



## **PEMBROKE PLANNING BOARD MINUTES**

**MONDAY, NOVEMBER 13, 2017**

**PRESENT:** Rebecca Coletta (Board Chairman), Andrew Wandell (Board Vice-Chairman), Thomas Irving (Board Clerk), Paul Whitman (Board Member), Brian VanRiper (Board Member), Daniel Taylor (Board Member), James Noone (Board Member), Matthew Heins (Planning Board Assistant), Mark Casey (engineer), Jeffrey Perette, Daniel Smith, Jr., Frank Hubbard (attorney), Michael Davis, Scott Glauben, Lisa Cullity, Gerry Dutson, Nancy Huff, Charles Dolan, Susan Dolan, Staci Dolan, Bruce Nichols, Jennifer Smith, Joan Wilson, Brian Murphy, and others.

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

### **VOTE ON FINAL CONDITIONS OF APPROVAL FOR MODIFIED DESIGN OF BRISTOL ESTATES**

#### **SUBDIVISION #1701**

The board discussed Bristol Estates Subdivision #1701 at 73 Taylor Street, which was previously approved by the board. The subdivision plan having been modified and now consisting of seven (7) single-family houses, a revised final conditions of approval had been prepared by Mr. Heins and the board was ready to vote on it.

Mr. Taylor made a motion that the board approve the final conditions of approval for Bristol Estates Subdivision #1701 at 73 Taylor Street with a modified plan, as follows:

This Final Conditions of Approval supersedes the Final Conditions of Approval that were voted by the Planning Board on June 12, 2017.

1. Subdivision Plan #1701 entitled Bristol Estates, dated December 22, 2016, revised February 16, 2017, revised March 6, 2017, revised April 20, 2017, revised May 12, 2017, revised May 19, 2017, revised May 24, 2017, and revised June 7, 2017, remains the approved plan with one exception. The exception is that the lotting sheets, and relevant portions of certain other sheets, are superseded by the Modification to Subdivision Plan, dated September 22, 2017. The Modification to Subdivision Plan revises the lotting scheme, as it enlarges the size of the subdivision and adds one new buildable lot by eliminating Lot 6 and creating Lot 6A, Lot 7, and Parcel C. Lot 6A and Lot 7 are buildable residential lots, and Parcel C is a nonbuildable lot of 15.8 acres to be conveyed to the Town of Pembroke.
2. 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.
3. A stop sign shall be placed at the intersection of Bristol Road and Taylor Street.

4. 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.
5. 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.
6. The developer shall provide for water as per the regulations of the Department of Public Works.
7. The developer will provide drainage calculations reflecting any revisions to the Planning Board prior to endorsement.
8. The subdivision entitled Bristol Estates is limited to seven (7) residential lots, consisting of seven (7) proposed new single-family houses. The other lots shown on the subdivision plan shall not be built upon.
9. Correctness of plans is the responsibility of the developer and will include its successors and assigns.
10. 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.
11. Except insofar as specifically waived by these conditions, all current Planning Board rules and regulations shall apply to this subdivision.
12. Prior to installing driveway aprons the developer must contact the Department of Public Works.
13. 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.
14. 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.
15. With reference to the waivers requested on the cover page of the drawings by Merrill Engineers and Land Surveyors, dated December 22, 2016, revised February 16, 2017, revised March 6, 2017, revised April 20, 2017, revised May 12, 2017, revised May 19, 2017, revised May 24, 2017, and revised June 7, 2017, the Board grants the following waivers, as previously voted and approved by this board:
  - a. Appendix B – Minor Street Layout – Typical roadway section shows the minimum cover over drainage piping as 3'-0".  
*Allow for a minimum cover for RCP, Class V pipe of 2'-0" for portions of the drainage system.*
  - b. Section V – Required Improvement for Approved Subdivision, Item B, 14, Headwalls: "Headwalls and end walls shall be provided at both ends of culverts and the discharge ends of storm drains."  
*Flared end section is proposed at the discharge end into the stormwater basin.*
16. The developer will address and comply with all the concerns contained in the letters from Tyler Nims dated February 2, 2017, February 25, 2017, April 24, 2017, May 22, 2017, and May 31, 2017.

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 November 13, 2019, then approval shall be automatically terminated.

Mr. Wandell seconded the motion.

Ms. Coletta asked if, with regard to condition #13, it should be specified that the drawings must be filed with the Planning Board and D.P.W. in both digital and paper format. The board discussed this issue but decided not to change the text of the conditions. Mr. VanRiper questioned the dates of the revised drawings, and a discussion ensued about this and other aspects of the project. The board talked about the donation of Parcel C to the town.

The motion being on the table, the board voted unanimously in favor.

