

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

### **MEETING MINUTES: AUGUST 3, 2021**

**BOARD MEMBERS PRESENT:** Frederick Casavant (Chairman), Christopher McGrail (Clerk), and Arthur Boyle, Jr. (Alternate).

**ALSO PRESENT:** William Chenard (Town Manager), Matthew Heins (Planning Board Assistant), Kevin McCormick (Fire Chief), Amy Kwesell (Town Counsel, KP Law), Peter Palmieri, Kimberly Kroha, Susan Spratt, Shaun Kelly, James Winn, Robert Schmitz, Scott Horsley, George Howe, Christine Kan, Richard Burrige, Carolyn Crossley, Charles Crossley, Herbert Robbins, Robert Clarke, Gino Fellini, Karen McCormack, Michael McCormack, April Czaplicki, John Boschetto, John Howe, Lenny Rowe, Daniel Cotto, Chad Johnson, Scott Murdock, Robert DeMarzo, Paul Kernan, Larry Jenkins, Helen Muzyka, Charlotte Cook, Regina Shea, Stephen Lynch, Tara Masterson, Andrew Marshall, Jessica Spencer, Cindy Brintrall, Ross MacDonald, Susan Moore, Karen Lunny, Breanne Dennis, Mary Breen, Jane Cournan, Marty Cournan, Sharon Spadorcia Schmitz, Shannon Wilson, Jace Wilson, Stephen Woll, Scott Chapman, Carol DeFranca, Samantha Woods, Debra McCarthy, Christopher Graham, and others.

#### **OPENING THE MEETING**

William Chenard, the Pembroke Town Manager, explained the guidelines for appropriate behavior at a public hearing.

Chairman Mr. Casavant opened the meeting by reading the Chairman's statement.

#### **PUBLIC HEARING FOR CASE #48-18 COMPREHENSIVE PERMIT [40B] FOR "RIVER MARSH VILLAGE" PROJECT AT 0 AND 274 WATER STREET**

Mr. Casavant reopened the public hearing (continued from January 12, 2021, January 25, 2021, March 9, 2021, April 13, 2021, May 18, 2021, and June 8, 2021) for Case #48-18 comprehensive permit [40b] for the proposed "River Marsh Village" project at 0 and 274 Water Street.

Mr. Casavant identified himself as Chairman of the board, and the other two board members, Mr. McGrail and Mr. Boyle, introduced themselves. Amy Kwesell, Pembroke Town Counsel with KP Law, introduced herself.

Peter Palmieri (of Merrill Engineers and Land Surveyors), the board's peer review engineer for the project, and James Winn (of Ron Muller and Associates), the board's peer review traffic engineer for the project, were present.

Also present were attorney Kimberly Kroha (of Baker, Braverman and Barbadoro) representing the project, project engineer Susan Spratt (of MacKenzie Engineering Group), and project traffic engineer Shaun Kelly (of Vanasse and Associates).

Ms. Kroha explained that a new, revised set of drawings was being produced, and in the meantime for this hearing they had a detailed site plan drawing to present but not a full set of

drawings. She summarized a few of the changes made. She noted that the 40B regulations generally prohibit the town from requiring the applicant to make improvements to public infrastructure off the site.

Ms. Kroha explained that they will comply with applicable state and federal regulations. She said that the project is outside the 300-foot corridor of the North River, and explained why that is the case. She disputed the information in this regard presented in a letter from Scott Horsley.

Ms. Spratt explained that a five-foot-wide sidewalk had been added to the design. She described other elements of the road infrastructure and the stormwater system.

Mr. Kelly explained that most of the traffic issues had been resolved but three issues remained: the intersection of Water Street and Cross Street, the intersection of Water Street and Church Street, and the sightlines leaving the southern access drive.

Mr. Kelly said that a fence obscures visibility at the southern driveway. He explained that his current recommendation is to have a right-turn only restriction, but he agrees with the suggestion of Ron Muller and Associates (peer review traffic engineer) that the fence be moved back.

Regarding the intersection of Water Street and Cross Street, Mr. Kelly said the applicant would commit to putting in new pavement markings and a stop sign.

As to the intersection of Water Street and Church Street, Mr. Kelly said the applicant would commit to putting in new pavement markings and trimming back some vegetation.

