

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

## **MEETING MINUTES: OCTOBER 17, 2022**

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

**STARTING TIME:** 7:00 pm

**BOARD MEMBERS PRESENT:** Christopher McGrail (Vice-Chairman), John Grenier (Clerk), and Arthur Boyle (Alternate).

**Note:** Board member Fraser Townley (Alternate) was also present, but was not serving on the board and was in the audience.

**BOARD MEMBERS ABSENT:** Frederick Casavant (Chairman) and Louis Christian Carpenter (Alternate).

**ALSO PRESENT:** Matthew Heins (Planning Board Assistant), Denise Moraski (Open Space Committee), Marzena Laslie, Alexa Laslie, Cassie Laslie, Frank Kelly, Sidney Kelly, Brandon Perry, Sean Perry, Kim Bonney, Kevin Bonney, Peter Soszynski, Michael Hazlett, Joan O'Donoghue, Sean Dempsey, Angela Dempsey, Kimberly Kenney, Donald McGill, Kevin Grady, Cynthia Chekoulias, and others.

### **OPENING THE MEETING**

The Vice-Chairman Mr. McGrail 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 #22-22 SPECIAL PERMIT AND VARIANCES AT 11 DEVEUVE LANE**

Mr. McGrail reopened the public hearing (continued from September 19, 2022) on the application of Genowefa Sarnicka, 11 Deveau Lane, 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.3. Side Yard Setback, and Section IV.1.D.3. Rear Yard Setback, to construct a deck as an expansion of an existing single-family house. The property is located at 11 Deveau Lane, Pembroke, MA 02359, in Residence District A and the Water Resource and Groundwater Protection District, as shown on Assessors' Map A8, Lot 68.

Marzena Laslie, representing her mother Genowefa Sarnicka, came before the board. She explained that the floating deck (patio) within the easement on the property, which had caused concern in the previous session of the public hearing, had since been removed. Photographs had been submitted showing this deck being taken apart.

Mr. McGrail and Ms. Laslie discussed the details of the new deck's construction, and Mr. McGrail went over the variances being requested.

Mr. McGrail asked if any members of the public wished to comment on the matter, but nobody spoke.

Mr. McGrail made a motion to approve the application, Mr. Boyle seconded the motion, and the board voted unanimously in favor.

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

#### **ADMINISTRATIVE ACTIONS**

Mr. McGrail made a motion to approve the minutes of September 19, 2022, Mr. Grenier seconded the motion, and the board voted unanimously in favor.

#### **PUBLIC HEARING FOR CASE #23-22 SPECIAL PERMIT AND VARIANCE AT 34 PINE CIRCLE**

Mr. McGrail reopened the public hearing (continued from September 19, 2022) on the application of Frank and Sid Kelly, 34 Pine Circle, 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 construct a shed which would be 10 feet by 20 feet in size. The property is located at 34 Pine Circle, Pembroke, MA 02359, in Residence District A and the Water Resource and Groundwater Protection District, as shown on Assessors' Map B6, Lot 383.

Frank Kelly and Sidney Kelly came before the board. The public hearing had been continued due to the objections of a neighbor and concerns about the proposed shed's proximity to the property line.

In reply to questions, Mr. Kelly and Ms. Kelly said that the location of the proposed shed had not been changed since the last session of the public hearing. They explained that they were reluctant to move the shed further from the property line due to the small size of the property and the limited space available to them. Mr. Kelly said that moving the shed was unlikely to satisfy their neighbor, in any case. Discussion followed. The board members were generally of the opinion that the shed needed to be moved slightly further from the property line, and should be made smaller.

Ms. Kelly and Mr. Kelly said that they have experienced hostility and antagonism from their neighbor, Cynthia Chekoulias, in the two months since moving into the house. They noted that their property has been surveyed to determine its boundaries. Mr. Kelly said they were willing to compromise on the shed's location to get the board's approval.

Mr. McGrail opened the hearing to comments from the public.

Kimberly Kenney, a resident of Pine Circle, said that she was interested in properties near the pond and had concerns about a new shed within a setback creating a precedent.

Cynthia Chekoulias, a neighbor to the Kellys, said that she intended to have her property surveyed to establish the property line.

