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TOWN CLERK BOURNE

Town of Bourne Zoning Board of Appeals Meeting Minutes

Virtual Hearing via Zoom

December 15, 2021

Meeting ID: 880 5098 0102

Call to order

Chair Jim Beyer called to order the meeting of the Zoning Board of Appeals at 7:00 PM on December 15, 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 November 3, 2021, November 12, 2021, and November 17, 2021. Approval of meeting minutes for hearing November 3, 2021. Mr. Keen 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. The meeting minutes for hearing November 12, 2021 were not ready for approval. The meeting minutes for hearing on November 17, 2021 were not available.**
- 2. 5 Michael Rd. Request for 2021-SP25 for an accessory dwelling unit.**

Materials: Application for Special Permit, Property Map, Assessors Map, Certified Plot Plan, Floor Plan, Property Assessment, Driving Directions, GFA worksheet signed by Assistant Town Planner, Property Card, and Abutters list.

Mr. O'Brien recused himself for this agenda item as he was an abutter.

Cheryl and Guy Woolard, owners and applicant, were present at the hearing.

They explained they had a pre-existing in-law apartment in the basement when they purchased the house. There was no permit history for this in-law apartment. They had to renovate the basement due to infestation and had removed the in-law apartment. They are now looking to add back the in-law apartment.

Mr. Beyer asked how many bedrooms the house currently has. Mrs. Woolard stated they have 3 bedrooms and the Health Department noted their septic can support 4 bedrooms.

Mr. Murphy confirmed the Health Department approval will be required at time of building permit issuance.

Mr. Beyer asked whom the occupant will be, Mrs. Woolard stated it is her mother, Patricia Sawyer.

Ms. Nemeth asked if there is access to the outside from the proposed apartment. The applicant identified the access to outside located on the plans.

Ms. Kalick asked where the applicant's mother is currently residing, they replied part time Florida, part time in their residence in one of the 3 bedrooms.

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. There were none.

Mr. Beyer entertained a motion to close the public hearing. Mr. Keene made a motion to close the public hearing. Mr. Pine seconded. Roll call vote: Mr. Pine- Yes, Ms. Nemeth- yes, Mr. Kalick- yes, Mr. Keene- yes, and Mr. Beyer- yes.

Mr. Beyer entertained a motion to approve the request for Special Permit Request for 2021-SP25 for 5 Michael Rd. for an accessory dwelling unit. Ms. Nemeth made a motion to approve. Mr. Kalick seconded. Roll call vote: Mr. Pine- Yes, Ms. Nemeth- yes, Mr. Kalick- yes, Mr. Keene- yes, and Mr. Beyer- yes.

Ms. Nemeth will be writing the decision.

3. 230 Sandwich Rd, Chase Estates, Request to amend the Comprehensive Permit No. 08-18. (Continued from 11.17.21)

Materials: Notice of Project Change (July 2021), proposal from the peer reviewer Thomas Houston, Renderings and Slope Protection plan, Supplemental Information Letter.

Mr. O'Brien rejoined the Board.

Mr. Jim Pavlik gave an update for the project and the recent site visit. He also reviewed he had submitted a letter yesterday and shared his screen to show the letter.

Mr. Pine asked what the driveway slope is. Mr. Pavlik stated it is 10%. The retaining wall in backyard will be 4ft walls.

Mr. Murphy expressed concerns with the retaining walls based on existing foundation which shows multiple cracks and foundation issues.

Ms. Nemeth stated this site has 2 fundamental issues 1) the density of the site in relation to the access on Sandwich Rd. and 2) the retention of the steep grading of the first 8 units has been presented with a soft solution. She feels this grading is irresponsible and she cannot support this. She would like to see the first half of the site terraced with retaining walls.

Mr. Pavlik stated he met with the Bourne Water District and is seeking approval. They had a hydrant flow test conducted. He stated they will continue to reach out to Mass DOT regarding an option to relocate the entrance to Chase Estates.

Mr. Beyer asked Mr. Murphy if he has reached out to other departments for feedback. Mr. Murphy stated he is waiting to hear from the Engineering Department; the Planning Department stands by their original comments.

George Gakidis, GS Design Group Inc., shared his screen and showed the Exterior Elevation Plan. He stated the existing foundation has been exposed to the elements for many years and feels it was not built properly.

