

**Pembroke Planning Board
Minutes of Meeting
(Adopted)
Tuesday, December 8, 2009**

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

ALTERNATES PRESENT: Ron Nowe; Larry Young, Sr.

EXCUSED: Jeff White; David Jodoin, Town Administrator

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

Chairman Bourque called the meeting to order at 7:00 p.m. He announced that the Board of Selectmen have reluctantly accepted Mark Zydell's resignation. The Board has appointed Alternate Member Young as a full member and will vote in former Member Zydell's place.

Old Business

1. **Nicole's Greenhouse. Case #09-103.** Applicant requests that Board discusses proposed tree line on approved site plan and determine whether a revised site plan is required.

Present: R. Jeffrey Burd, Engineer and Ernest Mills of Nicole's Greenhouse.

Mr. Burd stated that Lisa Mills had sent a letter dated December 6, 2009 to the Planning Board. Mr. Burd said that he would like to resolve the misunderstanding pertaining to the removed treeline without redoing the plans. He said that the treeline placed on the plan was intended to be a future treeline. He said that: (1) He does not know if there were trees on the line that could have been saved; (2) He recalls that the trees were tall pines which would have been a hazard to the greenhouse facility; (3) The applicant's intent was always to clear cut the lot; and (4) His understanding was that the property line would consist of unmaintained surface area.

Mr. Burd said that the applicant has agreed to plant more trees on the slope for screening. They would prefer to not change the plan.

Selectmen's Rep. Lewis said that she was aware that all the pine trees were being removed. She also understood that some of the vegetation on the property line would remain and, as noted on the plan, "existing natural vegetation to be supplemented with proposed shrubs to screen the storage units on adjacent property".

In a very loud and agitated voice, Mr. Mills asked what type of trees the Board would have wanted to be left on the site? He said a maple tree would not work for a greenhouse because it would grow too tall. In an even more agitated voice, he again asked what type of trees the Board wanted to be left on the site.

Vice Chairman Topliff warned Mr. Mills that if he did not calm down, the Board would be forced to call the police.

Mr. Mills said that the banking was intended to be cut in and a swale created which would have damaged any tree roots and that the Board's position made no sense.

Chairman Bourque explained that the Board was concerned that what the applicant proposed on the plan was different from what was actually done on the site. Mr. Mills said that he did not create the plan. Chairman Bourque reminded him that he is the applicant who submitted the plan to the Board and it is the Board's wish that he fix the error.

Selectmen's Rep. Lewis suggested adding the trees on the plan that the applicant will be planting in that area.

Mr. Burd said that if they marked the trees on the plan, then the applicant would be committed to it for the Certificate of Occupancy (CO) and the applicant does not want to do that. Selectmen's Rep. Lewis said that the applicant would only be committed to it for the final CO. It would be possible for the applicant to obtain a temporary CO so they can open on April 1, 2010 as planned and then finish the planting at a later date. Selectmen's Rep. Lewis said that the reason for adding the note to the plan is that the Board would be assured that the trees would be planted.

Chairman Bourque suggested that the applicant submit a letter outlining the type of trees and the timeframe that they will be planting in 2010. Mr. Burd agreed. Since the landscaping plan does not have to be recorded, Selectmen's Rep. Lewis said that adding a note to the plan would not create any additional recording costs for the applicant.

Mr. Mills said that eventually they would like to install a vinyl fence but because of the cost, they would not do so at this time. Selectmen's Rep. Lewis said that if the applicant installed a fence, there may be less landscaping necessary. Chairman Bourque suggested that the applicant send a plan to the Board clarifying their intentions in order to avoid redoing the application process. Mr. Burd agreed.

2. Update. Red Rock Investments, LLC. Case #04-108. Map 632, Lot 8 at 709 Keith Avenue. Board to discuss written documents from both Red Rock Investments and Public Service of New Hampshire which provide an update on the status of the Joint Use Agreement and subsequent minor site plan submission.

Chairman Bourque and Member Krebs recused themselves from the Board. Vice Chairman Topliff, as acting Chairman, appointed Alternate Member Nowe to vote in Chairman Bourque's place.

Vice Chairman Topliff said that Public Service of New Hampshire (PSNH) and Red Rock Investments are making progress on the Joint Use Agreement.

