

Town Of Sandwich

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BOARD OF APPEALS

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August 23, 2016
Minutes

FINAL COPY

6:58pm

Upper Meeting Room

270 Quaker Meetinghouse Road

Present: Robert Jensen, Chair, Christopher Neeven, Erik VanBuskirk, David Schrader and Gerald Nye

Absent: James Killion, Vice-Chair

Also Present: Josh Peters, Asst. Town Planner, Paul Spiro, Building Inspector, and Brenden Brides, Asst. Building Inspector

Approval of Minutes

Mr. Schrader moved to accept the minutes of the meeting held July 26, 2016 as written. Mr. Neeven seconded. The vote was unanimous.

Board Discussion

Variance - Weeks Pond Drive – Assessors Map #5 Lots 138-140 (Landers-Cauley)

Mr. Jack Landers-Cauley, P.E. was present representing his client, Brian Corbett. Mr. Corbett is interested in purchasing three lots on the south side of Weeks Pond Drive with the intent to build one single family home. He had met with Mr. Spiro for a site plan review meeting about a month ago and prior to this Board meeting, he had filed a variance application with the Planning & Development Office. The topography of the three lots makes it very challenging to design a home that will meet all zoning requirements and fit in with the character of the neighborhood. The lots were created around 1975-76 and therefore will need to comply with zoning when they were created. The issue that has been the most difficult to satisfy is section 3710. This section states that if the principal floor elevation sits below the elevation of the road, the house must be set back from the pavement of the road 15 feet for every one foot below street elevation. This would mean the house would be about 150 feet away from the road. In the case of Mr. Corbett's lots, this would then infringe on the pond setback requirements which require that a principal structure be at least 50 feet from any fresh water pond. Mr. Cauley questioned the term "primary floor" that's used in the town by-law as he was unsure what "primary floor" meant. Mr. Spiro believes the spirit and intent of that word would mean the floor in which you enter your house. He went on to say the Board may need to clarify in its decision that this lot is meant for a spit-entry ranch where you enter the home and then walk up a set of stairs to the "primary floor". Mr. Jensen asked about the size of all three lots combined and Mr. Cauley replied that the lots are in the R2 zoning district and would measure about 72,000 square feet. Mr. Jensen asked Mr. Spiro if three lots are under common ownership, would a new lot be created. Mr. Spiro responded that under section 2550 the lots can be combined and the setbacks would be grandfathered as long as the change does not increase the actual or potential number of buildable lots. Mr. Neeven questioned Mr. Corbett's intent. If he hasn't even purchased the lots yet, how can he prove there is a financial



hardship? Mr. Cauley believes he can prove there is a financial hardship because in order for him to design a house that complies with zoning and avoid the need for a variance, he would need to include two large retaining walls and most likely triple pour the foundation to bring it up to grade. The backyard would be very small and there would be a 12 foot retaining wall that would drop off towards the pond. He estimates this to be anywhere from \$65-90,000 and the house would look out of character with the rest of the neighborhood. Mr. Schrader still does not see how he can prove there is financial hardship because the buyer knows the topography of the land prior to purchasing. Based on precedent, this would not satisfy the financial hardship requirement to obtain a variance.

Mr. Schrader moved to adjourn the meeting. Mr. Neeven seconded. The vote was unanimous. The meeting adjourned at 7:26pm.

Respectfully Submitted,

Laura C. Watts

Supporting Documents:

1. Site plan prepared for Brian Corbett, prepared by J.E. Landers-Cauley, P.E., dated June 2, 2016 (1 page)
2. Letter to Planning & Development Office from Jack Landers-Cauley, P.E., dated August 5, 2016 (2 pages)