

**Pembroke Planning Board
Meeting Minutes
(ADOPTED)
October 22, 2019**

MEMBERS PRESENT: Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Kathy Cruson; Clint Hanson; Brent Edmonds; Dan Crean; Ann Bond, Selectman's Rep.

ALTERNATES PRESENT:

EXCUSED:

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

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

Old Business

- 1. Major Site Plan Application #19-105, Brett Kay, Nobis Group, acting as Applicant on behalf of Continental Paving, Inc., owner of Tax Map 559, Lot 6 located at 773-793 North Pembroke Road in the Commercial/Light Industrial (C1) Zone, the Aquifer Conservation (AC) District, the Floodplain Development (FD) District, and the Shoreland Protection (SP) District.**

The Applicant proposes to relocate the existing asphalt drum plant from the Ricker Road facility to the site with associated paved access and storm water infrastructure and construct a 2,400 SF addition to the existing scale house.

➤ **Special Use Permit Application SUP-AC #19-308.**

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

Brett Kay, Nobis Group and Mark Charbonneau, Continental Paving, Inc. were present.

Chairman Seaworth read aloud Old Business Item #1.

Planner Cronin explained that the Applicant proposes to relocate the existing asphalt drum plant on Ricker Road to the North Pembroke Road gravel pit. The new asphalt plant site will have associated paved access and storm water infrastructure. A 2,400 SF addition to the existing scale house is also proposed. On June 24, 2019 the applicant was granted a variance for 95' height silos. 35' is maximum height for structures. Requested waivers were granted September 24, 2019. NHDES permit applications were submitted for AOT and Shoreland Protection.

Chairman Seaworth opened the public hearing at 6:40 p.m. He asked that residents state their name and address for the record, and to be mindful that the meeting is being recorded by microphones in the ceiling. Side conversations affect the ability to record properly. 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.

Brett Kay, Nobis Group, acting on behalf of applicant Continental Paving, Inc. explained the proposal to relocate the existing asphalt drum plant from Ricker Road to 773-793 North Pembroke Road. At present, aggregate is trucked over to Ricker Road.

With the plant relocated to North Pembroke Road, those trips will be eliminated. The hot mix will be going out of the Concord Sand and Gravel site. The increase of exiting trucks with hot asphalt would be 8% per Stephen Pernaw's report. With the elimination of trucks carrying aggregate from Ricker Road, there will be net 20,000 truck trip reduction in the Route 106 area.

Brett Kay addressed concerns about groundwater protection. The swales for water runoff are lined with non-permeable material. This gives staff the opportunity to watch for and mitigate any possible contaminants. Continental Paving has been operating at Ricker Road since 2013 with no incidents. The equipment on site will be loaders, excavators, dozers and boom truck. Continental Paving has updated its source control documents reflecting best management practices.

Brett Kay addressed concerns about noise. The plant must run at night at times. The old plants were loud, but this facility will not be noisy at peak operation. There is thick vegetative buffer. Since 2013 Continental Paving has been operating at Ricker Road with residences 500 to 700 feet from the plant and has received no complaints.

Brett Kay addressed concerns about odors. In times past, we did not have the technology that exists today to keep the temperature of the mix at the ideal temperature. The temperature is accurate, so no odors are observed. There will be light on top of the silos when the plant is operating at night. Proximity to Concord Airport is well below the 150-foot controlled airspace. The NHDES site alteration permit is in process. In June 2019, we received a variance for the height of the plant to allow 95 feet where 35 feet maximum is permitted. NHDOT is updating the driveway permit.

Brett Kay described the process. Aggregate is stored on site, loaded into hoppers, onto the conveyer belt and into the drying drum. The truck pulls onto the scale, radios an order ahead, and liquid asphalt is added to the aggregate to make the product ordered. The product is poured into the waiting truck.

In June 2019, Continental Paving, Inc. met with the City of Concord. Continental got the same consultants as used on Ricker Road on board. A water study was done, and results are available. The meeting was held at Pembroke Water Works and included a site visit to both Ricker Road and North Pembroke Road. City of Concord requested 1) addition of three sentry wells west of the asphalt plant, 2) underlining swales with non-permeable material and 3) annual drinking water testing. A variance and site plan are needed from City of Concord to travel with hot asphalt. This could be a condition of approval in Pembroke, as it does not make sense to go to City of Concord until the plant relocation is approved in Pembroke.