Selectmen's Rep. Lewis clarified for the Board that Goodnow Trucking originally had a Joint Use Agreement with PSNH. Once Goodnow Trucking left the property, "Dirt Doctors" were using the property without an agreement which prompted PSNH to begin drafting an agreement.

Ms. Alexander said that it appears that PSNH will allow mulch to be placed in the right-of-way. A revised site plan has been prepared because the applicant noted that there had been several changes that have occurred and which are not reflected on the prior site plan.

Ms. Alexander said that Red Rock Investments stated in their e-mail dated 12/1/09 that they are “on track to submit the application before December 29th” which will enable them to be at the January 26, 2010 meeting.

3. Major Subdivision. LTC Properties. Case #09-02. Map 565, Lot 193-3 at 245 Pembroke Hill Road in the Medium-Density Residential (R1) District and the Wetlands Protection (WP) Overlay District. The applicant, LTC Properties Inc, proposes a five-lot residential subdivision on 14.595 acres which includes a new road and a detention pond. *65-day extension expires at this meeting, continuation and new extension requested to January 26, 2010 meeting. Application and public hearing continued from previous meeting. Waiting for legal documentation to be submitted.*

Present: Jason Hill of Holden Engineering & Surveying, Inc.

Chairman Bourque and Member Krebs resumed their positions with the Board.

MOTION: Chairman Bourque moved to accept and grant an additional 65-day extension of the application to the applicant, LTC Properties, and grant the continuation of the public hearing to the January 26, 2010 meeting. Seconded by Selectmen’s Rep. Lewis.

VOTE: R. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson - Y
K. Krebs – Y B. Seaworth – Y L. Young – Y

MOTION TO ACCEPT AND GRANT AN ADDITIONAL 65-DAY EXTENSION OF THE APPLICATION TO THE APPLICANT, LTC PROPERTIES, AND GRANT THE CONTINUATION OF THE PUBLIC HEARING TO THE JANUARY 26, 2010 MEETING PASSED ON A 7-0 VOTE.

Mr. Hill said that the legal documents are in the process of being completed and will be submitted by December 29, 2009.

4. Major Subdivision. Silver Hills Business Park. Case #09-06. Map 559, Lots 12 and 12-1 at 830 North Pembroke Road in the Rural/Agricultural Residential (R3) District, Aquifer Conservation (AC) Overlay District, Flood Development Overlay District (FD), Shoreland Protection Overlay District (SP), and Wetlands Protection (WP) Overlay District. The applicant, TF Bernier Inc, on behalf of owner Silver Hill Development Corporation, is proposing a five-lot subdivision on two lots totaling 116.1 acres which includes the construction of a new road to be dedicated to the Town. *Extension to 12/08 meeting granted at the last meeting. Application and public hearing continued from previous meeting. Waiting for legal documentation to be submitted.*

Present: Tim Bernier of T.F. Bernier, Inc. representing Silver Hill Business Park.

Mr. Bernier said that the applicant has submitted a request for an extension and continuation to the January 26, 2009 meeting. He is still working with the Wetlands Board regarding the easement issue.

MOTION: Chairman Bourque moved to accept and grant an extension of the application to the applicant, Silver Hill Business Park, and grant the continuation of the public hearing to the January 26, 2010 meeting. Seconded by Vice Chairman Topliff.

VOTE: R. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson - Y
K. Krebs – Y B. Seaworth – Y L. Young – Y

MOTION TO ACCEPT AND GRANT AN EXTENSION OF THE APPLICATION TO THE APPLICANT, SILVER HILL BUSINESS PARK, AND GRANT THE CONTINUATION OF THE PUBLIC HEARING TO THE JANUARY 26, 2010 MEETING PASSED ON A 7-0 VOTE.

Mr. Bernier said he had no knowledge if Concord had hired an engineer to review the information discussed at their previous meeting.

