

**Pembroke Planning Board
(Draft)
Tuesday, December 9, 2008**

MEMBERS PRESENT: Robert Bourque, Chairman; Alan Topliff, Vice Chairman; Kevin Krebs; Kathy Cruson; Cindy Lewis, Selectmen's Representative

ALTERNATE PRESENT: Brian Seaworth

EXCUSED: Mark Zydel; Todd Terrien

STAFF PRESENT: Stephanie Alexander, Interim Town Planner and Jocelyn Carlucci, Recording Secretary

Chairman Bourque opened the meeting at 7:00 p.m. Member Zydel and Member Terrien were excused. Chairman Bourque appointed Alternate Seaworth to vote in place of Member Zydel.

New Business

1. Minor Subdivision Lot Line Adjustment Application. Field et al. Case #08-08. Map 565, Lots 10, 16, 17, 19, 20, and 21 at 322 Pembroke Street and 7, 9, 13, 15, and 17 Sherwood Meadows respectively in the Medium Density Residential (R1) District and Architectural Design District (AD) Overlay. The applicant, Duval Survey, Inc., on behalf of respective owners William Field Revocable Trust, John G. Strachan, Jonathan & Jennifer Hoxie, Andrew & Susan Boisvert, Nancy M. Gill, and Mary Strachan & Elizabeth Murphy, propose a lot line adjustment to remove 31,260 sf from Lot 10 and add square footage to the other five lots.

Don Duval, of Duval Survey, Inc. representing Mr. and Mrs. Field stated that the applicants are proposing removing parcels A, B, C, D, & E (as noted on the plan) from Mr. and Mrs. Field's holdings and adding them to the northerly abutting lots. With regard to the cross hatched area noted on the plan, the applicant and Littlefield Condo Association have a boundary line agreement which will designate the property as that of Mr. and Mrs. Field.

The owners of Lot 18 and 22 chose not to participate in the purchase of the additional property.

MOTION: Chairman Bourque moved to grant a waiver for topography, soil types, and utilities. Seconded by Vice Chairman Topliff.

VOTE:	Robert B. – Y	Brian S. – Y	Kevin K. – Y
	Alan T. – Y	Cindy L. – Y	Kathy C. – Y

MOTION TO GRANT A WAIVER FOR TOPOGRAPHY, SOIL TYPES, AND UTILITIES PASSED ON A 6-0 VOTE.

MOTION: Vice Chairman Topliff moved to accept the application as complete. Seconded by Chairman Bourque.

VOTE:	Robert B. – Y	Brian S. – Y	Kevin K. – Y
	Alan T. – Y	Cindy L. – Y	Kathy C. – Y

MOTION TO ACCEPT THE APPLICATION AS COMPLETE PASSED ON A 6-0 VOTE.

Chairman Bourque opened the public hearing at 7:05 pm.

There being no questions or comments, Chairman Bourque closed the public hearing at 7:06 p.m.

Mr. Duval agreed to remove the home business (HG) overlay zone from Note 2, and to obtain abutters' signatures on the plan.

Chairman Bourque noted that 4 of the 6 letters that authorized Mr. Duval to represent the abutters did not include the Tax Map and Lot number. Mr. Duval will revise the letters and submit them to the Board.

MOTION: Chairman Bourque moved to accept and approve the plan with the following conditions: (1) to revise Note 2 of the Plan to remove the home business HG district overlay; (2) submit a written agreement or deed stating that the hatched area on the Plan will become the property of the Field Trust. Seconded by Vice Chairman Topliff.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y
 Alan T. – Y Cindy L. – Y Kathy C. – Y

MOTION TO ACCEPT AND APPROVE THE PLAN WITH THE FOLLOWING CONDITIONS: (1) TO REVISE NOTE 2 OF THE PLAN TO REMOVE THE HOME BUSINESS HG DISTRICT OVERLAY; (2) SUBMIT A WRITTEN AGREEMENT OR DEED STATING THAT THE HATCHED AREA ON THE PLAN WILL BECOME THE PROPERTY OF THE FIELD TRUST PASSED ON A 6-0 VOTE.

Zoning Ordinance

2. Final Changes to Ordinance

- Buildable Area definition

After discussions, it was agreed that the following definition in Amendment 1. §143-8 should read as follows:

Buildable Area – That area of a lot that excludes all soils identified as poorly and very poorly drained, all wetlands, floodplains, submerged areas, land set aside for open space or conservation purposes, slopes 15% or greater, and dedicated easements or rights-of-way. Setbacks and wetlands buffers may be included when calculating buildable area, however, no construction is allowed within the setbacks or wetland buffers.

