



PEMBROKE PLANNING BOARD MINUTES

MONDAY, JUNE 29, 2020

BOARD MEMBERS PRESENT: Rebecca Coletta (Chairman), Andrew Wandell (Vice-Chairman), Thomas Irving (Clerk), Daniel Taylor, James Noone and Alysha Siciliano-Perry.

BOARD MEMBERS ABSENT: Daniel Smith, Jr.

OTHERS PRESENT: Matthew Heins (Planning Board Assistant), Barbara Huggins Carboni (KP Law, Town Counsel), Peter Palmieri, Michael Bulman, Greg Morse, Robert DeMarzo, Kathy Savage, Mark Savage, Jill Roffo, Paula Trinqué, Sharon McNamara, Russell Field, John Danehey, Monica Lordelo MacFarlane, Edward Noseworthy, Dana Gleason, Trevor Smith, Eoghan Kelley, Tyler Nims, Andrew Timmis, and others.

Due to the coronavirus pandemic, this meeting of the Planning Board was held by remote participation using the internet, through the Zoom software platform arranged by PACTV, with nobody in physical proximity.

OPENING THE MEETING

At 7:00 pm, Ms. Coletta opened the Planning Board meeting. She read a modified version of the Chairman's statement, adjusted for the circumstances of the coronavirus pandemic and remote participation:

This meeting of the Pembroke Planning Board on June 29 is now open. Please note that this meeting is being made available to the public through an audio and/or video recording—in this case a video 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.

Pursuant to Governor Baker's March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020, Order imposing strict limitations on the number of people that may gather in one place, as later amended, this public meeting of the Pembroke Planning Board is being conducted via remote participation.

No in-person attendance of members of the public will be permitted, but the public can view and listen to this meeting while in progress on PACTV Comcast Government Access Channel 15, and for those without cable, on their PRIME streaming channel by visiting www.pactv.org/live.

Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so during the portion of any public hearing designated for public comment. They can email mheins@townofpembrokemass.org or call Matthew Heins at 781-709-1433. We have also made it

possible for the public to participate interactively through the Zoom software application, if technically feasible. In order to do this, simply email mheins@townofpembroke.com and Matthew will give you the meeting information required to join us directly via Zoom.

All votes taken during the meeting will be by roll call, as per the governor's requirements.

PUBLIC HEARING FOR PROPOSED SITE PLAN #SP1-20 AT 50 MATTAKEESETT STREET

Ms. Coletta reopened the public hearing for proposed Site Plan #SP1-20 at 50 Mattakesett Street (continued from March 9, 2020, March 23, 2020, May 4, 2020, and June 8, 2020), consisting of a new building for garaging and/or storage, behind the existing building on the site. The property is located in the Center Protection District, Residence District A, and the Water Resource and Groundwater Protection District.

The proposed building would be behind the existing building and parking area at 50 Mattakesett Street, and would be sited toward the rear of the property. It would be 4,000 square feet in size and one story high, and would consist of warehouse and storage space for the Jack Conway Company. The existing building on the property is an office building used in part by the Jack Conway Company, and the property is owned or co-owned by JCP/Pembroke Realty Trust.

The applicant Michael Bulman (actually co-applicant with Conway Family Properties, LLC) and the project engineer Greg Morse (of Morse Engineering) were present. Peter Palmieri (of Merrill Engineers and Land Surveyors), the board's peer review engineer for the project, was also present.

Ms. Coletta introduced the board's new member Alysha Siciliano-Perry (replacing John Scholl), and Ms. Siciliano-Perry said that she was excited to be on the board.

The board members and Mr. Heins discussed the board's quorum for the public hearing. It was agreed that Mr. Noone could use the "Mullin Rule" to vote, because he had caught up on the date he missed and submitted the necessary form.

Ms. Coletta explained that during the previous sessions of the public hearing there had been extensive discussions about whether the proposed use is allowed in the Center Protection District, and in particular what the term "ancillary services" means. She said that the board had reached out to town counsel for help with this.

Barbara Huggins Carboni, town counsel and an attorney with KP Law, provided her suggested interpretation of the term "ancillary services." She explained that the phrase is not defined in the zoning bylaw, though it is used in a few places. She said the term seems to be used in the zoning bylaw in much the same way the term "accessory use" is used, and accessory use is defined in the zoning bylaw and furthermore the concept of accessory use is well established in zoning case law. Thus, she recommended the board apply the idea of accessory use. She explained that an accessory use is one that is closely related to, supporting, or customarily incident to the main use for the lot.

