

# **ZONING BOARD OF APPEALS / TOWN OF PEMBROKE**

## **MEETING MINUTES: AUGUST 17, 2020**

**BOARD MEMBERS PRESENT:** Frederick Casavant (Chairman), James Gallagher (Clerk), and John Grenier (Alternate)

**ALSO PRESENT:** Matthew Heins (Planning Board Assistant), Stephen Leaman, Nicholas Leing, David Laine, Amanda Monti, Joseph Webby, Hoang Vo-Phuong, An Vo, John Danehey, Scott Melone, Kristen Morrison, Jeffrey Perette, Robert DeMarzo, William Chenard (Town Manager), and others

Due to the coronavirus pandemic, this meeting of the Zoning Board of Appeals was held by remote participation using the internet, through the Zoom software platform arranged by PACTV, with nobody in physical proximity.

### **OPENING THE MEETING**

At 7:00 pm, Mr. Casavant opened the meeting. He read a modified version of the Chairman's statement, adjusted for the circumstances of the coronavirus pandemic and remote participation:

This meeting of the Pembroke Zoning Board of Appeals on August 17, 2020, is now open.

Please note that this meeting is being made available to the public through an audio and/or video recording which will be used to ensure an accurate record of proceedings produced in the minutes of the meeting. All comments made in open session will be recorded.

Pursuant to Governor Baker's March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020, Order imposing strict limitations on the number of people that may gather in one place, this public meeting of the Pembroke Zoning Board of Appeals is being conducted via remote participation.

No in-person attendance of members of the public will be permitted, but the public can view and listen to this meeting while in progress. PACTV is providing this service live on Comcast Government Access Channel 15, and for those without cable, on their PRIME streaming channel by visiting [www.pactv.org/live](http://www.pactv.org/live).

Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so, during the portion of any public hearing designated for public comment, by emailing [mheins@townofpembroke.com](mailto:mheins@townofpembroke.com) or calling 781-709-1433.

All votes taken during this meeting will be roll call votes.

At the start of this meeting, and at any time when a member of the Zoning Board of Appeals enters or leaves the meeting, we will identify the board members participating and note the time.

### **PUBLIC HEARING FOR CASE #2-20 SPECIAL PERMIT TO CONSTRUCT A NEW SINGLE-FAMILY HOUSE AT 70 TOOLE TRAIL**

Mr. Casavant opened the public hearing for Case #2-20 on the application of Stephen Leaman, 1082 Ferry Street, Marshfield, MA 02050, requesting a special permit in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. V.5. (Nonconforming Uses), to construct a new single-family house and demolish an existing single-family house. The property is located at 70 Toole Trail, Pembroke, MA 02359, in Residence District A and the Water Resource and Groundwater Protection District (Zone II), as shown on Assessors' Map B5 Lot 110.

The applicant Mr. Leaman was present, as was the project engineer Nicholas Leing of Grady Consulting. Mr. Leing described the project briefly and showed the board the engineering and architectural drawings. He noted that the project was approved a few years ago by the board, but it wasn't built and so the permission lapsed.

Mr. Gallagher expressed his concerns about the height of the project, and suggested that the top story, the attic, could be removed. A discussion followed about this issue. Mr. Grenier concurred with Mr. Gallagher. Mr. Casavant noted that the Building Department had submitted a letter opposing the project due to the building's height, and that several abutters had submitted letters criticizing various aspects of the project, especially the height.

Mr. Leing offered to revise the design for a future session of the public hearing.

Mr. Gallagher made a motion to continue the public hearing for Case #2-20 at 70 Toole Trail to September 21, 2020, at 7:45 pm. Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

### **PUBLIC HEARING FOR CASE #3-20 SPECIAL PERMIT TO OPERATE A BAR WITHIN "IGOLF" AT 296 OLD OAK STREET**

Mr. Casavant opened the public hearing for Case #3-20 on the application of David Laine, 140 Corporate Park Drive, Pembroke, MA 02359, requesting a special permit in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. IV.4.B.4. (Restaurants Allowed by Special Permit in Business District B), to operate a bar within a business named "IGolf" for indoor golf, axe throwing, darts and cornhole. The establishment would be located in the existing "Sun & Ski Sports" building at 296 Old Oak Street, Pembroke, MA 02359, in Business District B and the Adult Use Overlay District, as shown on Assessors' Map G15, Lot 35.

Mr. Laine was present, and he briefly described IGolf and explained that he is moving the business from Corporate Park in Pembroke to this location. He said that he currently has a bar but does not serve food; however, it is possible he could add food in the future. He confirmed that his current hours of operation, which are 8 am to midnight seven days a week, will remain the same. However, he said he might increase the extent of the year during which he is open.

