MINUTES
January 21, 2020

7:02 p.m.
Sand Hill Community Center
16 Dewey Avenue

Present: Jeff Picard; James Kalweit; Sarah Regan, David Darling and Jennifer Reisig
Absent: Robert King, Chair; and Matthew Cubetus, Vice Chair
Also Present: Ralph Vitacco, Director, Planning & Development; Brendan Brides,
Building Commissioner; and Leanne Drake, Assistant Town Planner

Mr. Picard opens the meeting with the reading of the Opening Statement.

Approval of Minutes

Mr. Darling motions to accept the minutes from the meeting held December 17, 2019, as written. Ms. Regan seconds. The vote is unanimous.

Submission of New Plans

There are no new plans submitted.

Old Business

There is no old business to discuss.

New Business

There is no new business to discuss.

Board Discussion

- 20 Route 6A

Mr. Vitacco addresses the board and provides a history of the cottage colony conversion. Mr. Ralph Crossen and Mr. Bill Dillon give a brief explanation on why they have come before the board. Mr. Crossen states that last time they came before the board they had asked to add three additional cottages to the property so they could rotate tenants as they renovated the existing cottages. At that time it would seem that the board did not find that favorable. Tonight he would like the board’s input on whether he could rebuild the cottages slightly larger than what is currently there. One of the cottages was rebuilt with a larger footprint and he
would like if they could do the same. Mr. Crossen references special permit #98-33 and states that the Zoning Board of Appeals previously allowed the cottages behind Twin Acres to be rebuilt with a larger footprint, in order to be code compliant. Mr. Crossen provides some sketches to show the board what they are referencing. He explains that they plan on ripping them down completely, adding a basement for utilities and moving the bedroom to a new upstairs level. This would take all code issues out of the equation. Mr. Crossen asks for questions. Ms. Reisig asks how much larger would you be enlarging the footprint. Mr. Crossen states that the existing cottages are 12x16 and would increase to 16x20. Very similar to the one that was done. Mr. Dillon clarifies that the one that was reconstructed a few years ago due to a fire is 18x20. Ms. Reisig asks for clarification with regards to the plan to rotate tenants. Mr. Crossen explains that this is for the convenience of the tenants but he felt it was clear the board did not support adding three new cottages. Ms. Reisig explains that she was not on the board before so that is why she is asking these questions. Mr. Crossen describes the condition of the cottages to the board, including their layout. Mr. Picard asks if the one that was rebuilt has a basement. Mr. Crossen replies stating that it has a crawl space but the new ones would have a basement. Mr. Picard asks why this is. Mr. Dillon states that it is easier to put utilities in a basement than an attic. Mr. Picard asks how big the crawl space is. Mr. Dillon says it is 4 ft. but that the incremental cost to make it a basement that you can stand up in is very small and a benefit to tenants if they have something to store. Mr. Picard asks if the design they are proposing is any higher than the one that was rebuilt after the fire. Mr. Crossen explains this would be higher. The one that was rebuilt is a one story. Mr. Crossen states that they can do that here with the new one but would need a larger footprint which goes against the restriction in the special permit. The thought was to try and keep the cottages as close to the original footprint as possible. But without the restriction he could keep them one level and increase the footprint. Mr. Picard asks if the one that was rebuilt sought a variance. Mr. Crossen said there were no variances needed, it was a permit issued by the town. Mr. Brides explains that he is not sure what his predecessor was referencing when he signed off on this. In this instance because the special permit is in place he would not be able to sign off on any increase. In order to address the building code issues, these units are not being hamstrung by the code. You could build these units in the same footprint and comply with the code. There is not a requirement to make them bigger to comply with the code. There was a requirement in the building code back in 2009, two iterations ago, that a bedroom would have to be 150 s.f. However that does not apply here. Mr. Crossen states that the special permit did tell them to bring the units up to code and not to keep them in a grandfathered status that does not meet today’s code. Mr. Picard states that