Ms. Coletta noted that on this particular property the main building contains multiple uses (which are generally office uses), one of which was a real estate office but is now mainly for property management, and asked Ms. Carboni about this. Ms. Carboni suggested that one should look at the different primary uses of the lot, and consider whether the proposed storage building is accessory to one of them. She emphasized that it depends on the particular facts of the case.

Ms. Carboni described the case law surrounding accessory use, and how the concept has generally been understood. She emphasized that one should keep the purpose and intent of the zoning bylaw in mind.

Ms. Coletta described some of the history of the project, and how it has been changed to meet the board's concerns. Mr. Noone commented about the zoning bylaw's rules in relation to garage size, and a detailed conversation followed about how the zoning bylaw applies and the meaning of the term "ancillary services."

A discussion took place about minor engineering issues and the 50-foot landscaped buffer.

Mr. Morse described how the site plan has evolved from the initial proposal, and how it has been altered to meet the concerns of the board and members of the public.

Mr. DeMarzo said there is a residential use on the east side of the lot. He asked Mr. Bulman what the actual use of the building would be. Mr. Bulman replied that certain furniture currently stored in the basement of the existing building would be placed in the proposed building. He emphasized that the Jack Conway Company might use the existing building for real estate office space again at some point in the future.

Mr. Bulman explained in detail why he felt that the proposed use would qualify as an ancillary service to the existing use on the property, and described some of the changes made from the original design. He noted that the building is more than 50 feet from all the property boundaries.

Mr. DeMarzo asked what type of trucks would be stored there, and a discussion ensued.

Kathy Savage, a neighbor to the project who lives on Grove Street, gave several reasons why she was opposed to the project, and expressed concern it would affect her property value. She objected to the board conducting its meetings virtually through remote participation, saying it hindered some members of the public from being involved.

Ms. Coletta explained that the board was allowing any members of the public to participate via Zoom or by calling in, and that she had personally made efforts to expand the options for participation beyond the minimum requirements.

Mr. Taylor made a motion that the board approve Site Plan #SP1-20 at 50 Mattakeesett Street, but Ms. Coletta noted the public hearing was still open.

A discussion took place about restricting the use of the new building so it would be tied to the existing building. Mr. DeMarzo asked if the building's size could be reduced slightly, and Mr. Bulman explained why he felt 4,000 square feet was needed. A conversation followed about the building's setbacks, and the 50-foot landscaping waiver being requested.

Ms. Coletta explained why it would be appropriate for the board to allow the requested waivers.

Paula Trinque, a neighbor to the project who lives in the Josselyn Farms condominiums, stated that she was worried about runoff impacting their septic system, about hazardous fluids from trucks seeping into the ground, and about water issues in general given the poor soil.

Mr. Taylor made a motion to close the public hearing for Site Plan #SP1-20 at 50 Mattakeesett Street, and Mr. Irving seconded the motion. The board voted by roll call. Mr. Irving voted yes, Mr. Taylor

voted yes, Mr. Noone voted yes, Ms. Coletta voted yes, Ms. Siciliano-Perry abstained, Mr. Wandell abstained, and the motion passed.

A conversation took place between Ms. Carboni and Ms. Coletta about the appropriate procedures to follow regarding voting, waivers and conditions.

Mr. Taylor made a motion that the board approve Site Plan #SP1-20 at 50 Mattakeesett Street, with conditions to be written at the next board meeting, and Mr. Irving seconded the motion. The board voted by roll call. Mr. Irving voted yes, Mr. Taylor voted yes, Mr. Noone voted yes, Ms. Coletta voted yes, and the motion passed.

Mr. Heins indicated that a draft decision document could be ready by the next board meeting on July 13, 2020.

DISCUSSION ABOUT PROCEDURES FOR GRANTING APPROVAL TO SITE PLAN #SP5-17 AT 240 & 258 OAK STREET

The board, Mr. Heins and Ms. Carboni discussed the appropriate procedures to grant written approval for Site Plan #SP5-17 at 240 & 258 Oak Street. The board previously voted to approve the project and closed the public hearing, but the quorum was only four board members, and since one of those board members (John Scholl) is no longer on the board, now there is no longer an adequate quorum to vote on and sign the decision.

