

**Pembroke Planning Board
Minutes of Meeting
(ADOPTED)
August 23, 2016**

MEMBERS PRESENT: Alan Topliff, Chairman; Brian Seaworth, Vice Chairman; Larry Young, Sr.; Robert Bourque; Fred Kline, Selectmen's Rep.

ALTERNATES PRESENT: Richard Bean

EXCUSED: Brent Edmonds; Kathy Cruson

STAFF PRESENT: Stephanie Verdile, Town Planner

Chairman Topliff opened the meeting at 7:05 p.m. Alternate Member Bean agreed to vote in place of Member Cruson.

New Business –

- 1. Special Use Permit Application SUP-AC #16-306, Jeffrey Burd, Burd Engineering, LLC, for Ric Brown Inc., owner of Tax Map 561, Lot 5-10-2, located at 307 Commerce Way., in Commercial Industrial (C1) Zone and the Aquifer Conservation (AC) District.** The applicant Jeff Burd, on behalf of property owner Ric Brown. Inc., 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 #16-106.
- 2. Major Site Plan Application #16-106, Jeffrey Burd, Burd Engineering, LLC for Ric Brown Inc., owner of Tax Map 561, Lot 5-10-2, located at 307 Commerce Way., in Commercial Industrial (C1) Zone and the Aquifer Conservation (AC) District..** The applicant, Jeff Burd, proposes to pave and re-grade approximately 55,900 square feet of existing gravel parking areas and travel ways at an existing commercial facility that consists of storage units.

Present: Jeffrey Burd, RJB Engineering

Ms. Verdile said the application was submitted as a Major Site Plan because of the square footage of the area proposed to be paved. She reviewed all the waivers and had no issues with them except for Item 14. She suggested a Condition of Approval rather than a Waiver Request on Item 14 because it pertained to a signature block to be placed on the plan.

Chairman Topliff said since it was strictly a housekeeping item and did not affect the application in any way, he said that he would be comfortable with someone moving the waiver request, with the exception of Item 14, and the stipulation that Item 14 be considered during the Board's deliberation later in the meeting.

Vice Chairman Seaworth said at a meeting with Town Counsel, he recommended if the Board should have an incident such as this, that the Board could approve the waivers, less the one in question, so that it may be discussed during the public hearing, if necessary.

Member Bourque said since there have been past applications with waivers and checklist items that were approved, he would like to see a note placed on the Plan that stipulates that the present waivers are only for the proposed drainage and paving plat and do not affect anything previously approved. The Board agreed.

MOTION: Member Bourque moved to grant the waiver requests for: Part A of the checklist items: A, D, F, G, H, I, J, K, L, M, N, O, P; Part B Items: 3, 5, 7, 11, 15, 16, 20, 21; Part C Items B, C, E, and F of the Major Site Plan Review Checklist. Seconded by Member Vice Chairman Seaworth.

VOTE:	R. Bourque – Y	L. Young – Y	F. Kline – Y
	R. Bean – Y	B. Seaworth – Y	A. Topliff – Y

MOTION TO GRANT THE WAIVER REQUESTS FOR: PART A OF THE CHECKLIST ITEMS: A, D, F, G, H, I, J, K, L, M, N, O, P; PART B ITEMS: 3, 5, 7, 11, 15, 16, 20, 21; PART C ITEMS B, C, E, AND F OF THE MAJOR SITE PLAN REVIEW CHECKLIST PASSED ON A 6-0 VOTE.

MOTION: Member Bourque moved to accept the Major Site Plan application #16-106 as complete. Seconded by Vice Chairman Seaworth.

VOTE:	R. Bourque – Y	L. Young – Y	F. Kline – Y
	R. Bean – Y	B. Seaworth – Y	A. Topliff – Y

MOTION TO ACCEPT THE MAJOR SITE PLAN APPLICATION #16-106 AS COMPLETE PASSED ON A 6-0 VOTE.

Chairman Topliff opened the public hearing at 7:15 p.m.

