

**PEMBROKE ZONING BOARD OF APPEALS**

**MEETING MINUTES APRIL 1, 2019**

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

**PUBLIC HEARING FOR VARIANCE CASE #07-19 AT 43 MATTAKEESETT STREET FOR A BUILDING WITH A HEIGHT OF FORTY SEVEN FEET**

Mr. Casavant opened the public hearing for the requested variance case #07-19 at 43 Mattakeesett Street, for constructing a building with a height of forty seven feet.

Mr. Perette was present as the applicant. Mr. Robert DeMarzo of 42 Mattakeesett Street and Mr. Gerald Dutson of 37 Mattakeesett Street were present as abutters.

Mr. Perette explains that he was before the Board in March and was granted a special permit to construct the building, however at the time the question of building height was raised and at that point, the height was not known. He explains that the building will be forty seven feet to the ridge, and 39.9 feet to the eave. He shows the Board a rendering he created of the new building. Mr. Casavant asked how tall the existing building is; Mr. Perette stated that it is twenty seven feet to the ridge.

Mr. Casavant asks if Mr. Perette was before the Planning Board; he had an informal hearing that was contingent on the zoning board's decision.

Mr. Gallagher asks if the building is in the Center Protection District; Mr. Perette states that the existing building is but the new building is in Residential A. Mr. Gallagher believed it was going to be a maximum of thirty six feet when the special permit was granted. He stated that he would like the new building to adhere to the thirty six foot height. Mr. Perette states that thirty six feet will not accommodate what he is proposing to use the building for (boat storage). Mr. Gallagher asks what the use of a second floor is for; Mr. Perette states that it is more income to be able to fit smaller boats on the second floor where there is a mezzanine.

Ms. Griffin states the bylaw for Residential A, which states that projections above the height limit, so long as it is not being used for human occupancy, can be allowed. Mr. Casavant opens it to the public for comment.

Mr. DeMarzo asks the dimensions of the building, discusses the roof pitch in regard to the rendering. He is not in agreement with the proposed height. He expressed his displeasure with the application as submitted as well as the process of statutory notification of the public hearings, certified mail notification versus regular mail notification.

Mr. Gallagher asks if all boats that are currently outside will be moved inside; Mr. Perette confirms. There is a discussion about landscape buffering. Mr. Dutson expresses his understanding of why the applicant needs the height of the building to be what has been proposed. Mr. Dutson states he has no issue with the building height and that the building is set back off the road.

Mr. Gallagher is hesitant to grant the extra eleven feet of height. There is discussion about where the Center Protection District ends, Mr. Perette states it comes up just short of the proposed building. Mr.

DeMarzo states that when a property is in two zones, the Center Protection District goes back 330 feet rather than 300 feet. Mr. DeMarzo is concerned about increased traffic to a residential area as well.

The Board asks Mr. Perette to try to have plans redrawn to propose a lower building height. Mr. Perette states he may be able to reduce it to forty two feet but not any lower. Mr. DeMarzo states that he has no issue with forty two feet. Mr. Perette says that if he has to go shorter than forty two feet it will be a hardship on his business and he will not be able to fund it.

Mr. Casavant recommends a continuance of this hearing so that the applicant can get new drawings submitted. The applicant agrees. Ms. Griffin makes a motion to continue this hearing to April 22, 2019. Mr. Gallagher seconds the motion, and the Board members voted unanimously to approve.

**The Board voted to take a brief recess in between hearings. The Board reconvened at 7:30pm.**

**PUBLIC HEARING FOR A SPECIAL PERMIT AND/OR VARIANCE FOR CASE #01-19 AT 171 MATTAKEESETT STREET TO BUILD THREE (3) 7,000 SQUARE FOOT BUILDINGS**

Mr. Casavant reopens the public hearing that was continued from March 18, 2019.

Mr. Kevin Welch is present as the applicant, along with Mr. Darren Grady from Grady Consultants. Mr. Stephen Dimaio of 60 Wintergreen Farm Road, Mr. Darren MacDonald of 54 Wintergreen Farm Road, and Ms. Carol Mont of 48 Wintergreen Farm Road are all present as abutters.

