Town Of Sandwich

THE OLDEST TOWN ON CAPE COD

PLANNING BOARD

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TOWN CLERK
TOWN OF SANDWICH

SEP 26 2012

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RECEIVED & RECORDED

MINUTES
August 21, 2012

7:01pm
Meeting Room
Town Office Building,
16 Jan Sebastian Drive

Present: Sarah Regan, Chair, John Campanale, Vice Chair, Henry Rakov, Bill Burbank, Nicole King, and Stanley Torrey
Also present: Town Planner Nathan Jones and Asst. Town Engineer Sam Jensen
Absent: Joe Vaudo

Approval of Minutes
Mr. Campanale motioned to accept the minutes of July 17, 2012 as written. Mr. Rakov seconded. The vote was unanimous. After the vote Ms. Iris Hills, Cranberry Trail, asked for a correction relating to comments she had made. The Board agreed to change the minutes to reflect her comments.

Release of Surety
Olde Harbor Estates
Attorney Geoff Nickerson, representing Sandwich Old Harbor, LLC, submitted a request for a partial Release of Surety for Olde Harbor Estates in a letter dated August 14, 2012. Asst. Town Engineer Sam Jensen updated the Form I Construction Cost Estimate indicating that the remaining work is estimated to be $44,687.50. Mr. Rakov moved that the $44,687.50 be retained and the balance ($17,891.43) plus any accrued interest be released. Mr. Campanale seconded. The vote was unanimous.

Submission of New Plans
ANR
5 & 7 Birchwood Lane
Walters
Mr. Thomas Bunker, PLS, was present for the applicant who wants to combine two existing lots. Ms. Regan read a memorandum from Sam Jensen, Asst. Town Engineer, dated August 20, 2012. Mr. Jensen informed the Board that Birchwood Lane is in a cluster subdivision. The ANR will create lot 80A. There was no further discussion. Mr. Campanale motioned that the Board endorse the ANR for 5 & 7 Birchwood Lane. Mr. Rakov seconded. The vote was unanimous.

ANR
44 Sandy Neck Road
Houk
Allan Taylor, Canal Land Surveying & Permitting Inc. represented the owners, James and Antoinette Houk. The purpose of the ANR is to relocate the lot line to correct an encroachment issue. There was no discussion. Mr. Campanale motioned that the Board endorse the ANR for 44 Sandy neck Road. Mr. Rakov seconded. The vote was unanimous.

Special Permit Amendment
8 Fox Trot Run
Larson
Mr. Larson told the Board he was applying for an amendment to his special permit to move the location of the driveway and for the Board to accept the new Order of Condition issued by the Conservation Commission. Ms. Regan clarified that he was repositioning the driveway from a shared driveway with #6 Fox Trot Run (FTR) to a single driveway for #8 FTR. Mr. Larson told the Board he needed to position the driveway based on the topography and location of wells. He tried to obtain an easement from the owners of #10 FTR to utilize the driveway already in existence, but was unsuccessful. In response to Board comment, Mr. Larson said he would move the driveway away from the boundary and would increase its width. There was also discussion regarding the positioning of the driveway so close to the lot line.

Ms. Regan opened the meeting for public comment.
The following addressed the Board:

- Atty. Jonathan Fitch, representing the owners of #6 FTR, urged no action until the Board can see the results of the pending litigation. He also wanted to insure that any plan submitted would show that no flooding of the Romeisers' lot would be caused. He also stated that proper screening is important to the abutters.

- Mr. Robert Bokanovich, 7 FTR, is against moving the driveway because he does not need any more headlights shining onto his property. He is also concerned with the topography and the flooding on the street. He also wondered what will happen when Mr. Larson leaves.

Mr. Larson responded by stating that he is a developer, not the potential home owner. He asked the Board to tell him what they want to see for plans and he will have his engineer produce them. He offered to angle the driveway to the left away from Mr. Bokanovich's property but that did not change his opposition. There were no further public comments.

Mr. Burbank motioned that the Public Hearing for Special Permit Amendment for 8 Fox Trot Run be continued to September 18, 2012 at 7:00pm. Mr. Rakov seconded. The vote was unanimous.

Discussion
Cranberry Trail
Hills
Ms. Regan read a letter from the Hills dated August 16, 2012 into the pubic record. Town Planner Nathan Jones referred to the timeline for Cranberry Trail as requested at the last meeting of the Planning Board. He said this shows a distilled history of Cranberry Trail (CT) with corrections requested by Ms Hills noted. He also told the Board that he had done a site visit with Asst. Town Engineer Sam Jensen and Ms. Hills on July 25th. Mr. Jensen excavated in three separate locations and determined that the depth of the gravel was deficient and does not conform to the road standards. Ms. Regan said that with more research it appears that CT does not conform to town standard, and the Board needs to decide if it needs to redirect a letter to Mr. Paul Spiro, Inspector of Buildings.

