

**Pembroke Planning Board  
Meeting Minutes  
ADOPTED  
February 28, 2017**

**MEMBERS PRESENT:** Alan Topliff, Chairman; Brian Seaworth, Vice Chairman; Larry Young, Sr.; Kathy Cruson; Brent Edmonds; Richard Bean; Vincent Greco, Selectmen's Rep.

**ALTERNATES PRESENT:** Robert Bourque

**EXCUSED:**

**STAFF PRESENT:** Stephanie Verdile, Town Planner; Jocelyn Carlucci, Recording Secretary; James Boisvert, Director of Public Works

Chairman Topliff called the meeting to order at 7:00 pm.

**Old Business-**

- 1. Special Use Permit Application, SUP-WP #16-312, Ross E. Williams Family Limited Partnership, owner of Tax Map 937, Lot 1, located at 339 North Pembroke Rd. in the Rural/Agriculture-Residential (R3) Zone and in the Wetlands Protection (WP) Overlay District,** The applicant, Timothy Bernier of T.F. Bernier, Inc. on behalf of the property owner Ross E. Williams Family Limited Partnership, requests a Special Use Permit from Article 143.72. D (2), Wetlands Protection District, which is required for the construction of streets, roads, and other access ways and utility rights-of-way, if essential to the productive use of adjoining land. This permit is associated with the Major Subdivision Plan application. Sub #16-07. Continued from January 24, 2017
- 2. Minor Subdivision Application, #16-07 Ross E. Williams Family Limited Partnership, owner of Tax Map 937, Lot 1, located at 339 North Pembroke Rd. in the Rural/Agriculture-Residential (R3) Zone and in the Wetlands Protection (WP) Overlay District,** The applicant, Timothy Bernier of T.F. Bernier, Inc. on behalf of the property owner Ross E. Williams Family Limited Partnership, proposes a minor subdivision for three (3) lots ranging in size from approximately 22 acres to approximately 2.0 acres. Continued from January 24, 2017

**Present:** Tim Bernier of T. F. Bernier, Inc. and Doug Ricard, Realtor representing the Ross E. Williams Family

Chairman Topliff said that, at the last meeting, the Board accepted the application as complete, and had a public hearing. There were a few questions regarding drainage, driveway sight distance and other details about the land. The Board continued consideration of the application in order to allow the Planner the opportunity to gather additional information and for members of the Board to walk the property.

Chairman Topliff reopened the public hearing at 7:02 p.m.

Mr. Bernier said that the subdivision was located on N. Pembroke Road, across from Hardy Road. The parent track, consists of 37.391 acres and an existing house. The

Applicant proposes to subdivide the house along with 2.682 acres, with approximately 304 ft. of frontage on N. Pembroke Road, and to create 2 new building lots. The first lot will consist of 22.7 acres with 292 ft. of frontage. The second lot will have 12 acres with approximately 310 ft. of frontage. Frontage for both lots are along N. Pembroke Road.

He said that one of the lots has a drainage way that crosses the property. A wetland crossing was required and, since there was an existing wetland crossing on the wood road with a 12" gravel culvert, the Applicant decided to use that wetland crossing rather than creating another disturbance. An 18" culvert will replace the 12" existing culvert for better flow. Mr. Bernier said that they have received the wetlands permit.

The existing house lot required State Subdivision Approval since it was less than 5 acres. They have received the Approval. The remaining lots are over 5 acres and did not require State Subdivision Approval.

Mr. Bernier said that, at the last meeting, there were questions regarding drainage and sight distance at the driveway. He said that he visited the lot twice to review his findings. Mr. Bernier said that the drainage that he spoke of at the last meeting is road-related. There is an existing culvert that crosses the road. Roadside ditches drain into the culvert.

He said that all the houses around the proposed subdivision were built lower than the road. There is not a decent drainage ditch at that location. When there is water flow from the culvert, the flow is higher than the yards of the surrounding houses.

The proposed subdivision is considerably lower than the existing culvert. Anything that is proposed will have no drainage to that culvert.

