

**Pembroke Planning Board  
Meeting Minutes  
August 23, 2022**

Approved September 27, 2022

**MEMBERS PRESENT:** Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Kathy Cruson, Brent Edmonds, Kevin Foss, Clint Hanson

**ALTERNATES PRESENT:** Bryan Christiansen

**MEMBERS EXCUSED:** Rick Frederickson, Selectmen's Rep

**STAFF PRESENT:** Carolyn Cronin, Town Planner; Susan Gifford Recording Secretary

Chairman Seaworth called the meeting to order at 6:32 pm. Six members and one alternate member were present. Planning Board Alternate members are unable to substitute for Selectmen's Rep. Selectmen appoint their own substitute.

**Old Business**

- 1. Major Site Plan Application #22-102, Scott Frankiewicz, New Hampshire Land Consultants, PLLC acting as Applicant on behalf of Kimball Street LLC, owner of Tax Map VE, Lot 132-1 located at 11-13 Kimball Street in the Business/Residential (B1) Zone, the Central Business District (B2) Zone, the Municipal Separate Storm Sewer System (MS4) District, and the Aquifer Conservation (AC) District.**

The Applicant proposes to construct a 6-unit residential development with associated parking and drainage to be served by town water and sewer.

➤ **Special Use Permit Application SUP-AC #22-307**

The Applicant requests a Special Use Permit in accordance with Article 143-68.E., Aquifer Conservation District, for residential use over the aquifer.

Present: Scott Frankiewicz, New Hampshire Land Consultants, PLLC for property owner Mike Gagne, Kimball Street, LLC

Planner Cronin noted that the Fire Department was satisfied with the plan changes to the parking area. After the July 26, 2022 meeting, the Planning Board requested that Mike Vignale, Town Engineer, perform a thorough review of driveway location and sight distance. Mike Vignale reviewed the sight distance memo submitted by the applicant and performed a field visit to observe existing conditions. Mr. Vignale issued a review letter dated August 8<sup>th</sup>, which indicates that a neighboring fence obscures driveway sight distance.

At 6:37 p.m. Chairman Seaworth opened the public hearing for Major Site Plan Application #22-102 and associated Special Use Permit Application SUP-AC-#22-307. If this business item is not resolved tonight, the application and the public hearing will be continued without being renoticed. Information will be on the town website for a future agenda item.

Members of the public who wish to speak should give their name and street address. The minutes are being recorded by a microphone in the ceiling. Please address all comments to the board or Chair.

Chairman Seaworth noted that the fence in question is not on the applicant's property. The fence is five feet into the Town right of way on a neighbor's property. Applicant provided photographs of the fence by the project, by the fence and below the fence. Member Cruson stated that she thought we were talking about the snow fence that will be removed and replaced with something better for pedestrian safety. Chairman Seaworth clarified this is a white fence that impacts sight distance looking to the right. The comment is from the Town Engineer's August 8, 2022 review letter. Chairman Seaworth pointed out that the applicant must receive a town driveway permit per regulations of Department of Public Works. If DPW denies the driveway permit the applicant comes back to the Planning Board.

Gerry Fleury, 20 Kimball St, stated that he reviewed KV Partners August 8 letter. Sight distance depends on the driver and vehicle height at line of vision. Traffic is posted 25 mph on Kimball Street but not enforced. Town trash barrels may also block sight distance. Three families across the street are entitled to six trash carts, regular and recycling. Carts must be placed within two feet of the curb or where directed by town. Carts should be placed two feet apart so six trash bins take up 34 feet of road frontage. At one point Kimball Street had sidewalks on both sides of the street. Where are people supposed to place trash bins? I have lived on Kimball Street for 47 years.

Chairman Seaworth noted that the snow fence will be removed and replaced with improved fencing by the applicant after grading work. After we hear from Board members and members of the public, we will discuss conditions. One might be "any site issues as described in Town Engineer's August 8, 2022 letter will be resolved."

Earl Phair, 179 Main Street, asked about the snow fence where property abuts Kimball Street. Chairman Seaworth noted that the snow fence will be removed and replaced with improved fencing for safety by the applicant after grading work is complete.

Theresa Phair, 179 Main Street, stated Main Street is currently full of workers and construction equipment. People are still driving faster than 25 mph. Parked cars impact the sight distance on Kimball Street.

Gerry Fleury, 20 Kimball Street, noted on page two of the engineer's letter it states it is the responsibility of the property owner to keep snow piles down, so they do not affect sight distances.

Member Cruson stated that she has been down to the site four times since the application was submitted. The last visit was today, and she had to access Kimball Street from the bottom. My concern is that I am seeing issues discussed at the June 14, 2022 TRC that are still not resolved. I would like this application to go back to Technical Review Committee again. I observed five trash containers placed on the snow fence side that blocked sight distance.