Ms. Regan opened the meeting for public comment. The following people addressed the Board:

- John Juros, 91 Cranberry Trail, said that he has been attempting to maintain CT for many years. He also brought up the fact that he does not believe that CT is in the correct spot. He is also upset that Town officials and Boards have not stepped up to correct the issues surrounding CT. He also Told the Board he has a letter from Land Court calling CT a street.
- Karen Juros, 91 Cranberry Trail addressed the Board by talking about the standards for a road and who has the oversight when those standards deteriorate. She also had letters from various Town officials and court cases that will be copied and sent out to the Board. She stated that CT needs to be addressed all the way down to the end.
- Kathy Johnson, 53 Cranberry Trail, spoke for the HOA and said that they maintain it. In response to a question, Mr. Jensen said that the town maintains a list of streets for informational purposes only and the names are not legal definitions of roads, ways, or streets.
- Iris Hills, Sandy Neck Road, told the Board that in 1996 the Planning Board, in response to a ZBA application, implores the Board to follow at least minimum access policy
- Jason Caristi, 4 Windmill Bog Way, commented that the Juros' wanted CT from Windmill Bog Way toward Cape Cod Bay determined as a way so that he would be required to move his shed.

There was no further public comment.
Mr. and Mrs. Hills then gave their presentation to the Board. Ms. Hills had previously prepared an extensive packet to be distributed to the Board with letters, plans, minutes, an Order of Condition, and other documents relative to CT. This packet was given to the Board members~~. Mr. Hills showed a 1925 plan of Scorton Dunes subdivision showing a 40' right of way to Sandy Neck Road. This plan was signed and recorded. That 40' right of way was not shown on later plans of CT.~~** Mr. and Mrs. Hills stated that the Town needs to fix this problem,

Mr. Rakov asked if CT was correctly situated or not. He thinks that it needs to be surveyed. Mr. Burbank said the short range goal of the Board should be to let Mr. Spiro know that CT is not up to standard. Mr. Rakov motioned that a new letter be sent to Mr. Paul Spiro stating that based on new information presented, Cranberry Trail does not meet Town standards to be considered a way. Mr. Torrey seconded. The vote was unanimous.

Mr. Jones recommended that the Board look at each item that the Hills presented to them. Mr. Burbank motioned that the discussion on Cranberry Trail be continued to the meeting to be held on September 18, 2012. Mr. Rakov seconded. The vote was unanimous.

ANR for Certification of Way
24 Teaberry Lane
Cotter
Attorney Brian Garner was present with property owner and applicant William Cotter. At the last meeting, Atty. Garner asked Mr. Jensen for direction. In response to this, Ms. Regan read a memorandum into the public record from Mr. Jensen, dated August 17, 2012. At this time the plan is not acceptable; a plan profile is needed. Atty. Garner agreed that there is engineering work to be done.

After giving a quick recap of the history of Teaberry Lane (TL) for the Board, Atty. Garner presented plans from 1996 and 2006 as well as old photographs of TL with a mylar of an assessing map as an overlay. He showed the Board that the mylar lined up exactly with the plans from 1996 and 2006 and the photographs. The only issue is that back in 1949 into the early 50's there was not requirement to show a roadway in order to record a plan.

Ms. Regan opened the meeting for public comment. Atty. Jonathan Fitch, representing abutter P.A. Landers, addressed the Board. He said that there are basically two issues:

1. The document showing a 20' easement does not establish this as a way or a road nor does it create frontage under Chapter 40A
2. If the Board certifies TL as a street, it will create an orphan property for P.A. Landers.

Atty. Garner said that the Town has already recognized the easement due to allowing neighbors to build/live on TL. There was no further public comment.

Mr. Rakov wondered if the Board had all of the deeds and rights of access for TL. Atty. Garner said he would provide them to the Board. Mr. Garner also told the Board that his client was happy to grant the Board an extension of time to act so that a thorough review could take place.

Mr. Rakov motioned that the ANR Certification of Way be continued to September 18, 2012 at 7:00pm. Mr. Campanale seconded. The vote was unanimous.

Board Discussion

After a brief discussion, Mr. Rakov motioned that the Board adopt the "Town Policy for Planning and Development Office and Planning Board Agenda Procedure". Mr. Campanale seconded. The vote was unanimous.

The Board discussed various ideas regarding CT and the need to have it brought up to Town standards. Mr. Rakov asked for a determination from Town Counsel on the authority of the Planning Board to issue a directive. It was also discussed that the Engineering Dept. and the Building Inspector can make determinations as permit applications are submitted. The Board is also looking for a more comprehensive history of the court decisions regarding CT. The Planning and Development office will look into that for the next meeting.

Mr. Burbank moved the meeting adjourn. Mr. Campanale seconded. The vote was unanimous.
The meeting adjourned at 10:40pm.

Respectfully submitted,

Marilyn K. Bassett

**Correction requested by Mr. and Mrs. Hills at the Planning Board meeting held on September 18, 2012 has been attached to the minutes.