



**PEMBROKE PLANNING BOARD MINUTES  
MONDAY, JULY 25, 2016**

**PRESENT:** Daniel Taylor (Chairman), Rebecca Coletta (Vice-Chairman), Thomas Irving (Clerk), Brian VanRiper, Paul Whitman, Andrew Wandell, James Noone, Peter Palmieri, Attorney Robert Galvin, Richard Vayo, Susan Kavka, Chris Grant, Eoghan Kelley and Marilyn Zechello.

Vice-Chairman Rebecca Coletta opened the meeting by reading the Chairman's statement.

**CONTINUED PUBLIC HEARING FOR PLAN #1601 BRISAN WAY EXTENSION AND SITE PLAN #SP3-16  
ADAMS SQUARE CONDOS**

Ms. Coletta read the following notice: "Tonight is Monday, July 25, 2016. This is the continued public hearing for plan #1601 entitled Brisan Way Extension and Adams Square Condos from Monday, July 11, 2016 at 7:30 p.m." She also mentioned that on the agenda is the item of the board considering or voting on conditions to be written for the subdivision plan for Brisan Way Extension. There was a short discussion of the need to vote on the Brisan Way Extension and/or Adams Square project during the 90-day extension period.

The Chairman, Daniel Taylor, arrived at this time.

Attorney Robert Galvin explained that they have received letters from Mr. Taylor and Peter Palmieri regarding the plans, and they have a letter in response. He said that on July 13 they did apply for a variance with the Zoning Board of Appeals, with regard to the Article 3, Section 9, non-residential frontage provision. He said they will make the case to the Zoning Board of Appeals for that. He explained that he believes the non-residential frontage condition was originally meant to restrict commercial and industrial uses, not residential uses. Since this project is residential, and not high-density, he feels it is appropriate to receive a variance. He requested that the Planning Board approve the plans, subject to the Zoning Board of Appeals approving the variance. He summarized his arguments. He explained that the density is appropriate and within the regulations, the proposed use is not injurious, noxious, offensive or detrimental to the neighborhood, the traffic impact is minimal, and he is optimistic they can satisfy the abutter on the opposite side of the street. He explained that there is adequate on-site waste disposal and suitable soils for on-lot sewerage, there is adequate town water available, and the requested use is not overly dense and does meet the requirements of the by-law. He explained that the

residents are likely to be empty-nesters, and these are two-bedroom units. He explained the project won't generate excessive traffic and there is no nuisance or serious hazard to vehicles or pedestrians. Furthermore he feels they are creating safer access to the rear. He suggested that a condition of approval could be created to allow them to continue to work with the abutter, and also a condition could be created that if required they would obtain the variance to allow the proposed multi-unit dwellings to have access off of Brisan Way Extension.

Richard Vayo stated that they have talked with the abutter across the street, and have agreed to work with him directly in exploring options for fencing, shrubs, and/or non-glare windows.

Mr. Galvin noted that there is anxiety among nearby residents about traffic, but it is primarily due to the existing situation, and this development would not significantly contribute to it.

Mr. Palmieri mentioned that there are some outstanding comments in their letters, but they are technical in nature and not likely to be serious problems for the board. However, he emphasized that if there is an issue with the site plan, the subdivision drainage cannot stand on its own, and it would need to be redesigned to add a recharge component. He stated that he mentioned this in a previous letter, and suggested that a condition could be added to cover this situation.

Paul Whitman expressed concern that under such a scenario Mr. Palmieri could not approve the subdivision stand-alone. Mr. Palmieri explained that the detention basin for the subdivision cannot handle water runoff on its own, being dependent on the Adams Square site for this, and thus would need to be redesigned. A short discussion ensued. It was agreed that a condition could be added to the subdivision approval, specifying that if Adams Square does not go forward then the subdivision plan would be redesigned to handle its own stormwater recharge.