Planner Cronin explained that one TRC is held, and applications do not get sent back. If we have a specific question, I forward it to Police, DPW, Ambulance, Fire or the Department head who can resolve the question.

Chairman Seaworth stated that DPW issues town driveway permits in a separate process after the Planning Board application process. Member Cruson stated that Kimball Street is narrow and passing space is limited. The site is an unsafe location. Planner Cronin stated if it is a DPW matter, we send the issue to the Town Engineer to assist and coordinate with Police and DPW. Mike Vignale's August 8, 2022 letter was also sent to Police and DPW. As long as the fence obstruction is taken care of, department heads have no further issues.

Vice Chairman Bourque asked if the Planning Board can request that the applicant coordinate with the owner of the fence. When the Planning Board review draft conditions, they can discuss how to resolve issues in the Town Engineer's letter legally and appropriately. Member Cruson asked how a neighbor is sure that the issues are satisfied. Chairman Seaworth stated that if the Town Engineer is not satisfied with any resolution, the plan will not receive final approval. Member Cruson asked if KV Partners would be in touch with the resident. Chairman Seaworth said it is the applicant's responsibility to work with the owner and the town.

Patricia Panciocco, applicant's lawyer, stated that she came to tonight's meeting with Scott regarding the picket fence. This is the only issue identified as an impact to sight distance. Two other engineers besides the Town Engineer have reviewed sight distance at the site. The town must adopt a firm standard. It cannot be a sliding scale based on the vehicle that you drive. There is a lack of speed and parking enforcement in this area. This is a matter for the Board of Selectmen to address. The fence is five feet into the town right of way, owned by the public, encroaching into public space. The town has an obligation to protect safe travel. It is incumbent on the town to act. We cannot take the property owner's fence down. We do need a level of cooperation to make optimal sight distance. We can assist with moving the fence out of sight distance. It is an older fence, and it may deteriorate when moved but we are willing to do the work. Can the Planning Board help me?

Chairman Seaworth stated this meeting is not the venue to address the fence issue. The Planning Board can hold off deciding on the application until we know there is a solution.

Patricia Panciocco stated if we cannot create communication, we cannot resolve the issue. Chairman Seaworth stated I do not feel comfortable engaging in that level of negotiation. We can discuss rewording of conditions later in the meeting. Vice Chairman Bourque stated the Planning Board needs to stay out of it. The issue is between applicant and the property owner next door, as a civil issue. Planning Board does not need to be in the middle. Member Edmonds agrees. DPW, the Town Engineer and the owner of the fence need to be involved in that discussion. It is not the Planning Board's job to clear up right of way issues.

Applicant stated they are willing to build a new fence for the property owner five feet back from the right-of-way. Property owner just found out about the fence. Traffic Engineer Steve Pernaw did not say the picket fence was impacting the sight line in his report.

Chairman Seaworth stated that the Planning Board absolutely supports a clean and quick resolution. The applicant asked when the condition is applied. It is binding but will it prevent recording the plan? Planner Cronin suggested tying the Town Engineer comment in with the town driveway permit. Planner Cronin suggested that prior to building permit, the Town Engineer comment shall be resolved. We rely on the Town Engineer to notify the Planning department when the comment is satisfied.

Gerry Fleury, 20 Kimball Street, stated that minimum driver and vehicle height for sight distance measurement should be standard at 1.5 feet.

Chairman Seaworth asked Planner Cronin to review the draft conditions. We are still in public hearing so we can have conversation with the applicant. On condition #3 we want to add "Prior to building permit." Vice Chairman Bourque suggested the Town Engineer approve the new snow fence on the front property line for pedestrian safety. Member Cruson asked if DPW will move their "Blind Driveway" sign. Chairman Seaworth noted signage is part of the town driveway permit process. Member Foss stated that he is reaffirming that issues of speed and parking enforcement should be reported to the Pembroke Board of Selectmen. That is correct.

Patricia Panciocco asked if approval letters from Sewer Commission and Pembroke Water Works must be submitted. Yes. Member Cruson asked if draft condition could include all comments mentioned regarding water and sewer at Technical Review Committee.

Planner Cronin reviewed the suggested conditions of approval.

At 7:40 pm Chairman Seaworth closed the public hearing for tonight.

Chairman Seaworth noted that if this application is not completed tonight, the application and its public hearing will be continued to a future meeting and not renoticed. Planning Board discussed the worksheet for findings of fact. A letter in support of special use permit Aquifer Protection was received from the Health Officer and Pembroke Water Works.

