

**Planning Board Meeting
May 24, 2023
Minutes**

These minutes are not verbatim – they are the secretary’s interpretation of what took place at the meeting. - Open Meeting Law, G.L. c. 30A§22.

Board Members: Tim Grandy, Steven Bolotin, Birgitta Kuehn, David Peck and Carl Donaldson
Staff Members: Robin Carver and Lee Hartmann
Recording Secretary: Eileen Hawthorne

Planning Board Reorganization and Committee Liaison/Member Update

The Board voted to reorganize as follows: Timothy Grandy, Chair, Steven Bolotin, Vice Chair, Birgitta Kuehn, Clerk, Carl Donaldson, Clerk Pro Tem and David Peck, Member.

The Board voted unanimously to make the following changes to the Committee Liaison/Member List: David Peck became the liaison to the Plymouth Center Steering Committee and the Plymouth Growth and Development Corporation (Park Plymouth). Steven Bolotin became the liaison to the North Plymouth Steering Committee. Carl Donaldson became the liaison to the Manomet Steering Committee and a member of the Open Space Committee with the term to expire June 30, 2024.

Administrative Notes:

Minutes*:

May 10, 2023

Steven Bolotin moved for the Board to approve the minutes with the additions requested by Birgitta Kuehn, Birgitta Kuehn, second; the **vote** was (3-0-2) with Donald Peck and Carl Donaldson in abstention as they were not present at the May 10, 2023 meeting.

Covenants, Plans and Releases*:

B437 – Pinehills LLC, - Plan Endorsement and Release of Covenant Lot 11-705, Long Ridge Road (Water Tower lot)

Steven Bolotin moved for the Board to approve and endorse the plan and lot release for B437 – Pinehills LLC; Birgitta Kuehn, second; the **vote** was unanimous (5-0).

Form A Plans*:

A4855 – Pinehills LLC, Mulberry and Hawthorne, Map 77F, Lots A-335, A-336 and A-337 – Divide to create lots 15-397 through 15-408

David Peck moved for the Board to determine that A4855 was entitled to endorsement; Steven Bolotin, second; the **vote** was unanimous (5-0).

ZBA 4095 – Safe Harbor Marina Plymouth LLC

14 Union Street, Map 20, Lots 183A, B, C and 184A, B

Special Permit to construct a new ship building facility, to waive number of required parking spaces, and to waive maximum building height and front and side setbacks (6/5)

Staff Report

Project Narrative

Fire Department comments dated May 2, 2023

Conservation Planner comments dated May 5, 2023

e-mail from Plymouth Center Steering Committee dated May 11, 2023

Locus Map

Pre Water Shed Plan dated April 7, 2021 revised March 31, 2023

Marine Renovation Plans dated November 13, 2021, latest revision April 13, 2023

Tom Pozerski, Merrill Engineering and Land Surveyors, Jeff Metcalfe, Architect and Jason Heywood, Regional Manager for Safe Harbor Marinas presented a request for Special Permits to waive the

number of required parking spaces, to waive maximum building height and to waive the front and side setbacks in order to construct a new ship building facility while preserving the front façade of the building that fronts on Union and Water Streets. The existing main building consists of a 28,800 sq. ft. footprint administration and retail building. There are also a 9,245 sq. ft. metal frame hangar, a 2,683 sq. ft. restaurant, a two-story 1,199 sq. ft. office/residential structure which will remain on the site. The outdoor boat racking systems along Town Brook will be removed and replaced with pedestrian walkways and landscaping. The existing building has zero ft. front and side setbacks along Water and Union Streets which will be maintained. The proposed 37,395 sq. ft. footprint, 45 ft. high structure would house boat repair and storage areas (boat racking to accommodate the height necessary to stack three boats), office space, and public restrooms. The façade of the existing and proposed building will consist of brick, clapboard, white cedar shingles and glass panels with arched and circular windows around the building. On the marina side of the building there will be overhead doors for boat storage access. There will be 138 parking spaces, five of which will be ADA compliant. The sidewalk will remain along Water Street and will continue up Union Street. The new stormwater management system will improve the water quality in the harbor. Town Meeting approved Community Preservation Committee (CPC) funding to preserve the front portion of the building that was the original 1857 marina, cupola and porch. The Conservation Commission and the Fire Department have reviewed the plans and worked with the developer to address their concerns. The initial questions by the Board included why the 45 ft. height, when was the 45 ft. height first discussed and how the public will access the existing restaurant.

Public Comment:

Timothy MacGregor, representing the Bradford Commission; Donna Curtin; Steven Lydon; Lori Downs; Andrew Kusmin; Ginny Davis; Janice Murray, Dale Webber, George Brown, Connie Melahoures and Nancy Hartford all expressed their concerns with the proposal. The concerns included the negative impacts of the height and massing of the building to the residents of the surrounding neighborhoods, the community as a whole and the historic downtown area, the preservation of the historic portion of the building and the historic character of the waterfront, the protection of the harbor, the changes from the 35 ft. height that was originally presented; and the impacts of the reduction in parking to the surrounding residential neighborhoods which are already congested especially during the summer months and when there is a special event in town. Carl Donaldson acknowledged that the proposed renovations to the marina have been worked on for a long time and agreed with the residents that the proposed height of the building was of concern. Mr. Donaldson and David Peck asked for clarification on why the height changed from 35 ft. to 45 ft. Mr. Pozerski explained that in order to preserve the 1857 portion of the building, increase the setbacks from Town Brook and the landscaping, and bring the boat storage inside the structure, the height was increased to 45 ft. to recover the lost square footage that was necessary for the proposed uses.