Ms. Coletta stated that it makes sense for there to be a variance from Article 3, Section 9, and that this needs to be addressed, but not by the Planning Board. She said that in other respects the project seems to meet the by-laws, subject to conditions regarding the variance, and conditions about screening for the abutter. She said it's unclear whether they should wait for the variance, or not.

Mr. Vayo said that they would have preferred to get the variance done with the Zoning Board of Appeals by this time, but due to conflicts and changing membership it wasn't possible.

James Noone suggested that the board approve the subdivision with the conditions.

A member of the public, an abutter, Susan Kavka, spoke. She expressed concerns about traffic. She noted that the subdivision would add 20 units, and so there is a possibility of 40 cars being added, in addition to the free-standing homes. She mentioned that a traffic study is a "guestimate." She said she envisions maybe six or seven cars backed up each morning when she goes to work. She noted that it's hard to predict how many cars would be going out in the morning.

Mr. Taylor said that for traffic studies they use an industry standard. Mr. Galvin said that during the peak morning hour there would be an estimated 11 cars exiting. Mr. Vayo said that the condominiums are being marketed largely for people over 55, whose schedules are likely to be different. He stressed that the firm which did the traffic study is well regarded and very accurate, and it was peer-reviewed by the town.

Mr. VanRiper argued that this project would have no greater impact on traffic than, for example, Barker Square, which is of roughly comparable size. He said that Barker Square hasn't had a significant impact on road traffic.

Ms. Kavka expressed concern that in the long term this could result in another traffic signal being added. Mr. VanRiper felt this is unlikely. A back-and-forth conversation took place among several people. There was reference to a restaurant that causes traffic problems. Mr. Vayo said that adding a street like this actually can be a traffic calming device, as people slow down due to their awareness of it.

Ms. Coletta noted that the project meets the density by-laws, that the traffic study shows minimal impact, and that the board's job is not to prevent development in every case. There was a discussion about how a larger project, such as a 40b, could bypass the board's power entirely.

Another discussion ensued about restaurants and the issues they cause for traffic. Some board members expressed concern about the lack of parking at the restaurant near the project. Ms. Coletta said the restaurant issue is relevant in the larger sense, as it adds to traffic, but noted that the subdivision won't add much traffic to what is already there. She said that if someone was proposing to put another restaurant on the corner lot, that would be another matter.

Mr. Taylor asked if the fire chief has signed off on the project, and is comfortable with the roadway going into the condominium complex. Mr. Galvin and Mr. Vayo gave reassuring answers. Ms. Coletta wondered whether the fire chief's approval should also be a condition of approval. A discussion followed, as to whether the board should approve the site plan, subject to the conditions. Mr. Vayo urged that the board give approval, because otherwise the Zoning Board of Appeals might say that they are waiting for the Planning Board's approval, and the process would go in an endless circle. A discussion followed.

A board member asked if Conservation has approved. There was a back-and-forth discussion about what to do about Conservation's review, and whether to wait for it.

Another discussion followed about whether the term "variance" or "special permit" should be used in the conditions. Ms. Coletta expressed the concern that Article 3, Section 9, might become meaningless.

The board members had a discussion regarding the fire chief's approval. Ms. Coletta and Mr. Palmieri talked about using the phrases "acceptable reply to peer review comments" and "any changes to the site plan would require a return to this board for review."

Some board members discussed the technicalities of what they needed to approve. Ms. Coletta noted that in addition to the normal site plan review, the by-law specifies that they must issue findings relative to the special permit, which the Zoning Board of Appeals relies on. There was a back-and-forth discussion regarding what the board should include in its approval and what its findings should be. There was then a related discussion about whether the bullet points that Mr. Galvin listed should be included in the approval.

The board discussed the condition of approval regarding the abutter, and the condition that further zoning would be allowed to permit access off the subdivision. Mr. Palmieri explained that there are technical issues with both the site plan and subdivision plan. There was a lengthy back-and-forth discussion about what the motion should be.

