Town Of Sandwich
THE OLDEST TOWN ON CAPE COD

PLANNING BOARD
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MINUTES
September 18, 2012

FINAL COPY

7:05pm
Meeting Room
Town Office Building,
16 Jan Sebastian Drive

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

Approval of Minutes
Mr. Campanale motioned to accept the minutes of August 21, 2012 as written. Mr. Rakov seconded. The vote was unanimous. From the floor Stanley and Iris Hills asked to have a correction entered into the minutes for Cranberry Trail. Their correction will be added to the minutes submitted to the Town Clerk's office.

Submission of New Plans
There were no plans submitted.

Special Permit Amendment
8 Fox Trot Run
Larson
Ms. Regan read a memorandum from Sam Jensen, Asst. Town Engineer, dated September 18, 2012. After discussion with the Board of these comments, Ms. Regan summarized by stating that Mr. Larson is looking for permission to build a driveway. He should come back to the Board when he has a plan with all the details on it to meet engineering specifications.

Ms. Regan opened the meeting for Public Comment. Atty. Jon Fitch, representing the Romeisers, who abut Mr. Larson's property, said that the applicant wants permission in advance for his driveway. Mr. Larson needs to respect the process.

Mr. Rakov motioned to continue the Special Permit Amendment application for 8 Fox Trot Run until the meeting to be held on October 16, 2012. Mr. Vaudo seconded. The vote was unanimous.

Cranberry Trail (CT)
Hills
Ms. Regan read the letter dated September 12, 2012 to Mr. Paul Spiro, Inspector of Buildings, from the Board advising him that CT does not meet minimum access standards and its current status as a "way" can clearly be questioned. She then reviewed the previous meeting. Mr. Jones told the Board that he had spoken with Town Counsel Elizabeth Lane at the request of the Board. She advised the Board that with the letter to Mr. Spiro regarding CT on file, future applications should be decided on a case by case basis going forward. She also advised that the Planning Board might not be the best venue for much of the discussion before it regarding CT. The issues and questions beyond the Planning Board's purview would be better served before a different Board or in civil courts. The Board does not have the authority to mandate it will not act on any ANR applications or subdivision approval requests until a survey of CT is done. Throughout the remainder of the CT discussion, Ms. Regan reminded the public that the Board would act on an application when one was submitted to them.

As members of the public addressed the Board, they agreed that there is, indeed, restricted access to CT. There was concern regarding a very large old tree that is allegedly in the "way. This matter has been referred to the Conservation Commission for their consideration. There was also discussion about the actual width of CT is places.

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The following members of the public spoke to the Board:

- Atty. Ben Losordo, representing Jeff Hannah brought in the signed plan for CT that was granted to Mr. Hannah. He also said that the way may have fallen into disrepair, but that was a maintenance issue now.
- Mr. Jeffrey Hannah, 44 Wing Boulevard East, told the Board he had improved the way to minimum access standards; he has tried to keep it up to standard.
- John Juros, 91 Cranberry Trail, reviewed his involvement over time dealing with the maintenance of the road, the large tree that is causing problems with the way, and survey markers. He is concerned with the issues moving forward.
- Atty. Mark Boudreau expressed concern that his client might not be able to obtain a building permit for 100 CT based on the meeting. Ms. Regan told him that no plan nor any request from his client was currently before the Board. They would discuss the issue when, and if, an application and/or plan, came in.
- Ms. Hills was emphatic that her assertion that the asphalt apron at Wind Mill Bog Way and CT was only 10"4". She and Mr. Hills asked the Board for direction as to where to direct their requests that had been made. They were directed to speak with the Board of Selectmen regarding taking of land by eminent domain. Ms. Regan said they would need to have an actual survey done to show that CT was built outside of the prescriptive easement. This plan would need to be submitted to the Engineering Department. She also told the Board that she wants to deal with these issues to stabilize the situation going forward – she wants it to be the same for each applicant in the future. Mr. Jones advised her that the Board cannot look at perpetuity.

ANR/Certification of Way
24 Teaberry Lane
Cotter

Ms. Regan read a letter dated September 13, 2012, from Atty. Brian Garner into the record. He had provided copies of all the deeds for Teaberry Lane at the request of the Board. Each lot on Teaberry Lane takes its access from the easement. Mr. Garner also stated that Mr. Cotter will meet with Mr. Jensen to submit his plan when required.

Ms. Regan opened the meeting to public comment.

- Atty. Jon Fitch, representing abutting property owners the Landers addressed the Board. He asked the Board exactly what was before them. Ms. Regan said a certification of way. He stated that the only way to accomplish this in under Section 81L, of which he read several portions. He later told the Board that the basis for their authority is in this section. He cautioned the Board to look carefully at this section as the go forward. He also presented the members with a drawing showing his interpretation of the deeds to 24 Teaberry Lane date 1949 and 1950 where they were joined.

Atty. Garner told the Board that Section 81L is designed to protect owners' rights. Ms. Regan asked the Board how they wanted to proceed. Mr. Vaudo would like advice from Town Counsel. Can the Board certify a way? Mr. Burbank wondered if there was a need to certify the way since it predates zoning and subdivision rules and regulations. Following more Board discussion, Mr. Jensen said that once the legal issues are settled, Mr. Cotter will need to follow Section 5.S.4 of the Subdivision Rules and Regulations.

Mr. Rakov motioned that Town Counsel be asked to advise the Board if it can certify a deeded easement to be a way. Mr. Vaudo seconded. The vote was unanimous.

Board Discussion

After further discussion of Teaberry Lane, Mr. Jones was instructed to additionally ask Town Counsel how Section 81L of the M.G.L. fit in with the certification of a way.

Mr. Vaudo moved the meeting adjourn. Mr. Campanale seconded. The vote was unanimous.
The meeting adjourned at 9:29pm.

Respectfully submitted,

Marilyn K. Bassett