



PEMBROKE PLANNING BOARD MINUTES

MONDAY, MARCH 28, 2022

LOCATION: Remote Participation with Zoom Software

STARTING TIME: 7:00 pm

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

BOARD MEMBERS ABSENT: Stephan Roundtree (Clerk).

OTHERS PRESENT: Matthew Heins (Planning Board Assistant), William Pappastratis, Dana Altobello, Jeffrey De Lisi, Thomas Houston, Emile "Chaz" Tayeh, Donald Nagle, William "Terry" McGovern, Todd Brodeur, Matt D'Amour 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 March 28, 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 Chapter 20 of the Acts of 2021, this meeting will be conducted via remote means.

No in-person attendance of members of the public will be permitted. We will post on the Pembroke website an audio or video recording, transcript or other comprehensive record of proceedings as soon as possible after the meeting.

All votes taken during this meeting will be roll call votes.

PUBLIC HEARINGS FOR PROPOSED SITE PLAN #SP1-22 AND SPECIAL PERMIT AT 631 WASHINGTON STREET

Ms. Siciliano-Perry opened the two public hearings running concurrently on the applications of Nike Construction Services, LLC, 633 Summer Street, Marshfield, MA 02050, requesting Site Plan approval under the Zoning Bylaws of the Town of Pembroke Section V.7. (Site Plan Approval) and a Special

Permit under the Zoning Bylaws of the Town of Pembroke Section IV.2.B.3. (Special Permit Required for Multiunit Dwellings in Residential-Commercial District). The applicant proposes to construct a multifamily residential project consisting of two buildings containing a total of nine (9) two-bedroom units in townhouse-style design, along with an access drive, parking area, and infiltration basin. The property is located at 631 Washington Street, Pembroke, MA 02359, in the Residential-Commercial District, as shown on Assessors' Map E10, Lot 10, but access to the project would be from Old Washington Street. A copy of the application is available in the Office of the Planning Board at Pembroke Town Hall.

The project's developer William Pappastratis was present, along with the project's engineer Dana Altobello (Merrill Engineering) and the attorney representing the project, Jeffrey De Lisi. The Planning Board's peer review engineer for the project, Thomas Houston (of Professional Services Corporation), was also present.

Mr. De Lisi summarized the project. He noted that they previously had an informal discussion about the project with the Planning Board, and explained that the necessary variances had been received from the Zoning Board of Appeals.

Mr. Altobello described the engineering aspects of the project. He mentioned that currently the property contains a house and two sheds, all of which would be removed. The property is mostly flat. The project would consist of two buildings containing nine residential units in total, a parking area with 19 parking spaces, a dumpster pad, and an access drive. The stormwater system would include a storm diaphragm, two sediment forebays and a stormwater basin. Overflow from larger storms would flow into an existing catch basin on Old Washington Street. Runoff from the roofs would go into a subsurface infiltration system. A new septic system would be built.

Mr. Altobello went over the waivers (from the site plan rules & regulations) being requested, and explained why they were needed. He said that they had addressed most of the comments in the peer review letter from Mr. Houston, but mentioned that one outstanding item was the question of overflow from the proposed stormwater basin. He discussed this issue in more detail. At Mr. De Lisi's request, he described the alternative stormwater design if the excess overflow could not flow toward the street.

Mr. Taylor asked why the entrance to the project (i.e., the location of the access drive) had been changed from Washington Street to Old Washington Street. Mr. Altobello explained that Washington Street is a much busier road and so they felt it would be more reasonable and safer to use Old Washington Street. Mr. De Lisi noted that Edgewater Drive intersects Washington Street on the other side, which in combination with a new access drive would have created awkward traffic movement.

Mr. Smith asked about the depth and design of the drainage basin, and Mr. Altobello described it. Mr. Noone asked about the number of parking spaces, and Mr. Altobello said that the requirement is two spaces per unit and so the 19 spaces provided is one beyond the minimum. Mr. Noone expressed concern about the runoff being added to the town's drainage system, and a discussion followed about this issue.

In reply to Ms. Siciliano-Perry's question, Mr. Altobello estimated that a total of ten waivers were being requested.

