

**Pembroke Planning Board
Meeting Minutes
(ADOPTED)
October 23, 2018**

MEMBERS PRESENT: Brian Seaworth, Vice Chairman; Kathy Cruson; Brent Edmonds; Richard Bean; Selectman's Rep. Ann Bond

ALTERNATES PRESENT: Timothy Goldthwaite

EXCUSED: Alan Topliff, Chairman; Larry Young, Sr.; Kellie Dyjak; Robert Bourque

STAFF PRESENT: David Jodoin, Town Administrator; Carolyn Cronin, Town Planner; Jocelyn Carlucci, Recording Secretary

In the absence of Chairman Topliff, Vice Chairman Seaworth called the meeting to order at 7:01 pm. He asked Alternate Member Goldthwaite to vote in place of Member Bean.

New Business

- 1. Special Use Permit Application SUP-WP #18-311, Aaron Wechsler, Aspen Environmental Consultants, LLC, acting as Applicant on behalf of Jennifer Robert, owner of Tax Map 937, Lot 1-1 located at 331 North Pembroke Rd. in the Rural/Agricultural-Residential (R3) Zone and the Wetlands Protection (WP) District.**

The Applicant requests a Special Use Permit in accordance with Article 143-72.D.(2), Wetlands Protection District, to construct a gravel driveway for residential use with three wetland crossings.

Present: Aaron Wechsler of Aspen Environmental Consultants, LLC

Ms. Cronin stated that this is a Wetland's Special Use Permit with no other associated application. It is an after-the-fact Special Use Permit and an after-the-fact NHDES Wetlands Permit. The applicant went to the Conservation Commission on October 15, 2018. The Commission voted to accept the plan but noted that they did not want to encourage people to do work before permitting.

She said that the Planning Department received a copy of the NHDES Wetland's Permit and a narrative from the applicant regarding drainage, erosion control, and restoration.

There was a Technical Review Committee meeting on October 3, 2018 where the Fire Department and EMS asked about adding a turnaround to the driveway because it is very long. The Department of Public Works (DPW) commented on having a few trees removed to improve sight distance.

Ms. Cronin also said that the Town Engineer felt that a full engineering review was not warranted and he had no concerns with the plan. The construction of the driveway will be subject to any conditions imposed by the NHDES Wetlands Permit.

Acting Chairman Seaworth opened the public hearing at 7:03 pm. He said that members of the public wishing to speak should raise their hand, state their name and address, and

address all comments to the Board. If the application is continued to another meeting, the public hearing will also be continued and will not be renoticed. He suggested that any interested parties watch for future agendas on the Town website or call the Planning Department for meeting dates.

Mr. Wechsler said that the project driveway is approximately 1,800 ft. long. One and a half years ago, the project was approved for a subdivision with development in the front of the lot and one wetland crossing. When the present owner purchased the property, they wanted to build a house in the back of the lot. There was an existing trail that ran through the property so the owner followed the trail with the driveway. In the process of doing so, there were three wetland crossings. The driveway was installed. No pipes were put in during the installation. A great deal of 6 inch minus stone was added under the driveway which water is currently flowing through. Erosion control has been installed and the lot is stabilized and monitored after storm events.

He also said that they are anticipating receiving the NHDES permit and Town permit to allow the driveway to stay in place, allow one 18-inch and two 24-inch culverts to be installed along with associated headwalls to reduce long-term impacts.

Mr. Wechsler said that he spoke with his client and a fairly large turnaround already exists at the end of the driveway with plans to build another.

With regard to impacts, Mr. Wechsler said that they are proposing restoration work as part of the application. In addition to installing culverts, they will restore any areas that were impacted during the driveway construction that are not needed long-term, which will result in approximately 1,800 sq. ft. of wetland restoration for the project.

With regard to the wetland buffer, Mr. Wechsler said that they have approximately 15,400 sq. ft. of buffer impact. A large part of that buffer is in the first wetland crossing. He said that the slope becomes steep along the edge of the lot and the existing trail so they followed along the base. Rather than cut into the slope to avoid the buffer which would end up with a lot of long-term impacts, they stayed out of the wetlands as much as possible.

Mr. Wechsler said that, overall, he does not think that there are any long-term environmental impacts more than any other residential use. He recognized that it is a long driveway but it will be loamed, seeded and vegetated on all sides.

Acting Chairman Seaworth asked the current status of the NHDES application.

Mr. Wechsler said that they are waiting for the review. The reviewer has walked the site with him and was happy with the erosion controls that were in place. They have sent regular monitoring reports to the reviewer to show that they have been keeping up with

everything. There was one storm event a few weeks ago where three of the silt socks were overtopped. They were cleaned out and stabilized. Pictures were sent to NHDES.

He said that Jay Aube of the NH Wetland's Bureau indicated that the applicant should hear something in the next few weeks. They anticipate that it will be approved.

Member Cruson clarified that there was a driveway constructed without a driveway permit.

Mr. Wechsler said yes. He also said that when the subdivision was approved, there was a single wetland crossing approved to locate the house at the front of the property. The driveway was installed straight through to the new proposed building location at the back of the property. There were no permits in place for those wetlands crossings. The building inspector went out to inspect the property and told the owner that he had violations and needed to contact someone.