5. **Special Use Permit-Wetlands. Concord Sand and Gravel, Inc. Case #09-SUP-14WP.** Map 559, Lot 3 on North Pembroke Road in the Rural Residential (R3) District, Aquifer Conservation (AC) Overlay District, and Wetlands Protection (WP) Overlay District. The applicant, Concord Sand and Gravel Inc., on behalf of owners Robert A. Cole, Successor Trustee of the CS&G Revocable Trust and Lucille A. Ladd, Successor Trustee of the Levi K. Ladd 2004 Revocable Trust, request a Special Use Permit from Article 143-72.E, Wetland Protection District, for the removal of 790sf of wetland on Map 559, Lot 3. This permit is associated with the related excavation expansion plan application #09-107. *Application and public hearing continued from previous meeting to January 26, 2010.*
6. **Special Use Permit-Aquifer. Concord Sand and Gravel, Inc. Case #09-SUP-15AC.** Map 559, Lots 3, 5, and 6 on North Pembroke Road in the Rural Residential (R3) District, Aquifer Conservation (AC) Overlay District, and Wetlands Protection (WP) Overlay District. The applicant, Concord Sand and Gravel Inc., on behalf of owners Robert A. Cole, Successor Trustee of the CS&G Revocable Trust and Lucille A. Ladd, Successor Trustee of the Levi K. Ladd 2004 Revocable Trust, request a Special Use Permit from Article 143-68.E, Aquifer Conservation District, which is required for any activity taking place in the District, for the use of the existing haul roads on Map 559, Lot 6 by excavation activities on Map 559, Lots 3 and 5. This permit is associated with the related excavation expansion plan application #09-107. *Application and public hearing continued from previous meeting to January 26, 2010.*
7. **Existing Excavation Expansion. Concord Sand and Gravel, Inc. Case #09-107.** Map 559, Lots 3, 5, and 6 and Map 258, Lot 13-3 on North Pembroke Road in the Rural Residential (R3) District, Aquifer Conservation (AC) Overlay District, and Wetlands Protection (WP) Overlay District. The applicant, Concord Sand and Gravel Inc., on behalf of owners Robert A. Cole, Successor Trustee of the CS&G Revocable Trust and Lucille A. Ladd, Successor Trustee of the Levi K. Ladd 2004 Revocable Trust, propose to expand the existing grandfathered mineral extraction and processing operations on Map 559, Lot 6 onto Map 559, Lots 3 and 5, and to retain Map 258, Lot 13-3 as a buffer lot not to be used for excavation. The expansion would encompass 17 acres. *Application and public hearing continued from previous meeting to January 26, 2010.*

Chairman Bourque noted that the applicant was not scheduled to be at this meeting. Their application and public hearing were continued to the January 26, 2010 meeting.

Ms. Alexander reported that the City of Concord has received an estimate from Emery & Garrett Groundwater, Inc. which has been submitted to David Jodoin, Town Administrator. It will be on the Board of Selectmen's Agenda for December 21, 2009.

Ms. Alexander said that this application was placed on the agenda for continuity's sake and not to have the public hearing or application continued since they were already continued to January 26, 2010 at the last meeting.

Conceptual Consultation

8. Map 262, Lot 45 at 373 Fourth Range Road – Dale Robinson Wetlands Special Use Permit. *Prospective applicant requests that Board determines whether stream alteration and wetland disturbance which has already occurred will require a Wetlands Special Use Permit.*

Ms. Alexander said that the applicant left a voice message on the Land Use Clerk's telephone that he was ill and, therefore, would not be attending the meeting. He was planning to come to the January 26, 2010 meeting.

Ms. Alexander said that the Department of Environmental Services (DES) has cited multiple violations against Dale Robinson. It was the consensus of the Board that until DES resolved their issues with the applicant, the Planning Board would not take any action. Ms. Alexander will return the case to the Board for reevaluation once the State has resolved their issues.

Chairman Bourque asked Ms. Alexander to notify the applicant that he will need to provide engineered plans for the Board's review along with all necessary permits.

9. Map 258, Lot 14-1 at 849-851 Borough Road – Sarah Perry Wetlands Special Use Permit. *Prospective applicant requests that the Board determines whether a Wetlands Special Use Permit will be required for future driveway construction over a wetland vs. a wet drainage area.*

Present: Sarah Perry

Ms. Perry said that she purchased the above property on November 10, 2009. Everett Hodge, Code Enforcement Officer advised her to meet with the Planning Board regarding a possible wetland issue. She gave the Board copies of the permits that were pulled in 1999 by the prior owner. She also presented photos of the lot depicting the driveway and the location of her proposed home. The driveway has a solid base. She intends on situating the house at the top of the hill. Ms. Perry said that the wetlands depicted on the map are not visible to her. She assumed it was because the prior owner obtained permits to fill the wetlands. The culvert pipes for the driveway were placed at the time the permits were obtained.