Mr. Burd said, with regard to the waiver request on Item 14, he said when he put the plan together he did not know that he would need a site plan because it is an existing site which is being paved. Once the situation was reviewed by Ms. Verdile, it became clear that there was more involved in the paving – such as drainage. He also said he was aware that a signature block would be necessary and was comfortable providing it.

Mr. Burd said the Board last approved the expansion of the existing site to include 4 new buildings in one paved area for local storage units. The area highlighted in red on the plan, marks the area being discussed. The original buildings built in 2005 was approved for a gravel surface. 106 Storage now would like to pave the area. It is very flat and the applicant would like to solve the winter ice and drainage issues.

Mr. Burd said when the original plan was approved, the applicant had drainage troughs along the drip-line edge of the buildings. The troughs would catch the drainage coming off the buildings and the gravel and infiltrate into the ground. Now that the applicant would like to pave the area, the troughs would no longer be functional. To compensate for the drainage, they added 6 catch basins, connected them with perforated pipe, and encased it with a stone infiltration trench. The plans were revised based on Mike Vignale's review and comments.

Chairman Topliff said his understanding was that RJB Engineering was not the engineer for the original application. Mr. Burd agreed and said he reviewed the available documentations and found that past calculations were different from how they are presently done. The old software was also different, which complicated things. Mr. Burd said everything was reviewed and recalculated.

Mr. Burd said there are two existing ponds which had no outlets. They modified the outlet structures in order to get the flows to work better. The water was not infiltrating the ground very well so they now will have 5" low level outlets on both ponds. He said he did not think that Mr. Vignale would disapprove of what they have proposed. Mr. Burd believed that it was better to have a slow release of water.

Chris Culberson of the Pembroke Water Works Board of Commissioners asked Ms. Verdile if Mr. Vignale made any comments regarding the flow. Mr. Culberson said that a concern of the Pembroke Water Works is that, since the site is in the Aquifer Conservation District, any runoff contaminants that could occur would be best to be caught in the basins and filtered.

Member Bourque asked what kind of contaminants Mr. Culberson was concerned about. Mr. Culberson said anything that sits on the pavements such as oil. Member Bourque said Frank Merrill's slow drainage of their detention ponds are variable because of a fabric which allows water to pass through but as soon as any oil products hit it, the beads expand and block it and from infiltrating the ground. He suggested doing a slow drain off the pond and the fabric to stop any possible contaminants from leaching into the ground.

Ms. Verdile read aloud Mr. Vignale's comments which she said Mr. Burd already addressed.

Ms. Verdile read aloud the proposed conditions of approval:

1. The Checklist waivers that were granted shall be listed completely on the plan with the date granted with a note indicating that these waivers are only applicable to Major Site Plan Application Case #16-106.
2. Applicant is notified through this notice that no site work shall begin and town demolition and/or building permits will not be issued until the final plan is signed and the Notice of Decision is recorded.
3. After plan signature and Notice of Decision is recorded and prior to issuance of building permits and/or site work; the applicant shall coordinate with Town

Planner, Code Enforcement Officer, and Town Engineer to arrange an on-site, pre-construction meeting.

4. The site plan will not be considered as having received final approval until all applicable conditions of approval are met, the final plan is signed, and the Notice of Decision is recorded.
5. Applicant to submit funds in escrow as recommended by KV Partners for engineering site inspections and site restoration.
6. As applicable, prior to the release of site restoration escrow, the applicant shall submit an As-built-revised site plan that reflects any changes made during construction.
7. Form for endorsement by the Planning Board shall be located in the lower right hand corner of the site plan above the title block and shall state as follows:

Under the provisions of RSA 674:43, the Town of Pembroke Planning Board, in accordance with the Board vote dated _____, approval of this site plan is limited to alterations, improvements, and buildings as shown: _____

Chairperson

8. The applicant to consult with the Pembroke Water Works regarding the application of asphalt.

There being no further questions or comments from the public or the Board, Chairman Topliff closed the public hearing at 7:49 p.m. Anyone interested in following this application if it is not concluded was advised to monitor the Town's website and the Planning Board agenda.