Mr. Wechsler said that during the last week of April he was contacted and at the beginning of May, he was contracted. As he explained to the Conservation Commission, this is his client's first lot where they have had to get a wetland's permit. They were quite blown away with what the process entails.

Member Cruson said that she was not concerned with the driveway permit, but, having walked the property in the past, she said that there used to be a vernal pool on the left side of the snowmobile trail near N. Pembroke Road.

When she last went through the property, at the end of last winter, someone had dumped all kinds of building materials on top of the ground. There were boxes that were labeled, nylon strapping, stone and a lot of junk along the driveway. She recently drove to the edge of the driveway and found no trace of the debris. She asked whether it was removed or buried. She also asked what happened to the vernal pool.

Mr. Wechsler said that he did not know because he was not aware of the material on site. He said that when he first got there, there were a few culverts near the entrance and a few other items but did not see the volume of material that Member Cruson spoke of.

Member Cruson asked if the property owner was in the audience.

Mr. Wechsler said no.

Member Bean asked how wide the driveway was.

Mr. Wechsler said that it varies from 15 ft. wide to 18 ft. wide.

Member Bean asked if two cars could go in and pass.

Mr. Wechsler said yes, in most locations, but there are some areas too narrow for two vehicles. It was his understanding that, prior to thinking about purchasing and building on the property, there was interaction with the building inspector who had concerns about the driveway width and for emergency vehicle access. As a result, it was constructed at its present width. Nothing is at the end of the driveway other than a turnaround.

Member Bean asked how the driveway was constructed.

Mr. Wechsler said that his understanding is that there was a large amount of 6 inch minus stone put down covered with hardpack materials. The driveway is not finished at this time.

Member Bean asked if there was a chain or gate at the end of the driveway to prevent anyone from dumping there.

Mr. Wechsler said not to his knowledge

Mr. Wechsler said that they stopped all work except for monitoring and erosion control once the owner found out that they needed permits.

Member Bean said that his personal opinion is that the applicant believed in not asking for permission but rather to beg for forgiveness.

Mr. Wechsler said that he has been doing this for a while and has certainly come across people who have done that.

Miguel Grenier, 338 N. Pembroke Road, said that there have been a lot of issues with this property. During the subdivision process, there were concerns about the location of the house. He said that the property was sold to Goffstown Horizon Properties who tried to put the house near the street. A cease and desist order was issued. The property was then sold to someone who began building the road. Mr. Grenier said that the owner knew that the house had to go where it was because of the wetlands at the first crossing. He said that the person who did the construction and sold the property knew that he was doing something wrong. Since then, the road construction was halted. He said that the property is now a dumping ground for construction material which is concerning because there are at least 30 loads of countertop granite-type material and waste and there is also building material waste that has currently been left on the ground.

Mr. Grenier said that when the owner built the house on the next property, all the stumps were buried in the back of the property. He also said that the road was built over 4 or 5 wetland crossings.

He said that all the trees were removed and a road was built which has caused water issues. In a few areas, there is dirt on the side of the road because it was so wet that the owner had to pull the dirt out to put material down to build the road.

Mr. Grenier wondered if the road, being two-cars wide, was in preparation for a housing project.

Mr. Grenier also said that Mr. Wechsler refers to the owner as “he” but discovered that the owner is a woman by the name of Jennifer.

He said that there has not been a request to move the house to the rear of the property and there should be.

Acting Chairman Seaworth said that on a single lot, the location of the house goes through the building permit process and does not need to be reflected on the plan.

Ms. Cronin agreed. She said that when the minor subdivision application was presented a year ago, the location of the house and the driveway were reviewed. Now that it is one individual lot, the location of the house can be changed as long as it meets all the zoning requirements. The plan was reviewed for dimensional requirements and buildable area and it met all the Town dimensional standards for building. If the applicant wanted to relocate the house from the front of the property to the back of the property, they could do so without coming to the Planning Board. She said that, in this instance, the applicant is only asking for the wetland crossings through the Town’s Wetlands Special Use Permit.

John Provost, 339 N. Pembroke Road, said that he purchased his house in November 2017 and since then action on the property has been exactly what Mr. Grenier stated. He said that the owner illegally cleared the lot next to him, tried to build their house illegally and crossed the wetlands illegally. Mr. Provost said that if the Board allows the owner to not follow the regulations then others will mimic him. He also said that the driveway is really a road.

Stephen Fowler, 443 N. Pembroke Road, said that his land abuts the project. He asked if the applicant is proposing one house with no other development.

Acting Chairman Seaworth said that in order to develop it further than a single lot, they would have to propose a new subdivision. As it stands, he said that this is a single lot of record and treated as such.

Mr. Fowler said that he owned a piece of property near the site and it had a driveway that was shorter than the applicant’s and the Fire Department wanted enough room for 2 trucks to pass in both directions and required a sprinkler system.

Mr. Wechsler said that the owner of the property is Jennifer Robert. While Jennifer signed a document wanted him to represent her, he said that he works for Chris Bouchard.

With regarding to logging, the property has not been logged while it was owned by Jennifer Robert or since he has been hired by Chris Bouchard. His understanding is that the logging was done by the previous owner. Since the transfer, his client has cleaned up some of the logging debris that was left on site, but there have been no additional logging operations.