Mr. Palmieri said that most of his previous comments had been satisfactorily addressed. He mentioned the extent of the sidewalks. He suggested that more turning movements be included in the fire truck maneuvering plan. He expressed concern about the detention basin having only a half-foot distance between the maximum high groundwater and the bottom of the basin. He also said that the basin could have standing water for up to 40 hours, and thus should have fencing around it.

Kevin McCormick, the Fire Chief, addressed the board. He expressed concern about the turning radius at some points in the project. He said he'd prefer that the entire complex be sprinklered, instead of just half, and described the added service load on fire and EMS the project would create.

Mr. Winn described some of the traffic problems and suggestions. He expressed concern about traffic coming south onto Cross Street where the roads merge together. He recommended that the fence be moved back at the southern driveway since it restricts visibility, and mentioned that the sightlines should conform with the actual travel speeds. He recommended "keep right" signs at the traffic islands and "no parking" signs.

Mr. Winn suggested the distance between the street and a garage always be at least 23 feet, and discussed turning radii for trucks. Regarding the driveways to two of the buildings, he pointed out that a fire truck could not turn around in them. He said that the applicant had stated that they have the right to relocate one access drive to the project. He suggested that the school bus stop have room for children to stand safely, and that if it's off-site there be provision for parents to park. He also mentioned various other traffic issues and recommendations.

Mr. McGrail asked about the problem of trucks, especially fire trucks and ambulances, being unable to turn around in certain driveways, and Ms. Spratt said she'd look at this further.

Mr. Boyle and Mr. McCormick discussed the potential burden the project could place on EMS services.

Ms. Kwesell, Mr. McCormick and Ms. Spratt discussed the sprinkler system and fire hydrant locations.

Mr. McGrail asked about the school bus waiting area, and Ms. Spratt described this. Mr. McGrail and Ms. Kroha discussed how school bus pickup works.

Ms. Spratt said, in reply to Mr. McGrail's question, that there are 24 visitor parking spaces.

Ms. Kroha said they'd be willing to look into the possibility of sprinklering the entire project, and Ms. Spratt said they'd consider redesigning the project to allow trucks to turn around in every driveway. Ms. Spratt said they intend to keep 56 housing units in the complex.

Mr. Palmieri said the final version of the landscape plan had not been submitted, and noted some residences are close to the project. Ms. Kroha said they would provide the final landscape plan with the final submission (i.e., for the building permit). A discussion followed about landscaping, screening, the North River, and the nearby residences.

Mr. McGrail and Ms. Kwesell discussed the wetlands, the river, and how the project will need to go before the Conservation Commission.

Mr. Casavant opened the meeting to comment and questions from members of the public.

Scott Horsley introduced himself as a water resources consultant, working on behalf of some abutters to the project. He described his credentials.

Mr. Horsley discussed the marsh areas on the property and surrounding the property, and disputed some of the applicant's statements regarding wetlands and conservation. He suggested that a groundwater mounding analysis should be done, and talked about the water table elevation.

Mr. Horsley also discussed the wastewater system, issues of water quality, and the buffer zone. He recommended a setback be created for an undisturbed buffer. He talked about the dry detention basin and the possibility of standing water there. He suggested a groundwater mounding analysis be done for several of the proposed facilities simultaneously, to look at the cumulative impacts. He mentioned the need for a buffer, and emphasized the North River corridor.

Mr. Boyle asked about stormwater and the detention basin, and Mr. Horsley discussed this. Mr. Boyle and Mr. McGrail expressed concern that children would get hurt in the detention basin. Ms. Kroha said that fencing around the detention basin has been added to the plan.

In reply to Mr. McGrail's question, Ms. Kroha said that they do not intend to conduct a groundwater mounding analysis, which they believe is not required.

Scott Chapman, a resident of Water Street near the project, addressed the board. He explained that his residence abuts the project and the wetlands. He said that the project is wrong for this

location. He said it would destroy the uplands which consequently would injure the wetlands too. He emphasized the importance of protecting wetlands, which he said are present on the site, and noted the danger of runoff into the river.

Mr. Chapman described the history of the proposed project over the past several years, and quoted from some of the associated documents and decisions. He urged the board to deny the project.

Ross MacDonald, a nearby resident, addressed the board. He said that one of the reasons his family moved to Pembroke was the wildlife and ecology. He said that he supports affordable housing and equity, but emphasized that this project fulfills neither goal but instead seeks to make money. He discussed the importance of the environment, and said that ultimately the developer, attorney, engineer and architect will go away but the townspeople will be stuck with whatever gets built.

