



PLANNING BOARD

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MINUTES
July 21, 2009

7:15 P.M.

Meeting Room

Town Office Building, 16 Jan Sebastian Drive

Present: Daniel Marsters, Chair; Amy Lipkind, Vice-Chair; Richard Claytor; Joe Vaudo & Ralph Vittacco.

Elizabeth Lane of Kopelman & Paige, Town Counsel.

7:15 P.M.

Public Hearing

Special Permit Modification

43 Chase Road

KB Nominee Trust, J. Bruce MacGregor, Trustee

Mr. Marsters read the Public Hearing notice into the record. Mr. Marsters read the following letters into the record:

- Sandwich Fire Department, J.J. Burke, Fire Prevention Officer, letter dated May 14, 2009.
- Board of Health, David Mason, Health Agent, letter dated June 1, 2009.

Mr. Robert Devin, Attorney for the applicant, Ms. Betsy Lane of Kopelman & Paige, Ms. Andrea Adams of the Cape Cod Commission and Mr. Jon Fitch, attorney for an abutter were present.

Mr. Devin reviewed the history of the property. He said the Cape Cod Commission had rendered a decision on the Cell Tower Special Permit and the difference between that decision and the Planning Board's original decision was the requirement that the applicant convey to the Sandwich Conservation Commission land on either side of the access road. In 2006, the Sandwich Housing Partners LLC had submitted an application for a Comprehensive Permit under Chapter 40B to the Board of Appeals to basically divide two and one-half acres off the cell tower lot to build four houses, one of which would be affordable. Mr. Devin said the Board of Appeals issued the Comprehensive Permit with conditions; and, as a result negotiations have been on going due to issues with the cell tower lot and potential issues particularly frontage issues.

Mr. Devin said he had met with Mr. Dunham and Judith Cutler of Kopelman & Paige and at that time she had concerns with the cell tower special permit due to fact that the land was reduced with the transfer of land to the Conservation Commission. He said that Ms. Cutler further suggested the applicant seek the Planning Board's approval by way of a Modification of the (cell tower) Special Permit and that the 40B be reduced from four lots to three lots thereby conforming to the common driveway bylaw. Mr. Devin discussed the plan with the Board along with easements and modifications.

He also said he would have to file a Variance Application with the Board of Appeals for the frontage. He felt he needed the Modification to the Cell Tower decision first.

Mr. Marsters and Ms. Lipkind discussed access issues. Mr. Devin discussed access via an easement and driveway and that frontage was on Chase Road. The Board discussed road construction standards. Mr. Devin stated he was looking for a reduction in the cell tower lot area due to the conveyance of land to the Conservation Commission.

Ms. Adams, Cape Cod Commission, reviewed the DRI decision and open space requirements. The Commission would like to make sure that access to the open space is protected.

Mr. Jon Fitch, representing Mike Swift, stated the applicant was trying to achieve additional use of this property using a modification to “break the rules”. The lot that was originally permitted was nonconforming due to lack of sufficient frontage; and, according to Section 2520 it cannot be changed in size or shape if the alteration creates additional building lots. Mr. Fitch stated this modification request should not be granted. Also, he does not remember this Board ever allowing access via an easement instead of a road to building sites. He does not believe this is adequate access and is an abuse of the rules.

Mr. Fitch stated he felt the applicant needed a variance first.

Mr. Claytor reviewed what he felt the sequence of events needed to be first. Mr. Claytor moved the Board continue the Public Hearing regarding the Special Permit Modification, 43 Chase Road, K.B. Nominee Trust, J. Bruce MacGregor, pending Board of Appeals variance and comprehensive decisions to October 20, 2009 at 7:15 p.m. Mr. Vaudo seconded. The vote was unanimous.

8:20 P.M.

Public Hearing Continued

Scenic Road Hearing

157 & 159 Great Hill Road

George Regan

Mr. Vaudo recused himself. Mr. Marsters read a letter received from Don Bracken requesting a continuance of the public hearing to July 21, 2009 into the record.

Mr. Claytor moved the Board continue the Public Hearing regarding the Scenic Road Application, 157 & 159 Great Hill Road, George Regan to August 18, 2009 at 7:15 P.M. Mr. Vaudo seconded. The vote was unanimous.

8:25 P.M.

Public Hearing

Proposed Amendments to the Sandwich Protective Zoning Bylaws

Mr. Marsters read the Public Hearing Notice into the record.

Planning Board Minutes

July 21, 2009

Item #1:

Proposed amendment to Article II, Section 2300, the Use Regulation Schedule, of the Sandwich Zoning Bylaw to change the use of “medical offices” from not allowed to allowed by Special Permit in the BL-1 zoning districts.

