



PEMBROKE PLANNING BOARD MINUTES

MONDAY, JANUARY 24, 2022

LOCATION: Remote Participation with Zoom Software

STARTING TIME: 7:00 pm

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

BOARD MEMBERS ABSENT: None.

OTHERS PRESENT: Matthew Heins (Planning Board Assistant), Peter Palmieri, Jeffrey De Lisi, Kevin Grady, George Thibeault, Donald Nagle, Valerie Johnson, Michael Cohen, Keith Vellante, "Galaxy S10+," "James," Ally Silva, Dee Silveira, Michael Giaimo, Kristen Spirou, Brian Ross, Jordan Phillips, John Menezes, Heather King, "Pratt Family," Janell Davis, Peggy Volsey, Laura Johnson 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

Ms. Siciliano-Perry 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 January 24, 2022, 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, s. 18, as amended June 16, 2021, and extended to April 1, 2022, 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 with the link accessible 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.org 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.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.

PUBLIC HEARING FOR PROPOSED SITE PLAN #SP2-21 AT 715 WASHINGTON STREET

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

Ms. Siciliano-Perry re-opened the public hearing (continued from December 20, 2021) for proposed Site Plan #SP2-21 at 715 Washington Street, being 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 (one floor plus mezzanine) with a footprint of 10,000 square feet consisting of five separate contractor's bays, a.k.a. tradesmen's units. Each unit would contain a first-floor garage workshop and second-floor (mezzanine) office. There would also be a paved parking area and access drive. The property is located in the Residential-Commercial Zoning District, at 715 Washington Street, Pembroke, MA 02359, as shown on Assessors' Map F9, Lot 24.

Attorney Jeffrey De Lisi was present, representing the project, along with the project's engineer Kevin Grady. The applicant George Thibeault was also present.

Peter Palmieri (of Merrill Engineers and Land Surveyors), the board's peer review engineer for the project, was also present.

The board, Mr. Heins and Mr. De Lisi discussed which board members were present, who comprised the quorum for this public hearing, and whether any board members would need to "catch up" using the Mullin Rule.

Board member Mr. Noone joined the meeting at this time, resolving the concerns about the quorum and using the Mullin Rule.

Mr. De Lisi explained that the board had discussed the project thoroughly at the previous public hearing for it, and that he felt it was ready to be approved. He mentioned that the abutter had dismissed his appeal of the Conservation Commission matter, and that Mr. Palmieri had issued a new peer review report.

With regard to the size of the property's uplands area being less than 120,000 square feet, an issue raised previously, Mr. De Lisi argued that it was irrelevant because the lot was created in the 1960s, which was before that requirement was placed in the zoning bylaws.

Board member Mr. Wandell joined the meeting at this time.

Mr. Grady displayed the drawings of the project. Mr. Wandell asked about the size of the property's uplands area being less than 120,000 square feet, and Mr. Grady and Mr. De Lisi answered this. Mr. De Lisi explained that when this zone (the Residential-Commercial Zoning District) was created in the 1970s, there was just a 120,000 minimum square footage requirement, and only in 1989 was this changed to specify that there had to be 120,000 square feet of uplands. As the lot was created in the 1960s, he said, it should be "grandfathered" as legal because it pre-dates these requirements.

Mr. Wandell argued, however, that a variance should be granted from this requirement in the zoning bylaws. He recommended that the applicant apply for a variance from the Zoning Board of Appeals.

Mr. De Lisi suggested the board could approve the project with a condition that a variance still had to be granted.

Board member Mr. Smith joined the meeting at this time.

Mr. Roundtree asked about the Conservation Commission's process of giving a previous project on the same property a wetlands delineation and an order of conditions, and the appeal made by the abutter. Mr. De Lisi described this, and explained that he felt this new project could benefit from the approvals given by the Conservation Commission for the previous project because it has the same limit of work.

Ms. Siciliano-Perry asked about the setbacks to the abutters, and Mr. Grady and Mr. De Lisi described them and gave some approximate distances. A conversation followed about the zoning setback distances.

Mr. Heins noted that typically the board does not grant site plan approval until any variances needed have been granted by the Zoning Board of Appeals, but Mr. De Lisi said that would not be a problem in this case.