**MOTION:** Vice Chairman Bourque moved to approve Special Use Permit SUP-AC #22-307 conditionally until Major Site Plan #22-102 has received final approval, at which time the Special Use Permit becomes final for as long as the plan is approved. If at any time the plan is revoked or final approval is not received, the Special Use Permit becomes invalid. Seconded by Member Foss.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y K. Cruson – Y

**MOTION TO APPROVE SUP-AC-#21-307 WITH CONDITIONS PASSED ON A 6-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to approve Major Site Plan Application #22-102 with the following conditions:

1. All waivers and the date granted shall be listed on the plan.
2. All conditions of approval shall be listed on the plan.
3. Prior to building permit, any sight distance issues, as described in the Town Engineer's review letter dated August 8, 2022, shall be resolved.

4. The original signatures of all property owners shall be provided on the final plan.
5. The Site Plan Review and Special Use Permit Notices of Decision are to be recorded at the Merrimack County Registry of Deeds and recording fees paid to Town of Pembroke.
6. In accordance with the Town of Pembroke MS4 Ordinance, the owner shall record at the Merrimack County Registry of Deeds documentation sufficient to provide notice to all persons that may acquire the property the responsibilities described in the approved stormwater management plan. A copy of the recorded document shall be provided to the Planning Department and Building Inspector. If the Registry of Deeds will not record the document, then the recorded Notice of Decision shall serve as evidence that a Stormwater Management Plan is on file with the Town.
7. In accordance with the Town of Pembroke MS4 Ordinance, the Notice of Decision shall be attached to the property deed and apply to all persons that may acquire the property.
8. Town of Pembroke Sewer approval is required.
9. Pembroke Water Works approval is required.
10. Town Driveway Permit is required.
11. The site plan will not be considered as receiving final approval until all conditions of approval are met.
12. All building plans to be reviewed by the Building Inspector and Fire Chief.
13. Building permits are required.
14. The new pad mount transformer shall have a secondary containment system.
15. The Applicant shall replace the fence along the front property line for the purpose of pedestrian safety subject to the Town Engineer's approval.

Seconded by Member Foss.

**VOTE:**            B. Seaworth – Y                      K. Foss – Y    C. Hanson - Y  
                          B. Edmonds - Y                      R. Bourque – Y            K. Cruson – NO

**MOTION TO APPROVE MAJOR SITE PLAN APPLICATION #22-102 WITH CONDITIONS PASSED ON A 5-1-0 VOTE.**

1. ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.
2. ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.
3. PRIOR TO BUILDING PERMIT ANY SIGHT DISTANCE ISSUES, AS DESCRIBED IN THE TOWN ENGINEER'S REVIEW LETTER DATED AUGUST 8, 2022, SHALL BE RESOLVED.
4. THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.
5. THE SITE PLAN REVIEW AND SPECIAL USE PERMIT NOTICES OF DECISION ARE TO BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AND RECORDING FEES PAID TO TOWN OF PEMBROKE.
6. IN ACCORDANCE WITH THE TOWN OF PEMBROKE MS4 ORDINANCE, THE OWNER SHALL RECORD AT THE MERRIMACK COUNTY REGISTRY OF DEEDS DOCUMENTATION SUFFICIENT TO PROVIDE NOTICE TO ALL PERSONS THAT MAY ACQUIRE THE PROPERTY THE RESPONSIBILITIES DESCRIBED IN THE APPROVED STORMWATER MANAGEMENT PLAN. A COPY OF THE RECORDED DOCUMENT SHALL BE PROVIDED TO THE

**PLANNING DEPARTMENT AND BUILDING INSPECTOR. IF THE REGISTRY OF DEEDS WILL NOT RECORD THE DOCUMENT, THEN THE RECORDED NOTICE OF DECISION SHALL SERVE AS EVIDENCE THAT A STORMWATER MANAGEMENT PLAN IS ON FILE WITH THE TOWN.**

- 7. IN ACCORDANCE WITH THE TOWN OF PEMBROKE MS4 ORDINANCE, THE NOTICE OF DECISION SHALL BE ATTACHED TO THE PROPERTY DEED AND APPLY TO ALL PERSONS THAT MAY ACQUIRE THE PROPERTY.**
- 8. TOWN OF PEMBROKE SEWER APPROVAL IS REQUIRED.**
- 9. PEMBROKE WATER WORKS APPROVAL IS REQUIRED.**
- 10. TOWN DRIVEWAY PERMIT IS REQUIRED.**
- 11. THE SITE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.**
- 12. ALL BUILDING PLANS TO BE REVIEWED BY THE BUILDING INSPECTOR AND FIRE CHIEF.**
- 13. BUILDING PERMITS ARE REQUIRED.**
- 14. THE NEW PAD MOUNT TRANSFORMER SHALL HAVE A SECONDARY CONTAINMENT SYSTEM**
- 15. THE APPLICANT SHALL REPLACE THE FENCE ALONG THE FRONT PROPERTY LINE FOR THE PURPOSE OF PEDESTRIAN SAFETY SUBJECT TO THE TOWN ENGINEER'S APPROVAL.**

### **New Business**

- 2. Major Site Plan Application #22-103, Kent Brown, Brown Engineering, LLC acting as Applicant on behalf of Blue Box, LLC, owner of Tax Map 561, Lot 9 located at 65 Sheep David Road in the Commercial/Light Industrial (C1) Zone and the Aquifer Conservation (AC) District.**

The Applicant proposes to develop the site for use as a Blue Box storage unit facility, including new pavement and stormwater improvements.

