 with strict security measures. The Planning Board also approved several site and building improvements such as improvements to exterior envelope, stairways and entrances; new patient transport canopy; striping the rear parking area; stormwater measures; and interior redesign for the more acute use. Atty. Cox states that the work was completed but never opened pursuant to the original permit. Instead, Gosnold made the decision to convey the property to Monroe RE.

Now, they are seeking to convert the facility to a residential social service facility. This will be a residential treatment center serving teens aged 12-17 years old. It will be a voluntary program providing residential, live-in care with a structured and stable environment to support recovery. This will be a step down in acuity as compared to the 2021 approved use, with a further reduction of proposed 30 beds. They will also be removing the high security measures which were required to be installed as part of the 2021 approval.

Joe Procopio introduces himself as the CEO of Newport Healthcare. He states that they have been providing behavioral health services for approximately 15 years. He says that they have received inquiries from over 1,000 individuals from Massachusetts requiring services in a residential setting, and they have inpatient beds and outpatient center across the country. They are the leader in mental health treatment for teens and young adults with

high acuity mood and anxiety disorders. They aim to change the hospital setting into something that looks like a home. They want to create a space that feels safe.

He states that they treat a wide array of disorders, such as depression, anxiety, and trauma. The average patient is a 17-year-old female, but they are seeing a growing need of individuals who have a gender-identity issue. Most patients have a major depressive disorder, with anxiety being the next most common issue. In 2022, their outcomes showed that there was reduced suicide risk of 75% and teen depression was reduced by 50%. They collaborate with universities to ensure that they are meeting the needs of this population. Mr. Procopio states that they are in a mental health crisis, which has existed for the last ten years. He states that 18% of youth in Massachusetts have had a major depressive episode (MDE), and less than half of youth with severe MDE receive consistent treatment. According to the Massachusetts Youth Risk Survey, 18% of youth seriously considered suicide, and 7% attempted it. 36% of LGBTQ reported seriously considering suicide. Also, Massachusetts ranks 1st in deaths by suicide for teens 15-19 years old.

Mr. Procopio next goes over their comprehensive security plans and good neighbor agreement. He states that robust staffing and continuous supervision 24/7 is very important. He says that they are not a hospital or a place where there are behavioral issues, so they screen for patients that they believe will succeed in this environment.

Greg Siroonian goes over the site plan modifications and the proposed plan. They propose a striped rear parking area with 52 spots, new concrete path, a new building canopy, and interior changes to reduce beds and remove lock down security measures.

Ms. Cox goes over some of the zoning considerations. She states that the board has already determined that the site is suitable for use as a residential social service facility at a much higher density (56 beds). The Planning Board determined the site was suitable for a much more medically acute use (33 beds). There is no change to the site's compliance with zoning bylaws; it is well-buffered property from the roadway and abutting lots; there is adequate parking; and the patients are not allowed to have cars. They suggest that this use is consistent with Section 1331 of the Zoning Bylaw. The proposed changes and minor site improvements will not have adverse effects that overbalance its beneficial effects. There are not changes to the natural environment or nearby developed sites. It is a large property with significant green spaces and mature vegetation. There is also a significant demand for care, and this site building is well-suited because it was constructed and permitted for a more acute medical use at a higher density.

Mr. Keene asks if they patients will be restricted from leaving the facility. Mr. Procopio responds that it is not a locked facility. He states that this decision to screen patients for the right fit for this program. They are free to leave treatment at any time. Mr. Keene asks if they do drug and alcohol screening, and Mr. Procopio responds that they do at the time of admission, and they can develop a treatment plan in response. In addition to this, patients are tested when the leave and come back from the facility.

Chm. Beyer inquires regarding the septic system of this property. Mr. Siroonian responds that he does not have the exact date, but Gosnold did a full upgrade of the system a few years back. Chm. Beyer asks how long they have owned the property, and Ms. Cox responds that they do not own it yet, but have a purchase and sale agreement from Gosnold. Mr. Murphy states that they will have to have a Title V inspection with the change of ownership and he believes that they already have this process in the works. He states that they issued their occupancy permit a week or two ago, and he believes they have everything they need to move forward with the purchase.

Mr. O'Brien states that it is not clear to him why they need a special permit from the Town of Bourne. Chm. Beyer responds that if they look at the use diagram for the zoning ordinances, it says that for this use in a B2 district they require a Board of Appeals approval. He states that it could be argued if it is just their approval or a special permit. Ms. Cox responds that this is their interpretation as well, and they met with Mr. Murphy and the Town Planner before filing. She states that since there was a 2021 special permit that changed the use from a residential social service facility to a hospital and was exercised, they agreed that they must come back to this board for approval.

Mr. Pine states that he believes this is well-needed and has no problems with this. Chm. Beyer and Mr. O'Brien agree.

Mr. Pine Makes a Motion to Close the Public Hearing for Special Permit #2023-18. Mr. Keene Seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. O'Brien – YES. Mr. Keene – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

Ms. Bystrom inquires regarding the Health Department approval. Chm. Beyer responds that they have a comment from the Health Department that says the applicant must acquire a food establishment permit, which also requires a preoperational inspection. Mr. Murphy confirms that a Title V inspection is not needed because that would be required in the passage of the deed.

