

**Pembroke Planning Board
Minutes of Meeting
(Adopted)
May 26, 2015**

MEMBERS PRESENT: Alan Topliff, Chairman; Brian Seaworth, Vice Chairman; Larry Young, Sr.; Kathy Cruson; Robert Bourque

ALTERNATES PRESENT: Brent Edmonds

EXCUSED: Kevin Krebs; Fred Kline, Selectmen's Rep.

STAFF PRESENT: David Jodoin, Town Administrator; Matt Monahan, Interim Town Planner; Jocelyn Carlucci, Recording Secretary

Chairman Topliff called the meeting to order at 7:00 p.m. Alternate Member Edmonds agreed to vote in place of Member Krebs.

He began the meeting by apologizing to everyone who appeared to discuss their application. He explained that the Planning Department did not send out the public notices in time as required by the State. He said that before the Board can accept an application as complete, they must consider the waiver requests.

Chairman Topliff pointed out that once the waiver requests are dealt with, it is possible to proceed with a conceptual consultation which would allow the applicant and the Board to informally discuss their proposed project.

He added that the conceptual consultation is non-binding by either party. All cases have been placed on the June 9, 2015 work session agenda.

New Business

1. **Site Plan Application #15-108, Ric Brown Storage Units, on Tax Map 561, Lot 5-10-2, located at 307 Commerce Way in the C-1 Commercial/Light Industrial Zone and the Agricultural Zone and the Aquifer Protection Zone.** The applicant, Jeff Burd or RJB Engineering, on behalf of the owner Ric Brown, is proposing additional storage units at a site with existing storage units.
2. **Special Use Permit Application #15-305, Ric Brown Storage Units, on Tax Map 561, Lot 5-10-2, located at 307 Commerce Way in the C-1 Commercial/Light Industrial Zone and the Agricultural Zone and the Aquifer Protection Zone.** The applicant, Jeff Burd or RJB Engineering, on behalf of the owner Ric Brown, is proposing additional storage units at a site with existing storage units.

Present: Ric Brown, the applicant; Earl Gage, Facilities Manager, and Jeff Burd, Engineer

Mr. Monahan said that the applicant had 11 waiver requests and a list of checklist requirements that were missing. There was a question about outdoor storage and a few engineering concerns. The engineering concerns are being worked on.

Mr. Monahan said that a portion of the site has been designated for RVs, boats, and storage pods (which are storage containers that are dropped off at a client's site and, once filled, are picked up and stored at the storage facility).

The applicant is also proposing additional permanent storage units to be built.

Mr. Monahan said that the Zoning Ordinance has a section on temporary trailers which states that if the storage trailer is stored less than 12 months, a permit from the Building Inspector is required. For more than 12 months, the applicant must file for a Special Use Permit from the Planning Board. He suggested handling the Special Use Permit in conjunction with the site plan.

Chairman Topliff said that originally the temporary storage trailer ordinance was intended to deal with construction site material/office use. He said that a storage pod has no wheels and does not fit a definition of a storage trailer per the zoning ordinance. He asked the Board what the difference would be between a storage pod set on a concrete pad or a steel fabricated storage unit set on a concrete pad. He said that both would be used in the same way. He asked the Board if they felt that this matter should go before the Zoning Board of Adjustment.

Member Bourque said that Mr. Brown is in the storage business whether it be storage units under roofs, sites for outdoor storage such as storage pods, boats, RVs, etc. He did not see an issue with Mr. Brown's request.

Vice Chairman Seaworth agreed with Member Bourque. He also said that it would seem appropriate to deal with the issue at a site plan review. In his opinion, the section of the ordinance that Mr. Monahan spoke of was created in order to try to cover the loopholes associated with someone bringing a trailer onto their site and sitting there too long.

The consensus of the Board was not to send the applicant to the ZBA for a variance and for the Planning Board to handle it as part of the site plan.

Member Bourque said that storage of hazardous material is always a concern especially when considering that the pods would be delivered to a facility and, after being filled, would be returned to Mr. Brown's storage site.