➤ **Special Use Permit Application SUP-AC #22-311**

The Applicant requests a Special Use Permit in accordance with Article 143-68.E., Aquifer Conservation District, for storage use over the aquifer.

Present: Mario Focareto, Brown Engineering, LLC and owner Mark McDonough, Blue Box, LLC

Planner Cronin reported that the owner bought the property earlier this year and was issued a temporary (12 month) storage permit by the Code Enforcement Officer in accordance with Zoning §143-39. The permit was needed to store the pods while the site plan engineering was completed. The submitted site plan includes paving, drainage, lighting, a gate, and the layout of the storage pods. No buildings are proposed.

A TRC meeting was held on August 9, 2022. Site security, lighting, and fencing were discussed. The Health Officer and Pembroke Water Works reviewed the application for the aquifer and had no concerns.

At their August 15<sup>th</sup> meeting, the Conservation Commission noted that there was work shown within the wetland buffer. The wetland buffer was originally drawn at the former 20 feet, so the applicant was notified, and they revised the plan to show the 50-foot buffer and remove any encroachments.

Planner Cronin confirmed the checklist waiver requests appear to be appropriate as they are not applicable to the project. This is the first time the property has been developed so it is a major site plan, but there are no buildings proposed, which is why there are so many waiver requests. Many checklist items are applicable to a large-scale development. Vice Chairman Bourque asked about Item C. on the Wetlands Special Use Permit checklist. Planner Cronin clarified that the applicant is not applying for a special use permit for wetlands protection. Applicant has provided a plan that meets zoning requirements.

The plans were revised to reflect the 50-foot wetland buffer per Conservation comments. There was one engineering comment about restoring the buffer to a natural state. The Applicant submitted the following waiver requests: Part A. General Information: F. Building square footage, G. Building height, H. Fire or security alarms, I. Storage of hazardous material, J. Provisions for trash, K. Potential hazards, L. Multifamily housing, N. Landscaping, Q. MSDS; Part B. Site Plan Information: B.(6) Proposed buildings, B.(7) Open space, B.(11) Proposed streets, B.(16) Test pits, B.(20) Easements, B.(21) Sewer and water lines, and Part C. Construction Plans: B. Roadway profiles and C. Roadway cross-sections.

**MOTION:** Member Edmonds moved to grant the waiver requests for checklist items Part A. Items F, G, H, I, J, K, L, N and Q; Part B. Items B.(6), B.(7), B.(11), B.(16), B.(20), and B.(21); and Part C. Items B. and C.

Seconded by Vice Chairman Bourque.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y K. Cruson – Y

**MOTION TO GRANT THE WAIVER REQUESTS AS LISTED ABOVE PASSED ON A 6-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to accept the application as complete.

Seconded by Member Foss.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y K. Cruson – Y

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

At 7:56 p.m. Chairman Seaworth opened the public hearing on Major Site plan application #22-103 and SUP-AC-#22-311. If this business item is not resolved tonight, the application and the public hearing will be continued without being renoticed. Information will be on the town website for a future agenda item.

Chairman Seaworth turned the meeting over to the applicant for presentation.

Mark McDonough stated that himself and his brothers own and operate several storage depots. This site would be a depot for containers. Mark McDonough stated they are very

grateful to have the opportunity to appear at Planning Board, and to have received a temporary permit from the Code Enforcement Officer in order to get the application filed. Mario Focareto, engineer, stated that the applicant implemented a treatment swale to catch any contamination and recharge groundwater. The swale is three times larger than what is required.

Member Edmonds asked, when storage units are retrieved from customers, is any maintenance needed to reuse the container? Mark McDonough stated the most pods are clean and ready to reuse. Some pods need to be swept out. No sanitizing is needed, and no spills have happened to date. Vice Chairman Bourque asked if the containers are empty when they are returned to the depot. Mark McDonough responded most pods are empty when returned. The depot is designed to make logistic deliveries easier. We also have full storage buildings with a Blue Box pod depot attached. Right now, my driver comes from Sunapee, NH to deliver pods. Vice Chairman Bourque stated that having some filled containers on site is a change from the TRC statement that no filled containers would be kept on site. Mark McDonough stated that on occasion, a filled pod would be on site on a temporary basis. Temporary means a week or less. No one pays rent for storage on this site.