The board members signed the final conditions of approval.

#### **REVIEW OF ROUTINE ADMINISTRATIVE MATTERS**

Mr. Wandell made a motion that the board accept the minutes of October 30, 2017, as presented, Mr. Whitman seconded the motion, and the board voted unanimously in favor.

Mr. Taylor made a motion that the board accept the minutes of September 25, 2017, as presented, and Mr. Irving seconded the motion. Mr. Wandell, Ms. Coletta, Mr. VanRiper and Mr. Noone voted in favor, Mr. Whitman abstained, and the motion passed.

Mr. Irving made a motion that the board accept the minutes of October 16, 2017, as presented, and Mr. Wandell seconded the motion. Mr. Taylor, Ms. Coletta, Mr. VanRiper and Mr. Noone voted in favor, Mr. Whitman abstained, and the motion passed.

The board talked about the dates of the upcoming board meetings, the Thanksgiving holiday schedule, and the Strategic Planning Retreat on November 18 for the town's board and commission members.

#### **DISCUSSION ABOUT, AND DECISION TO ENDORSE, FORM A (APPROVAL NOT REQUIRED SUBDIVISION) FOR 286 AND 290 HIGH STREET**

Mark Casey, an engineer with South Shore Survey Consultants, came before the board with a Form A (approval not required subdivision) application for two properties at 286 and 290 High Street.

Mr. Casey explained that the property line between the two lots is being altered. Stephen Dodge, the current owner of both properties, is selling one of the properties, and first wishes to adjust the boundary between them to make one lot larger and the other smaller. Each lot is nonconforming with regard to street frontage, but the Form A will not alter the street frontage of either lot, nor will it create or expand any other nonconforming condition.

The board was in agreement that the Form A subdivision was acceptable. Mr. Whitman made a motion that the board's clerk sign the drawings, and Mr. Noone seconded the motion. The board voted unanimously in favor. Mr. Irving signed the drawings.

## **REVIEW OF ROUTINE ADMINISTRATIVE MATTERS**

Ms. Coletta explained the situation for the proposed completion of the 204 Center Street mixed-use project. Kevin Sealund, one of the developers, has submitted new drawings and a special permit application, and the public hearing has been set for December 4. The zoning bylaws will change on January 1 to eliminate the mixed-use option, so this could be a problem. Mr. VanRiper noted the uncertainty as to how this deadline applies, and also as to whether the site plan is still within the period of completion or has expired. (In the latter case, a new site plan application would need to be submitted.)

A lengthy discussion took place among the board members about the 204 Center Street project and these possible legal issues associated with it. Mr. Heins showed the board the original drawings from 2005, which appear to represent the design that was approved. The board members decided to discuss the matter further with town counsel before December 4.

Ms. Coletta and Mr. Heins noted that the deadlines for completion for the Corporate Park and Corporate Park Extension subdivisions are coming soon, and Brian Murphy will be requesting extensions of the deadline.

Ms. Coletta noted that a 40b workshop will take place soon, and this led to a discussion about 40b projects—and the proposed 40b on Water Street in particular—among the board members.

The board talked about the digital submission of as-built drawings for site plans and subdivisions, which digital format should be used, and how this links with the Assessors' Office and D.P.W.

The board discussed the remaining road bond for the Crescent Hill subdivision (also known as Seltsam Way), and whether it was correctly used for payment for the planting of new trees there. The board also conversed about the remaining balance in the engineering review account for the unbuilt Mending Wall subdivision, and whether it can be applied towards the unpaid taxes owed on the property which the town took possession of.

The board reviewed the 204 Center Street project's original conditions of approval from 2005, and discussed the legal aspects of the project again.

## **DISCUSSION ABOUT POSSIBLE FUTURE USE OF PROPERTY AT 43 MATTAKEESETT STREET FOR BOAT STORAGE**

Jeffrey Perette, Daniel Smith, Jr., and attorney Frank Hubbard came before the board to discuss the proposed future use of the property at 43 Mattakeesett Street (currently owned by Mr. Smith) for boat storage.

Mr. Hubbard explained that he is representing Mr. Perette, who has an agreement with Mr. Smith to buy the property at 43 Mattakeesett Street. Mr. Perette proposes to use the land for his boat storage business. Mr. Hubbard said this conversation is a courtesy to let the board know the steps he and Mr. Perette intend to take as they seek to advance the project.

Mr. Hubbard explained that he and Mr. Perette plan to go before the Zoning Board of Appeals (ZBA) to request approval for a nonconforming use. He stated that the property currently has a nonconforming use on it (Mr. Smith's excavating business), and this proposed new use (the boat

storage business) would also be nonconforming, but would be less obnoxious, be less detrimental to the neighbors, generate less traffic, and meet all the impact standards of the zoning bylaws.

