



PEMBROKE PLANNING BOARD MINUTES

MONDAY, MARCH 22, 2021

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

BOARD MEMBERS ABSENT: None.

OTHERS PRESENT: Matthew Heins (Planning Board Assistant), Peter Palmieri, George Thibeault, Kevin Grady, Jeffrey De Lisi, Donald Nagle, David Laine, Judith Parks (Affordable Housing Committee), Deborah Griffin, Kristin McKay, John Poirier, James Lampke, 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 March 22, 2021, 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, via livestream at <https://www.pactv.org/pactv/towns/pembroke> or www.pactv.org/pactv/watch/meetings-streamed-live-youtube.

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 or calling 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 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.

PUBLIC HEARING FOR PROPOSED SITE PLAN #SP1-21 AT 715 WASHINGTON STREET

Mr. Taylor opened the public hearing for the application of George Thibeault, 599 Summer Street, Marshfield, MA 02050, 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 two-story building with a 5,000-square-foot footprint consisting of lumber fabrication on the first floor and offices on the second floor, a small kiln building, a furnace, and parking areas, along with outdoor storage and work areas. The project would be a light industrial use related to lumber and/or wood products. The property is located in the Residential-Commercial District, at 715 Washington Street, Pembroke, MA 02359, as shown on Assessors' Map F9, Lot 24. A copy of the application is available in the Office of the Planning Board.

At this time, board members Mr. Taylor, Mr. Wandell, Ms. Siciliano-Perry, Ms. Tremblay, and Mr. Smith were present.

Attorney Jeffrey De Lisi, representing the applicant, was present, along with the project engineer Kevin Grady (Grady Consulting) and the applicant George Thibeault. Donald Nagle, an attorney representing an abutter opposed to the project, was also present.

Mr. Taylor noted there is some uncertainty regarding the special permit, and a discussion followed. Mr. De Lisi said that the zoning enforcement officer (building inspector) has stated that the proposed use qualifies as a light industrial use, and a conversation took place about this. At this time, board member Mr. Noone joined the meeting.

Mr. De Lisi summarized the proposed project. He noted that light industry is not a defined use in the town's zoning bylaw. The project, he explained, has received an order of conditions from the Conservation Commission, and the public hearing is currently ongoing with the Zoning Board of Appeals. The hours of operation would be 8 am to 4 pm Monday to Saturday, and business would not generate a great deal of traffic. There would be a specialized furnace to heat the building using wood byproducts from the business operations. Wood cutting would take place on the site, using specialized equipment.

Mr. Grady described the engineering and design of the project, which would utilize about 1.5 acres of the 4.2-acre site. The building would have a 5,000-square-foot footprint, and would be about 50 feet from the right of way for Washington Street. The driveway would be 24 feet wide, and there would be 17 parking spaces and a dumpster. The building would contain a kiln on the first floor and offices on the second floor. Landscaping, grading and fencing would help screen the building and other elements from view from Washington Street.

Mr. Grady explained that wood splitting and kilning of firewood (with another kiln, located outdoors) would be in the rear of the property. Kiln-dried firewood would be placed in bags, each bag holding one cord of wood, and stored on the property until delivered or picked up. Wood scraps and leftovers would be used in the furnace to help heat the building, and the area would be kept neat, organized and tidy.

The location of the driveway was chosen to minimize its slope, given the difference in grade between Washington Street and the property. Mr. Grady described the retaining wall, fencing, and vegetated screening along a portion of the south side of the property. He also noted the distances from various

abutters to the project, and the extent of the forested areas in between. At this time, board member Mr. Roundtree joined the meeting.

Mr. Grady described the stormwater drainage system for the project, noting the sediment forebays, infiltration basin and catch basins. He pointed out the location of the septic system.

Peter Palmieri (of Merrill Engineers and Land Surveyors), the board's peer review engineer for the project, went over his comments and recommendations. He suggested that the erosion control barrier be extended and that the test holes be shown on the plans. He recommended that the areas labeled "forestry raw materials processing area" on the plans be more clearly defined, given that stormwater runoff could carry wood debris to clog the stormwater system. He said that the board should decide whether it was appropriate to grant the requested waiver for the 50' landscape buffer to the residential area southwest of the property. In addition, he mentioned that a state DOT access permit will be required due to the work proposed and the driveway.