As far as future development, Mr. Wechsler said that he has not heard of any future subdivision. The reason the applicant wanted the house in the back of the lot was because they wanted a more secluded area.

With regard to construction debris, Mr. Wechsler said that during his inspections he has found only stone out there. Mr. Bouchard owns a business that creates stone countertops and there is a section after the first crossing, which is an upland area, where there is a large mound of stone that has been placed there. Mr. Wechsler said that he spoke with the building inspector after receiving complaints about the stone and the inspector had no issue with it being there. It is not leaching anything into the ground. As far as he could tell, it is untreated stone. Mr. Wechsler is not aware of any other construction debris. The stone is all that he has seen on site.

Mr. Wechsler said that Mr. Bouchard is Jennifer Robert's fiancé and owns a business that uses the stone countertop material.

Selectmen's Rep. Bond asked when the last time the Code Enforcement Officer was at the site.

Mr. Wechsler said that he did not know but that the last time he spoke with the building inspector was just prior to submitting the application. At that time they spoke about the debris and met at the Technical Review Committee (TRC) meeting where the inspector mentioned that he was aware of the debris.

Ms. Cronin said that the Code Enforcement Officer was out at the property several times but was not sure of the exact dates. She said that he only saw the stone countertops and that it did not meet the definition of dumping or junk.

Selectmen's Rep. Bond said that the TRC minutes do not address the dumped debris.

Member Cruson said that the stone in the box had been there about a year. She also asked what happened to the vernal pool or ponding area to the left of the driveway.

Mr. Wechsler said that he was only aware of the standing water on the right side of the driveway. He said that left of the driveway is all uphill and he has not seen any signs of wetlands or ponding in that area since he was hired.

Mr. Wechsler also said that the vernal pool that Member Cruson spoke of is not shown on the previous subdivision plan. He said that all the wetland boundaries that were used on the application were taken from the subdivision plan and verified.

Mr. Grenier said that when the prior owner did the logging, they built the landing and that's what happened to the wetland. He said that there used to be a 5-6 ft. dip just off N. Pembroke Road. The property was wet along the side and has since been raised 20-30 ft. He said that if someone walks the property now it is clear that the land drops off to the water on the right hand side.

Mr. Wechsler said that the subdivision plan was done prior to the logging.

Mr. Grenier said that the part of the plan that was delineated was the front of the property. The part being affected today was never delineated. It was all taken from contour maps and not actually walked. He said he knows this because he walked the property when the subdivision was being proposed.

Mr. Wechsler said that he has a survey plan that is stamped when it was delineated.

Acting Chairman Seaworth said that the application is limited in its scope. It is a Special Use Permit for the Wetlands Protection District and specifically covers the wetlands crossings. He said that it is obvious that everyone is bothered by the fact that this is expected to be a process that precedes any work being done and, instead, it was a request for an existing driveway.

He said that the Board should not give favor to the application because the driveway is already there nor should the Board deny what would be a valid Special Use Permit because it was not done in the right order. Acting Chairman Seaworth said that the Board has a certain scope that must be considered and should be careful not to focus on the position of the house or things that fall outside the application.

Member Edmonds pointed out that wetland restoration and mitigation is the purview of the NH Wetlands Bureau and not the Planning Board. The Bureau is in charge of assessing the application and invoking any penalties or mitigation protocol.

Acting Chairman Seaworth said that the TRC notes indicate that the Fire Department is requiring sprinklers because of the length of the driveway. Because it is a single family lot, it comes under the building permitting process and not part of the Special Use Permit approval.

Acting Chairman Seaworth asked if Mr. Wechsler could clarify the length of the driveway.

Mr. Wechsler said no because it is not part of the wetland process.

Member Bean said that he would like to know the length and width of the driveway when the applicant comes back to the Planning Board.

Acting Chairman Seaworth said that the driveway is not a fixed width.

Mr. Wechsler said that it is an average of 17-18 ft. wide but there are sections that are narrower. It is not completed because they were told to stop work. Some of the driveway sections will be widened outside of the wetland areas. It still needs to be loamed, seeded, to have a finished surface on the driveway, and culverts installed at crossing locations.

He said that, other than having the building inspector happy that the applicant would provide emergency access, there are no plans to widen the driveway. Mr. Wechsler said that he told the applicant that they absolutely could not widen the driveway at the wetland crossings. He said that he also mentioned to the Building Inspector that if the Board wanted additional spots to pull off or wanted the line-of-sight improved, the applicant was not opposed to doing so.

For clarification, Acting Chairman Seaworth said that the driveway permit is issued by the Department of Public Works (DPW) and the Director of Public Works has the authority to make certain conditions for the issuance of the driveway.

Mr. Fowler said that it appears that Ms. Robert has purchased a property that is currently unbuildable due to the fact that the driveway is yet to be permitted. This puts her in a bad spot. He said that it has been one wrong turn after the other for the original person who owned it and built the driveway that is there today.

Ms. Cronin said that the Town driveway permit for this parcel was issued after it was subdivided and is valid until 2022. The DPW would essentially be looking at the curb cut and the sight distance. This driveway is working off the existing driveway permit. The applicant will not need an additional driveway permit.

She said that she was not sure if the length of the driveway was approved or just the curb cut. The length of the driveway becomes a fire issue if it exceeds a certain number of feet. The house is required to be sprinklered. When it comes up for the building permit, the Fire Department will review and confirm.