MOTION: Vice Chairman Seaworth moved to approve the Special Use Permit Case #16-306-SUP-AC with the following conditions to be included as notes on the final site plan:

1. "Special Use Permit, Case #16-306-SUP-AC, for activity within the Aquifer Conservation District is granted conditionally under the related Case #16-106, Major Site Plan, Jeffrey Burd, Burd Engineering for Ric Brown, Inc., to pave and re-grade approximately 55,900 square feet of existing gravel parking areas and travel ways at an existing commercial facility. This Special Use Permit becomes final for as long as Case #16-106, is approved. If at any time the related case is revoked or final approval is not received, this Special Use Permit becomes invalid.
2. "A Special Use Permit for activity within the Aquifer Conservation District was granted on August 23, 2016 by the Planning Board. The approval is contingent upon all provisions of the Town of Pembroke Zoning Chapter 143, Article 143-68.E, Aquifer Conservation District, being followed."

Seconded by Member Bourque.

VOTE:	R. Bourque – Y	L. Young – Y	F. Kline – Y
	R. Bean – Y	B. Seaworth – Y	A. Topliff – Y

THE MOTION TO APPROVE THE SPECIAL USE PERMIT CASE #16-306-SUP-AC WITH THE FOLLOWING CONDITIONS TO BE INCLUDED AS NOTES ON THE FINAL SITE PLAN:

1. **“SPECIAL USE PERMIT, CASE #16-306-SUP-AC, FOR ACTIVITY WITHIN THE AQUIFER CONSERVATION DISTRICT IS GRANTED CONDITIONALLY UNDER THE RELATED CASE #16-106, MAJOR SITE PLAN, JEFFREY BURD, BURD ENGINEERING FOR RIC BROWN, INC., TO PAVE AND RE-GRADE APPROXIMATELY 55,900 SQUARE FEET OF EXISTING GRAVEL PARKING AREAS AND TRAVEL WAYS AT AN EXISTING COMMERCIAL FACILITY. THIS SPECIAL USE PERMIT BECOMES FINAL FOR AS LONG AS CASE #16-106, IS APPROVED. IF AT ANY TIME THE RELATED CASE IS REVOKED OR FINAL APPROVAL IS NOT RECEIVED, THIS SPECIAL USE PERMIT BECOMES INVALID.**
2. **“A SPECIAL USE PERMIT FOR ACTIVITY WITHIN THE AQUIFER CONSERVATION DISTRICT WAS GRANTED ON AUGUST 23, 2016 BY THE PLANNING BOARD. THE APPROVAL IS CONTINGENT UPON ALL PROVISIONS OF THE TOWN OF PEMBROKE ZONING CHAPTER 143, ARTICLE 143-68.E, AQUIFER CONSERVATION DISTRICT, BEING FOLLOWED.”**

PASSED ON A 6-0 VOTE.

MOTION: Vice Chairman Seaworth moved to approve the Major Site Plan Application, Case #16-106, with the following conditions to be completed prior to the final plan being signed and the recording of the Notice of Decision:

1. The Checklist waivers that were granted shall be listed completely on the plan with the date granted and include a note indicating that these waivers are only applicable to Major Site Plan Application #16-106.
2. Applicant is notified through this notice that no site work shall begin and town demolition and/or building permits will not be issued until the final plan is signed and the Notice of Decision is recorded.
3. After plan signature and Notice of Decision is recorded and prior to issuance of building permits and/or site work; the applicant shall coordinate with Town Planner, Code Enforcement Officer, and Town Engineer to arrange an on-site, pre-construction meeting.
4. The site plan will not be considered as having received final approval until all applicable conditions of approval are met, the final plan is signed, and the Notice of Decision is recorded.
5. Applicant to submit funds in escrow as recommended by KV Partners for engineering site inspections and site restoration.

