



PEMBROKE PLANNING BOARD MINUTES

MONDAY, MARCH 6, 2017

PRESENT: Rebecca Coletta (Vice-Chairman), Thomas Irving (Clerk), Brian VanRiper (Board Member), Andrew Wandell (Board Member), Paul Whitman (Board Member), Matthew Heins (Planning Board Assistant), Donald McGill, Susan Fitzgibbons, Debra McCarthy, Charles McCarthy, John Ingram, Gerald Dutson, Robert DeMarzo, Robert Vazza and Thomas Morris.

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

PUBLIC HEARING FOR PROPOSED ZONING BYLAW AMENDMENT REGARDING THE SPATIAL EXTENT OF THE CENTER PROTECTION DISTRICT, AND PUBLIC HEARING FOR PROPOSED ZONING BYLAW AMENDMENT TO DISALLOW THE MIXED USE OPTION IN THE CENTER PROTECTION DISTRICT (TWO HEARINGS RUNNING CONCURRENTLY) (BOTH HEARINGS CONTINUED FROM FEBRUARY 27, 2017)

Ms. Coletta opened the two public hearings, both continued from February 27, 2017. One public hearing was for a proposed zoning bylaw amendment that would specify that the distance of the Center Protection District's extent from the relevant ways is exactly 300 feet and no greater than 300 feet, and the other public hearing was for a proposed zoning bylaw amendment that would eliminate the mixed use development option in the Center Protection District.

Robert DeMarzo asked the board what their opinion is of Donald McGill's proposed mixed use project at 220 Center Street, and Ms. Coletta explained that it will be more appropriate to discuss that project at the public hearing devoted to it on March 13. Mr. DeMarzo asked whether the proposed bylaw changes, if they take place, would impact that project and also a mixed use project by Kevin Sealund which was never completed. Ms. Coletta noted that the proposed bylaw changes are not aimed at a specific project, and explained that she did not know with certainty, and was reluctant to give a legal opinion, as to whether the bylaw changes would apply to the project at 220 Center St. Regarding Mr. Sealund's project, she noted there is no site plan application currently before the board.

Referring to old documents, Mr. DeMarzo said that when the Center Protection District was created in 1979, the bylaw at this time specified that the depth of the zone would be the extent of property having frontage on said ways or 300 feet from said ways, whichever is greater. Ms. Coletta

questioned whether there is any limit on how far back the zone can extend, if a parcel becomes extraordinarily deep by adding other parcels to it.

Mr. DeMarzo suggested that the Planning Board postpone making a definite decision at this time, and gather more input from the property owners and other interested parties. He discussed the relevant parcels, and he and Ms. Coletta talked about the specifics of these parcels. He emphasized that these changes would restrict the ability of the property owners to develop parcels they have owned and paid taxes on for a long time.

Mr. DeMarzo said that if a lot were split, the rules of the Center Protection District would apply 30 feet beyond the 300 feet. Mr. VanRiper stated that last week he asked Attorney Robert Galvin about this point, and Mr. Galvin said that it would only apply for 300 feet.

Mr. DeMarzo argued that the mixed use development option is a good thing, and that the communities that are thriving on the South Shore have healthy downtowns containing a mixture of uses.

Ms. Coletta and Mr. McGill discussed how the special permit process works. Ms. Coletta argued that the synergy of a bustling town center, with a compact walkable area, comes from having various uses there, including commerce.

Mr. DeMarzo explained that the town's master plan refers to the Center Protection District. Mr. Wandell voiced his concern that the board has seen proposed projects that do not satisfy the required mixed use ratio for commercial and residential uses, but instead seek variances or fail to actually construct the commercial portion. Mr. DeMarzo noted that most of the neighbors have expressed their desire for less commerce in proposed projects.

Mr. VanRiper agreed with Mr. Wandell that the ratio of commercial and residential uses for proposed mixed use projects has not been what the board hoped for, and that the way the mixed use option has been applied has not been what was envisioned, especially regarding commercial development.

Mr. DeMarzo described his experience with a proposed project at 220 Center St. several years ago that was not built. Mr. VanRiper and Mr. DeMarzo offered differing opinions as to how this project was dealt with and the variances it originally received.