Attorney Donald Nagle spoke, and explained that he was representing abutter James Smith. He noted that the adjacent lot was previously part of the same lot before being subdivided and sold off, which happened after the 1989 change to the zoning bylaws. He argued that a variance should not be granted because through this subdivision the owner had created his own hardship. However, Mr. De Lisi opined that this was for the Zoning Board of Appeals to decide.

Mr. De Lisi and Mr. Grady clarified that the area of the uplands on the lot is about 111,000 square feet. Mr. Nagle said that the board should not grant site plan approval given that the area of the uplands is less than the required 120,000 square feet.

In response to Mr. Smith's question, it was clarified that the zoning bylaws impose the requirement that the lot's area of uplands be at least 120,000 square feet in this zoning district (the Residential-Commercial Zoning District).

Mr. Nagle argued that the proposed use is not really an office building but more a "contractor's yard," and that this is not an allowed use in this zoning district. Mr. De Lisi and Mr. Nagle debated this.

Mr. Heins explained that Michael Cohen, an abutter who was attending this meeting, had been unable to address the board a few minutes earlier due to a technical problem and thus had telephoned Mr. Heins to communicate his opposition to the project. Mr. Heins said that Mr. Cohen was opposed to the project due to its proximity to his own property and the lack of sufficient visual screening, and because he felt it was not an allowed use.

Mr. De Lisi asked if a project like this one had been previously approved in this zoning district. Mr. Heins was unsure but noted that light industry is an allowed use in this zoning district, and that a contractor's facility would seem roughly comparable to light industry.

Mr. Smith pointed out that the King's Highway Park project (at 242 Washington Street) is a similar use, consisting mainly of contractor's units, and is mostly in the same zoning district.

Mr. Nagle objected to the applicant's request for a waiver of the traffic impact study, and noted that there are many residences near the project. He also mentioned that the peer review report had

requested more information about the impacts of development. He also objected to the applicant's request for a waiver of the 50-foot landscaped buffer, and the applicant's request for a waiver of the vertical granite curbing. In addition, he noted that the Conservation Commission still has not approved this particular project.

With regards to traffic, Mr. Grady explained that he had submitted a trip generation calculation. He noted that Washington Street does not have vertical granite curbing either, and that the board had waived this requirement for other projects. He and Mr. De Lisi explained that the zoning bylaws require a 20-foot setback and the site plan rules & regulations require a 50-foot landscaped buffer.

Mr. Roundtree asked about the Conservation Commission's role, and Mr. De Lisi clarified this. Mr. Noone and Mr. De Lisi discussed the roles of the Zoning Board of Appeals and the zoning enforcement officer regarding the uplands area issue.

Mr. Heins suggested that the board could close the hearing but it would not be advisable to vote on the project due to the 14-day deadline to file the decision. Discussion followed.

Mr. Wandell made a motion to close the public hearing for proposed Site Plan #SP2-21 at 715 Washington Street. Mr. Taylor seconded the motion. Mr. Noone voted in favor, Mr. Wandell voted in favor, Ms. Tremblay abstained, Mr. Taylor voted in favor, Mr. Smith abstained, and Mr. Roundtree voted in favor. The motion passed.

It was agreed to put a discussion and possible vote for the project on the agenda for the board's next meeting on February 14.

VOTE TO RETURN \$375.44 IN ENGINEERING REVIEW ACCOUNT FOR CRESCENT AVENUE ROAD IMPROVEMENT PROJECT TO ORIGINAL APPLICANT

Ms. Siciliano-Perry explained that there was a request to the board to return an amount of \$375.44 from the engineering review account for the Crescent Avenue road improvement project to the original applicant. (Roger Warren, the original applicant for the Crescent Avenue road improvement project, had requested that the engineering review account balance from the point in time when the project was transferred to its current developer, an amount of \$375.44, be returned to him.)

Mr. Taylor made a motion to return \$375.44 from the engineering review account for the Crescent Avenue road improvement project to the original applicant. Mr. Wandell seconded the motion, and the board voted unanimously in favor by roll call.

VOTE TO APPROVE PROPOSED HAIR SALON IN EXISTING BUILDING AT 115 CENTER STREET AS MINOR MODIFICATION TO EXISTING SITE PLAN

Board member Heather Tremblay announced that she was recusing herself from this discussion, and at this time she left the board meeting.