Selectmen's Rep. Lewis clarified that the permit was to dredge and fill 575 sq. ft., and install 2 culverts. The work was completed prior to purchasing the land. It was approved 09/14/1999 with an expiration date of

09/14/2004. Selectmen's Rep. Lewis asked Ms. Perry if she would be changing anything. Ms. Perry answered no.

Selectmen's Rep. Lewis said that, in her opinion, the prospective applicant is fine.

Chairman Bourque suggested that Ms. Perry have a knowledgeable wetlands person delineate the area of the wetlands so she would be aware of its location. Ms. Perry said that the map was originally prepared for Barloe Properties and that she has a state approved septic design.

Chairman Bourque asked Ms. Alexander to notify Mr. Hodge of the Board's documentation from Ms. Perry and state that the Board does not have any problems with the wetlands issues.

Zoning Amendments

10. Final Review and Order Determination of Amendments for January 12, 2010 Public Hearing

143-35.1 Outdoor Storage of a Boat, Recreational Vehicle, Camping Trailer, or Motor Vehicles (New).

It was agreed that there is already provisions in the Town Ordinance (143-31) that addresses living in outdoor recreational vehicles. Vice Chairman Topliff read 143-31 aloud.

It was the consensus of the Board that the following changes would be made to 143-35.1:

- The first paragraph will read: "In all Districts except C1, any boat, recreational vehicle, or camping trailer stored on any lot shall be owned by the property owner or occupant of the residence except as defined in §143-31."
- The proposed 2nd paragraph would be eliminated. This would allow the Board of Selectmen to license the occupancy of a recreational vehicle rather than the Code Enforcement Officer.

Article XVII, Growth Management Ordinance (Amend)

143-139. Effective dates will read: This article becomes effective at 12:00 AM April 1, 2010 and shall remain in effect until 11:59 PM March 31, 2011.

The consensus of the Board was that the Amendments would be presented in order of ordinance number.

Ms. Alexander submitted a potential zoning amendment: 143-11 Zoning Map (FEMA Map). She said that modification of Pembroke's zoning ordinance is required in order to remain in compliance with the National Flood Insurance Program (NFIP). In 2007, legislation was passed which allowed the Board of Selectmen to adopt the floodplain date and map changes.

Ms. Alexander will discuss with the Office of Energy and Planning (OEP) the possibility of allowing the Board of Selectmen to adopt the amendments by resolution or whether OEP would require something in addition to the zoning change.

Ms. Alexander said that OEP recommended that the Board of Selectmen adopt the resolution rather than sending it to town meeting. If it was not approved at town meeting, the town would lose their National Flood Insurance Program.

§674:57, Flood Insurance Rate Maps, adopted in 2006, gave authority to the Planning Board to delegate the authority to the Board of Selectmen to make the change. The Board agreed to have Ms. Alexander check with OEP to ensure that the language is suitable, and, if necessary, return to the Board with the correct language at the public hearing.

MOTION: Vice Chairman Topliff moved to send the floodplain map zoning revision to public hearing on January 12, 2010, if needed using suitable language to be written by the Planner per NH Office of Energy and Planning recommendations which must comply with recent National Flood Insurance Program requirements. Seconded by Chairman Bourque.

VOTE: R. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson - Y
K. Krebs – Y B. Seaworth – Y L. Young – Y

MOTION TO SEND THE FLOODPLAIN MAP ZONING REVISION TO PUBLIC HEARING ON JANUARY 12, 2010, IF NEEDED USING SUITABLE LANGUAGE TO BE WRITTEN BY THE PLANNER PER NH OFFICE OF ENERGY AND PLANNING RECOMMENDATIONS WHICH MUST COMPLY WITH RECENT NATIONAL FLOOD INSURANCE PROGRAM REQUIREMENTS PASSED ON A 7-0 VOTE.

Minutes

11. Review and Approve Meeting Minutes of October 13, 2009

MOTION: Alternate Member Young moved to approve the Meeting Minutes of October 13, 2009 as presented. Seconded by Vice Chairman Topliff. Unanimously approved.

12. Review and Approve Meeting Minutes of October 27, 2009

MOTION: Chairman Bourque moved to accept the Meeting Minutes of October 27, 2009 as amended. Seconded by Alternate Member Young. Unanimously approved.