6. As applicable, prior to the release of site restoration escrow, the applicant shall submit an As- built-revised site plan that reflects any changes made during construction.
7. Form for endorsement by the Planning Board shall be located in the lower right hand corner of the site plan above the title block and shall state as follows:

Under the provisions of RSA 674:43, the Town of Pembroke Planning Board, in accordance with the Board vote dated _____, approval of this site plan is limited to alterations, improvements, and buildings as shown: _____

Chairperson

8. The applicant to consult with Pembroke Water Works regarding the application of the asphalt.

Seconded by Member Bourque.

VOTE:	R. Bourque – Y	L. Young – Y	F. Kline – Y
	R. Bean – Y	B. Seaworth – Y	A. Topliff – Y

MOTION TO APPROVE THE MAJOR SITE PLAN APPLICATION, CASE #16-106, WITH THE FOLLOWING CONDITIONS TO BE COMPLETED PRIOR TO THE FINAL PLAN BEING SIGNED AND THE RECORDING OF THE NOTICE OF DECISION:

1. THE CHECKLIST WAIVERS THAT WERE GRANTED SHALL BE LISTED COMPLETELY ON THE PLAN WITH THE DATE GRANTED AND INCLUDE A NOTE INDICATING THAT THESE WAIVERS ARE ONLY APPLICABLE TO MAJOR SITE PLAN APPLICATION #16-106.
2. APPLICANT IS NOTIFIED THROUGH THIS NOTICE THAT NO SITE WORK SHALL BEGIN AND TOWN DEMOLITION AND/OR BUILDING PERMITS WILL NOT BE ISSUED UNTIL THE FINAL PLAN IS SIGNED AND THE NOTICE OF DECISION IS RECORDED.
3. AFTER PLAN SIGNATURE AND NOTICE OF DECISION IS RECORDED AND PRIOR TO ISSUANCE OF BUILDING PERMITS AND/OR SITE WORK; THE APPLICANT SHALL COORDINATE WITH TOWN PLANNER, CODE ENFORCEMENT OFFICER, AND TOWN ENGINEER TO ARRANGE AN ON-SITE, PRE-CONSTRUCTION MEETING.
4. THE SITE PLAN WILL NOT BE CONSIDERED AS HAVING RECEIVED FINAL APPROVAL UNTIL ALL APPLICABLE CONDITIONS OF APPROVAL ARE MET, THE FINAL PLAN IS SIGNED, AND THE NOTICE OF DECISION IS RECORDED.
5. APPLICANT TO SUBMIT FUNDS IN ESCROW AS RECOMMENDED BY KV PARTNERS FOR ENGINEERING SITE INSPECTIONS AND SITE RESTORATION.
6. AS APPLICABLE, PRIOR TO THE RELEASE OF SITE RESTORATION ESCROW, THE APPLICANT SHALL SUBMIT AN AS- BUILT-REVISED SITE PLAN THAT REFLECTS ANY CHANGES MADE DURING CONSTRUCTION.

7. FORM FOR ENDORSEMENT BY THE PLANNING BOARD SHALL BE LOCATED IN THE LOWER RIGHT HAND CORNER OF THE SITE PLAN ABOVE THE TITLE BLOCK AND SHALL STATE AS FOLLOWS:

UNDER THE PROVISIONS OF RSA 674:43, THE TOWN OF PEMBROKE PLANNING BOARD, IN ACCORDANCE WITH THE BOARD VOTE DATED

**_____,
APPROVAL OF THIS SITE PLAN IS LIMITED TO ALTERATIONS,
IMPROVEMENTS, AND BUILDINGS AS SHOWN:**

**_____
CHAIRPERSON**

**8. THE APPLICANT TO CONSULT WITH PEMBROKE WATER WORKS REGARDING THE APPLICATION OF THE ASPHALT.
PASSED ON A 6-0 VOTE.**

The Board recessed at 8:00 p.m.

Chairman Topliff reconvened the meeting at 8:07 p.m.

