

**Pembroke Planning Board  
Minutes of Meeting  
(ADOPTED)  
July 28, 2015**

**MEMBERS PRESENT:** Brian Seaworth, Vice Chairman; Larry Young, Sr.; Kathy Cruson; Kevin Krebs; Robert Bourque; Fred Kline, Selectmen's Rep.

**ALTERNATES PRESENT:** Brent Edmonds

**EXCUSED:** Alan Topliff, Chairman

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

In Chairman Topliff's absence, Vice Chairman Seaworth called the meeting to order at 7:00 p.m. Alternate Member Edmonds agreed to vote in place of Chairman Topliff.

**Old Business**

- 1. Subdivision Application #15-03, LDW Enterprises Development LLC Subdivision, on Tax Map 939 Lot 63, located at 210 Fifth Range Road in the Rural Residential Zone.** The applicant, Eric C. Mitchell of Eric C. Mitchell and Associates Inc., on behalf of the owner LDW Enterprise Development, LL, is proposing a three-lot residential subdivision. ***Continued from June 23, 2015.***

Mr. Monahan said the applicant had redesigned the plan to include a hammerhead. Michael Vignale, Town Engineer, has reviewed the plan.

He said that there was a frontage and zoning issue which has been continued by the Zoning Board of Adjustment (ZBA). The applicant would like to count the distance around the hammerhead as frontage in order to get the 200' frontage requirement.

Vice Chairman Seaworth said that if the Board accepted the application as complete and decided that the hammerhead frontage would not count, the applicant would need the variance from ZBA which would not affect the application's completeness. The Planning Board could then make the ZBA variance a condition of approval. The Planning Board could also decide that they would not want to consider the application until they are sure that the plan presented to them is the finished plan (with or without the frontage).

Mr. Monahan said that the difference between having the application denied vs. having the application considered incomplete is that, if the plan is deemed incomplete, the applicant can return.

Mr. Monahan said that the wetland stamp and signature are on the plan. He also reviewed the waiver requests.

A majority of the Planning Board agreed to discuss the hammerhead first.

Selectmen's Rep. Kline said that a hammerhead is normally made in anticipation of future development and the continuation of a road. If the hammerhead measurements are

considered part of the frontage, then, when future development occurs and the road is extended, the hammerhead would no longer exist and the Board would have created a non-conforming lot.

Vice Chairman Seaworth clarified that the location of the hammerhead is on the portion of the Class 5 road.

Members Krebs, Bourque, Cruson and Vice Chairman Seaworth all agreed with Selectmen's Rep. Kline.

Vice Chairman Seaworth said that there has never been any case where the Board has considered a temporary hammerhead as frontage.

Selectmen's Rep. Kline asked if anyone knew where the Class 6 road began on the road in question. He also asked if the Board should answer the question regarding the hammerhead and table the rest so that the applicant can return to the Board with altered plans.

Vice Chairman Seaworth said that the Board could take an informal vote on using the hammerhead as frontage and then take a vote on whether to continue the application to the next meeting.

Ms. Verdile said that the RSA requires that the application be submitted to the Board 30 days prior to the meeting. Any significant changes would have to be made within the 30-day timeframe so that abutters, along with the Board members, would be privy to the changes.

Vice Chairman Seaworth asked if the applicant would withdraw their original submittal if significant changes would have to be made.

Mr. Monahan said that if the Board voted on the waivers and the plan was accepted as complete, and the ZBA denied the variance, it would be harder to come back. It would be better for the applicant to withdraw the original application and reapply.

Vice Chairman Seaworth said that he does not think that it would be appropriate for the Board to deny the application based on frontage considering that the applicant has an open application with the ZBA. He said that it was beyond the Board's authority. The applicant has the right to seek relief from the ZBA and the Planning Board is bound by the decision of the ZBA. An outright denial on that basis would be inappropriate.

Vice Chairman Seaworth asked if the Board believed that the hammerhead should be considered as lot frontage. The Board unanimously voted NO.

Vice Chairman Seaworth said that if the applicant did not receive a frontage variance from the ZBA, he could not create the lot through the subdivision plan which was presented to the Planning Board.

Selectmen's Rep. Kline said that he would suggest continuing the application since the outcome of the ZBA's upcoming decision could significantly change the plan. In his opinion, it was in the best interest of the applicant.

**MOTION:** Selectmen's Rep. Kline moved to continue the Application until August 25, 2015 pending the ZBA decision because of extenuating circumstances. Seconded by Member Cruson.

