

**Meeting Minutes  
(ADOPTED)  
December 10, 2019**

**MEMBERS PRESENT:** Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Kathy Cruson; Clint Hanson; Dan Crean

**EXCUSED:** Ann Bond, Selectman's Rep.; Brent Edmonds

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

Chairman Seaworth called the meeting to order at 6:30 pm.

**Old Business**

- 1. Minor Site Plan Application #19-106, Sue Morrison and Dan Robinson, ReVision Energy, Inc., acting as Applicant on behalf of Renarl Ave, LLC, owner of Tax Map VW, Lot 47 located at 8-14 Renarl Avenue in the Medium Density Residential (R1) Zone.**

The Applicant proposes to construct a 100KW ground mounted solar array.

Planner Cronin reported that a site walk open to Planning Board members and the public was taken on Thursday December 5, 2019. Participants saw the grade of the land, the tree clearing area and the location of the array. The engineer sent a letter dated December 10, 2019 with only one comment. He would like a note on the plan describing permanent ground cover and erosion control measures.

Chairman Seaworth opened the public hearing at 6:33 p.m.

Dan Robinson, ReVision Energy, stated they were proposing bark mulch inside the array and silt screening inside the fence. As noted on the site walk, ReVision Energy is open to suggestions about active vegetation outside the array.

Member Crean has a concern about using bark mulch on a slope, even with a fabric screen. Permanent vegetation would hold up better.

Chairman Seaworth stated that if he remembered correctly 80% of the array is on a flat area where use of bark mulch would make sense. Around the array, live ground cover with the addition of a silt fence at the bottom of array is recommended. There is a maintenance issue if bark mulch washes down the slope.

Jeff Keeler, one of the owners, stated that the project consists of seven solar units, 5 on the top and 2 at the bottom. We have a large supply of wood chips, which are larger than bark mulch, which may be a good material. We could put more than one silt fence, tapered in. We plan to consult with Merrimack County UNH Extension to find out what type of planting grows best in this situation. Trees remain in the 40-foot buffer.

Vice Chairman Bourque stated that there is a 21-foot drop from top right to bottom left. Would the applicant consider using inch and a half stone as ground cover? Dan Robinson stated that the straw wattle shown is movable and its purpose is to move equipment. The straw wattle is temporary. There will be permanent vegetation outside the edge of the

array at the south end. Vice Chairman Bourque stated he was under the impression the applicant was leaving erosion control measures.

Chairman Seaworth clarified that on the chain link fence, they would be putting a silt fence inside at the bottom of the fence. The straw wattle is temporary. Vice Chairman Bourque stated he is against use of bark mulch. It is the wrong product.

Dan Robinson stated that for erosion control, they planned to use mulch on the flat area and vegetative material on the sloped area with silt fences to hold it together until the vegetation takes root. The vegetation height is 6 inches. Member Cruson agrees with using vegetative material that is tough, attractive and durable. Please consult with UNH Extension for recommendation on types of plantings best suited for the area.

Andrea Bushee, 12 Lindy Street, stated that she drives by a solar array on the way to work that is 4 times larger and appears to be a commercial solar array. Tim Parson, 6 Fairview, asked if any tree cutting would be done after the array goes in. Jeff Keeler stated that no tree cutting is anticipated. Chairman Seaworth recalled a conversation that the wooded area remains as is as a condition of approval.

Planner Cronin stated that a private utility is permitted in the zoning district. Jeff Keeler, one of the owners, stated that the property is considered "commercial" for a bank loan because it is over a certain number of units.

Andrea Bushee, 12 Lindy Street, asked if this addition would increase the tax assessment of this property. Yes, it will. Jeff Keeler stated he has been a realtor in town for 43 years. He sold property on Plausawa Hill with a tower and yes, you do pay taxes on the value of the structure. Jeff Keeler stated that he looked into putting solar at his home as a green solution but the direction the house faced was not good.

Andrea Bushee, 12 Lindy Street, asked if the Planning Board can consider that the surrounding neighbors do not want to look at an array.

