



## **PEMBROKE PLANNING BOARD MINUTES**

**MONDAY, APRIL 23, 2018**

**BOARD MEMBERS PRESENT:** Rebecca Coletta (Chairman), Andrew Wandell (Vice-Chairman), Thomas Irving (Clerk), Paul Whitman, James Noone, and Daniel Taylor.

**OTHERS PRESENT:** Matthew Heins (Planning Board Assistant), Kristen Green (Attorney), William Cushing, Frederick Paris, Matthew King, William "Terry" McGovern, and others.

**BOARD MEMBERS ABSENT:** None.

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

### **IN MEMORY OF BRIAN VANRIPER**

Ms. Coletta stated that Brian VanRiper, a longstanding Planning Board member for approximately the past twenty years, had passed away a few days ago. Ms. Coletta said that Brian made numerous contributions to the town of Pembroke over the years, both in his membership on the board and in many other ways. She added that Brian greatly assisted her, and the entire board, through his vast knowledge of the zoning bylaw and extensive experience. Ms. Coletta stated that Brian will be missed by the board, by his family, and by many other people.

Mr. Wandell spoke of Brian's dedication and passion for Pembroke, and of the many things he accomplished, in particular as Chairman of the Community Preservation Committee. He also mentioned Brian's role in shaping the Center Protection District. Mr. Wandell emphasized that Brian will be deeply missed.

Mr. Irving noted Brian's tremendous value to the board, due to his thorough knowledge of planning and the details of the zoning regulations. He said that Brian was a wonderful person who will be greatly missed.

Mr. Taylor said that Brian was very generous in providing advice and assistance to him. Brian's work in assembling pieces of land together to help create greenspace and develop a trail system for the town was mentioned by Mr. Taylor.

Mr. Whitman said that Brian would be deeply missed. He emphasized that Brian did a great deal for the town of Pembroke, and was dedicated to the town's well-being rather than himself. He extended his deepest sympathies to Brian's family.

The board observed a moment of silence in memory of Brian VanRiper.

### **DISCUSSION ABOUT POSSIBLE CANOPY WITH SOLAR PANELS IN PARKING AREA OF KING COLLISION CENTER AT 38 SCHOOSSETT STREET**

Mr. Noone arrived at this time.

Matthew King of King Collision Center, Frederick Paris of Plymouth Solar Energy, and another person from Plymouth Solar Energy came before the board to discuss the possible construction of a canopy, with solar panels attached to it, in the parking area of King Collision Center at 38 Schoosett Street.

The other (unidentified) person from Plymouth Solar Energy explained that the canopy would be 66 feet long, and would cover part of the parking area at the front of King Collision Center, near Schoosett Street. He noted that this form of solar development has the virtue of not necessitating the clearing of greenspace.

The board was generally sympathetic to the idea. However, because the canopy would be located within the zoning setback, the board members explained that it would require a variance from the Zoning Board of Appeals (ZBA). The board members scrutinized the zoning bylaw, and agreed that construction of the canopy, being a structure, does trigger the need for a variance.

Mr. Whitman also noted that, because Schoosett Street is a state highway (Route 139), the state's permission might be necessary for a structure so close to the street.

### **PUBLIC HEARING FOR PROPOSED SITE PLAN #SP1-18 IRVING OIL GAS STATION**

Ms. Coletta re-opened the public hearing (continued from April 9, 2018) for the proposed Site Plan #SP1-18, located at 92 Washington Street and 5-15 Schoosett Street (at the intersection of Washington and Schoosett Streets), for a new gas station with ten pumps and a 3,200-square-foot convenience store, for Irving Oil.

Ms. Coletta explained that the applicant was requesting the hearing be continued to April 30, in order to have more time to respond to the traffic engineering peer review.

Mr. Whitman made a motion to continue the public hearing to April 30, 2018, at 8:00 pm, Mr. Taylor seconded the motion, and the board voted unanimously in favor.

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

William Cushing came before the board to request that the board sign the building permit for a single-family lot at 3 Emily Lane, part of the Stone Meadow Farm subdivision. He said that the board recently signed a Form A (Approval Not Required subdivision) to create this new lot within the older, ongoing subdivision, and that the lot has been released from the covenant.

The board, Mr. Heins and Mr. Cushing discussed the legal nuances of the situation and complex history of the subdivision. Mr. Cushing explained that the board previously signed a building permit for another lot in the Stone Meadow Farm subdivision. Mr. Heins and the board examined the file for Stone Meadow Farm subdivision and went through various drawings and documents, but it was difficult to clarify the relevant details of the situation. The board decided not to sign the building permit at this time, and agreed to put a discussion about this topic and a possible decision regarding the building permit on a future agenda.

Ms. Coletta noted that the Attorney General now requires meeting minutes be approved within 30 days, even if a quorum of those board members present at the original meeting is not present for the approving of the minutes. She added that the Attorney General regards approving the minutes as an administrative ministerial act.

Regarding the April 2, 2018, minutes as presented, Ms. Coletta recommended that any board members who were present comment on those minutes if they wished. The board discussed the minutes, and in particular the letter from nearby residents appended to the minutes.

Mr. Taylor made a motion that the title of the letter as given in the minutes be changed to "letter from residents of Gorham Ave., Fairview Ave. and Thrasher Ave."

