

**ZONING BOARD OF APPEALS**

**TOWN OF PEMBROKE**

**MEETING MINUTES: AUGUST 19, 2019**

**BOARD MEMBERS PRESENT:** Frederick Casavant, Chairman; Christine Griffin, Vice-Chairman; James Gallagher, Clerk

**ALSO PRESENT:** Matthew Heins, Planning Board Assistant

**PUBLIC HEARING FOR VARIANCE CASE #21-19 AT 113 EDGEWATER DRIVE TO CONSTRUCT A TEN-FOOT FENCE ALONG THE PROPERTY BOUNDARY**

Mr. Casavant opened the public hearing for the requested variance (case #21-19) to construct a ten-foot-high fence along the property boundary at 113 Edgewater Drive.

Mark Puddister, the petitioner, was present, along with Susan Garrity. Mr. Puddister and Ms. Garrity explained that having a higher fence than normal (the zoning bylaw allows for a six-foot height on property lines and in setback areas) would be useful for privacy and safety in their circumstances. The fence would be about 100 to 150 feet long, and would run along a portion of the property line between their house and the adjacent house.

The board discussed the situation with Mr. Puddister and Ms. Garrity. Mr. Gallagher expressed resistance to allowing a higher fence than allowed by the zoning bylaw, and the other board members agreed. The board members felt that a six-foot-high fence should be adequate.

Mr. Puddister requested that the board allow the application to be withdrawn.

Ms. Griffin made a motion to allow the withdrawal of application #21-19 for a variance at 113 Edgewater Drive, Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

**PUBLIC HEARING FOR SPECIAL PERMIT CASE #22-19 AT 44 AND 46 FAIRVIEW AVENUE TO DEMOLISH AN EXISTING HOUSE AND CONSTRUCT A NEW HOUSE**

Mr. Casavant opened the public hearing for the requested special permit (case #22-19) to demolish an existing house and construct a new house at 44 and 46 Fairview Avenue.

Zach Ripatrzone, the applicant, was present, as were several abutters. In 2018 he received a special permit from the board for a similar project at 44 Fairview Avenue, but it was not built. Since then he has purchased the vacant property at 46 Fairview Avenue, and so the new proposal is for both lots, which Mr. Ripatrzone stated will eventually be merged into one property. The new proposed house would be on the 44 Fairview Avenue property. The new house would be slightly larger than the existing house.

The board members, Mr. Ripatrzone and some of the abutters discussed the property's septic system, the location of the proposed house, where the driveway (parking area) would be, and the possible impact of construction on the neighborhood.

Mr. Gallagher and Mr. Ripatrzone talked about the necessity to use hay bales to control runoff during construction. Further conversation took place about the septic system.

Ms. Griffin made a motion to close the public portion of the hearing for application #22-19, Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

Mr. Ripatrazzone said the two lots would be merged in late 2020 or early 2021. The board members opined that the project would be an improvement on the current condition.

Ms. Griffin made a motion to allow the application of Zach Ripatrazzone, P.O. Box 1217, Pembroke, requesting a special permit in accordance with the Zoning Bylaws of the Town of Pembroke, Section V.5., to construct a new single-family house and demolish an existing single-family house. The properties are located at 44 Fairview Avenue and 46 Fairview Avenue, Pembroke, in Residence District A and the Water Resource and Groundwater Protection District (Zone II) Overlay, as shown on Assessors' Map A6, Lot 169 and Map A6, Lot 170. This will be conditioned on the applicant building only one structure, to not have a garage. The applicant is to combine lots 44 and 46 no later than January of 2021. The applicant is to construct a parking area or driveway that does not impede Fairview or access to Thrasher. This is to be constructed in accordance with the plans submitted dated 7/8/2019. Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

**PUBLIC HEARING FOR SPECIAL PERMIT CASE #20-19 AT 3 SHORLEAF CIRCLE TO CONSTRUCT A GARAGE ADDITION TO AN EXISTING SINGLE FAMILY DWELLING**

Darrick Mello, one of the applicants for Case #20-19 at 3 Shortleaf Circle, had requested (in writing) that the board allow the application to be withdrawn. Neither of the applicants was present.

Ms. Griffin made a motion to allow the withdrawal of application #20-19 for a special permit of Darrick and Lisa Mello at 3 Shortleaf Circle, Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

**PUBLIC HEARING FOR SPECIAL PERMIT CASE #01-19 AT 171 MATTAKEESETT STREET FOR SPECIAL PERMIT AND/OR VARIANCE TO BUILD THREE 7,000-SQUARE-FOOT BUILDINGS**

Mr. Casavant re-opened the public hearing for the requested special permit case #01-19 at 171 Mattakeesett Street.

Darren Grady of Grady Consulting, the project engineer, and Kevin Welch, the developer, were present. Mr. Grady submitted a list of proposed uses to be allowed, which the board had previously requested.

Mr. Casavant and Mr. Welch talked about the business hours that would be allowed for the future commercial tenants. A discussion ensued about the progress made in fixing the building code and Fire Department violations. Mr. Casavant asked about the boat stored until recently on the grassy area along Mattakeesett Street, and Mr. Welch stressed that nothing will be placed in this area in the future.

Mr. Gallagher asked about the retention basin, and a detailed conversation with Mr. Grady took place about stormwater and drainage. Mr. Heins noted the Planning Board's role in this.

