



Town Of Sandwich
THE OLDEST TOWN ON CAPE COD

BOARD OF APPEALS

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Minutes
June 10, 2014

FINAL COPY

7:00pm

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

Also Present: Nathan Jones, Town Planner and Paul Spiro, Building Inspector

TOWN CLERK
TOWN OF SANDWICH

JUN 25 2014

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RECEIVED & RECORDED

Approval of Minutes

There were no minutes to approve.

Special Permit #14-09

23 Jarves Street

MacDonald (Arnold)

Mr. Mitchell read the Public Hearing Notice into the record. He also read the following letters into the record:

- Planning Board, William Burbank, Chair, dated June 4, 2010
- Sandwich Fire Department, J.J. Burke, Deputy Fire Chief, letter dated June 2, 2014
- Sandwich Conservation Commission, David DeConto, Asst. Director DNR, letter dated May 23, 2014

Mr. and Mrs. Arnold were present. Mrs. Arnold told the Board that they were unaware that they needed a permit from the Zoning Board for this shed. Mr. Arnold told the Board that Historic District Committee had previously granted them a permit about 2 1/2 years ago, and they thought that was all that was necessary. Mr. Jensen asked the Arnolds the purpose of the shed. He responded that they plan to rent it out to an artist from May to September. Mr. Mitchell asked if there was electricity to the shed, insulation, and what was the foundation. Mr. Arnold said there is electricity that is not hooked up yet, no insulation, and the foundation is blocks. Mr. Spiro explained that while the Historic permit is still in place, this committee has no jurisdiction over the placement of the shed. He made a visit to the business and spoke to the owners. At that time he told them to stop all work regarding the shed; they needed to obtain a building permit or express permit.

Mr. Arnold is hopeful that by having this shed rented out to an artist will help draw more people and business to Jarves Street. Mr. Killion said there is not a definition of "shed" in the zoning by-laws. Mr. Spiro said this would fall under an accessory use. Mr. Jensen wondered how hard it will be to move the shed. The shed needs to be located 30' from the front property line; it is currently 15' from the street according to Mr. Arnold.

Mr. Mitchell opened the meeting up for public comment. There was none.

Mr. Jensen motioned to close the public hearing for Special Permit #14-09. Mr. Schrader seconded. The vote was unanimous.

Special Permit #14-70 and Variance 314-08

349 Route 6A

Kutil

Mr. Killion suggested that these hearings be opened together. The Board concurred.

Mr. Mitchell read the public hearing notices into the record. He also read the following letters into the record:

- Peter Wack, Police Chief, Sandwich Police Department, letter dated June 9, 2014
- J.J. Burke, Deputy Fire Chief, Sandwich Fire Department, letter dated June 4, 2014

- Jeff Rose, Asst. Superintendent, Sandwich Water District, letter dated June 3, 2014
- David DeConto, Asst. Director, DNR, for Conservation Commission, letter dated May 23, 2014

Atty. Ed Pare, AT&T, Robert Watson, Consultant, and Amjad MD, Radio Frequency Engineer, were present for the applicants. Atty. Pare told the Board that AT&T had been approached by several businesses because there is no cell service along this section of Route 6A. They have lost customers and there is great concern over the inability to call 911 from cell phones. AT&T is proposing to place a 75' above ground level stealth monopole-style flagpole tower with six concealed panel antennas at 70' and 60' above ground level along with related amplifiers, cables, fiber and other associated antenna equipment. Other associated electronic equipment and emergency backup power generator are also proposed. These will be housed in a screened, fenced shelter. The proposed placement is in the rear of the property near the railroad line.

Mr. Jensen asked about the fall zone. Atty. Pare told the Board that with a 75' pole, the fall zone would be a 75' radius which is indicated on the plan. Mr. Killion asked about noise. HVAC will be running, there would be the emergency generator when needed. This is 50kw diesel powered generator. Atty. Pare said that the generator would be exercised weekly during regular business hours. Mr. Spiro noted that there is a utility easement on the plans. Atty. Pare said it is proposed that the utilities will be run underground. Mr. Mitchell wondered about the maintenance once the tower is operational. It should be pretty minimal; there are safeguards that will send alerts if anything goes wrong. Other points that were made are as follows:

- Antenna will be changed as updates become available
- Verizon and Sprint are expected to also use the tower
- There are no railroad electronics to interfere with the operation of the tower
- There are no lights except for the ones in the shed
- Normally the Planning Board is the permitting authority for cell towers but this installation is outside of the overlay district and is considered an extension of a pre-existing, nonconforming use at Scenic Roots
- There cannot be a use variance issued since it is not in the bylaws.

Mr. Mitchell opened the meeting for public comment. The following addressed the Board:

- Michel Mangalo, Spring Hill Motor Lodge was concerned that this tower might lower the value of his property should he want to sell it. Atty. Pare assured him that this would not negatively affect his property, in fact, it would most likely be the opposite
- Mr. Mangalo's brother spoke to his concerns for the electromagnetic wave affecting health. Atty. Pare answered that there is an MPE study, under the jurisdiction of the FCC, that says there is very little impact to health because of the very low power.
- Brian Clifford, Earl of Sandwich Motel, spoke in favor
- Tim Reardon, 64 Spring Hill Road, was also very much in favor
- Donna Kutil, Scenic Roots, applicant, said that other businesses had talked with her about the affect on business because there was no cell service in the area.

Atty. Pare, in closing, reviewed the Telecommunication Act of 1996 which basically trumps local zoning laws. He wants to work with the Board to find the best possible outcome to be able to have the cell tower permitted.

Mr. Jensen made a motion to close the public hearing for both the Special Permit #14-07 and Variance #14-08 for 349 Route 6A. Mr. Schrader seconded. The vote was unanimous.

Deliberation

Special Permit #14-09

23 Jarves Street

The Board reviewed and discussed 23 Jarves Street, Special Permit #14-09. The Board unanimously voted to deny the Special Permit. The decision is on file in the Board of Appeals public records at the Planning and Development office.

Special Permit #14-07; Variance #14-08

349 Route 6A

Kutil

The Board reviewed and discussed 349 Route 6A, Special Permit and Variance. The Board unanimously voted to grant both the Special Permit 314-07 and Variance #214-08. The decisions are on file in the Board of Appeals public records at the Planning and Development office.

Board Reorganization

Mr. Neeven nominated Mr. Killion as Chair. Mr. Jensen seconded. The vote was unanimous. Mr. Schrader nominated Mr. Jensen as Vice Chair. Mr. VanBuskirk seconded. The vote was unanimous.

Board Discussion

Mr. Mitchell told the Board that the 375 Committee is looking for volunteers for the Heritage Days celebration.

Mr. Schrader moved to adjourn. Mr. Neeven seconded. The meeting adjourned at 9:10pm.

Respectfully submitted,

Marilyn K. Bassett