Member Bourque asked if any onsite maintenance of equipment would occur at North Pembroke Road. Brett Kay stated that all trucks go to the main facility for any major maintenance. Oil changes on equipment take place on impervious material and would be just the fleet on site. 100% infiltration is designed to a 100-year event. Member Bourque asked what the plan was to remove any oil observed in a swale. There is a kit on hand and a process in the source documents to suction any oil.

Member Edmonds asked what will be done with the Ricker Road site. Mark Charbonneau stated that the batch plant will continue to operate at Ricker Road to custom make small low volume orders. Ricker Road batch plant makes 20,000 tons of asphalt a year while the drum plant makes 50,000 tons per year. Mark Charbonneau plans to develop the Ricker Road site at some point. Mark Charbonneau noted that it is costing approximately one million dollars to relocate the drum plant, so it will be used for some time at North Pembroke Road.

Selectmen's Rep Bond asked about expected increased traffic at North Pembroke Road. The aggregate will be at North Pembroke Road and liquid asphalt will be brought in. The traffic in the Route 106/Route 4/Ricker Road area will have a net decrease.

Justin Dubois, 765 North Pembroke Road, stated he has concerns about air pollution. They just purchased their home two years ago. They came to Pembroke for less traffic and less noise. This proposal is very unfortunate for us.

Crystal Weber, 765 North Pembroke Road, is concerned about air pollutants and their effect on their chickens, garden and well water.

Justin Dubois added that there is an opportunity to remove oil seen in drain water, but what if employees do not take that opportunity?

Member Cruson asked what the distance is from the plant to the Weber's house. It is 2,200 feet.

Mark Charbonneau stated that the crusher is louder and that is used during the day. At night with the plant operating at Ricker Road, it measured 68 decibels at 500 feet. Member Edmonds stated that NHDES regulates all air quality and they have very stringent requirements. Chairman Seaworth stated that the applicant will not get a green light until the plant is fully built. Chairman Seaworth asked if any noise mitigation was done at Ricker Road. No noise mitigation was done. Mark stated the decibels were based on data from an identical facility in Londonderry, 1,200 feet to a neighboring road.

Mark Charbonneau noted that the Citizen Law Foundation came after Continental Paving, Inc. and they are now in year 4 of a 5-year requirement for daily and weekly inspections for hazardous material. There has been none.

Selectmen's Rep Bond read a letter from Pembroke Water Works dated October 21, 2019 into the record. Although direct groundwater contamination of Pembroke's wells is not a concern, Pembroke Water Works requests copies of all groundwater monitoring done at North Pembroke Road to protect water quality. The study by Emery and Garrett is complete. Brett Kay pointed out a network of wells, S1, S2, and S3. Concord has 4 backup wells in the area. Groundwater moves toward the river. The three wells were put in at the recommendation of the first Emery and Garrett study at the Ricker Road site. There has been quarterly sampling in Concord and absolutely no hits. The second Emery and Garrett study proposes 3 new sentry wells. Member Bourque gave a copy of the water study to Justin Dubois.

Mark Charbonneau invited Planning Board members to come to Ricker Road and North Pembroke Road for individual site visits (no more than three members at one time). Touring both sites will take approximately one hour. Mark Charbonneau stated the plant typically closes by Thanksgiving. They operate 6 am to 2 pm, but close if it rains. Member Bourque stated he would like to go when the plant is operating. Member Cruson and Selectmen's Rep Bond are available during the day. Mark Charbonneau stated that he can call or text interested parties the night before if the plant will be running the day after. Planner Cronin stated that she needs 24-hour notice to post it as a Planning Board meeting. However, if the visits are individual and staggered, it would not constitute a meeting. Mark Charbonneau stated that the invitation to tour the sites is extended to the abutters and people attending the meeting, and to those watching the recording. Planner Cronin passed a sheet around to get contact info for those interested in a site visit. Brett Kay will invite City of Concord Planner and Engineer as well and coordinate the times with Planner Cronin.

Planner Cronin stated that the outstanding items are 1) report from Town Health Officer for the Aquifer Special Use Permit and 2) applicant response to engineering comments. Member Edmonds asked for a clarifying note about the three sentry wells recommended by Emery and Garrett on the revised plan. Member Edmonds would like an updated response letter from City of Concord sent to the Planner. Any approval from Pembroke would need to be conditional on also receiving approval from City of Concord.

Chairman Seaworth stated that Central NH Planning Commission's letter suggested consideration of noise and emissions. There is a town noise ordinance that regulates noise during certain hours. If the applicant were allowed to operate at night by site plan, they still must abide by the noise ordinance. Residential abutters were very positive and supportive of the Ricker Road proposal. We are not waiving compliance with the town noise ordinance. The noise study may need to be updated. The formula takes operational information and does a mathematical projection on how far noise would travel. Brett Kay stated the calculation is a model. There are extensive evergreen barriers on North Pembroke Road. Board consensus is to wait until after the site visit to decide about whether an updated noise study would be needed. Member Edmonds stated he has been to both plants and he would rely on the noise ordinance.