Member Crean stated he sympathized with the abutters. Member Crean stated I have solar energy at my house, however it is a smaller array. I went to the site visit but I am not sure how the array is going to look when it is built. There is not a lot of exposure to abutters' to the south. On a site plan review, we see a landscaping plan. Are we going to look out and see a solar farm? I recommend that Pembroke adopt a solar ordinance. It is too late for this case but would be guidance in the future.

Jeff Keeler explained the new plan submitted on December 5, 2019. The dark lines around the array represent green chain link fence. This is a permitted use at the level of a residential array. We will work with UNH Extension to determine ground cover that would work best. Chairman Seaworth clarified the landscaping would be in the 40 foot buffer. Vice Chairman Bourque asked if low height arborvitaes could be planted on the north and east side of the array. Jeff Keeler said that his mother in law had 25-foot high arborvitaes in Massachusetts. His concern is that they may grow too high and block the sun.

Member Cruson stated I have seen logging operations that have been left in better condition than this site. Jeff Keeler stated that brush had been cleared and taken away. He stated that Advanced Excavation will be removing stumps from the site in a day or two. Jeff Keeler stated we are not grading, not disturbing the land. Member Cruson suggested planting forsythia and lilacs on the outside perimeter of the fence. Member Cruson said the site is very rough looking now and it would not be that expensive to fix it up a little.

Chairman Seaworth asked what board members would need to be able to make a decision on conditional approval. Vice Chairman Bourque said 1) I would like to see some kind of definitive idea of the ground cover and 2) silt fences rot and need to be replaced. Member Crean said that the silt fence is temporary during construction so there would not be any replacement. Dan Robinson stated the straw wattles are temporary during construction. The silt fencing inside the chain link fence will stay in place until the vegetation takes. Member Crean stated I would like to see a landscape screening and ground cover plan to see how it will appear.

Jeff Keeler is not objecting to forsythias but arborvitae stop the sun from getting to the solar array. I do not want to name types of vegetative material that will be used until I can meet with experts from UNH Extension. Member Crean agreed that after advice from UNH the applicant could apply a certain mixture.

Jeff Keeler, one of the owners, stated it will cost me thousands in lost tax credits if this project is delayed another month. Could the board consider conditional approval tonight?

Member Cruson said as the plan is, I cannot support it. Vice Chairman Bourque stated that without the ground cover and vegetative screening shown on the plan, we cannot see where it will be used. Vice Chairman Bourque is not prepared to vote tonight.

Member Crean stated we are trying to visualize the vegetation and soil stabilization. Jeff Keeler stated we are 100% committed to making the site look decent. We want to find out what will work well and what would allow us to continue the project.

Member Crean stated that in the past applicants have burned us after leaving landscaping as a condition of approval. In normal course, I would say wait to receive a detailed landscaping plan. I like the solar project and I am not adverse to project conditions if we receive the landscaping plan in a short period. A date specific might be the January 28, 2020 meeting.

Member Hanson stated I am new to the Board and have not been burned. I agree with Member Crean. Member Crean stated that setting a "condition subsequent" would give both parties what they need. There are all sorts of alternatives for their project.

Andrea Bushee, 12 Lindy Street, asked what if they planted arborvitae around the perimeter of abutters who will lose property value. Tim Parson, 6 Fairview, stated that runoff comes off the property now. In this instance, we did not know what was going on until we got an abutter notice. Where I live, we have conversations with our neighbors. At the first public hearing, the property owners were not even present. The contractor

presented on their behalf. If I had prior notice, my reaction might have been great project, good for the environment.

Jeff Keeler, one of the owners, stated my apologies to the abutters. I was sick the evening of the first hearing. Planting arborvitaes all around the neighboring properties is not feasible. I am open to conditions about landscaping and ground cover.

Member Crean said a major condition would be that approval is subject to submission and Planning Board approval of a ground cover and screening plan with the recommendations of UNH Extension implemented.

