



PEMBROKE PLANNING BOARD MINUTES

MONDAY, FEBRUARY 24, 2020

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

BOARD MEMBERS ABSENT: Rebecca Coletta (Chairman), Daniel Smith, Jr., and James Noone.

OTHERS PRESENT: Matthew Heins (Planning Board Assistant), Alexander Weisheit (town counsel, KP Law), Peter Palmieri, Mounir Tayara, Kimberly Kroha, Brian Murphy, John Danehey, Russell Field, Kathy Field, and others.

Vice-Chairman Andrew Wandell opened the meeting by reading the Chairman's statement.

DECISION TO SET AMOUNT OF ROAD BOND FOR BRISAN WAY EXTENSION SUBDIVISION #1603

Mounir Tayara, the developer of Subdivision #1603 Brisan Way Extension which is currently under construction, came before the board to discuss the amount of the road bond and the release of the remaining lots. Typically the board requires payment of a road bond (to cover the cost of completing the road and infrastructure for a subdivision, if the town must finish it) before releasing the remaining half of the lots.

The board members and Mr. Tayara reviewed the letter from Peter Palmieri (Merrill Engineers and Land Surveyors), the board's peer review engineer for the project, containing an estimate of the cost of building the remainder of the road and infrastructure. Mr. Palmieri's estimate was \$215,320.00.

Mr. Taylor made a motion that the board set the amount of the road bond at \$215,320.00, and that subject to receipt of this amount by the town's treasurer, the six remaining lots [of Subdivision #1603 Brisan Way Extension] be released. Mr. Irving seconded the motion, and the board voted unanimously in favor.

The board, Mr. Heins and Mr. Tayara briefly discussed the bureaucratic process of establishing the road bond account and releasing the lots.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Mr. Taylor made a motion to approve the minutes for February 10, 2020, Mr. Irving seconded the motion, and the board voted unanimously in favor.

The board members went over the schedule of upcoming board meetings.

A conversation took place about Mr. Irving's anticipated departure from the board, since he is planning to move out of Pembroke.

The board and Mr. Heins talked about the opportunity to get a presentation about stormwater from a regional expert.

A discussion took place about Site Plan #SP3-19 Lucky Dawg Tavern and Grill and the apparent need for a construction inspection which never took place.

The board and Mr. Heins discussed the property at 300 Center Street.

PUBLIC HEARING FOR PROPOSED MAJOR MODIFICATION TO SITE PLAN #SP2-17 AT 260-280 OAK STREET

Mr. Wandell re-opened the public hearing (continued from December 16, 2019, and January 27, 2020) for the proposed major modification (amendment) to Site Plan #SP2-17 at 260-280 Oak Street. The site plan is to build two industrial buildings totaling 20,000 square feet of modular units occupied by multiple users, on property located in Industrial District A and the Medical Marijuana Overlay District, and its construction is nearly complete. The major modification makes various changes to the site plan, generally reflecting what has actually been built, especially regarding the access drive, parking areas, drainage system, landscaping, grading, fencing, retaining walls, vegetation, building interiors, and building entrances.

Brian Murphy, the project's developer, was present, along with his attorney Kimberly Kroha. Russell Field, the landowner of the adjacent property of 240 & 258 Oak Street, was present, with his attorney John Danehey and also Kathy Field. Alexander Weisheit of KP Law, Town Counsel for Pembroke, was present. Peter Palmieri of Merrill Engineers and Land Surveyors, the board's peer review engineer for the project, was also present.

Mr. Murphy and Mr. Field have been in disagreement about various aspects of Site Plan #SP2-17 at 260-280 Oak Street, and so their attorneys were there to present their positions, and town counsel was there to assist the board with the relevant legal questions.

Mr. Wandell noted that a letter had been issued by the town's building inspector and zoning enforcement officer, George Verry, regarding three key points of zoning interpretation in dispute for the 260-280 Oak Street property.

Mr. Wandell went over the findings in Mr. Verry's letter regarding the issues of a common (shared) driveway, 40% landscaping (paved areas along westerly lot line), and retaining wall and fence within the setback. His findings were generally that the project is not in violation on any of these points.

Mr. Weisheit noted that Mr. Verry's findings were in accord, for the most part, with the board's original decision.

Mr. Danehey spoke at length, and expressed his disagreement with Mr. Verry's findings and interpretations on all three points. He emphasized that he believes this submission, as a major modification, constitutes a new application and so the previously approved site plan doesn't apply.

Ms. Kroha spoke, and supported Mr. Verry's position that none of the three issues are zoning violations. Mr. Taylor asked about the access to the property from Oak Street, and a short dialogue followed.

Mr. Scholl made a motion that the board accept the findings of the Town of Pembroke's building inspector and zoning enforcement officer, and Mr. Irving seconded the motion. Mr. Wandell, Mr. Irving and Mr. Scholl voted in favor, and Mr. Taylor voted against.

Mr. Heins asked about the number of board members needed for an affirmative vote, and a short conversation took place.

The board discussed what conditions to apply to a site plan approval of the major modification, if it were granted. Mr. Heins noted that the Deputy Fire Chief's approval should be sought. Mr. Wandell said the board would like to have a date of completion of April 30, with an as-built available for review. He also said the board wished to see the dumpster locations shown on the site plan.

Mr. Weisheit said that for site plan approval to be granted, it might be necessary to have four board members (i.e., a quorum of the entire board) vote in favor. Discussion followed.

Mr. Taylor expressed concerns about some aspects of Mr. Verry's letter. A discussion ensued about the question of a common (shared) driveway, and Mr. Palmieri noted that where the access drive meets Oak Street, as it was built, it overlaps onto the adjacent property, which is also controlled by Mr. Murphy but under a different entity. This led to further discussion.

Mr. Irving made a motion to continue the public hearing to March 9 at 8:15 pm, Mr. Taylor seconded the motion, and the board voted unanimously in favor.

Mr. Taylor 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