Mr. Gakidis stated the road is easily accessible and reviewed the grade and proposed retaining walls. He said the plan has an error and should show the driveways as double driveways. He said some of the units may be 2.5 story structures due to the slope in the back of the units.

Mr. Pine asked if this is what is proposed or just conceptual. Mr. Gakidis replied it is what is proposed, the only difference will be stretching out of the façade and/ or some height difference.

Ms. Nemeth asked what the backyards will look like. Ms. Gakidis stated they will have a deck off the kitchen, and they all will be different due to the slope in each back yard.

Attorney Hoyt acknowledged the units will have personal space on the side and back.

Mr. Murphy expressed his concern over the project having issues after completion and the difficulty to have it rectified. He asked if they will be proposing common area maintenance. He also stated the proposed slope does not look like it is represented accurately.

Mr. Beyer stated it looks as if they took grade on the northern side and moved it to the southern border. He agreed this is a potential problem. He feels the peer review should also show alternate means and handle the steep drop. He would also like to see drainage behind the houses. He would like the peer review to include review of the treatment of the slopes.

Attorney Hoyt said this can be within the purview of the association.

Ms. Nemeth asked if it would be more cost effective to just develop the top half of the site.

Ms. Nemeth stated she would like the peer reviewer to look into the grading of the slope will impact the integrity of the abutting school.

Mr. Gakidis stated they are trying to make unique living conditions.

Mr. O'Brien asked if the turnaround is a cul-de-sac or if the road cuts through. Mr. Pavlik confirmed the road will not connect to Bosuns Lane. Mr. Beyer confirmed.

Mr. Keene sought to clarify if the leaching puts are for septic or Stormwater. Mr. Pavlik identified the leach pits in question on the site plan and stated they are for Stormwater. Mr. Pavlik also stated they still need to conduct perc tests on each lot for the septic system.

Mr. Pavlik shared that most of the run off will be collected in an infiltration system at beginning of the road.

There was a discussion between the Board and Attorney Hoyt about when to start the peer review. Attorney Hoyt recommended starting the peer review after the changes to entrance have been solidified.

Mr. Kalick reminded the group that when all the units were at the top of the hill the septic was located under the road and this would not get approved.

Mr. Pavlik questioned what the old approved plans had for slopes and retaining walls and will be looking into this.

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

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

Mr. Beyer entertained a motion to continue 230 Sandwich Rd, Chase Estates, Request to amend the Comprehensive Permit No. 08-18 to January 19, 2022. Mr. Pine made a motion. Mr. Keene seconded the motion. Roll call vote: Mr. Pine- Yes, Mr. Kalick- yes, Mr. O'Brien- yes, Mr. Keene and Mr. Beyer- yes.

4. Cape View Way 40B, Comprehensive Permit (#2021-CP06) to construct and operate 51 affordable rental units on 2.94 acres. (Continued from 12.01.21)

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, Draft Comprehensive Permit, "Meetinghouse Place" modifications of definitive subdivision plan, Stormwater Analysis and Drainage Report Revised December 2021, Revised Photometric, Revised Fire Access, Revised Architectural, revised Project Narrative, Cover Letter and Updated Draft Comprehensive Permit and Exhibit C, D, F, I.

Mr. Peter Freeman, of Freeman Law Group, representing the applicant, stated he had sent an updated Comprehensive Permit prior to the hearing.

Brian Kuchar, of Horsley Whitten Group, Civil Engineer and Landscape Architect; reviewed that he and David Quinn, Director of Housing Assistance, and representing the POAH and HAC teams met with the abutter Cassandra Sullivan of 7 Andrew Rd to discuss her letter and the landscaping plan.

Cassandra Sullivan, 7 Andrew Rd, Abutter, thanked the team for meeting with her and for improving the proposed landscape. She stated they will be doing more surveying to determine the property lines to determine which trees will be removed.

Mr. Beyer stressed this should be taken seriously and continue to be worked on until a solution is found.

The Board members and applicant discussed the waivers as follows:

Mr. Beyer disagreed with #1 and #2 as worded. He wants them to satisfy the ZBL requirements and conform to the Comprehensive Permit.

Ms. Nemeth stated #11 should be modified to include "provide lighting lens shields that buffer glare from adjoining properties to provide relief to neighboring properties. Michelle Waldon of ICON architecture, replied stating the lighting on exterior is all dark sky rated and will be shielded. Ms. Nemeth requested the language she had used be added. Ms. Waldon agreed.

