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

Minutes
February 14, 2012

TOWN CLERK
TOWN OF SANDWICH
MAR 14 2012
3:20 P.M.
RECEIVED AND RECORDED

7:03 P.M.
Present: Christopher Neeven, Chair, Harold Mitchell, Vice Chair, Robert Jensen, Erik VanBuskirk, and Fred Watt
Paul D. Spiro, Inspector of Buildings
Absent: James Killion

7:03pm
Approval of Minutes
Mr. Jensen moved the Board approve the minutes of January 24, 2012 as written. Mr. Mitchell seconded. The vote was unanimous.

7:05pm
Special Permit #12-02
8 White Cap Path
Davis
Mr. Neeven read the Public Hearing Notice into the record. He also read the following comment letters into the record:

- Jeff Rose, Asst. Superintendent, Sandwich Water District, letter dated January 11, 2012
- David DeConto, Natural Resources Officer, letter dated January 9, 2012
- J.J. Burke, Fire Inspector, Sandwich Fire Department, letter dated January 9, 2012
- Sam Jensen, P.E. Asst. Town Engineer, letter dated February 10, 2012

Attorney Brian Wall, engineer Dave Thulin, and builder Chris Childs were present with the applicants. Attorney Wall addressed the Board explaining that the Davis' intend to tear down their present condominium, built in the 1960's, and replace it with a new two story structure. The structure will go from 30X24+- to 46x46. Mr. Wall had the following comments in answer to Board queries:

- The plan does comply with setbacks and lot lines
- No change in access
- An amendment to the Condo Master Deed allows for expansion
- There will still be parking to the right of the garage and parking can be over the septic system

There was a discussion regarding where the 75' of frontage originated; the Assessor's office records indicate that figure.

Mr. Neeven opened the meeting for public comment. Mary Ellen Moore, 2 White Cap Path and 1 Fernandes Circle, Norton, addressed the Board. She has many concerns:

- Height of the proposed building
- Interpretation of condominium addendum
- Common interest in parking and roadway
- Sufficient turn-around space for fire trucks
- Diminished property values
- Septic system concerns
- Obstruction of view

Mr. Robert Moore, of the same addresses, shared the following concerns:

- Reduction in common area with an increase in the foundation
- Traffic from construction vehicles
- Wildlife on the beach
- Narrow access to condominiums – their condo is always being hit

There was also a discussion about the letter from the Board of Health referencing four bedrooms; Mr. Wall said that he was unsure where that comment came from since there were no changes in the number of bedrooms on the plans. Mrs. Davis is willing to meet with Mr. Mason and the Board of Health to establish that the media room has a closet for mechanical equipment storage.

The Davis' have also spoken with Dave Deconto, Conservation officer, who agrees that the property is better now with the elevated walkway. They are planting with natural vegetation after going to the Conservation Commission for approval.

The Board still has concerns with frontage, the number of bedrooms, and having the condominium documents to read.

Mr. Jensen motioned to continue the Special Permit #12-02 until the February 28, 2012 meeting at 7:10pm. Mr. Watt seconded. The vote was unanimous.

7:46pm
Variance #12-03
73 Service Road
Hospice Foundation of Cape Cod

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

- Jeff Rose, Asst. Superintendent, Sandwich Water District, letter dated January 27, 2012
- David DeConto, Natural Resources Officer, letter dated January 26, 2012
- J.J. Burke, Fire Inspector, Sandwich Fire Department, letter dated January 26, 2012
- Sam Jensen, P.E. Asst. Town Engineer, letter dated February 10, 2012
- David Mason, RS, CHO, Health Agent, Board of Health, letter dated February 13, 2012
- Kate Bavelock, Executive Director, Sandwich Chamber of Commerce, letter dated February 13, 2012

- John G. Kennan, Jr., President, Sandwich Economic Initiative Corporation, letter dated February 14, 2012

Attorney Jonathan Fitch, Grattan Gill and David MacLean, architects, David Rehm, President and CEO, and Jean Dawson, CFO, were in attendance. Mr. Fitch, Mr. Gill, and Mr. MacLean went over the variance requests, the extreme topography of the site, and the actual addition and parking that is being proposed. The two additional rooms can be completely finished without any interruption in the daily routine; the last step will be breaking down the walls. There is an encroachment of only + - 570 square feet on a 2 acre parcel.