Chairman Seaworth stated that Pembroke does have retail storage locations and some of these are in the Aquifer Conservation District. There is a provision in their contract that no hazardous materials may be stored. What is your policy if the contract is violated and there is a spill. Mark McDonough stated that our customer contracts prohibit storage of any hazardous materials in the pod. We have been in business for 25 years and have had no spills. Vice Chairman Bourque asked if anyone is monitoring what is loaded into the container. Chairman Seaworth noted we ask that any facility in the aquifer conservation district have a spill prevention plan in place for its employees. Mark McDonough stated that spill plans are in effect at physical storage buildings. We want to be good corporate citizens. Vice Chairman Bourque noted that we need to receive a list of persons who have the knowledge and materials on site to absorb any spill. We also need a list of who to notify for various events. Mark McDonough stated that the pods contain mostly home furnishings.

Chairman Seaworth stated that where hazardous materials are prohibited, the facility must have a spill prevention plan and provide a copy to the town. Member Foss asked where would applicant store a spill plan and materials on an unmanned site? Mark McDonough stated we have a designated 8' x 8' job box to store our tools on site. We can store prevention plan and materials in that box. Member Cruson stated that the Police Department recommended putting 'No Trespassing' signs on the property. Mark McDonough stated that we lock all boxes and pods, even empty ones, and we don't mind putting up the signage as advised. Chairman Seaworth noted that the typical plan shows stacks of boxes two pods high. A plan amendment would be needed for change to the layout, but we would rather avoid having you re-file a new application every time you rearrange the layout of the boxes. Mark McDonough stated that we believe stacks of pods three high is a hazard. We plan to stack pods two high and we intend to stick with the plan. Member Cruson noted details of the site layout should be in the meeting minutes and provided to staff for future reference when staffing changes. Mark McDonough stated



we will keep the passageways and distance between stacks safe for access. We have three different drivers and forklift operators who work individually on site. Vice Chairman Bourque stated two units high is plenty for stacks. Mark McDonough stated he agrees three stacked containers are too dangerous and a liability to the company. Planner Cronin asked if there is a change to the site layout, would it need review by Code Enforcement and Fire. The goal is to maintain safe access.

Planner Cronin reviewed the suggested conditions of approval. The first five conditions are boilerplate and #6 is a specific comment from the Town Engineer. Planner Cronin suggested language for four additional conditions including submitting a copy of customer contract, and spill prevention kit shall be stored on site. Mark McDonough thanked the Planning Board for having him tonight.

There being no further input Chairman Seaworth closed the public hearing at 8:28 p.m. for tonight. Chairman Seaworth noted that if this application is not completed tonight, the application and its public hearing will be continued to a future meeting and not renoticed. Planning Board discussed the worksheet for findings of fact. A letter in support of special use permit Aquifer Protection was received from the Health Officer and Pembroke Water Works.

**MOTION:** Vice Chairman Bourque moved to approve Special Use Permit SUP-AC #22-311 conditionally until Major Site Plan #22-103 has received final approval, at which time the Special Use Permit becomes final for as long as the plan is approved. If at any time the plan is revoked or final approval is not received, the Special Use Permit becomes invalid. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y K. Cruson – Y

**MOTION TO APPROVE SUP-AC-#22-311 WITH CONDITIONS PASSED ON A 6-0 VOTE.**

#### Site Plan:

**MOTION:** Member Foss moved to approve Major Site Plan Application #22-103 with the following conditions:

1. All waivers and the date granted shall be listed on the plan.
2. All conditions of approval shall be listed on the plan.
3. The original signatures of all property owners shall be provided on the final plan.
4. The Site Plan Review and Special Use Permit Notices of Decision are to be recorded at the Merrimack County Registry of Deeds and recording fees paid to Town of Pembroke.
5. The site plan will not be considered as receiving final approval until all conditions of approval are met.
6. In accordance with the Town Engineer's review letter dated August 17, 2022, the area of the property in the wetland buffer must be restored to a natural state, which includes removing any gravel surfaces and recreating the natural buffer.
7. The Town shall retain a copy of the customer contract on file, which explains that storage of hazardous materials is prohibited.

8. A spill prevention kit shall be stored onsite.
9. Boxes shall not be stacked more than two high.
10. Box layout onsite shall maintain safe access.

