



PEMBROKE PLANNING BOARD MINUTES

MONDAY, MAY 13, 2019

BOARD MEMBERS PRESENT: Rebecca Coletta (Chairman), Andrew Wandell (Vice-Chairman), Thomas Irving (Clerk), and John Scholl.

BOARD MEMBERS ABSENT: Daniel Taylor, Daniel Smith, Jr., and James Noone.

OTHERS PRESENT: Matthew Heins (Planning Board Assistant), Peter Palmieri (Merrill Engineers and Land Surveyors), Kenneth McCormick (Deputy Fire Chief), Frederick "Rick" Seifert, Michael Johnson, Joseph Webby, Kim Moran, Derith Meyer, Karen Johnson, Brett Sesnewicz, and others.

Chairman Rebecca Coletta opened the meeting by reading the Chairman's statement.

DECISION TO WAIVE SITE PLAN REVIEW FOR CONSTRUCTION OF SMALL ADDITION TO BUILDING AT 264-270 WASHINGTON STREET

Frederick "Rick" Seifert came before the board to discuss the proposed construction of a small addition to a building at 264-270 Washington Street. This building currently contains Pudding Brook Pantry and a few other small commercial establishments.

Mr. Seifert explained that he owns the property and wishes to build a small addition, 32 feet by 16 feet in size, which would be used for storage. He showed the board a drawing of what he is proposing to do. The addition would be built behind the building, on the existing paved area for deliveries and parking.

The board members discussed the project, and agreed that due to its small size, its negligible impact on parking and drainage, and the fact that it is not close to the property boundary, it did not need to go through the full site plan review process.

Mr. Irving made a motion that the board waive the requirement for site plan review for the proposed project, and consider it as a minor modification to an existing site plan. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Mr. Wandell made a motion to accept the minutes for April 1, 2019, as presented, Mr. Irving seconded the motion, and the board voted unanimously in favor.

Mr. Scholl made a motion to accept the minutes for April 8, 2019, Mr. Irving seconded the motion, and the board voted unanimously in favor.

Mr. Scholl made a motion to approve the minutes for April 22, 2019, Mr. Irving seconded the motion, and the board voted unanimously in favor.

Ms. Coletta noted that Mr. Seifert had brought the building permit routing slip for the construction of a small addition to the building at 264-270 Washington Street, as discussed previously. Mr. Wandell made a motion that the board authorize the board's clerk to sign the routing slip, Mr. Irving seconded the motion, and the board voted unanimously in favor.

Mr. Irving (the board's clerk) signed the building permit routing slip for the construction of a small addition to the building at 264-270 Washington Street.

The board and Mr. Heins discussed the future schedule of board meetings, Mr. Heins's vacation schedule, and the public hearings that are ongoing. Mr. Heins explained that a site plan application had been received for a proposed solar project on Valley Street, and the board agreed to hold the public hearing on June 24.

The board and Mr. Heins discussed the situation regarding the road bond still held by the town for Subdivision #0408 Stone Meadow Farm, since a legal letter and court documents had been received by the town which state that the road bond when it is released should go directly to the clerk of the court and not to the developer John Hanna.

The board discussed the gradual progress of correcting the fire code and building code violations of the property at 171 Mattakeesett Street, a site that is currently in the site plan review and public hearing process.

Peter Palmieri, of Merrill Engineers and Land Surveyors, the board's peer review engineer for most projects, had arrived. The board and Mr. Palmieri discussed the trees in danger of falling, along the edge of Gorham Avenue, at Subdivision #1801 Dominic's Way. Mr. Palmieri explained that the roots of several trees were disturbed during work that was done on the property recently, and in his judgment there is one pine tree that definitely should be taken down, and a few other trees that probably also should be taken down.

Mr. Palmieri explained that the construction work on Site Plan #SP4-17 at 230 Water Street is proceeding well.

The board and Mr. Palmieri also discussed the ongoing construction work for Site Plan #SP5-18 Urgent Care Facility at 296 Old Oak Street, and the beginning of construction for Site Plan #SP1-18 Irving Oil Gas Station.

The board and Mr. Palmieri discussed an easement for an electric power line in Subdivision #1802 Lisa's Lane (formerly known as Libby's Lane).

