



PEMBROKE PLANNING BOARD MINUTES

MONDAY, JULY 31, 2017

PRESENT: Rebecca Coletta (Chairman), Andrew Wandell (Vice-Chairman), Thomas Irving (Clerk), Paul Whitman (Board Member), Brian VanRiper (Board Member), Daniel Taylor (Board Member), James Noone (Board Member), Matthew Heins (Planning Board Assistant), Lewis Stone, Richard Wall, Daniel Trabucco, Arthur Boyle, Joshua Cutler, John Poirier, Scott Pennoyer, Daniel Swayze, Alan Hebert, and others.

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

PUBLIC HEARING FOR PROPOSED ZONING BYLAW TO PROHIBIT MARIJUANA ESTABLISHMENTS

Rebecca Coletta re-opened the public hearing (continued from June 12, 2017) for the proposed zoning bylaw to prohibit marijuana establishments. The bylaw would prohibit all types of marijuana establishments as defined in G.L. c.94G §1(j), including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses.

Ms. Coletta explained that new state legislation has just been passed to implement the legalization of marijuana in Massachusetts, which resulted from a statewide referendum. She explained that a town bylaw prohibiting marijuana establishments has already been passed both by a town-wide referendum and at town meeting. She described certain nuances of the new state legislation, and some factors to consider as to the advisability of passing a zoning bylaw.

Mr. Taylor raised the issue of possible court challenges, and Mr. Noone noted that specifying a small zone allowing for marijuana establishments if the bylaw is negated in court might be the best way to protect from court challenges.

Joshua Cutler, the state representative for Pembroke, described various aspects of the new state legislation. One especially significant fact is that towns that voted against the legalization of marijuana in the statewide referendum, like Pembroke, can prohibit marijuana establishments simply through passing a new town bylaw at town meeting, up until 2019. (Towns that voted in favor of the legalization of marijuana in the statewide referendum can only prohibit marijuana establishments through a town-wide referendum.) Mr. Cutler stated that the legislation does not consider zoning bylaw changes as a way to ban marijuana establishments.

Mr. Cutler and the board members discussed various aspects of the legislation, and talked at length about the options available to Pembroke. Mr. VanRiper asked if towns that prohibit marijuana establishments can choose not to receive the associated state revenue, and this led to an extended conversation.

Mr. Cutler went over more details about the state legislation. A discussion ensued about how and whether to have a town-wide referendum. Mr. Whitman raised the issue of privately grown marijuana being distributed informally. Mr. Taylor asked whether medical marijuana establishments can sell across a town line, and Mr. Cutler said no.

The board members discussed the various options open to the board at this point.

Selectman Daniel Trabucco described the process which the proposed zoning bylaw has undergone thus far. Selectman Arthur Boyle said that since the town has now prohibited marijuana establishments, there is little need to do more regarding this proposed zoning bylaw. Police chief Richard Wall suggested that the board does not need to take action. Selectman Lewis Stone recommended that the board make a decision of action and close the public hearing, and then the Selectmen can decide whether to move forward with the article at town meeting.

Mr. Wandell made a motion to take no action on the proposed zoning bylaw change, and to close the public hearing. Mr. Taylor seconded the motion, and the board voted unanimously in favor.

DISCUSSION ABOUT STORMWATER RUNOFF AND SEPTIC PROBLEMS AT THE WOLVES DEN FIELD HOUSE (340 OAK STREET)

The board resumed its discussion, from previous months, of the problems at the site of the Wolves Den Field House regarding stormwater runoff and septic system failure. John Poirier, the manager of Wolves Den Field House, and Scott Pennoyer, a representative of RK Centers (whose property is adjacent to Wolves Den), came before the board.

Mr. Pennoyer stated that since the clearing of trees and brush (on a space that is now a temporary parking area) was done on the site of Wolves Den, the volume of water runoff onto the RK Centers property has increased tremendously. The board members expressed their concern that the site work done to create a temporary parking area was also meant to stop the flow of runoff towards RK Centers, but has failed to do so. Mr. Poirier and the board discussed the current situation and how stormwater is running off the site.

Ms. Coletta emphasized that the plan for the temporary parking area approved by the board expires in March 2018, and so it is imperative a site plan application is presented soon. Mr. Poirier explained that a slope easement agreement was previously reached between the Wolves Den property owner and Stop & Shop (on the RK Centers property) regarding runoff from the slope. However, Ms. Coletta noted that would not be applicable in the present circumstances, because it is the clearing of trees and brush that increased the runoff.