Item #2:

Proposed amendment to Article II, Section 2600 of the Sandwich Zoning Bylaw to allow the Zoning Board of Appeals the authority to grant exceptions to the dimensional requirements for front yard setbacks in the BL-1 commercial zoning district.

Item #3:

Proposed amendment to the Zoning Map, Sandwich Massachusetts referenced in Article II, Section 2110 of the Sandwich Zoning Bylaw to delete a portion of the R-2 District located on both sides of Route 130 in Forestdale and replace it with a BL-1 District. Total area proposed for change is approximately 14 acres and currently contains several non-resident uses.

Ms. Anthi Frangiadis, Advertising Planner for “Forestdale Village” project, reviewed the project for affordable housing under Chapter 40B with a commercial component at length with the Board and discussed the reasons for the proposed zoning amendments request. The property consists of approximately 75 acres and is located in Forestdale along Route 130. Current zoning is R-2. The commercial component of the property requires re-zoning of the property from residential to commercial.

The Board discussed the proposed amendments at length including impacts to the surrounding area.

The Board opened the hearing for Public Comment:

Mr. Walter Murray, owner of Boosters Club, spoke in support of the project.

Mr. Burke, 117 Route 130, spoke in support of the project.

Mr. Robert Jensen, 44 Chipman Road, Board of Appeals & Chairman of the Local Comprehensive Plan, stated this was exactly the type of development the public wanted to see during LCP discussions. Personally, he stated he was in favor of the project and many members of the Local Planning Committee were as well.

Mr. Joseph Carig, 10 Lichen Lane, spoke in support of the project.

Mr. Daniel Perkins, 2 Captain Towne Road, spoke in support of the project.

Ms. Lipkind moved the Board continue the Public Hearing regarding the Proposed Amendments to the Sandwich Protective Zoning Bylaws to August 18, 2009 at 7:15 P.M. Mr. Vaudo seconded. The vote was unanimous.

9:12 P.M.

Public Hearing

Proposed Amendments to the Local Comprehensive Plan

Mr. Smith stated another amendment to the Local Comprehensive Plan needs to be discussed and advertised for a Public Hearing in the near future. It relates to the Cape Cod Commission local comprehensive plan regulations that require a reference to the “consistency with contiguous municipalities”. The one and a half page narrative was left out of the Town’s local comprehensive plan by oversight and in order to receive final certification it must be included. Mr. Smith would like the Board to hold a hearing as soon as possible so that this narrative be presented to Town meeting in the Fall for a vote. The Board will discuss this at the next Board meeting.

Mr. Marsters read the Public Hearing Notice into the record.

Item #1:

Proposed amendment to Section 1, Land Use and Growth Management, to change the number of Growth Centers from two to three and add the descriptive term “Forestdale BL-1 District” in the first sentence under Growth Centers on page 13.

Item #2:

Proposed amendment to Section 1, Land Use and Growth management to change paragraph 3 under Goals to add “Forestdale BL-1 District” in the listing of Growth Centers on page 14.

Item #3:

Proposed amendment to Section 3, Economic Development, to change the number of Business Limited Districts from two to three and add “Forestdale BL-1 District” to the list under the heading of Sandwich’s Space Inventory and Analysis on page 51.

Item #4:

Proposed amendment to Section 3, Economic Development, to change the number of Growth Centers from two to three and add “Forestdale BL-1 District” to the list on page 52.

The Board discussed the proposed amendments.

The Board opened the hearing for Public Comment:

Mr. Jon Fitch stated the Local Comprehensive Plan needs to be revised in order to be in compliance with Cape Cod Commission rules. Another growth center needs to be identified so that the vision map reflects this area. He stated there were some errors in the language that needs to be changed.

Ms. Lipkind moved the Board continue the Public Hearing regarding the Proposed Amendments to the Local Comprehensive Plan to be revised as submitted to August 18, 2009 at 7:15 P.M. Mr. Claytor seconded. The vote was unanimous.

Board Discussion

Due to the lateness of the hour, Mr. Smith stated he would continue the remainder of the agenda items to the next meeting.

Board of Appeals Comment

The Board discussed the Special Permit Amendment #09-14 for 6 Coast Guard Road, Jeffrey Lewis to hold a seasonal outdoor farmer's market. The Board questioned who issued the original special permit.

Ms. Lipkind moved the Board adjourn. Mr. Claytor seconded. The vote was unanimous.

The meeting adjourned at 9:34 P.M.

Mr. Smith stated he would be putting together staff reports for the Board.

Respectfully submitted,

Maureen Carty