

**Town Of Sandwich**  
THE OLDEST TOWN ON CAPE COD



**BOARD OF APPEALS**

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**FINAL COPY**

**June 28, 2016  
Minutes**

TOWN CLERK  
TOWN OF SANDWICH

JUL 14 2016

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**7:00pm  
Upper Meeting Room  
270 Quaker Meetinghouse Road**

**Present:** James Killion, Chair, Robert Jensen, Vice Chair, Christopher Neeven, Erik VanBuskirk, David Schrader 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 June 14, 2016 as written. Mr. Neeven seconded. The vote was unanimous.

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

**598 Route 6A**

**Bruce and Scott Torrey**

Mr. Torrey submitted a request to withdrawal his application without prejudice. The Board voted unanimously to grant the withdrawal.

**Variance #16-12**

**41 Dillingham Ave.**

**Richard and Sally Sharpe**

Mr. Killion read the Public Hearing notice into record. Atty. Brian Wall spoke on behalf of the applicants. He gave a brief history of the lot and explained that in 2014 the homeowner's came before the Board for a Special Permit to tear down the existing dwelling and rebuild. After the new house was constructed, the Sharpe's decided to construct a stone patio, fireplace and bar in the backyard of their property. Unfortunately Able Landscaping, the company hired to complete the work, was ignorant of the Town by-laws and were unaware the fireplace and bar were considered structures and because of this placed the structures past the rear and side setbacks. Mr. Francisco Ulloa of 26 Carman Avenue, an abutter directly behind the Sharpe's property, noticed the error and filed a complaint with the Building Department. The Building Department did a site visit and told the homeowners they would have to move the structures or file for a Variance with the Board of Appeals. The fireplace is 1.8 feet past the rear setback and the bar is 6 inches past the side setback and because of the expense to tear it down and move it such a short distance, the homeowner's felt applying for a Variance was a more practical first step. Able Landscaping offered to fix Mr. Ulloa's rear fence and they also planted a tree to block the stone fireplace which was directly visible from his backyard. Mr. Killion asked about the square footage of each structure. Atty. Wall responded the bar is approx. 78 square feet and the fireplace is about 50-60 square feet. Mr. Jensen said that the rear setback for this property is 6 feet so an encroachment of over 1 1/2 feet is about 30% of the setback.



Mr. Killion asked Mr. Spiro what would be considered an unusual lawn accessory and Mr. Spiro said "perhaps a bar." Mr. Killion believes both the bar and fireplace could be considered "unusual lawn accessories" and may not be structures. Mr. Jensen believes Able Landscaping could have easily moved the fireplace had they known about the setbacks. Mr. Killion inquired about the cost of the fireplace and bar and Atty. Wall said the stone itself is about \$9,000 not including labor to install. Mr. Spiro's final comments were that work typically done by landscapers does not require permits and Able Landscaping went out of their way to make it right with abutters. Mr. Killion opened the meeting for public comment. There was none.

Mr. Jensen made a motion to close the Public Hearing for Variance #16-12. Mr. Van Buskirk seconded. The vote was unanimous.

**Board Discussion:**

**Special Permit Spaulding Rehab Hospital**

**311 Service Road**

The only comment from the Board was regarding the proposed 7 foot fence around the solar structure. Mr. Killion would like the Planning Board to take into consideration the 6 foot fence bylaw and if need be, inform the applicant they will need a Special Permit from the Board of Appeals if they require a fence over 6 feet.

**Julia Walters**

**10 Pine Road, Forestdale**

Mr. Eric Lubrano spoke on behalf of the homeowner. He explained to the Board that the backyard is severely pitched and unusable. The homeowner would like to install an attached deck that would allow them to have usable space. He is looking for a 2 ½ foot side variance and a 10 foot back variance. The Board informed him that a 10 foot variance is very large and the Board typically does not grant variances this big.

**Deliberation:**

**Variance #16-12**

**41 Dillingham Ave.**

The Board reviewed and discussed Variance #16-12. The Board voted unanimously to approve the findings. They deemed the "structures" as "unusual lawn accessories" therefore a Variance would not be required. The findings are on file in the Planning & Development Office.

Mr. Neeven moved to adjourn the meeting. Mr. Jensen seconded. The vote was unanimous. The meeting adjourned at 7:42pm.

Respectfully Submitted,

Laura C. Watts

**Supporting Documents:**

1. Letter from Bruce Torrey, dated June 28, 2016 (1 page)
2. Plan of 41 Dillingham Ave., Down Cape Engineering, dated May 26, 2016 (1 page)
3. Pictures provided by applicant at 41 Dillingham Ave. (2 pages)