

Town Of Sandwich

THE OLDEST TOWN ON CAPE COD



BOARD OF APPEALS

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TOWN OF SANDWICH

JUN 29 2016

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June 14, 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, Paul Spiro, Building Inspector and Brenden Brides, Assistant Building Inspector

Approval of Minutes

Mr. Jensen moved to accept the minutes of the meeting held May 17, 2016 as written. Mr. Neeven seconded. The vote was unanimous.

Board Reorganization

Mr. Killion would like to reorganize the Board at the first meeting in July. Mr. Jensen made a motion. Mr. Neeven seconded. The vote was unanimous.

Special Permit #16-07

1 Jarves Street

MIYA Realty Trust

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

- Email from Donald Campbell, Fire Prevention Officer, dated May 19, 2016

Mr. Nye recused himself from the Public Hearing as he is a direct abutter to the property. Atty. Kevin Kirrane was present for the applicant. He explained the applicant, Martha Anderson, and the owner of the property at 1 Jarves Street as well as the owner of the Brown Jug, Michael Johnston, are friends. The Brown Jug is a small market/sandwich shop that is now offering pizzas. Patrons can purchase a pizza and sit in the courtyard that is located between the Brown Jug and 1 Jarves Street. Many customers have asked if wine is available to have with their pizza. Mr. Johnson currently holds a package license and state law prohibits him from also obtaining a pouring license. The applicant would like to create a service bar window at 1 Jarves Street and operate with a seasonal liquor license. The window would be located in the left rear corner of the building. Atty. Kirrane had already gone in front of the Historic district, and said no formal filing was required. He had also gone in front of the Board of Selectman and they voted to grant a seasonal liquor license. The location is approximately 300 square feet with a walk up window. No patrons will be allowed inside, it's strictly walk-up. Seating and tables are offered on the deck. Mr. Killion asked about the hours of operation and

Atty. Kirrane responded they would be the same as the Brown Jug, Noon – 10pm, 7 days per week during the peak months and Noon – 8pm during the off peak times. Mr. Jensen asked how many seats were available and Atty. Kirrane responded 28. Atty. Kirrane explained that this summer they will work on expanding the deck, but will not install the service bar until next season. He also said that this courtyard is virtually invisible from the street and blocked by a row of bushes. Any alcoholic beverages must be consumed on site, not taken off. The ABCC said they must install a fence so patrons can't walk off the property. The access to the patio will be through the Brown Jug. Mr. Killion opened the meeting for public comment. There was none.

Mr. Jensen made a motion to close the Public Hearing for Special Permit #16-07. Mr. Neeven seconded. The vote was unanimous.

Appeal the Decision of the Building Inspector - #16-08

598 Route 6A

Bruce and Scott Torrey

Mr. Scott Torey issued a statement the morning of the meeting, stating that he would like to open the Public Hearing at the next scheduled Board of Appeals meeting on June 28, 2016.

Special Permit #16-09

88 Main Street

Patricia Lewis and Peter Sullivan

Mr. Killion read the Public Hearing notice into record. Mr. Bill Fornaciari of BF Architects, Inc. was present for the applicant. The property owners had gotten an approval through the Historic District and then discovered a discrepancy in the initial property survey. The new addition of their master bathroom and closet went from conforming to nonconforming. Mr. Spiro commented that this is a classic 2420 (an extension of non-conformity) in the Town Bylaw's and that it is under the Board's purview to make sure the increase in non-conformity is still in compliance. Mr. Killion opened the meeting for public comment. There was none.

Mr. Jensen made a motion to close the Public Hearing for Special Permit #16-09. Mr. Neeven seconded. The vote was unanimous.

Special Permit #16-10

2 Beach Plum Circle

Dan and Joyce Marsters

Mr. Killion read the Public Hearing notice into record. Mr. Marsters came before the Board under section 4340, placing fill in a flood zone. He recently purchased the lot at 2 Beach Plum Circle and is building a house. He will need to place fill on one side of the foundation in order to obtain a natural grade. He had come before the Board at their last meeting on May 10, 2016 under board discussion to discuss the need for a Special Permit. Initially he had said he would need to add approximately 94 cubic yards of fill at a depth of 1 foot to an area approx. 2300 sq. feet. He submitted a new plan to the Board members that now requires up to 330 cubic yards of fill at a depth of 2 feet to cover an area approx. 4200 sq. feet. Mr. Marsters doesn't know if he will need that much, but he wants to make the request just in case. He has a building permit in place with a foundation elevation of 18 feet. He would like that to go to 18 ½ feet and will grade away from the foundation from 17 feet to 14 feet over a distance of 30 feet. Mr. Killion asked how much of the house is located in the flood zone and Mr. Marsters replied that only the shaded section on the Plan is in the flood zone. The house will be 5-7 feet away. Mr. Sprio asked Mr. Marsters if the garage foundation will also come up to 18 ½ feet

