

**Pembroke Planning Board  
Minutes of Meeting  
(Adopted)  
Tuesday, April 14, 2009**

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

**ALTERNATE PRESENT:** Jeff White; Brian Seaworth

**EXCUSED:** Mark Zydel

**STAFF PRESENT:** Stephanie Alexander, Interim Town Planner, David Jodoin, Town Administrator, and Jocelyn Carlucci, Recording Secretary

Chairman Bourque opened the meeting at 7:00 p.m. and appointed Jeff White to vote in place of Member Zydel.

Chairman Bourque stated that representatives of JBI Helicopter (JBI) would like to address the Board. The Board was given the choice of hearing from JBI first or at the end of the meeting under Other Business. Since Steve Whitman had no objection to JBI being heard first, the Board agreed.

**Guests**

**1. JBI Helicopter Representatives Permission Request**

Present: Jim Bruss of Bruss Construction and Curt West of JBI Helicopter Services.

Mr. Bruss said that he submitted a package to the Planning Department this afternoon consisting of a re-application of their original site plan with a 28' x 60' addition to the new hangar. He is aware that the Board has not had an opportunity to review the documents in the package. Mr. Bruss asked if the Board would allow the applicant to continue excavation and placement of the concrete for the foundation of the 28' x 60' addition at their own risk. Mr. Bruss reiterated that JBI Helicopter understands that if something goes wrong and the requested work must be removed, that it will be at JBI's risk and not at the Town's risk.

For those members who were not present at the March 24, 2009 meeting, Chairman Bourque reviewed the discussions at that meeting and noted that the current site plan is still in affect.

Ms. Alexander said that the Board could give JBI an unofficial approval to continue construction at JBI's risk since JBI understands that should the Board not approve the new site plan, the applicant would be required to remove all the work that they had done in order to bring it back to "square one". There will be a public hearing for the second site plan in the near future.

Mr. Bruss said that the full drainage report has been submitted and shows that there is no impact on the drainage for the 28' building addition.

Member Terrien inquired as to whether a course of action such as this, had ever been done before. Selectmen's Rep. Lewis replied that a similar unofficial approval was granted to Associated Grocers of New England when there became an issue with the parking lot retaining wall.

Ms. Alexander said that she quickly reviewed the package recently submitted by JBI and it appears to be complete. She stated that the names on the tax cards for parcels 24 and 25 which are being merged are identical and, therefore, has no further questions.

It was the consensus of the Board that JBI continue excavation and placement of the concrete for the foundation of the 28' x 60' addition at their own risk. JBI will send a letter to the Planning Board stating that they understand that the work will be done at JBI's risk.

**2. Steve Whitman, Jeffrey H. Taylor and Associates – Draft Open Space Development Ordinance, Phasing Regulations, and related Subdivision/Site Plan Review Regulations Revisions**

**Definitions:**

The Board agreed that a master definition section is desirable and an introductory phrase in the definition section should indicate that the definitions apply to all land use regulations.

The definition of non-buildable area was discussed at length. It was agreed that the term infers that a person cannot build in that area. Selectmen's Rep. Lewis said that the only time that an applicant would use the full definition of non-buildable area would be in the calculation of the number of units allowed on a piece of land. The term buildable area also has the same issue because it contains the language "slopes 15% or greater" which would be removed when preparing the calculations to ensure that a proper number of units are placed on the parcel.

Mr. Whitman suggested adding a statement that the definition of non-buildable and buildable areas are used for calculation purposes.

Ms. Alexander stated that the newest definition of contiguous buildable area is defined as: A contiguous area which consists of buildable area on a single lot, unfragmented by non-buildable area.

Member Krebs said that buildable area excludes soils defined as poorly drained, floodplains, slopes 15% or greater. It was his opinion that those areas are also excluded from the 70% contiguous buildable area. Selectmen's Rep. Lewis said that it is important to clarify the definition of buildable, non-buildable, and contiguous buildable areas. She said that if contiguous buildable area is separated by a wetland then the lot is nonbuildable, but not so if the contiguous buildable area is separated by 15% steep slopes.