Mr. O'Brien Makes a Motion to Approve the Application for Special Permit #2023-18 contingent upon the acquirement of a food establishment permit. Ms. Bystrom Seconds the Motion.

Roll Call Vote as Follows:

Mr. Pine – YES. Mr. O’Brien – YES. Mr. Keene – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

Public Hearing for Special Permit #2023-SP17: 3 Saltworks Lane, Buzzards Bay. Cynthia Dickens. Request for an in-law suite for sister.

There is no one available to speak to this item, so Chm. Beyer suggests continuing this item. He states that there is a condition attached to this, which would require the name of the person living in the accessory dwelling.

Mr. O’Brien Makes a Motion to Continue the Public Hearing Until January 17th 2024. Ms. Bystrom Seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. O’Brien – YES. Mr. Keene – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

Mr. Pine states that it should be addressed that some of the plans are mislabeled on the website, as well as clarifying the numbers of bedrooms. The Health Department is also stating that a door opening must be at least four feet.

Public Hearing for Special Permit #2023-SP16: 72 Megansett Rd, Pocasset. Lisa Fideli, Trustee. Request to raze two dwellings and replace with a pool and pool house.

Marian Rose introduces herself as representative of this project. She states she wishes to make a correction (however she believes that their advertising was correct) but that this is a raze and replacement of a single-family dwelling and cottage to be replaced with a single-family dwelling, pool and pool house. The address should also read Cataumet instead of Pocasset.

In September, they were asking for a supportive finding and withdrew that request because the Megansett frontage is non-conforming. They have used the time between then and now to adjust the project. The difference from the previously proposed project is that this proposed house is smaller in terms of living area, the pool house’s footprint has shrunk significantly, the septic system has been designed for the correct number of bedrooms and informally approved by the Board of Health. The screening has been reviewed and clarified in terms of what the established canopy is, what will remain, and what will be added. They are not asking for more than the 20% of the maximum GFA, and this number has been confirmed with the Town Planner.

Because the measuring of the project is whether the negative impacts of the project overbalance its positive impacts for the Town and the neighbors, Atty. Rose would like to look at what is existing there now. The current lot is approximately 40,000sqft. It is pre-existing non-conforming for the current use. Currently both the main house and the cottage have kitchens, which would require 80,000sqft. What they are proposing to do is to take out the accessory dwelling with a kitchen, and instead will have a pool house with no kitchen. The current cottage is just 3.1 ft from the property line. In the proposed conditions, the cottage is removed, and the main house is pulled 50-100ft from the property line, when before it was just 18ft from the property line. Part of the pool and part of the pool house are still 50-100ft within the setback. The proposed single-family dwelling is now 29ft feet from the southerly side of the property. The pool house is a conforming 15ft from the southerly side. On the northerly side, the primary dwelling is 16ft. The primary dwelling has also been pulled away from Megansett Harbor. The leeching field has been moved out of the flood zone. Lot coverage is conforming, where 20% is allowed, and 17% is proposed. The lot is 68% open space. In the previous plan, they had proposed seven bedrooms, and are now proposing five, but the septic is designed for six bedrooms. There has been a reduction of about 1,300sqft in GFA. There is an informal approval from the Board of Health and will be formally reviewed when the building permit is issued. In terms of screening, there is a line of eastern red cedar trees proposed on the southerly side. In terms of landscaping mitigation for the small portion of the pool and pool house that are within the 50-100ft buffer zone, they have proposed to remove 2,100sqft of existing lawn that currently runs to the top of the coastal bank in order to create a vegetated buffer to better protect the coastal resource area. They have noted the trees that currently exist and will be removed or maintained for construction. They are removing some invasive vegetation to make way for the driveway.

Atty. Rose recaps that the aim of this special permit is the finding that the adverse effects do not overbalance the beneficial effects for redevelopment. There is no objection to the curb cut if there is no effect to the stormwater system. Finally, the historic commission has reviewed this project and determined that it is in harmony with the neighborhood, and the Historic Committee has agreed. An abutter has submitted a letter of support for this project. This project also changes a non-conforming lot into one that is conforming in terms of size.

Chm. Beyer inquires if this lot is now conforming in front yard and side setbacks as well as square footage. Atty. Rose confirms and adds that there are some questions about the paper road front setback, but they are conforming with a side setback there.

Kathy Reilly of 68 Megansett introduces herself as a direct abutter. She wishes to know what the benefits are that they are citing for her property. She states that she is fine with a new home being built and knows the family. However, she believes that the house is a little larger than anticipated and believes that it is infringing on the paper road. She states that the enjoyment she has had of a huge distance between their two houses will be greatly reduced. Ms. Reilly asks questions regarding the septic system, and Chm. Beyer responds that the approval would have to be conditional upon the Health Department approval of a

septic system. Mr. Redgate responds that they have a Title V conforming system with an enhanced nitrogen removal system.

