Town Of Sandwich

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May 10, 2016
Minutes

FINAL COPY

7:00pm
Upper Meeting Room
270 Quaker Meetinghouse Road

Present: James Killion, Chair, Robert Jensen, Vice Chair, Christopher Neeven, Erik VanBuskirk and Gerald Nye
Absent: David Schrader
Also Present: Josh Peters, Asst. Town Planner and Paul Spiro, Building Inspector

Approval of Minutes
Mr. Jensen moved to accept the minutes of the meeting held April 12, 2016 as written. Mr. Neeven seconded. The vote was unanimous.

Special Permit #09-12, Special Permit Amendments #10-01 & #15-05
68&82 Roos Road- Extention of Time to Act
Cathy Walter and Michael Karl

Atty. Gerald Garnick was present for the applicant. He explained to the Board that a settlement still has not been reached between his client and their neighbors. Mr. Karl and Ms. Walter are coming before the Board to request an extension of their Special Permit (#09-12) and Special Permit Amendments (#15-05 and #10-01). They would like the Board to take a vote stating that the Special Permit will not start until all litigation is settled. Mr. Killion requested that they submit the language upon which to take the vote. Mr. Killion opened the meeting for public comment. There was none.

Mr. Jensen moved to table the agenda item for #09-12 for 68 & 82 Roos Road until the language has been drafted. Mr. Neeven seconded. The vote was unanimous.

Special Permit #16-05
12 Tabor Road
Daniel Kot

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

Mr. and Mrs. Kot, property owners, were present. They discussed the need for an 8 foot fence along the back and sides of their property for privacy and keeping their dog safe. The neighbors directly behind them at 7 Bedford Place have a walkout basement with a first floor deck that sits above the property and allows them to look directly into the Kot's backyard. The abutters had clear cut approximately 15 feet of privacy hedges that had once provided a buffer

between the two properties. Mr. Kot had asked them to have a survey done prior to clear cutting, but the neighbors did not oblige. Once Mr. Kot had his own survey done, it was apparent the neighbors had cut foliage that was on his property. Mr. Killion and Mr. Jensen asked for additional clarification as to where the fence would be located. Mrs. Kot explained that if would be an 8 foot fence along the back of the property and along the two sides. The two sides would transition to 6 feet. Each neighbor beside and behind the Kot's have given approval for the project. Mr. Nye questioned the fence boundaries and Mr. and Mrs. Kot clarified on the plans that were provided. Mr. Jensen asked Mr. Spiro whether a 6 inch setback was a town bylaw. Mr. Spiro responded that it is not a bylaw, but more of a courtesy to neighbors in order to prevent future disputes. Mr. Killion opened the meeting for public comment. There was none.

Mr. Jensen made a motion to close the Public Hearing for Special Permit #16-05. Mr. Neeven seconded. The vote was unanimous.

Special Permit #16-06
420 Quaker Meeting House Road
Julie Senna

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

- David DeConto, Asst. Director, Dept. of Natural Resources, letter dated April 20, 2016

Mr. Steve Senna, applicant, was present. He explained that he and his ex-wife, Julie Senna, both resided at 420 Quaker Meeting House Road up until their divorce. They raised their family in the original 1800's hunting cabin that was the only dwelling on the property when they purchased it. Eventually, they built the Colonial house that is considered the primary dwelling. The hunting cabin is now considered a "barn". Mr. Senna resides in Dennis, but would like to move back to Sandwich to be closer to his kids. Unfortunately he is not able to purchase his own home, but it came to his attention that under Section 2540 of the Zoning By-Laws, he could apply for a Special Permit to build a second principal dwelling on the same lot. According to Mr. Jensen, the property meets all dimensional requirements (lot size 130,000 sq. feet, front set back 56 feet and side set back 62 feet) required to issue the Special Permit. Mr. Spiro reminded Mr. Senna that upon issuance of the Special Permit, he needs to make sure and follow the proper channels through the Board of Health, Conservation, and Historic for the building permit.

