

ZONING BOARD OF APPEALS / TOWN OF PEMBROKE

MEETING MINUTES: JULY 11, 2022

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

STARTING TIME: 7:00 pm

BOARD MEMBERS PRESENT: Frederick Casavant (Chairman), Christopher McGrail (Vice-Chairman), and John Grenier (Clerk).

BOARD MEMBERS ABSENT: Arthur Boyle (Alternate) and Louis Christian Carpenter (Alternate).

ALSO PRESENT: Matthew Heins (Planning Board Assistant), Carolyn Murray (Town Counsel), John Moore, Sean Mackenzie, Rich Reardon, Lisa Karol, Michael Karol, Bryan Hagan, Joseph Stack, Vanessa Montes, Luis Montes, Vincent Foster, Matthew Foster, Nina Iandoli, Gary Yaffee, Sharon Tyler, Steven Teebagy, Robert Galvin, Matthew Dacey, Sarah Dacey, Paul Dacey, Thomas Dacey, and others.

OPENING THE MEETING

The Chairman Mr. Casavant opened the meeting by reading the Chairman's statement: "Please note that this meeting is being made available to the public through an audio 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."

PUBLIC HEARING FOR CASE #12-22 SPECIAL PERMIT AND VARIANCES AT 125 FURNACE COLONY DRIVE

Mr. Casavant opened the public hearing (continued from June 6, 2022) on the application of Sean Mackenzie, 125 Furnace Colony Drive, Pembroke, MA 02359, requesting a special permit and variances in accordance with the Zoning Bylaws of the Town of Pembroke, Section V.5 Nonconforming Uses and Section IV.1.D.3 Side Yard Setback and Rear Yard Setback, to build a shed of 20 feet by 36 feet on a property containing a single-family house. The property is located at 125 Furnace Colony Drive, Pembroke, MA 02359, in the Residential A District and the Water Resource and Groundwater Protection District Overlay, as shown on Assessors' Map B6, Lot 112.

Sean Mackenzie was present, along with the project's contractor Joseph Stack. Mr. Mackenzie briefly summarized the project, which is to build a garage on his property for his expanding storage needs.

In reply to Mr. Casavant's question, Mr. Mackenzie said the small existing shed on the property would be demolished if the proposed new garage is approved.

In reply to questions, Mr. Mackenzie explained that he regards the proposed building as a "garage," even though the site plan drawing identifies it as a "shed." He said that the paved driveway would not be expanded, because it extends to where the garage would be. Mr. Stack said the garage would be 14 feet high at most, and one-story high.

An abutter, who did not give her name, described her concerns about the view of the nearby lake, and conversation followed.

Mr. Casavant said the garage should only be one-story high, and the small existing shed should be demolished.

There was a question about the garage's proximity to the lake, and Mr. Mackenzie explained that it had been approved by the Conservation Commission.

Mr. Casavant made a motion to close the public hearing, Mr. McGrail seconded the motion, and the board voted unanimously in favor.

Mr. Casavant made a motion to allow the petition of Sean Mackenzie for 125 Furnace Colony Drive, based on the plans submitted, with the conditions that the proposed garage be one story in height and that the existing shed in the corner of the lot be removed before or when construction of the proposed garage is completed. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

PUBLIC HEARING FOR CASE #16-22 VARIANCE AT 40 LORNA AVENUE

Mr. Casavant opened the public hearing on the application of Luis Montes, Gloria Rodriguez, and Vanessa Montes, 40 Lorna Avenue, Pembroke, MA 02359, requesting a variance in accordance with the Zoning Bylaws of the Town of Pembroke, Section IV.1.D.2 Front Yard Setback, to install a pool on a property containing a single-family house. The property is located at 40 Lorna Avenue, Pembroke, MA 02359, in the Residential A District, as shown on Assessors' Map E14, Lot 33B.

Vanessa Montes and Luis Montes were present. Ms. Montes described the project and explained that the pool was mostly installed before she realized that she needed a permit and a variance. She described the pool and the fencing around it. A discussion took place about this side of the property being a front yard per the zoning bylaw.

Mr. Casavant asked if there was anyone else present who had anything to say regarding the project, but nobody spoke other than Mr. Montes. Ms. Montes said she had spoken to the closest abutters, especially those who live on the same street.

Mr. Casavant said he was sympathetic to the project. He noted that this side of the property is more like a side yard, in effect, and so a smaller setback is appropriate anyway. Mr. Grenier pointed out that the pool would be close to the road, not a neighbor.

Mr. Casavant described the process by which the decision would be filed and the appeal period would happen.

Mr. Casavant made a motion to close the public hearing, Mr. Grenier seconded the motion, and the board voted unanimously in favor.

Mr. Casavant said that he had no objections to the project, especially since no abutters had come to express opposition to it and it was almost 20 feet from the property line.

Mr. Casavant made a motion to allow the variance for Luis Montes, Gloria Rodriguez, and Vanessa Montes, for 40 Lorna Avenue, for the above-ground pool 15.8 feet from the property line, the pool as

situated not to change in dimension. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

PUBLIC HEARING FOR CASE #14-22 SPECIAL PERMIT AND VARIANCE AT 64 RIDGE AVENUE

Mr. Casavant opened the public hearing on the application of Lisa Karol and Michael Karol, 314 Plymouth Street, Pembroke, MA 02359, requesting a special permit and variance in accordance with the Zoning Bylaws of the Town of Pembroke, Section V.5 Nonconforming Uses and Section IV.1.D.3 Side Yard Setback, to build a single-family house on a property which is currently vacant. The property is located at 64 Ridge Avenue, Pembroke, MA 02359, in the Residential A District and the Water Resource and Groundwater Protection Overlay District, as shown on Assessors' Map B6, Lot 10.

Lisa Karol and Michael Karol were present. Ms. Karol explained that they bought the property in 2013 from the town, and that at one time there was a single-family house on the property which has since been demolished. A special permit and variance for a proposed new house were previously granted, but have lapsed.

The board members, Ms. Karol and Mr. Karol discussed the project, as the board sought to understand the property's history.

Mr. Casavant opened the hearing to comments from the public. Bryan Hagan, an abutter to the project, spoke and described his concerns about the traffic on Ridge Avenue. He explained that the road is extremely narrow and so vehicles cannot pass on it, and that moreover drivers often use his driveway to reverse direction. He expressed concern that contractors and builders would park in the road, thus blocking it.

Mr. McGrail said that he felt contractors and builders would generally park on the property rather than in the road, and discussion followed. Mr. Hagan said he was not opposed to the project itself, but was worried about traffic on the road. Further conversation took place about the road, its condition, and the traffic on it.

The board members talked about whether they could place conditions on the project to regulate the traffic and parking on Ridge Avenue.

An abutter whose name was unclear said that he has a well on his property, which would be close to the proposed house. Discussion followed, and Mr. Casavant explained that the proposed new house would be closer to the center of the property than the previous house had been.

In reply to a question, Ms. Karol explained where the new driveway would be located on the property and where it would access Ridge Avenue.

Matthew Foster, an abutter, addressed the board. Noting that the plan submitted to the board is dated 2007, he said another plan was submitted in 2014. He described some of the differences between the two plans. Ms. Karol said that she had not submitted any other plans, and Mr. Casavant explained that the plans submitted with this application were the relevant ones.

Mr. Foster said he was worried about the location and size of the proposed house, and especially about it being two stories high. Discussion took place.

Mr. Foster asked about the length of the property's frontage, and discussion followed.

Mr. Heins suggested it might be helpful for the applicant to submit a revised site plan drawing showing where the new driveway would be. The board members generally agreed with this, and Mr. Casavant recommended showing the septic layout also. Conversation ensued. Ms. Karol agreed to revise the drawing, and to have a new version ready for the next board meeting.

Mr. Casavant made a motion to continue the public hearing to August 8, 2022, at 7:30 pm. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

PUBLIC HEARING FOR CASE #15-22 VARIANCE AT 70 PLAIN STREET

Mr. Casavant opened the public hearing on the application of Gary Yaffee and Taylor Yaffee, 70 Plain Street, Pembroke, MA 02359, requesting a variance in accordance with the Zoning Bylaws of the Town of Pembroke, Section IV.1.A.4 Garage for Storage of More Than Four Automobiles, to build a garage of about 1,600 square feet which would be attached to an existing single-family house. There would be living space on the second floor above the garage. The property is located at 70 Plain Street, Pembroke, MA 02359, in the Residential A District, as shown on Assessors' Map D4, Lot 57.