Ms. Coletta noted for the record that two of her clients, Laurie Cook and Jason Cook, signed the letter, and stated that she does not believe this necessitates recusing herself from the matter.

Mr. Heins suggested the letter's full title be given as ""letter from residents of Gorham Ave., Fairview Ave. and Thrasher Ave. regarding proposed Dominic's Way subdivision #1801," and the board agreed.

Mr. Taylor made a motion that the board approve the minutes of Monday, April 2, 2018, as amended, Mr. Wandell seconded the motion, and the board voted unanimously in favor.

The board members discussed the schedule of upcoming board meetings, and also talked about Mr. Heins's anticipated vacations.

Ms. Coletta explained that a public records request was received for the audio recording of the March 19, 2018, board meeting, and had been fulfilled by Mr. Heins.

Ms. Coletta explained that the "Mullin Rule" allows a board member to miss a single session of a public hearing, provided she or he fills out the appropriate compliance certification form.

Ms. Coletta noted that a neighbor of 204 Center Street complained about a "For Sale" sign being posted at that address, and was concerned that the final portion of the project could eventually be built by a new owner. The board discussed the situation and the project, and agreed that the site plan approval goes with the property and not a particular owner.

The board discussed the proposed visual screening, to consist of vegetation along Hobomock Street, of the new Hobomock solar project (atop the landfill) near the street. The board's estimate of about \$37,000 for the cost of this screening is more than the \$25,000 amount paid into an escrow account by the developer for this purpose, and so the board discussed the possibility the Selectmen might be willing to contribute additional funding. Other options were also discussed. It was agreed that Mr. Heins would contact the Selectmen's Office about the screening and whether extra money for it was available.

Some problems raised by the Assessors Office with the deeds and ownership relating to two recent subdivisions, Macomber Lane and the Form A (Approval Not Required) on High Street, were briefly discussed.

The Donna Lane subdivision was talked about briefly, and it was agreed that it was not necessary to remind the developer of the option to request an extension of the impending deadline for

completion. Ms. Coletta emphasized the problems inherent in extending the deadlines for completion of subdivisions (or site plans) over many years, as conditions and regulations may change.

The board and Mr. Heins discussed Peter Palmieri's construction site inspection estimates for the recently approved 230 Water Street and 346 Washington Street site plans. The board decided it was appropriate to have Mr. Palmieri carry out construction site inspections for both projects, and thus the engineering review accounts needed to be replenished by the applicants.

#### **PUBLIC HEARING FOR PROPOSED DEFINITIVE SUBDIVISION #1801 DOMINIC'S WAY**

Ms. Coletta re-opened the public hearing (continued from March 19, 2018, and April 2, 2018) for the proposed Definitive Subdivision #1801 entitled Dominic's Way, located at 56 Gorham Avenue, consisting of three single-family houses.

Ms. Coletta explained that the applicant was requesting the hearing be immediately continued to a later date. The board, Mr. Heins and William "Terry" McGovern (the project engineer) discussed possible future dates for the hearing, and agreed on June 4.

Mr. Wandell made a motion to continue the public hearing for Definitive Subdivision #1801 entitled Dominic's Way to June 4, 2018, at 6:45 pm, Mr. Noone seconded the motion, and the board voted unanimously in favor.

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

Ms. Coletta and Mr. Heins explained that a member of the public was recently abusive toward Mr. Heins, and this was discussed briefly.

The board and Mr. Heins discussed whether or not it is necessary to read the conditions aloud for a subdivision or site plan approval decision.

The board talked about the road bonds for the Pembroke Woods subdivision, and the history of the project.

The board discussed whether or not to talk about digital billboards at a future meeting, and whether some changes to the zoning bylaw should be considered.

#### **ENTERING EXECUTIVE SESSION**

Ms. Coletta made a motion that the Planning Board go into Executive Session pursuant to G.L. c. 30A, Section 21(a)(1) to discuss, deliberate and take action with respect to an Open Meeting Law complaint filed against the Planning Board by Danielle Markol on April 12, 2018; and Executive Session pursuant to G.L. c. 30A, Section 21(a)(3) to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body. Specifically, the Board will discuss and take appropriate action with respect to the matter of *Maria Karas, et al. v. Pembroke Planning Board, et al.*, Land Court Case No. 18-MISC-000181 regarding the property located at 346 Washington Street in Pembroke, and with respect to the matter of *Grissom Park Co., LLP v. Planning Board, et al.*, Land Court case No. 18-MISC-000154 regarding the property located at 240 and 258 Oak Street in Pembroke, and the Chair does so declare that having a discussion in open session would have a detrimental effect on the Town's litigating position.

Mr. Whitman seconded the motion.

The board voted by roll call on whether to enter executive session:

Paul Whitman: Yes

Daniel Taylor: Yes

James Noone: Yes

Thomas Irving: Yes

Andrew Wandell: Yes

Rebecca Coletta: Yes

The motion passed.

Ms. Coletta stated that the board would adjourn from executive session, and would not return to open session.

Ms. Coletta noted for the record that Mr. Heins and Kristen Green (attorney with KP Law, town counsel for Pembroke) would be present during the executive session.

The board entered executive session. All recording devices were turned off.

***The minutes of executive session are a separate document.***

The next regular meeting of the Planning Board will be on Monday, April 30, 2018, at 6:30 pm.

Respectfully submitted,

Matthew Heins, Planning Board Assistant