Seconded by Vice Chairman Bourque.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson – Y  
B. Edmonds – Y R. Bourque – Y K. Cruson – Y

**MOTION TO APPROVE MAJOR SITE PLAN APPLICATION #22-102 WITH CONDITIONS PASSED ON A 6-0 VOTE.**

1. ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.
2. ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.
3. THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.
4. THE SITE PLAN REVIEW AND SPECIAL USE PERMIT NOTICES OF DECISION ARE TO BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AND RECORDING FEES PAID TO TOWN OF PEMBROKE.
5. THE SITE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.
6. IN ACCORDANCE WITH THE TOWN ENGINEER'S REVIEW LETTER DATED AUGUST 17, 2022, THE AREA OF THE PROPERTY IN THE WETLAND BUFFER MUST BE RESTORED TO A NATURAL STATE, WHICH INCLUDES REMOVING ANY GRAVEL SURFACES AND RECREATING THE NATURAL BUFFER.
7. THE TOWN SHALL RETAIN A COPY OF THE CUSTOMER CONTRACT ON FILE, WHICH EXPLAINS THAT STORAGE OF HAZARDOUS MATERIALS IS PROHIBITED.
8. A SPILL PREVENTION KIT SHALL BE STORED ONSITE.
9. BOXES SHALL NOT BE STACKED MORE THAN TWO HIGH.
10. BOX LAYOUT ONSITE SHALL MAINTAIN SAFE ACCESS.

**3. Minor Site Plan Application #22-104, Pembroke Golf, LLC, owner of Tax Map 634, Lot 2 located at 45 Whittemore Road in the Medium Density Residential (R1) Zone, the Aquifer Conservation (AC) District, and the Wetlands Protection (WP) District.**

The Applicant proposes a new driving range, including a new cart path and site grading.

➤ **Special Use Permit Application SUP-AC #22-312**

The Applicant requests a Special Use Permit in accordance with Article 143-68.E., Aquifer Conservation District, for golf use over the aquifer.

➤ **Special Use Permit Application SUP-WP #22-313**

The Applicant requests a Special Use Permit in accordance with Article 143-72.D.(3), Wetlands Protection District, for impacts to the wetland buffer.

Present: Tim Peloquin, Promised Land Survey; Robert MacCormack, Pembroke Golf, LLC, Jordan Young, Atlantic Civil Engineering.

Planner Cronin reported that the applicant went before the Zoning Board earlier this year for a Special Exception to relocate the driving range from its current location to across street where the new clubhouse is being built. In February 2022, the Special Exception was granted. The applicant proposes to construct a new driving range which involved regrading and constructing a new cart path. No buildings are proposed. A TRC meeting was held on August 9, 2022. Landscape buffering for safety and wetland buffer impacts were discussed. The Town Engineer issued a review letter dated August 17, 2022. The Health Officer and Pembroke Water Works reaffirmed their comments from the Special Exception and have no concerns in the aquifer. The Conservation Commission reviewed the plan at their August 15<sup>th</sup> meeting and expressed concern that the proposed path does not even meet the former 20 foot buffer. They would like to see some alternatives considered to relocate the cart path further away from the wetland. The Board should discuss the comments from the Conservation Commission and the Town Engineer's letter. The checklist waiver requests are appropriate as they are not applicable to the project: Part A. General Information: D. Building square footage, I. Owner authorization, and M. MSDS.

**MOTION:** Vice Chairman Bourque moved to grant the waiver requests for checklist items Part A. Items D., I., and M.

Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y K. Cruson – Y

**MOTION TO GRANT THE WAIVER REQUESTS AS LISTED ABOVE PASSED ON A 6-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to accept the application as complete.

Seconded by Member Foss.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y K. Cruson – Y

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

At 8:40 p.m. Chairman Seaworth opened the public hearing on Minor Site plan application #22-104, SUP-AC-#22-312 and SUP-WP-#22-313. If this business item is not resolved tonight, the application and the public hearing will be continued without being renoticed. Information will be on the town website for a future agenda item.

Chairman Seaworth turned the meeting over to the applicant for presentation. Tim Peloquin, Promised Land Survey; Jordan Young, Atlantic Civil Engineering; and Bob MacCormack, owner; were present.

Tim Peloquin, Promised Land Survey, stated that we have been talking about a driving range since 2018 when a lot line adjustment was executed under development of Pembroke Golf, LLC. There was always a plan to have a driving range on the side where the new multi-million dollar clubhouse is under construction. Once the new clubhouse opens next year, the old clubhouse and driving range across the street will be taken down and the driving range moved across the street. The separate cart path is a solution to a safety issue. Golf balls currently fly off the 10<sup>th</sup> tee toward the 10<sup>th</sup> hole. There is potential

to slice balls. Our intent is to move the cart path as far over as possible without affecting a wetland disturbance. We guarantee minimum 10 feet separation to the wetlands for a 140-foot section. Our previous certified wetland scientist has retired, and we have hired a new one. We want to bring the path as close as possible without impacting wetlands. Throughout the golf course there are cart paths. The paths receive careful maintenance, and no fertilization will occur from the path to the wetlands. Member Foss asked if there was any option for safety devices to obtain greater than 20 feet separation from the wetlands. Tim Peloquin stated the new clubhouse will have a deck in the back the developer does not want to install fencing. The developer will ensure no impact to wetlands at all. Safety measures will be in place.

