



Town Of Sandwich

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BOARD OF APPEALS

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NOV 26 2014

Minutes
October 28, 2014

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7:00pm

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

Also Present: Blair Haney, Director of Planning and Economic Development, Paul Spiro, Building Inspector, and Sam Jensen, Asst. Town Engineer

Approval of Minutes

Mr. Jensen moved to accept the minutes of August 12, 2014 as written. Mr. Neeven seconded. The vote was unanimous.

Special Permit #14-12

244 Route 6A

Swain Nominee Trust

Mr. Killion read the Public Hearing Notice into the record. The following comment letters were also read into the record:

- Sandwich Fire Department, Daniel Keane, Fire Prevention Officer, letter dated October 15, 2014
- Sandwich Water District, Jeff Rose, Asst. Superintendent, letter dated October 15, 2014

Applicant Ellen Swain and Atty. Jonathan Fitch were present. Atty. Fitch referred to a recorded plan from 2006 showing the corner lot, 244 Route 6A, and a 5,260 sq. ft. lot noted as Lot C1. 244 Route 6A is currently a pre-existing, lawful nonconforming lot containing 40,555 sq. ft. and the site of two cottages. This lot was created in 1946. In order for the applicant to be able to sell the property, Lot C1 needs to be added to the corner lot by Special Permit. Atty. Fitch told the Board that there are no easements on Lot C1. Mr. Spiro said that he had encouraged the applicant to come before the Board requesting a Special Permit.

Mr. Killion opened the meeting for public comment.

- Betty Allen, 252 Route 6A and Tom Ellis, 253 Route 6A both spoke in support of the proposed plan.

There was no further comment.

Mr. Jensen motioned to close the Public Hearing for Special Permit #14-12. Mr. Neeven seconded. The vote was unanimous.

Special Permit #14-14

24 Shore Drive

Brumfield

Mr. Killion read the Public Hearing Notice into the record. The following comment letters were also read into the record:

- Sandwich Fire Department, Daniel Keane, Fire Prevention Officer, letter dated October 15, 2014
- Sandwich Conservation Commission, David DeConto, Asst. Director, Department of Natural Resources, letter dated October 9, 2014
- Sandwich Water District, Jeff Rose, Asst. Superintendent, letter dated October 15, 2014

Bart Brumfield was present for the applicant, Amanda Brumfield. The applicant is requesting a permit to replace an 8 ft. deck with a 10 ft. deck and reduce the front yard setback for the property to 26 ft. This would bring the new deck up to the standard of the community. The deck would be behind the retaining wall, a good 45 ft. from the road. Mr. Mitchell said he had visited the property and the neighbors have decks easily 5 ft. into the setback.

Mr. Killion opened the meeting for public comment. Stephen Lakis, 25 Shore Drive, spoke in support of the applicant.

There was no further comment.

Mr. Jensen motioned to close the Public Hearing for Special Permit #14-14. Mr. Mitchell seconded. The vote was unanimous.

ADBI #14-13
67 Grove Street
Stanton

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Mr. Killion read the Public Hearing notice into the record.

Mr. Carlo Dipersio, 11 Morgan Trail, addressed the Board after passing out a packet of information to the Board. He reviewed the information in the packet he distributed to the Board. He also spoke to the "Dover Amendment" reminding the Board that a proposal under this amendment must be educational and the entity must be non-profit. He voiced concerns with increased traffic and parking. Mr. Killion asked him how he would characterize traffic now. Mr. Dipersio answered that it is medium with speed about 35mph.

Mr. Donald Stainbrook, 2 Faunce Mountain Road, also passed out a packet of information focusing on Outdoor Ventures who is partnering with Heritage Museum and Gardens in the proposed aerial adventure. He noted that this location in Sandwich is the only one to be sited in a residential neighborhood. He concluded by again stating that the proposed aerial adventure is an amusement, and not educational in nature.

Ms. Erin Sullivan, 7 Jonathan Lane, brought the Board's attention her research into state filings which show that Heritage has formed two new LLC's. One sets up Heritage as an investor in the aerial park; the other is a partnership between Heritage and Outdoor Adventures to operate the aerial park.