The issue of the failure of the property's septic system was raised. Mr. Poirier explained that the septic tank is now being pumped every two weeks. Ms. Coletta noted that she has actually observed the septic failure, i.e., traces of human waste, in standing water on the surface of the site.

Board members expressed their concerns about current conditions and the compelling need for immediate improvements to be made in both the stormwater and septic situation. Mr. Poirier explained that his future expansion plans are in uncertain flux, and so he is reluctant to do work at present without knowing what he needs to plan for. Mr. Whitman strongly urged him to fix the current septic problems without delay, as otherwise his business could be shut down.

Ms. Coletta noted that the board previously granted temporary approval of a site plan for the new parking area until March 2018. Mr. Whitman stated, for the record and for the minutes, that the board felt it had little choice at the time, given that the land had been cleared without permission and that the stormwater situation was an urgent problem. Ms. Coletta emphasized that it is imperative for Mr. Poirier to begin working on a new site plan application as soon as possible.

Mr. Pennoyer described in detail the concerns of RK Centers about the runoff and silt coming onto its property.

The board members further discussed the situation, and agreed to have another meeting on this topic on August 14, and to request that Mr. Poirier, his engineer, the property owner of Wolves Den, and a representative of the Board of Health all be present. Mr. VanRiper made a motion to this effect, Mr. Wandell seconded the motion, and the board voted unanimously in favor.

DISCUSSION ABOUT POSSIBLE SCREENING OPTIONS FOR HOBOMOCK SOLAR PROJECT (SITE PLAN #SP7-16)

Alan Hebert, an abutter of the Hobomock Solar Project who has concerns about how the view from his property has been changed by the presence of the solar panels, came before the board to discuss possible screening options. Daniel Swayze, a vice president at Onyx Solar (the developer of the project), was also present.

Mr. Hebert explained where he lives relative to the project, and described the views from his house and property. The board viewed a few photographs of the solar panels taken from his property. Ms. Coletta explained that there is an escrow account of \$25,000, to be used at the board's discretion, for the purpose of screening the project from abutters and from the road.

Mr. Whitman described some of the screening options. Mr. Heins noted the importance of not casting shade on the solar panels. He also mentioned the option that screening could be placed on the abutter's property, but board members found this idea problematic. The board discussed how screening could be put in place, where it could be located, and what type of vegetation would be ideal.

Mr. Swayze spoke briefly. He suggested the board consult with a landscape architect, and noted the need to avoid casting shade on the solar panels. He said that Onyx would like to be made aware of where trees would be placed and how tall they would grow. The board and Mr. Swayze discussed the

spatial characteristics of the site and where trees might be placed in order to be sufficiently far from the panels.

The board agreed to conduct a site walk at the site of the solar project and along the edge of Hobomock Street on Sunday, August 6, at 11:00 am.

In reply to a question from Mr. Hebert, the board members described the process by which the solar project was conceived and approved.

VOTE ON FINAL CONDITIONS OF APPROVAL FOR MACOMBER LANE SUBDIVISION #1702 AT 476 CENTER STREET

The board discussed the draft of the final conditions of approval for definitive subdivision #1702 Macomber Lane, which has already been granted approval. Several board members discussed one of the conditions, and how to ensure Lot 3 remains a non-buildable lot unless the road is built. A minor edit was made to the condition.

Mr. Taylor made a motion that, relative to Subdivision Plan #1702 entitled Macomber Lane, dated February 10, 2017, and revised July 10, 2017, with reference to the waiver noted on the cover page of the drawings by Land Planning, Inc., dated February 10, 2017, and revised July 10, 2017, the Board grants the following waiver, as voted and approved by this board: All requirements for typical new roadway construction that are given in Section IV. and Section V. Mr. Wandell seconded the motion, and the board voted unanimously in favor.