The Board agreed to table the discussion on buildable vs. non-buildable vs. contiguous non-buildable area.

With regard to the highlighted definitions in Mr. Whitman's draft list of definitions, the Board asked that Mr. Whitman mark those definitions that appear in the zoning regulations. He will send a revised list to Ms. Alexander for distribution.

**Phasing:**

The Board agreed that the general phasing language be placed in the Zoning Regulations and the phasing guidelines be placed in other land use regulations. Vice Chairman Topliff suggested a list of criteria to ensure consistency in guiding the Board through the use of a conditional use permit such as showing the: (1) effect on the tax rate; (2) effect on the municipal services; (3) effect on the school system; (4) traffic impact; and (5)

other findings of fact. He also suggested that, depending on the upfront improvements which may be costly for the developer, the Board should have the option to allow the developer to build more homes in order to make it more feasible for him to move forward with the project.

It was agreed that:

- (1) a reference to the conditional use permit would be added in the phasing language
- (2) the word "eight dwelling units" would be replaced by "nine dwelling units" under Note (a)
- (3) Note (b) would read as follows: "(b) For atypical projects, such as elderly housing, mixed use, projects requiring a significant contribution to the infrastructure, and other unusual circumstances, the Planning Board is entitled to modify the phasing requirements, based on the size of the project and the potential impact on the Town and Town services."

The Board agreed that it would be helpful to the applicant to have examples of unusual circumstances that may allow the Board to modify the phasing numbers. It was also agreed that the applicant should explain why it would be necessary for the Board to adjust their phasing numbers for their particular project.

Mr. Whitman said that a conditional use permit at the Planning Board level would require more administrative work, but would provide a paper trail justifying the Board's discretionary decisions. It would also be helpful for future projects. An improved tracking system would have to be developed.

#### **Open Space Development Ordinance:**

The Board reviewed the new formula option on page 2.

It was agreed that IV. A 1 Calculation of Buildable (Useable) Land will read as follows: "The density requirement . . . district permits. The calculation of total useable land shall only include the portions of the parcel that meet the minimum contiguous buildable area for that district."

Member Cruson suggested that the Planning Board visit the sites of potential projects in order to become more familiar with the terrain and the surroundings.

Mr. Whitman suggested that the Board provide the applicant with the choice of using the Baseline Density Formula or the Yield Plan.

It was agreed that:

Section V. Dimensional Requirements, 3 b should read: "The developed area is well balanced with topography and other natural features of the lot; and"

The word "average" be removed from Section B 1 of Specifications for Individual Lots.

Mr. Whitman contacted the Department of Environmental Services (DES) in hopes of their providing him with editable copies of the diagrams that the Board approved at the last meeting.

The Board agreed that the following paragraph would be included in VI. C. of the Open Space Requirements as a guide to developers with regard to the ownership of open space land:

The consensus of the Board is to draft the ordinance to encourage private ownership of the open space land which would require the owner to be responsible for maintenance and monitoring of the land. If the land offered special characteristics or value as conservation land, the Conservation Commission and Planning Board would have the option to consider a conservation easement.

It was also concluded that the above paragraph should refer to the subdivision regulations for more detail. The following paragraphs would be added to the subdivision regulations:

The designated open space can be protected and controlled by one or more methods: (1) transfer to municipality as open space with public access or permanent deed restrictions or conservation easement; (2) transfer with permanent deed restrictions or conservation easement to a land trust or other recognized conservation organization; or (3) ownership by 1 or more private individuals, association, etc. For open space areas of less than 50 acres, ownership by one or more private individuals or legal entity may be desirable.

Suggested conditions of approval: (1) the applicant cannot subdivide the open space area; (2) specify the use of the open space land; (3) require a forestry management plan if the applicant wanted to continue to actively forest the property; and (4) the care and monitoring of the open space – whether by deed restriction which carries forward as a responsibility of the homeowner's association or, if it was part of a larger parcel of land (i.e. adjacent to another parcel of conservation land) responsibility may be carried to a local or regional land trust.

