

Town of Orleans
Zoning Board of Appeals
Meeting Minutes – April 5, 2023

On Wednesday, April 5, 2023, the Orleans Zoning Board of Appeals convened via remote participation using “Zoom” video technology, with real-time public access provided by Orleans Channel 18 on the Town website and cable television.

In attendance were the members Gerald Mulligan, Lynne Eickholt, Bruce Taub, Sibel Asantugrul, and Austin Higgins, as well as Peggy O’Sullivan from MIS. Also, in attendance was Building Commissioner Tom Evers and Board Secretary Jennifer Higgins. The meeting was duly noticed. The meeting was called to order at 7:00 pm by Gerald Mulligan who chaired the meeting.

Call meeting to Order:

A. Old Business:

1. **Review meeting minutes from March 15, 2023.**
No minutes attached for this meeting.
2. **Review decisions for Case #2194 & Case #2196.**
Mr. Taub requested a continuation to review Case #2194.

B. New Business:

1. **Case #2197** – William Ballou has applied for a Special Permit as set forth in MGLA Chapter 40A, Section 6, under Orleans Zoning Bylaw Section 164-3(1)(b). The applicant is proposing to replace and extend a pre-existing deck on the back of the house. The property is located at 36 Alden Road, Map #13, Parcel #61.

Mr. Ballou previously presented in front of the Board for a Special Permit in 2017, which expired prior to the work being completed. The applicant is seeking to replace the decking on his current deck as well as extend the pre-existing decking. The deck is going to be extended several feet with the addition of one sauna tube. The deck is 12 feet off the top of the coastal bank, running parallel. Mr. Ballou did get approval from the Conservation Commission.

Mr. Mulligan made note that a septic permit was submitted but a plot plan was not submitted, which the Board members need to see prior to deciding.

Ms. Eickholt moved; Mr. Taub seconded to continue the case until May 3, 2023. Messrs. Mulligan, Taub, Higgins, and Ms. Eickholt and Asantugrul voted aye; unanimously passed 5-0.

2. **Case #2198** – Happy Jacks Holdings, LLC has applied for a Variance as set forth in MGLA Chapter 40A, Section 10, under Orleans Zoning Bylaws Sections 164-21 (Schedule of Lot Yard and Bulk Requirements). The applicant is proposing to

construct a new single-family dwelling. The property is located at 236 Tonset Road, Map #19, Parcel #68.

Robert Perry, P.E, of Cape Cod Engineering represented the Applicant and presented the reasons for and the details of the application. Mr. Perry explained the topography of the lot and the conditions of the soil. Members questioned the design of the house and expressed concern for water run-off into adjoining properties. Three abutters attended the hearing and separately questioned aspects of the proposal with particular focus on issues of drainage. Mr. Perry stated his opinion that the amount and location of vegetation on the lot would prevent water runoff into adjoining properties and further that Applicant acknowledges his legal responsibility to cure any unforeseen water runoff issues that may arise.

Mr. Mulligan clarifies that the soil will need treatment to be buildable. The applicant wants to raise the soil by 5 feet. The house is 28.7 feet in height which is below the 30-foot height requirement, but it must be raised to a regional level.

Mr. Michael Cole an abutting neighbor at 244 Tonset Road Map #19, Parcel #71. Mr. Cole was looking for clarification regarding the 30 feet above the grade, because there was already fill delivered to the site. He was also concerned about the drainage once the fill is brought up, because it abuts his house.

Mr. Evers responded stating that there was fill brought to the lot previously, but not in the location of the potential dwelling. He also states that there is a general bylaw in the town, that water that is generated on a lot, needs to remain on the lot. Although not a Zoning Bylaw, the Building Commissioner enforces the bylaw.

Mr. Perry responded that there will be roof runoff, but there is 10-15 feet of unusable lot. There will be improvements to the land's vegetation, which will improve any runoff.

Mr. Harsh and his wife abutting neighbors at 238 Tonset Road, went on record to state that they are in support of the proposed plan.

Mr. Scott Smith an abutting neighbor at 23 & 25 Hidden Valley Parcel #64, which is Southwest of the proposed plan. The southwest side of the lot is also the location of Mr. Smith's septic system, about 13 feet below the grade. Mr. Smith is concerned about ant runoff that may interfere with his lot.

Mr. Perry reassures Mr. Smith that the land between Mr. Smith and Mr. Macielak will not be changing and therefore will not affect Mr. Smith's property or septic system.

Mr. Mulligan moved; Ms. Asantugrul seconded to approve the Variance.
Messrs. Mulligan, Taub, Higgins and Mses. Eickholt and Asantugrul voted aye;
unanimously passed 5-0.

Meeting Adjourn

Respectfully submitted by Jennifer Higgins