



## **PEMBROKE PLANNING BOARD MINUTES**

**MONDAY, JULY 27, 2020**

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

**BOARD MEMBERS ABSENT:** Daniel Smith, Jr.

**OTHERS PRESENT:** Matthew Heins (Planning Board Assistant), Peter Palmieri, Russell Field, John Danehey, Brian Murphy, Kimberly Kroha, Susan Spratt, Michael Giaimo, Keith Valenti, Brian Ross 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, Mr. Taylor opened the Planning Board meeting. He 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 July 27, 2020, is now open. Please note that this meeting is being made available to the public through an audio and/or 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, 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](http://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, by emailing [mheins@townofpembroke.com](mailto:mheins@townofpembroke.com) or calling Matthew Heins at 781-709-1433. The public also has the option to participate interactively through the Zoom software application, if technically feasible. For the necessary Zoom access information, please email [mheins@townofpembroke.com](mailto:mheins@townofpembroke.com) or call 781-709-1433.

All votes taken during this meeting will be roll call votes. At the start of this meeting, and at any time when a member of the Pembroke Planning Board enters or leaves the meeting, we will identify the board members participating and note the time.

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

Mr. Taylor reopened the public hearing (continued from December 16, 2019, January 27, 2020, February 24, 2020, March 9, 2020, March 16, 2020, April 27, 2020, and May 18, 2020, though some of these were immediately continued without testimony due to the pandemic) 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 and primary landowner (through a trust), was present, along with his attorney Kimberly Kroha and the project engineer Susan Spratt of McKenzie Engineering. Russell Field, the owner (through a trust) of the adjacent property at 240 & 258 Oak Street, was present, as was his attorney John Danehey. Mr. Murphy and Mr. Field have been in contention, and in litigation, over the project. Peter Palmieri of Merrill Engineers and Land Surveyors, the peer review engineer for the project, was also present.

Ms. Kroha spoke on behalf of the project. She said that the project has been through five sessions of the public hearing, and that Mr. Palmieri's most recent review report did not raise any further engineering problems. She also noted that the building inspector's letter stated that the issues raised were not zoning violations. She argued that the Planning Board should make its decision at this time, which Mr. Field has the right to appeal if he wishes to. She mentioned that the Fire Chief had been to the site and had confirmed the design of the entrance was generally acceptable with only a few small tweaks needed.

Mr. Danehey spoke on Mr. Field's behalf. He said that an ingress/egress opening cannot be wider than 40 feet under the bylaw, and this opening is greater than 40 feet. He added that he does not see the third handicapped parking space on the engineering drawings. He noted that the changes being proposed for the adjacent property were not officially before the board, and expressed concern about fire truck access at the entrance. He urged the board to continue the public hearing, rather than deciding at this time.

Mr. Taylor and Mr. Palmieri discussed Mr. Palmieri's most recent review letter, in particular the issues of ponding on a neighboring property and fire truck access.

Ms. Coletta expressed concern that the Fire Chief was still not comfortable with the plan. She also clarified the procedures and events of some previous board meetings. She asked where a handicapped parking spot had been moved to, and whether an easement had been created for the adjacent property to provide access to parking over a property line and to comply with the site plan.

Ms. Kroha said the easement had been done, and that the new plan should be acceptable for the fire truck's access.

Mr. Murphy said that he had talked with the Fire Chief, and that the proposed plan with the most recent changes would work for the fire truck's access.

Ms. Coletta again stated her concerns about fire truck access and safety in general.

Mr. Field asked Mr. Palmieri a technical question about a detail shown on one of the engineering drawings, and about drainage. Discussion followed. Ms. Spratt showed the board where the handicapped parking spaces were added on the adjacent property.

The board and Mr. Heins discussed the quorum for the public hearing.

Mr. Danehey described the process of Mr. Field's appeal going before the Zoning Board of Appeals (ZBA) in the near future, and recommended the board wait to decide until after the ZBA renders its own decision. Ms. Kroha argued the reverse, stating that the board should decide at this time rather than awaiting the ZBA's actions.

Mr. Irving suggested the board wait until the Fire Chief gives advice and the ZBA makes its decision. Ms. Kroha again urged the board to make a decision now.

A discussion took place about the quorum and other procedural issues, given that Mr. Irving was about to leave the board (since he was moving out of Pembroke). Ms. Kroha, Mr. Danehey and Ms. Coletta further discussed the anticipated procedures.

Mr. Irving made a motion to continue the public hearing to September 28 at 8:15 pm, Ms. Coletta seconded the motion, and the board voted unanimously in favor by roll call.

#### **DISCUSSION ABOUT POSSIBLE CONSTRUCTION OF WIRELESS COMMUNICATIONS TOWER (CELL PHONE TOWER) AT 85 WASHINGTON STREET**

The board discussed the possible construction of a wireless communications tower (i.e., cell phone tower) by Verizon at 85 Washington Street, the property where Circle Furniture is located.

Michael Giaimo, an attorney representing the project, was present, as were Keith Valenti, an engineer, and Brian Ross, a real estate consultant.

Mr. Giaimo explained that the tower would improve cell phone coverage in portions of Pembroke, and summarized the project. In reply to a question from Ms. Coletta, he said there are woods between the proposed tower site and the nearest residential areas. In reply to a question from Mr. Wandell, he said the height would be 120 feet. A discussion about its visibility ensued.

The board members talked about the project, and speculated about how much public opposition it could generate. The possibility of a balloon test (to demonstrate its anticipated visibility) was discussed.