Andrew Wandell made a motion that the board accept the site plan for SP3-16 Adams Square with the assumptions that the special permit granting authority will grant a variance based on Article 3, Section 9, of the by-laws, that acceptable reply is made to outstanding issues in peer review, and that any changes to the site plan would require a return to the Planning Board for review. Mr. VanRiper seconded the motion, and the board voted unanimously in favor.

Mr. VanRiper made a motion to close the public hearing concerning the Brisan Way Extension subdivision plan. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

Mr. VanRiper made a motion to close the public hearing concerning the SP3-16 Adams Square site plan. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

### **RK CENTERS**

Chris Grant with RK Centers explained that, for the building at 124 Church St. containing Sleepy's Mattresses, they wish to remove the roof which sheds water to the front, and put on a new and better roof that will shed water to the back. There was also a discussion about a traffic study relating to RK Centers. Mr. VanRiper made a motion that the clerk sign the routing slip per the applicant's request. Mr. Noone seconded the motion, and the board voted unanimously in favor. A brief discussion followed about the RK Centers site and an issue with a pothole and drainage there.

Ms. Zechello explained that RK Centers was requesting, by letter, an extension to August 26, 2016, for the traffic study and the completion of Phase 1. Brian VanRiper made a motion that the traffic study be extended at the applicant's request to August 26, 2016. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

## **MEMORY CARE**

Ms. Zechello explained that the routing slip for 49 Cross St., the Memory Care project, was there and ready for the board members to sign. Mr. VanRiper made a motion that the clerk sign the routing slip regarding the Memory Care facility located at 49 Cross St. Ms. Coletta seconded the motion, and the board voted unanimously in favor.

## **KALLIO PATH STREETLIGHT**

Ms. Zechello mentioned that the electric bill of \$502.93 for the streetlight for Kallio Path has been paid by the developer, and so it was time for the board to vote to turn the streetlight over to the town. Ms. Coletta made a motion that the streetlight on Kallio Path be turned over to the town. Mr. Wandell seconded the motion, and Mr. Noone, Mr. VanRiper, Thomas Irving and Mr. Whitman voted in favor. Mr. Taylor abstained, being an abutter of the project. The motion passed.

## **“SPECIAL” EMPLOYEES**

Ms. Zechello explained that all the board members have to sign a form to be “special” employees, regarding the ethics requirements.

## **LETTERS TO REFERENCE**

Mr. Palmieri explained that the letters the board wishes to reference, with regard to the subdivision, are dated July 11 and July 22, and with regard to the site plan, July 11.

## **NEW PLANNING BOARD ASSISTANT**

The board discussed the position of Planning Board Assistant, which will be Ms. Zechello’s replacement.

## **MARILYN ZECHELLO’S RETIREMENT DINNER**

The board and Ms. Zechello had a discussion of what day they could take Ms. Zechello out to dinner to celebrate her retirement, and which restaurant they should choose.

## **MINUTES**

Ms. Coletta made a motion to accept the minutes of July 11, 2016. Mr. Irving seconded the motion, and Mr. Taylor, Mr. VanRiper, Mr. Wandell and Mr. Whitman voted in favor. The motion passed.

Mr. Irving made a motion to accept the minutes of June 22, 2016. Mr. Wandell seconded the motion, and Mr. Taylor, Mr. VanRiper, Ms. Coletta and Mr. Whitman voted in favor. The motion passed.

Mr. Wandell made a motion to accept the minutes of June 7, 2016. Mr. Irving seconded the motion. Ms. Coletta and Mr. Taylor voted in favor, and Mr. VanRiper and Mr. Whitman abstained. The motion passed.

### **EQUESTRIAN ESTATES**

Eoghan Kelley asked what type of light poles should be installed at the Equestrian Estates subdivision. A discussion between Mr. Kelley and several board members followed. Mr. Noone mentioned that the rules and regulations state that Massachusetts highway standards must be followed. There was further discussion about the two light pole locations, how they would be installed, and their maintenance. Several board members suggested that no light pole should be required at all for the location at the intersection of Pheasant Lane and Equestrian Way.

