

PEMBROKE ZONING BOARD OF APPEALS

MEETING MINUTES MARCH 18, 2019

BOARD MEMBERS PRESENT: Rick Casavant, Chairman; Christine Griffin, Vice Chairman; James Gallagher, Clerk

PUBLIC HEARING FOR SPECIAL PERMIT CASE #03-19 AT 41 STETSON AVE TO REMOVE AN EXISTING HOUSE AND BUILD A GARAGE

Mr. Casavant opened the public hearing for the requested special permit case #03-19 at 41 Stetson Ave, to remove an existing house and build a garage.

Mr. Thompson was present as the applicant. There were also two abutters present from 290 Plymouth Street, Mr. and Mrs. Reznik.

Mr. Thompson clarifies that the legal ad is incorrect; the house has been built as a result of a previously granted special permit. He explains he is looking to demolish the second house on the property to build a garage. The septic system has been installed since 2008.

Mr. Casavant confirms that Mr. Thompson is only looking for a special permit to build the garage. Mr. Gallagher confirms that the new garage would be ten feet away from the septic tank.

The footprint of the garage would be the same as the house that is being torn down. The deck shown on the plans has already been removed. Mr. Casavant opens it up to the abutters that are present. Mr. and Mrs. Reznik, of 290 Plymouth Street, came to get clarification of the project since the legal ad was incorrect. Mr. Thompson explains that he had a permit to remove the second dwelling in 2008 but a year passed and he failed to remove it within the one year timeframe, so he is back requesting permission to do so now. Mr. and Mrs. Reznik are in favor of the project.

All Board members are in favor of the project.

Ms. Griffin makes a motion to allow the application of Guy Thompson, 1300 Auburn Street, Whitman MA requesting a special permit in accordance with the zoning bylaws of the Town of Pembroke Section V, 5 nonconforming uses to demolish on existing single family dwelling to construct a detached garage. The property is located at 41 Stetson Ave, Pembroke. Mr. Gallagher seconded the motion, all Board members were in favor.

PUBLIC HEARING FOR USE VARIANCE (Sec. VI, E) CASE #04-19 AT 125 CENTER STREET TO OPERATE A BODY ART ESTABLISHMENT

Mr. Casavant opened the public hearing for the requested use variance case #04-19 at 125 Center Street, to open a body art establishment on the lower level of an existing commercial building.

Mr. Brian Morgan is present as the applicant, there are no abutters present.

Mr. Morgan explains he is looking to open a body art establishment in the basement of the 7-11 convenience store. He states that he has an experienced artist and that they would not do walk-ins at this time, no one would be hanging around the shop. He may possibly want to put a sign out front. Ms. Griffin asks why this location. Mr. Morgan says the site is out of sight, out of mind and a good location in town.

Mr. Gallagher makes sure there is enough parking in the rear for the business. He asks about the age requirement, Mr. Morgan states that they would only deal with 18+ individuals and would be checking identification for every person. Mr. Gallagher asks Mr. Casavant if this type of business is allowed in the Center Protection District. Mr. Casavant states that it is not, which is why the applicant is requesting a use variance.

Ms. Griffin states that there are two requirements to grant the variance; it must present a hardship to the applicant, as well as not be detrimental to the neighborhood. Mr. Casavant asks if there is anyone present for or against this application; Ms. Griffin states she received an email from an abutter at 220 Center Street, Ms. Keller, and she is in favor of the project.

Mr. Gallagher has no issue with the project. Ms. Griffin asks Mr. Morgan if he researched any locations within the four zones where this would be allowed. Mr. Morgan states that they did check two locations that did not work out in the Church Street area.