Mr. Heywood explained that an additional 10 ft. in height was requested in order to be able to stack 3 boats instead of the 2 boats that could be stacked with a height of 35 ft.

Mr. Peck asked for a justification regarding the number of parking spaces when the building is increasing by approximately 30 percent and the parking is being reduced by approximately 30 percent. He felt that the proposed 138 parking spaces would be inadequate to handle the uses of the site. Mr. Peck felt it was disingenuous to use the height at the top of the cupola to justify the height of the building, the parking doesn't meet the required setbacks, and the bylaw requires on site loading of the oil and gas tanks which will be done from the street. He commented that the proposal does not meet the intent or requirements of the Zoning Bylaw.

Mr. Bolotin asked when the change in approach from the 35 ft. height that was presented at Town Meeting was changed to the 45 ft. height now requested. He was concerned that the current proposal was not approved by the Town's legislature, the residents and community do not want a 45 ft. high structure and there were alternatives that were available to the developer.

Mr. Heywood replied that when preservation of the 1857 building façade was proposed, the building height was changed.

Ms. Kuehn explained that as the Planning Board's representative on the CPC, Article 9D was a request for funding of \$733,000 to preserve the front portion of the existing building and the cupola. She reviewed the history of the site and noted that the foundry was constructed in 1857. In 1866

Massachusetts General Law Chapter 91 was passed which most likely would have prevented the foundry from being constructed in its current location. Chapter 91 codifies the "Public Trust Doctrine" that dates back 2,000 years and in Plymouth is represented by the Massachusetts Bay Colony Ordinances of 1641 which states the air, sea, and shore belong to not any one person but rather to the public at large. It regulates activities on coastal water ways, protects the rights of the public and guarantees that private use of waterways serves a proper public purpose. The current proposal is a compromise to protect the rights of the public for private use of a waterway to serve a public purpose. The oldest building on the water front is not protected by the Historic District Commission but the efforts of the abutting neighbors and Town Meeting to preserve the façade and cupola to serve the public on the waterfront. Serving the public through historic preservation in our busiest tourist location by preserving the façade and creating public bathrooms and public open space is consistent with the vote of Town Meeting and Chapter 91 Public Trust. Plymouth is experiencing a climate emergency and sustainability practices along the shoreline would suggest that the building height be lowered to the original 35 ft. eliminating the need for a special permit and the Town should work with the developer on other easements such as parking and side setbacks that will provide the business profits that it is due. The area is densely populated and storms over a 45 ft. high building in a flood prone area directly on the ocean could result in unintended consequences to the abutting neighborhood. Ms. Kuehn did not support the 45 ft. height on the waterfront.

Tim Grandy suggested lowering the height of the building back to the 35 ft. that was approved by Town Meeting and noted that the proposed parking may not be adequate.

Richard Quintal, Select Board Chair, explained that the developer did not approach the Town for CPC funding, CPC suggested the funding because citizens were concerned with the preservation of the building.

David Peck moved for the Board to recommend disapproval of the requests for special permits to the Zoning Board of Appeals for the following reasons:

The massing and size of the proposed 45 foot high building in close proximity to Union Street will constitute a nuisance and have an adverse effect upon the neighborhood and the waterfront in general.

There are feasible alternatives to the proposed height such as a reduction in the intensity, an increased size of the building footprint or the outdoor storage of boats.

The proposed 45 foot high building is not consistent with the intent of the Waterfront District to emphasize site planning and architectural design that is compatible with the adjoining Bradford Street and Waterfront historic areas.

The proposed vehicle parking of 138 spaces (reduced from the required 178 spaces) is insufficient to meet the needs of the overall site without additional mitigation measures.

RECOMMENDED CONDITIONS:

Should the Zoning Board of Appeals vote to grant the petition, the following conditions are recommended:

Prior to issuance of a Zoning Permit a Municipal Lien Certificate shall be provided to the Building Commissioner as evidence of payment of any back taxes, fees or penalties owed to the Town, if any.

All exterior lighting complies with Section 207-4 Prevention of Light Pollution of the Zoning Bylaw.

The Plymouth Center Steering Committee requests that the Town reconsider the advisability of having a crosswalk on Union Street.

Steven Bolotin, second; the **vote** was unanimous (5-0).

Steven Bolotin moved for the Board to adjourn at 9:06 p.m.; Birgitta Kuehn, second; the **vote** was unanimous (5-0).

***On file with the Office of Planning and Development in project case files.**

Respectfully Submitted,

Approved: June 7, 2023

Eileen Hawthorne
Administrative Assistant