Jane Wells, 757 North Pembroke Road, is concerned about air quality. She lives next to Justin Dubois and Crystal Weber. Chairman Seaworth stated that NHDES is very stringent and better technically to provide information. Mark Charbonneau stated that all the testing information is public information that is available online. Mark added that the new plant will be run by natural gas versus oil used in the past. The drum is double barreled and the inside barrel dries at high btu's until there is 0% moisture. New technology does not draw hydrocarbons back into the burner. The moisture you see above the plant is moisture from the water taken out by the dryer.

There being no further discussion Chairman Seaworth closed the public hearing at 7:49 p.m.

MOTION: Member Bourque moved to continue the public hearing on Major Site Plan Application #19-105 and associated permit SUP-AC#19-308 to November 26, 2019. Seconded by Member Hanson.

VOTE: B. Seaworth – Y A. Bond – Y C. Hanson – Y B. Edmonds - Y
D. Crean – Y K. Cruson – Y R. Bourque – Y

MOTION TO CONTINUE PUBLIC HEARING TO NOVEMBER 26, 2019 PASSED ON A 7-0 VOTE.

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.

New Business

2. 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.

Chairman Seaworth read aloud New Business Item #2.

ReVision Energy proposes to install a ground mounted solar array at the property on Renarl Ave., which has existing apartment buildings located on it. A tree company already cleared the trees prior to submittal in anticipation of this application. The applicant proposes to sell the power generated from the array to Eversource.

A TRC meeting was held on October 2, 2019. There were no concerns. Minutes from the meeting are included in your packet. The applicant is requesting waivers of Part A, E and M and A.K Planning Board signature block could be a condition of approval. A notarized authorization was provided from the property owner for ReVision Energy to represent them for this application.

The Town Engineer issued comments on October 22, 2019 relative to stormwater runoff, erosion control, and financial guarantee. He also noted that there are no existing property lines, proposed clearing limits, gates, fencing, surface restoration, access driveway or construction details shown on the plan. His review letter is in the packet.

A revised plan and additional information were submitted on October 11th. Town Engineer has not reviewed the revised plan.

The Town does not have a Solar Ordinance, so planning and engineering comments and conditions have been pulled from past experience with solar projects in other towns.

MOTION: Member Bourque moved to grant the waiver requests for checklist items: Part A – Items: E. and M as requested by the applicant. Seconded by Member Crean.

VOTE: B. Seaworth – Y A. Bond – Y C. Hanson – Y B. Edmonds - Y

D. Crean – Y K. Cruson – Y R. Bourque – Y

MOTION TO GRANT THE WAIVER REQUESTS AS LISTED PASSED ON A 7-0 VOTE.

MOTION: Member Bourque moved to accept the application as complete. Seconded by Member Crean.

VOTE: B. Seaworth – Y A. Bond – Y C. Hanson – Y B. Edmonds - Y
 D. Crean – Y K. Cruson – Y R. Bourque – Y

MOTION TO ACCEPT THE APPLICATION AS COMPLETE PASSED ON A 7-0 VOTE.

Chairman Seaworth opened the public hearing at 7:56 p.m.

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.

Dan Robinson, Project Manager, and Sue Morrison, Operations Manager, from ReVision Energy, LLC were present. Site plan titled "Keeler Realty, 112.0 KWDC/76.8 KWAC Photovoltaic System" was utilized for this review.

Dan Robinson stated that the owners have done a lot of renovations to the apartments and this is a second stage of construction. Installing solar array will take about one month. Some construction noise will be generated Monday through Friday, during normal hours using drill and power tools. Preliminary discussions were held with Eversource and their Interconnection Manager will inspect the site after it is complete. There is no noise and no smell after the array is installed. The array will live for about 30 years and may be decommissioned or replaced with newer technology. The parts are made of aluminum and glass. Dan Robinson noted that ReVision Energy is not responsible for clearing and cannot address any questions about clearing.