Ally Silva, the owner and/or operator of Eden Salon which is a hair salon currently at 460 Washington Street in Pembroke, came before the board to request its approval of her proposal to relocate Eden Salon into the existing building at 115 Center Street, which was formerly a real estate office.

Ms. Silva explained that she does not intend to make any major changes to the building (apart from the necessary interior alterations). She said that she feels the existing parking area is sufficiently large for the hair salon, but that she would like approval to build two additional parking spaces in front. It was confirmed that this location is in the Center Protection District.

Mr. Wandell asked about the parking. Ms. Silva said they would need ten parking spaces at most for customers and there are currently thirteen spaces on the property, but that she felt having two extra spaces in front would be beneficial. A conversation ensued and the site plan drawing was displayed. Mr. Noone expressed concern about putting in two additional parking spots because of the hazards it could pose. The board members generally agreed, and Ms. Siciliano-Perry noted that adding new spots in front would reduce the amount of grass.

The board discussed the signage that Ms. Silva was proposing, and a rendering was displayed. There were two signs proposed, one on a post and one on the building. Ms. Silva asked if she could put another sign on the side of the building, and discussed followed. It was agreed that she could come back before the board once the proposed signage is finalized to request the board's approval.

Mr. Taylor made a motion that the board approve the project as a minor modification to an existing site plan, but not approve the proposed signage at this time. Mr. Wandell seconded the motion. Mr. Roundtree voted in favor, Mr. Wandell voted in favor, Mr. Smith voted in favor, Mr. Taylor voted in favor, and Ms. Siciliano-Perry voted in favor. The motion passed.

Ms. Silva asked if this approval included the change of use, and that was confirmed. Mr. Heins noted that the project was approved per the drawings, except that the two proposed parking spaces in front were not approved.

Board member Ms. Tremblay rejoined the meeting at this time.

PUBLIC HEARING FOR PROPOSED SITE PLAN #SP5-20 CELL TOWER AT 85 WASHINGTON STREET

Ms. Siciliano-Perry reopened the public hearing (continued from January 11, 2021, February 1, 2021, March 1, 2021, April 12, 2021, May 10, 2021, June 14, 2021, July 12, 2021, July 26, 2021, September 13, 2021, October 25, 2021, November 15, 2021, and December 20, 2021) for proposed Site Plan #SP5-20 Cell Tower at 85 Washington Street, being the application of Cellco Partnership d/b/a Verizon Wireless, 118 Flanders Road, 3rd Floor, Westborough, MA 01581, 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 cell phone tower ("personal wireless service facility") of a monopole design with a height of about 120 feet (later changed to about 110 feet), with some additional equipment on the ground and enclosed within a 50-foot by 50-foot fenced area. The tower would be in the rear of the property, and a gravel drive would be constructed to provide access to it. The existing building, access drive and parking area on the property would remain. The property is located in Business District B, Residence District A, and the Historic Overlay District, at 85 Washington Street, Pembroke, MA 02359, as shown on Assessors' Map D14 Lot 38.

Michael Giaimo, Kristen Spirou, Brian Ross, John Menezes and Jordan Phillips, who were working on the project in various capacities, were present.

Mr. Giaimo, the attorney representing the project, stated that he hoped the board would close the public hearing and vote to approve the site plan. He noted that the project had been undergoing review for a long time, and said that he believed all the requested changes and items had been done.

In reply to Ms. Siciliano-Perry's question, Mr. Palmieri said that all of his outstanding comments had been addressed, and so he was satisfied with the site plan.

It was clarified that the quorum consisted of Mr. Taylor, Mr. Roundtree, Ms. Tremblay and Mr. Wandell. There was a brief discussion about the Mullin Rule.

Mr. Taylor made a motion to close the public hearing for proposed Site Plan #SP5-20 Cell Tower at 85 Washington Street, and Mr. Wandell seconded the motion. Mr. Noone voted in favor, Mr. Wandell voted in favor, Ms. Tremblay voted in favor, Mr. Smith abstained, Mr. Taylor voted in favor, Mr. Roundtree voted in favor, and Ms. Siciliano-Perry voted in favor. The motion passed.

Mr. Heins clarified a few textual items in the draft decision which he had prepared.