Mr. Smith said that he was enthusiastic about this business model, especially the idea of using local wood, but that the property's maintenance and tidiness over the long term would be crucial. He asked what sort of saw would be used and whether it would be inside the building, and Mr. Grady said he did not know the answer but would get it. Mr. Smith asked about how sawdust and wood chips would be handled, and also asked what type of saw would be used for the firewood. He noted that a bar saw is much quieter than a circle saw. He asked if the furnace was approved by the state.

Mr. Roundtree expressed concern about material and soil getting tracked onto Washington Street during construction, and a discussion followed with Mr. Grady.

Mr. Noone said the project might be an allowed use under the town's "right to farm" bylaw, and the board members talked about this issue.

Mr. Wandell said that the noise level and whether the project qualifies as a light industrial use would be crucial considerations.

Mr. Wandell made a motion to continue the public hearing to April 12 at 8:15 pm, and Mr. Smith seconded the motion. The board voted unanimously in favor by roll call.

VOTE TO APPROVE CHANGE OF USE FOR LIVE ENTERTAINMENT IN ADDITION TO CURRENT USES AT iGOLF AT 296 OLD OAK STREET

David Laine, the operator of iGolf at 296 Old Oak Street, came before the board to request approval to add live entertainment to the current uses at this business. iGolf is a place where people can play simulated golf, and it also offers cornhole, axe throwing and other activities, with food and beverages available.

Mr. Laine explained that adding live entertainment (primarily music) would not change the capacity or occupancy of iGolf, and the layout (floor plan) would not change significantly. The board members asked a few questions, and agreed that this change of use (essentially an additional use) was acceptable and did not necessitate a site plan application.

Mr. Wandell made a motion to approve the change of use for live entertainment in addition to current uses at iGolf at 296 Old Oak Street. Mr. Smith seconded the motion, and the board voted unanimously in favor by roll call.

PUBLIC HEARING FOR ELEVEN PROPOSED ZONING BYLAW AMENDMENTS

Mr. Taylor opened the public hearing for eleven proposed amendments to the Town of Pembroke's zoning bylaws, listed as Articles 17 through 20 and 22 through 28 in the recent draft warrant. These eleven proposed zoning bylaw amendments are described in the legal advertisement and public notice as follows: whether to amend Section II, "Definitions," to create a definition for "Residential Affordable Housing Development"; whether to amend Section IV.5.B., "Industrial District A, Uses Permitted by Special Permit," to allow certain multifamily housing developments, defined as Residential Affordable Housing Developments, by special permit in Industrial District A; whether to amend Section IV.5A.B., "Industrial District B, Uses Permitted by Special Permit," to allow certain multifamily housing developments, defined as Residential Affordable Housing Developments, by special permit in Industrial District B; whether to amend Section V., "Special Provisions, Standards and Procedures," to add a new subsection, "Residential Affordable Housing Special Permit," to describe the requirements, procedures and standards for certain multifamily housing developments with affordable units, defined as Residential Affordable Housing Developments; whether to amend Section IV.5.A.6., "Industrial District A, Uses Allowed," to prohibit detached one-family houses and detached two-family houses in Industrial District A; whether to amend Section IV.5A.A.7., "Industrial District B, Uses Allowed," to prohibit detached one-family houses and detached two-family houses in Industrial District B; whether to amend Section IV.5.B.3., "Industrial District A, Uses Permitted by Special Permit," to prohibit the addition of one attached dwelling unit to an existing detached one-family house, and accessory apartments, in Industrial District A; whether to amend Section IV.5A.B.3., "Industrial District B, Uses Permitted by Special Permit," to prohibit the addition of one attached dwelling unit to an existing detached one-family house, and accessory apartments, in Industrial District B; whether to amend Section IV.8.E.6., "Water Resource and Groundwater Protection District, Prohibitions," to allow certain portions of a Cluster Subdivision in the Water Resource and Groundwater Protection District; whether to amend Section II, "Definitions," to alter the definition of "Kennels" by adding the category of "Daycare Kennel," to amend Section IV.1.B.3., "Residence District A, Uses Permitted by Special Permit," to allow Daycare Kennels by special permit, and to amend Section IV.2.B., "Residential-Commercial District, Uses Permitted by Special Permit," to allow Kennels, Hobby Kennels and Daycare Kennels by special permit; and whether to amend Section II, "Definitions," to create a definition for "Mixed-Use Structure," and to amend Section IV.7.B., "Center Protection District, Uses Allowed by Special Permit," to allow certain Mixed-Use Structures by special permit. Copies of the full text of the amendments are available for inspection at the Town Clerk's Office and Planning Board Office.