Mr. Taylor made a motion that, relative to Subdivision Plan #1702 entitled Macomber Lane, dated February 10, 2017, and revised July 10, 2017, the Planning Board votes the final conditions of approval with the following conditions:

1. The purpose of this subdivision is to allow for the creation of a new lot, upon which a single-family dwelling may exist, that does not possess frontage on a public way but will possess frontage on the private road known as Macomber Lane. The existing paved and gravel drives, constituting Macomber Lane, shall remain in their current form, and the Planning Board waives the subdivision requirements for typical new roadway construction.
2. Macomber Lane will remain a private way in perpetuity, and shall never be accepted as a public way by the Town of Pembroke.
3. The subdivision entitled Macomber Lane is limited to two (2) residential lots, consisting of two (2) single-family houses, and one non-buildable lot. Lot 1 will contain the existing single-family house whose address is 476 Center Street. Lot 2 will contain the former antique shop, which will be converted into a single-family house. Lot 3 shall be considered a non-buildable lot, unless the subdivision roadway is constructed to then current regulations.
4. With reference to the waiver noted on the cover page of the drawings by Land Planning, Inc., dated February 10, 2017, and revised July 10, 2017, the Board grants the following waiver, as voted and approved by this board: All requirements for typical new roadway construction that are given in Section IV. and Section V.
5. Except insofar as specifically waived by these conditions, all current Planning Board rules and regulations shall apply to this subdivision.

6. Correctness of plans is the responsibility of the developer and will include its successors and assigns.
7. Conditions 8 through 17 shall apply if Macomber Lane is ever substantially improved and/or built out to typical roadway standards.
8. Prior to the release of any lots the developer will execute and record an easement to the Town of Pembroke on behalf of itself and its assigns granting the Town perpetual access for repair and maintenance if necessary and a covenant to the Town not to fill or alter the drainage or other easement areas.
9. Note that the developer and its successors and assigns are responsible for maintenance of the roadway according to Section IV.C.5. of the Town of Pembroke Rules and Regulations Governing the Subdivision of Land.
10. Except as waived by the Board, all applicable rules and regulations governing the construction of roadways in the Town of Pembroke and Massachusetts D.O.T. standards shall apply to construction of this roadway.
11. The developer shall provide for water as per the regulations of the Department of Public Works.
12. The developer will provide drainage calculations reflecting any revisions to the Planning Board prior to endorsement.
13. After endorsement but prior to the release of any lots the developer shall obtain written approval of the subdivision plan's proposed construction from National Grid. Any changes to the design must be submitted to the Planning Board. No trees or bushes will be planted around transformers or over underground utility lines.
14. Prior to installing driveway aprons the developer must contact the Department of Public Works.
15. Accurate as-built plans and profiles of all subsurface utilities (including but not limited to water, gas, sewer, drainage, electric, telephone, CATV) showing horizontal and vertical location to +/- 1.0 foot shall be filed with the Planning Board and the Department of Public Works.
16. 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 (2) 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 to call immediately should he or she deviate from the schedule submitted.
17. This approval by the Planning Board is conditioned upon the construction of ways and installation of municipal services being completed by two years from the date of approval. If the construction of ways and installation of municipal services is not completed by July 31, 2019, then approval shall be automatically terminated.

The motion regarding the final conditions of approval having been made, Mr. Whitman seconded the motion, and the board voted unanimously in favor.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Ms. Coletta described several administrative matters. A few items were pushed back to the next board meeting on August 14. She noted that the deadline for comments on the new draft FEMA maps is August 14.

Ms. Coletta mentioned that the board should sign the final, approved drawings for site plans. She mentioned that Mr. Palmieri suggests the board hire a traffic consultant to help with the Irving Oil gas station project, once a site plan application is received. The board members agreed that Mr. Heins could send an email to Brian Murphy reminding him that the sidewalks and trees must be built along Oak Street in phase I of the 260-260 Oak Street project.

Mr. Noone made a motion that the board grant an extension of the time for completion for the Stone Meadow Farms subdivision until September 6, 2018. Mr. Taylor seconded the motion, and the board voted unanimously in favor.

Mr. Heins explained that the developer of 599 Washington Street (the former kennel turned into condominium units) wishes to build a six-bay garage behind the building, as a modification of the project. The board agreed that a site plan application should be submitted.

Ms. Coletta said that for the modified River Marsh Village 40b application (for a site on Water Street), the Planning Board's input could be important. The board members discussed the project and some of the problems it poses, especially regarding traffic. The board agreed that Mr. Heins would prepare a letter stating its concerns.

Mr. Taylor made a motion that the board approve the minutes for Monday, July 10, 2017, Mr. Wandell seconded the motion, and the board voted unanimously in favor.

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

The next regular meeting of the Planning Board will be held on Monday, August 14, at 7:00 pm. The Planning Board will hold a site walk on Sunday, August 6, at 11:00 am.

Respectfully submitted,

Matthew Heins, Planning Board Assistant