Mr. Hubbard stated Mr. Perette's business would strictly be for boat storage, not for boat maintenance (i.e., repair, upkeep) activities. The storage would primarily be from fall through spring, and most of the traffic would be in the fall and spring when the boats are being brought in and out.

Mr. Hubbard went over the proposed design. The current mulch piles would be removed, the edge along the street would be landscaped, and a fence would block the boat storage operations from view from the street. The existing building would remain, but the existing bins for material storage would be removed. Most of the boats would be stored outside on an area surfaced with hard gravel.

Mr. Perette described his business's operations. The boats are transported on trailers. There are four trucks, and they haul slightly more than a thousand boats each season. Most of these boats are not stored at his business, but delivered to and from various other locations. His trucks and other vehicles would generally be parked inside the building, except for perhaps some trailers parked outside. The employee parking would stay where it currently is.

Mr. Hubbard explained that, by his reading of the zoning bylaw, a different nonconforming use can replace a prior nonconforming use. He noted that once they receive approval from the ZBA, they will come to the Planning Board for site plan approval.

Mr. VanRiper asked if they will apply for a special permit for storage and display. Mr. Hubbard stated that there will be no display, and that they will accept the ZBA's decision regarding whether a special permit is needed for storage. Mr. VanRiper noted that the Planning Board grants special permits in the Center Protection District, and a discussion ensued about this issue. Mr. Hubbard restated his previous explanations and indicated he believes the ZBA would issue the special permit if it were needed.

Ms. Coletta noted that the verbiage of the zoning bylaw is confusing with regard to preexisting nonconforming uses relating to a special permit. Mr. VanRiper emphasized that the Planning Board has the authority to grant this special permit, but Mr. Hubbard disagreed. Mr. VanRiper drew his attention to the relevant text; however, Ms. Coletta noted that the verbiage refers to "outside display and sale of goods."

Mr. Smith asked about the site plan review process. Lisa Cullity (one of the people who came in support of the proposed use) mentioned that the proposed use will cause fewer traffic problems than Smith Excavating currently creates. Ms. Coletta noted that this factor will be more relevant to the ZBA's decision as to the nonconforming use, and talked about the purposes of site plan review.

Mr. VanRiper asked about how many boats will be held and/or visible on the site. Mr. Hubbard stated that the boats will not be held in rack storage or otherwise placed high in the air. Mr. Perette confirmed that the boats will be stored at ground level. The board and Mr. Perette discussed aspects of the boat storage business.

Mr. VanRiper left at this time.

**DISCUSSION ABOUT TIMELINE OF CONSTRUCTION WORK FOR SITE PLAN #SP2-17 AT 260-280 OAK STREET**

Brian Murphy came before the board to discuss the timeline of construction work for Site Plan #SP2-17, his project to construct two buildings of modular units at 260-280 Oak Street, and to request that the building permit routing slips for each building be signed.

Mr. Murphy outlined the ongoing progress of construction. They have been preparing the soil and land, getting the front area to grade, and clearing the path for the extended driveway from Oak Street to the buildings. Two poles will need to be shifted for this driveway to be built. He expects to dig the foundations for the two buildings very soon.

Mr. Murphy explained that he plans to build all the portions of the site plan concurrently. A discussion followed about how occupancy permits are handled by the town. A conversation also took place regarding an adjacent property. In reply to a question, Mr. Murphy said that the fence along the property boundary will be erected late in the construction process, to avoid being damaged during construction work. Mr. Murphy and the board discussed other aspects of the project and development in Pembroke in general.

Mr. Wandell made a motion that the board's clerk sign the building permit routing slips for the two buildings at 260-280 Oak Street, Mr. Noone seconded the motion, and the board voted unanimously in favor. Mr. Irving signed the routing slips.

Mr. Taylor made a motion that the board approve the request for an extension of time for completion for Subdivision #8940 entitled Corporate Park until January 20, 2019. Mr. Whitman seconded the motion, and the board voted unanimously in favor.

Mr. Taylor made a motion that the board approve the request for an extension of time for completion for Subdivision #9628 entitled Corporate Park Extension until January 20, 2019. Mr. Whitman seconded the motion, and the board voted unanimously in favor.

The board and Mr. Murphy talked about the proposed medical building (a different project) along Corporate Park Drive.

Ms. Coletta suggested that, as there are numerous problems with the zoning bylaws, a subcommittee might be created to consider updates to them. This led to a discussion about some of the issues inherent in the bylaws, in particular an unusual restriction regarding frontage.

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 on Monday, December 4, 2017, at 7:00 pm.

Respectfully submitted,

Matthew Heins, Planning Board Assistant