Mr. Gallagher summarized the site walk that took place in conjunction with the Planning Board on March 23, 2019. He does have an issue with potential pollution of the existing retention ponds in the area. He stated that he would like Conservation comment on this particular issue. There are many boats on the property as also pointed out by the Fire Department and the Zoning Enforcement Officer.

Deputy Fire Chief McCormick and Zoning Enforcement Officer George Verry were present.

Mr. Welch received two letters, one from the fire department, one from the zoning enforcement officer, stating the violations on the property. Mr. Grady asked Mr. Gallagher if comment from the Planning Board would be sufficient as they are reviewing storm water plans. Mr. Gallagher would still like Conservation to take a look at the area. Mr. Grady stated that according to the calculations, there would only be spillover during the once in a hundred year storms. Mr. Welch asserted that the water would have to flow hundreds of yards in order to pollute the pond.

Mr. Grady assures the Board that there are measures in place to prevent polluted water in the area. The applicant is meeting again with planning next week with updated plans. Mr. Casavant asks Mr. Verry to speak. Mr. Verry asserts that the zoning violations need to be sorted out and controlled. Mr. Gallagher brings resident complaints about the property from a prior meeting to the zoning enforcement officer's attention and asks him to look into these claims.

Deputy Fire Chief states that there are numerous violations found by the Fire Department. He suggests that these violations be taken care of before a decision is made on this application. This did trigger an interior inspection of all buildings on this property in the next thirty days. Site plan review has triggered the interior inspections. The Deputy Fire Chief outlines the violations that they found which are outlined in the letter submitted to the property owner.

Mr. Casavant asks the status of resolving the violations; Mr. Welch states that he sent out letters to the tenants informing them that they need to clean up and correct the violations. Mr. Casavant would like to continue this hearing out, see what Planning Board says at their meeting, and check the status on the violations.

Mr. Welch agrees. There is a discussion about whether or not Mr. Welch will purchase the property as it relates to being granted what he has applied for. Mr. Gallagher clarifies that if Mr. Welch were the owner, and the violations were cleared up, he may not have an issue with a buildable lot. Mr. Casavant acknowledges that the owner would not let Mr. Welch build on the property until he was the owner. The Board's concern is the condition of the property that they were unaware of.

Mr. Grady offers to sit down with Mr. Gallagher and go over everything pertaining to the storm water runoff.

Mr. Casavant states that the applicant could come back on May 6, 2019 to continue this hearing as the interior inspections would be completed. The Board is in agreement.

Mr. DiMaio raises the concern that the once hundred year storm is happening more often as far as pollution. He would also like clarification on mention of increasing the buffer. Mr. Grady explains that they would increase the basin to fifty feet off of the property line. Mr. DiMaio asks about the height of the building; Mr. Grady responds that the height allowed is thirty six feet, the proposed height will be twenty nine feet. Mr. DiMaio also expresses concern over the violations happening again until there is a complaint to have it cleaned up again. Mr. Welch explains that he was unaware that the violations were in fact violations, now that he is aware, going forward he can enforce the rules to the tenants.

Mr. MacDonald asks if the building would only be approved for storage even though the other buildings conduct maintenance. Mr. Casavant confirms. Ms. Mont states that she thought it was not allowed in those building, Ms. Griffin states that for this particular proposed building which is in two districts, it is not allowed. Ms. Mont also asks why there is fuel stored outside; Deputy Fire Chief informs her that outside storage of fuel is allowed up to eleven hundred gallons.

Mr. DiMaio wants to confirm that only storage will be allowed in these three buildings; the applicant confirms. There is a discussion about the floor drains that were on the original plans, but now they will be removed as they are not allowed in this particular district.

Ms. Griffin makes a motion to continue the hearing to May 6, 2019. Mr. Gallagher seconds the motion, and all Board members are in favor.

#### **ADMINISTRATIVE ACTION: VOTE TO APPROVE THE MINUTES OF MARCH 18, 2019**

Ms. Griffin made a motion to approve the meeting minutes of March 18, 2019. Mr. Gallagher seconded the motion, and all Board members voted unanimously to approve.

Mr. Casavant adjourned the meeting at 8:10PM on April 1, 2019.