



## **PEMBROKE PLANNING BOARD MINUTES**

**MONDAY, FEBRUARY 12, 2018**

**PRESENT:** Andrew Wandell (Board Vice-Chairman), Thomas Irving (Board Clerk), Paul Whitman (Board Member), Brian VanRiper (Board Member), Daniel Taylor (Board Member), Matthew Heins (Planning Board Assistant), Peter Palmieri (Merrill Associates), Terry McGovern (Stenbeck & Taylor), Michael Stracco, Anthony Giannetti, Daniel Smith, Robert Galvin (Attorney), Kevin Grady (Grady Consulting), Matthew Watsky (Attorney), Maria Karas, Jake Penniman, Robert Penniman, Kenneth McCormick (Deputy Fire Chief), Scott Glauben (Department of Public Works), Mark Hurley, Danielle Markol, Donald Markol, Anthony Delpozso, Willard Boulter (Selectman), Marc Champagne, Leisa Norton, Jennifer Smith, Cheryl Smith, Daniel Smith, Sr., Maureen Robinson, Sinead Scheppard, John Norkaitis, David Norman, Louis Horvath, Staci Dolan, Jeffrey Perette, Russell Field, and others.

Vice-Chairman Andrew Wandell opened the meeting by reading the Chairman's statement.

### **PUBLIC HEARING FOR PROPOSED SITE PLAN #SP4-17 AT 230 WATER STREET**

Mr. Wandell reopened the public hearing (continued from January 8, 2018) for proposed Site Plan #SP4-17 at 230 Water Street.

Notice was given that the Planning Board would hold a public hearing on Monday, January 8, 2018, at 7:00 pm in Town Hall, 100 Center St., Pembroke, MA 02359, on the application of Crazy Hoss, LLC, c/o Michael Stracco, 24 Fieldstone Lane, Hanover, MA 02339, requesting Site Plan Approval under the Zoning Bylaws of the Town of Pembroke Section V.7. (Site Plan Approval). The applicant proposes to construct a new 7,000-square-foot building to house granite and kitchen fabrication, to use the existing building on the site for cabinet making, and to have outside storage on the site. The property is located in the Business B zoning district, at 230 Water Street, Pembroke, MA 02359, as shown on Assessors' Map E15 Lot 12 and E15 Lot 5. A copy of the application is available in the Office of the Planning Board.

Mr. Whitman asked about whether the curb cut will need to be approved by the state, and Mr. Palmieri and Terry McGovern discussed this. Mr. McGovern introduced the current version of the design, which he explained had been modified due to abutter concerns. He described the stormwater system in particular detail, and the changes that have been made to it. He also discussed the building and parking configuration.

Mr. McGovern also described the changes made to satisfy fire safety, and the landscaping and vegetation. He discussed the maneuvering area for trucks.

Mr. Wandell asked about the setbacks, and Mr. McGovern explained these and said they meet the zoning requirements. Mr. Wandell commented that the building is a tight fit on the site.

The board members and Mr. McGovern discussed the existing gravel area and its history of use, and the lack of handicapped access in certain areas. Mr. McGovern described more aspects of the project. Mr. Whitman asked more specific questions about handicapped access, and discussed this issue with one of the applicants (either Michael Stracco or Anthony Giannetti). A discussion ensued.

Mr. Wandell asked about the “grandfathering” issue, and whether it should be pursued with the Zoning Board of Appeals (ZBA) to request variances. Mr. McGovern explained that they already plan to go before the ZBA, but there are some complications. This was discussed.

Mr. Palmieri noted that the zoning bylaw doesn’t allow paved areas within the setback. If a waiver is granted of the requirement for paving, then the question becomes whether crushed stone parking areas count as paving and can be within the setback.

Mr. Palmieri said the fire department might be concerned with a gravel area on which fire trucks would move, and Mr. McGovern said the fire department has indicated it’s acceptable to them. Mr. Whitman said a letter to that effect from the fire department should be submitted. Mr. McGovern stated that the fire hydrants are close enough to the project, and that he has discussed their location with the fire department.

The board members talked about whether gravel paving would be acceptable.

Mr. VanRiper made a motion to grant the waiver being requested for the pavement, and Mr. Irving seconded the motion. Mr. VanRiper, Mr. Irving, Mr. Wandell and Mr. Whitman voted in favor, Mr. Taylor voted in opposition, and the motion passed.

Mr. McGovern stated that the Conservation Commission has no concerns with the project, but is leaving its hearing open until the Planning Board closes its own hearing.