The Board would like Mr. Whitman to create guidelines for the Conceptual Review, Design Review, and Technical Review. Chairman Bourque will send Mr. Whitman the procedural document that was previously created.

Mr. Whitman gave the Board draft language for roadways for review. He suggested that the language be inserted in the Open Space Regulations.

Next meeting: Wednesday, April 22, 2009 from 6:30 to 8:30 p.m. at Town Hall. Ms. Alexander will not be available until May, 2009.

The Board recessed at 8:30 p.m.

The Board continued the meeting at 8:51 p.m.

### **Elections**

#### **3. Annual Election of Officers**

Member Terrien nominated Chairman Bourque as Chairman for another term. Seconded by Member Cruson. Chairman Bourque accepted the nomination. The Board unanimously approved Chairman Bourque as the Chairman for another term.

Chairman Bourque nominated Vice Chairman Topliff as Vice Chairman for another term. Seconded by Member Terrien. Vice Chairman Topliff accepted the nomination. The Board unanimously approved Vice Chairman Topliff as the Vice Chairman for another term.

**Discussion**

**4. 2009 Traffic Counts Selection**

The following roads were added to the 2009 Traffic Count Program Request: Turnpike Street at Glass Street; Front Street at West of Main Street; and Bow Lane at Rt. 3.

**5. Gravel Excavation Sites Bonds**

Ms. Alexander said the Town would like to establish an inventory of the gravel pits in Pembroke along with the following criteria: Establish the location of the pits, determine which ones are active, and whether or not the pits have reclamation plans and/or bonds. Selectmen’s Rep. Lewis said that all the pits listed on the report have a reclamation plan and are grandfathered so that they did not have to post a bond. She also stated that Plourde Sand & Gravel has the gravel rights to the D’Agonese and Keeler pit.

Since the documentation is missing, Vice Chairman Topliff suggested that a letter be sent to the gravel operators requesting copies of the missing documentation.

**6. Thresholds of Approved Site Plans and Subdivision Requiring a Return to the Board and Public Hearing**

**MOTION:** Member Terrien moved to table the discussion on the Thresholds of Approved Site Plans and Subdivision Requiring a Return to the Board and Public Hearing and discussions on the amendment of the definitions of buildable and non-buildable areas to the May 12, 2009 meeting. Seconded by Chairman Bourque.

**VOTE:**        Robert B. – N            Alan T. – Y            Jeff W. – Y            Cindy L. – Y  
                  Kevin K. – Y            Kathy C. – Y            Todd T. – Y

**MOTION TO TABLE THE DISCUSSION ON THE THRESHOLDS OF APPROVED SITE PLANS AND SUBDIVISION REQUIRING A RETURN TO THE BOARD AND PUBLIC HEARING AND DISCUSSIONS ON THE AMENDMENT OF THE DEFINITIONS OF BUILDABLE AND NON-BUILDABLE AREAS TO THE MAY 12, 2009 MEETING PASSED ON A 6-1 VOTE.**

**Minutes**

**7. Review and Approve Meeting Minutes of March 17, 2009**

**MOTION:** Member Terrien moved to approve the meeting minutes of March 17, 2009 as amended. Seconded by Selectmen’s Rep. Lewis.

**VOTE:**        Robert B. – Abstained    Alan T. – Y            Jeff W. – Abstained    Cindy L. – Y  
                  Kevin K. – Y            Kathy C. – Y            Todd T. – Y

**MOTION TO APPROVE THE MEETING MINUTES OF March 17, 2009 AS AMENDED PASSED ON A 5-0 VOTE WITH 2 ABSTENTIONS.**

## 8. Review and Approve Meeting Minutes of March 24, 2009

**MOTION:** Vice Chairman Topliff moved to approve the meeting minutes of March 24, 2009 as amended. Seconded by Member Terrien.