Mr. Noone referred to comments in the peer review engineer's letter about the issue of runoff being added to the town's drainage system, and Mr. De Lisi said they will look into this.

Mr. Noone mentioned the additional traffic the project would cause at the intersection of Washington and Old Washington Streets. Discussion ensued. Mr. Noone suggested the hearing be continued so the engineering issues could be resolved.

Mr. Houston introduced himself, and said that most of the comments in his initial peer review letter had been resolved, but a few substantive issues remained. He went into more detail about the anticipated stormwater runoff onto Old Washington Street and into the existing catch basin. He said that older drain systems tend to be under-designed, and so he suspects that the existing system on Old Washington Street is already near capacity. He suggested that if discharge is allowed, it should not be overland to the catch basin but rather through a pipe. He noted that the Department of Public Works' decision whether to allow such discharge is very site-specific and so past precedent should not guide this. He argued the property should not be classified as a "redevelopment site" for stormwater purposes.

Mr. Houston went over a few other issues from his peer review letter. He also suggested that a mounding analysis be done to check on the groundwater relative to the basin.

Mr. Altobello addressed some of Mr. Houston's comments regarding stormwater.

Mr. Taylor made a motion to continue the public hearings for proposed Site Plan #SP1-22 and special permit at 631 Washington Street to April 11, 2022, at 7:45 pm. Mr. Wandell seconded the motion, and the board voted unanimously in favor by roll call.

DISCUSSION ABOUT APPLICATION FOR DETERMINATION OF ADEQUACY OF THE WAY FOR PORTIONS OF PINE AVENUE AND/OR THRASHER STREET (NEAR FAIRVIEW AVENUE)

Emile "Chaz" Tayeh, along with attorney Donald Nagle and engineer William "Terry" McGovern, came before the board to request the board's approval of their application for a determination of adequacy of the way for a portion of Pine Avenue and/or Thrasher Street, near Fairview Avenue in Pembroke. Their purpose was to have the road declared a way so that a house could be built on a property (owned by Mr. Tayeh) along the road.

Mr. Nagle introduced himself, Mr. Tayeh and Mr. McGovern. Mr. McGovern described the project, displaying the plan of the proposed improvements. He explained that the project would improve Pine Avenue from Fairview Avenue up to "the top of the hill through the frontage of the lot" and would provide 15 feet of pavement with a leaching catch basin. He noted that existing utilities are present. He identified the portions of the road that would be widened and resurfaced. He also stated that a few trees and overhanging branches would be removed. He said that the grade of the road would not be altered.

Ms. Siciliano-Perry asked for clarification regarding what they were applying for, and Mr. McGovern acknowledged that the road currently is not adequate. He described the anticipated work that would be done to repave the road.

Mr. Smith asked what was being proposed for drainage, and Mr. McGovern described the proposed stormwater system.

Mr. Taylor noted that an application for determination of adequacy of the way should be for a determination of existing conditions, not improvements being proposed for the future. Discussion followed, with some board members suggesting the application should have been submitted in accordance with Section V.9.D. of the zoning bylaws.

Mr. Nagle said they had been told to apply in this manner, but Mr. Heins said that was not the case. Mr. Heins emphasized that the applicant had been clearly informed that he needed to apply under Improvements to Private Ways and Paper Streets (Section V.9.D. of the zoning bylaws), and instead had chosen to apply under Application for Determination of Adequacy of the Way (Section V.9.C. of the zoning bylaws).

Mr. Tayeh said he had talked with some of the neighbors and they support the project. He explained that doing it this way would be less expensive for him in terms of the construction cost. Mr. Noone gave advice about the construction methods.

Discussion followed about how to handle the situation, and various opinions were expressed. Mr. McGovern described the likely construction process and suggested they be allowed to proceed. Ms. Siciliano-Perry noted the requirements imposed by Section V.9.D. of the zoning bylaws, such as for a public hearing, peer review, etc.