The board members decided they could not approve the project or close the hearing until the ZBA makes decisions regarding variances, especially as to setbacks, frontage and/or lot size.

The board members, the applicants and Mr. Heins discussed the impending deadline for the decision and the need to extend this, and also when to continue the public hearing.

Mr. VanRiper made a motion to extend the deadline for the decision for 60 days, Mr. Taylor seconded the motion, and the board voted unanimously in favor.

Mr. Taylor made a motion to continue the public hearing to March 19, 2018, at 7:45 pm, Mr. VanRiper seconded the motion, and the board voted unanimously in favor.

#### **PUBLIC HEARING FOR PROPOSED SITE PLAN #SP3-17 AT 346 WASHINGTON STREET**

Mr. Wandell reopened the public hearing (continued from December 18, 2017, January 22, 2018, and February 5, 2018) for proposed site plan #SP3-17 at 346 Washington Street, from the application of Smith & Sons, 43 Mattakeesett Street, Pembroke, MA 02359, requesting Site Plan Approval under the Zoning Bylaws of the Town of Pembroke Section V.7. (Site Plan Approval). Smith & Sons proposes to relocate to the property at 346 Washington Street. The company engages in the business of construction excavating, and also of mulch processing and sales. The property would be used for the

storage of equipment and trucks, and for other purposes associated with excavating operations, and for the storage and sale of mulch. Two buildings, consisting of a total of 22,800 square feet, and one accessory furnace building would be constructed on the property. The property is located in the Business B zoning district, the Residential-Commercial zoning district, the Residence A zoning district, and the Historic District, at 346 Washington Street, Pembroke, MA 02359, as shown on Assessors' Map E12 Lot 12 and E12 Lot 14. A copy of the application is available in the Office of the Planning Board.

Mr. Wandell explained that the board had reviewed the additional information and letters submitted to the board since the last meeting. Attorney Robert Galvin described a letter he submitted about how site plan approval was previously granted for a similar project (never built) at a nearby location.

Mr. Wandell noted some items received since the last meeting: a memo from the fire department, a letter from abutter David Norman, a memo from Rebecca Coletta, and a memo from an abutter.

Mr. Wandell read the memo from Rebecca Coletta (the Chair of the Planning Board) into the record:

Dear Fellow Members of the Planning Board,

I write this memo, because I am unable to attend our meeting tonight as I am attending an event with my husband. I have attended all of the public hearings on this matter and reviewed the submitted materials. I also attended the site walk of 346 Washington St., as well as the operation of Smith & Sons in Marshfield.

At present, after hearing and considering all of the information submitted to the board, if I were in attendance tonight, I would be voting in favor of the site plan, with the significant conditions to which the applicant has agreed. We can set conditions at our next meeting, but I would expect these to include:

1. No wood grinding operations after the cleanup is complete.
2. Restrictions on hours/days of operation during cleanup of the site and following cleanup of the site.
3. Restricting site to one loam screener.
4. Requiring the company vehicles to be equipped with "Smart White-Noise Back Up Alarms".
5. Prohibiting company vehicles from using Pleasant Street as a path to and from the site.
6. Compliance with all fire code requirements.

While the application has presented some difficult issues, I believe applicant has agreed to conditions that will prevent his operation from being noisy, injurious, noxious or offensive to the neighborhood in light of other uses in the area and the permitted uses under the zoning bylaws.

I hear that the abutters remain concerned that the actual operation may ignore these conditions and be operated as a nuisance. I do not believe our decision should assume that the operation will be operated illegally. Any applicant can operate illegally, but other enforcement mechanisms exist to enforce the site plan conditions.

On its face, I do not see that this use would be noxious or offensive to neighbors, as the current operation has existed in the center of town without such claims and with neighbors in closer proximity. I would add that during my visit to the site in Marshfield, I did not observe any offensive smells from the mulch piles. In addition, applicant is willing to accept more stringent conditions than exist in writing for his current site of operation.

I understand that the Board may be presented with new information tonight, and that my opinion has no binding effect on the Board's decision. Nonetheless I wanted to leave the Board with my thoughts leading into tonight's meeting.

Mr. Wandell asked if any board members wished to make additional comments.