Each apartment and the house has a meter. This array will lower the electric bill for the common area/entry. The energy generated will be sold back to Eversource. Member Cruson asked if the panels adjust seasonally. Dan Robinson said the panels will be tilted and fixed in a southerly direction. Member Edmonds asked how will you handle the ledge? Dan Robinson stated there will be no rock removal or grading. Selectmen's Rep Bond asked what the height of the array is. Dan Robinson said the height of the array will be 5-6 feet but will not exceed the fence height. Selectmen's Rep Bond asked why the energy was not being used for the apartments. The array is for net metering. How many panels will be installed? Dan Robinson stated 320 panels will be installed. Where are the panels made? Probably in Germany as others we have used.

Chairman Seaworth stated that the application consists of an aerial photograph where the cleared area is cross hatched. How close to the edge of the property will the array be located? Dan Robinson stated the array is maintained within town setbacks. We are not responsible for the clearing.

Selectmen's Rep Bond stated that Pembroke has an Energy Committee. I would like to invite your company to come have a discussion with us for less than one hour. Dan

Robinson said I am not sure I am the right person, but I will make sure the correct person is asked to attend.

Tim Parson, 6 Fairview Avenue, is concerned about the extent of the cleared area. When you install screws into ledge, what is the effect on abutters foundations? Dan Robinson did not know. They will likely put in screws for half the number of panels. The screws go 3 feet into the ground and extend three feet above, then the panel is fixed onto it.

Lynn Verville, 10 Fairview Avenue, stated our houses are built on ledge. Will there be any blasting or external lighting? Dan Robinson stated there will be no blasting, and no external lighting once the array is installed.

Andrea Bushee, 12 Lindy Street, asked what the size of the panel is and will there be glare off the panels? The panels are 18 square feet each, and the glare is 2%. There is an anti-glare coating on the panels. Sue Morrison stated the panels are designed to absorb energy in facing southerly. There will be fencing around the solar array to keep out wildlife and humans, Dan Robinson stated we use native wood chips and bark as erosion control. Some of the vegetation will grow back. Dan Robinson showed a photograph of a recently completed project. Andrea stated my sump pump runs year-round. Now with all the trees removed the roots that were holding back some water will affect our property,

Dan Robinson stated we cannot speak on the clearing,

The photograph shows chain link fencing. Andrea asked if a privacy fence could be installed along her property line instead of chain link, so we don't have an industrial thing in our back yard,

Carol Cotnoir, 8 Fairview Avenue, stated approximately 120 screws will be installed 3 feet into ledge. How will that affect our foundations? Another resident stated I love the idea of clean energy, but my property is closest to the proposed solar array. My property was reassessed and its value rose. Will I get another reassessment to reflect this industrial installation?

Bob, Lindy Street, asked how high off the ground will the array be. Dan Robinson said the screws are 7 feet, about half is put into the ground, and the panel is 36 inches high. Can you see the skidder on the property now? No, the leaves are not off the trees yet. There will be a buffer of trees. I would like a privacy fence also.

Lynn Verville, 10 Fairview Avenue, stated this array is being installed on ledge.

Member Edmonds asked if the ReVision staff are aware of any dialogue the owner may have had with abutters. The fence, screening, visual barriers need to be approved by the owners. I appreciate your representation of the technical issues. Dan Robinson is not aware of discussion with abutters.

Dan Crean asked what happens in winter when snow may cover half of the lower array? My array is not 36 inches off the ground, and I need to clear snow from it. Dan Robinson said we have a lot of contours to deal with on the property. Member Crean stated we need

much more information like topography, height of array and array design. You can't use a photo as a model in New Hampshire.

Carol Cotnoir, 8 Fairview Avenue, asked why not use the roofs? What is the drilling process? Dan Robinson stated a small track machine is used by one person for 2-3 days. Will the array generate heat? Sue Morrison said no, the array does not generate heat. Abutters thanked ReVision Energy representatives for coming here, but we have had no conversation from the owners. The Planning Board needs to ask the property owners to come to a meeting. Losing trees mean more water in our basements. The owners owe a courtesy to us.

Chairman Seaworth agreed the owners need to address the impact to abutters. We need answers from the owners of the property. Andrea asked if there is another project in town we can view. Planner Cronin does not know of any commercial panels, but there are residential ones in town. Dan Robinson stated that some towns have solar ordinances. Chairman Seaworth stated we might consider it at Planning Board.

Lynn Verville, 10 Fairview Avenue, stated that the owner cleared all the trees way ahead of submitting an application. Now the remaining trees are open to wind and are not protected.

Carol Cotnoir, 8 Fairview Avenue, stated that the owner took down the fence and trees behind my property. I can't find my red stake and I don't know if my trees were taken down in the clearing process.