Member Bean said that he was concerned about the wetlands.

Mr. Edmonds said that when the applicant applied for the Wetland Permit, they were assigned an inspector who walks the property and determines where the impacts occurred and how it was done.

Dennis Nadeau, 320 N. Pembroke Road, said that the original person who owned the property built one house and tried to build another one next to the road but it was stopped.

The owner then logged the property. The original owner is the person who caused most of the problems for the abutters. In his opinion, the new owners are just trying to build one house which is very different from the original owner who would probably have built 3 or 4 homes.

Mr. Wechsler reiterated that they met with the Conservation Commission last week as part of the application and their review of the State Wetland's application. The Commission voted to approve the project. He said that they have complied with all that NHDES has asked of them and anticipate obtaining the State Wetland Permit soon. Based on the information that was submitted to the Town Building Inspector for the septic design, they complied with the Town's requirements for buildable area which allows them to access the rear portion of the property. He said that, while he agrees that it would have been nice to have applied for all the permits ahead of time, the applicant is past that point and trying to move forward so that they can build their home. He said that they are trying to make it better.

There being no further questions or concerns from the Board or the public, Acting Chairman Seaworth closed the public hearing at 7:45 pm. He said that, if the application is continued to another meeting, the public hearing will also be continued to another meeting without additional notice. He advised everyone to watch the Town website or call the Planning Department for future Planning Board agendas.

Acting Chairman Seaworth clarified that the Board is responsible for reviewing the Wetlands Special Use Permit application according to the Town regulations which is not tied to the State Wetland's approval. If the State does not grant the applicant's approval, they cannot proceed, independent of how the Planning Board has ruled.

Ms. Cronin added that the Board is looking at the use, which is the residential driveway, and any impacts that would be detrimental to the Town's wetland network. The NHDES permit is a more technical review. The Town's Special Use Permit typically has a condition that the applicant must receive a NHDES permit and abide by any conditions imposed by NHDES.

Selectmen's Rep. Bond said that, in reading the notes, the applicant received approval to build the house with one wetland crossing.

Ms. Cronin said yes when they originally came before the Board for the subdivision.

Acting Chairman Seaworth said that the applicant has an existing Special Use Permit that is associated with the subdivision but does not involve the other three crossings.

Selectmen's Rep. Bond said that the Board does not have the Conservation Commission information, because they only met last week. She asked if it was possible to ask the Commission to send their comments to the Board.

Ms. Cronin said that the Commission met on October 15th and voted to accept the plan but wanted a note in the motion that permits should be approved prior to construction.

Member Edmonds concurred. He said that the Commission was not thrilled that work had proceeded prior to permit approvals but were encouraged that the process was now being followed and some of the things would be taken care of moving forward.

MOTION: Member Edmonds moved to approve Wetlands Special Use Permit case SUP-WP #18-311 subject to the following conditions:

1. This Special Use Permit is in accordance with Article 143-72.D.(2), Wetlands Protection District, to construct a residential driveway with three wetland crossings. It includes work within a wetland and wetland buffer and shall be constructed according to the submitted plans and the NHDES Wetlands Permit conditions of approval.
2. The Special Use Permit shall be recorded at the Merrimack County Registry of Deeds and recording fees shall be paid to the Town of Pembroke.

Seconded by Alternate Member Goldthwaite.

VOTE:	K. Cruson – N	R. Bean – N	B. Edmonds – Y
	T. Goldthwaite – Y	A. Bond – Y	B. Seaworth – Y

**MOTION TO APPROVE WETLANDS SPECIAL USE PERMIT CASE SUP-WP #18-311
SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **THIS SPECIAL USE PERMIT IS IN ACCORDANCE WITH ARTICLE 143-72.D.(2), WETLANDS PROTECTION DISTRICT, TO CONSTRUCT A RESIDENTIAL DRIVEWAY WITH THREE WETLAND CROSSINGS. IT INCLUDES WORK WITHIN A WETLAND AND WETLAND BUFFER AND SHALL BE CONSTRUCTED ACCORDING TO THE SUBMITTED PLANS AND THE NHDES WETLANDS PERMIT CONDITIONS OF APPROVAL.**
2. **THE SPECIAL USE PERMIT SHALL BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AND RECORDING FEES SHALL BE PAID TO THE TOWN OF PEMBROKE.**

PASSED ON A 2-4 VOTE.

2. **Major Site Plan Application #18-106, Timothy Bernier, T. F. Bernier, Inc., acting as Applicant on behalf of Silver Hill Development Corp. c/o Frank Merrill, owner of Tax Map 559, Lot 12-2 located at 780-798 Silver Hills Drive in**

the Rural/Agricultural-Residential (R3) Zone, the Aquifer Conservation (AC) District, and the Wetlands Protection District.

The Applicant proposes a new 4,000 SF building with new septic, well, gravel storage area, paved driveways and associated regrading. This plan is associated with Special Use Permits for the AC and WP Districts (SUP-AC #18-312 and SUP-WP #18-313).

- 3. Special Use Permit Application SUP-AC #18-312, Timothy Bernier, T. F. Bernier, Inc., acting as Applicant on behalf of Silver Hill Development Corp. c/o Frank Merrill, owner of Tax Map 559, Lot 12-2 located at 780-798 Silver Hills Drive in the Rural/Agricultural-Residential (R3) Zone, the Aquifer Conservation (AC) District, and the Wetlands Protection District.**

The Applicant requests a Special Use Permit in accordance with Article 143-68.E., Aquifer Conservation District, for manufacturing use over the aquifer. This permit is associated with Major Site Plan Application #18-106.

- 4. Special Use Permit Application SUP-WP #18-313, Timothy Bernier, T. F. Bernier, Inc., acting as Applicant on behalf of Silver Hill Development Corp. c/o Frank Merrill, owner of Tax Map 559, Lot 12-2 located at 780-798 Silver Hills Drive in the Rural/Agricultural-Residential (R3) Zone, the Aquifer Conservation (AC) District, and the Wetlands Protection District.**

The Applicant requests a Special Use Permit in accordance with Article 143-72.D.(1-3), Wetlands Protection District, to construct a new 4,000 SF building with new septic, well, gravel storage area, paved driveways and associated regrading on a parcel containing wetlands. This permit is associated with Major Site Plan Application #18-106.

Present: Tim Bernier of T. F. Bernier, Inc. and Brian and Karen Larson owners of Soake Pools.

Member Bean said that he was a very good friend of Mr. and Mrs. Frank Merrill and, therefore, recused himself from the cases.

Ms. Cronin confirmed that a quorum was present.

She reported that this is a Major Site Plan Application for a new business. They manufacture soaking pools. There are two Special Use Permit applications associated with the Major Site Plan. The parcel is in the Aquifer Conservation District and has wetlands on it, but the applicant is not proposing filling or crossings the wetlands. The Board will be generally reviewing the applications for wetland impacts.

The project requires two variances which were filed with the ZBA. The applicant has yet to appear before the ZBA.

The project requires two Town driveway permits and an AOT permit. She said that several waivers have been requested from the checklist because they do not apply.

Ms. Cronin said that the property is within Concord's Wellhead Protection area. The Board must determine if the applications meet the criteria for a Development of Regional Impact (DRI). The applicant notified the Central NH Regional Planning Commission (CNHRPC) and the City of Concord. Both agencies reviewed the plan and issued comments.

She said that Concord had no concerns about the project in the Wellhead Area. CNHRPC highlighted potential issues that would trip a DRI such as emissions, noise, traffic impact, etc. Ms. Cronin said that many of the issues were discussed as part of the TRC.

Ms. Cronin said that the Board should: (1) Address the waivers; (2) Find the application complete; and (3) Discuss the DRI status. If the Board votes that the application has regional impact, the hearing would not be able to be held tonight. Another meeting would be required so that CNHRPC and the City of Concord could be notified and issue comments. If the Board takes the comments already produced from CNHRPC and the City of Concord into consideration and votes that there it is not a DRI, the Board would open the public hearing tonight and begin the process.

She said that the requested waivers are for Multifamily Housing, Open Space, Proposed Streets, and Legal Descriptions of Easements, all of which do not pertain to the application.

MOTION: Member Edmonds moved to grant the waiver requests for checklist items: *Part A – General Information*, L. Multifamily Housing; *Part B – Site Plan Information*, B.(7) Open Space, B.(11) Proposed Streets, and B.(20) Legal descriptions of easements; *Part C – Construction Plan Information*, B. Roadway Profiles, C. Roadway Cross-Sections. Seconded by Selectmen's Rep. Bond.

VOTE:	K. Cruson – Y	R. Bean – Y	B. Edmonds – Y
	T. Goldthwaite – Y	A. Bond – Y	B. Seaworth – Y

MOTION TO GRANT THE WAIVER REQUESTS FOR CHECKLIST ITEMS: *PART A – GENERAL INFORMATION*, L. MULTIFAMILY HOUSING; *PART B – SITE PLAN INFORMATION*, B.(7) OPEN SPACE, B.(11) PROPOSED STREETS, AND B.(20) LEGAL DESCRIPTIONS OF EASEMENTS; *PART C – CONSTRUCTION PLAN INFORMATION*, B. ROADWAY PROFILES, C. ROADWAY CROSS-SECTIONS PASSED ON A 6-0 VOTE.

MOTION: Member Edmonds moved to accept the application as complete. Seconded by Alternate Member Goldthwaite.

VOTE:	K. Cruson – Y	R. Bean – Y	B. Edmonds – Y
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T. Goldthwaite – Y

A. Bond – Y

B. Seaworth – Y

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

Acting Chairman Seaworth said that since Concord and CNHRPC already commented and they would be the parties that the Town would notify if the application was deemed a DRI, he said that it would be appropriate for the Board to consider that it is not necessary to declare it a DRI.

Acting Chairman Seaworth said that the Board should consider other entities that the Board may want to inform other than Concord and CNHRPC.

Member Cruson said that Mr. Monahan suggested notifying the Allenstown Sewer Department.

Ms. Cronin said that Mr. Monahan received a copy of the plan and pointed out potential issues that could arise from the project. Because he does not attend the TRC meetings, he was not privy to the conversations with TRC and the Town Engineer. With regard to the Allenstown Sewer Department, the property will be on private septic so sewer will not be an issue.

MOTION: Member Edmonds moved to accept comments from the City of Concord and CNHRPC and, based on those comments, determine that the applications are not a Development of Regional Impact. Seconded by Alternate Member Goldthwaite.