Mr. Casavant closes the open portion in order to discuss with Board members. Ms. Griffin states that she is fine with the second requirement of granting a use variance, that this would not be detrimental to the area, but she is concerned that not enough research was done at other locations where this type of establishment would be allowed for it to be considered a hardship. Mr. Gallagher confirms he has no issue with this. Ms. Griffin is unsure about nullifying the bylaw for this establishment if the criteria for granting a variance is not met. Mr. Casavant agrees and explains it to the applicant that the board does not disagree with the use. Ms. Griffin believes more research needs to be done to make sure there are no other open buildings in the allowed districts for this type of business.

Mr. Casavant informs the applicant that he can put it to a vote or withdraw his application as it does not appear he has met the criteria for granting a variance. Ms. Griffin suggests continuing this hearing until after another petition to give the applicant time to think about what he would like to do. Mr. Casavant recommends continuing the hearing until 8pm, all are in favor.

PUBLIC HEARING FOR SPECIAL PERMIT CASE #05-19 AT 16 FAIRVIEW AVE TO REMOVE AN EXISTING HOUSE AND BUILD A NEW HOUSE

Mr. Casavant opened the public hearing for the requested use variance case #05-19 at 16 Fairview Ave, to demolish an existing single family dwelling and construct a new single family dwelling in the center of the lot.

Mr. Joshua Pratti is present as the applicant. Mr. Badger of 24 Thrasher Street and Ms. Chapman of 26 Thrasher Street are present as abutters.

The applicant shows that the existing structure is not even within the lot lines; it is on the road. They would like to center a new single family home on the lot. All setbacks would be met except for one foot being short in the rear (25 feet required, there is only 24). The Board of Health has approved the septic system. Mr. Casavant asks the footprint size compared to the existing home, it is about the same.

The driveway will go under the house into a one car garage from the front of the house. Mr. Gallagher asks what the height of the house will be, the applicant explains it will be about twenty eight feet. It will be a two bedroom house.

Mr. Badger informs the Board that he is glad the existing house will be gone; concerned that Thrasher Street will be used for a driveway. Ms. Chapman also would like to see the driveway. The applicant goes over the plans with both abutters. Both abutters are in favor. Mr. Badger is concerned about the road being degraded more with construction vehicles as he has had to repair it many times. Ms. Chapman is also interested where construction would be set up. The applicant shows where an overgrown driveway is on the other side of the property and that is where vehicles will be set up.

Mr. Casavant asks the applicant to limit the construction passing through Thrasher. The applicant agrees, except for when they remove the existing the home as they will need to get to it. The conditions would be to limit construction on Thrasher and repair any holes that they may cause during removal of the existing home. The Board members are in favor of this project.

Ms. Griffin makes a motion to allow the application requesting the special permit with the conditions above, Mr. Gallagher seconds the motion, and all are in favor.

PUBLIC HEARING FOR USE VARIANCE (Sec. VI, E) CASE #04-19 AT 125 CENTER STREET TO OPERATE A BODY ART ESTABLISHMENT

Mr. Casavant reopens the hearing for the proposed body art establishment that had been continued earlier.

Mr. Morgan states that they did look in Corporate Park for possible locations and were denied. Also, they were told no on Oak Street. He states that 125 Center Street is the only location possible and the landlord is on board with the business. He would like to go for a vote from the Board.

Ms. Griffin is more inclined to grant since he has made a case that would involve hardship if he was not granted. Mr. Gallagher is fine with it as stated before. Mr. Casavant asks for a motion.

Ms. Griffin begins the motion to allow the use variance, realizes the property is also in Residential A in which a use variance would not be allowed. The Board discusses which zone it is in, decides that since it is in both, it cannot be granted. Mr. Gallagher seconds the denial, and all are in favor. The application is denied because of the Residential A zoning district in addition to the Center Protection District.

PUBLIC HEARING FOR SPECIAL PERMIT (SEC. V, 5) CASE #06-19 AT 50 PLYMOUTH STREET TO CONSTRUCT A SMALL ADDITION TO THE REAR OF AN EXISTING SINGLE FAMILY DWELLING

Mr. Casavant opened the public hearing for the requested special permit case #06-19 at 50 Plymouth Street to construct a small addition to the rear of an existing single family dwelling.