Mr. Monahan said that the applicant's engineer suggested that the applicant provide the Board with a copy of their storage policies. He also suggested having the applicant conduct periodic inspections of the storage units. It would be important for the applicant to know what is being stored inside the pod especially since it is being stored over the aquifer.

Mr. Monahan read through the waiver requests. The Board noted that no trash storage bin was listed on the site plan and the applicant is asking for a waiver from Part A, Item J for trash/refuse storage. The consensus of the Board was that a trash container should be placed on the site but felt that it would be best to have the discussion with the applicant prior to voting on the waiver requests.

MOTION: Vice Chairman Seaworth moved to continue the Site Plan Application #15-108 and Special Use Permit Application #15-305 to June 9, 2015. Seconded by Member Cruson. Unanimously approved.

Mr. Brown said that he sees the present application as an expansion of his existing facility. They currently have a small dumpster which is located outside the office so that they could see who was putting trash in it. He said that no one is allowed to leave anything on the site. He said that if they were to put a trash container in another location on the site, it would be filled by the renters within a short period of time and would be the responsibility of the facility to dispose of it. He said that they do not want to add another trash container.

With regard to hazardous waste, Mr. Brown said that it is his biggest concern. They have measures in place to prevent storage of hazardous waste such as: (1) When the buildings were built, all the floors have a 2" slope to the outside to ensure that any liquid that leaks in a unit will run out the door; (2) The units in the new facilities will have pavement in front of the doors so it will run out the door and will be seen; (3) Every renter must sign a contract which stipulates that they will not store hazardous waste and that they permit the staff to cut the lock and enter the unit if they suspect a leak; (4) Anything, such as a car, that is stored must have as little fuel as possible in the tank; (5) Mr. Gage also verbally tells each renter that they cannot store any hazardous material in the unit. (6) An employee of the facility goes around the units daily to check to see if locks were removed, or if there is an odor, liquid or smoke coming from the buildings. If a staff member notices anything coming out of the unit, they will cut the lock and go into the unit and call whomever (such as Clean Harbor, etc.) necessary to address the issue. Again, the tenants are fully aware of the policy.

Mr. Brown said that in 2006 the FBI visited their facilities and taught the staff how to watch for suspicious people, and what to look for with regard to biochemical substances. He admitted that they cannot watch every person that comes in every day, but said that it would be obvious if someone brought in a 55 gallon container. They have a forklift on site to help transport large containers but are then made aware of their content.

Mr. Brown said that they did not have a policy for dropping a storage pod off site, allowing it to be loaded, and then returning it to their facility. He assured the Board that "we will have a plan tomorrow that says that we will inspect every unit that is filled offsite. It is extremely important to us that there not be something in there and we can do that with off site storage." Mr. Brown also said that they have 615 units and since they are talking about 20 unit that may go off site, he said that they could be inspected easily.

Mr. Brown also said that they are working to resolve some engineering issues. He said that they have a spill containment kit in a specific location, along with the necessary equipment such as Speedy Dry, brooms, shovels, containers to pick up the substance, etc.

Mr. Burd said that he appreciated the time that the Board took to discuss the zoning issues with relation to the pods. He said that he summarized that the applicant would not have to go before the ZBA.

Chairman Topliff said that the zoning ordinance does not address pods and that the consensus of the Board was that functionally they are no different from the existing storage units.

Mr. Burd said that boats, trailers, etc. were permitted on the original site and that they want the same for the new site. They do not want to have to separate the two sites by what is allowed on each site.

Member Bourque said that he would like each waiver request to have a narrative that would justify the request. He said that it was enlightening to hear why Mr. Brown did not want a trash receptacle on the site plan. He also pointed out that the Board never would have known the reasoning behind the waiver if the applicant had not clarified it during the conceptual consultation. The Board agreed.