VOTE:

K. Cruson – Y

R. Bean – Y

B. Edmonds – Y

T. Goldthwaite – Y

A. Bond – Y

B. Seaworth – Y

MOTION TO ACCEPT COMMENTS FROM THE CITY OF CONCORD AND CNHRPC AND, BASED ON THOSE COMMENTS, DETERMINE THAT THE APPLICATIONS ARE NOT A DEVELOPMENT OF REGIONAL IMPACT PASSED ON A 6-0 VOTE.

Ms. Cronin said that since the Board's packets went out, Town Engineer Mike Vignale sent a letter dated October 18, 2018 indicating that he reviewed the October 12, 2018 revised plan set and found that the project is now acceptable from an engineering perspective.

Acting Chairman Seaworth opened the public hearing at 8:12 pm on the three agenda items. He asked that anyone wishing to speak state their name, address, and direct all comments to the Board. He said that if the applications are not completed tonight and the cases are continued to a future meeting, the public hearing will also be continued without notification.

Mr. Bernier said that the proposal is for a new commercial project on Silver Hills Drive, which is a commercial industrial park.

He said that when the project was originally subdivided, it was determined to be a DRI, therefore, all of the statutory requirements for the Town of Pembroke pertaining to a DRI were met. The City of Concord was notified as an abutter and were provided with all the sets of plans. The applicant responded to questions and offered to meet with them. At that time, Concord said that they were not concerned.

Mr. Bernier said that it is a 4,000 sq. ft. single-floor building. Brian and Karen Larson own Soake Pools. The business presently operates in Concord and they would like to relocate to Pembroke. They are looking to purchase the property from Frank Merrill. They make concrete pools. They will do some of the work at the Pembroke facility and some on the sites where the pools are installed.

The plan shows a driveway coming in with several parking spaces, handicap spaces, and overhead doors. The regulations pertaining to the front setbacks are strict so they reserved the area for landscaping purposes. Because of some environmental concerns in certain locations, a rear driveway has been proposed along with the construction of a new front driveway. Both driveway permits have been applied for.

Mr. Bernier explained that each pool will have a unique design which will be created by a precast company. The tub is poured and made at another facility and delivered to Soake Pools. The pool is then prepped at the Pembroke facility, tile is applied, and the concrete is sealed. All the work will be done inside the building or at the delivery site. No work will be done outside of the building. There will be a fenced-in storage area in the rear that will be used if a pool is waiting to be delivered or placed inside the shop.

Mr. Bernier said that they have designed a septic system. They were required to get an AOT permit because when the original commercial subdivision was created, the stormwater system for each of the lots in the development was built into the road system. This was done so if someone developed a lot they would have a stormwater management system to tie into.

The septic design is approved subject to Environmental Services. The AOT permit is pending.

With regard to the Special Use Permit for the Aquifer Conservation Overlay District, Mr. Bernier said that he submitted materials and specification sheets. The largest volume of chemicals that will be stored on site is 5 gallons. It is mostly related to precast for the tiling of the pools such as the grout along with other materials associated with tiling.

There will be an underground propane tank for heat but it is not a risk for the aquifer. He said that they meet the criteria for the Aquifer Conservation District Special Use Permit.

With regard to the Special Use Permit for the Wetland District, Mr. Bernier said that the project is 100% in compliance with the town's Wetland Protection District. He said that it is actually above and beyond because in the original subdivision, they created a permanent buffer that is monumented and defined with metes and bounds protecting the wetlands, which is a buffer offset from the wetlands. He said that the applicant went above the minimum requirements of the Wetland District and created a bound and dedicated easement to protect that resource. There is no work proposed in that District.

With regard to the AOT permit, they were required to submit a NH Heritage Inventory Report which details any possible endangered species within 20 miles of the site. Mr. Bernier said that they are relatively close to the Soucook River, so Kim Tuttle of the Fish and Game Department requested that they blaze and paint the line along the buffer and boundary of the wetland section and recover all the lot corners so that the new owners know where they are.

There are a few trees close to the pavement at the rear driveway that will be removed in order to create a better sight distance to the left. The location of the driveway was staked along with the sight distances in both directions and amended the site plan to reflect the removal of the trees. They have not heard any more about the driveway permits.

There is a sign variance application submitted for Soake Pools. They would like a 36" sign. Because the next ZBA meeting was full, they were bumped to a future meeting.

Mr. Bernier said that he would appreciate a conditional approval tonight.

Acting Chairman Seaworth said that the risk of going to the Planning Board prior to the ZBA is on the applicant. If the ZBA attaches conditions that changes the site plan, the applicant would need to reapply for the minor site plan.

Mr. Bernier said that he understood the risk, but considering that the application is for such a small use and they received variances for the other two uses on Silver Hills Drive that were considerably larger, they felt that they were willing to take the chance.

Member Cruson asked about snow storage and Mr. Bernier pointed out all the areas that were reserved for such. He said that they have more space than snow to remove.

Alternate Member Goldthwaite asked how large the pools were. Mr. Larson said that the pools are approximately 7' x 13' and made of concrete. They are considered a plunge pool which can be used in the summer to cool off but also be heated in the winter as a hot tub.

Acting Chairman Seaworth asked how many employees there would be.