Mr. Gallagher made a motion to approve the request for a special permit for Case #3-20 to operate the IGolf at 296 Old Oak Street, to be open seven days a week from 8 am to midnight, with the same location of signage. Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

### **ADMINISTRATIVE ACTIONS**

Mr. Heins explained that Arthur Boyle, Jr., the former Selectman, is interested in joining the Zoning Board of Appeals as an alternate member. Mr. Casavant, Mr. Gallagher and Mr. Grenier said that they were willing to have Mr. Boyle on the board.

Mr. Gallagher made a motion to approve the meeting minutes of January 6, 2020, Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Gallagher made a motion to approve the meeting minutes of February 10, 2020, Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

**PUBLIC HEARING FOR CASE #5-20 SPECIAL PERMIT TO CONSTRUCT A NEW SINGLE-FAMILY HOUSE AT 47 FAIRVIEW AVENUE**

Mr. Casavant opened the public hearing for Case #5-20 on the application of Amanda Monti, P.O. Box 562, Hanson, MA 02341, requesting a special permit in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. V.5. (Nonconforming Uses), to construct a new single-family house and demolish an existing single-family house. The property is located at 47 Fairview Avenue, Pembroke, MA 02359, in Residence District A and the Water Resource and Groundwater Protection District (Zone II), as shown on Assessors' Map A6 Lot 148 and Map A6 Lot 149. The applicant requests an amendment to the special permit previously granted on October 11, 2019, and/or a new special permit.

The applicant and property owner Amanda Monti and the project engineer Joseph Webby were present. Mr. Webby explained that they came before the board in October of 2019, and at that time the board granted a special permit to demolish an existing house and build a new house for the property at 47 Fairview Avenue. Since then construction has begun, but they discovered that the original survey plan was in error on the northern boundary, and so the building inspector directed them to apply again to the Zoning Board of Appeals. The new house is closer to the northern property line than the previous drawings showed. The corrected drawings show the house would be 2.9 feet from the property line, whereas the previously approved drawings showed a distance from the porch to the property line of 5 feet.

Mr. Webby explained that north of the property is a right-of-way which is empty, and beyond that further north is an unoccupied property. Mr. Casavant said he was comfortable with the new house being so close to the property boundary because of this empty space on the other side of the boundary. Otherwise, he said, he might be opposed. Mr. Gallagher similarly indicated that he was in favor.

Mr. Gallagher made a motion for Case #5-20 to allow the special permit for the application of Amanda Monti at 47 Fairview Avenue. Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

**IN RECESS**

Mr. Gallagher made a motion that the board go into recess for 15 minutes until the start of the next public hearing, Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

The board was in recess for approximately 15 minutes.

**PUBLIC HEARING FOR CASE #7-20 SPECIAL PERMIT TO CONSTRUCT A NEW SINGLE-FAMILY HOUSE AT 47 WOODBINE AVENUE**

Mr. Casavant opened the public hearing for Case #7-20 on the application of An Le, 31 Ocean Avenue, P.O. Box 684, Hanson, MA 02341, requesting a special permit in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. V.5. (Nonconforming Uses), to construct a new single-family house and demolish an existing single-family house. The property is located at 47 Woodbine Avenue, Pembroke, MA 02359, in Residence District A and the Water Resource and Groundwater Protection District (Zone II), as shown on Assessors' Map B5 Lot 62.

Hoang Vo-Phuong, the property owner, was present, as was his son An Vo. (The applicant An Le, who wasn't present, is actually the contractor for the project.) Mr. Vo said that his family would live in the proposed house. He explained that the proposed house would be two stories high, and that they had not realized it would raise objections from some of the neighbors. He mentioned that the existing house on the property clearly needs to be torn down.

Mr. Gallagher said that it would make sense to put a new house on the property, but the size and especially the height of the proposed house were concerning. A discussion followed. Mr. Gallagher noted that the proposed house would be closer to the adjacent property (49 Woodbine Avenue, which has a house near the property line) than the existing house is. Mr. Gallagher expressed particular worry about the second-floor overhang of the proposed house. Conversation ensued about the overhang.

Mr. Grenier said he was in general agreement with Mr. Gallagher. A discussion took place about the location of the foundation of the proposed house compared to that of the existing house, as the proposed house would be closer to the adjacent property.

Mr. Casavant said that he shared the other board members' concerns. He suggested the applicant rework the plan, especially the overhang and the difference between the foundation locations, taking into account the letters submitted by the neighbors.

Mr. Heins explained that John Danehey, the attorney for the abutter Kimberly Mello (the resident of 49 Woodbine Avenue), wished to communicate with the board, and Mr. Casavant said he could be admitted into the Zoom meeting. Mr. Danehey joined the meeting.

Mr. Danehey explained that Ms. Mello's main concerns are to maintain the current setback, and also the presence of the overhang. He stated that Ms. Mello does not object to a new house being built on the property.

It was clarified that the existing house is 9.3 feet (at the closest point) from the property boundary with 49 Woodbine Avenue. Mr. Danehey said it would be preferable to maintain that setback for the proposed house, though the house could be "squared" to make the setback consistent. He noted this could be done by shifting the proposed house closer to Shepard Avenue, as is the case for the current house. Discussion followed.