Vice Chairman Bourque stated that 10 feet separation from the wetland buffer is not adequate. 20 feet separation is reasonable. Chairman Seaworth noted that at Technical Review Committee and Conservation Commission discussions, several areas were suggested where the path could be moved away from the wetlands. Tim Peloquin stated that the next closest area, aside from two small sections at 10 feet, is 15 feet from the wetland buffer. Tim Peloquin confirmed the cart path is approximately 500 feet total. Only 140 feet is within 10 feet of wetland buffers. Vice Chairman Bourque pointed out the hash marked section on the plan that indicates 10-foot wetland buffer separation. Tim Peloquin stated that the area is a large forested, seasonal wetland. We are asking for 10-foot separation in two small sections. There is 20 feet or greater separation at every other point. Member Cruson stated that Pembroke requires 50-foot wetland buffers. Why would we accept 10 feet?

Chairman Seaworth stated that the Wetland Protection District requires a 50-foot wetland buffer. If an applicant had an approved wetland crossing from NH DES, we would accept that. If waiving the 50-foot wetland buffer, what is a reasonable amount of buffer? Conservation Commission noted that 20 feet was the previous wetland buffer, and the applicant is requesting 10 feet wetland buffer.

Member Foss stated the 50 feet versus 20-foot wetland buffer question was brought to the Conservation Commission by the applicant. The Conservation Commission worked very hard to increase the wetland buffer to 50 feet. Any buffer less than 50 feet goes against the mission of the Conservation Commission. The Conservation Commission would strongly see a 10-foot wetland buffer as unacceptable. The applicant does not want to put fencing up. I would argue the stand against fencing is for aesthetic purposes.

Bob MacCormack stated that looking at it as a person on the driving range, and as a person on the existing golf course, there is a ninety-degree corner at the trees. We had the cart path on the 2018 plan, and we have moved it 200 feet away from the planned location. Mr. MacCormack stated it is still feasible to move the driving range to its original position, but it would require a state wetland crossing permit. We cannot impact the wetlands by law, and the area will be landscaped. There are two small pieces of the cart path, about 100 feet in total, which would be 10 feet from the wetland buffer. We did think about it in depth. We could have 120 feet of direct wetlands impact, or 140 feet impact to a wetland buffer. A bridge for a wetland crossing would require 100 feet of wetlands impact on one side and 50 feet wetlands impact on the other side of the bridge. Member

Edmonds asked if there was any discussion at Conservation Commission about mitigation. There was no discussion. Member Edmonds asked if applicant would entertain a compromise.

Bob MacCormack stated that a 15.5-acre land donation to the Town of Pembroke, down by the Merrimack River and White Sands Conservation, area is in process. The hatched area parallel to the river shows the boundaries and the rail trail runs north from that point. Mr. MacCormack stated there is an attempt by us to mitigate our development. Thirty-three acres was donated during Pembroke Pines Phase I, plus this 15.5-acre donation separate from this shows good stewardship on the developer's part. Member Cruson asked what a physical barrier to stop golf balls would look like. Bob MacCormack stated it could be a large fence, fifty feet tall. The fencing would hurt the 10<sup>th</sup> hole and there is no room for a barrier. I would go to NH DES for a wetland crossing before installing a physical barrier. Bob MacCormack will perform whatever measures are needed for safety.

Tim Peloquin noted there are only two small sections of peripheral forested wetland buffer that would have the 10-foot separation. Planner Cronin reviewed the suggested conditions of approval. It is possible to add a condition to the Special Use Permit Wetland Protection that would grant a waiver from the 50-foot wetland buffer. Chairman Seaworth noted that if we take the special use permit vote and deny, plan changes would be needed. If that motion fails, we could continue the public hearing without taking a denial vote so the applicant can work on another proposal and take a vote at the next meeting. Design changes could require more review. Tim Peloquin stated that at the two closest points, the separation from wetland buffer is 10 feet. We could split the difference and agree on 15 feet setback from the wetland buffer. Vice Chairman Bourque stated that 15 feet setback from the wetland buffer is a fair compromise. Tim Peloquin clarified that the cart path is 10 feet wide, and the cart is 4.5 feet wide. Chairman Seaworth stated that a condition on the special use permit could be that the minimum distance between vegetated edges of the wetland buffer and pavement edge of cart path shall be 15 feet.

Member Cruson left the meeting at 9:20 p.m. Chairman Seaworth designated Bryan Christiansen to vote for Kathy Cruson for the remainder of the meeting.