Joan O'Donoghue, the previous owner of 34 Pine Circle, described the septic system on the property, and a conversation followed. She acknowledged that she built the shed currently on the property in the setback without proper approval. She suggested that another survey be done.

Ms. Kelly and Mr. Kelly talked with the board about the surveys that have previously been done.

Mr. McGrail made a motion to close the public comment portion of the hearing, and Mr. Grenier seconded the motion.

Mr. McGrail suggested that the shed be at least ten feet from the property line. Conversation followed among the board members. At one point, Mr. McGrail directed various members of the public who were talking to be silent.

Mr. McGrail made a motion that the board approve the application, but with the size of the shed reduced to 12 feet by 12 feet, and with the shed to be located at least ten feet from the property line. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

A discussion took place about the shed's height. Several members of the public interrupted Mr. McGrail, and he directed them to be quiet.

Mr. McGrail made a motion to amend the previous motion to require that the wall of the shed be a maximum height of eight feet, with the roof on top of the wall. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

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

#### **PUBLIC HEARING FOR CASE #24-22 VARIANCES AT 74 CONGRESS STREET AND 0 CONGRESS STREET**

Mr. McGrail reopened the public hearing (continued from September 19, 2022) on the application of Whatbarn, LLC, 29 Duck Hill Lane, Duxbury, MA 02332, requesting variances in accordance with the Zoning Bylaws of the Town of Pembroke, Section IV.2.D.4. Front Yard Setback, Section IV.2.D.5. Side Yard Setback, Section IV.2.D.6. Rear Yard Setback, and Section IV.2.D.1. Lot Size Upland Area & One Dwelling Unit Per 10,000 Square Feet of Upland Lot Area, to construct a multifamily residential project of eight (8) buildings containing a total of eleven (11) residential units, along with access drives, parking areas, and landscaping, on a property of about 3.3 acres in size that consists of two adjacent lots. The property is located at 74 Congress Street and 0 Congress Street, Pembroke, MA 02359, in the Residential-Commercial District, as shown on Assessors' Map F9, Lot 11, and Map F9, Lot 12C.

Donald McGill, the developer of the project, was present, along with the project engineer Kevin Grady. Referring to drawings that were displayed, Mr. Grady went over the variances being requested, explained why they were needed, and described certain aspects of the project.

There was a discussion about the project's proposed septic system, the quality of the soils, and how stormwater drainage would be handled. Mr. Grady described these in detail.

Mr. McGrail opened the hearing to comments from the public.

Denise Moraski, an abutter (and member of the Open Space Committee), expressed her strong opposition to the project and emphasized that the property is surrounded by wetlands. She warned that the septic system could cause problems.

Sean Dempsey, a nearby resident, said that he was opposed to allowing the side yard setback variances, but added that he was happy the proposed project is residential.

Peter Soszynski, a nearby resident, said that he supported the project being residential rather than commercial, but expressed concern about its possible impact on the water table.

Kevin Bonney, a nearby resident, said that the town is becoming too dense and that developers should respect the rules instead of asking for variances.

Mr. Dempsey asked how much of the property would be cleared for the project, and Mr. Grady described how the trees would be cut further back in a few areas.

A discussion took place about stormwater and drainage.

Ms. Moraski criticized the number of variances being requested, and warned that allowing them could set a precedent.

The board members conversed about the project.

Mr. McGrail made a motion to close the public comment portion of the hearing, Mr. Grenier seconded the motion, and the board voted unanimously in favor.

Mr. McGrail said that he was generally amenable to the project, and noted that without the setback variances the units would be clumped closer together. Mr. Grenier said he was concerned about the amount of uplands and suggested the hearing be continued. Discussion followed, and Mr. Grady clarified a few points.

Mr. McGrail made a motion to approve the variances being requested by the applicant, specifically Section IV.2.D.4. Front Yard Setback, Section IV.2.D.5. Side Yard Setback, Section IV.2.D.6. Rear Yard Setback, and Section IV.2.D.1. Lot Size Upland Area & One Dwelling Unit Per 10,000 Square Feet of Upland Lot Area, as per the drawing submitted September 19, 2022. Mr. Grenier seconded the motion, and the board voted unanimously in favor.

Mr. McGrail said that the public hearing was closed.

The meeting was adjourned.