Andrea Bushee, 12 Lindy Street, asked how you screen something coming down a ledge. There is no way to screen the south end. Member Crean stated we can only do what is reasonable. There will be opportunity for abutters to comment again once a landscaping and ground cover plan is submitted.

Chairman Seaworth stated that natural vegetative ground cover should be used in the slope area. Member Crean stated the applicant would be working with UNH Extension to get the best mix. Vice Chairman Bourque stated stone would work well as ground cover under the array.

Andrea Bushee, 12 Lindy Street, stated that leaving the landscape plan open ended is a bad idea. Member Crean stated we are retaining jurisdiction. Abutters will be able to comment when we see the plan.

There being no further input, Chairman Seaworth closed the public hearing at 7:28 p.m.

**MOTION:** Member Crean made a motion to continue the public hearing for Minor Site Application #19-106 to January 28, 2020 for the purpose of reviewing the landscape screening and ground cover plan, and **conditionally approve Minor Site Plan**

**Application #19-106 with the following conditions:**

1. Prior to signature, the plans shall be revised to include all submitted plan addendums, including property lines, the limits of tree clearing, and topography.
2. Prior to signature, the original signatures of all property owners shall be provided on the final plan.
3. Prior to signature, a Planning Board signature block shall be added to the final plan.
4. All conditions of approval shall be listed on the plan.
5. The Site Plan Review Notice of Decision shall be recorded at the Merrimack County Registry of Deeds.
6. All engineering review fees to be paid in full to the Town of Pembroke.
7. The applicant shall provide a letter of acceptance from Eversource.
8. The Applicant is responsible for ensuring that the solar array will not impede any existing easement rights on the property.
9. If at any time the solar array is no longer in use, it shall be completely removed from the site, and any ground disturbance shall be restored to a condition comparable to its pre-construction condition.

10. The site plan will not be considered as receiving final approval until all conditions of approval are met.
11. As a Condition Subsequent, applicant shall submit for review and approval by the Pembroke Planning Board a landscape, screening, and ground cover plan.

**Member Hanson seconded the motion.**

**Discussion:** It was clarified that ground cover is inside the fence area and screening is outside the chain link fence area.

**VOTE:** B. Seaworth – Y C. Hanson – Y  
D. Crean – Y K. Cruson – NO R. Bourque – Y

MOTION TO CONTINUE THE PUBLIC HEARING TO JANUARY 28, 2020 AND CONDITIONALLY APPROVE MINOR SITE PLAN APPLICATION #19-106 WITH THE FOLLOWING CONDITIONS PASSED ON A 4-1 VOTE.

1. ***PRIOR TO SIGNATURE, THE PLANS SHALL BE REVISED TO INCLUDE ALL SUBMITTED PLAN ADDENDUMS, INCLUDING PROPERTY LINES, THE LIMITS OF TREE CLEARING, AND TOPOGRAPHY.***
2. ***PRIOR TO SIGNATURE, THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.***
3. ***PRIOR TO SIGNATURE, A PLANNING BOARD SIGNATURE BLOCK SHALL BE ADDED TO THE FINAL PLAN.***
4. ***ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.***
5. ***THE SITE PLAN REVIEW NOTICE OF DECISION SHALL BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS.***
6. ***ALL ENGINEERING REVIEW FEES TO BE PAID IN FULL TO THE TOWN OF PEMBROKE.***
7. ***THE APPLICANT SHALL PROVIDE A LETTER OF ACCEPTANCE FROM EVERSOURCE.***
8. ***THE APPLICANT IS RESPONSIBLE FOR ENSURING THAT THE SOLAR ARRAY WILL NOT IMPEDE ANY EXISTING EASEMENT RIGHTS ON THE PROPERTY.***
9. ***IF AT ANY TIME THE SOLAR ARRAY IS NO LONGER IN USE, IT SHALL BE COMPLETELY REMOVED FROM THE SITE, AND ANY GROUND DISTURBANCE SHALL BE RESTORED TO A CONDITION COMPARABLE TO ITS PRE CONSTRUCTION CONDITION.***
10. ***THE SITE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.***
11. ***AS A CONDITION SUBSEQUENT, THE APPLICANT SHALL SUBMIT FOR REVIEW AND APPROVAL BY THE PEMBROKE PLANNING BOARD A LANDSCAPE, SCREENING, AND GROUND COVER PLAN.***