Ms. Nemeth spoke on #12 saying the landscaping on buffer edges needs to be specified in a more detailed plan. She would like to see box trees in the back and in the turnaround

area. She asked for the plan to show what type and size and suggested 25"- 36" box trees. Ms. Waldon stated the landscape plan will show size and type at three years. Ms. Nemeth requested it also show size at planting. Mr. Kuchar stated there will be 2.5- 3" caliper trees. In the buffer along Ms. Sullivan's property line he said there will be Leland Cyprus evergreens planted at height of 6-8ft. He explained that the landscape plan does not have a planting plan and typically they would plant 2-3" trees. Mr. Beyer stated drawings call for 3" caliper. Ms. Nemeth still requested some large box trees to be installed. Mr. Kuchar stated all their plantings will be ball and burlap. Mr. Freeman suggested adding wording to allow approval of plantings prior to Building Permit. Mr. Beyer declined and requested a complete Comprehensive Permit be submitted.

Ms. Nemeth commented that the Board has Decision Templates that includes one for a Comprehensive Permit. Mr. Freeman expressed he would have been happy to use had he known. Mr. Beyer said he would send their format and suggested Mr. Freeman's draft can be an attachment.

Mr. Beyer stated the subdivision waiver looks correct..

Mr. Freeman said the exhibits will be integrated into the Comprehensive Permit.

Mr. Kalick questioned #25 on how it is constructed and can they change the Stormwater requirements.

Ms. Nemeth would like to see the addition of the traffic assessment and feels it should read for the permit as proposed for 42 units. Mr. Freeman replied that to protect the applicant the permit will not change the unit number requested.

Ms. Nemeth identified that on page 15 in discussing the fencing it should go all the way to Ms. Sullivan's property.

Mr. Freeman stated the plan for Cherry Hill Tudor properties does not show the fencing for Ms. Sullivan's property. There was a discussion then on how and where to include these details on fencing and landscaping to include the abutting area along Ms. Sullivan's property.

Ms. Nemeth requested a hard copy of the full set of revised landscaping plans be made available to all Board members. Mr. Kuchar agreed.

Mr. Freeman discussed #18 with Mr. Nemeth to confirm understanding.

Mr. Beyer had a discussion on the comment to include an automatic fire sprinkler system.

Mr. Freeman stated they are not proposing bus shelters but there will be a waiting area.

Mr. Beyer questioned the aesthetic of the retaining wall. Ms. Waldon said this would be reviewed in the slide show.

Mr. Kuchar shared his screen to show the updated rendered landscape plan. He reviewed the meeting with Ms. Sullivan and will be adding 5 evergreens planted at 6-8ft in her area. He said they are also proposing screening fence in Ms. Sullivan's area. The Tudor Cherry Hill space will have both chain link and screening fence. He shared they added trees in the southwest corner and along the parking lot.

Ms. Waldon shared her screen to show the retaining wall section abutting Ms. Sullivan's property. The plan showed trees at 3 years of growth. She showed the unit wall assemblies to show the STC ratings. Ms. Nemeth was pleased to see this.

Mr. Sabott stated he had sent updated language to Mr. Freeman.

Ms. Sullivan said it was helpful to learn about the retaining wall section and proposed landscape. She asked if a large tree would be removed. Mr. Kuchar said they are still determining where the property line is due to a missing property bound on Ms. Sullivan's property.

Mr. Kalick asked about the left grade drop. Mr. Kuchar replied that the cutting is on the applicant's side and the abutter will not be affected, Ms. Sullivan's and Cherry Hill Tudor grade will stay the same.

Mr. Beyer entertained a motion to Cape View Way 40B, Comprehensive Permit (#2021-CP06) to construct and operate 51 (revised to 42) affordable rental units on 2.94 acres continuance to January 5, 2022. **Mr. Pine made a motion. Mr. Keene 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 – Ms. Nemeth asked how many 40B units the Town of Bourne needs. Mr. Murphy stated it is 10% per town.

Public Comment – None.

Adjournment –

Mr. Beyer entertained a motion to adjourn the hearing. Mr. O'Brien moved, Mr. Kalick 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 9:48pm.

Respectfully submitted,
Cassie Hammond