With regard to sight distance, Mr. Bernier said that when he looked right coming out of the driveway, there is an oak tree and a little brush which he could see through. He picked a distance where he could see cars coming and paced it off to a little over 300'. He said that the brush would need to be cut down before the summer for continued visibility.

Mr. Bernier then looked left from the driveway. There were no grade issues but quite a few trees. There is a red oak that hangs over the road that should be removed when the culvert is installed. There are also additional trees that should be removed to help with sight distance. Removing the trees will help the other driveways down N. Pembroke Road.

The Police Chief was called by Mr. Bernier and said that he did not measure anything because he did not understand how to measure sight distance. The Chief did say that his concern was the speed that drivers use on N. Pembroke Road. Mr. Bernier said that the Police Chief also admitted that he did not take into account any improvements such as brush removal or changing the grade of the driveway. Mr. Bernier said that the driveway would be raised over 2-1/2' which would help considerably.

Mr. Bernier's recommendation to the Board was that they receive confirmation that the sight distance is achieved before issuing an occupancy permit.

Mr. Bernier said that site distance is based on AASHTO's geometric design standards. The 200' used in the driveway regulations is based on the geometric site distance criteria. Mr. Bernier said that he is very confident that safe site distance can be created very simply.

Member Edmonds said that he went to the site and measured the sight distance which also resulted in 285' to 300'. He said that the most significant impediment of the sight distance is at the crest of the hill. He agreed with Mr. Bernier's findings. There is more than adequate sight distance.

Member Edmonds also said that a sight distance (per AASHTO's standards) of 285' to 300' is a safe stopping distance for a vehicle traveling 40-45 mph. N. Pembroke Road is posted as 35 mph. Recognizing that many people drive 40-45 mph along that road, the site distance is still adequate and is entirely correct.

Ms. Cruson said that she also checked out the site and expected to see difficulty and not to see the distance that would be comfortable in that location. She said that there was plenty of sight distance. She pointed out that if someone was going 50 mph along N. Pembroke Road, it would not be a safe distance, but drivers are not suppose to be going that fast. She also said that the Epsom Police is usually at the stretch of road where drivers travel 50 mph. The line of sight of the driveway and the crest of the hill is a problem but not at the driveway.

Mr. Bernier said that the red oaks are in the right-of-way.

Selectmen's Rep. Greco agreed drivers who drive at the average speed would be fine.

Vice Chairman Seaworth said that he focused on whether the sight distance at the driveway was consistent with the rest of N. Pembroke Road. He found that it was. He said that the development is not creating a unique hazard.

Alternate Member Bourque suggested placing a caution sign at the crest of hill to let drivers know that there is driveway coming up. He asked if the sign would be a function of the Town.

Jim Boisvert, Director of Public Works, said that the applicant would be responsible for paying for the sign and mounting the sign in place.

Mr. Bernier said that if the Town puts a sign up and a driver, after recognizing the sign, drives along and does not see a problem, the driver will think that the remainder of the road is better than the point where the sign was located. He said that there are many driveways along N. Pembroke Road that do not have good sight distance. He said that he would not want to give people the impression that this is the only location along N. Pembroke Road that is bad. He said that traffic sign philosophy is that every sign should be appropriate and not create a false sense that this area is the only problem.

Ms. Verdile said that the NH Regional Planning Commission were not aware of any State regulations pertaining to deer yards or deer habitats and proposed developments.

Member Cruson said that when she walked the property it was after a heavy snow. She saw one set of deer tracks. She went to the rear of the property, to the culvert, and did not travel along the snowmobile trail. She said that there were more deer tracks at her house than what she saw at the proposed subdivision.

The Board reviewed the Conditions of Approval and suggested that the following language be included in the Motion:

**Prior to the issuance of a Certificate of Occupancy, the Director of Public Works shall ensure that there is a minimum of 200' of site distance under foliage conditions in each direction.**

Chairman Topliff asked if the developer could trim or cut trees along a right-of-way.

Mr. Bernier and Mr. Boisvert said yes.

There being no further questions or comments from the public or the Board, Chairman Topliff closed the public hearing at 7:30 p.m.

