



BOARD OF APPEALS

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**FINAL COPY**

**February 23, 2016  
Minutes**

TOWN CLERK  
TOWN OF SANDWICH

MAR 09 2016

12 H 10 M P M S  
RECEIVED & RECORDED

7:00pm  
Upper Meeting Room  
270 Quaker Meetinghouse Road

**Present:** James Killion, Chair, Robert Jensen, Vice Chair, Harold Mitchell, and David Schrader

**Absent:** Christopher Neeven and Erik VanBuskirk

**Also Present:** Blair Haney, Director, Josh Peters, Asst. Town Planner, and Paul Spiro, Building Inspector

**Approval of Minutes**

Mr. Jensen moved to accept the minutes of the meeting held January 12, 2016 as written. Mr. Schrader seconded. The vote was unanimous.

**Special Permit #16-01**

**145 Route 130**

**PJR Realty Trust**

Mr. Killion read the Public Hearing notice into the record. He read the following comment letter into the record:

- John J. Burke, Deputy Fire Chief, SFD, letter dated January 19, 2016

Mr. and Mrs. Russo, applicants, and Jonathan Fitch, attorney, were present. Mr. Fitch reviewed the application and gave a brief history of the property. Russo Garden Center has been in business for 43 years at this location. It is currently zone R2 in a Water Resource Overlay District with a total frontage of 387' +/- on Route 130. The Special Permit application is for a home on the back of the 17A site which currently has one principal building. The bylaws allow for two dwellings on a lot – the Special Permit can be conditioned that no further dwellings would be permitted on the site. Mr. Russo is looking to eliminate his commute and have added security for the property. This application does meet the standards for a Special Permit. Atty. Fitch believes this application is within the spirit and intent of the by-law. He also suggested that this application would be valid under Section 2400, Non-Conforming Uses.

In response to a question by Mr. Killion, Mr. Russo said that the buildings shown are small, temporary storage buildings. Mr. Mitchell was concerned about the distance off the street of the proposed dwelling for fire safety and other issues. Mr. Killion pointed out that is not the purview of the Board under the Special Permit section of the by-laws.

Mr. Killion opened the meeting for public comment. There was none.

Mr. Mitchell motioned to close the public hearing for Special Permit application #16-01, 145 Route 130. Mr. Jensen seconded. The vote was unanimous.

### **43 Chase Road**

#### **Affordable Housing Documents**

Mr. Killion read the letter from Town Counsel into the record. The Board then signed the submitted documents:

- Regulatory Agreement
- Affordable Housing Monitoring Services Agreement
- Limited Dividend Monitoring Services Agreement

These documents will now go to the Board of Selectmen for signature.

### **Board Discussion**

#### **Cape Cod Biofuel**

##### **14B Jan Sebastian Drive**

Atty. Tim McNamara, Andrew Davison, and Jim Chace were present for the discussion. The wording of Finding #11 and Condition #4 in Special Permit #10-06 issued on August 24, 2010 are the reason for coming in for an informal discussion with the Board. Atty. McNamara assured the Board that the company has not changed anything, but the wording in the Special Permit has arisen as the result of the necessity of renewing its storage permit. The owners would like to know if the above changes could be by minor modification to the Special Permit or would a public hearing for a major modification be required. Mr. Davison explained that there are no double wall tanker trailers as referenced in the Special Permit. The Board asked several questions:

- Typical duration that tanker sits outside – continuous and always connected to the building
- Grounding and security of tanker – tanker is well-grounded, all valves shut off and locked with fencing proposed around the property in the future – Deputy Fire Chief James Burke also mentioned that since the tanker is not on the road, it might need to be buffered
- Is only change to licensing – Yes, there is a meeting with the Board of Selectmen in March to issue the license
- Any guidance from the Fire Department – Mr. Burke suggested that the Board look at the entire licensing, Fire Department prefers a trailer for methanol storage because it is highly flammable and needs checks and balances

Donald Campbell, Fire Protection Officer, SFD, read a fact paper on methanol and its proper storage. Human error and production issues are two points that keep coming up.

Mr. Spiro then addressed the Board explaining that this question came up in the Building Department when someone questioned the wording of a double wall tanker trailer in the Special Permit. Cape Cod Biofuels has conformed to the Special Permit with 7000 gallons of methanol/delivery. Mr. Spiro hopes that the Board can work out the wording, again, perhaps through a minor modification. In summary the Board concluded:

- There needs to be a correction of the language in the Special Permit #10-06
- A modification needs to be considered – dictated by requirements
- At the suggestion of Mr. Burke, us language that would allow for more flexibility as Town and State regulations change
- Applicant should submit a request for a minor modification to Special Permit #10-06

**Deliberation**

**145 Route 130**

**PJR Realty Trust**

There were four Board members present at the meeting this evening. Mr. Killion would like to hear from Mr. Neeven and Mr. VanBuskirk on this application before deliberating. Staff will make recordings available to both of them so that they may listen this meeting prior to the next scheduled meeting of the Board on March 8, 2016.

**Affordable Housing**

**Clipper Circle**

Mr. Haney reviewed the affordable subdivision for the Board. The Planning and Development researched the sales of property for Clipper Circle. 31 Clipper Circle was sold by the bank at market as the result of foreclosure. This is allowed under the foreclosure clause in the original documents. 17 Clipper Circle was modified from a moderate income property to a low income property. Given the selling price of the market rate home, the two sales are basically a wash.

Mr. Jensen moved to adjourn the meeting. Mr. Mitchell seconded. The vote was unanimous. The meeting adjourned at 8:13pm.

Respectfully submitted,

Marilyn K. Bassett