Marty Cournan, a resident of Water Street adjacent to the project, spoke. He pointed out that the street width has been narrowed from 22 to 20 feet, and the number of units has not been reduced. He showed a map of the property, and emphasized that the project would have a higher density than surrounding areas.

Mr. Cournan talked about preexisting conditions and traffic. He critiqued the developer's traffic report and its assumptions, and argued that some road or sidewalk improvements will need to be made in nearby areas. He described current housing prices in Pembroke, and emphasized that given the profits the developer will make, the developer should be willing to make compromises. He warned about the dangers of traffic, especially at certain intersections.

George Howe, a nearby resident, spoke. He emphasized the dangers of traffic in the neighborhood, especially given the number of children, and mentioned that the existing roads struggle to handle the current traffic. He criticized the project, and said that just because it can be built doesn't mean it should be built. He said that he disagreed with the assumptions and conclusions of the developer's traffic report. He noted that most of the outgoing traffic goes to Route 139 through Cross Street, not Water Street, and described the hazards of that intersection.

Jace Wilson, a resident of Water Street adjacent to the project, spoke. He opined that the developer has engaged in deceptive practices regarding the project. He explained that the project would put a curb and access drive in front of his driveway, and that furthermore the project would actually use part of the property he owns.

Jane Cournan, a resident of Water Street adjacent to the project, spoke. She described how a portion of the project property—a house on land with frontage on Water Street—was bought by the developer through a false front. Thus, she argued, the developer's assurances should not be trusted. She emphasized the dangers to the North River, outlined the added burden the project would place on the town's school system and other services, and stressed the hazards that the additional traffic would create.

Shannon Wilson, a resident of Water Street adjacent to the project, spoke. She objected to the configuration of the proposed access drive which would alter automotive travel to her property, i.e., change the layout of her own driveway. She criticized the project for its impact on road

traffic and other infrastructure, and emphasized that it would force the town to spend money on improvements.

Christopher Graham, a resident of Water Street near the project, spoke. He criticized the project, and quoted extensively from a letter from another source about the project. He expressed concern about the added dump truck traffic the project would cause, and made various other criticisms.

A member of the public (whose name was unclear) asked if the board members had driven the intersection at rush hour, and described the street's current traffic troubles. He criticized the project and the developer, and urged the board to deny the project.

Samantha Woods, the executive director of the North and South Rivers Watershed Association, spoke. She described the danger the project poses to the river, and stressed the possibility the residents won't properly fund the maintenance of the wastewater treatment plant and other systems.

Mr. Boyle mentioned that recently in the town of Kingston a residential development failed to pay its electric bill for the emergency pump in its septic system, and consequently there was a serious failure.

Mr. McGrail asked about a groundwater mounding analysis, and Ms. Kroha said they would consider it but that she believes it's not required. In reply to a question from Ms. Kwesell, she confirmed that there would be a condominium association, not a homeowner's association.

Ms. Kwesell described the problem of information being submitted at the last minute, and suggested that the drawings be submitted at least two weeks before the next public hearing, and all other items be submitted at least a week ahead of time.

Ms. Kwesell went over some recommendations for revisions to the project, based on what had been discussed in the hearing so far: extending the sidewalk along Water Street; putting a fence around the detention basin; checking the turning radii and fire hydrant locations with the Fire Chief; creating a sidewalk to building 8; determining if a school bus would go through the complex; deciding whether all the buildings would be sprinklered; perhaps moving some of the 14 units within the 100-foot buffer outside of that buffer; creating a landscape plan showing adequate screening of adjacent properties; determining whether all the marshes have been identified; figuring out the detention basin elevation issue; adjusting the likely unit sale prices; imposing limits on visitor parking; showing snow storage and dumpster areas on the plans; and confirming that the project does not use any of Mr. Wilson's property.

Ms. Kroha suggested pushing the date of the next public hearing back to late September.

Mr. Casavant recommended that engineering drawings be submitted a few weeks before the next hearing, with comments being submitted a week before.

It was agreed to hold the next public hearing for the project on September 28, and that an extension agreement letter would be sent by the applicant for the board to sign.

Mr. Casavant made a motion to continue the public hearing to September 28 at 7:00 pm at either the library or town hall, with the notice to be posted at the library or town hall and on the town website. Mr. McGrail seconded the motion and the board voted unanimously in favor.

The meeting was adjourned.