#### **ROUTINE ADMINISTRATIVE MATTERS**

A possible vote to approve two proposed signs at 43 Mattakeesett Street (Center Protection District) had been scheduled, but Mr. Heins explained that the applicant wanted to improve the images and come before the board on August 10 instead.

A discussion about a possible alteration to Site Plan #SP1-09 King's Highway Park (at 242-246 Washington Street), to change the use of the projected (unbuilt) building from commercial to multifamily residential, had been scheduled. However, the applicant was unable to successfully access the meeting through the Zoom software, and so the board moved on to the next item.

## **ELEVEN PUBLIC HEARINGS FOR ELEVEN PROPOSED ZONING BYLAW AMENDMENTS**

Mr. Taylor reopened eleven public hearings running concurrently (continued from March 16, 2020, April 27, 2020, May 4, 2020, and June 8, 2020) for eleven proposed amendments to the zoning bylaws. (There were originally twelve proposed amendments to the zoning bylaws intended to be on the warrant for annual town meeting and so in the beginning there were twelve public hearings, but the public hearing titled Flood Plain District was closed on April 27, 2020.)

These eleven proposed zoning bylaw amendments are titled (in the legal advertisements) as follows: Definition: Residential Affordable Housing Development; Industrial District A, Residential Affordable Housing; Industrial District B, Residential Affordable Housing; Residential Affordable Housing, Special Permit; Industrial District A, Prohibition of Houses; Industrial District B, Prohibition of Houses; Industrial District A, Prohibition of Accessory Dwelling Units; Industrial District B, Prohibition of Accessory Dwelling Units; Water Resource and Groundwater Protection District; Kennels; and Center Protection District, Mixed-Use.

The board discussed a reply received from Judy Parks in response to a question about the proposed affordable housing bylaws, and also talked about when the full town meeting (at which the amendments would be warrant articles) will take place. It was decided to continue the public hearings.

Ms. Coletta made a motion to continue the eleven public hearings running concurrently for eleven proposed amendments to the zoning bylaws, as set forth in the agenda, to September 28 at 7:00 pm. Mr. Irving seconded the motion, and the board voted unanimously in favor by roll call.

## **ROUTINE ADMINISTRATIVE MATTERS**

Ms. Coletta made a motion to accept the minutes for July 13, 2020, Mr. Wandell seconded the motion, and the board voted unanimously in favor by roll call.

Ms. Coletta made a motion that the board extend the deadline for completion as requested by the applicant for Dominic's Way Subdivision. Mr. Wandell seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Taylor noted that an application had been received for improvements to Crescent Avenue to meet the adequacy of the way standards. He also mentioned that Selectmen Daniel Trabucco was willing to give up his position on the Old Colony Planning Council if a Planning Board member was interested in holding this position.

Mr. Taylor said the Fire Chief had given some recommendations regarding a possible electric car charging station, in particular that bollards be installed to protect the equipment and that a warning sign be posted. Mr. Wandell suggested that Tesla provide training to the Fire Department about electric vehicle protection training, such as extrication from an electrically charged vehicle. He noted the unique dangers of electric vehicles during accidents, and that rescuers risk being electrocuted.

Mr. Taylor explained that three building permits needed to be signed for the Brisan Way Subdivision, and that the lots had already been released. Mr. Irving made a motion that the board authorize Mr. Heins (the Planning Board Assistant) to sign the building permits for lots 5, 6 and 11 in the Brisan Way Subdivision, Ms. Siciliano-Perry seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Taylor said that someone is interested in establishing a restaurant at 300 Center Street, which would include a micro-distillery (with the spirits to be sold on site and by retail), but has questions about whether the micro-distillery component would be allowed by the zoning bylaw. Conversation followed, and it was agreed that the possible restaurant operator-developer could come before the board to discuss the project.

Mr. Taylor said that an estimate of the cost of construction inspections had been submitted for the 50 Mattakeesett Street site plan by Peter Palmieri, the board's peer review engineer for the project. Mr. Heins explained that the actual cost of the inspections for projects was usually significantly higher than the estimate, due to the uncertainties inherent in construction, and he recommended the board make it a policy to set a higher amount for the required balance of the engineering review account. A discussion took place, and Mr. Heins described examples of previous site plans. The board agreed to set a higher amount.

Mr. Wandell made a motion that the board add a 55% contingency to each review estimate (i.e., estimate for construction inspections) received from Merrill Engineers and Land Surveyors. Mr. Irving seconded the motion, and the board voted unanimously in favor by roll call.

The board agreed that Mr. Heins could inform the applicants for the Irving Oil gas station site plan and the Brigham & Women's medical center site plan that they can request the return of the remaining balance of their engineering review accounts.

Mr. Taylor explained that the town of Pembroke wants to improve the "town landing" beach and recreation area at 187 Wampatuck Street, and the work would trigger the requirement for site plan review because a new building would be constructed. Mr. Heins noted the board could approve this as a minor modification of an existing site plan (or by waiving site plan review), or could require a public hearing. Discussion followed. Ms. Coletta said she had seen the engineering drawings for the project, and she summarized the proposed improvements. She suggested having the public hearing but waiving the fees that are ordinarily required.

Ms. Coletta made a motion that the board waive the application and engineering review fees for the proposed site plan for the upgrades at town landing. Mr. Wandell seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Wandell made a motion that the board authorize Mr. Heins (the Planning Board Assistant) to sign the building permit for the 50 Mattakeesett Street site plan. Ms. Coletta seconded the motion, and the board voted unanimously in favor by roll call.

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

Respectfully submitted,

Matthew Heins, Planning Board Assistant