Non-Buildable Area – That area of a lot including all soils identified as poorly and very poorly drained, all wetlands, floodplains, submerged areas, land set aside for open space or conservation purposes, slopes 15% or greater, and dedicated easements or rights-of-way.

The Board asked Ms. Alexander to ask legal counsel to review the nonconsistencies between buildable and non-buildable areas when she sends the revised definitions to them. The following definition was agreed to:

Contiguous Buildable Area - A contiguous area which consists of buildable area on a single lot, unfragmented by non-buildable area. In addition to the required minimum lot size there shall be a minimum contiguous buildable area on each lot

which shall equal or exceed seventy percent (70%) of the minimum lot size for that zoning district. Furthermore, any building and any private septic system must be sited within the seventy percent (70%) minimum contiguous buildable area but not within any setback or buffer, per Zoning Ordinance 143-21, Table of Dimensional Regulations and Density Requirements, Subdivision Regulations 205-46.C(a), Sanitary Sewage Disposal, and Site Plan Review Regulations 203-43.C(2)(a), Sanitary Sewage disposal, as amended.

It was agreed that two types of structures should be considered: (1) unoccupied spaces such as towers, and (2) occupied spaces such as dwellings. The following definition was agreed to:

Maximum Height – Maximum height of buildings shall be measured from the finished grade to the highest point on the roof and shall not exceed 50' in height on each side of the building. Occupied space shall not exceed 35' in height from the finished grade to the top of the highest window on each side of the building. This definition shall not apply to chimneys, elevator bulkheads, skylights, ventilators, cooling towers, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above the roof, nor to domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than 20% of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae, and other like structures, which do not occupy more than 20% of the lot area, provided the excepted appurtenances are not located within the flight paths of an airport as defined by F.A.A. regulations.

Ms. Alexander will send a copy of the maximum height definition to the Fire Chief for his review.

Conceptual Consultation

3. Major Site Plan Conceptual Consultation. JBI Helicopter Services. Case #08-112. Map 561, Lot 25 at 720 Clough Mill Road in the Commercial/Light Industrial (C1) District and Aquifer Conservation (AC) District. The applicant, Bruss Construction, proposes to construct a 60' x 90' building addition and new blacktop area.

For the record, Selectmen's Rep. Lewis said that she knows Jim Bruss and Tim Golde.

Jim Bruss of Bruss Construction, Inc. and Ray Newcomb of Newcomb Group LLC were present. Mr. Newcomb bought Joseph Brigham's business in 1995 and explained that his helicopters work for many organizations such as the Appalachian Mountain Club, different New England utility companies, and the Maine Forestry Services. They perform aerial spraying for mosquitoes in Massachusetts, power line controls, work in the cranberry bogs, and even worked in Louisiana and Texas after the hurricanes.

He said that business has not grown in employees but has grown in trucks for support vehicles. They have been a FAA repair station since 1985. Because of room constraints, two helicopters will be housed at the Concord Airport. The helicopters and trucks are based in Pembroke but can be gone from 10 days to months at a time. The helicopter traffic will not change with the proposed expansion. They own 6 helicopters. They have not had any issues with their neighbors.

The proposed expansion will be 5400 sq. ft. consisting of a hanger space, storage space, and bathroom.

Mr. Newcomb said that they will not be doing anything onsite that is different from what they are presently doing.

The existing fuel tanks will be replaced with a double-lined vaulted underground tank.

Mr. Newcomb said that they do very few passenger flights. During the “two race days” they fly out of Concord or Laconia. Very few people come to the Pembroke location.

Mr. Bruss said that in addition to the proposed addition at the end of the building, they are proposing an airlock vestibule on the front of the building for energy efficiency. The proposed addition is a single story, slab on grade building which will be 30’ to the peak. The exterior of the building will be sided with hardy plank and stone masonry veneer. The area outside the tarmac will be heated through reclaimed heat. There will be no changes to the parking area. They currently have 33 spaces. The site consists of 17.5 acres of land. The building will be fully alarmed and they have been working with the Town departments such as police, fire, water, and Public Works. Presently the outdoor lighting is only on the building.

Mr. Newcomb said that there will be cut-off light fixtures on the side of the building that faces the woods. They have underground electrical service which is approximately 160’ from the building. By replacing the inefficient lighting, the electrical load calculations will not increase.

Mr. Bruss said that this is a major site plan and are not asking for any waivers. They have not discussed backup power for the building.

The tarmac melting equipment will take care of the snow in that area. The existing parking area will be plowed with on-site snow storage. They had to use a loader twice last year. The number of flights in the winter diminish, which result in a decrease in parking.