Ms. Coletta emphasized that the central issue is the proposed bylaw changes, and not particular projects in the past or present. She noted the need to update the town's master plan.

Mr. Wandell discussed the substantial depth of some of the lots in the Center Protection District, and said that perhaps the bylaw could allow for a depth greater than 300 feet in certain parts of the zone. Ms. Coletta said that maybe the bylaw could specify a depth of 300 feet or the size of the currently existing parcels, which would prevent the agglomeration of excessively deep parcels in the future.

John Ingram, a landowner on Mattakeesett St., described the size of his own parcel and some nearby parcels. A discussion followed about the size of various lots in the zone, how many are deeper than 300 feet, and the development challenges that exist for some of them.

Gerald Dutson, a landowner on Mattakeesett St., showed the board speculative drawings that were drawn depicting a mixed use project on his property. He argued that a 300-foot maximum depth would restrict the possibilities of commercial development. There was a discussion about a proposed assisted living facility in the Center Protection District several years ago which was not built, and the Memory Care (Bridges at Pembroke) project currently under construction elsewhere.

The board members discussed ways to ameliorate some of the concerns that had been expressed. Mr. VanRiper explained that one option was to set a greater depth, but also noted that having a fixed depth is commonly done in zoning. He said that another option was to give the proposed bylaws a future eligibility date to specify when they take effect, thus allowing landowners and developers a reasonable amount of time, perhaps a year, to propose projects under the current bylaws. He mentioned that June 1, 2018, or some similar date, might be a good time for the bylaws to take effect.

Ms. Coletta said she was willing to consider modifying the amendment to make the depth 300 feet or the size of a parcel existing on this date, i.e. the adoption date. She said that if the board pursues the option of an effective date, it would make sense to be July 1, 2018, to align with the start of the fiscal year.

Mr. Wandell said that if the board chooses to modify the amendment to make the depth 300 feet or the size of a parcel existing on this date, there would be no need to have a future effective date for this bylaw change. However, he said it might be wise to have a future effective date for the change eliminating mixed use, in order to avoid impacting projects now before the board or likely to be proposed soon.

Mr. DeMarzo stated that he supports the idea of modifying the amendment to make the depth 300 feet or the size of a parcel as it currently exists. However, he expressed doubts about an effective date being a satisfactory solution to the mixed use issue, arguing that it would impose a time limit on landowners, rather than allowing them to wait until they retire or other circumstances are ideal for them to develop their land.

Mr. Ingram supported Mr. DeMarzo's point, explaining that he would like to have the long-term option to develop his land under mixed use. He also stressed that the town center does have the potential to improve, and allowing more housing could be part of that. There was a discussion about the development possibilities of his parcel. This veered into a conversation about 40b housing projects, and where the town stands in its 40b calculations.

Mr. McGill suggested that the bylaw could be modified to say that a property could not have frontage on another road behind it, which would limit how far back parcels could be assembled. This

led to a broader discussion about how to proceed with the question of the depth from the relevant ways.

Susan Fitzgibbons proposed that the depth of the zone be set at precisely 400 feet. Mr. DeMarzo suggested that for commercial development, slightly larger parcels with more parking areas are needed.

The board members discussed how to proceed with the modifications they are considering to the proposed zoning bylaw amendments. This led to a discussion with several audience members. The board members talked about how best to adjust the proposed bylaws, what the proper procedures are to do this, and whether a new version of the articles should be placed in the warrant, or proposed on the floor of town meeting.

Mr. VanRiper stated that the only way to alter the text of the articles for the bylaw amendments is to propose an amendment on town meeting floor. He explained that the board at this point could only vote on the text of the amendments as given in the notifications for the public hearing.

Following up on Mr. VanRiper's comments, Ms. Coletta suggested that the board would vote on the amendments as drafted (i.e., as published and advertised for these public hearings), with the stated assumption that between this vote and the town meeting, the board would develop a written proposal, taking into account the comments received from the public, to bring to the town meeting floor to amend the proposed bylaw changes. Ms. Coletta said this could accommodate people's concerns about depth, and it would remain to have discussions about possibly delaying the effective date of eliminating mixed use.

Ms. Coletta noted that the public hearing for the proposed mixed use project at 220 Center St., which is located in the Center Protection District, will take place on Monday, March 13.