Mr. Killion opened the meeting for public comment. The following people spoke:

- Roger Willmott, 430 Quaker Meeting House Road, was concerned about the recent survey that was done on Mr. Senna's property. There weren't any new surveyor flags placed on his property. Mr. Killion responded that the survey was done on March 24, 2016 and that flags aren't necessarily placed after a survey is completed. Mr. Willmott questioned his property line that abuts the northwest corner of Mr. Senna's property and claims that a chain link fence placed there years ago is actually on his property. Mr. Killion explained that this Public Hearing wasn't about disputing property lines. If that was an issue, it would have to be settled in land court. Mr. Willmott was also concerned that the "barn" on the property isn't really a barn, it's a dwelling. He believes that if the Special Permit is granted, Mr. Senna would be building a third dwelling.

- Craig LaScola, 344 Route 6A, is all for the project, but is also concerned with the so-called barn. He believes it was never legally deemed a "barn" and feels that if the Special Permit is granted, a condition should be made requiring Mr. Senna to tear it down prior to building the 2nd accessory dwelling. Mr. Jensen and Mr. Van Buskirk explained that the Board of Appeals does not have the right to tell someone to tear down a structure. It's not in the scope of the ZBA.
- Diane Barrett, 348 Route 6A, also supports his plan, but is concerned with the dilapidated barn. She questioned what is considered a second accessory dwelling and the Board explained that it must be a single family home, but as far as what Mr. Senna does with it, it's up to him. It could eventually become a rental property.
- David Connolly, 416 Quaker Meeting House Road, questioned how close the 2nd dwelling would be to his house. Mr. Killion responded that it would be over 100 feet away from his property line. Mr. Senna said he was going to keep a wooded buffer for privacy and that if any of the neighbors had concern, he would work with them to the best of his ability.

Mr. Jensen made a motion to close the Public Hearing for Special Permit #16-06. Mr. Neeven seconded. The vote was unanimous.

Special Permit #09-12, Special Permit Amendments #10-01 & #15-05
68&82 Roos Road- Extension of Time to Act
Cathy Walter and Michael Karl

Aty. Garnick came back before the Board with the language he drafted for the extension of time to act. Mr. Killion read the new language into record. After a few modifications, Mr. Jensen made a motion of accept the language. Mr. Neeven seconded. The vote was unanimous.

Board Discussion:

- **Dan Marsters**
  Section 4340

  Mr. Marsters wanted to come before the Board to discuss a project he was working on at 2 Beach Plum Circle. A small portion of the lot lies below the base flood elevation. Because of this, per Section 4340 of the Zoning By-Laws, a Special Permit is required for land to be excavated or filled. Mr. Marsters explained that all of the building structures would be outside of the flood zone, but he would need to add fill to the right side of the lot which is in the flood zone. Before he proceeds, he wanted to see if a Special Permit was required. Mr. Neeven asked how much fill he needed and Mr. Marsters responded that he estimates he will need about 120-160 yards of fill. Mr. Killion asked if this will affect the health and safety of the occupant. Mr. Marsters replied no. Mr. Killion said the project would in fact require a Special Permit.

- **Timothy Kane**
  48 Old Fields Road

Mr. Kane wanted to come before the Board to discuss the possibility of obtaining a Variance. He is looking to purchase his Uncle's home and would like to add an attached garage to the left side of the house. Apparently, this house is the only one on the street that does not have a garage. The house lies in the R-2 zoning district which requires a 20 foot setback. He's looking for a Variance for a 16 foot setback. The Board asked him about building the garage on the opposite side of the house. Mr. Kane explained that if he were to do that, he'd have to completely reconfigure the inside layout. They also asked about building a detached garage on the right side of the house, towards the back of the property where he would have more space. Mr. Kane said that's where the septic tank is located. Mr. Jensen said that in order to grant a Variance, the property owner would have to prove that a hardship is presented. Mr. Killion said if he chose to apply for a Variance, it would be one of the biggest that has ever gone before the Board.

Deliberation:
Special Permit #16-05
12 Tabor Road

The Board reviewed and discussed Special Permit #16-05. The Board voted unanimously to approve the Special Permit. The decisions, findings and conditions are on file in the Planning and Development office.

Deliberation:
Special Permit #16-06
420 Quaker Meeting House Road

The Board reviewed and discussed Special Permit #16-06. The Board voted unanimously to approve the Special Permit. The decisions, findings and conditions are on file in the Planning and Development office.

Mr. Jensen moved to adjourn the meeting. Mr. Neeven seconded. The vote was unanimous. The meeting adjourned at 8:17pm.

Respectfully Submitted,

Laura C. Watts