Mr. Botros is present as the applicant. Ms. Francis of 56 Plymouth Street is present as an abutter.

Mr. Botros explains that they would like to construct a small addition in the back of the house for their children to use as a playroom. He states that they have 141 feet of frontage and it is supposed to be 150 feet of frontage. Mr. Gallagher is satisfied with the setbacks and side lots, as well as the distance from the septic. He is in favor of the project. Ms. Griffin is also in favor of the project.

Mr. Casavant asks if any abutters are present, Ms. Noreen Francis of 56 Plymouth Street is present, she is the rear neighbor. Ms. Francis states she wanted clarification on the plans. Mr. Gallagher goes over the plans with Ms. Francis. Ms. Francis was concerned that it may become an illegal apartment. Mr. Botros assures her that it will not. Ms. Francis asks how the current trees may be affected; Mr. Botros

states they will not be affected. There is discussion about the deck and how far away it is and will be. Ms. Francis inquires how tall it will be, Mr. Botros states that it will be the same height as the house and the addition will be sixteen feet by twenty feet. She has no objections to the project.

Mr. Casavant closes the public portion of the meeting to deliberate. All Board members are fine with the project. Ms. Griffin makes a motion to allow the application, based on the drawings submitted on March 18, 2019, Mr. Gallagher seconds the motion, and all Board members are in favor.

PUBLIC HEARING FOR SPECIAL PERMIT AND/OR VARIANCE CASE #01-19 AT 171 MATTAKEESETT STREET

Mr. Casavant re-opens the hearing that was continued from February 25, 2019. Mr. Darren Grady is present representing the abutter. Mr. Grady summarizes the last hearing and states there was a letter sent from the property owner. The Board confirms. Mr. Grady informs the Board that he just met with the Planning Board; that hearing is continued to April 8, 2019 and there is a planned site walk this Saturday, March 23, 2019.

Mr. Grady states that his client would like to expand the uses of the other buildings on the property. Mr. Casavant discusses what zoning districts the property is in (Business and Water Protection). Mr. Casavant states that the uses Mr. Grady's client wants approved are not allowed in the Water Protection District. Mr. Casavant explains that you cannot alter and add new buildings with the prohibited uses in the district. Mr. Grady confirms that warehouse storage would be the only use allowed.

Mr. Gallagher comments that the plans have changed since the last meeting. Outflow has changed.

There is discussion about the new filtration system that would be put in on the property for the buildings. Mr. Casavant asks Mr. Grady to state what uses his client is proposing for these buildings. Mr. Grady states that his client is looking for warehouse storage and industrial use. There is discussion about industrial use not being defined, and it would need to be. Marine work cannot be granted in this district, as per the last meeting. Mr. Casavant reiterates that none of the prohibited uses can be allowed in this district, if that is what Mr. Welch is looking to do. The Board needs to know what industrial use is for the purpose of this application, as there are prohibited uses.

The Board agrees that storage and garaging would be fine in these districts, no work on boats or cars is allowed. The Board states that the repair of vehicles variance cannot be granted. Impervious cover is satisfied. The new buildings would only be allowed to be used for storage. Mr. Gallagher agrees that storage only, he would approve.

Mr. Gallagher asks for clarification on where the outflow water will be going, to make sure it does not flow on someone's property. Mr. Grady explains that it would not; there is an infiltration system. Mr. Grady explains that there is conservation land abutting this property.