Ms. Alexander said that the applicant will require a Special Use Permit because the parcel is located over the aquifer. It is a \$25 application fee. The Special Use Permit is signed by the health officer, approved by the Board, and should be processed with the site plan application.

Zoning Ordinance - (continued)

4. Final Changes to Ordinance

The Board agreed that:

Amendment 2. §143-21 Note 5 should read:

- 5) Within the R1, B1, and B2 districts only, a dwelling or accessory building need not be set back a distance greater than the average set-backs of dwellings or accessory building on the lots adjacent to either side.

Amendment 3. §143-72. Wetlands Protection (WP) District shall read:

- D. Other requirements: [Amended 3-13-2007 by Amendment No. 2]

(2) No structure, roadway, or construction work zone shall be located closer than 20 feet measured horizontally from any wetland.

Amendment 4. §143-81. Special requirements; CRD-2 Rural Open Space Development shall read:

B. Minimum areas and yard requirements for Rural Open Space Developments shall be the following:

- (2) R1 and LO Districts with town water and sewer:
- | | |
|---------------------|--------------------|
| Lot Area | 25,000 square feet |
| Frontage | 100' |
| Side Yard Set-Back | 15' |
| Rear Yard Set-Back | 50' |
| Front Yard Set-Back | 25' |

Amendment 5. Article XVII, Growth Management Ordinance:

Ms. Alexander reviewed the status report on the Growth Management Ordinance. Selectmen's Rep. Lewis will obtain capacity figures from the schools for the report. Ms. Alexander said that she would like to give the report to the Board of Selectmen by January.

With regard to the Allenstown Sewer Treatment Plant, Ms. Alexander reported that Allenstown is asking for two sewer improvement projects: (1) Improving the biomag process; and (2) further long-term upgrade projects.

Ms. Alexander will ask for a hard copy of the Route 3 corridor study.

Member Cruson asked for clarification as to what point applicants follow the proposed ordinances when coming before the Board. Ms. Alexander said if the application is accepted as complete between the time the proposed ordinances are posted and the town meeting, then the applicant must follow the proposed procedures. For example, anyone submitting an application on December 31 should follow the proposed ordinances which are coming to town meeting. David Jodoin, Town Administrator confirmed that once the documentation is posted, the applicant must conform with that posting.

Member Cruson stated that she did not feel that Pembroke was overstressed in terms of its infrastructure other than sewer. Selectmen's Rep. Lewis said that a growth management ordinance is a way to protect the town and all the surrounding towns have one. Vice Chairman Topliff pointed out that phasing is another form of growth management which is being reviewed by Jeffrey Taylor and Associates.

Chairman Bourque asked Ms. Alexander to inquire from legal counsel the following question: If the Planning Board created a phasing plan that occurred after town meeting and there was already an ordinance in place, would it be possible to put the new phasing plan up for notice and be in affect before the following town meeting or does the Board have to wait until 120 days prior to the next town meeting before the new ordinance can be posted?

Chairman Bourque asked that the Board vote on the following question: Should the Planning Board recommend to the Board of Selectmen that the Growth Management Ordinance be continued for another year.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y
 Alan T. – N Kathy C. – N Cindy L. - Y

The Board voted that Amendment 5. Article XVII, Growth Management Ordinance shall read:

§143-139. Effective dates.

This article becomes effective upon adoption and shall remain in effect until 11:59 PM March 31, 2010. However, the Planning Board shall annually review the need for the article and send a status report on growth and the progress Pembroke has made toward improving its capital facilities to the Board of Selectmen by January 1 of each year the article is in effect. If the Board of Selectmen finds that the capital facilities needs have been resolved, then it shall make a recommendation for repeal of this article.

Selectmen's Rep. Lewis that the wetland markers were suppose to be removed from the Zoning Ordinance and placed in the Subdivision and Site Plan Regulations. Ms. Alexander will review the placement of the language.

Ms. Alexander said that the Planning Commission is working on a regional housing needs assessment and will give different methodologies to determine their fair share of workforce housing. Selectmen's Rep. Lewis said that Pembroke already has its fair share of workforce housing. Ms. Alexander said that the law requires that the Town's defend their determination of their fair share workforce housing number.

Vice Chairman Topliff asked Ms. Alexander to inquire of the deadline for the 2008 CTAP grant money from Selectmen Fred Kline

Minutes

5. Review and Approve Meeting Minutes of November 25, 2008

MOTION: Selectmen's Rep. Lewis moved to approve the meeting minutes of November 25, 2008 as amended. Seconded by Chairman Bourque.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y
 Alan T. – Y Cindy L. – Y Kathy C. – Abstained

MOTION TO ACCEPT THE MEETING MINUTES OF NOVEMBER 25, 2008 AS AMENDED PASSED ON A 5-0 VOTE WITH ONE ABSTENTION.