Mr. Gill the addressed the additional parking requested. Currently there is not sufficient staff parking available. There was discussion regarding thinning of vegetation on public property, possible site visibility problems and site distance of the proposed parking entrance.

Mr. Rehm explained to the Board that Hospice is now an in patient facility with about a 90% occupancy rate. With the additional rooms, there would be more income generated.

Mr. Fitch addressed the concerns of the Engineering Department as follows:

- The site plan is not a construction drawing.
- The siting of the new driveway cannot be changed because it would cross the location of the current memorial garden that has been established by family and friends of former patient.
- Clearing would improve the site distance.

Mr. Fitch gave the Board wrap-up of the requested variances and proposed additions to the site.

Mr. Neeven opened the meeting to public comment. Ms. Jeanne Ayer, 5 Greenway Circle, spoke in support.

Mr. Jensen moved to close the Public Hearing on the variance request #12-03, Hospice Foundation of Cape Cod, 73 Service Road. Mr. Watt seconded. The vote was unanimous.

8:24pm
Special Permit #11-15
368 Route 130
Sullivan Tire

The Board requested that the Public Hearing for the Special Permit be reopened to address their concerns regarding adequate parking. Attorney Kevin Kirrane and Roy Donlin, Asst. General Counsel to Sullivan Tire, were present. Mr. Kirrane addressed the Board and made the following points:

- There are 16 parking spaces on site
- The 1453 sq. ft. retail space requires 7 or 8 parking spaces. The remaining 8400 + - sq/ footage does not qualify as retail space.
- There are 8 employees who require spaces.
- There are 9 spaces inside the building including the lifts, etc.
- It would be possible to queue some cars on the southerly side of the building.

- Most Sullivan Tire locations service 20 -25 cars/day. Most cars are there for 2 hours by appointment only.
- There is no vehicle storage.

Attorney Donlin next addressed the Board. He serves as Director of Real Estate for Sullivan Tire. He said that most locations have 6 employees over an 11 hour day. Most locations have a cut off of 10 spaces. As a bedroom community the vehicles would go in and come out. The inside spaces count as well since vehicles go into the bays.

Mr. Jensen brought up the high speeds on Route 130 as a pinch point since cars cannot go behind the building.

There was no public comment.

Mr. Jensen motioned to close the public hearing for Special Permit #11-15, 368 Route 130, Sullivan Tire. Mr. Watt seconded. The vote was unanimous.

8:40pm
Board Discussion
93 Harlow Road
Celeste
Mr. Watt recused himself.
Mr. Neeven read a letter from Mr. Celeste requesting that the Board remove Condition #6 from the Special Permit Amendment granted on May 11, 2011 which states that all equestrian activity remain non-commercial. In August of the same year, the state law changed in that the minimum lot size pertaining to agriculture and farming was reduced from 5 acres to 2 acres. He was asking the Board to discuss with him how this should be accomplished.

The Board discussed state law trumping local law and the fact that there are multiple dwellings on the property. Mr. Spiro shared a comment from Town Counsel Betsy Lane with the Board. From the floor, Mr. Watt said that this was an unusual case and he wanted to make sure what his appellate rights were.

The Board has directed Mr. Spiro to contact Atty. Lane and ask for her opinion on the following:

- How to best remove Condition #6 from the SPA
- Does this have to be done in an advertised Public Hearing with abutter notification?
- What appellate rights might arise from the removal of this condition?

The Board will discuss the Atty. Lane's opinion at the next meeting scheduled for Feb. 28, 2012.

8:58pm
6 & 8 Fox Trot Run
Mr. Spiro gave the Board a short history of the two properties.

9:03pm
Deliberations
Special Permit #11-15
368 Route 130
Sullivan Tire
The Board reviewed and discussed the above referenced application. The Board voted to grant the Special Permit with conditions. The decision, findings, and conditions are on file in the Board of Appeals public records at the Planning and Development office.

Mr. Mitchell motioned to adjourn. Mr. Jensen seconded. The vote was unanimous.

The meeting adjourned at 9:17pm.

Respectfully submitted,
Marilyn K. Bassett