**VOTE:**            B. Edmonds – Y        L. Young – Y            R. Bourque – Y  
                      F. Kline – Y            B. Seaworth – Y        K. Krebs – Y  
                      K. Cruson – Y

**MOTION TO CONTINUE THE APPLICATION UNTIL AUGUST 25, 2015 PENDING THE ZBA DECISION BECAUSE OF EXTENUATING CIRCUMSTANCES PASSED ON 7-0 VOTE.**

Vice Chairman Seaworth said that the Application would be continued to the August 25, 2015 meeting and would not be renoted. He advised the public to refer to the Planning Board agenda on the website.

### **New Business**

1. **Special Use Permit Application- SUP-AC #15-306, Krazy Kids Recreation Center, on Tax Map 632, Lot 11-1, located at 60 Sheep Davis Road and on Tax Map 632, Lot 11, located at 80 Sheep Davis Road in the C-1 Commercial/Light Industrial Zone and Aquifer Protection Zone.** The applicant, Jeff Burd of RJB Engineering, on behalf of the owners VisionAire Inc. and Gerald Foster Trust, requests a Special Use Permit from Article 143-68.E, Aquifer Conservation District, which is required for any activity taking place within the District. This permit is associated with the Major Site Plan application Site #15-109.
2. **Special Use Permit Application, SUP-WP #15-307-, Krazy Kids Recreation Center, on Tax Map 632, Lot 11-1, located at 60 Sheep Davis Road in the Commercial/Light Industrial Zone and the Wetlands Protection (WP) District.** The applicant, Jeff Burd of RJB Engineering, on behalf of the owners VisionAire Inc. request a Special Use Permit from Article 143.72. E (2), Wetlands Protection District. This permit is associated with the Major Site Plan application Site #15-109.
3. **Major Site Plan Application- #15-109, Krazy Kids Recreation Center, on Tax Map 632, Lot 11-1, located at 60 Sheep Davis Road and on Tax Map 632, Lot 11, located at 80 Sheep Davis Road in the C-1 Commercial/Light Industrial Zone and Aquifer Protection Zone.** The applicant, Jeff Burd of RJB Engineering, on behalf of the owners VisionAire Inc. and Gerald Foster Trust, is proposing to expand of an existing recreation center with an addition on Map 632, Lot 11-1 and build an outside recreation area on Map 632, Lot 11.

**Present:** Jeff Burd, RJB Engineering

Ms. Verdile said that the Applicant came to the Board last spring for a conceptual. There are waiver requests. She suggested that the Board discuss the parking waiver first. According to the zoning ordinance, the applicant does not have enough parking for outdoor recreational use. The other waiver requests are for checklist items similar to those that the Board previously granted.

Vice Chairman Seaworth said that the intent of the expansion is not to increase the number of people on the site but merely to maintain the number seasonally. They do not expect to need more parking because they do not expect to have additional traffic.

Member Young said that the expansion will provide summertime and wintertime business. They will not have both functions at the same time. In his opinion, the parking is adequate. The Board agreed.

**MOTION:** Member Bourque moved to approve ALL waivers – Checklist Section A Item D; Checklist Section A Item I; Checklist Section A Item K; Checklist Section A Item L; Checklist Section B Item 7; Checklist Section B Item 11; Checklist Section C Item B; Checklist Section C Item C; and the parking waiver from Zoning Ordinance Section 143-45.1. Seconded by Member Cruson.

**VOTE:**            B. Edmonds – Y      L. Young – Y            R. Bourque – Y  
                      F. Kline – Y            B. Seaworth – Y      K. Krebs – Y  
                      K. Cruson – Y

**MOTION TO APPROVE ALL WAIVERS – CHECKLIST SECTION A ITEM D; CHECKLIST SECTION A ITEM I; CHECKLIST SECTION A ITEM K; CHECKLIST SECTION A ITEM L; CHECKLIST SECTION B ITEM 7; CHECKLIST SECTION B ITEM 11; CHECKLIST SECTION C ITEM B; CHECKLIST SECTION C ITEM C; AND THE PARKING WAIVER FROM ZONING ORDINANCE SECTION 143-45.1 PASSED ON A 7-0 VOTE.**

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

**VOTE:**            B. Edmonds – Y      L. Young – Y            R. Bourque – Y  
                      F. Kline – Y            B. Seaworth – Y      K. Krebs – Y  
                      K. Cruson – Y

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

Vice Chairman Seaworth opened the public hearing at 7:50 p.m.

Mr. Burd said that the applicant presented a preliminary plan on May 26, 2015. Since that time, the final engineering has been completed.

The Board did not feel that it was necessary for Mr. Burd to present an overview of the project. They were familiar with the application.