There being no further input Chairman Seaworth closed the public hearing at 9:25 p.m. for tonight. Chairman Seaworth noted that if this application is not completed tonight, the application and its public hearing will be continued to a future meeting and not renoticed.

Planner Cronin noted that a condition regarding wetland buffers could be done as part of the Special Use Permit Wetland Protection, and the site plan approval. Chairman Seaworth clarified that the Special Use Permit process allows the Planning Board to modify wetland buffers as needed. A few years ago, development was based on 20-foot wetland buffers. Recently buffers were extended to 50 feet. Planning Board discussed 20-foot buffers. With applicant, 15-foot wetland buffers were discussed. As an expert opinion the Planning Board relies on the Conservation Commission to understand intent and goals of the wetland ordinance. Board consensus is to vote on a Special Use Permit specifying no less than 15-foot wetland buffer.

**MOTION:** Vice Chairman Bourque moved to approve Special Use Permit SUP-AC #22-312 conditionally until Minor Site Plan #22-104 has received final approval, at which time the Special Use Permit becomes final for as long as the plan is approved. If at any time the plan is revoked or final approval is not received, the Special Use Permit becomes invalid. Seconded by Member Edmonds.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y B. Christiansen – Y

**MOTION TO APPROVE SUP-AC-#22-312 WITH CONDITIONS PASSED ON A 6-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to approve Special Use Permit SUP-WP #22-313 conditionally until Minor Site Plan #22-104 has received final approval, at which time the Special Use Permit becomes final for as long as the plan is approved. If at any time the plan is revoked or final approval is not received, the Special Use Permit becomes invalid. This Special Use Permit permits impacts to the wetland buffer. The distance between the delineated wetland edge and the pavement edge shall be no less than 15 feet.

Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y B. Christiansen – Y

**MOTION TO APPROVE SUP-WP-#22-313 WITH CONDITIONS PASSED ON A 6-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to approve Minor Site Plan Application #22-104 with the following conditions:

1. All waivers and the date granted shall be listed on the plan.
2. All conditions of approval shall be listed on the plan.
3. Prior to signature, the plans shall be revised to address all review comments from the Town Engineer and any applicable concerns and issues.
4. The original signatures of all property owners shall be provided on the final plan.
5. The Site Plan Review and Special Use Permit Notices of Decision are to be recorded at the Merrimack County Registry of Deeds and recording fees paid to Town of Pembroke.
6. AOT Permit is required.
7. The site plan will not be considered as receiving final approval until all conditions of approval are met.
8. The plan shall be revised in accordance with the conditions of Wetlands Special Use Permit #22-313.

Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y K. Foss – Y C. Hanson - Y  
B. Edmonds - Y R. Bourque – Y B. Christiansen – Y

**MOTION TO APPROVE MINOR SITE PLAN APPLICATION #22-104 WITH CONDITIONS PASSED ON A 6-0 VOTE.**

1. ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.
2. ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.

3. **PRIOR TO SIGNATURE, THE PLANS SHALL BE REVISED TO ADDRESS ALL REVIEW COMMENTS FROM THE TOWN ENGINEER AND ANY APPLICABLE CONCERNS AND ISSUES.**
4. **THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.**
5. **THE SITE PLAN REVIEW AND SPECIAL USE PERMIT NOTICES OF DECISION ARE TO BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AND RECORDING FEES PAID TO TOWN OF PEMBROKE.**
6. **AOT PERMIT IS REQUIRED.**
7. **THE SITE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.**
8. **THE PLAN SHALL BE REVISED IN ACCORDANCE WITH THE CONDITIONS OF WETLANDS SPECIAL USE PERMIT #22-313.**

**MOTION:** Vice Chairman Bourque moved to waive the rest of the agenda (other than Planner Items) to a future meeting.

Motion is withdrawn due to no second.

### **Minutes**

August 9, 2022

**MOTION:** Member Foss moved to approve the August 9, 2022 minutes as presented. Vice Chairman Bourque seconded.

**VOTE:** B. Seaworth – Y                      C. Hanson – Y                      K. Foss - Y  
                  B. Edmonds - Y                      R. Bourque – Y                      B. Christiansen-Y

**MOTION TO APPROVE AUGUST 9, 2022 MINUTES AS PRESENTED PASSED ON A 6-0 VOTE.**

### **Miscellaneous**

1. Correspondence – none
2. Committee Reports – Member Foss noted that CIP met with the School District. TRC – Vice Chairman Bourque stated that TRC was held at the beginning of the month.
3. Other Business - none
4. Planner Items – Planner Cronin noted that she is on vacation next week.
5. Board Member Items – none
6. Audience Items - none

**MOTION:** Vice Chairman Bourque moved to adjourn the meeting. Seconded by Member Edmonds.

Without objection the meeting was adjourned at 9:39 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary