

ZONING BOARD OF APPEALS / TOWN OF PEMBROKE

MEETING MINUTES: AUGUST 8, 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), Laura Delaplain, Frank Archibald, Leah Archibald, Edward Cain, Michelle Karol, Michael Karol, Joan O'Donoghue, James O'Donoghue, Eamon Fee, Kathi Fee, Maureen Hennessy, John Jankowski, Jr., John Cannon, Robert Galvin, Matthew Dacey, Sarah Dacey, Thomas Dacey, Vincent Foster, Matthew Foster, Nina Iandoli, Gary Yaffee, Donald Sheehan, Brian Lang, Michael Bartoloni, 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 #18-22 SPECIAL PERMIT AND VARIANCE AT 26 WATER STREET

Mr. Casavant opened the public hearing on the application of Laura Delaplain, 26 Water Street, Pembroke, MA 02359, requesting a special permit and variance in accordance with the Zoning Bylaws of the Town of Pembroke, Section IV.1.B.4. Attached Dwelling Unit ("In-Law Apartment") and Section IV.1.B.4.c. Lot at Least 40,000 Square Feet, to construct an attached dwelling unit ("in-law apartment") within an existing single-family house. The property is located at 26 Water Street, Pembroke, MA 02359, in the Residential-Commercial District, as shown on Assessors' Map E13, Lot 43.

Frank Archibald, the builder of the project, came before the board. He said that the project was to repurpose a portion of the existing house to create the in-law unit, not to expand the house. The board members discussed the size of the apartment, and agreed it was well within the maximum square footage.

Mr. Casavant asked if any members of the public wished to say anything regarding the project, but nobody spoke.

A brief discussion took place about various aspects of the project.

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

The board members talked about the project and agreed they had no objections to it.

Mr. McGrail made a motion to approve the project, subject to the conditions specified in Section IV.1.B.4. of the zoning bylaws. Mr. Casavant seconded the motion, and the board voted unanimously in favor.

PUBLIC HEARING FOR CASE #17-22 VARIANCE AT 210 BARKER STREET

Mr. Casavant opened the public hearing on the application of Eamon Fee, 210 Barker 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 shed of about 3,500 square feet which would hold various machinery and equipment primarily to be used for landscaping and maintenance. The property is about 32 acres in size, and contains a single-family house and also an airstrip referred to as Sherman Airfield. The property is located at 210 Barker Street, Pembroke, MA 02359, in the Residence A District, as shown on Assessors' Map D10, Lots 12 and 12A.

Eamon Fee was present, and he described the project in detail. He explained that he and his wife Kathi Fee live at 210 Barker Street, which is a total of about 32 acres. The airstrip is a grass strip about 1,500 feet long and 100 feet wide. Behind the house is an aircraft hangar. There is also a horse stable and paddock. He and his wife are both pilots, and they bought the property in 2021.

Mr. Fee explained that the Cessna plane he owns is historic, and a book was once written about it. He said that the existing hangar contains some of the machinery used to maintain the airstrip and property, and he would like to move all this to the proposed new shed. He also wishes to store hay in the shed, since he hopes to acquire one or more horses in the future. He explained that he had met with several neighbors, who were generally supportive.

Mr. Fee described the work needed to maintain the airstrip and keep it safe. Some of the machinery used for this purpose is currently parked outside. At present he stores his airplane at an airport in Lawrence, because there isn't room for it in the existing hangar. The airstrip is an important resource, and for example it can serve medical flights and emergency landings. The property has also traditionally been used for overflow parking during the annual "fish fry" in the park across the street.

Mr. Fee emphasized the size of the machinery used to maintain the property and airstrip, and the need to store it inside. He said that the size of the building he wished to construct was justified by the particular circumstances, and asked the board to vote in favor of the project.

Mr. Casavant and Mr. Fee discussed the existing hangar building in which some equipment is stored. Mr. Fee described the challenges of maintaining a grass airstrip.

A wide-ranging conversation took place about the property, the airfield use, and other aspects of the project.

Mr. Casavant asked if he, or multiple board members, could visit the site to look it over, and Mr. Fee agreed. Mr. Casavant suggested the public hearing be continued to give him a chance to visit the site.

Mr. Heins recommended extending the deadline for the board to decide on the application if the hearing were continued, given the 100-day deadline per state law for a variance application. Mr. Fee agreed to extend the deadline.

Mr. Grenier noted that there are stormwater requirements for a building of this size, and discussion followed.

Mr. Casavant made a motion to continue the public hearing to September 19, 2022, at 7:00 pm, and also to extend the deadline for the board to make its decision by 50 days, based on Mr. Fee's representation. Mr. McGrail 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 reopened the public hearing (continued from July 11, 2022) 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, the project's developer, was also present, along with Sarah Dacey and Thomas Dacey.

The hearing had been continued primarily in order to give the Planning Board a chance to review the project. Mr. Galvin and Mr. Heins explained that the Planning Board had done so, and had approved the project without requesting any changes to its design.

Mr. Galvin briefly described portions of the litigation settlement (between the Zoning Board of Appeals and Planning Board) and remand order. A conversation ensued.

Mr. Casavant gave members of the public the opportunity to address the board regarding the project, and nobody spoke.

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

The board members were in agreement to approve the project.

Mr. Casavant made a motion to approve the application for Case #13-22, per the remand order in the file and pursuant to the revised plan dated February 6, 2022, presented by counsel. Mr. McGrail 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 reopened the public hearing (continued from July 11, 2022) 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.

Michael Karol and Michelle Karol were present on behalf of the project, and Mr. Karol described the changes made to the site plan drawing since the last session of the hearing.

The board members examined the new site plan drawing and discussed the project. The board talked about the problem of traffic on Ridge Avenue, which is a very narrow road. It was noted that the footprint of the house had shifted compared to the previous site plan drawing.

Mr. Karol said the house would be a "Cape" design with a small second story.

Matthew Foster, a nearby resident of 39 North Boundary Road who also owns an empty adjacent property, addressed the board. He said that he felt the location (footprint) of the house was now much better than what had been shown in the original site plan drawing, and that it was also helpful to see the driveway now.

Mr. Foster stated that they were not opposed to the project, but hoped a few terms could be agreed on. He said they had easement rights to a portion of the property, and asked for assurance that they could continue to use the easement once the house is built. He also requested that if the tree removal or construction causes any damage to their fence, it would be repaired. Further, he asked that their view of the water not be blocked.

The board members were of the general opinion that they could not condition such terms, and urged Mr. Foster to communicate with the applicant and for both sides to work together.

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

The board discussed the project and agreed to allow it.

Mr. Casavant made a motion to approve the application for a special permit and variance [for Case #14-22 at 64 Ridge Avenue] in accordance with Section V.5 Nonconforming Uses and Section IV.1.D.3 Side Yard Setback, based on the revised site plan received by the board on July 25, 2022, the date on the site plan being May 20, 2014. 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 reopened the public hearing (continued from July 11, 2022) 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, and he explained that the revised design had reduced the garage's size to just below 1,200 square feet. Referring to the architectural drawings which he presented to the board, he went over the new design.

Mr. Casavant noted that it was unclear if a variance was even necessary anymore (as the size of the garage was now below 1,200 square feet), and Mr. Heins explained that the building inspector had recommended it be granted.

Mr. Casavant gave anyone present the chance to address the board regarding the project, but nobody spoke.

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

The board members discussed the project briefly, and were in agreement to approve it.