This site plan consists of a new curb cut and gravel access drive, to provide access to operations on the site, the storage of empty dumpster containers, through the site's frontage. This modifies a previously approved Site Plan, as ordered by Massachusetts Land Court through a remand order. The property is located in Industrial District A and the Medical Marijuana Overlay District.

The applicant Russell Field (through 290 Oak Street Realty Trust) and his attorney John Danehey were present.

Ms. Carboni suggested that she consult with another attorney at KP Law before advising the board on how to proceed, and Mr. Danehey agreed.

Ms. Coletta directed Mr. Heins to add this item to the board's agenda for July 13, 2020.

VOTE TO ALLOW MINOR MODIFICATIONS TO DUNKIN' DONUTS AT 152 CENTER STREET

Monica Lordelo MacFarlane came before the board, requesting that the board allow her proposed modifications to the existing Dunkin' Donuts at 152 Center Street, consisting of new signage and changes to the building exterior.

Ms. MacFarlane explained that she proposes to reface the sign along the road, to redo the menu board at the drive-through by making it digital, to "square off" the building at the top, and to repaint the building in gray colors.

Ms. Coletta used the share screen function to display the drawings of the proposed changes that Mr. MacFarlane had submitted.

Ms. MacFarlane confirmed that the digital menu board at the drive-through would face to the rear, and that the front sign would be of a wood-like material and would not be self-illuminated. The paint colors for the building were discussed.

Mr. Taylor made a motion that the board approve the proposed modifications to the building exterior and signage of Dunkin' Donuts at 152 Center Street in the Center Protection District, as proposed to the Planning Board, as a minor modification to an existing site plan. Mr. Wandell seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Irving made a motion that the board authorize Mr. Heins, the Planning Board Assistant, to sign on behalf of the board the building permit and any other permits from the Building Department for the project. Mr. Wandell seconded the motion, and the board voted unanimously in favor by roll call.

DISCUSSION ABOUT POSSIBLE CHARGING STATION FOR ELECTRIC VEHICLES IN APPROXIMATE AREA OF 146-152 CHURCH STREET

Edward Noseworthy, Dana Gleason and Trevor Smith of Tesla came before the board to discuss a possible charging station for Tesla electric vehicles, which would be located in the approximate area of 146-152 Church Street, mostly in Business District B (though possibly overlapping into Industrial District B).

Mr. Noseworthy explained that the project would be in and adjacent to the parking lot between the Panera Bread at 152 Church Street and the building at 146-156 Church Street. He showed the board a drawing of the parking lot and buildings with the charging station devices and parking spaces shown. He explained that the parking spaces for charging could also be used by ordinary drivers when nobody is charging. He said that a transformer and switchgear would also be built, as well as a few supercharging cabinets, along with the charging posts themselves.

Discussion followed, and Mr. Gleason confirmed that Pembroke currently doesn't have any charging stations for electric vehicles. Mr. Noseworthy said a typical charge lasts for 30 minutes, and so having a nearby amenity like Panera is useful. Mr. Noseworthy said the charging posts are about five feet high, the transformer is about four feet high, and the switchgear is about five feet high. The largest items, he explained, are the superchargers which are about seven feet tall.

Since the transformer, switchgear and superchargers would be in an island next to the parking area, some board members asked if vegetation or landscaping could be added to shield them from view, and Mr. Noseworthy assented.

The board members were in general agreement that the project could probably be approved as a minor modification to an existing site plan.

Mr. Noseworthy said the new electrical connection from National Grid spanning Old Church Street would probably be above-ground. He and Mr. Smith explained how the electrical cords (to charge the cars) work and described their length.

Ms. Coletta asked if Tesla could give a written commitment to screen the transformer area with vegetation. Mr. Noseworthy agreed, and said they are still working on creating a full set of drawings, which would show the screening.

Ms. Coletta directed Mr. Heins to check if the Fire Department would have any concerns about the project, and discussion followed. Ms. Coletta said that the board would consider the project again once full drawings were ready (showing screening), and possibly the board could approve it at that time as a minor modification to an existing site plan.

A discussion about possible alterations to Site Plan #SP1-09 King's Highway Park (at 242-246 Washington Street) had been scheduled, but the applicant was not present and so it was skipped.