**MOTION:** Member Bean moved to approve the Special Use Permit Case #16-312-SUP-WP with the following conditions to be included as notes on the final site plan:

1. This Special Use Permit is for proposed work within 20' of a wetland in the Wetland Protection (WP) District for the construction of a driveway and culvert for proposed Lot 2. It includes work within a wetland and wetland buffer and shall be constructed according to the submitted plans and the NHDES permit conditions of approval.
2. This SUP was granted on February 28, 2017 and is granted conditionally until Case #16-07, Minor Subdivision application, has received final approval, at which time this Special Use Permit becomes final for as long as the Case is approved. If at any time the application is revoked, the NHDES permit is revoked, or final approval is not received, this Special Use Permit becomes invalid.

Seconded by Selectmen's Rep. Greco.

<b>VOTE:</b>	B. Seaworth – Y	A. Topliff – Y	V. Greco – Y
	L. Young – Y	B. Edmonds – Y	K. Cruson – Y
	R. Bean – Y		

**MOTION TO APPROVE THE SPECIAL USE PERMIT CASE #16-312-SUP-WP WITH THE FOLLOWING CONDITIONS TO BE INCLUDED AS NOTES ON THE FINAL SITE PLAN:**

1. **THIS SPECIAL USE PERMIT IS FOR PROPOSED WORK WITHIN 20' OF A WETLAND IN THE WETLAND PROTECTION (WP) DISTRICT FOR THE CONSTRUCTION OF A DRIVEWAY AND CULVERT FOR PROPOSED LOT 2. IT INCLUDES WORK WITHIN A WETLAND AND WETLAND BUFFER AND SHALL BE CONSTRUCTED ACCORDING TO THE SUBMITTED PLANS AND THE NHDES PERMIT CONDITIONS OF APPROVAL.**
2. **THIS SUP WAS GRANTED ON FEBRUARY 28, 2017 AND IS GRANTED CONDITIONALLY UNTIL CASE #16-07, MINOR SUBDIVISION APPLICATION, HAS RECEIVED FINAL APPROVAL, AT WHICH TIME THIS SPECIAL USE PERMIT BECOMES FINAL FOR AS LONG AS THE CASE IS APPROVED. IF AT ANY TIME THE APPLICATION IS REVOKED, THE NHDES PERMIT IS REVOKED, OR FINAL APPROVAL IS NOT RECEIVED, THIS SPECIAL USE PERMIT BECOMES INVALID.**

**PASSED ON A 7-0 VOTE.**

**MOTION:** Vice chairman Seaworth moved to approve minor subdivision #16-07 with the following conditions to be included as notes on the final site plan:

1. Provide the original signatures of all property owners and professionals on the final plans to be recorded.
2. Checklist waivers that were granted are to be listed completely on the plan with the date they were granted.
3. Prior to the issuance of a Certificate of Occupancy, the Director of Public Works shall ensure that there is a minimum of 200' of site distance under foliage conditions in each direction.

Seconded by Member Young.

**VOTE:**

B. Seaworth – Y	A. Topliff – Y	V. Greco – Y
L. Young – Y	B. Edmonds – Y	K. Cruson – Y
R. Bean – Y		

Member Cruson said that while she was walking the site, she walked quite a distance on the larger lot near the constructed house in order to get to level land. She said that some of the area is wetland and steep. She felt that it would be a challenging lot to build on.

**MOTION TO APPROVE MINOR SUBDIVISION #16-07 WITH THE FOLLOWING CONDITIONS TO BE INCLUDED AS NOTES ON THE FINAL SITE PLAN:**

1. **PROVIDE THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS AND PROFESSIONALS ON THE FINAL PLANS TO BE RECORDED.**
2. **CHECKLIST WAIVERS THAT WERE GRANTED ARE TO BE LISTED COMPLETELY ON THE PLAN WITH THE DATE THEY WERE GRANTED.**
3. **PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, THE DIRECTOR OF PUBLIC WORKS SHALL ENSURE THAT THERE IS A MINIMUM OF 200' OF SITE DISTANCE UNDER FOLIAGE CONDITIONS IN EACH DIRECTION.**

## **PASSED ON A 7-0 VOTE.**

### **Conceptual Consultation** - Serendipity Day Spa-parking area.

Present: Biron Bedard, Esq. of Ransmeier & Spellman, Jeffrey Lewis, of Northpoint Engineering, Inc. and Holly and John Rodriguez, the Applicants

Chairman Topliff said that the discussions in a conceptual consultation are nonbinding on both parties. He apologized to the applicant for the confusion on the noticing and that the Board would have been happy to hear their application but legally the Board could not.