Mr. Casavant made a motion to approve the application of Gary and Taylor Yaffee, under Section IV.1.A.4, based on the plan dated March 27, 2022, but revised and submitted to the board on August 8, 2022. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

PUBLIC HEARING FOR CASE #19-22 SPECIAL PERMIT AND VARIANCES AT 40 OLD WASHINGTON STREET

Mr. Casavant opened the public hearing on the application of John Cannon, 40 Old Washington Street, 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, Section IV.1.D.2. Front Yard Setback, and Section IV.1.D.3. Side Yard Setback, to construct an expansion to an existing single-family house. The property is located at 40 Old Washington Street, Pembroke, MA 02359, in the Residential-Commercial District, as shown on Assessors' Map E10, Lot 24.

John Cannon was present, and he described the project. He explained that the addition would contain a two-car garage and a master bedroom above it. This necessitates a slight variance for the front yard setback, but the more significant variance is for the side yard setback where the distance from the property line would only be about four feet.

Mr. Cannon said that he chose the north side of the house for the addition because there is a single-family house nearby on the south side whereas the north side has much more adjacent space. A new multifamily housing project was recently approved on the adjacent property to the north, in fact, and its proposed buildings would be fairly distant. Moreover, Mr. Cannon explained, the developer of this project had agreed to support Mr. Cannon's variance request, and had submitted a letter to that effect. This developer had also agreed to grant a landscape easement to Mr. Cannon, along the edge of that property, which would be 20 feet wide. Screening vegetation could be planted in this easement if necessary. The distance between Mr. Cannon's house and the proposed buildings of the multifamily project would be about 130 feet, Mr. Cannon explained. For these reasons, Mr. Cannon said, a distance of only 4 feet from the property line was justified since nobody would be adversely affected by his addition. He said that he had also spoken with his other neighbors and they were not opposed to the project.

Conversation followed between the board members, Mr. Cannon and Mr. Heins. The anticipated easement was discussed in particular, and Mr. Casavant said that given the proposed distance of only four feet between the house and property line, he wished to see a copy of legal documents verifying this easement had been created before proceeding further. Mr. Casavant suggested continuing the public hearing to allow Mr. Cannon time to get this done.

Mr. Casavant also recommended that Mr. Cannon consider adjusting the design, if possible, to create slightly more distance from the property line. Discussion ensued.

Mr. Casavant made a motion to continue the public hearing for Case #19-22 to September 19, 2022, at 7:15 pm, Mr. Grenier seconded the motion, and the board voted unanimously in favor.

PUBLIC HEARING FOR CASE #20-22 SPECIAL PERMIT AT 59 CENTER STREET

Mr. Casavant opened the public hearing on the application of Brian Lang, 59 Center Street, Pembroke, MA 02359, requesting a special permit in accordance with the Zoning Bylaws of the Town of Pembroke, Section IV.1.B.4. Attached Dwelling Unit (“In-Law Apartment”), to construct an attached dwelling unit (“in-law apartment”) as an addition to an existing single-family house. The property is located at 59 Center Street, Pembroke, MA 02359, in Residence District A, as shown on Assessors’ Map D10, Lot 62.

Brian Lang came before the board and briefly summarized the project. There was a discussion about the calculation of the square footage, which per the zoning bylaws must be less than 800 square feet.

Mr. Casavant asked if anyone else was present who wanted to speak regarding the project, but there was no response. Mr. Lang mentioned that one person in attendance was the future occupant of the in-law apartment.

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

The board members conversed about the project, and were in general agreement that it could be approved.

Mr. Casavant made a motion to allow the application of Brian Lang, Case #20-22, requesting a special permit in accordance with Section IV.1.B.4. Attached Dwelling Unit, also known as an in-law apartment, subject to the conditions contained in said section of the bylaw, and based on the plans submitted by Mr. Lang with his application. Mr. McGrail seconded the motion, and the board voted unanimously in favor.

ADMINISTRATIVE ACTIONS

Mr. Casavant made a motion to approve the minutes of July 11, 2022, Mr. Grenier seconded the motion, and the board voted unanimously in favor.

The meeting was adjourned.