

ZONING BOARD OF APPEALS / TOWN OF PEMBROKE

MEETING MINUTES: SEPTEMBER 23, 2019

BOARD MEMBERS PRESENT: Frederick Casavant (Chairman), Christine Griffin (Vice-Chairman), and James Gallagher (Clerk)

ALSO PRESENT: Matthew Heins (Planning Board Assistant), Deborah Griffin, Kristin McKay, Karen Lunny, Joseph Tulis, David Klenert, Karen Price, Thomas Pozerski, Christopher Agostino, Eoghan Kelley, Paul Brogna, and others

PUBLIC HEARING FOR CASE #23-19 SPECIAL PERMIT AT 14 ADAMS AVENUE TO CONSTRUCT AN ADDITION TO AN EXISTING SINGLE-FAMILY HOUSE

Mr. Casavant opened the public hearing for Case #23-19, a request for a special permit to construct an addition to an existing single-family house at 14 Adams Avenue.

The property is a preexisting nonconforming property because its size is about 0.23 acres, its frontage is about 100 feet, its front yard setback is about 20 feet, and its side yard setback on the east side is about 8 feet. The proposed additions to the house, consisting of a larger garage, new sunroom and new patio, would enlarge the size of the house but would not increase the extent of the nonconformities. The property is located in Residence District A.

Karen Lunny, the applicant and property owner, came before the board, along with builder-contractor Joseph Tulis. Ms. Lunny and Mr. Tulis briefly described the project. There were no abutters or other members of the public present who wished to speak. The board members discussed the project, and agreed that they had no objections to it.

Christine Griffin made a motion to close the open portion of the public hearing, Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

Christine Griffin made a motion to allow the application of Karen C. Lunny, 14 Adams Avenue, Pembroke, requesting a special permit in accordance with the Zoning Bylaws of the Town of Pembroke, Sec. V.5. (Nonconforming Uses), to construct an addition to the existing single-family house. The property is located at 14 Adams Avenue, Pembroke, Massachusetts, in Residence District A, as shown on Assessors' Map B9, Lots 122 and 163. The garage shall be constructed in accordance with the plot plan dated November 8, 2018, submitted with the application. The board makes its finding that this alteration or change is not substantially more detrimental than the existing nonconforming use to the neighborhood, and it does not increase the nonconforming nature of the said structure. Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

PUBLIC HEARING FOR CASE #24-19 VARIANCE AT 125 CENTER STREET, LOWER LEVEL, TO ALLOW GROOMING IN PROPOSED DOG DAY CARE BUSINESS

Mr. Casavant opened the public hearing for Case #24-19, a request for a use variance to allow grooming in a proposed dog day care business on the lower level of an existing building at 125 Center Street.

Deborah Griffin and Kristin McKay, the applicants, were present, and they described the project and the nature of the business they intend to operate. They wish to use the lower level of the existing building at

125 Center Street for a dog day care business. The establishment would house dogs during the day, but not overnight, and would also offer certain other dog-related services. The size of the building would not be altered and there would be no significant changes to the exterior, but alterations would be made to the interior to house the dog day care business. The property is partly in the Center Protection District and partly in Residence District A, but the building and the area immediately behind the building are entirely in the Center Protection District, so its zoning rules apply.

Mr. Heins said that the Planning Board had informed the applicants that the dog day care business would be an allowed use at that location, but the grooming of dogs would require a use variance. Deborah Griffin and Kristin McKay explained that grooming would be a valuable service to offer their customers.

A discussion took place about the nuances of the zoning bylaws, how a kennel is defined, and what uses are allowed in the Center Protection District. The board members noted that the granting of use variances is, or soon will be, prohibited by a zoning bylaw change passed in May at town meeting, which has been approved by the attorney general and is about to take effect. Furthermore, Mr. Casavant stated that he believed the application did not meet the standard for a variance. More discussion took place about the proposed use and the intended meaning of the zoning bylaw regarding kennels and grooming. The board members expressed their opposition to granting the use variance.

The applicants verbally requested that the application be withdrawn without prejudice.