Mr. Gallagher made a motion to continue the public hearing for Case #7-20 at 47 Woodbine Avenue to September 21, 2020, at 8:00 pm. Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

#### **PUBLIC HEARING FOR CASE #8-20 SPECIAL PERMIT TO ADD IN-LAW APARTMENT TO SINGLE-FAMILY HOUSE AT 28 SACHEM CIRCLE**

Mr. Casavant opened the public hearing for Case #8-20 on the application of Scott Melone, 28 Sachem Circle, Pembroke, MA 02359, requesting a special permit in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. IV.1.B.4. (Attached Dwelling Unit In-Law Apartment), to construct an attached dwelling unit in-law apartment as an addition to an existing single-family house. The property is located at 28 Sachem Circle, Pembroke, MA 02359, in Residence District A, as shown on Assessors' Map A6 Lot 391.

The applicant Scott Melone was present, along with the project's architect Kristen Morrison. He briefly summarized the project, explaining that they wish to build the in-law apartment for his wife's parents.

Mr. Gallagher asked if the new basement area (shown below the in-law apartment on the drawings) would be used for living space, and Mr. Melone said it would be primarily for storage. Mr. Gallagher asked what the square footage of the apartment would be, and Mr. Melone replied that it would be roughly 600 square feet. Mr. Gallagher asked if the apartment had two doors in and out, and Mr. Melone said yes.

Mr. Gallagher said that he supported the project, and Mr. Grenier agreed. Mr. Casavant asked Mr. Melone if the project conformed to the required setbacks, and Mr. Melone said it did. Mr. Casavant indicated his support for the project.

Mr. Gallagher made a motion for Case #8-20 to approve the special permit for the application of Scott Melone at 28 Sachem Circle. Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

### **ADMINISTRATIVE ACTIONS**

Jeffrey Perette, the owner of East Coast Marine at 43 Mattakeesett Street, was requesting that the expiration date (also known as the deadline for completion) of the special permits and/or variances granted for both Case #50-18 and Case #7-19 be extended by one year. Both cases are in relation to a project (a site plan application before the Planning Board) located at 43 Mattakeesett Street.

Mr. Perette and Robert DeMarzo were present, and Mr. DeMarzo explained why the extensions were merited.

The originally specified deadline dates for both cases had already passed, but because of the state of emergency declared by the state of Massachusetts due to the coronavirus pandemic, certain deadlines are extended automatically. It was clear that for Case #7-19 the deadline had not yet occurred and therefore could be extended, but the situation was unclear regarding Case #50-18. Mr. Casavant noted that a letter from the building inspector, George Verry, had been submitted which stated that the deadline for Case #50-18 had not yet occurred and thus could be extended.

Mr. Casavant said he was in favor of granting the requested extensions of the deadlines, but mentioned there was possible legal ambiguity with Case #50-18. Mr. Gallagher and Mr. Grenier also favored extending the deadlines.

Mr. Gallagher made a motion to allow the extension of the deadline for Case #50-18, as requested by the applicant Jeffrey Perette/Old Salt Realty Trust, 43 Mattakeesett Street. Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Gallagher made a motion to approve the requested extension of the deadline for Case #7-19 for one year. Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

**PUBLIC HEARING FOR CASE #10-20 VARIANCES FOR PROPOSED “TOWN LANDING” PROJECT AT 187 WAMPATUCK STREET**

Mr. Casavant opened the public hearing for Case #10-20 on the application of William Chenard, Town Manager, Town of Pembroke, requesting variances in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. IV.1.D.1. (Lot Size), Sec. IV.1.D.2. (Front Yard Setback), and Sec. IV.8.E.5. (Impervious Coverage), to make improvements to the “Town Landing” beach, recreation and swimming area, to meet ADA compliance requirements. The project would include a new building, with the existing building to be demolished, and other improvements. The property is located at 187 Wampatuck Street, Pembroke, MA 02359, in Residence District A and the Water Resource and Groundwater Protection Overlay District, as shown on Assessors’ Map B8 Lot 72.

William Chenard, the Pembroke Town Manager, was present, as was the project engineer Nicholas Leing of Grady Consulting. Mr. Chenard explained that the basic impetus for the project was to improve handicapped (ADA) access throughout the town landing area, and that the project also involved replacing the current building there with a slightly larger building. The town had received grant money from the state to help fund the project.

The board members briefly discussed the project, and all three members were supportive of it. Mr. Chenard and Mr. Gallagher conversed about the project’s means of funding.

Mr. Gallagher made a motion to allow the application for variances for Case #10-20 by William Chenard, Town of Pembroke, for the property at 187 Wampatuck Street, as requested in the application. Mr. Grenier seconded the motion, and the board voted unanimously in favor by roll call.

The meeting was adjourned.