Attorney Bedard said that his client acquired the property in 2005. The property abuts a property formerly owned by the Paulsens. One of the difficulties with the property is that it appeared to include an area near the boundary that was contiguous for parking. When the Paulsen property came for site plan approval, it was found that the property belonged to the Paulsens. The relationship with the new property owner has not been as cordial as one might hope for and so it became necessary to build a parking area for the Serendipity Day Spa.

He said that there are some issues with the property that make it challenging to comply with the Town's Zoning and Site Plan Regulations.

Mr. Lewis said that he received comments from Mike Vignale, the Town's Engineer, on the Applicant's plan. They intend to make his proposed changes.

He said that the Applicant has agreed to investing in a parking lot on their property. There will not be any expansion of the building or an increased use. They would like to continue to use the facility as they have been for the past 13 years.

From a zoning perspective, the size of the building requires 12 parking spaces. The Applicant requires more than that since the 12 that they presently have are always full. Mr. Lewis said that he attempted to maximize the number of spaces on the lot.

There is a wetland in the back of the property. The lot is almost 3 acres but there is a wetland that is very wide and there is no option to go past it.

They have squeezed in as many spaces as possible. They are within 5' of the side property lines and within 8'-10' from the wetlands, which is just enough room to build a retaining wall along the entire perimeter which required raising the site up because it drops off 5'- 6' in the back. The property is on the edge of the Aquifer Conservation District. They have designed a way to capture and infiltrate the ground water which is another expense to the parking lot. The plan they designed was their attempt to meet every language of the Town's ordinance and Site Plan Regulations in terms of the Aquifer Conservation District.

In order to make all the regulations work, the cost of the parking lot is over \$200,000 and is too expensive to build.

Mr. Lewis said that if the Applicant had come before the Board for approval of the existing plan, it would have been for nothing because the Applicant cannot afford to take on such a large expense.

Mr. Lewis said that they have decided to reconstruct the plans based on what might be reasonable. He said that Ms. Verdile and Mr. Vignale spent time discussing alternatives. Mr. Lewis said that they are looking to shift the parking lot closer to the building in order to make room adjacent to the wetlands. It will allow them to lower the parking lot so it will sheet drain toward the wetlands. It will be a grass swale with stone at the bottom of the trench which will allow them to meet requirements of the Aquifer Conservation District and not create an entire drainage system. There will be a ramp to get into the building which will eliminate the retaining walls on site.

Mr. Lewis said that he felt that they could make the new design work and comply with the intent of the Aquifer Conservation District. They may run into trouble trying to meet the full intent of the Site Plan Regulations relative to the increase in runoff.

The benefit is that they are draining to a wetland. Any slight increase that they did have would run into a stream channel and off to the South. It would not be running off into a developable portion of anyone else's property. Mr. Lewis said that they will redo their drainage calculations. Mr. Vignale is expecting the new plan. They would like approval in the next few weeks so that the project can be completed by May.

Mr. Lewis said that they are proposing to place the driveway on the South side of the building and utilizing the existing driveway entrance. They have an amended driveway permit application to NHDOT. They have met with NHDOT representatives at the site before submitting the application and there does not appear to be any issues.

They will leave the pavement on the driveway access. It will stay paved.

They have submitted a Special Use Permit for the Aquifer Conservation District and a Special Use Permit for the work in proximity to the well.

Chairman Topliff asked Mr. Lewis to point out where the Aquifer Conservation District was on the map. Mr. Lewis did so as best that he could. Chairman Topliff said that the ordinance was written to protect the aquifer but in his opinion, in this case, it would be a bit unreasonable to expect to spend a great deal of money to comply with the requirements for the Aquifer Conservation District if the construction itself is not even in the aquifer area.