Mr. Casavant opens the public portion of the meeting. Mr. Macdonald of 54 Wintergreen Farm, asks why if the applicant is storing all the boats outside now, would he want to build new buildings for storage. He states that he thinks there will be working/painting on the boats inside these new buildings. Ms. Mont, 48 Wintergreen Farm, states that at the Planning Board meeting, Mr. Grady stated all work would be done inside the building, but at this meeting he stated that there would be no work done. Mr. Casavant explains what is allowed and what is not in these districts, and if the permit was allowed, the

new buildings would be limited to storage only. Ms. Mont states that the boats are stored on gravel now and if they are leaking it can seep into the ground. Mr. Grady confirms that there are boats stored outside currently; he may have misspoke at the Planning Board meeting as the use subject applies to Zoning not Planning. Ms. Mont discusses the floor drains in the new buildings; the Board states that floor drains are not allowed in this district.

Mr. Grady confirms he would need to remove the floor drains as they are not allowed. There is discussion about the pre-existing buildings and floor drains; Mr. Casavant explains they cannot enforce something that was done by a previous Board.

Mr. Dimaio of 60 Wintergreen Farm, states that at the Planning Board meeting, uses other than storage were discussed. He states then at this meeting, it was stated that it was only going to be storage. Mr. Casavant reiterates that according to these bylaws, no other use except for storage is allowed in this district and that is all that this Board would allow. Boat repair would not be allowed. Mr. Dimaio asks if the Board would make waivers or change the districts; Mr. Casavant states that is not the function of the Board, which is something that happens at Town Meeting as voted by the public. There is a question whether the current storage was allowed by a special permit; the Board does not know that answer, it needs to be looked into. Mr. Dimaio does not believe a special permit should be allowed as the applicant is not abiding by the uses currently.

There is discussion about what is currently stored outside and what is allowed. Mr. Dimaio asks if the applicant would accept the storage only special permit. Mr. Casavant states that they could appeal the decision as it is their right. The abutters also state that they have an issue with the fifty foot buffer that is required, being trimmed down to a ten foot buffer.

Ms. Mont asks that if they are currently in violation, can they still be granted approval of the special permit. Mr. Casavant states that they are not before the Board for a violation, only requesting a special permit.

There is discussion between Board members about a continuance date. Mr. Dimaio asks about height restrictions, Mr. Casavant states that there are limitations. Mr. Grady states that the buildings would be roughly thirty feet tall. Two and a half stories, which is the allowed height, needs to be defined. Mr. Casavant has an issue if the property is currently full of junk and the applicant wants to put more buildings up on the property lines. Mr. Gallagher asks if the applicant would still keep the boats outside, Mr. Grady does not believe that that would change with this special permit. Ms. Griffin questions why more storage would be built if the boats will be left outside. Mr. Grady states that inside the buildings could be used for different storage, not necessarily boats.

Mr. Casavant is going to keep the open portion of the meeting open. Mr. Casavant would like to take a visit to the site, Mr. Grady states that Planning is doing a site visit on Saturday at 9AM. Mr. Gallagher is available to visit the site on Saturday in conjunction with the Planning Board. Mr. Casavant states that he would condition this approval on getting rid of the junk outside. He also states that height clarification is needed.

Mr. Casavant would like to continue the hearing to April 1 at 7:30pm. The Board members and Mr. Grady are in agreement to that date. A motion is made, seconded and all Board members are in favor.

PUBLIC HEARING FOR A VARIANCE (SEC. IV. 7. A; IV. 7. B AND/OR IV. 7. D) CASE #02-19 AT 220 CENTER STREET TO ALTER A PREVIOUSLY APPROVED MOXED-USE PROJECT

Mr. Casavant re-opens the meeting that was continued from February 25, 2019. There is a request for withdrawal without prejudice from the applicant. Ms. Griffin makes a motion to accept the withdrawal of this application without prejudice, Mr. Gallagher seconds the motion, and all Board members are in favor.

ADMINISTRATIVE ACTION: VOTE TO APPROVE THE MINUTES OF FEBRUARY 25, 2019

Ms. Griffin made a motion to approve the meeting minutes of February 25, 2019. Mr. Gallagher seconded the motion, and all Board members voted unanimously to approve.

Mr. Casavant adjourned the meeting at 8:55PM on March 18, 2019.