**VOTE:** Robert B. – Y                      Alan T. – Y              Jeff W. – Y                      Cindy L. – Y  
            Kevin K. – Y                      Kathy C. – Y              Todd T. - Y

**MOTION TO APPROVE THE MEETING MINUTES OF March 24, 2009 AS AMENDED PASSED ON A 7-0 VOTE.**

### Miscellaneous

#### 9. Correspondence – reminder: NH OEP Conference is on May 1!

- Letter from the Central New Hampshire Regional Planning Commission (CNHRPC) regarding appointment procedures for Planning Commission Representatives. Each town may elect two representatives. Pembroke's current representative is Member Cruson. Alternate Member White was interested in participating as a representative. Ms. Alexander will send him the application. The next CNHRPC meeting is June 11, 2009 at 7 p.m.
- Town of New Boston Zoning Board of Adjustment notification of a wireless tower applicant for Wilton Hill Road and Old Coach Road.
- The Pembroke newsletter deadline is May 8, 2009. Ms. Alexander will submit an advertisement for volunteers in the newsletter.
- Everett Hodge, Pembroke Code Enforcement Officer, is reviewing the single family residence driveway permit that was submitted to 518 Pembroke Street. The property contains an apartment and an office. Ms. Alexander will verify with Mr. Hodge that the sign at that property is legal.

Member Cruson will attend the New Hampshire OEP conference on May 1, 2009 in place of Member Zydel.

#### 10. Committee Reports

Chairman Bourque thanked those Board members who have been attending various committee meetings as representatives of the Planning Board.

Member Krebs reported that the Conservation Commission discussed the Pembroke Hill development project at its April 13, 2009 meeting. The applicant is presently proposing five houses. One house will be built on the entrance road and four will be built on the cul-de-sac. In order to reduce the amount of wetland crossing on one driveway, the Conservation Commission suggested that two homes share one driveway. The Commission will provide a report to the Planning Board.

Alternate Member Seaworth reported that the Roads Committee reviewed the Pembroke Hill development and suggested eliminating the cul-de-sac and connecting the road to the Pembroke Hill School road.

Member Cruson suggested that the Board determine the length of the longest driveway approved by the Board in similar developments as the proposed Pembroke Hill development. Selectmen's Rep. Lewis said that the Town has no maximum length for a driveway and that its length is determined by the safety standards set by the Fire Chief.

Ms. Alexander recommended a site walk at the Pembroke Hill Road project.

The road plan that was organized and budgeted last year will be sent out to bid. As much length of the sidewalk, as financially feasible, along Pembroke Street, north of Academy Road, will be upgraded.

Mr. Hodge will send notes to those Pembroke Street residences that have very large mailboxes.

#### **11. Other Business**

- a. April 28 Business Agenda – Knoll Crest did not submit materials, Thayer Corporation SPR, LTC Properties subdivision and wetlands SUP, Silver Hill Development/Dyer LLA, Silver Hill Development wetlands SUP

Ms. Alexander reported that Knoll Crest was given a deadline in February to submit material and talk with the Board. They were also sent a list of recommendations. They did not submit the necessary material by the deadline. Ms. Alexander has called them but still has not received documentation. She asked the Board for permission to contact Town Counsel for the correct protocols for the expiration of an approval. The Board agreed. Chairman Bourque asked Ms. Alexander to prepare information regarding the past history of the project, namely submissions and deadlines.

Agenda for April 28, 2009: (1) Thayer Corporation Aquifer District Special Use Permit and site plan for change of use on Riverwood Drive; (2) LTC Properties subdivision and wetlands Special Use Permit; (3) Silver Hill Development/Dyer lot line adjustment and wetlands Special Use Permit; (4) JBI Amendment, lot line merger, and Aquifer District Special Use Permit.

#### **Adjourn**

**MOTION:** Member Terrien moved to adjourn. Seconded by Member Krebs.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 9:43 p.m.

Respectfully submitted,  
Jocelyn D. Carlucci, Recording Secretary