Mr. Burd said that the applicant intends to leave as many of the trees around the track area as possible in order to create a park setting. With regard to grading, there will be none.

Ms. Verdile said that the MSDS sheet is not applicable. There will be no chemicals.

Vice Chairman Seaworth said that the track is for pedaled vehicles. In the ZBA's ruling, they specifically said that no gas-powered vehicles would be allowed on the site.

Mr. Monahan said that there would be no impact on the wetlands. They are staying out of the buffer.

Mr. Burd said that the Conservation Commission was at the Technical Review Committee meeting and had no issues.

The Board discussed the proposed conditions of approval, removed Condition No. 5 and added the following items:

7. The applicant to revise the plan in accordance with Mike Vignale's July 8, 2015 letter in a way that is satisfactory to the Town Planner.

8. Include the ZBA conditions as a note on the plan.

There being no further questions or comments from the Board or the public, Vice Chairman Seaworth closed the public hearing at 8:10 p.m. If the application is not decided tonight, the public hearing will be continued along with the application and will not be renoticed.

**MOTION:** Member Bourque moved to approve the Special Use Permit Application- SUP-AC #15-306, Krazy Kids Recreation Center, on Tax Map 632, Lot 11-1, located at 60 Sheep Davis Road and on Tax Map 632, Lot 11, located at 80 Sheep Davis Road in the C-1 Commercial/Light Industrial Zone and Aquifer Protection Zone conditionally until Case 15-109, Major Site Plan application, has received final approval, at which time this Special Use Permit becomes final for as long as the Case is approved. If at any time the Case is revoked or final approval is not received, this Special Use Permit becomes invalid. Seconded by Selectmen's Rep. Kline.

**VOTE:**        B. Edmonds – Y        L. Young – Y        R. Bourque – Y  
                  F. Kline – Y        B. Seaworth – Y        K. Krebs – Y  
                  K. Cruson – Y

**MOTION TO APPROVE THE SPECIAL USE PERMIT APPLICATION- SUP-AC #15-306, KRAZY KIDS RECREATION CENTER, ON TAX MAP 632, LOT 11-1, LOCATED AT 60 SHEEP DAVIS ROAD AND ON TAX MAP 632, LOT 11, LOCATED AT 80 SHEEP DAVIS ROAD IN THE C-1 COMMERCIAL/LIGHT INDUSTRIAL ZONE AND AQUIFER PROTECTION ZONE CONDITIONALLY UNTIL CASE 15-109, MAJOR SITE PLAN**

**APPLICATION, HAS RECEIVED FINAL APPROVAL, AT WHICH TIME THIS SPECIAL USE PERMIT BECOMES FINAL FOR AS LONG AS THE CASE IS APPROVED. IF AT ANY TIME THE CASE IS REVOKED OR FINAL APPROVAL IS NOT RECEIVED, THIS SPECIAL USE PERMIT BECOMES INVALID PASSED ON A 7-0 VOTE.**

**MOTION:** Member Bourque moved to approve Special Use Permit Application, SUP-WP #15-307-, Krazy Kids Recreation Center, on Tax Map 632, Lot 11-1, located at 60 Sheep Davis Road in the Commercial/Light Industrial Zone and the Wetlands Protection (WP) Districtsup 15-307 in wetlands protection district conditionally until Case #15-109, Major Site Plan application, has received final approval, at which time this Special Use Permit becomes final for as long as the Case is approved. If at any time the Case is revoked or final approval is not received, this Special Use Permit becomes invalid. Seconded by Selectmen's Rep. Kline.

**VOTE:**        B. Edmonds – Y        L. Young – Y        R. Bourque – Y  
                  F. Kline – Y        B. Seaworth – Y        K. Krebs – Y  
                  K. Cruson – Y

**MOTION TO APPROVE SPECIAL USE PERMIT APPLICATION, SUP-WP #15-307-, KRAZY KIDS RECREATION CENTER, ON TAX MAP 632, LOT 11-1, LOCATED AT 60 SHEEP DAVIS ROAD IN THE COMMERCIAL/LIGHT INDUSTRIAL ZONE AND THE WETLANDS PROTECTION (WP) DISTRICTSUP 15-307 IN WETLANDS PROTECTION DISTRICT CONDITIONALLY UNTIL CASE #15-109, MAJOR SITE PLAN APPLICATION, HAS RECEIVED FINAL APPROVAL, AT WHICH TIME THIS SPECIAL USE PERMIT BECOMES FINAL FOR AS LONG AS THE CASE IS APPROVED. IF AT ANY TIME THE CASE IS REVOKED OR FINAL APPROVAL IS NOT RECEIVED, THIS SPECIAL USE PERMIT BECOMES INVALID PASSED ON A 7-0 VOTE.**