PUBLIC HEARING FOR PROPOSED SITE PLAN #SP3-19 LUCKY DAWG TAVERN AND GRILL AT 242-244 MATTAKEESETT STREET

Ms. Coletta opened the public hearing for proposed Site Plan #SP3-19 Lucky Dawg Tavern and Grill at 242-244 Mattakeesett Street, to construct a raised patio ("treehouse bar") for additional seating behind the existing Lucky Dawg Tavern and Grill restaurant building and near the edge of Furnace

Pond, along with a paved walkway to the patio. The raised patio would be 44 feet by 36 feet in size, and within it would be an enclosed building of 24 feet by 16 feet. The property is located in Business District A, Residence District A, and the Water Resource and Groundwater Protection Overlay District, at 242-244 Mattakeesett Street, Pembroke, MA 02359, as shown on Assessors' Map B8, Lot 100.

The applicant, Michael Johnson, who owns and manages the Lucky Dawg Tavern and Grill restaurant, was present, along with Joseph Webby of Webby Engineering, the engineer for the project. Peter Palmieri, of Merrill Engineers and Land Surveyors, the board's peer review engineer for this project, was also present.

Mr. Webby summarized the project, which is to build an outdoors raised patio for additional seating. This would include a small enclosed building for a bar. He explained that the peninsula area will be fenced in so that the raised patio can only be accessed through the existing restaurant. He stated that there is sufficient parking for the existing restaurant and the proposed patio.

Mr. Webby said the patio is about 25 feet from the edge of the pond, and Mr. Johnson said he has obtained the necessary approval from the Conservation Commission.

Mr. Johnson said that the project won't increase the occupancy or capacity of the restaurant, and so the parking doesn't need to be expanded.

In the original design, the pathway from the restaurant to the patio is shown as paved, but Mr. Johnson said he'd like it to be made of wood, with rope guides on either side to keep people on the path.

Mr. Webby explained that they propose to build a drywell for the stormwater runoff from the roof of the new building.

Mr. Johnson said that restrooms for the patio would be in the existing restaurant building, and that the patio would be roughly 11 feet above ground level.

Ms. Coletta and Mr. Palmieri discussed the issue of stormwater drainage, especially since the lake is so nearby. Mr. Palmieri recommended that stormwater calculations be done so that the drywell can be sized properly, and Mr. Webby agreed to do this.

The board and Mr. Johnson talked about lighting for the patio and on the property. Kenneth McCormick, Pembroke's Deputy Fire Chief, was present, and he mentioned some issues the Fire Department wishes to see changed or resolved.

It was clarified that no trees will be removed; the trunks of a few trees will stand within the patio, hence the term "treehouse bar."

Mr. Wandell asked if the flood elevation level of Furnace Pond can be shown on the drawings, and Mr. Webby agreed. The board discussed drainage and possible runoff.

Mr. Wandell noted that waivers are being requested for the development impact statement and the traffic impact study. A discussion followed about parking and occupancy.

Derith Meyer, a neighbor of the restaurant, commented that noise is sometimes a problem, especially late at night. The board and Mr. Johnson discussed this, and Mr. Johnson said that he

doesn't intend to have live music on the patio. Ms. Meyer also mentioned issues with litter on the property.

The board, Mr. Palmieri and Mr. Webby talked about the septic system and how the Board of Health will need to approve the new connection to it from the bar sink on the patio.

The board members decided to approve the site plan at this time, provided that the stormwater calculations for the drywell would be submitted by next week.

Mr. Irving made a motion that the board approve Site Plan #SP3-19 Lucky Dawg Tavern and Grill (at 242-244 Mattakesett Street) with the final conditions of approval to be written and approved at a later meeting, following a review of the drywell calculations to be also written into the conditions. Mr. Scholl seconded the motion.

Ms. Coletta said that the board could prohibit live music on the patio as one of the conditions of approval, and Mr. Johnson indicated that was acceptable.

Another neighbor said that music coming from the restaurant is a problem, and conversation followed. Mr. Johnson said he intends to close the patio at 11:30 pm. The board and the neighbors talked about how late music should be allowed, and it was suggested that the board prohibit the playing of recorded music on the patio after 10:30 pm.

The motion to approve the site plan being on the table, the board voted unanimously in favor.

Ms. Coletta noted that more specific decisions about music and noise would be made soon, and that the final conditions of approval for the project would be approved at the next board meeting if everything went smoothly.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

The board discussed a letter from town counsel relating to the ongoing litigation about the dumpster containers at 240 and 258 Oak Street. The letter stated that an attorney with KP Law (town counsel) had withdrawn from the case, and the board pondered the meaning of this. Mr. Heins agreed to pursue the matter.