Christine Griffin made a motion to allow the withdrawal of Case #24-19 application for a variance by Kristin McKay and Deborah Griffin, said withdrawal to be without prejudice, for property located at 125 Center Street, lower level. Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

DECISION TO GRANT EXTENSION OF DEADLINE FOR COMPLETION FOR CASE #28-17 SPECIAL PERMIT AT O CRESCENT AVENUE

David Klenert of Collins Engineering Group came before the board on behalf of Roger Warren to request another extension of the deadline for completion for Case #28-17 Special Permit at O Crescent Avenue. Mr. Heins explained that the board previously extended the deadline to October 1, 2019, but no paperwork to that effect was filed, and so Mr. Heins had prepared paperwork for this.

A brief discussion took place. Mr. Klenert explained that the project is a single-family house on a preexisting nonconforming property, and it also involves improving the access drive. The project is on the border of Halifax and Pembroke.

The board members had no objection to extending the deadline.

Christine Griffin made a motion to allow the application for a one-year extension for the completion of Case #28-17 extending the validity from October 1, 2019, to October 1, 2020. Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

DISCUSSION ABOUT, AND DECISION TO APPROVE, CONSTRUCTION OF FOUR-BEDROOM HOUSES AT CASE #15-15 COMPREHENSIVE PERMIT (40B PROJECT) FOR COPPERWOOD CIRCLE

Mr. Casavant opened the discussion about the Copperwood Circle 40b (comprehensive permit) subdivision of single-family houses, Case #15-15, located off Birch Street. The developer's representative

Eoghan Kelley was present, as was the developer's attorney Christopher Agostino, and engineer Thomas Pozerski of Merrill Engineers and Land Surveyors. The board's peer review engineer for the project, Paul Brogna, was also present.

The developer was requesting that several of the houses in the subdivision (which is currently under construction) be allowed to be four-bedroom units, instead of three-bedroom units. The request had been discussed in some previous board meetings. Mr. Agostino summarized the situation. Mr. Kelley explained that Merrill Engineers and Land Surveyors had done work showing that every lot in the subdivision was capable, in terms of septic capacity, of having a four-bedroom house.

Mr. Brogna went over his review work and recommendations. He said that the lots inside the circular cul-de-sac might be particularly problematic, and noted a key issue is what the board intended or understood when it originally approved the project.

Mr. Pozerski explained that his work complied with Title V, and that every lot could hold the septic system of a four-bedroom house. He discussed the density, open space, uplands and wetlands of the project.

Mr. Agostino and Mr. Kelley said they were requesting that six four-bedroom houses be allowed. Discussion followed. One four-bedroom house had been built, so that would leave five more. Mr. Kelley explained that the four-bedroom units would probably be on the larger lots.

It was clarified that the four-bedroom houses actually do not have more square footage than the three-bedroom houses. A conversation ensued about how many of the four-bedroom units would fit into the 25% affordable requirement.

Mr. Agostino and Mr. Kelley suggested that zero or one four-bedroom house be allowed inside the circular cul-de-sac, and three or four be allowed along the outer circle. Mr. Brogna indicated this was acceptable. Mr. Agostino discussed the nuances of the 25% affordable requirement.

Mr. Kelley suggested they be allowed two four-bedroom units in phase 1, four market-rate four-bedroom units in phase 2, and two affordable four-bedroom units throughout the site, for a total of up to eight four-bedroom units.

Christine Griffin made a motion to allow the applicant's request for clarification for the Copperwood 40b project to allow the construction of up to eight four-bedroom units, two to be market-rate in phase 1, four to be market-rate in phase 2, two to be affordable throughout the site, up to one may be in phase 1 if there is one affordable lot left there, there is to be a maximum of one four-bedroom unit constructed inside the circular cul-de-sac of phase 2, and it will comply with all Title V and health requirements. Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

ADMINISTRATIVE ACTIONS

Christine Griffin made a motion to approve the meeting minutes of August 19, 2019. Mr. Gallagher seconded the motion, and the board voted unanimously in favor.

Mr. Gallagher made a motion to adjourn the meeting, Christine Griffin seconded the motion, and the board voted unanimously in favor.