### **New Business**

2. **Minor Subdivision Application #19-04, Jacques E. Belanger, J.E. Belanger Land Surveyor, PLLC, acting as Applicant on behalf of Andrew R. Jones Revocable Trust and Gary Devore Revocable Trust, owners of Tax Map 260, Lot 26 located at 666 Cross Country Road; Gary Devore Revocable Trust, owner of Tax Map 260, Lot 26-6 located at 662 Cross Country Road; and Sheila Renaud-Finnegan and Scott Halvorson owners of Tax Map 260, Lot 26-3 located at 658 Cross Country Road, all lots located in the Rural/Agricultural-Residential (R3) Zone and the Wetlands Protection (WP) District.**

The Applicant proposes a lot line adjustment to convey 1.15 acres of Lot 26-6 to Lot 26, and convey the remaining 1.15 acres of Lot 26-6 to Lot 26-3, thus eliminating Lot 26-6.

**Present:** Jacques Belanger, Surveyor, representing applicants

Chairman Seaworth said that if the application is not completed tonight and the application is continued to a future meeting, the public hearing will also be continued to that meeting without being renoticed. He asked the public to refer to the Town's website or call the Planning Department for future agendas.

Planner Cronin explained that Lot 26-6 is an undeveloped lot situated between Lots 26 and 26-3. The proposal is to convey approximately half of Lot 26-6 (1.15 acres) to Lot 26 and the other half (1.15 acres) to Lot 26-3, thereby dissolving Lot 26-6 in its entirety. The property is located in the R3 Zone and the Wetlands Protection (WP) zoning districts. The properties appear to meet the dimensional standards. The use of the property is not changing and no construction is proposed.

Planner Cronin said the Checklist waiver requests are appropriate because they are not applicable to the lot line adjustment. No new development is proposed. The land will be divided between the two abutting homeowners.

Only two minor plan comments were made that could be appropriate as conditions of approval:

1. Revise the vicinity map to include zoning district boundary lines and correct the misspelling of Brickett Hill Road.
2. Add "RSA 674:35" to the wording of the signature block in accordance with checklist item W.

**MOTION:** Vice Chairman Bourque moved to grant the waiver requests for checklist items: Part A, Items: C, D, H, I, J, K, L, M, N, O, Q, R, S, U, and V as requested by the applicant. Seconded by Member Crean.

**VOTE:** B. Seaworth – Y C. Hanson – Y  
D. Crean – Y K. Cruson – Y R. Bourque – Y

**MOTION TO GRANT THE WAIVER REQUESTS AS LISTED PASSED ON A 5-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to accept the application as complete. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y  
D. Crean – Y K. Cruson – Y R. Bourque – Y

**MOTION TO ACCEPT THE APPLICATION AS COMPLETE PASSED ON A 5-0 VOTE.**

Chairman Seaworth opened the public hearing at 7:38 p.m.

Jacques Belanger, Surveyor, on behalf of applicant explained that there are three lots. Two lots have existing houses on them and a 2.3-acre undeveloped lot is between them. The applicants are dividing the lot and making each of their lots larger. Nothing is changing on the lot.

There being no further comment, Chairman Seaworth closed the public hearing at 7:42 p.m.

Chairman Seaworth said that the public hearing would not be renoticed. The public is advised to call the Planning Department or check the Town website for any updates or schedule changes.