Mr. VanRiper made a motion that the applicant delete from the plan the requirement for the light pole at the intersection of Pheasant Lane and Equestrian Way. Mr. Noone seconded the motion, and the board voted unanimously in favor.

Ms. Coletta asked Mr. Kelley why the sidewalk at Oldham is still a mess, and Mr. Kelley said it will be cleaned up soon.

### **MARLYMAC WAY**

Ms. Zechello mentioned that Donald Shute has asked, in a letter, for his deposit (performance bond) associated with the Marlymac Way development to be returned. Ms. Coletta made a motion that the funds held for Donald Shute in the amount of \$3,000 be released to him. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

Ms. Coletta noted for the record that the board has received Mr. Shute's letter praising Ms. Zechello's work performance over many years as Planning Board Secretary, and the board joins with Mr. Shute in wishing Ms. Zechello a very happy retirement.

### **BRISAN WAY EXTENSION**

Mr. Noone mentioned that when the last subdivision was built, none of the residents bothered to get home phone service (as they were all using cellphones), and so there were unnecessary telephone conduits sticking out everywhere. He suggested that a requirement should be created to avoid this, such as to terminate all utility connections below ground. The board agreed on new wording adding the phrase "all utility lines will be terminated below ground" to number 1 of the list of conditions for approval.

Mr. VanRiper read number 2, that a stop sign will be placed on Brisan Way at the intersection with Old Washington St.

Mr. VanRiper read number 3, that the developer shall submit a plan of street plantings prior to the endorsement and will comply with the plan as approved by the board.

Mr. VanRiper read number 4, that the developer will arrange a street light to be placed at the intersection of Brisan Way and Old Washington St., at a location satisfactory to the board, and provide evidence that the cost of lighting has been prepaid for a period of two years from the date of completion of the subdivision. There was a general discussion about street lights.

Mr. VanRiper read number 5, that prior to the release of any lots the developer will execute the according easement to the Town of Pembroke on behalf of himself and his assigns, granting the town perpetual access to all easement areas for repair and maintenance, and a covenant to the town not to fill or alter the drainage or other easement areas.

Mr. VanRiper read number 6, that the developer is responsible for maintenance of roadway according to Section 4C5 of the Town of Pembroke Planning Board rules and regulations.

Mr. VanRiper read number 7, that prior to installing driveway aprons the developer must contact the Department of Public Works.

Mr. VanRiper read number 8, that the developer will provide drainage calculations reflecting any revisions to the Planning Board prior to endorsement.

Mr. VanRiper read number 9, referring to a waiver request letter from the applicant dated July 25, 2016. The board determined that it needed to vote on the requested waivers.

Mr. VanRiper stated that on behalf of the applicant Washington ARL, LLC, part one, they are seeking a section of four C four A dead-end streets. Dead-end streets shall not be longer than 1,000 feet in total cumulative roadway length. The proposed roadway in the comments is 1,250 feet in cumulative length and 910 feet to the start of the cul-de-sac. This enables compliance with the 150-foot minimum frontage lot requirement, and reservation of an access way to the open space. Mr. VanRiper explained that they are seeking a waiver of the 1,000-foot dead-end requirement, and that the total length of the roadway proposed is 1,250 feet.

Mr. VanRiper made a motion that the board approve this extension of the dead-end street. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

Mr. VanRiper explained part two of the applicant's request, relating to Section 5, Required Improvements for Approved Subdivision, Item D, Sidewalks. The regulation is that sidewalks shall be on both sides of the street for major, secondary and minor streets, and as required by the Planning Board. The applicant explains that he seeks a waiver because one sidewalk is proposed on the single-family

residence side of the street, another sidewalk is proposed on the condominium access drive, and a third sidewalk is proposed to provide pedestrian access to the open space.