Mr. Larson said that there are currently two, he and his wife, and they subcontract a few tile installers. There would be a maximum of 5 people on site at any given time.

Mr. Bernier said that they have 7 parking spaces.

Ms. Cronin reviewed the proposed conditions of approval.

There being no further comments or questions from the Board or the public, Acting Chairman Seaworth closed the public hearing at 8:33 pm. He said that if the applications are continued to another meeting, the public hearing would also be continued without being renoticed. He advised all interested parties to check the Planning Board agendas on the Town website or call the Planning Department.

MOTION: Member Edmonds moved to approve the Aquifer Special Use Permit case SUP-AC #18-312 conditionally until Major Site Plan #18-106 has received final approval, at which time the Special Use Permit becomes final for as long as the case is approved. If at any time the case is revoked or final approval is not received, the Special Use Permit becomes invalid. Seconded by Alternate Member Goldthwaite.

VOTE:	K. Cruson – Y	R. Bean – Y	B. Edmonds – Y
	T. Goldthwaite – Y	A. Bond – Y	B. Seaworth – Y

MOTION TO APPROVE THE AQUIFER SPECIAL USE PERMIT CASE SUP-AC #18-312 CONDITIONALLY UNTIL MAJOR SITE PLAN #18-106 HAS RECEIVED FINAL APPROVAL, AT WHICH TIME THE SPECIAL USE PERMIT BECOMES FINAL FOR AS LONG AS THE CASE IS APPROVED. IF AT ANY TIME THE CASE IS REVOKED OR FINAL APPROVAL IS NOT RECEIVED, THE SPECIAL USE PERMIT BECOMES INVALID PASSED ON A 6-0 VOTE.

MOTION: Alternate Member Goldthwaite moved to approve Wetlands Special Use Permit case SUP-WP #18-313 conditionally until Major Site Plan #18-106 has received final approval, at which time the Special Use Permit becomes final for as long as the case is approved. If at any time the case is revoked or final approval is not received, the Special Use Permit becomes invalid. Seconded by Member Edmonds.

VOTE:	K. Cruson – Y	R. Bean – Y	B. Edmonds – Y
	T. Goldthwaite – Y	A. Bond – Y	B. Seaworth – Y

MOTION TO APPROVE WETLANDS SPECIAL USE PERMIT CASE SUP-WP #18-313 CONDITIONALLY UNTIL MAJOR SITE PLAN #18-106 HAS RECEIVED FINAL APPROVAL, AT WHICH TIME THE SPECIAL USE PERMIT BECOMES FINAL FOR AS LONG AS THE CASE IS APPROVED. IF AT ANY TIME THE CASE IS REVOKED OR FINAL APPROVAL IS NOT RECEIVED, THE SPECIAL USE PERMIT BECOMES INVALID PASSED ON A 6-0 VOTE.

MOTION: Member Edmonds moved to approve Major Site Plan Application #18-106 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. A variance is required from the Pembroke Zoning Board for manufacturing use.
4. A variance is required from the Pembroke Zoning Board for a wall sign in the R3 Zoning District.
5. The original signatures of all property owners shall be provided on the final plan.
6. Town of Pembroke Driveway Permits for each curb cut are required.
7. NHDES AOT Permit is required.
8. NHDES Septic Design approval is required.
9. All engineering review fees to be paid in full.
10. Monitoring and inspection escrow to be provided to the Town in an amount determined by the Town Engineer.
11. Prior to issuance of a building permit, a pre-construction meeting shall be held with the Town.
12. The Special Use Permits (SUP-AC #18-312 and SUP-WP #18-313) Notice of Decisions and the Site Plan Review #18-106 Notice of Decision are to be recorded at the Merrimack County Registry of Deeds.
13. The site plan will not be considered as receiving final approval until all conditions of approval are met.

Seconded by Alternate Member Goldthwaite.

VOTE:	K. Cruson – Y	R. Bean – Y	B. Edmonds – Y
	T. Goldthwaite – Y	A. Bond – Y	B. Seaworth – Y

MOTION TO APPROVE MAJOR SITE PLAN APPLICATION #18-106 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. **A VARIANCE IS REQUIRED FROM THE PEMBROKE ZONING BOARD FOR MANUFACTURING USE.**
4. **A VARIANCE IS REQUIRED FROM THE PEMBROKE ZONING BOARD FOR A WALL SIGN IN THE R3 ZONING DISTRICT.**
5. **THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.**
6. **TOWN OF PEMBROKE DRIVEWAY PERMITS FOR EACH CURB CUT ARE REQUIRED.**
7. **NHDES AOT PERMIT IS REQUIRED.**
8. **NHDES SEPTIC DESIGN APPROVAL IS REQUIRED.**
9. **ALL ENGINEERING REVIEW FEES TO BE PAID IN FULL.**

10. **MONITORING AND INSPECTION ESCROW TO BE PROVIDED TO THE TOWN IN AN AMOUNT DETERMINED BY THE TOWN ENGINEER.**
 11. **PRIOR TO ISSUANCE OF A BUILDING PERMIT, A PRE-CONSTRUCTION MEETING SHALL BE HELD WITH THE TOWN.**
 12. **THE SPECIAL USE PERMITS (SUP-AC #18-312 AND SUP-WP #18-313) NOTICE OF DECISIONS AND THE SITE PLAN REVIEW #18-106 NOTICE OF DECISION ARE TO BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS.**
 13. **THE SITE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.**
- PASSED ON A 6-0 VOTE.**

5. **Minor Subdivision Plan Application #18-07, F. Webster Stout, FWS Land Surveying, PLLC, acting as Applicant on behalf of Richard A. & Jeannine Berube, owners of Tax Map 937, Lot 26 located at 464 Seventh Range Road in the Rural/Agricultural-Residential (R3) Zone and the Wetlands Protection District.**

The Applicant proposed to subdivide Map 937, Lot 26 into two single-family residential lots. Both lots will be served by private on-site septic and well. This plan is associated with Wetlands Special Use Permit SUP-WP #18-314.