Miscellaneous

1. Other Business–

Planner Items- John's Wrecker Service Site Plan update and discussion with Pembroke Water Works Commissioners and Planning Board

Chairman Topliff recapped the Planning Board voted at their last meeting to hold a public hearing on August 23, 2016 to consider the site plan revocation at 107 Sheep Davis Road. The Planner provided the Board with information indicating that the property owner was making affective use of the property in spite of not having fulfilled the requirements of the Conditions of Approval on the Site Plan, and that the property owner also leased out one of the buildings on the site to a company that was working on vehicles including engines, changing oils, and other things that were not an approved use of the property. He said the site plan revocation is the only recourse that the Planning Board has if someone is not following the site plan approval.

Due to an oversight, the public hearing was not noticed so the Board was unable to have its public hearing for revocation.

Ms. Verdile checked with Town Counsel and he "thought" that it was acceptable to have a consultation with the property owner in the absence of a public hearing. Given Town Counsel's uncertainty, Chairman Topliff asked if anyone on the Board felt that it was inappropriate to have a conversation with the property owner. There was no comments.

Chairman Topliff said that since it is not a public hearing, the Board cannot have any conversations or agreements with the property owner that would be binding on either party. The Board could treat it as if it was a conceptual consultation and just share information.

Chairman Topliff thanked Mr. Culberson for presenting the Board with the Pembroke Water Work's letter regarding this property.

Ms. Verdile said the site plan issue has not been resolved. There is also a zoning violation issue (establishing a use without approval).

Alternate Member Bean said the Board should not discuss the case until a public hearing has been properly posted.

Vice Chairman Seaworth said he did not share that opinion, but since one person was uncomfortable, he felt that the Board not proceed with the conversation. He also pointed out that the Board has the opportunity to learn from the situation that is separate from whether or not the Board should revoke the site plan. He was in favor of speaking with the applicant.

Selectmen's Rep. Kline said since it is not a public hearing and nothing said can be binding, he thought that tonight's discussion would be a waste of time and the Board should wait for the public hearing.

Because of its importance, Chairman Topliff said that he would like to see the public hearing for revocation noticed for September 13, 2016.

Member Young said the Board should wait until the public hearing since no decisions can be made tonight.

MOTION: Alternate Member Bean moved to NOT have an informal meeting with the owner tonight and to wait for the due process which would be a public hearing.
Seconded by Member Young.

VOTE:	R. Bourque – N	L. Young – Y	F. Kline – Y
	R. Bean – Y	B. Seaworth – N	A. Topliff – Y

MOTION TO NOT HAVE AN INFORMAL MEETING WITH THE OWNER TONIGHT AND TO WAIT FOR THE DUE PROCESS WHICH WOULD BE A PUBLIC HEARING PASSED ON A 4-2 VOTE.

Chairman Topliff thanked the applicant for coming. Ms. Verdile asked him to call her with any questions.

Ms. Verdile said since the last meeting, the owner had applied for a Special Use Permit for the unapproved use that is operating on site. She thinks he has until September 2, 2016 to apply to the Zoning Board of Adjustment.

Matt Gagne of the Pembroke Water Works updated the Commissioners which is why Mr. Culberson attended tonight's meeting. Ms. Verdile said Paulette Malo of Pembroke Sewer Commission, Mr. Gagne, David Jodoin, and Everett Hodge met with the applicant. The result of the meeting was that the applicant applied for the Special Use Permit. Ms. Malo does not presently have any issues with the illegal business. Her concerns will come if something happens and there has to be drains placed in the rear building. The applicant has things pertaining to sewer that have yet to be completed from the site plan approval. He also must continue to move forward with installing the monitoring well. They are going to use the well location where they originally hit bedrock.

Chairman Topliff said one of the difficulties with the phrase "tractor trailer maintenance", is that it encompasses the tractor which is full of petroleum products and the trailer which is dry. He said his recollection was that the applicant was going to be servicing trailers and not motorized equipment. He asked Ms. Verdile to research the meeting minutes and other application documents to see if it can be verified that he would not be repairing tractors and would only be repairing trailers.

Member Bourque pointed out other businesses along Route 106 were only allowed to perform maintenance on their own vehicles.