3. **Site Plan Application #15-107, BK Systems (G. Paulsen Co), on Tax Map 563, Lot 3, located at 27 Sheep Davis Road in the C-1 Commercial/Light Industrial Zone and the Aquifer Protection Zone.** The Applicant, J.E. Belanger Land Surveying, PLLC, on behalf of the owner, is proposing to change an existing office and warehouse into an office and warehouse for the sale of fire protection equipment.
4. **Special Use Permit Application #15-304, BK Systems (G. Paulsen Co), on Tax Map 563, Lot 3, located at 27 Sheep Davis Road in the C-1 Commercial/Light Industrial Zone and the Aquifer Protection Zone.** The Applicant, J.E. Belanger Land Surveying, PLLC, on behalf of the owner, is proposing to change an existing office and warehouse into an office and warehouse for the sale of fire protection equipment.

Present: Karlton Klardie, President of BK System

Chairman Topliff reiterated that waiver discussions would be the extent of this evening's discussions because of the public notice error that occurred.

Mr. Monahan said that the site is Chief Paulsen's property next to the Serendipity Day Spa. The applicant is not proposing anything to be done to the outside of the building

except to pave a corner of the parking lot. All changes will be to the interior. The change of use is from a magazine distribution center to a fire alarm components business.

He said that the biggest issue is that Serendipity Day Spa is allowed to park on the applicant's property. He said that a parking easement would be required.

A May 11, 2015 letter from Karlton J. Klardie of ABCEKT, LLC outlined the requirements from Serendipity Day Spa: (1) Provide and maintain adequate insurance coverage that would hold ABCEKT, LLC harmless from liability arising from the parking area; (2) Serendipity must maintain the designated parking area and provide signage that parking is at their own risk; (3) The parking will not extend beyond the current area; (4) Serendipity must clean up/reclaim the area between the parking lots with grass.

Chairman Topliff noticed that the applicant has asked for a waiver from Part A, Item Q for MSDS sheets. He said that other applicants have been asked to include MSDS sheets for household cleaning products.

Mr. Monahan noted that the Special Use Permit Checklist (Part C, Item C) requires a narrative on all chemicals, cleaners, hazardous materials, etc. proposed to be stored on site. He also said that the Site Plan Checklist (Q) requires MSDS sheets for each chemical and how each chemical is intended to be used, stored and disposed of in aggregate of 1 gallon or more or if a yearly use is 5 gallons or more.

Vice Chairman Seaworth said that the request for the waiver should be specific as to why the limits within the ordinance do not apply. Mr. Bourque said that there should be some kind of justification for asking for the waiver.

Chairman Topliff asked Mr. Monahan to make a note for future work sessions to discuss ways in which the Board could provide more guidance for waiver requests.

MOTION: Vice Chairman Seaworth moved to continue Site Plan Application #15-107 and Special Use Permit Application #15-304 to June 9, 2015. Seconded by Member Bourque. Unanimously approved.

Mr. Klardie said that their facility would be using handsoap or window cleaners. There would be no other chemicals. He said that he considered this a "nonissue".

With regard to the proposed parking easement, Mr. Klardie failed to see why it would be the Board's concern between the two properties. He said that they will not consider an easement. They would put up a fence first and not allow Serendipity to park on the property before filing an easement. He said that when they buy a piece of property, there is no reason to give up rights to that property and an easement is giving up rights to the property.

Vice Chairman Seaworth said that the Board struggled with the issue of when a use is considered too small to require an MSDS sheet. They came up with the new ordinance language that places a cutoff for the information based on gallonage. It was a way for the Board to stop struggling with the issue for each case. If the applicant were to use less than 5 gallons a year of a particular cleaner, then that would be all that would have to be included in the waiver narrative.

Mr. Karl die said that they would purchase handsoap or window cleaner on an “as needed” basis.

Chairman Topliff said that the Board must consider the waiver requests first and if they do not approve all the waiver requests, then they cannot consider the application. It was suggested that the applicant work with Mr. Monahan to consider the quantities that would be used and, if the applicant does not feel that they will exceed the threshold, it merely has to be expressed in the waiver narrative.

Chairman Topliff asked how the easement topic came up. Mr. Monahan said that the easement was proposed as a way to legally be certain as to who was entitled to the parking area. He offered to speak with LGC to ensure that it could be done without an easement.

Chairman Topliff pointed out that the deed would designate property ownership, but in terms of use of the land, there were multiple ways that the owner could permit the neighbor to use the property such as a lease.

Mr. Klarbie said that they are not looking to collect rent or take the parking away from Serendipity but, by the same token, they do not want to give up any of their land. They want to be protected and would require insurance in case of injury or property damage and it be posted as such. Mr. Klarbie said that his main concern is that the property be well maintained and cleaned up.

Mr. Monahan will speak with LGC to be sure that there are no legal issues with the abutter using the lot and whether it makes the lot less conforming.

Vice Chairman Seaworth said that he recalled similar issues on past site plans where the applicant wanted another business to use a portion of their property. The Board’s issue, at that time, was that the approved site plan did not request the other use. The Board required the property owner to redo the site plan to showed the use by the other people on their property. If this site plan shows the parking of the other business on the presented site plan, then there might not be an issue.

5. Subdivision Application # 15-02, AB Heiser, II LLC, on Tax Map 939, Lot 11, located at 610 – 620 Buck Street, in the R-3 Residential Rural/Agricultural Zone and the Aquifer Protection Zone The applicant,

Henry Amsden, on behalf of the owners, is proposing a two-lot subdivision to subdivide the existing duplex from remainder.

6. **Special Use Permit Application #15-303, AB Heiser, II LLC, on Tax Map 939, Lot 11, located at 610 – 620 Buck Street, in the R-3 Residential Rural/Agricultural Zone and the Aquifer Protection Zone** The applicant, Henry Amsden, on behalf of the owners, is proposing a two-lot subdivision to subdivide the existing duplex from remainder.

Present: Ammy and Stetson Heiser

Chairman Topliff reiterated that the Board would not consider anything other than the waivers at the meeting because of the public noticing error.

Mr. Monahan said that this was a large U-shaped lot. A portion of the lot has an existing duplex which the applicant would like to sell along with a small portion of land. The new lot is approximately 3-1/2 acres and the remaining lot is 90+ acres. There is no engineering on the site and the Pembroke Water Works has no concerns.

The Board reviewed the waivers. There were no questions or comments from the Board. Mr. Monahan said that the new portion of the existing lot will require a state subdivision.

MOTION: Vice Chairman Seaworth moved to approve the waivers as requested. Seconded by Member Young.

VOTE:	B. Edmonds – Y	L. Young – Y	R. Bourque – Y
	A. Topliff – Y	B. Seaworth – Y	K. Cruson - Y

MOTION TO APPROVE THE WAIVERS AS REQUESTED PASSED ON A 6-0 VOTE.

MOTION: Vice Chairman Seaworth moved to continue the Subdivision Application #15-02 and Special Use Permit Application #15-303 to June 9, 2015. Seconded by Member Bourque. Unanimously approved.

Mr. Heiser asked if an iron pipe in a drill hole could be used in the wetlands as a bound. Mr. Monahan reviewed the ordinance and said that the ordinance seemed to leave the boundary marker up to the discretion of the surveyor. Chairman Topliff said that an iron pipe would be allowed.

Mr. Heiser said that the rear line showed that they presently have 152,590 sq. ft. The surveyor suggested that if they were to move the line to the stone boundary, although they would lose approximately 28,000 sq. ft., the stone wall would make a more natural boundary.

Chairman Topliff said that as long as the change met the necessary buildable area, he did not see a problem.

7. **Site Plan Application #15-106, Sand Road LLC, on Tax Map 634, Lot 48-1, located at 619 Sand Road in the C-1 Commercial/Light Industrial Zone, the Architectural Design Overlay, and the Aquifer Protection Zone.** The Applicant, CLD Engineering, on behalf of the owner, is proposing a 12,000 square foot retail store.
8. **Special Use Permit Application #15-302, , Sand Road LLC, on Tax Map 634, Lot 48-1, located at 619 Sand Road in the C-1 Commercial/Light Industrial Zone, the Architectural Design Overlay, and the Aquifer Protection Zone.** The Applicant, CLD Engineering, on behalf of the owner, is proposing a 12,000 square foot retail store.

Mr. Monahan said that the landscaping issue has been addressed. He said that there are presently no engineering or traffic issues. The applicant has proposed a transformer for underground electricity which would be in the aquifer. The Pembroke Water Works noted in their letter dated April 24, 2015 that they recommend a vegetable oil transformer to be used. If a vegetable oil transformer cannot be used, it would need a proper moat to be constructed around the transformer pad with a clay layer underneath and stone surrounding the pad.” The most recent plan notes the use of the second option. Mr. Monahan suggested having the Pembroke Water Works review the revised plan.

Member Bourque suggested that the applicant use the fabric that was recommended to Mr. Merrill in the past. The fabric allows water to penetrate but when oil touches the fabric, it beads up and will not go through the fabric. Mr. Monahan said that he would mention the fabric to Matt Gagne of the Pembroke Water Works and the applicant. Member Bourque could not remember the name of the fabric product.

Jeff Burd of RJB Engineering, Inc. said that he would send information on the fabric to Mr. Gagne.

The Board agreed that an MSDS sheet would be necessary even though the applicant is asking for a waiver from the MSDS sheet.

Vice Chairman Seaworth noted that the application is for a 12,000 sq. ft. retail store. Although they presently know who they will be renting it to, the site plan is not to build a liquor store it is to build a retail space to rent out. At some point, the applicant may have another tenant. The applicant may be asking for a waiver on the MSDS sheet because they do not know the quantities and chemicals that would be used by the tenant. The MSDS sheet depends on the tenant.

Member Bourque asked if the MSDS would be required prior to the Certificate of Occupancy (CO). Vice Chairman Seaworth pointed out that there is always a possibility that a CO would be granted and the lease would fall through.

It was suggested that the solution be that when a lease is prepared for a tenant, one of the requirements would be for the tenant to prepare an MSDS sheet for the Planning Department.

Mr. Monahan said that the applicant would need a waiver conditional upon sending the MSDS sheet to the Town when a lease is signed. Vice Chairman Seaworth said that the narrative to the waiver would need to be specific.

Member Cruson asked who would be assigned to be vigilant with regard to new lessees. Mr. Jodoin said that the Pembroke Water Works would be the trigger because they would be notified if the billing was changed.

MOTION: Vice Chairman Seaworth moved to continue Site Plan Application #15-106 and Special Use Permit Application #15-302 to June 9, 2015. Seconded by Member Bourque. Unanimously approved.

The meeting recessed at 8:45 pm.

Chairman Topliff continued the meeting at 8:50 p.m.

Conceptual Consultations

- 1. Krazy Kids LLC Play and Party Center Map 632, Lots 11 and 11-1, Visionaire, Inc. and Gerald Foster Trust.** Jeff Burd of RJB Engineering, is proposing the expansion of Krazy Kids Play and Party Center including a building addition and additional outdoor recreation area.

Present: R. Jeffrey Burd of RJB Engineering, LLC

Chairman Topliff said that a conceptual consultation is merely a discussion between parties and nothing is binding.

Mr. Burd said that the applicant received approval in March for the Summer Camp and After-School Program. He said that a survey was performed for the site expansion. The site is 2.8 acres. It has an existing 7,400 sq. ft. building with parking for 100 vehicles. The detention basin is behind the building along with an outdoor recreation area. The applicant is planning to lease a two-acre parcel from the Fosters and expand their outdoor use.

They propose to add a 7,400 sq. ft. wood framed, metal sided addition to the building. The intent is for the detention pond to be moved further back so that the addition can be

located over the existing detention pond. Some parking modifications will be made in order to maintain the 100 parking spaces.

The two acre parcel will hold a pedal car track and inflatables.

Mr. Burd said that the applicant would like to clear some of the trees from the two-acre parcel so that they may take the kids from the After-School Program onto that area for outside play and picnic tables even though the site plan application has not been filed.

Chairman Topliff said that the selective cutting would be between the applicant and the property owner. To approve the move to the abutting property and expand an existing use without going through the process would not be appropriate for the Board to do.

Mr. Burd emphasized that the applicant wanted to have picnic tables on the lot for the kids to use and just cut a few trees for the table placement. The applicant is not planning to make any improvements right now.

Chairman Topliff said that it sounds simple but the applicant would be better off to wait until he gets approval from the Board.

Member Bourque said that (1) to use someone else's property is between the two parties; (2) a person does not need site plan approval to cut trees; (3) a person does not need site plan approval to bring people on the lot for a picnic. He felt that it was between the lessor and the applicant. Member Cruson agreed.

Chairman Topliff said that, because it is a business use, it is not unlike the fellow who wanted to setup a farm stand on Rt. 106 on land owned by someone else and the Board said that he could not do that until he came before the Planning Board. He also said that an abutter might not look favorably on allowing a business with screaming children to be run without being notified.

Since Mr. Burd said that the new detention pond would be approximately 3 ft. deep, the Board was concerned that a child might drown and suggested fencing it in. Mr. Burd said that no one had ever seen water in the detention pond because the area is pure sand which drains quickly, but he would consider it.

Vice Chairman Seaworth said that with regard to an intermediate use of the planned site, he sees three situations: (1) Before the Board approves the expansion of the use which, in that case, the other property is not part of the plan and not really under the Board's jurisdiction. (2) After the Board considers the application, the Board could say that, as part of the application, the picnic tables could be placed on the property and used because since it is being proposed and make it a note on the plan. (3) The final site conditions.

Mr. Jodoin asked how many acres would be cut. Mr. Burd said that it would be selective cutting which would amount to less than an acre. Mr. Jodoin said that a certain amount

can be taken off the property for personal use but over that amount would require filing an "Intent to Cut" with the Assessing Department and there may be taxable issues. Mr. Jodoin also said that there was nothing precluding Foster from going in and clearing that site. The gray area would be whether an "Intent to Cut" would be necessary.

Chairman Topliff asked if they would still meet the permeable coverage with the expanded footprint. Mr. Burd said that he would check on it.

Minutes- April 28, 2015

It was noted that a number of pages were missing from the April 28, 2015 minutes so the Board decided to table the approval of the minutes until the next meeting.

Miscellaneous

1. Committee Reports-

Technical Review Committee: Member Young said that they will be meeting on June 3, 2015 for a subdivision off Dudley Hill Road and a single lot subdivision for Steve and Pat Fowler.

Tri-Town Ambulance Service: Member Bourque said that they had a meeting but nothing new was discussed.

Roads Committee: Vice Chairman Seaworth said that they will be meeting on June 2, 2015.

Noise Sub-Committee: Vice Chairman Seaworth said that Ken Rhodes from CLD Engineering attended, talked about noise, and would be willing to help them.

Rose Galligan from the Recreation Department also attended the meeting and had a great deal of information from her fight with Public Service Company of New Hampshire about the noise with the Bow power plant. He said that it was a very good discussion.

2. Other Business–

- A. Regulation Update Discussion RE: TRC Committee/Simple Site Plan (material per last meeting)**

The Board tabled the Simple Site Plan discussion until a later time.

3. Planner Items-

Mr. Monahan said that he will send updated information pertaining to all the cases to the Board members except for the Heiser's case.

4. Construction Escrow

Mr. Monahan said that an escrow will be associated with the new liquor store.

5. Board Member Items-

Mr. Jodoin said that the CIP Committee will begin in July.

He also said that Stephanie Verdile will return to work on a temporary basis on June 3, 2015.

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

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,
Jocelyn Carlucci, Recording Secretary