Mr. Lewis said that they would like to meet the intent of the Aquifer Conservation District and he feels that they can do that.

Mr. Lewis said that the surface of the parking lot would be pavement.

Member Edmonds asked if they would consider a porous pavement.

Mr. Lewis said that he would not recommend a porous pavement because it is more appropriate for a large scale project with better-receiving soils than the wetland. It is also a more expensive product and also must be maintained (vacuumed). Porous pavement is more problematic if it is not properly maintained.

With the new plan, the project would be half the price of the original proposal.

Mr. Lewis said that they are not intending to ask for any waivers.

Ms. Rodriguez said that the deadline is May 31, 2017.

Chairman Topliff asked the Board if it would be reasonable to be lenient and consider some relief to the drainage requirements given that this is in the Aquifer Conservation District.

Member Cruson said yes, that whatever the Applicant would do would be an improvement. She said that they may need more than one handicapped parking space.

Selectmen's Rep. Greco said that the business is growing and needing additional parking is a good sign.

Mr. Lewis said that NHDOT has seen the plan and has been on site and are okay with it.

Vice Chairman Seaworth said that the drainage is a mitigating factor but it makes sense to deal with it as they have proposed on the new plan.

Members Bourque, Young and Edmonds felt that the plan was going in the right direction and appears to be the best that can be done with the limited resources.

Ms. Verdile apologized to Mr. and Mrs. Rodriguez for her administrative glitch.

Member Young asked if the Board had any concerns about the small pool on the neighbor's property line. Ms. Verdile said that the Engineer talked about it and it was decided that they would leave part of the small pool on the abutter's property.

Ms. Verdile said that the next meeting will be March 21, 2017.

**Minutes-** February 14, 2017.

**MOTION: MEMBER YOUNG MOVED TO ACCEPT THE MEETING MINUTES OF FEBRUARY 14, 2017 AS AMENDED. SECONDED BY MEMBER CRUSON. UNANIMOUSLY APPROVED.**

**Miscellaneous**



## 1. Correspondence-

Ms. Verdile received a letter from the Board of Selectmen Chair regarding FEMA reworking the maps for the flood areas and that there may be crews on Pembroke properties during 2017.

Ms. Verdile gave each Board member an agenda to the 23<sup>rd</sup> Annual Spring Planning and Zoning Conference scheduled for April 29, 2017 at the Courtyard by Marriott. Anyone interested in attending should contact Ms. Verdile. Member Cruson, Ms. Verdile, and Chairman Topliff said that they were interested in attending.

## 2. Committee Reports-

Member Cruson said that the Board should be thinking about acquiring land in Town for recreational use such as hiking or biking. She suggested the old railroad beds. It was agreed that such a question should be included in the Master Plan survey in order to gauge the town's interest.

Ms. Cruson also asked if proposed developments could donate acreage for future use such as for ball fields.

Member Bean suggested drafting a Master Plan survey. Member Bourque suggested checking with the NH Regional Planning Commission for survey questions for the new Master Plan.

## 3. Other Business--

Selectmen's Rep. Greco explained that the lawsuit between Allenstown and Pembroke Sewer Commissions was won by Allenstown. Pembroke's position was that the money that was given in fees was to be used to improve the facility. Allenstown used the funds for other purposes like road work. The ruling is being appealed.

## 4. Planner Items-

Ms. Verdile said that she has recruited a new Planning Board member.

## 5. Board Member Items-

Member Bourque said that a few years ago, the Board approved a site plan with wetlands but without a wetland scientist's stamp. He said that the applicant built up to the wetlands. He asked if the Board should require a wetland scientist stamp for Serendipity Day Spa. He said that the Board should consider it and to be careful in the future.

Chairman Topliff thanked the Board for being lenient and sensitive to Serendipity's issue. He said that it helps foster good feelings between the Town and businesses.

**MOTION:** Member Cruson moved to adjourn the meeting. Seconded by Vice Chairman Seaworth. Unanimously approved.

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,  
Jocelyn Carlucci, Recording Secretary