

ZONING BOARD OF APPEALS / TOWN OF PEMBROKE

MEETING MINUTES: NOVEMBER 22, 2021

LOCATION: Room 6 (Veterans Hall), Pembroke Town Hall

STARTING TIME: 7:00 pm

BOARD MEMBERS PRESENT: Christopher McGrail (Vice-Chairman), John Grenier (Clerk), and Louis Christian Carpenter (Alternate).

BOARD MEMBERS ABSENT: Frederick Casavant (Chairman) and Arthur Boyle (Alternate).

ALSO PRESENT: Matthew Heins (Planning Board Assistant), James Smith, Peter Mason, John Atkins, Michael Cohen, John Naples, Elizabeth Naples, Thomas Robinson, Matthew Mitchell, Donald Nagle, Robert DeMarzo, and others.

OPENING THE MEETING

The Vice-Chairman Mr. McGrail opened the meeting by reading the Chairman's statement.

Mr. McGrail identified himself and explained that he was Acting Chairman of the board for this meeting. The other two board members present, Mr. Grenier and Mr. Carpenter, also identified themselves.

PUBLIC HEARING FOR CASE #9-21 APPEAL OF PLANNING BOARD'S SITE PLAN DENIAL DECISION REGARDING 715 WASHINGTON STREET

Mr. McGrail reopened the public hearing (continued from October 4, 2021, and November 1, 2021) for Case #9-21 on the application of George Thibeault, 599 Summer Street, Marshfield, MA 02050, to appeal, in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. V.7.H.1 (Site Plan Approval – Appeals), the Planning Board's decision to deny the Site Plan application for a proposed wood products and timber processing business at 715 Washington Street. The appeal is regarding the property located at 715 Washington Street, Pembroke, MA 02359, in the Residential-Commercial District, as shown on Assessors' Map F9, Lot 24.

Matthew Mitchell, an attorney representing Mr. Thibeault's appeal, explained that they were requesting a continuance of the hearing. He said that they had filed a new site plan application for 715 Washington Street with the Pembroke Planning Board and were optimistic that it would be approved, and if it is approved then this appeal would become moot. Thus, he explained, it was reasonable to continue the hearing until the Planning Board decides on the new site plan application.

Mr. Grenier and Mr. McGrail asked a few questions about the sound study that was done as part of the site plan application which is being appealed, and Mr. Mitchell said he would try to have the answers at a later date.

The board and Mr. Heins discussed what date to continue the hearing to.

Robert DeMarzo, a resident who lives near the proposed project, asked for clarification of the hearings and appeal, leading to a brief conversation. He also stated that he felt the sound study (that was done as part of the site plan application which is being appealed) should have been done by an outside consultant. He also emphasized that the radius of the driveway for the project should be cleared back significantly so visibility is sufficient in both directions along Washington Street. In addition, he suggested there should be a barrier on the north side of the parking lot to prevent vehicles from accidentally going down the slope and into the stream.

Mr. Heins clarified when the Planning Board's public hearing will be for the new site plan application for 715 Washington Street.

Donald Nagle, an attorney representing James Smith (a neighbor to the project), said he had no objection to the hearing being continued. He suggested that the board not have substantive review of this appeal application while a different project (i.e., new site plan application) is being proposed for the site and continuances are being requested.

Mr. Heins noted that the board needed to vote to agree to extend the deadline for the board's decision to February 24, as per a letter from the applicant's attorney.

Mr. McGrail made a motion that the board agree to extend the deadline for the board's decision on the appeal to February 24, 2022. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

Mr. McGrail made a motion to continue the public hearing to February 7, 2022, at 7:00 pm. Mr. Carpenter seconded the motion, and the board voted unanimously in favor.

ADMINISTRATIVE ACTIONS

Mr. McGrail made a motion to approve the minutes of October 4, 2021, October 26, 2021, November 1, 2021, and November 2, 2021. Mr. Carpenter seconded the motion, and the board voted unanimously in favor.

DISCUSSION ABOUT CRITERIA FOR WHETHER A SPECIAL PERMIT IS REQUIRED WHEN A NEW RESTAURANT REPLACES AN EXISTING RESTAURANT

Mr. Heins explained the proposed criteria for whether or not a special permit would be required when a new restaurant replaces an existing restaurant, i.e., when a new restaurant opens in a building or on a property where another restaurant previously existed. The zoning bylaws generally require that restaurants receive a special permit, but if the restaurant use was already established and is being continued then such a special permit might not be necessary.

The board members and Mr. Heins discussed the ramifications of the proposed criteria and the various effects that restaurants can have. It was noted that sometimes a new restaurant differs significantly from the restaurant it replaces, and thus can lead to increased traffic, noise and other impacts.

Mr. Heins described some of the more general principles of the zoning bylaws, and further conversation took place.

The meeting was adjourned.