Mr. VanRiper made a motion that the Planning Board approve moving to town meeting floor the revised Section III(10) of the zoning bylaw removing the language "whichever is greater" and adding the language "from and parallel to the following ways." Mr. Wandell seconded the motion.

Mr. McGill asked about whether the board would state that it will propose amendments to the bylaw changes, and Ms. Coletta stated that this cannot be incorporated into the motion.

The motion having been proposed and seconded, the board voted unanimously in favor.

Mr. VanRiper made a motion that the Planning Board approve moving to town meeting floor the deletion of Section IV(7) (B) (2), the deletion of Section IV(7) (D) (3), the deletion of Section IV(7) (D) (4) (c), the deletion of Section IV(7) (E) (1), the revision of Section IV(7) (E) (2) as advertised, and the deletion of Section IV(7) (E) (3) of the zoning bylaw. Mr. Wandell seconded the motion.

Ms. Coletta added for the record that the assumption of this vote among the planning board members is that, between now and town meeting, they will discuss having an amendment ready to

put before the voters at town meeting to address some of the concerns brought up in these public hearings.

The motion having been proposed and seconded, the board voted unanimously in favor.

Mr. VanRiper stated that the board needed to give a recommendation as to the adoption of the proposed bylaws, in order for the articles to be on the warrant. Ms. Coletta recommended that the recommendation be given subject to such amendments as may be proposed by the Planning Board at town meeting floor. Mr. VanRiper made a motion that the board recommend adoption of the proposed zoning bylaw changes, subject to such amendments as may be proposed by the Planning Board on town meeting floor. Mr. Wandell seconded the motion.

Mr. Ingram and several board members had a conversation about the process of changing the bylaws.

The motion having been proposed and seconded, the board voted unanimously in favor.

Mr. VanRiper made a motion to close the public hearing regarding changing the depth of the Center Protection District zone. Mr. Wandell seconded the motion, and the board voted unanimously in favor. Mr. VanRiper made a motion to close the public hearing regarding eliminating the mixed use option in the Center Protection District. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

DISCUSSION OF PROPOSED FORM A FOR SITE AT 538 WASHINGTON STREET

Robert Vazza (the applicant) and Thomas Morris (of Outback Engineering) came before the board to seek endorsement of Mr. Vazza's proposed Form A for his property at 538 Washington St. The large parcel would be split into four lots, three of them buildable and one unbuildable. The board members discussed this and decided it was an allowable Form A.

Mr. VanRiper made a motion that the board's clerk have the authority to sign the Form A drawings. Mr. Wandell seconded the motion, and the board voted unanimously in favor. Mr. Irving signed the drawings.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Mr. Wandell made a motion that the board accept the minutes of Monday, January 23, 2017, as presented. Mr. VanRiper, Mr. Irving and Mr. Whitman voted in favor. Ms. Coletta abstained, because she was not present at the meeting on January 23. The motion passed.

Mr. Heins and the board discussed the acceptance of the roads at Equestrian Estates, and a site walk for the proposed 40b project on Water St.

The board members and Mr. Heins had an extensive discussion of the project (Arrow Restaurant) at 300 Center St., and whether or not a decision with conditions should be signed and issued at this time.

Mr. Heins explained that Peter Palmieri (of Merrill Engineering) has provided notification that a field change was made during construction of the warehouse expansion at 56 Pembroke Woods Drive. The board decided to discuss this with Mr. Palmieri at a board meeting in the near future.

The board members and Mr. Heins discussed the situation regarding money that is owed by the developer of the Hobomock solar project for an escrow payment. The developer has refused to make the payment thus far, and so town counsel has been in discussions about this.

Mr. Heins mentioned that it will probably be necessary to have a public hearing on April 3 for the proposed zoning bylaw change that would prohibit marijuana-related establishments.

Mr. Heins and the board members had a conversation about the positive balance in the engineering review account for the Mending Wall subdivision which was never built.

The board members and Mr. Heins discussed the Selectmen's proposal for a moratorium on multifamily housing.

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

The next regular meeting of the Planning Board will be held on Monday, March 13, 2017 at 7:00 pm.

Respectfully submitted,

Matthew Heins, Planning Board Assistant