DISCUSSION ABOUT ISSUES RELATING TO SUBDIVISION #1801 DOMINIC'S WAY

The board discussed certain problems that had arisen at Subdivision #1801 Dominic's Way, a project which was approved by the board in 2018 and recently appeared to have begun construction. Mr. Palmieri, the board's peer review engineer for this project, was present. Brett Sesnewicz, a neighbor of the project, was also present. Nobody representing the project was in attendance.

Mr. Palmieri explained that when he visited the site, he concluded that the roots of several trees had been substantially damaged by recent excavation work, and thus these trees are in serious danger of falling. These trees are on the property and very close to the right of way for Gorham Avenue, and if they fall could pose a threat to the street, to electric power lines, and to the neighbors' houses.

Many trees on the property were recently taken down, and so it was unclear why these trees were still remaining.

Mr. Sesnewicz said that the developer doesn't plan to take these trees down. He expressed his concern that the trees are in serious danger of falling, and could land on his house if they do fall.

The board, Mr. Palmieri and Mr. Sesnewicz discussed the situation. Mr. Wandell suggested that the Planning Board make a joint request with the Department of Public Works that the trees be removed. The developer's failure to submit the required covenant was also discussed.

The board members discussed various possible approaches to compel the developer to remove the trees. Mr. Sesnewicz emphasized that he is worried about the possibility of the trees falling, and about the developer's conduct in general.

Ms. Coletta suggested that the Planning Board send a letter to the developer outlining the board's concerns about various problems with the subdivision, mandating that the trees in danger of falling be removed, and requesting the developer come to the board meeting on May 20. Mr. Wandell made a motion that the board authorize the board's Chairman (Ms. Coletta) to sign such a letter, Mr. Irving seconded the motion, and the board voted unanimously in favor.

Further discussion followed about the various problems with the property and the subdivision, and how to deal with these issues. Mr. Palmieri and the board talked about what powers the town may have to take trees down when they pose a hazard.

DISCUSSION ABOUT PROPOSED ZONING BYLAW AMENDMENTS, AND PREPARATION FOR ANNUAL TOWN MEETING

The board talked about the upcoming annual town meeting, taking place the next day on May 14, and about the proposed zoning bylaw amendments which are on the warrant.

The board agreed on which board members would make the motions for which zoning bylaw warrant articles on town meeting floor, and discussed how the process of town meeting will take place in general.

A detailed discussion took place about the proposed zoning bylaw amendment to allow cluster development, Article 18. The board talked about how to describe and advocate for this zoning bylaw on town meeting floor.

The board talked about Article 19, which would allow projects on all way lines in the industrial districts without waivers. The benefits of easing development in these areas were described.

The board discussed Article 20, which would allow assisted living facilities in the Residential-Commercial District, and also streamline certain processes in that zone.

The board talked about Article 21, which would also help allow assisted living facilities in the Residential-Commercial District.

The board discussed Article 22, which would correct certain typographical errors.

The board talked about Article 23, which would amend Business District B in various ways, generally to facilitate development. It would also allow single-family housing.

The board members conversed about Article 24, which would amend the Center Protection District to allow assisted living facilities.

The board discussed Article 25, which would require signs with addresses at commercial properties, and was requested by the Fire Department.

The board talked about Article 26, which would change the procedures and rules for certain appeals. Some board members felt this article might create debate on town meeting floor.

The board discussed Article 27, which would empower the building inspector to authorize certain alterations to single-family houses, rather than having these go to public hearings of the Zoning Board of Appeals.

The board members discussed Article 28, which would amend certain rules for nonconforming uses to align with state law.

The board talked about Article 29, which would amend and clarify the site plan approval procedures. Ms. Coletta noted that this is interconnected with and dependent upon Article 26, and it was agreed to ask the moderator of town meeting to take Article 26 before Article 29.

The board discussed Article 30, which would amend the special permit procedures to specify which departments receive notifications.

The board conversed about Article 31, which would correct outdated language about the special permit granting authority.

The board talked about Article 32, which would prohibit the granting of use variances.

Mr. Wandell made a motion to adjourn the meeting, Mr. Irving seconded the motion, and the board voted unanimously in favor.

Respectfully submitted,

Matthew Heins, Planning Board Assistant