**MOTION:** Member Bourque moved to approve Case #15-109, Krazy Kids Major Site Plan with the following conditions:

1. Applicant/Agent to make administrative corrections to the plan as follows:
  - Add zoning setbacks
  - Add the Aquifer Conservation District and Wetlands Protection District to note 7
  - Transfer applicable notes from the previous site plan to this site plan.
2. Provide the engineering inspection escrow as required by the town engineer prior to final plan signature.
3. Provide the engineering site restoration escrow as required by the town engineer prior to the final plan signature.
4. That a valid state driveway permit is issued, if applicable. The permit/license number should be listed on the site plan.
5. Proper siltation devices are to be installed and inspected by the town engineer prior to any site work beginning on either lot.
6. All Waivers granted and or Conditions of Approval are listed on the plan.
7. The applicant to revise the plan in accordance with Mike Vignale's July 8, 2015 letter in a way that is satisfactory to the Town Planner.
8. Include the ZBA conditions as a note on the plan.

Seconded by Member Cruson.

**VOTE:**      B. Edmonds – Y      L. Young – Y      R. Bourque – Y  
                 F. Kline – Y      B. Seaworth – Y      K. Krebs – Y  
                 K. Cruson – Y

**MOTION MOVED TO APPROVE CASE #15-109, KRAZY KIDS MAJOR SITE PLAN WITH THE FOLLOWING CONDITIONS:**

1. **APPLICANT/AGENT TO MAKE ADMINISTRATIVE CORRECTIONS TO THE PLAN AS FOLLOWS:**
    - **ADD ZONING SETBACKS**
    - **ADD THE AQUIFER CONSERVATION DISTRICT AND WETLANDS PROTECTION DISTRICT TO NOTE 7**
    - **TRANSFER APPLICABLE NOTES FROM THE PREVIOUS SITE PLAN TO THIS SITE PLAN.**
  2. **PROVIDE THE ENGINEERING INSPECTION ESCROW AS REQUIRED BY THE TOWN ENGINEER PRIOR TO FINAL PLAN SIGNATURE.**
  3. **PROVIDE THE ENGINEERING SITE RESTORATION ESCROW AS REQUIRED BY THE TOWN ENGINEER PRIOR TO THE FINAL PLAN SIGNATURE.**
  4. **THAT A VALID STATE DRIVEWAY PERMIT IS ISSUED, IF APPLICABLE. THE PERMIT/LICENSE NUMBER SHOULD BE LISTED ON THE SITE PLAN.**
  5. **PROPER SILTATION DEVICES ARE TO BE INSTALLED AND INSPECTED BY THE TOWN ENGINEER PRIOR TO ANY SITE WORK BEGINNING ON EITHER LOT.**
  6. **ALL WAIVERS GRANTED AND OR CONDITIONS OF APPROVAL ARE LISTED ON THE PLAN.**
  7. **THE APPLICANT TO REVISE THE PLAN IN ACCORDANCE WITH MIKE VIGNALE'S JULY 8, 2015 LETTER IN A WAY THAT IS SATISFACTORY TO THE TOWN PLANNER.**
  8. **INCLUDE THE ZBA CONDITIONS AS A NOTE ON THE PLAN.**
- PASSED ON A 7-0 VOTE.**

The meeting was recessed at 8:15 p.m.

Vice Chairman Seaworth continued the meeting at 8:20 p.m.

**Minutes-** June 23, 2015

**MOTION:** Member Young moved to approve the Minutes of June 23, 2015 as amended. Seconded by Selectmen's Rep. Kline. Approved with 2 abstentions – Selectmen's Rep. Kline and Member Cruson.

**Miscellaneous**

**1. Correspondence-**

Mr. Monahan reported that he received Town and City Magazine.

**2. Committee Reports-**

Roads Committee: Vice Chairman Seaworth said that the Committee reviewed the CIP plan and the proposed roads for next year.

Tri-Town Ambulance: Member Bourque said that they will be hiring another full time employee and they discussed the 2016 budget.

CIP: Member Young said that the Highway Department's biggest item is a plow truck and plow. The Fire Department has no big-ticket items. School is looking for new lockers and possibly a new roof for Three Rivers School. They will be meeting tomorrow night with the Police Department, the Water and Sewer Departments, and Town Building Department.

Board of Selectmen: Selectmen's Rep. Kline said that Academy Road will be paved with new sidewalks and a new crosswalk. At Pembroke Hill Road, the new traffic light is being installed. There will be sidewalks from Rowe and Perley Streets to the Pembroke Hill School. Hopefully in 2017, the Town will work on the loop road.

