



PEMBROKE PLANNING BOARD MINUTES

MONDAY, SEPTEMBER 28, 2020

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

BOARD MEMBERS ABSENT: None.

OTHERS PRESENT: Matthew Heins (Planning Board Assistant), Kenneth McCormick (Fire Chief), Peter Palmieri, Heather Tremblay, Jeffrey Perette, Gregory Morse, John Danehey, Robert DeMarzo, Brian Murphy, Kimberly Kroha, Warren Baker, Susan Spratt, Russell Field, 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 September 28, 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. PACTV is providing this service live on 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, by emailing mheins@townofpembrokemass.org 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@townofpembrokemass.org 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 Planning Board enters or leaves the meeting, we will identify the board members participating and note the time.

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, June 8, 2020, and July 27, 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 members discussed the schedule of upcoming board meetings and considered when to continue these public hearings.

Ms. Coletta made a motion to continue the eleven public hearings to October 19, 2020, at 7:00 pm. Mr. Wandell seconded the motion, and the board voted unanimously in favor by roll call.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Mr. Wandell made a motion to approve the minutes for September 14, 2020, and to approve the minutes for September 20, 2020 (site walk). Ms. Coletta seconded the motion, and the board voted unanimously in favor by roll call.

The board members discussed the timeline for receipt of applications for the interim seat on the board.

PUBLIC HEARING FOR PROPOSED SITE PLAN #SP3-20 AT 43 MATTAKEESETT STREET

Mr. Taylor reopened the public hearing (continued from August 24, 2020, and September 14, 2020) for the application of Jeffrey Perette/Old Salt Realty Trust, 387 Main Street, Plympton, MA 02367, requesting Site Plan approval under the Zoning Bylaws of the Town of Pembroke Section V.7. (Site Plan Approval). The applicant proposes to construct a building with a footprint of 18,750 square feet and height of up to 47 feet, primarily for the storage of boats, and possibly also for other types of storage and office space. The building would be in the rear of the property. The existing buildings, access drive and parking areas on the property would generally remain. The project also includes the construction of a new stormwater system and landscaping. The property is located in the Center Protection District and Residence District A, at 43 Mattakeesett Street, Pembroke, MA 02359, as shown on Assessors' Map C9, Lot 17. A copy of the application is available in the Office of the Planning Board.

Jeffrey Perette, the co-applicant (along with Old Salt Realty Trust), was present, as was the project engineer Gregory Morse (Morse Engineering). John Danehey, an attorney representing Mr. Perette, was also present, though he joined the meeting about five minutes after the public hearing began. The board's peer review engineer for the project, Peter Palmieri (Merrill Engineers and Land Surveyors), was present as well.

Board member Daniel Smith, Jr., announced that he was recusing himself from this public hearing.

Mr. Morse gave a brief summary of the project, and of the changes that had been made to it during the site plan review process. Mr. Palmieri confirmed that all the engineering-related issues had been resolved.

Mr. Wandell described some of the revisions made to the design (as stated in an email from Morse Engineering) to meet the board's concerns.

Mr. Danehey explained that the traffic likely to be generated by the project would be irregular: it is minimal during the winter and summer, but peaks in the spring and fall when boats are moved into and out of the water.

Ms. Coletta expressed her concerns about the project, especially the proximity of the building to the property line. She said that she believed there should be no boat repair on the site, and that boats should be prohibited from being stored outside the building except on a very temporary short-term basis. She emphasized that the Town Center area is not meant to be industrial in nature.

Mr. Noone expressed support for the project. Ms. Coletta cautioned that it might discourage the desired uses in the area, but then her audio was cut off due to technical problems. Ms. Siciliano-Perry noted that the landscaping and lighting on the property are very good at present.

Mr. Perette described the sort of boat repairs they would be doing on the site, especially in the spring, and explained that it would generally be light maintenance rather than heavy-duty work. He also explained why sometimes they would need to store boats outside. Robert DeMarzo, the owner of a nearby property, argued in favor of the project, saying it would generate tax revenue for the town, would be the ideal use for the site, and would not be visually objectionable.

Ms. Coletta asked if the boat detailing would take place indoors or outdoors, and Mr. Perette said it depends on the time of year. Ms. Coletta asked about the drainage of the water runoff from cleaning boats, and a discussion followed. Mr. Perette clarified that boat washing would take place indoors. Ms. Coletta emphasized her worries about the project, in terms of the use, the size of the building, and the building's proximity to the property boundary.

Mr. Wandell made a motion to close the public hearing for Site Plan #SP3-20 at 43 Mattakeesett Street, and Mr. Noone seconded the motion. Mr. Wandell, Mr. Noone and Mr. Taylor voted in favor by roll call, Ms. Coletta voted against by roll call, and the motion passed.