13. Review and Approve Meeting Minutes of November 24, 2009

MOTION: Alternate Member Young moved to approve the Meeting Minutes of November 24, 2009 as amended. Seconded by Vice Chairman Topliff. Unanimously approved.

Miscellaneous

14. Correspondence

Ms. Alexander received:

- A postcard from Grace Capital Church regarding their Christmas Eve church service and reception

- A Development of Regional Impact from Loudon regarding 2 site plans for the New Hampshire Motor Speedway: (1) Change of use for a currently used parking lot to be used as the location of winter snow events; and (2) an amended site plan to review 1999 conditions. The date of the hearing is December 17, 2009 at 7 pm.
- NH Town & City Magazine from the Local Government Center.

15. Committee Reports

Member Seaworth reported that the Roads Committee, at their last meeting, agreed that the Road Management Plan will need to be updated. All members will review the Plan through the winter in preparation for discussions in the Spring. The Committee will also discuss the possibility of using stimulus money for projects of which initial engineering has been done.

16. Other Business

- January 12 Meeting Agenda – Public hearing for the zoning amendments and adoption of the Growth Management Report.
- January 26, 2010 Meeting Agenda – Chickering Meadows, LTC Properties, Silver Hill Business Park, Concord Sand & Gravel, and possibly Dennison Cabinets.
- CTAP Assessment Recommendation Prioritization – The Board delegated the project to Ms. Alexander and Mr. Jodoin to review and revise accordingly.

Chichester 6-Lot Subdivision – Ms. Alexander presented a map of a Chichester 6-lot subdivision on the corner of Robinson and Higgins Roads. The Registry of Deeds refused to sign it because there is a small portion of the subdivision that is in Pembroke. Pembroke’s signature is required. Ms. Alexander asked if the Board would allow the applicant to fill out the subdivision paperwork, provide the necessary documentation followed by waiver requests of all requirements and application fees in hopes of being approved on January 26’ 2009. Selectmen’s Rep. Lewis did not feel that it would be legal for an applicant to bypass the subdivision process.

The concensus of the Board is for the applicant to do a lot line adjustment.

Ms. Alexander will give the applicant the option of doing a lot line adjustment or a subdivision application.

17. Planner Items

- Growth Management Report.** Selectmen’s Rep. Lewis will gather the school data to be inserted in the Growth Management Ordinance. Ms. Alexander is hoping that the Board will approve it at the January 12, 2010 meeting. Ms. Alexander will ask Mr. Jodoin for other town service information.
- 2010 Building Permit Limitation.** Ms. Alexander asked the Board to review the findings for possible adoption on January 12, 2010.

- c. **Volunteer Interest Form from Faya Hamidou Oumarou.** It was suggested that, since the Planning Board was not one of the three top choices of interest, the volunteer will be redirected to one of his top three committees of choice.
- d. **Memo from David Jodoin re: Meeting of December 8, 2009.** The Board members acknowledged Mr. Jodoin's memo.

18. Board Member Items

Pembroke Place. Selectmen's Rep. Lewis asked the Board to review the approved site plan for Pembroke Place (corner of Rts. 3 and 106). The applicant has a potential tenant that would need additional parking 4 times per year. The applicant would like to create a gravel parking area for the potential tenant. Question: Since the original site plan has already been approved, is it necessary for the site plan to return to the Board for approval of the gravel parking area?

It was agreed that a gravel parking area is preferred because water would absorb in the ground rather than create runoff. Selectmen's Rep. Lewis said that the applicant could pave the parking area based on their approved site plan.

Ms. Alexander pointed out that the normal process would allow abutters the opportunity to share their thoughts.

The Board agreed that the applicant should submit a letter to the CEO, with a copy to the Planning Board, describing their intent and explaining how they plan to use the area, and the timeframe that the parking area would remain gravel. It was also suggested that the letter become part of the lease. It was agreed that the CEO would have authority to monitor the use and drainage issues associated with the parking area.

Member Krebs expressed his concern of the ease in which the Zoning Board of Adjustment (ZBA) grants variances to the Town Ordinances. It was suggested that the ZBA be asked to attend the February Planning Board work session to discuss how each Board functions and to explain, in general terms, how ZBA decisions are made.

MOTION: Chairman Bourque moved to adjourn. Seconded by Member Cruson.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 9:20 p.m.

Respectfully submitted,
Jocelyn D. Carlucci, Recording Secretary