Ms. Verdile reviewed the zoning ordinance pertaining to the C1 District and Special Exceptions.

Minutes- August 9, 2016

MOTION: Member Bourque moved to approve the August 9, 2016 Meeting Minutes as amended. Seconded by Vice Chairman Seaworth. Unanimously approved.

2. Correspondence-

Ms. Verdile received Business NH Magazine.

She will be attending the Northern New England Chapter of the American Planning Association's conference in September. It will be held in Portsmouth, New Hampshire. It will be on Planning and Drama.

3. Committee Reports-

CIP: Member Young said that CIP has been meeting weekly. The next meeting will be held on August 24, 2016.

Tri-Town Ambulance: Member Bourque said that they passed their 2017 budget. They discussed and are studying having a second ambulance on call.

Board of Selectmen: Selectmen's Rep. Kline said that the Board of Selectmen had an employee and volunteer appreciation picnic. The turnout was good. He pointed out that the Board of Selectmen pay for the picnic. Taxpayer money is not used to fund this outing. He asked if anyone had any ideas on how to improve the turnout.

Vice Chairman Seaworth said that the invitation to the picnic came out as a Powerpoint and some people did not have the software on their computer to open the invitation. He recommended that the invitation be sent out as plain text in an e-mail to ensure that everyone can open it.

TIF: Selectmen's Rep. Kline said that the trees will begin to be removed on August 25, 2016. He also reported that the Town received the \$1.8 M grant for the TIF project. The bank rate for the bond is .99%.

Clean Energy would like to begin Phase 2 and Associated Grocers of New England would like to begin Phase 3.

Member Bourque asked if Selectmen's Rep. Kline would be writing a letter to the Senators about the difficulty that the bureaucracy put the Town through with regard to the TIF grant. Selectmen's Rep. Kline is considering it.

4. Other Businesses

Chairman Topliff reported that Mr. Jodoin called him to share what he and others had to do because of a suit with a party who was appealing a decision made by a Town Board. He said that the Town, and Board members had to turn over all e-mails that had anything to do with the case. Mr. Jodoin recommended calling someone rather than e-mailing them because a call has no permanent record.

According to Chairman Topliff, Mr. Jodoin said all Board members are held to a higher standard than the average citizen. There is an expectation that Board members will be open-minded. With regard to a recent e-mail by Member Bourque suggested that the Planning Board send a letter to the Zoning Board about a case, Mr. Jodoin's concern was that the e-mail is subject to discovery. If the e-mail was ever subpoenaed, counsel could say that Member Bourque should not have sat on the Board because his view on the case was bias.

Mr. Jodoin also reminded Chairman Topliff that the Board not do anything that could be perceived as a meeting other than when the Board is together during normally scheduled Planning Board meetings. When a group e-mail is sent out discussing any issues pertaining to an applicant, it could be construed as a meeting where the applicant is not there to defend himself. Chairman Topliff pointed out that the Board must be very careful with e-mails, group e-mails, and what we say.

Chairman Topliff said that Mr. Jodoin recommended that Member Bourque recuse himself when John's Wrecker Service comes before the Board in the future because Member Bourque expressed

an opinion. If they challenge the Board's decision, the applicant could say that they did not get a fair hearing because one of the Board members had already expressed an opinion.

Selectmen's Rep. Kline said that e-mails regarding the time of a public hearing can be sent, but if someone comes to a decision then the e-mail is considered a "meeting".

Ms. Verdile said the 110 lot subdivision is coming to the Planning Board in October. It was suggested that the public hearing be held in the school auditorium.

5. Board Member Items-

The next meeting is September 13, 2016 which is the primary election. Vice Chairman Seaworth, Member Young, and Selectmen's Rep. Kline will not be in attendance. Chairman Topliff asked that Ms. Verdile move the work session to the September business meeting.

Chairman Topliff asked Ms. Verdile to send an e-mail to the Board members suggesting a meeting for John's Wrecker Service on September 14th or September 20th and ask them to respond with their availability.

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

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,
Jocelyn Carlucci, Recording Secretary