Mr. Taylor made a motion to approve Site Plan #SP3-17, with the following conditions: No wood grinding would exist on the site after the cleanup is complete; there be restrictions on the hours and days of operation during the cleanup of the site and following the cleanup of the site; restricting use to the site of one loam screener; requiring the company vehicles to be equipped with "Smart White-Noise Back Up Alarms"; prohibiting company vehicles from using Pleasant Street as a path to or from the site; and they comply with all fire code requirements. Mr. Irving seconded the motion.

The motion being on the table, Mr. VanRiper suggested the board hear from members of the public in attendance. Mr. Wandell explained that in the previous public hearings all members of the public were allowed ample time to describe any objections and concerns at length, and to ask questions. He agreed to allow ten minutes of comments from the public at this time.

Maureen Robinson asked what the hours of operation will be, and Mr. Galvin described the proposed regular business hours and hours for loam screening. A discussion followed about the hours of operation and truck traffic.

Attorney Matthew Watsky spoke. He noted that the site has a huge amount of debris, and its cleanup will involve a lot of noise. He expressed his concerns about the probable noise, the lack of a noise expert to mitigate it, and its impact on abutters who have already suffered from the previous user of the site. He discussed the level of noise and the bylaw requirements regarding noise.

Mr. Watsky also stated that the wetland he observed on the site appears jurisdictional under the Mass. DEP and the Army Corps of Engineers. He explained that they will require the applicant to demonstrate there is no alternative means to develop the site without filling in this vegetated wetland, and could also require a mitigation fee be paid.

Mr. Galvin briefly replied to Mr. Watsky's points. He discussed the issue of noise, and said they expect to deal with the wet area through the Conservation Commission.

The motion being on the table, Mr. Wandell asked the board to vote, and noted that the hours of operation will be considered when the conditions are written. Mr. VanRiper, Mr. Wandell, Mr. Taylor and Mr. Irving voted in favor, Mr. Whitman abstained, and the motion passed.

Mr. Taylor made a motion to close the public hearing, Mr. VanRiper seconded the motion, and the board voted unanimously in favor.

#### **DISCUSSION OF DECISION AND CONDITIONS FOR SITE PLAN #SP5-17 AT 240 AND 258 OAK STREET**

Mr. Heins showed the board the final engineering drawings that were submitted for Site Plan #SP5-17 at 240 and 258 Oak Street, which was previously approved. The board members reviewed the drawings, Mr. Palmieri's most recent peer review letter, and Mr. Heins's draft of the decision (including conditions). Russell Field, the applicant, discussed the project with the board.

Mr. VanRiper made a motion that the board sign the plan as presented, for Site Plan #SP5-17, dated February 9, 2018. Mr. Whitman seconded the motion, and the board voted unanimously in favor. (But the board did not sign the drawings at this time.)

Mr. Heins and the board discussed the conditions contained within Mr. Heins's draft of the decision.

Mr. VanRiper made a motion that the board accept the conditions of Site Plan #SP5-17, as provided for in the conditions of approval. Mr. Taylor seconded the motion. Mr. Wandell asked if any board members had amendments to the conditions of approval, and gave the board a few minutes to read the conditions. The board then voted unanimously in favor of the conditions as presented.

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

Mr. Wandell noted that the temporary parking and drainage problems at Wolves' Den Field House would be discussed at the next meeting.

The board discussed the funds in various accounts due to be repaid to the developer of the Equestrian Estates subdivision. Mr. Taylor made a motion to return the balances on the relevant funds to Equestrian Estates. Mr. Heins noted the balance on the road bond for the project. Mr. Whitman seconded the motion, and the board voted unanimously in favor.

Mr. Wandell mentioned that the next fiscal year's budget for the Office of the Planning Board had been received.

Mr. Heins explained that there is another account for Equestrian Estates whose purpose is unclear. In the ensuing discussion, Mr. Whitman asked if the sidewalk fund money was ever paid. The board and Mr. Heins talked about the accounts, the funds due, the sidewalk money, and whether to release any funds. Mr. Whitman suggested rescinding the previous vote, to avoid releasing any funds until the situation is clarified.

Mr. Taylor made a motion to rescind the previous vote, Mr. Whitman seconded the motion, and the board voted unanimously in favor.

The board directed Mr. Heins to investigate the Equestrian Estates accounts further.

Mr. VanRiper made a motion that the board grant a 30-day extension for Site Plan #SP3-17 at 346 Washington Street as proposed by the applicant, Mr. Taylor seconded the motion, and the board voted unanimously in favor.

Mr. VanRiper 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, February 26, 2018, at 7:00 pm.

Respectfully submitted,

Matthew Heins, Planning Board Assistant