The proposed zoning bylaw amendment to update the town's floodplain zoning requirements (Article 21 in the recent draft warrant) is being handled through a separate public hearing.

Judith Parks, of the Affordable Housing Committee, described the zoning bylaw amendments intended to create more multifamily, affordable housing in the two industrial zoning districts. She explained that a particular goal of this is to encourage developers who build multifamily housing at a large scale, i.e., large projects. These projects would be allowed by special permit. Mr. Wandell went over the four specific zoning bylaw amendments for this purpose.

Mr. Wandell explained that they had decided, with regard to the timing of construction of affordable units versus market-rate units, to impose a 25% requirement.

Mr. Wandell made a motion to add the dimensional requirements, as per Industrial A and Industrial B, with the exception of building floor area. Ms. Siciliano-Perry seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Wandell made a motion that, with regard to the timing of units to be constructed, that the amount of affordable units, in terms of both construction and occupancy permits, is to be 25% of market-rate units during the construction phase of all units. Mr. Noone seconded the motion, and the board voted unanimously in favor by roll call.

The board and Mr. Heins discussed whether to prohibit new single-family houses and new accessory apartments in the two industrial zoning districts, as Articles 22 through 25 (in the recent draft warrant) would do. After a thorough discussion, the board members agreed to support these zoning bylaw amendments.

Deborah Griffin and Kristin McKay, operators of a dog daycare business for which they are looking for a location in Pembroke, were present to discuss the proposed zoning bylaw amendment that would regulate kennels and other dog services (Article 27 in the recent draft warrant). Ms. Griffin discussed the various types of dog services, and described how they are defined and regulated in Colorado.

Ms. Griffin explained the distinctions between a home kennel, hobby kennel and commercial kennel, and also described other dog services such as dog daycare, dog grooming, dog training, and dog boarding.

The board discussed the issue and agreed that the text of the proposed zoning bylaw amendment should be substantially revised, with various dog services defined separately from kennels and specifically allowed or disallowed in each zoning district.

The board members felt more time was needed to thoroughly discuss some of the proposed zoning bylaw amendments, and decided to continue the public hearing to April 12, to be continued again to a later date to be determined that would provide ample time.

Mr. Wandell made a motion to continue the public hearing to April 12 at 8:10 pm. Mr. Noone seconded the motion, and the board voted unanimously in favor by roll call.

DISCUSSION ABOUT POSSIBLE SAND VOLLEYBALL AND/OR OUTDOOR MOVIES AT WOLVES DEN SPORTS COMPLEX AT 340 OAK STREET

John Poirier, the operator of the Wolves Den sports complex at 340 Oak Street, came before the board to discuss the possibility of adding sand volleyball and/or outdoor movies as new uses (in addition to the existing uses) at this facility.

The board members suggested that he submit a sketch or other documents to show where the sand volleyball and/or outdoor movies would be located and what their impact would be on the site, and then the board might be able to judge the project and decide whether to allow it. Mr. Poirier agreed to do this.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Mr. Wandell made a motion to approve the minutes for March 1, 2021. Ms. Siciliano-Perry seconded the motion, and the board voted unanimously in favor by roll call.

ENTERING EXECUTIVE SESSION

Attorney James Lampke, representing the board in ongoing litigation, joined the meeting.

The board prepared to enter executive session, and Mr. Taylor announced that the board would adjourn directly from executive session and thus would not return to open session.

Mr. Taylor announced that the board would go into executive session, pursuant to G.L. c. 30A, Section 21(a) purpose number 3:

“To discuss strategy with respect to...litigation if an open meeting may have a detrimental effect on the...litigating position of the public body and the chair so declares.” Specifically, the Board will discuss and take appropriate action with respect to the matter of Town of Pembroke Planning Board, et al. v. Town of Pembroke Board of Zoning and Building Law Appeals, et al., Plymouth County Superior Court Case No. 1983CV00239 regarding Pembroke Center Street, LLC, and the property located at 204 Center Street in Pembroke. Further, the Chair declares that having such discussion in open session would have a detrimental effect on the Planning Board’s litigating position.

Mr. Wandell made a motion that the board go into executive session, and Mr. Noone seconded the motion. The board voted unanimously in favor by roll call.

At this time, an employee of PACTV confirmed that the board meeting was no longer being recorded, broadcast or livestreamed, and then left.

From this point forward, participation in the meeting was restricted to the board members, Mr. Heins and Mr. Lampke.

The board entered executive session.

The minutes of executive session are a separate document.

Respectfully submitted,

Matthew Heins, Planning Board Assistant