Mr. Dipersio gave closing remarks to the Board. Mr. Stanton, the applicant, asked the Board to go by the rules and laws of the Town of Sandwich.

Mr. Spiro, Inspector of Buildings, spoke to the Site Plan Review held in March to review preliminary plans for the aerial park at Heritage. He said that there were no particular issues raised at that meeting. On March 27th he and Nate Jones, then Town Planner, met with Atty. Eliza Cox and Ellen Spear, President and CEO of Heritage Museum and Gardens regarding zoning. The next day he received a letter from Atty. Cox recapping the meeting. He then told the Board that when the Building Permit application came in to his office he determined that, in his opinion, the zip line could be educational and that the Dover Amendment could apply and that the zip line could be a by right use in the R-1 District. Mr. Killion asked him if he was aware of the involvement of Outdoor Ventures when he issued the Building Permit. He said that typically his office does not go to great investigative lengths when issuing building permits such as contacting the Secretary of State.

Atty. Eliza Cox was present for Heritage Museum and Gardens with Atty. Matt Snell and Ellen Spear. She assured the Board that the proposed aerial park use was allowed under the Dover Amendment. She also told the Board that the Building Permit correctly identified the location of the project. Earlier there was a brief discussion the incorrect lot # had been used to generate a list of abutters for the Historic District Committee meeting. Ms. Cox also stated that the proposed aerial park is not an amusement park.

Ms. Ellen Spear then addressed the Board. She said that museums are moving away from static displays to more interactive and physical displays. She assured the Board that Heritage was aware of its purpose to use its resources to inspire visitors of all ages. She explained the full range of the proposed aerial adventure for the Board.

Mr. Killion opened the meeting for public opinion. The following residents spoke:

- Carl Johansen, 28 Oxford Road, questioned the legality of the proposed project for a non-profit entity
- Paul Egley, 47 Highview Drive, also opposed, would like to see expanded community marketing
- Joanne Sykes, 6 Jedediah's Path, spoke in favor of the proposed project and the benefit to the youth and families of Sandwich
- W. Robert Wentworth, 50 Highview Drive, spoke against
- Charles Kleecamp, 20 Water Street, opposed, would like to see the Zipline installed at a different location in Sandwich
- Jeanne Hamilton, 38 Route 6A, in favor, citing rich educational experiences throughout the years
- Jonathan Fitch, 24 Grove Street, had a procedural comment, as he feels the Building Permit was issued prematurely and Heritage should have applied for a Special Permit
- Thomas Rockwell, 3 Meeting House Circle, on the Board at Heritage, spoke to time and effort that went in to planning the aerial park, and is in favor

There were no further comments.

Mr. Jensen motioned to close the Public Hearing for ADBI #14-13 and take it under advisement. Mr. Neeven seconded. The vote was unanimous.

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Board Discussion

2 Wellfield Road

Ron Landry came before the Board to ask informally about his need to apply for a variance. He proposes to convert a one car garage into a two car garage that will be attached to the house. He will ask for a 3.5' variance on a 20' setback. The Board encouraged him to file a variance application.

Board Deliberation

67 Grove Street

The Board reviewed and discussed 67 Grove Street, ADBI #14-13. The Board voted to deny the Appeal of the Building Inspector. The decision is on file in the Board of Appeals public records at the Planning and Development office.

244 Route 6A

The Board reviewed and discussed 244 Route 6A, Special Permit #14-12. The Board voted to grant the Special Permit with conditions. The decision, findings, and conditions are on file in the Planning and Development Office.

24 Shore Drive

The Board reviewed and discussed 24 Shore Drive, Special Permit #14-14. The Board voted to grant the Special Permit with conditions. The decision, findings, and conditions are on file in the Planning and Development Office.

Mr. Neeven moved to adjourn. Mr. Mitchell seconded. The meeting adjourned at 10:08pm.

Respectfully submitted,

Marilyn K. Bassett