Mr. VanRiper made a motion that the applicant be granted a waiver of the requirement for sidewalks on both sides, and that the expense of the side not constructed will be calculated and the applicant will provide the estimated cost into the sidewalk fund. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

Mr. VanRiper explained the third requested waiver, plate number four, typical roadway section. The language refers to super-elevating versus crowned roadway pavement at a conforming  $\frac{1}{4}$ " per foot, and a relocation of drainage outside of the paved surface due to less than a 3' minimum pipe cover grade. Allowed sidewalk to be outside of roadway layout is an easement from station 0.0 to station 3.20 in order to maximize the roadway setback from wetlands. Mr. Noone explained the meaning of super-elevation.

Mr. VanRiper made a motion that the board approve the applicant's request number three, and waive plate number four, typical roadway section. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

The waiver requests being approved, Mr. VanRiper returned to the conditions for approval, and read number 10, Special Construction Materials and Procedures: The owner-contractor shall comply with the following Special Construction Procedures: A) The contractor shall provide a detailed sequencing of construction to the board, and its engineer, at approximately two-week intervals. B) The contractor is required to notify the Planning Board's engineer and the Planning Board, by phone or fax, 48 hours prior to required inspections, and will call immediately should he deviate from the schedule submitted. C) All applicable rules and regulations governing the construction of roadways in the Town of Pembroke and Massachusetts D.O.T. highway standards shall apply to construction of this roadway. There was a discussion of whether or not the waiver should be referenced at this point.

Mr. VanRiper read number 11, that the developer shall provide for water as per the regulations of the Department of Public Works.

Mr. VanRiper read number 12, that the subdivision entitled Brisan Way Extension is limited to seven house lots and the lot for the Adams Square site plan, and that any changes in this number requires prior approval of the Planning Board. There was a discussion of how many lots are contained in this subdivision, and how a lot is defined in this case.

Mr. VanRiper read number 13, that accurate as-built plans and profiles of all subsurface utilities, including but not limited to water, gas, sewer, drainage, electric, telephone, cable TV, will show horizontal and vertical location to plus or negative one foot. Said plans and profiles are to be filed in both hard copy and digital format with the Planning Board and the Department of Public Works.

Mr. VanRiper read number 14, that the developer will address and comply with all concerns in the Merrill Associates letters dated July 11 and July 22.

Mr. VanRiper read number 15, regarding correctness of plans. Correctness of plans is the responsibility of the developer, and will include his successors and assigns.

Mr. VanRiper read number 16, that except insofar as specifically waived by these conditions, all current Planning Board rules and regulations shall apply to the subdivision.

Mr. VanRiper read number 17 (subsequently changed to number 18), that the approval of the Planning Board is conditioned upon the construction of ways and installation of municipal services being completed by September 15, 2018. If construction of ways and installation of municipal services is not completed by September 15, 2018, approval shall be automatically terminated.

There was a discussion of how if the Adams Square development is not approved and/or built as designed, the developer must redesign the Brisau Way subdivision, in particular its drainage. The board members discussed letters previously written, and the conditions stated in them.

Ms. Coletta made a motion that in the event the site plan for Adams Square is not ultimately approved according to its current design, the developer will return to the Planning Board for a review of the drainage design for the subdivision. Mr. VanRiper seconded the motion, and the board voted unanimously in favor. It was agreed that this condition become number 17, and the aforementioned number 17 be changed to number 18.

The board discussed the 90-day deadline after the public hearing. This segued into a broader discussion about the importance of these deadlines.

The Planning Board thanked Ms. Zechello for her years of service to the Town of Pembroke, and wished her all the best in her retirement.

Mr. Whitman made a motion to adjourn the meeting. Mr. Irving seconded the motion, and the board voted unanimously in favor.

The next regular meeting of the Board will be held Monday, August 8, 2016 at 7:00 p.m.

Respectfully submitted,

Matthew Heins, Planning Board Assistant