and he replied that yes it would. It would be proportionate to the house. Mr. Spiro requested Mr. Marsters bring in a copy of the new foundation plan to the Building Department. Mr. Killion opened the meeting for public comment. There was none.

Mr. Jensen made a motion to close the Public Hearing for Special Permit #16-10. Mr. Neeven seconded. The vote was unanimous.

Special Permit #16-11

13 Tupper Ave.

Dennis and Susan Driscoll

Mr. Killion read the Public Hearing notice into record. Mr. Steve Cook of Cotuit Bay Designs and Mr. Dennis Driscoll, property owner, were present. Mr. Cook explained the Driscoll's would like to add a two story deck on the rear of their house at 13 Tupper Ave to have a view of Cape Cod Bay. He gave a brief history of the lot and when it was created. The house is a split level and the deck will be attached to the upper level of the house with a second story above accessed by a spiral staircase. The applicant appeared in front of the Old King's Highway Historic District for approval, but then came to find out the lot is nonconforming. This is an issue of an extension of non-conformity under section 2420 of the Town Bylaws. Mr. Jensen asked about an existing deck shown on the Plan and Mr. Brides asked about the size. Mr. Cook replied the existing deck is detached, on grade and approx. 300 sq. feet. Mr. Spiro said this is not considered a structure. Mr. Cook said the new deck will be 17x12 feet with the second story having the same dimensions. Mr. Jensen asked about the height from grade and Mr. Cook explained it will be 17 feet from grade to the 2nd floor deck. Mr. Killion opened the meeting for public comment. There was none.

Mr. Jensen made a motion to close the Public Hearing for Special Permit #16-11. Mr. Neeven seconded. The vote was unanimous.

Board Discussion:

Marino

12 Pin Oak

Mr. Marino came before the board to discuss the possibility of getting a Variance to expand his one car garage into a two car garage. His lot was created in 1973 and there is a 20 foot side setback. If he were to build a 26x26 addition to his garage he would only be 6-7 feet off his neighbor at 10 Pin Oak. Mr. Jensen explained that this is very large variance and in order for the Board to grant it, three provisions need to be met. Mr. Marino explained that he is a Police Officer for the Town of Yarmouth and would like to eventually work with the k-9 unit. Because of that, he wants to be able to keep the police cruiser in a fully enclosed garage. He also explained that he has an attached 10 foot breezeway that could possibly be removed to allow the garage to be shifted closer to the house. This would only require a 4 foot Variance. The Board recommends he talk to a builder about removing the breezeway and then come back to them informally.

Aubuchon Realty Co.

Definitive Subdivision

The Board had no comment for the Planning Board in regards to the application.

Deliberation:

Special Permit #16-07

1 Jarves Street

The Board reviewed and discussed Special Permit #16-07. 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 #16-09

88 Main Street

The Board reviewed and discussed Special Permit #16-09. 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 #16-10

2 Beach Plum Circle

The Board reviewed and discussed Special Permit #16-10. 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 #16-11

13 Tupper Ave.

The Board reviewed and discussed Special Permit #16-11. 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 8:49pm.

Respectfully Submitted,

Laura C. Watts

Supporting Documents:

1. Memo from Donald Campbell, Fire Prevention Officer, dated May 19, 2016 (1 page)
2. Plan of proposed bar at 1 Jarves St., JB Designs, dated April 18, 2016 (2 pages)
3. Memo from Bruce Torrey, dated June 14, 2016 (1 page)
4. Plan for Lewis/Sullivan Residence, Bill Fornaciari Architects, Inc., dated February 12, 2016 (1 page)
5. Proposed septic system/site plan for 2 Beach Plum Circle, Engineering Works, Inc., dated May 15, 2016 (1 page)
6. New Addition/Remodeling for Driscoll Residence at 13 Tupper Ave., Cotuit Bay Designs LLC, dated May 19, 2016 (2 pages)
7. Pictures provided by applicant at 13 Tupper Ave., dated January 6, 2016 (3 pages)