Miscellaneous

6. Approve Meeting Schedule for 2009

After review, two changes were made to the 2009 Planning Board Schedule: The date to Submit Conceptual or Minor Material for the July 28, 2009 Planning Board meeting wil be changed from June 21st to July 21 **and** September 20 to October 20. The Board agreed to keep the work session presently scheduled for March 10 (Town meeting date).

MOTION: Vice Chairman Topliff moved to approve the 2009 Planning Board Schedule as amended.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y
 Alan T. – Y Cindy L. – Y Kathy C. – Y

MOTION TO APPROVE THE 2009 PLANNING BOARD SCHEDULE AS AMENDED PASSED ON A 6-0 VOTE.

7. Correspondence

Ms. Alexander said that the Town Report for the Planning Board is due to Linda Williams by January 13, 2009. She will prepare it and will e-mail it to Chairman Bourque for review.

Member Krebs will call the Pembroke Water Works regarding the UNH Water Plan Survey to see if it still needs to be completed or if the deadline has passed. If the deadline has not passed, Pembroke Water Works will complete it and then Member Krebs will forward it to the Conservation Commission.

Chickering Meadows as-builts for Units 69, 70, 71, and 72 arrived.

The Regional Planning Commission dues for 2009 is \$7,673. (The rate is \$1.05 per capita and has not changed from last year). A copy of the Planning Commission's budget is available.

American Planning Association Member application and literature.

Ms. Alexander sent a letter to Foy Family Insurance regarding the reserved parking space. They submitted their mylars for signature. They dropped any reference to the ADA parking space.

8. Committee Reports

Member Krebs did not attend the last Conservation Commission meeting.

Alternate Member Seaworth reported that there is nothing to report from the Roads Committee.

Ms. Alexander reported that a two-lot minor subdivision came in for the January 13, 2009 agenda. The Board agreed to hold the minor subdivision to the January 27, 2009 meeting and hold a public hearing on the zoning amendments on January 13, 2009.

Ms. Alexander reported that she is preparing a letter regarding the Barloe Beacon Hill subdivision history which came before the Board last November. Barloe applied for a Special Exception to the Zoning Board of Adjustment (ZBA) to extend their special exception for the open space development. In the ZBA hearing minutes, it appears that the Planning Board's role in the process was misrepresented to the ZBA. Once the history has been compiled, she will send them to the ZBA.

Innovative Land Use Handbook is available in the Planning office.

Ms. Alexander will send the Regulatory Audit from the consultant to other committees.

Because approved applicants have been working on their sites before final approvals have been issued, Ms. Alexander suggested that a statement be placed on the Notice of Decision such as "Site work shall not commence until final approval by the Board." The Board decided that a Notice of Decision should be given to the ZBA with a certified mail copy to applicants and their representatives.

Ms. Alexander said that the State RSA requires that if the applicant is given discretionary conditions of approval, they must return to the Board. She suggested that the Planning Board require the applicants to return to the Board for a final public hearing for non-administrative conditions of approval, at the applicants' expense. Example of non-administrative conditions: A condition requiring final review by Town engineer. Example of administrative conditions: changing a note to the plan, paying of permit fees to state agencies.

The Board agreed that they should: (1) itemize the administrative and non-administrative conditions on the Notice of Decision and (2) place a note on the Notice of Decision that reads: "Applicant must appear before the Board during a public hearing to receive final approval for all non-administrative conditions. Applicants are responsible for paying abutters and noticing fees."

9. Other Business

Member Krebs recused himself.

Kevin Krebs of 429 North Pembroke Road said that he was against a subdivision being developed across the street from his home. It has been over a year since final approval and wondered if the development received its 4-year exemption. At the time that the subdivision was approved, the 4-year exemption was not defined. RSA 674:39(C) states that at the time that the development is approved, it must meet the subdivision regulations which, in his opinion, it did not. Some of the lots did not meet the 70% required contiguous buildable area. He asked the Board if the developer would be required to meet the current subdivision regulations.

After a discussion, the Board agreed that the remedy for the erosion and other related site problems should be dealt with by the Department of Environmental Services (DES).

Chairman Bourque asked Ms. Alexander to inquire from legal counsel what course the Board should take. Can the present site plan be revoked and a new site plan approved?

Selectmen's Rep. Lewis said that she has not filed a complaint with the DES. She does have the paperwork.

Adjournment

MOTION: Vice Chairman Topliff moved to adjourn. Seconded by Chairman Bourque.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 10:20 p.m.

Respectfully submitted,
Jocelyn D. Carlucci, Recording Secretary