he is familiar with the discussion that was had and that it was twofold. One they had thought at that time the cottages could have been brought up to code without changing the footprint and second they added the footprint restriction in keeping with the type of neighborhood that the cottages are in. They wanted the exterior to remain the same. If they increase in size parking might be an issue as parking is always tight in there. There is a balance they were trying to strike between bringing them up to code and making them more appealing. Mr. Picard explains that he does not remember the discussion where three additional cottages were being sought but he can understand why they should not add more. Mr. Picard questions why they need to increase in size to be brought up to code. Mr. Crossen explains that a bedroom must be 70 s.f.
Brides responds that is not an issue. Mr. Crossen states that today’s code requires 70 s.f. for a bedroom. Mr. Brides agrees and says for a habitable room. Mr. Darling thinks it would be an attractive improvement. Mr. Kalweit states that he is a proponent of this because one it would increase revenue for the town tax wise and aesthetically would look much more pleasing. However he is concerned about the septic and leaching pits. Mr. Crossen said that part of the proposal is to bring the septic completely up to code. Mr. Kalweit asks if it is cost permissible to do this as they do not want to see half of them ripped down and then the project stop. Mr. Crossen says no, that costs are always a concern but they can be built in the neighborhood of $150 a square foot. Ms. Regan asks why the proposed cottages need a second floor if they were happy with the one level with the one that was previously rebuilt. Mr. Dillon states that when doing this new construction adding a second floor is the least expensive part and you are creating a much nicer living space. Mr. Crossen clarifies that the cottage that was rebuilt previously is a much bigger footprint than what they are proposing tonight. Mr. Crossen states that they could keep with that design if the board would grant the larger footprint. Ms. Regan asks how much land area would we lose if these cottages were increased. Mr. Kalweit states it is significantly less than 20%. A discussion ensues regarding design and aesthetics. Mr. Darling asks if these are for sale. Mr. Crossen responds that they are rental units. Mr. Darling thinks that this is a good idea and has no problem with it. Mr. Vitacco addresses the board. He explains that the process to modify the special permit will need a public hearing. He also explains that staff will need to research the procedure needed to enlarge the cottages that may have to go to the ZBA. There are a few nuances to this that need to be checked out. Mr. Crossen states that he will prepare an application for a public hearing for the Planning Board with plans that show one story and a different layout. Mr. Kalweit states that he is not sold on a single level layout. A discussion regarding form ensues. Mr. Vitacco states that they need to look into the limitations of the cottage colonies it may not allow that. Mr. Picard sums up the discussion and states that there is a mixture of comments being provided. He explains that they want to support the project, so the situation there can be improved. But the question is how we do that in the limitations of the bylaw. Mr. Picard reiterates that the office will take a look at it and figure out the procedure. Mr. Picard suggests that the applicant reach out to the neighbors prior to the public hearing. Mr. Crossen says that he will apply for the public hearing and bring forward a few designs and maybe then the designs could be massaged by the board. Mr. Picard states that before you go too far make sure you contact the office. Mr. Crossen explains that the key here is that they have a special permit stating that they can have year round places as long as they don’t expand the footprint. We think you just have to modify that one sentence. Ms. Drake states that the expansion of the non-conformity is a Zoning Board issue. Mr. Crossen states that it is not non-conforming; it is conforming to a BL district. Ms. Drake states that this a non-conforming use now, once they are converted they turn into multi-families therefore any dimensional increase outwards would need to go to the Zoning Board. Mr. Picard explains that the ones across the street did go to the ZBA so he suspects it would probably need to go to them. Mr. Vitacco explains that this is why staff needs a little time to look into the issue.
• **Zoning Amendment Considerations**