Atty. Rose addresses Ms. Reilly's concerns of the benefits versus adverse effects on 68 Megansett. She states that they are pulling back the proposed house from where the existing house is, meaning the house will be behind 68 Megansett when facing the water. Right now, the house is in Ms. Reilly's field of view. As proposed, there will be 93ft between the houses, which is only 15ft closer than what is existing. The applicants made a conscious choice not to place the pool house on the 68 Megansett side. She restates that the house is significantly smaller than what was proposed in September. She says that anyone driving down the paper road will see this house, but that is the biggest impact. Ms. Reilly states that it is difficult for old Cataumet residents to see enormous houses come into the area. She believes it changes the character of the neighborhood and Bourne must think about how the neighborhood is changing. She states that no one in the neighborhood is thrilled with houses that large being built in the neighborhood. Chm. Beyer responds that there is a zoning code, and this house conforms with it.

John York of 20 Squeteague Harbor Rd makes a comment. He states that he has similar concerns about the cumulative impact of buildings such as this. He states that as they observed, it does not meet the frontage for Megansett Rd. He adds that he is concerned with the credit that is given for switching from two dwellings to one. Although they are pulling the main house back from the harbor, they are using the footprint of the original house to put a two-story pool house and a pool. As he sees it, they are replacing the original house with a pool house and a pool, and building a primary dwelling that is not pre-existing closer to the road. He does believe that the plan is much improved with many more trees on the property near Megansett Rd. Mr. York asks what the proposed plan proposes for bedrooms as opposed to the previous use. Mr. Redgate responds that this will be a five-bedroom house with a six-bedroom septic. Mr. Dorsay asks the applicants how many bedrooms are currently existing. William Fideli, the applicant, states that there are four. Ms. Reilly states that there are three upstairs and on the first floor there is only a den. Mr. Fideli responds that this does not include the second dwelling on the property, which has another bedroom. Mr. York asks if the five-bedrooms includes the pool house, and Atty. Rose confirms. Mr. Dorsay responds that there are a total of twelve rooms between the two buildings. There are two rooms in the pool house and ten rooms in the primary dwelling. Of those twelve rooms, five are designated as bedrooms. The second floor of the pool house is an open recreation area/home office. Mr. York states that he is concerned that all residents of Squeteague Harbor may have to upgrade their septic system if the nitrogen levels get too high. He appreciates downsizing the project and the addition of more trees.

Ms. Reilly states that she finds it concerning that she was not let into the meeting until it was almost nearly done. Mr. Pine states that as soon as he saw that there were people waiting to be let in, he let them into the meeting. However, he was helping the last applicant display architectural drawings during the last hearing.

Mr. Keene Makes a Motion to Close the Public Hearing. Ms. Bystrom Seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. O’Brien – YES. Mr. Keene – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

Mr. Pine commends the applicant for addressing all the concerns that they raised during the last hearing. As much as he understands the concerns of the community, he believes that this project is well within what is appropriate by their zoning bylaws for this site. Mr. Keene commends the team on their presentation and says it will look good in the neighborhood. Ms. Bystrom agrees with Mr. Pine’s statements, and adds that when you have a very valuable waterfront property, these changes to the neighborhood are to be expected. Chm. Beyer agrees and is sensitive to the changing nature of the neighborhood, but suggests that this is an issue for the Select Board and Planning Board, because it would require a change in the zoning code to vote against this project. Even though the house may seem large, it still conforms to size and setbacks.

Mr. Pines Makes a Motion to Approve Special Permit #2023-SP16, conditional upon the review and approval of a septic system with compliance of Title V regulations. Mr. O’Brien Seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. O’Brien – YES. Mr. Keene – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

New Business:

Chm. Beyer congratulates Ms. Bystrom on becoming a full member, and welcomes Mr. Kahain as an associate member.

Old Business:

None.

Public Comment:

Mr. Dorsay asks a question in regards to the calculation of maximum gross floor area. He states that there is peculiarity in the way that Bourne calculates that number that he wanted to make note of. He states that if they were to enclose a porch, the GFA would go down. Mr. Murphy confirms this is true to a certain amount. Chm. Beyer asks to be walked through this. Mr. Dorsay responds that if the 200sqft exemption for porches is exceeded, the exemption is lost. Mr. Murphy confirms, and hopes that by next Spring the Planning Board will make adjustments to this because they are working on the zoning bylaw in regards to GFA. Mr. Dorsay responds that in other towns, once the exemption is applied,

it is no longer taken back. Mr. Murphy responds that they are trying to be consistent with other towns, but this is up to the Planning Board.

Adjourn:

Mr. O'Brien Makes a Motion to Adjourn. Ms. Bystrom Seconds the Motion.

Roll Call Vote As Follows:

Mr. Pine – YES. Mr. O'Brien – YES. Mr. Keene – YES. Ms. Bystrom – YES. Chm. Beyer – YES.

The Motion Passes.

With no further business before the board, the meeting adjourns at approximately 8:55PM.

Respectfully Submitted,

Ina Sullivan