

# ***Town of Bourne Zoning Board of Appeals***

## ***Meeting Minutes***

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

February 5, 2020

### **I. Call to order**

Chair Amy Kullar called to order the meeting of the Zoning Board of Appeals at 7:05 PM on February 5, 2020. Ms. Kullar 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.

Ms. Kullar announced the meeting was being recorded and asked if anyone in the audience was recording the meeting to please acknowledge such to the board. She noted Carol Mitchell was recording the meeting.

**Members Present:** Amy Kullar, Wade Keene, Harold Kalick and Associate Members, Chris Pine and Jim Beyer.

**Members Excused** – John O'Brien, Kat Brennan and Associate Member Deb Bryant.

**Also Present:** Ken Murphy, Carol Mitchell, Paul Gately, Heather Smith, Frank Westgate, Karin Callis, Thomas Pappas, Nolan LeRoy, Roger Forget, Robert Dutch, Sean Scully and Drew Hoyt.

*Amy Kullar will be writing the Decisions.*

### **II. Agenda Items**

**1. Approval of Minutes** – Ms. Kullar entertained a motion to approve the minutes of the December 4, 2019 meeting. **Mr. Keene moved, Mr. Beyer seconded to approve the minutes of the December 4, 2019 meeting.** The motion carried. 4-0-1. Mr. Pine abstained.

Ms. Kullar entertained a motion to approve the minutes of the December 18, 2019 meeting. **Mr. Keene moved, Mr. Beyer seconded to approve the minutes of the December 18, 2019 meeting.** The motion carried. 4-0-1. Mr. Pine abstained.

Ms. Kullar entertained a motion to approve the minutes of the January 15, 2020 meeting. **Mr. Keene moved, Mr. Beyer seconded to approve the minutes of the January 15, 2020 meeting.** The motion carried. 4-0-1. Mr. Pine abstained.

*Sitting on the hearing; Amy Kullar, Harold Kalick, Wade Keene, Chris Pine and Jim Beyer.*

**2. 26 Shore Rd,** A Special Permit (#2019-SP24) under M.G.L., Chapter 40A, Section 9 and Sections 4120-4123 of the Bourne Zoning Bylaw to construct an accessory dwelling consisting of a 2 car garage with 2 bedroom in-law apartment above.

*Materials: Special Permit Application, Revised Plan of Record, Board of Health Memorandum and Directions to the Property.*

**(Continued from December 18, 2019)**

Ms. Kullar informed the representative that the board received a Memorandum from the Board of Health stating the current septic system does not support the project as proposed.

The representative, Frank Westgate, said he presented the Board of Health with a new design that morning and the health agent is optimistic about the revised design. He asked the members to approve the proposed project contingent upon Board of Health approval of the proposed septic system and contingent upon approval of the architectural design by the Building Department.

Ms. Kullar asked the representative to describe the revisions that were made to the proposed project. Mr. Westgate summarized the revisions.

Board Comment – Mr. Beyer asked whether the revised septic design has been submitted to the Board of Health. Mr. Westgate stated the revised design has not yet been submitted because the redesign is not complete. He described the proposed system.

Ms. Kullar asked why architectural plans haven't been submitted yet. Mr. Westgate stated they did not have time to submit them.

Mr. Beyer opened a brief discussion regarding the Gross Floor Area calculations. Ms. Kullar explained that approval of the project will also be contingent on approval of the Gross Floor Area calculations by the town planner.

Ms. Kullar asked the building inspector if he was opposed to approving the proposed project without a fully detailed architectural plan. Mr. Murphy stated as long as the board accepts the location of the proposed garage and the proposed layout, he is not opposed with moving forward without the architectural plans.

Mr. Kalick asked whether the property owner is aware of the restrictions associated with the accessory dwelling. Ms. Kullar asked the property owner for the name of the person

who will be residing in the accessory dwelling. The property owner stated her mother, Karin Callis, will reside in the dwelling.

Public Comment – None.

Ms. Kullar entertained a motion to close the public hearing. **Mr. Beyer moved, Mr. Keene seconded to close the public hearing.** The motion carried 5-0-0.

Ms. Kullar entertained a motion. **Mr. Beyer moved, Mr. Keene seconded to grant Special Permit #2019-SP24 under M.G.L., Chapter 40A, Section 9 and Sections 4120-4123 of the Bourne Zoning Bylaw to construct an accessory dwelling consisting of a 2 car garage with 2 bedroom in-law apartment above, contingent upon Board of Health approval, approval of the architectural plans by the building inspector/Building Department and approval of the Gross Floor Area calculations by the Planning Department per the plans submitted dated 1/10/20, for the exclusive use of Karin Callis.** The motion carried. 5-0-0. Mr. Keene – Yes, Ms. Kullar – Yes, Mr. Kalick – Yes, Mr. Beyer – Yes, Mr. Pine – Yes.

**3. 230 Sandwich Road, Special Permit #18-08-40B** – Request to amend the Comprehensive Permit from 16 units to 20 units.

**(Continued from December 4, 2019)**

Ms. Kullar recognized Attorney Drew Hoyt and the property owner, Thomas Pappas. She stated there was some confusion as to whether Attorney Hoyt was still involved with the project; so she was required to direct all correspondence and communication to Town Counsel. She informed the representative that the members cannot rule on the matter without a peer review. She explained that the board doesn't have the expertise to review the modifications; therefore, the board must vote on whether to require a peer review.

Mr. Pappas expressed his frustration with the lack of feedback from the board. Ms. Kullar disagreed stating she provided the representative with feedback from the town planner, the Water Department and the Board of Health at the previous hearing. She reiterated the board's stance that a peer review will be necessary to render a decision.

Mr. Pappas expressed concern over conditions that were imposed on the previously proposed project. A discussion ensued.

Public Comment – None.

Mr. Pappas expressed frustration that projects other than his have been approved allowing plans to be submitted after the fact. Ms. Kullar argued that a 40B project isn't comparable to smaller scales projects.

With no further discussion, Ms. Kullar entertained a motion. **Mr. Keene moved, Mr. Beyer seconded to request a peer review of the project.** The motion carried. 5-0-0. Mr. Keene – Yes, Ms. Kullar – Yes, Mr. Kalick – Yes, Mr. Beyer – Yes, Mr. Pine – Yes.

Ms. Kullar stated the Planning Department will contact the representative with further details.

Mr. Hoyt feels there may be a conflict of interest if the same person who reviewed the project in the past is selected this time. He asked that a different reviewer be selected. Ms. Kullar said she will take that under advisement.

Mr. Pappas asked that a cap on the dollar amount be set. Ms. Kullar stated she can't make any promises but capping the dollar amount may be a possibility.

After a brief discussion, it was decided to continue the matter to March 4, 2020. **Mr. Pine moved, Mr. Beyer seconded to continue the matter to March 4, 2020.** The motion carried. 5-0-0.

**Old Business** – None.

**New Business** – None.

**Public Comment** – A member of the public asked whether abutters will be contacted by the expert. Mr. Murphy stated once an expert has been selected, the process should move quickly and abutters will be contacted for their input. Attorney Hoyt commented that any interaction between the abutters and the peer reviewer must follow Open Meeting Laws. Ms. Kullar agreed.

### **III. Adjournment –**

**Mr. Keene moved, Mr. Beyer seconded to adjourn the meeting.** The motion carried 5-0-0. The meeting adjourned at 7:33 PM.

Minutes Submitted by: Carol Mitchell