Mr. Heins suggested that a new application be submitted in accordance with Section V.9.D. of the zoning bylaws, and noted that the applicant had created this unnecessary complexity by submitting the incorrect application. Debate ensued. Mr. Wandell recommended that the proper process of Section V.9.D. (Improvements to Private Ways and Paper Streets) be followed. Mr. Nagle argued that this portion of the zoning bylaws should be interpreted differently. Mr. Heins criticized this position and said the applicant was trying to evade the rules.

Mr. Nagle suggested the applicant be allowed to proceed with construction, and then the board could reach a determination under the provisions of Application for Determination of Adequacy of the Way (Section V.9.C. of the zoning bylaws) as to whether it was satisfactory. More debate took place.

Mr. Noone suggested the applicant could ask the board's usual peer review engineering firm (Merrill Engineers) to observe the construction. Mr. Tayeh verbally agreed to postpone the determination (i.e., determination of adequacy of the way) until then, and said Mr. Nagle and Mr. McGovern would communicate with the board when that phase was done. Mr. Noone recommended that Mr. Tayeh obtain a letter from Merrill Engineers stating the work had been done, and Mr. Tayeh agreed.

Mr. Heins pointed out the board only had 60 days to vote on the application (per the provisions of Section V.9.C. of the zoning bylaws), and Mr. Nagle verbally agreed to waive this deadline.

Summing up, Ms. Siciliano-Perry said the application would be kept but no vote would be taken until the applicant was ready to return to the board. A brief discussion took place about whether Mr. Nagle should submit a letter agreeing to the extension.

DISCUSSION ABOUT POSSIBLE SUPERMARKET AT 346 WASHINGTON STREET, AND POSSIBLE CHANGES TO ZONING BYLAWS TO ALLOW RETAIL USES AT THIS LOCATION AND NEARBY AREAS

Todd Brodeur, an attorney with Fletcher Tilton, came before the board on behalf of Big Y Foods, a supermarket company interested in building a supermarket and gas station at 346 Washington Street.

Mr. Brodeur said that there are three zoning districts, Residence A, Business B and Residential-Commercial, which extend into the property. (In addition, the Historic District overlay covers part of the property.) He explained that it was being proposed that the zoning map be amended such that

most of the site would be zoned Business B. Without some sort of rezoning, he noted, it would be very difficult for the project to advance.

Matt D'Amour, a vice-president of Big Y Foods, briefly described the company. He explained that the company is based in Massachusetts and has been expanding into the Boston area.

Mr. Noone said that he supported making the zoning bylaw amendment which had been previously discussed, and asked who was working on the text of the amendment. Mr. Heins said that new text had been created, and described how the proposed zoning change would affect the town's zoning map by slightly enlarging the size of the Business B zoning district in this area. This would make the zoning map more logical and consistent.

In reply to questions, Mr. Heins explained that the public hearing for the proposed zoning bylaw amendment would take place on April 11.

DISCUSSION ABOUT ANTICIPATED ZONING CHANGES REQUIRED BY NEW STATE LAW MANDATING HIGHER DENSITY MULTIFAMILY HOUSING

Mr. Heins explained that one of the requirements of the new state law mandating zoning for higher density multifamily housing is that a briefing of the Select Board about the law be held by a certain date. He said that this briefing had been tentatively scheduled for April 6.

The board members and Mr. Heins talked about the new state law (sometimes referred to as the "MBTA Communities" law), what it imposes on the town, and how best to conform with it. The law essentially requires that in a zoning district of at least 50 acres, multifamily housing be allowed as of right up to a density of 15 units per acre or more. The goal of the law is to create more housing in the greater Boston area, which would help make housing more affordable by increasing the supply.

Discussion took place. Some board members emphasized that the town has already done a good job of encouraging affordable housing and multifamily housing. The board talked about what location or existing zoning district would be best suited for the new zoning district. A few of the board members criticized the new law for various reasons.

The board agreed that Ms. Siciliano-Perry, as Chairman of the board, would give the briefing to the Select Board on April 6.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Mr. Wandell made a motion to extend the deadline for completion for Subdivision #1603 Brisan Way Extension to May 8, 2023. Mr. Taylor seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Wandell made a motion to accept the minutes of March 7, 2022, as presented. Mr. Noone seconded the motion, and the board voted unanimously in favor by roll call.

Mr. Taylor 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