It was clarified that the most recent set of drawings for the project was submitted to the Planning Board on or around August 10. A dialogue took place about how to landscape the grassy area along Mattakeesett Street, i.e., the "front lawn" of the property, with arbor vitae.

Mr. Casavant closed the open portion of the hearing. The board members indicated they were generally in favor of the project at this point.

Ms. Griffin made a motion to allow the application of 171 Mattakeesett Street L.L.C., 283 Sawyer Street, New Bedford, MA 02746, requesting special permits and/or variances in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. IV.3.B.3, Sec. V.5.A. and/or Sec. VI.E., to build three new buildings, expand the parking area, and improve the stormwater drainage system, on a site that currently contains two existing buildings which will remain. The three proposed buildings would each be 7,000 square feet in size. The existing and proposed use of the site is warehouse, storage and industrial—that is to be clarified further. The property is located at 171 Mattakeesett Street, Pembroke, MA 02359, in the Business A Zone and the Water Resource and Groundwater Protection Overlay District, as shown on Assessors' Map B8, Lot 339.

[Ms. Griffin's motion continued...] The board makes the following conditions on this application: Hours are to be 6 am to 5 pm on weekdays, 8 am to 1 pm on weekend days. Uses shall be similar to those outlined in Mr. Grady's August 19, 2019, letter with list of uses. Uses prohibited in Section IV.8.E.1 (page 31 of the zoning bylaws) shall never be allowed. Uses allowed in the Business A Zone, Section IV.3.B. (page 18 of the zoning bylaws), shall be allowed to the extent they do not conflict with the Section IV.8.E.1 uses. All other Zoning Board of Appeals decisions remain in full force and effect, except to the extent they are modified or affected by this decision. There shall be no front outside storage on the Mattakeesett Street side. This shall be conditioned on full compliance with all building and safety codes. This will be built in accordance with the plans most recently submitted by Mr. Grady to the Planning Board on or about August 10, 2019. The owner shall plant screening of arbor vitae approximately four feet tall and two feet apart, continuing from the existing section of arbor vitae, in the northern section of the front lawn, and will also put in an approximate eight-foot half-moon mulch bed at the corner of the northerly lawn and the driveway, with a tree to reach a height of approximately twelve to fifteen feet.

Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

#### **DISCUSSION ABOUT POSSIBILITY OF FOUR-BEDROOM HOUSES AT COPPERWOOD 40B PROJECT LOCATED OFF BIRCH STREET**

Mr. Casavant opened the discussion about the Copperwood 40b subdivision of single-family houses, located off Birch Street. The developer's representative Eoghan Kelley was present, as was the developer's attorney Christopher Agostino, and engineer Christopher Sanderson of Merrill Engineers and Land Surveyors.

Mr. Casavant explained that the Zoning Board of Appeals was assuming that two- and three-bedroom houses were specified in the plan for the project, though the board had no objection to a few four-bedroom houses being in the project. Mr. Agostino stated that he believes the plans do not control in this regard, but that perhaps some upper limit would be feasible provided it were not conditional. Mr. Kelley said that they would be interested in having about six four-bedroom houses on the remaining lots, and this would satisfy the concerns of the board's engineer, Paul Brogna, about "stacking" the four-bedroom houses.

Mr. Agostino asked if a determination could be made about the conditions, because he believes there is no condition limiting the size to three bedrooms. He suggested that Mr. Brogna be given parameters to work within, and he argued that the original intent was flexibility.

Mr. Kelley noted they have one buyer who is interested in a four-bedroom house, and asked that this be allowed now. Further conversation followed. Mr. Casavant emphasized the importance of getting Mr. Brogna's input. Mr. Casavant said that he had no objection to allowing one four-bedroom house at this time.

Mr. Kelley clarified that he is requesting that six of the remaining nineteen lots be allowed to have four-bedroom houses on them. Discussion followed. Mr. Kelley explained that the four-bedroom house they wish to build now would be on Lot 9. Mr. Casavant suggested Mr. Brogna review this, but Mr. Agostino expressed concern about the parameters of Mr. Brogna's review. Further dialogue ensued.

Mr. Agostino and Mr. Kelley urged that Mr. Brogna should only review on the basis of Title 5 and stormwater management.

Ms. Griffin made a motion to partially allow the request for clarification to allow the construction of one four-bedroom house on Lot 175/Builder's Lot 9, subject to Mr. Brogna's certification that the construction complies with both Title 5 and stormwater. The remainder of this is to be continued to September 23, 2019.

A discussion took place about the project in general, how it is progressing, and the possibility that a four-bedroom house may be classified as affordable.

The motion being on the table, Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

#### **ADMINISTRATIVE ACTION: VOTE TO APPROVE PREVIOUS MEETING MINUTES**

Ms. Griffin made a motion to approve the meeting minutes of June 3, 2019, and August 5, 2019. Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

#### **DISCUSSION ABOUT DEADLINE FOR COMPLETION OF CASE #28-17 AT 0 CRESCENT AVENUE**

Mr. Heins explained that in 2018 the board granted a one-year extension for Case #28-17 at 0 Crescent Avenue, but no paperwork was generated stating this, and now the applicant is scheduled to come before the board on September 23 to request another extension.

The meeting adjourned at approximately 8:40 pm.