The Town wanted all Pembroke Street mailboxes switched sideways. The post office said not to do that. The Town must now determine whether they have the authority to turn the mailboxes themselves.

Mr. Jodoin said that in 1987, there was a subdivision that was done for Whitehouse Place (currently owned by Pembroke Meadows across from Pembroke Academy and down to Broadway). The Planning Board approved the plan and then revoked it. When they revoked the plan, there was also a road that was established. A quitclaim deed says that Town of Pembroke for consideration paid, grants Pembroke Meadows LLC, "a certain tract or parcel of land located in the Town . . . Mr. Jodoin said that when they did the surveying and proposed subdivision, the plan was revoked but the Quitclaim Deed was never revoked and it should have been. It has already been to the Conservation Commission and now has to go to the Planning Board and then to the Board of Selectmen, who will hold 2 public hearings, in order to release it back to DHP Homes or Pembroke Meadows.

The plan was revoked by the Planning Board in 1992 because of no substantial completion.

Mr. Jodoin said that there is a second case which must be approved by the Planning Board. RSA 41:14a stipulates that the slope and drainage easement from Clean Energy must be released by the Planning Board in order to have the Board of Selectmen's hold a public hearing.

Mr. Jodoin said that if the Town is required to do this for each easement, it could become very cumbersome.

**MOTION:** Selectmen's Rep. Kline moved to authorize the Board of Selectmen to move forward on the slope and drainage easement for Clean Energy and the Quitclaim Deed for Whitehouse Place. Seconded by Member Bourque.

**VOTE:**

B. Edmonds – Y	L. Young – N	R. Bourque – Y
F. Kline – Y	B. Seaworth – Y	K. Krebs – N
K. Cruson – Y		



**MOTION TO AUTHORIZE THE BOARD OF SELECTMEN TO MOVE FORWARD ON THE SLOPE AND DRAINAGE EASEMENT FOR CLEAN ENERGY AND THE QUITCLAIM DEED FOR WHITEHOUSE PLACE PASSED ON A 5-2 VOTE.**

3. Planner Items- Voluntary Lot Merger Map 563 Lots 16 & 16-3  
Nardozzi – 563 and 565 Pembroke St.

**MOTION:** Member Bourque moved to accept the voluntary lot merger for Map 563 and 565 Pembroke Street Lots 16 & 16-3. Seconded by Selectmen's Rep. Kline.

**VOTE:**        B. Edmonds – Y        L. Young – Y        R. Bourque – Y  
                  F. Kline – N        B. Seaworth – Y       K. Krebs – Y  
                  K. Cruson – Y

**MOTION TO ACCEPT THE VOLUNTARY LOT MERGER FOR MAP 563 LOTS 16 & 16-3 PASSED ON A 6-1 VOTE.**

4. Voluntary Lot Merger, 703 North Pembroke Road Map 258 Lot 13, 258 Lot 13-2.

**MOTION:** Member Bourque moved to accept the voluntary lot merger for 703 North Pembroke Road Map 258 Lot 13 and Lot 13-2. Seconded by Selectmen's Rep. Kline.

**VOTE:**        B. Edmonds – Y        L. Young – Y        R. Bourque – Y  
                  F. Kline – N        B. Seaworth – Y       K. Krebs – Y  
                  K. Cruson – Y

**MOTION TO ACCEPT THE VOLUNTARY LOT MERGER FOR 703 NORTH PEMBROKE ROAD MAP 258 LOT 13 and LOT 13-2 PASSED ON A 6-1 VOTE.**

5. Construction Escrow

**MOTION:** Member Bourque moved to release the construction escrow for Pembroke Family Physicians. Seconded by Selectmen's Rep. Kline.

**VOTE:**        B. Edmonds – Y        L. Young – N        R. Bourque – Y  
                  F. Kline – Y        B. Seaworth – Y       K. Krebs – N  
                  K. Cruson – Y

**MOTION TO RELEASE THE CONSTRUCTION ESCROW FOR PEMBROKE FAMILY PHYSICIANS PASSED ON A 5-2 VOTE.**

Mr. Monahan said that nothing is on the agenda for the August 11, 2015 work session.

**MOTION:** Selectmen's Rep. Kline moved to not hold the August 11, 2015 work session. Seconded by Member Bourque. Unanimously approved.

**MOTION:** Selectmen's Rep. Kline moved to adjourn the meeting. Seconded by Member Krebs. Unanimously approved.

The meeting was adjourned at 9:08 p.m.

Respectfully submitted,  
Jocelyn Carlucci, Recording Secretary