**MOTION:** Vice Chairman Bourque made a motion to approve Minor Subdivision Plan Application #19-04 with the following conditions:

1. Prior to signature, revise the vicinity map to include zoning district boundary lines and correct the misspelling of Brickett Hill Road.
2. Prior to signature, add "RSA 674:35" to the wording of the signature block in accordance with checklist item W.
3. All waivers and the date granted shall be listed on the plan.
4. All conditions of approval shall be listed on the plan.
5. The original signatures of all property owners shall be provided on the final plan.
6. The plan will not be considered as receiving final approval until all conditions of approval are met.
7. The plan shall be recorded at the Merrimack County Registry of Deeds.
8. All recording fees shall be paid to Town of Pembroke.

Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y  
D. Crean – Y K. Cruson – Y R. Bourque – Y

**MOTION TO APPROVE MINOR SUBDIVISION #19-04 WITH THE FOLLOWING CONDITIONS PASSED ON A 5-0 VOTE.**

1. **PRIOR TO SIGNATURE, REVISE THE VICINITY MAP TO INCLUDE ZONING DISTRICT BOUNDARY LINES AND CORRECT THE MISPELLING OF BRICKETT HILL ROAD.**
2. **PRIOR TO SIGNATURE, ADD "RSA 674:35" TO THE WORDING OF THE SIGNATURE BLOCK IN ACCORDANCE WITH CHECKLIST ITEM W.**
3. **ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.**
4. **ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.**
5. **THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.**
6. **THE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.**
7. **THE PLAN SHALL BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS.**
8. **ALL RECORDING FEES SHALL BE PAID TO TOWN OF PEMBROKE.**

### **Workshop Business**

1. FINAL Draft of Zoning Amendments for Town Meeting  
The Planning Board reviewed final language for proposed zoning amendments 1, 2, 3, 5, and 6.

**MOTION:** Vice Chairman Bourque moved to send proposed zoning amendments 1, 2, 3, 5, and 6 to Public Hearing on January 28, 2019. Seconded by Member Crean.

**VOTE:** B. Seaworth – Y      C. Hanson – Y  
D. Crean – Y      K. Cruson – Y      R. Bourque – Y

**MOTION TO SEND PROPOSED ZONING AMENDMENTS TO PUBLIC HEARING PASSED ON A 5-0 VOTE.**

The Planning Board reviewed proposed amendments #7 and #8 regarding wetlands. Ammy Heiser from the Conservation Commission was present. Ammy stated that it would behoove the Town of Pembroke to allow less houses in a wet area. The means to do this is by increasing wetland buffers to at least 50 feet. The Conservation Commission wants to work with both Planning Board and Zoning to greatly benefit Pembroke overall. Having more buffer for wetlands helps with stormwater management and flooding. Bigger buffers act as a sponge to absorb toxins.

Ammy reached out to Sandy Crystal, who works at NH DES and is on the Town of Bow Conservation Commission. Her advice to the Pembroke Conservation Commission is to strengthen regulations. One aspect is to set “no disturbance” buffers. These buffers keep the natural vegetative state as it is to prevent erosion and serve wildlife. Vice Chairman Bourque asked if the Conservation Commission supports Item D5, use of wetland medallions to identify where the buffers are, particularly on residential lots. Ammy said yes, the Commission supports identifying wetlands using medallions. They also support use of segments of post and rail fencing at the cost of developers in larger wetland areas. The revised zoning regulations require permanent wetland demarcation. In addition, the Planning Board has authority to determine studies chosen and professionals hired to perform those studies. The regulations leave the matter open ended. This gives the Planning Board the flexibility to require medallions, post and rail fence, or boulders to identify wetlands depending on study results.

Ammy explained that proposed zoning amendment #8 has the NH DES definition of “vernal pools.” This increases the buffer around vernal pools due to sensitivity to the whole ecosystem, including the moose population. Creatures travel upward from vernal pools. Vice Chairman Bourque asked if a Professional Wetland Scientist might be needed at applicant cost to definitively identify these sensitive locations. Ammy agreed that there would be a need. Chairman Seaworth noted that wetlands and vernal pools have to be shown on the original plan submitted to the Planning Board for review. Ammy agreed the Planning Board must be able to readily find this information on the plan.