Mr. Taylor said that he was concerned about whether a cell tower is an allowed use [as of right] rather than a use allowed by special permit.

Mr. Heins noted that typically the board votes on the waivers being requested before voting to approve or deny a site plan.

Mr. Taylor made a motion to approve the following, requested waivers:

- a. Section 4.7: Landscape Plan prepared, stamped and signed by a registered landscape architect
- b. Section 4.14: Site Plan scale
- c. Section 4.15: Development Impact Statement
- d. Section 4.20: Signs shown on Site Plan drawings
- e. Section 4.21: Photometric Plan
- f. Section 4.22: Traffic Impact Study

Mr. Wandell seconded the motion. Mr. Wandell voted in favor, Ms. Tremblay voted in favor, Mr. Taylor voted in favor, Mr. Roundtree voted in favor, Mr. Smith abstained, Mr. Noone abstained, and Ms. Siciliano-Perry abstained. The motion passed.

Mr. Wandell made a motion to approve Site Plan #SP5-20 Cell Tower at 85 Washington Street, and Mr. Roundtree seconded the motion. Ms. Tremblay voted in favor, Mr. Taylor voted in favor, Mr. Roundtree voted in favor, Mr. Wandell voted in favor, Mr. Smith abstained, Mr. Noone abstained, and Ms. Siciliano-Perry abstained. The motion passed.

Mr. Heins explained that he would communicate with the board members in the next few days to have them sign the decision documents.

VOTE TO APPROVE PROPOSED EVENT SPACE FACILITY IN EXISTING BUILDING AT 42 WINTER STREET AS MINOR MODIFICATION TO EXISTING SITE PLAN

Janell Davis came before the board to request approval of her proposal to establish an “event space” business of 5,500 square feet in one of the units of the existing building at 42 Winter Street. Her business partner Peggy Volsey was also present.

Ms. Davis explained that the unit is currently a warehouse and office space, and that they wished to put the event space in the warehouse area, which is about 3,100 square feet. She said that they do not intend to change the layout, but would carry out some interior changes (painting, flooring, etc.) to make the space more inviting. The events would mainly be weddings, business social gatherings, and other occasions.

It was confirmed that the location is in the Industrial A Zoning District.

Mr. Noone asked if this use should be classified as a restaurant for zoning purposes, in which case it would require a special permit. Ms. Davis said that they will not be cooking or preparing food; if a particular event needs food or beverages then the organizer or caterer would bring it.

In reply to Mr. Taylor's questions, Ms. Davis said they don't anticipate parking problems, especially since most events will take place on weekends and evenings, when the other businesses in the building are generally closed. She said that the maximum number of people allowed in the space would be in the 300s, but she would probably limit the capacity to 125 or 150. Discussion followed.

In reply to a question, Ms. Davis said they'll have speakers for music, but not bands or anything disruptive.

Mr. Wandell made a motion that the board approve the proposed project as an allowed use which does not require site plan review, and Mr. Noone seconded the motion. The board voted unanimously in favor by roll call.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Mr. Taylor made a motion to approve the minutes of December 20, 2021. Mr. Roundtree seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Heins explained that a building permit has been received, and apparently construction has begun, for the Herring Brook Solar Project (behind the Hobomock ice arena), which is a site plan the board approved a few years ago. He asked if the board's peer review engineer for the project, Peter Palmieri (of Merrill Engineers and Land Surveyors), should perform construction inspections. Discussion followed about the project, and the board members agreed that construction inspections should be done.

Ms. Siciliano-Perry mentioned that a new state law will require Pembroke to amend its zoning bylaws to allow more multifamily housing. Specifically, "MBTA Communities" in the Boston region will be required to have at least one zoning district that allows multifamily housing at a density of up to 15 units per acre. Extensive discussion followed. Mr. Heins said that the zoning district must be at least 50 acres in size. Mr. Wandell noted that the recent change to the zoning bylaws, to allow certain multifamily housing projects in the industrial districts, might qualify.

The board members talked about the provision in the law requiring the new zoning district be within a certain distance of an MBTA station. It was noted that there are commuter rail stations near Pembroke in Halifax and Hanson. Mr. Heins mentioned that the multifamily housing must be allowed by right, not by special permit.

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

Respectfully submitted,

Matthew Heins, Planning Board Assistant