Mr. Vitacco states that they have talked about these zoning changes before and just to put it on a timeline this is board discussion, the hope is that the first public meeting will be on March 17th. The big concerns you had last time were with the Model Accessory Dwelling Unit Bylaw (ADU). We have floated another one to you. If you are okay with the others and we can tick those things off, we can put them aside and get ready for the public meeting.

- **Section 4130 – Accessory Dwelling Units**

Ms. Reisig asks if she can ask a few questions about the Accessory Apartment and the ADU bylaws. She states that they had previously discussed the definitions of the two but after reading the two bylaws they do seem very confusing and conflicting. So the accessory apartment is either in or attached, or internal to an accessory structure. So that’s in the old one as it exists and would remain. Then the ADU states that the unit has to be within or attached. She explains that she thought the apartment was interior to the single family dwelling and the ADU was exterior per the American Planning Association definitions used by the Cape Cod Commission. Ms. Drake agrees and states that these older bylaws are opposite. Ms. Reisig asks why we have two separate ones then. Is there a way to bring them together? Other towns have their bylaws written together. It is a bit confusing to have them separate. Mr. Vitacco explains the distinction. Ms. Reisig believes it would work better if it was layered and break out the by-rights, because they do conflict. Mr. Vitacco states that this is what tonight is about, we are not married to the bylaw. Let’s discuss the changes that need to be made. Mr. Kalweit asks for clarification on what constitutes a conforming lot. Ms. Drake responds that it is referring to a lot conforming under the current zoning bylaw but that she can make the language clearer. A conversation about minimum lot sizes ensues. Mr. Kalweit explains that he has a lot of notes on the different bullet points and would it be possible to go through this line by line. Mr. Kalweit identifies Ryan Castle, a member of the audience, as the director of the Realtors Association. Mr. Picard recognizes Stefanie Coxe from Smarter Cape who is here to address the Accessory Dwelling Unit Bylaw. Stefanie Coxe addresses the board and provides a background on Smarter Cape. Ms. Coxe discusses the different towns she has worked with and offers to come back and give a broader perspective on these issues. Ms. Coxe discusses the benefits of the model bylaw versus what is presented. Ms. Coxe believes that there shouldn’t be any minimum lot size at all. Ms. Coxe believes that the cap on the number of units is too low and that none of the ADUs should require a special permit they should all be by right. Ms. Coxe also believes that there should not be an occupancy amount listed in the bylaw. A discussion ensues regarding the owner occupied regulation. Ms. Coxe compares this to Wellfleet. Mr. Picard explains to Ms. Coxe that this bylaw was to strike a balance so that it would be successful. We are offering an opportunity for additional rentals and yet we offer the opportunity for it not to get detrimental. The owner is living there so you should get a renter who is more respectful. It’s all about striking a balance. A discussion regarding the differences in seasonality between Wellfleet and Sandwich ensues. Ms. Coxe discusses the people who think about putting ADUs on their property. Ms.
Coxe informs the board that she would be happy to answer any questions that the board has. Mr. Picard asks the board to discuss the bylaw further. He states that the office did a good job putting this together but is there anything they would like to see changed? Ms. Reisig and Mr. Kalweit ask if they can go through the bylaw line by line. Mr. Kalweit discusses requirement two that states only 10 ADU’s will be permitted by year. The board discusses this requirement and decides that 24 permits a year for both by-right and special permit are more advantageous. Ms. Drake asks the board how they feel about requiring non-conforming lots to apply for a special permit. Ms. Regan states that she would not want this to go away. There needs to be some level of checks and balances. Ms. Reisig asks about section 2bi and ii, the square footage required for a detached ADU makes sense but an interior ADU may not need a square footage restriction. A lengthy discussion regarding interior versus exterior ADU’s on non-conforming lots ensues. A question regarding cluster subdivisions and non-conformities arises. Mr. Kalweit explains why this could cause confusion. Ms. Drake states that she will make this clearer in the bylaw. Mr. Castle speaks from the audience and states that newer cluster subdivisions have homeowner association documents that prevent ADU’s in the first place. Ms. Regan explains that in Sandwich these docs are fewer than you would see in other places. Mr. Kalweit questions why adding a bedroom for an ADU and losing a bedroom in the main house is not referenced in the bylaw. Mr. Vitacco explains that this falls under the purview of the Board of Health. If a lot only supports four bedrooms and a property owner would like to add an ADU then they would have to designate one of their bedrooms for this purpose. Mr. Kalweit explains that if you have a 10,000 s.f. lot and a four bedroom house and give up one of your bedrooms in order to have an ADU, you are lessening the nitrates on that property. But under this bylaw you cannot do that. The board decides to break out interior and exterior ADUs on non-conforming lots. Ms. Drake states the board will revise the language. Ms. Regan states that they will still have to meet all parking, septic and building issues. Ms. Coxe questions the amnesty provision and if the cap would apply. Ms. Drake explains that the cap should not apply to pre-existing units. Mr. Kalweit states that he knows of a lot of illegal apartments that are over 900 s.f. that we should address. Should they be reconstructed to meet 900 s.f.? Ms. Coxe reads out the Commission’s definition. The board is unsure about what direction they will go. They will think about it and discuss it again at the next meeting. Mr. Kalweit questions the requirement that prohibits variances. Ms. Drake explains that only zoning variances are prohibited and that she will change the language to reflect this. Mr. Kalweit asks staff to add language to the bylaw that limits the length of a lease as you could sell a right for 20 or 30 years to someone and in fact create a second property. Staff agrees to add language to combat this. Discussion regarding parking ensues. Ms. Regan would like to see language added to the parking requirements that encourages homeowners to use their existing parking or create new parking using pervious surfaces. Staff will revise language. The board discusses the occupancy requirement. The board decides to remove the requirement as the parking regulations will regulate the occupancy. Ms. Coxe asks if it is necessary to keep the residency requirement as it is a law in Massachusetts anyways. The board agrees and asks staff to remove the requirement. Mr. Picard asks for clarification regarding the wastewater/septic regulation. It should be made clear that it’s a shared system but doesn’t have
to share a meter. The board agrees. Ms. Regan asks staff to remove the word service. Ms. Reisig likes the enforcement provision.

- **Section 1260 – Performance Bond**

  Mr. Kalweit asks about the status of the performance bond. Ms. Drake explains that staff changed the language from shall to may to allow some discretion on the Building Commissioner’s part if it ever needed to be used. Mr. Darling states that he likes this change.