Gary Yaffee was present. Mr. Yaffee described the project, and explained that he has a boat and some automobiles that he wants to store inside this garage. Discussion followed. Mr. Yaffee said the garage's appearance would be comparable to the house.

Mr. Heins noted that this garage would be relatively far from any abutter, due to the large size of the property, and so it would be less visible and obtrusive.

Mr. Casavant emphasized his concerns about the size of the garage being larger than 1,200 square feet, which is regarded as the size of a typical four-car garage. He said he was reluctant to allow 1,600 square feet. Conversation followed, and various options to alter the design were discussed by Mr. Yaffee and the board members.

Mr. Casavant suggested that Mr. Yaffee revise the plan and come before the board at the next board meeting, and Mr. Yaffee agreed.

Mr. Grenier asked if there were any neighbors present who wished to speak regarding the project, but nobody spoke.

Mr. Casavant made a motion to continue the public hearing to August 8, 2022, at 7:45 pm. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

PUBLIC HEARING FOR CASE #13-22 VARIANCE (IN ACCORDANCE WITH JUDICIAL REMAND ORDER) AT 204 CENTER STREET

Mr. Casavant opened the public hearing on the application of Pembroke Center Street, LLC, P.O. Box 1414, Duxbury, MA 02331, requesting a variance, per a remand order from Massachusetts Superior Court Department of the Trial Court, and in accordance with the Zoning Bylaws of the Town of Pembroke, Section IV.7. Center Protection District, Section VI.D. Special Permits, and Section VI.E. Variances, to complete a previously approved project (Site Plan) by constructing two buildings on a property that already contains multifamily residential units. Each new building would be two stories high and would contain commercial space on the first floor and four (4) residential units on the

second floor. The property is located at 204 Center Street, Pembroke, MA 02359, in the Center Protection District and possibly the Residence A District, as shown on Assessors' Map C9, Lot 102.

Attorney Robert Galvin was present representing the project. Matthew Dacey, essentially the project's developer, was also present, along with Sarah Dacey, Paul Dacey and Thomas Dacey. Carolyn Murray, Town Counsel with KP Law and the attorney representing the board in the recent litigation with the Planning Board regarding the project, was present as well.

Mr. Galvin went over the project's history, explaining that it dates back to 2005. It was originally proposed to be 15 residential units in a townhouse-style design in the rear and two commercial buildings in the front (i.e., a mixed-use project), but only the residential units were built. In 2018 the developer came before the board with a revised proposal in which the two buildings in front would be mostly residential. The board approved the variances and/or special permits being requested, but the Planning Board appealed this to land court. Recently a settlement agreement was reached, and a remand order was issued returning the project to the two boards.

Mr. Galvin explained that the remand order provides that the first floor of each building will be commercial space, and the second floor of each building will have four residential units of which one will be an affordable unit. He displayed the revised plans submitted in conformance with the remand order.

Ms. Murray addressed the board. She noted that the board members previously agreed to entertain this amended design. Since the developer was slated to go before the Planning Board next week, she suggested continuing the public hearing so that any modifications desired by that board could be incorporated into the application through a revised design before the hearing is closed. Discussion followed.

Sharon Tyler, a resident at 204 Center Street, asked if the units would be condominiums, and Mr. Galvin said they would. He explained that some issues, such as traffic and parking, will be handled by the Planning Board.

Steven Teebagy, another resident at 204 Center Street, asked how the rear units would be separated from the two new buildings, and Mr. Galvin pointed to a fence and vegetation (new trees) shown on the landscape drawing. Conversation ensued.

Mr. Casavant asked if any other members of the public had anything to say, and nobody spoke.

A discussion took place about what date and time to continue the hearing to.

Mr. Casavant made a motion to continue the public hearing to August 8, 2022, at 7:20 pm. Mr. McGrail seconded the motion, and the board voted unanimously in favor.

ADMINISTRATIVE ACTIONS

The board members and Mr. Heins were preparing to leave, and then were reminded that the meeting had not been adjourned. Moreover, there were still minutes to approve.

Mr. Casavant made a motion to approve the minutes of June 6, 2022, Mr. McGrail seconded the motion, and the board voted unanimously in favor.

The meeting was adjourned.