Chairman Seaworth stated we have concerns about things that were already happening. A logging permit or intent to cut is needed for a certain amount of clearing. There are concerns trees may have been taken down improperly. Planner Cronin would not get notice of an intent to cut. Selectmen's Rep Bond stated the Board of Selectmen sign intent to cut requests. She will research how much clearing triggers a need for intent to cut.

Chairman Seaworth asked Carol Cotnoir if the fence was on her property, With the missing stake she is not sure. Lynn stated that her fence abuts Ms. Cotnoir. Member Bourque stated that the Planning Board needs a layout of the site showing property lines. Planner Cronin stated the initial submittal was an aerial photo overlaid with the proposed solar array. We need the photo overlaid with the tax map to show property lines.

Planner Cronin read a letter from abutters Christine Sullivan and John Moody requesting that the property owner remove the two pine trees on the right-of-way path that are owned by the owner. While the equipment is there please remove the pine trees so branches do not fall and damage our fence.

Member Crean stated we need to have the property owners here. We can't go forward without further information. We need actual depictions of the array. Clearing of the land happened well in advance of filing for site plan review. Member Hanson noted that on the larger submission there is a photograph where more trees were to the right. The picture was taken before the clearing. How did they get in to clear the site to that extent?

Chairman Seaworth stated that usually the owners make application, not the person contracted for the work. Planner Cronin stated we recommend that the owners come to the Technical Review Committee meeting and the Planning Board meeting. The owners in this application did neither.

Chairman Seaworth stated that KV Partners letter of October 22, 2019 addresses lack of property lines in item #2. We need revised narrative and revised plan sheet, detail of array, topography and limits of the clearing that has occurred. We need information on the runoff conditions due to change in the forested area, and where the concentrated runoff is going. The owners should consider having a meeting with abutters outside of Planning Board meeting to discuss issues. Member Bourque asked about the location of electrical equipment. Dan Robinson stated that on the back of Building 14, there is a meter bank. Plans are to replace 10-12 meters and change to net meter.

There being no further comment, Chairman Seaworth closed the public hearing at 8:50 p.m.

MOTION: Member Bourque moved to continue the public hearing on Minor Site Plan Application #19-106 to November 26, 2019. Seconded by Member Hanson.

VOTE: B. Seaworth – Y A. Bond – Y C. Hanson – Y B. Edmonds - Y
D. Crean – Y K. Cruson – Y R. Bourque – Y

MOTION TO CONTINUE PUBLIC HEARING TO NOVEMBER 26, 2019 PASSED ON A 7-0 VOTE.

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.

Minutes- October 8, 2019

MOTION: MEMBER BOURQUE MOVED TO ACCEPT THE MEETING MINUTES OF OCTOBER 8, 2019 AS AMENDED. SECONDED BY MEMBER HANSON. APPROVED ON 6-0-1 ABSTAIN VOTE, WITH MEMBER CRUSON ABSTAINING.

Miscellaneous

1. Correspondence- none
2. Committee Reports

Board of Selectmen – Selectmen's Rep Bond reported that the Board of Selectmen looked at the town budget and have more adjustments to make. They discussed proposed changes to town ordinance. Main Street will be rebuilt 1,700 feet. Meet Me in Suncook came in with their budget.

Technical Review Committee (TRC), Zoning, Tri Town – Member Bourque reported that TRC met October 2, 2019 and Zoning Board is not meeting in October.

3. Other Business- none
4. Planner Items – Planner Cronin asked if with a resubmittal of application for San Ken Homes, could the applicant notify the entities called out on Development of Regional Impact on the first application to save a month's time, assuming the second application

is also deemed a Development of Regional Impact. Chairman Seaworth stated he asked that question at a conference and was told that notification at submittal on a resubmittal is fine if that is part of the submittal checklist. The Planning Board will still need to make the designation once the application comes on the agenda. Member Crean stated that an applicant cannot go wrong by giving more notice than required. Member Bourque suggested adding a sentence to the submittal checklist that as situations arise, a resubmittal of a plan already designated a Development of Regional Impact can notify the DRI entities at initial submittal.

Planner Cronin reported that the final draft Master Plan chapters are nearly ready at CNHRPC. She has a request in to Town Counsel with Board questions from October 8 workshop and a response should be on the November 12 workshop agenda.

Remaining Planning Board meetings for the calendar year are November 12, November 26 and one meeting on December 10, 2019.

5. Board Member Items – none

6. Audience Items – none

MOTION: Member Crean moved to adjourn the meeting. Seconded by Member Bourque. Unanimously approved.

The meeting was adjourned at 9:07 p.m.

Respectfully submitted,
Susan Gifford, Recording Secretary