- **Inclusionary Zoning in Subdivisions and Cottage Colonies**

  Mr. Ryan Castle addresses the board and asks to speak to the new inclusionary zoning proposed. Mr. Castle explains to the board that inclusionary zoning does not work unless it is incentive based. Most developers will go the 40B route unless there are density bonuses or other zoning incentives included in the bylaw. Inclusionary creates a middle income housing gap; also this can be seen in the Town of Barnstable and all over the place. Mr. Castle recommends spending Community Preservation dollars on affordable housing. He thanks the board for the opportunity to speak. Mr. Vitacco explains that this was desired by the board last year but do you want to think about it? Ms. Reisig comments that it couldn’t hurt. Ms. Regan explains that Mr. Castle is stating that it could hurt us. Ms. Regan explains the thought process behind the regulations. The land left for development in Sandwich does require waivers to build, this would be a tradeoff where the board would allow waivers and as a result get some affordable units. Mr. Castle commented that he hadn’t read the bylaw but if this was the case that is more incentive based. Mr. Castle compares a stick approach to a carrot approach. Mr. Kalweit discusses the cottage colony bylaw and how it does not hinder the developer. Mr. Kalweit agrees that incentive based zoning is the way to go but that is what they are talking about here. They are not talking about the stick approach. Ms. Regan explains that the land that is left in Sandwich will require waivers. Mr. Castle rebuts that is in today’s world. You can’t say you know how every property owner that owns land will feel in 10 years. Mr. Vitacco details the proposed bylaw. Mr. Kalweit agrees with Ms. Regan and explains to Mr. Castle that the land that is left in Sandwich is bumpy land that no one wanted to build on. So we would be helping them with waivers and benefitting in the process. Ms. Coxe talks about the cost of building units and that towns should be throwing some of their CPA money at it. Ms. Drake asks if they would like staff to update the inclusionary zoning bylaw to add some incentives. Mr. Kalweit asks what we have for CPA funding that we can give to developers. What are we doing with the funds right now? Ms. Drake responds that hopefully it is going towards the Wing School. Ms. Regan states that this is a perfect example of the community preservation incentive to help the developer achieve his vision. Ms. Drake states that the Town also gave 1.8 million to the George Fernandes Way expansion project. We have been using Community Preservation funds for housing. Ms. Reisig recalls a special meeting where we gave money to Latham Centers for community housing. Mr. Castle says that he has never seen this done but it would if they could allocate a certain portion of CPA funding to the Planning Board each year to create affordability. Staff has
never seen that happen before, money usually gets allocated to a housing authority or trust but not a planning board. Mr. Picard asks if there is anything else on zoning.

- Local Comprehensive Plan – Update

Mr. Vitacco explains that on January 9, the Selectmen authorized a Local Comprehensive Plan Steering Committee. Two members will come from this board, one from the Housing Authority, Conservation Commission and Historical Commission. We have drafted letters to those committees. We did receive one letter of interest as we have four members at large. Mr. Picard asks how it was advertised. Ms. Drake explains that she emailed her. Mr. Picard said that was fine. Ms. Drake explains that the lady is from the energy/environmental sector and would be a good addition. Mr. Vitacco outlines how he will advertise the open seats. He recommends that board members reach out to anyone they think would be a good fit. Mr. Vitacco asks if they letters he drafted are ok. The board agrees that they are fine.

Mr. Vitacco reminds the board that Citizens Planners are having a class on the Roles and Responsibilities of Planning Boards and Zoning Boards. Mr. Picard recommends the classes.

Mr. Kalweit asks about the multi-family section in the proposed zoning amendments. He meant to question this earlier. Ms. Drake explains that this section is already in existence. It makes reference to a section number that will no longer be in existence if the ADU Bylaw is adopted at Town Meeting. The changes to the multi-family reflect the language in the proposed deleted section. We are not creating anything new.

**Deliberations**

There are no matters to deliberate.

**Other Matters Not Reasonably Anticipated**

**Adjournment**

Sarah Regan motions to adjourn. David Darling seconds. The vote is unanimous. The meeting adjourns at 9.42 p.m.

Respectfully submitted,

[Signature]

Leanne Drake

Supporting Documents:

1. Redline of Proposed Zoning Amendments (11 pages)
2. Cape Cod Commission letter re: 2020 District Local Technical Assistance (DLTA) Funds, dated January 9, 2020 (18 pages)
3. Special Permit #98-33 (4 pages)
4. Sketches of cottage renderings (not provided for the record)
5. Draft invitations to LCP Steering Committee (3 letters)