The board and Mr. Heins discussed creating a draft decision with conditions for the project for a future board meeting.

Mr. Wandell made a motion that the board approve Site Plan #SP3-20 at 43 Mattakeesett Street, and Mr. Noone seconded the motion. Mr. Wandell, Mr. Noone and Mr. Taylor voted in favor by roll call, Ms. Coletta voted against by roll call, and the motion passed.

The board and Mr. Heins talked about the possible conditions (to include in the decision), in particular relating to boat repair and outdoor storage of boats. Conversation followed about how Mr. Perette had previously (in informal discussions with the board before the public hearing) described the likely uses on the site, about whether the prohibition on automobile repair in the Center Protection District applies to boat repair, and about the applicability of the variances and/or special

permits the Zoning Board of Appeals granted for the project. A discussion also took place about the washing of boats.

The board and Mr. Heins agreed to review a draft decision with conditions for the project at the board meeting on October 5.

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, May 18, 2020, and July 27, 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 attorneys Kimberly Kroha and Warren Baker and 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 disputes and litigation concerning the project.

Board member James Noone left the meeting a few minutes after the start of this public hearing, with the other five board members remaining present.

Ms. Kroha described the status of the project, argued that the issues previously raised by Mr. Danehey and Mr. Field were invalid or irrelevant, and summarized why she believed the proposed major modification should be approved.

Mr. Taylor noted that town counsel had advised that Mr. Taylor, Ms. Coletta and Mr. Wandell could vote on the project, as those three board members were present for every session of the public hearing or used the Mullin Rule for one session they missed.

Mr. Danehey argued that the public hearing should be continued and that the Planning Board should not make a decision at this time, in order to allow the Zoning Board of Appeals (ZBA) to complete its own public hearing relating to the same project. He described the most recent session of the ZBA's public hearing.

Ms. Coletta expressed her frustration at the process of this site plan, and the way changes were made to the design during its construction. She explained why the rules for which people could participate in the board meetings through Zoom changed over time. She also pointed out issues with parking, and asked about the actual use of the new buildings.

Ms. Kroha argued it would make sense for the Planning Board to vote before the ZBA does. She said an easement would resolve the parking issue, and discussed the prohibition against common driveways.

Ms. Coletta said that the current use of one of the new buildings is for automotive repair, which she pointed out is not an allowed use at this location.

Mr. Baker explained that the automotive repair use is currently being scrutinized by the building inspector. Ms. Coletta emphasized that this use was never part of the approved site plan, and a conversation ensued. Mr. Murphy said that this auto repair shop was previously at another location in Corporate Park.

Mr. Wandell spoke about some of the issues, and Mr. Danehey and Mr. Baker discussed the legal aspects of the situation. Mr. Taylor expressed concern about how the process has gone, and said he believes the utility pole is in a dangerous location. Ms. Coletta noted her concerns about the ongoing problems with the project, especially as the current use is not allowed. Mr. Wandell spoke about various issues relating to the project, and about the role of the building inspector/zoning enforcement officer.

Ms. Coletta emphasized again that the automotive repair use is not an allowed use and was not in the approved site plan, and also noted that the board was never notified about it. Mr. Murphy said he was awaiting the zoning enforcement officer's decision as to whether it is an allowed use, but Ms. Coletta pointed out that use is controlled by site plan review, which is under the board's purview. She explained that any change of use requires site plan review, and discussion ensued between her and Mr. Murphy. Ms. Kroha clarified a few points. Mr. Murphy urged the board to make its decision.

Mr. Danehey argued that the originally approved site plan is no longer operative, and noted a few other points. Ms. Coletta said that the board appreciates the value of Corporate Park for the town, and Mr. Murphy thanked her.

Ms. Coletta made a motion to close the public hearing, and Mr. Wandell seconded the motion. Ms. Coletta, Mr. Wandell and Mr. Taylor voted in favor by roll call, and the motion passed.

Ms. Coletta made a motion that the board deny Site Plan #SP2-17 at 260-280 Oak Street, and Mr. Wandell seconded the motion.

Mr. Wandell and Ms. Coletta conversed about certain legal and procedural issues. Mr. Heins explained that the original site plan might be still viable, and Ms. Coletta cautioned that advice of town counsel could be needed on that point.

Ms. Coletta summarized some of her primary grounds for denying the project, noting the safety issues at the entrance (relating to the utility pole), the problematic parking spots along the access drive, the lack of visual screening, and the current use on the property which is not an allowed use.

The motion to deny the site plan being on the table, the board voted. Mr. Wandell, Mr. Taylor and Ms. Coletta voted in favor by roll call, and the motion passed. Mr. Taylor noted this meant the site plan had been denied.

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

Respectfully submitted,

Matthew Heins, Planning Board Assistant