DISCUSSION ABOUT CONSTRUCTION ISSUES AT SUBDIVISION #1701 BRISTOL ESTATES

The board discussed various construction issues at Subdivision #1701 Bristol Estates, located on Taylor Street in Residence District A, which is currently under construction.

Eoghan Kelley, representing the project's developer Stonebridge Homes, was present, as was Tyler Nims, the board's peer review engineer for the project. A resident of Bristol Estates, Andrew Timmis, was present.

Mr. Nims explained that he has some concerns about the improvements needed to the lots, in relation to the rain gardens and other stormwater infrastructure. Mr. Irving said the site looks much better than its previous condition.

Ms. Coletta explained that, apart from these construction issues which are being monitored, a resident was asking that the board allow loam and seed to be placed on the gravel access way around the retention basin. Mr. Nims said he did not see any problems with that, provided the D.P.W. still can reach the basin.

Mr. Kelley explained that he is working to ensure the rain gardens and other stormwater infrastructure are in conformance with the design standards.

Mr. Timmis said the improvements were going well, and requested the board allow loam and seed to be placed on the gravel access way around the retention basin. Conversation followed. The board members generally agreed this would be acceptable.

REORGANIZATION OF THE PLANNING BOARD

Ms. Coletta explained that it was time for the board to reorganize. She noted that the composition of the board had changed due to a recent election, that she was likely to leave the board soon since she was now on the Board of Selectmen too, and that Mr. Irving was also expected to leave the board shortly as he was moving out of Pembroke.

Discussion followed. Ms. Coletta explained that she wished to step down as Chairman, and Mr. Taylor agreed to hold this position. Mr. Wandell agreed to continue as Vice-Chairman. Ms. Siciliano-Perry agreed to take the position of Clerk from Mr. Irving.

A procedural discussion took place.

Mr. Taylor made a motion to open the nominations for Chairman, and Mr. Wandell seconded the motion. Mr. Irving nominated Mr. Taylor as Chairman. Mr. Taylor made a motion to close the nominations for Chairman.

The board voted by roll call on the motion to appoint Mr. Taylor as Chairman. Ms. Siciliano-Perry voted yes, Mr. Irving voted yes, Mr. Wandell voted yes, Mr. Taylor abstained, Mr. Noone voted yes, and the motion passed.

Mr. Taylor made a motion to open the nominations for Vice-Chairman. Mr. Irving nominated Mr. Wandell as Vice-Chairman. Ms. Coletta closed the nominations for Vice-Chairman.

On the motion to appoint Mr. Wandell as Vice-Chairman, the board voted unanimously in favor by roll call.

Mr. Taylor made a motion to open the nominations for Clerk. Mr. Irving nominated Ms. Siciliano-Perry as Clerk, and Mr. Wandell seconded the motion. Mr. Taylor made a motion to close the nominations for Clerk.

The board voted by roll call on the motion to appoint Ms. Siciliano-Perry as Clerk. Ms. Siciliano-Perry abstained, Mr. Irving voted yes, Mr. Wandell voted yes, Mr. Taylor voted yes, Mr. Noone voted yes, Ms. Coletta voted yes, and the motion passed.

A discussion took place about procedures and recording the reorganization form.

Mr. Wandell made a motion that the Planning Board continue to hold its official meetings on the second and fourth Monday of each month convening at 7 pm in the designated Planning Board room or such other platform as the board may vote. Mr. Irving seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Wandell made a motion that the Chairman, Vice-Chairman and Clerk, singularly or collectively, be authorized to sign plans submitted to the Planning Board which are stamped "not subject to subdivision control," and to certify any action of the board. Mr. Irving seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Heins explained that the board members would need to sign the reorganization form once it was prepared.

ROUTINE ADMINISTRATIVE MATTERS

Mr. Wandell made a motion to approve the minutes for June 8, 2020, Mr. Taylor seconded the motion, and the board voted unanimously in favor by roll call.

The board decided to schedule the public hearing for the site plan application for 43 Mattakeesett Street on August 24.

Mr. Wandell made a motion to adjourn the meeting, Mr. Taylor seconded the motion, and the board voted unanimously in favor by roll call.

Respectfully submitted,

Matthew Heins, Planning Board Assistant