

Town Of Sandwich
THE OLDEST TOWN ON CAPE COD



FINAL COPY

BOARD OF APPEALS

16 Jan Sebastian Drive, Sandwich, MA 02563
Phone: 508 833 8001

E-mail: planning@townofsandwich.net
TOWN CLERK
TOWN OF SANDWICH

Minutes
September 27, 2011

OCT 12 2011

2 H W M P M
RECEIVED & RECORDED

7:05P.M.

Present: Christopher Neeven, Chair, Harold Mitchell, Vice Chair, Fred Watt, Robert Jensen, Erik VanBuskirk, and James Killion

7:03pm

Approval of Minutes

Mr. Jensen moved the Board approve the minutes of July 26, 2011 as written. Mr. Mitchell seconded. The vote was unanimous.

7:05pm

Special Permit #10-15

68 & 82 Roos Road

Karl/Walter

Mr. Neeven read a letter into the record from Ms. Walter-Karl requesting a further continuance to the meeting to be held on October 11, 2011. Mr. Jensen moved that the Public Hearing for 68 and 82 Roos Road be continued until the meeting to be held on October 11, 2011 at 7:10pm. Mr. Mitchell seconded. Mr. Neeven, Mr. Mitchell, Mr. Jensen, and Mr. VanBuskirk voted in favor of the motion. Mr. Watt voted no.

Mr. VanBuskirk arrived.

7:10pm

Special Permit #11-07

12 Samoset Road

Paul Fistori

Mr. Neeven read the Public Hearing notice into the record. He also read the following comment letters into the record:

- David J. DeConto, Natural Resources Officer, letter dated September 16, 2011
- Jeff Rose, Asst. Superintendent, Sandwich Water District, letter dated September 13, 2011
- J.J. Burke, Fire Inspector, Sandwich Fire Department, letter dated September 6, 2011

Mr. Paul Fistori, applicant, was present and addressed the Board. He told the Board that he was applying for a Special Permit in order to convert a single family home with an accessory apartment into a two family home for rental purposes. There would be no change in traffic, parking or pollution. He would not be making any physical changes to the property. Mr. Jensen asked if he was planning on renting them both to which Mr. Fistori replied that he was. Mr. Jensen also asked if there were two separate egresses for both; Mr. Fistori said there were.

He also said that there were separate utilities for each unit; he is, however, waiting to install the separate electrical systems pending the decision of the Board. There is parking for six vehicles, if you "squeezed them in".

Mr. Neeven verified that the apartment was 576 sq. ft. Mr. Killion then questioned the applicant regarding Section 2600 (h) because the lot area must be increased by 50% for a two-family dwelling. Mr. Jensen pointed out that Mr. Fistori would need a 90,000 sq .ft. lot to support a two-family home. This increase in lot size was not necessary for the by-right apartment. Mr. Killion stated he would like to hear from Mr. Smith regarding his interpretation of Section 2600(n).

Mr. Neeven opened the meeting for public comment. The following people spoke:

- Mr. Peter Riley, 67 Mill Road, President, Lakewood Hills Association, stated that there are no two- family homes in the subdivision; he feels that the apartment use is ok, however.
- Mr. David Cushing, 10 Samoset Road, said that the neighborhood does not support a two-family home.
- Ms. Cheryl Cushing, 6 Samoset Road, is opposed to the project because the lots in the neighborhood are small with short streets. She is concerned with the traffic issues as well as the safety of the neighborhood.
- Mr. Scott Carl, 13 Chapaquoit Way, expressed concern about the property values.
- Mr. Kevin Lineweber, 14 Samoset Road, is also opposed to the two-family home because of concerns of lowering property values.
- Mr. Paul McHugh, 23 Samoset Road, is opposed because of concern for the safety of the children in the neighborhood with the increased traffic flow.
- Ms. Gail McHugh, 23 Samoset Road, is opposed.
- Ms. Ruth Pottey, 8 Samoset Road, opposes the two-family home because she does not feel that it is appropriate in this neighborhood of all single family homes.
- Mr. Robert Avila, 3 Samoset Road, is opposed for the same reasons that have been voiced.