6. **Special Use Permit Application SUP-WP #18-314, F. Webster Stout, FWS Land Surveying, PLLC, acting as Applicant on behalf of Richard A. & Jeannine Berube, owners of Tax Map 937, Lot 26 located at 464 Seventh Range Road in the Rural/Agricultural-Residential (R3) Zone and the Wetlands Protection District.**

The Applicant requests a Special Use Permit in accordance with Article 143-72.D., Wetlands Protection District, for single-family residential use on a parcel containing wetlands. This permit is associated with Minor Subdivision Plan Application #18-07.

Acting Chairman Seaworth read aloud a letter from F. Webster Stout of FWS Land Surveying, PLLC dated October 17, 2018 to the Pembroke Planning Board:

Dear Chairperson and Members of the Board:

We are asking that the Board postpone the hearing on October 23, 2018 for the Richard and Jeannine Berube subdivision located on 7th Range Road and reschedule the hearing to the November 27, 2018 Planning Board hearing.

MOTION: Member Edmonds moved to continue Agenda Items 5 and 6 to the November 27, 2018 meeting as requested. Seconded by Alternate Member Goldthwaite.

Acting Chairman Seaworth said that the public hearing will also be continued to the November 27, 2018 meeting and will not be renoticed. He asked that anyone interested in

the application refer to the Planning Board agenda on the Town website or call the Planning Department.

VOTE: K. Cruson – Y R. Bean – Y B. Edmonds – Y
 T. Goldthwaite – Y A. Bond – Y B. Seaworth – Y

THE MOTION TO CONTINUE AGENDA ITEMS 5 AND 6 TO THE NOVEMBER 27, 2018 MEETING AS REQUESTED PASSED ON A 6-0 VOTE.

Minutes September 25, 2018 & October 9, 2018

MOTION: MEMBER CRUSON MOVED TO ACCEPT THE SEPTEMBER 25, 2018 MINUTES AS AMENDED. SECONDED BY MEMBER EDMONDS. UNANIMOUSLY APPROVED.

MOTION: ALTERNATE MEMBER GOLDTHWAITE MOVED TO ACCEPT THE OCTOBER 9, 2018 MINUTES AS AMENDED. SECONDED BY MEMBER EDMONDS. UNANIMOUSLY APPROVED.

Miscellaneous

1. Correspondence

Ms. Cronin said that the Board was given a copy of a letter from CNHRPC soliciting projects for the NHDOT 10-year plan and the CNHRPC's Long-Range Transportation Plan. Submittals must be in by November 30, 2018. There is not a Pembroke project currently on the NHDOT 10-year plan. The proposed projects can include upgrades to State transportation infrastructure such as highways, bridges, railways, planning studies, bridge rehabilitation, etc. She said that perhaps a Route 3 Corridor Study may be appropriate.

Member Cruson asked what a Route 3 Corridor Study would encompass.

Ms. Cronin said that CNHRPC would look at traffic volume, trip numbers, traffic circulation in and out of Route 3, and would try to come up with recommendations for improvements to intersections, widening or narrowing lanes, and alternate routes in preparation for future funding. If it was on the NHDOT 10-year plan it would open other funding opportunities. She said that there would be a cost to do the study but, at this point, they are just looking for project ideas. There is no financial obligation to propose something to them.

Member Cruson thought that the Route 3 Corridor Study would be a good idea. Acting Chairman Seaworth and Selectmen's Rep. Bond agreed. The Board was instructed to come up with ideas for the next meeting.

Member Cruson also suggested a study of Route 106 because of the lines waiting at the lights at the intersection of Pembroke Street.

2. Committee Reports

Conservation Commission: Member Edmonds said that the Commission is still pursuing the Center Hill Road property.

Board of Selectmen: Selectmen's Rep. Bond said that the Board has been working on budgets. The last meeting involved the budgets for Fire, Police and the Department of Public Works. She also said that she attended a workshop which was very informative.

3. Planner Items

A. 2019 Planning Board Schedule

Ms. Cronin drafted a 2019 meeting schedule for the Board's approval. It was approved. She will create a final schedule.

4. Board Member Items

Member Edmonds said that the Beacon Hill Road project was paved yesterday.

Ms. Cronin asked the Board to bring the packet information involving the Berube application back to the next meeting.

MOTION: Member Edmonds moved to adjourn the meeting. Seconded by Alternate Member Goldthwaite. Unanimously approved.

The meeting was adjourned at 8:58 p.m.

Respectfully submitted,
Jocelyn Carlucci, Recording Secretary