Chairman Seaworth asked if wetland crossings interact with buffers. Ammy said yes, but there are ways to minimize the wetland impact by taking appropriate measures such as silt fencing and leaving natural vegetation in place. Vice Chairman Bourque stated that wetlands regulations impact DES permits and Planning Board Special Use permits. Member Cruson stated that a large portion of our land in Pembroke has slope and wetlands. Ammy stated it is incumbent on the buyer to check out wetlands and other restrictions on a property before purchasing. Chairman Seaworth stated he likes the definition of “vernal pool” and asked if the board should provide examples of



demarcation of wetlands. Member Crean stated examples should not be in the ordinance.

Ammy likes the idea of using low segments of post and rail fencing. Wildlife can still go over, under or around this type of fencing. Vice Chairman Bourque stated the edge of wetland buffers need to be marked, particularly in the residential area. As properties are sold to a second or third buyer, the limits of the wetlands may be lost or compromised. Ammy noted that wetland medallions mark the land the Conservation Commission owns.

Planner Cronin has some medallions in the Planning Office. She noted that Ayn Whytemare also brought some medallions to the office.

Chairman Seaworth thanked Ammy Heiser for meeting with the Planning Board to provide information on wetlands.

**MOTION:** Member Crean moved to send proposed zoning amendments #7 and #8 to Public Hearing on January 28, 2019. Seconded by Vice Chairman Bourque.

**VOTE:** B. Seaworth – Y C. Hanson – Y  
D. Crean – Y K. Cruson – Y R. Bourque – Y

**MOTION TO SEND PROPOSED ZONING AMENDMENTS TO PUBLIC HEARING PASSED ON A 5-0 VOTE.**

The Planning Board reviewed proposed amendment #4 regarding Telecommunication towers. Planner Cronin stated that the town must comply with state law. The proposed zoning ordinance was written by Town Counsel. Member Crean stated that he has been dealing with FCC on behalf of towns for 20 years. In spring of 2020, he hopes to bring some national telecommunication experts to New Hampshire.

Member Crean stated he is comfortable with what is written here. We are relying on Town Counsel to comply with changes that have been made. Member Cruson asked if the language specifies any finite height of telecommunications towers. Member Crean said no, it just states, "minimum height needed to provide service." Towers are typically located on hills, but can provide better service if located in a valley. Towns need a telecommunications engineer to review plans. Proposal are prepared by the tower companies that lease out space on the tower.

Chairman Seaworth stated that the Planning Board could ask the applicant to demonstrate that the tower needs to be the height requested. Member Crean stated that antenna arrays are separated by 5-10 feet. Plans must comply with FCC lighting requirements over a certain height.

**MOTION:** Member Crean moved to send proposed zoning amendment #4 to Public Hearing on January 28, 2019. Seconded by Vice Chairman Bourque.

**VOTE:** B. Seaworth – Y C. Hanson – Y  
D. Crean – Y K. Cruson – Y R. Bourque – Y

**MOTION TO SEND PROPOSED ZONING AMENDMENTS TO PUBLIC HEARING  
PASSED ON A 5-0 VOTE.**

Board consensus was to postpone the next three items until the January 12, 2020 work session agenda, as they did not relate to town meeting.

1. Revisions to “Procedures for Changing a Class VI Road to a Class V Road as Part of a Subdivision or Site Plan Approval”
2. Dead End Streets
3. Development of Regional Impact Notification

**Minutes-** November 26, 2019

**MOTION: VICE CHAIRMAN BOURQUE MOVED TO ACCEPT THE MEETING MINUTES OF NOVEMBER 26, 2019 AS AMENDED. SECONDED BY MEMBER HANSON. UNANIMOUSLY APPROVED.**

**Miscellaneous**

1. Correspondence –none
2. Committee Reports – none
3. Other Business- none
4. Planner Items – none
5. Board Member Items – none
6. Audience Items – none

**MOTION:** Vice Chairman Bourque moved to adjourn the meeting. Seconded by Selectmen’s Rep Bond. Unanimously approved.

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,  
Susan Gifford, Recording Secretary