Mr. Jensen would like the Board to continue this hearing. Mr. Fistori agreed.

Mr. Jensen made a motion that Special Permit #11-07, 12 Samoset Road, be continued to October 11, 2011 at 7:15pm. Mr. Mitchell seconded. The vote was unanimous.

7:27pm

Variance #11-08

302 Quaker Meetinghouse Road

Christine and Howard Golding

Mr. Neeven read the Public Hearing Notice into the record. He also read the following comment letter into the record:

- J. J. Burke, Fire Inspector, Sandwich Fire Department, letter dated September 23, 2011

Mr. and Mrs. Golding, applicants, were present with Attorney Jonathan Fitch who addressed the Board. The property currently has a house and an approximately 1500 sq. ft. preschool building. The demand for preschools has decreased dramatically according to Mr. Fitch. Quaker Meetinghouse Road from Route 6 to Cotuit Road is predominately residential. The Goldings are requesting a variance from the RD2 zoning by-law prohibiting two family homes.

The applicants are experiencing a hardship because the structure is more than just a house and the school is now vacant; there is no productive use for the property currently. Mr. Fitch explained that topography relates to manmade and natural features. The third prong is that this relief can be granted without detriment to the neighborhood. He pointed out that there would be a substantial decrease in traffic at the site as well as a decrease in the potential for noise. Using this property for residential purposes is in keeping with the neighborhood.

Mr. Jensen asked if there were separate egresses to which Mr. Fitch responded in the affirmative. Mr. Fitch then reminded the Board that the community had adopted a housing plan that reflects the need for various kinds of housing. The variance request of the Goldings would be an adaptive reuse of the property.

Mr. Jensen that in the Intensity of Use schedule, a two family home is not an allowed use. An accessory dwelling unit would be allowed. The Goldings, however, do not live at the address and the house is up for rent.

Mr. Mitchell asked Ms. Golding what "Party Pants" refers to. She explained that she had an idea to hold children's parties and workshops on the property, but that it had not worked out. He asked if it was currently anything to which she replied no. Mr. Neeven asked if that was a permissible use of the property. Mr. Paul Spiro, Inspector of Buildings, replied that it was not. Mr. Watt then asked her how long she had run the daycare. Ms. Golding said it had been ten years.

Mr. Neeven opened the meeting for public comment. The following people spoke:

- Carol Eklund, 301 Quaker Meetinghouse Road,, said that the house ad been purchased as a single family home and the Goldings had put on the addition for the school. They knew that eventually it would revert to a single family again. She said there were never any problems with the school except for traffic. She said that the u-shaped driveway was dangerous. She also had concerns regarding the septic system.
- Norman Eklund, 301 Quaker Meetinghouse Road, thought that the topographical hardship could be addressed by eliminating the u-shaped driveway. As a safety issue, that should be done before anything else is done.
- Peter Riley, President, Lakewood Hills Association, urged the Board to maintain the standards of the zoning by-laws. He said this is the first of many hardship cases that will come before the Board and that people would be creative.

Mr. Fitch asked Mr. Neeven if he could respond to several of the comments. The dangerous driveway issue will be resolved by conditions of the Board of Appeals. The current septic system is in total compliance for the property use. It is also not credible to think that the Goldings would have done all the work for the preschool if they thought it would one day revert to a single family home.

- Carol Eklund again addressed the Board reiterating her opposition to the Goldings application for a variance.
- Maria Finley, Quaker Meetinghouse Road, voiced her opposition as well

Mr. Killion made a motion for the Board to close the Public Hearing regarding Variance #11-08, 301 Quaker Meetinghouse Road, Golding. Mr. Jensen seconded. The vote was unanimous.

Mr. Mitchell moved that the Board adjourn. Mr. Jensen seconded. The vote was unanimous.

The meeting adjourned at 8:09pm.

Respectfully submitted,

Marilyn K. Bassett