

Minutes of Meeting
Approved 11/15/2016
October 25, 2016
(Three Rivers School)

MEMBERS PRESENT: Alan Topliff, Chairman; Brian Seaworth, Vice Chairman; Larry Young, Sr.; Kathy Cruson; Brent Edmonds, Richard Bean; Vincent Greco, Selectmen's Rep.;

ALTERNATES PRESENT: Robert Bourque

EXCUSED:

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

Chairman Topliff called the meeting to order at 7:00 p.m. He announced that it is the practice of the Planning Board to only engage in conversation with members of the public and the applicants during the public hearing portion of an application. He said he would make it clear when the meeting gets to that point.

Chairman Topliff announced he would make a slight change in the order of business since most of the audience had come for the Pembroke Meadows subdivision. He said the Board will hear the Continental Paving application first and then proceed directly to the Pembroke Meadows application followed by the remainder of the agenda.

New Business-

- 1. Special Use Permit Application SUP-AC #16-310 Continental Paving, Inc. on Tax Map 256, Lot 22, located at 804 Ricker Road, in the Commercial/Light Industrial (C1) Zone, the Aquifer Conservation (AC) District, the Wetlands Protection (WP) District, the Shoreland Protection (SP) District, and the Floodplain Development (FP) District.** The applicant, Brett Kay of Nobis Engineering, on behalf of property owner Mark Charbonneau of Continental Paving, Inc. requests a Special Use Permit from Article 143-68.E., Aquifer Conservation District for the construction of a fourth storage silo as an addition to the three existing storage silos that were previously approved in 2011. A Special Use Permit is required for any activity taking place within the Aquifer Conservation (AC) District. This permit is associated with the Minor Site Plan Application, Site #16-107.

2. **Minor Site Plan Application #16-107, Continental Paving, Inc. on Tax Map 256, Lot 22, located at 804 Ricker Road, in the Commercial/Light Industrial (C1) Zone, the Aquifer Conservation (AC) District, the Wetlands Protection (WP) District, the Shoreland Protection (SP) District, and the Floodplain Development (FP) District.** The applicant, Brett Kay of Nobis Engineering, on behalf of property owner Mark Charbonneau of Continental Paving, Inc. proposes to construct a fourth storage silo as an addition to the three existing storage silos that were previously approved in 2011.

Present: Brett Kay of Nobis Engineering and Mark Charbonneau, President of Continental Paving, Inc.

Ms. Verdile said the Minor Site Plan Application is for an additional silo to the previously approved three silos for product storage. The application will allow the applicant to store more of the same material and allow them more flexibility for the product's supply and demand. There are no waiver requests and nothing to be considered before acceptance. She said the application is complete as presented.

MOTION: Vice Chairman Seaworth moved to accept the application as complete. Seconded by Member Young.

VOTE:	A. Topliff - Y	B. Seaworth - Y	R. Bean - Y
	K. Cruson - Y	B. Edmonds - Y	L. Young - Y
	V. Greco - Y		

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

Chairman Topliff opened the public hearing at 7:05 p.m. He asked that anyone wishing to speak to the two agenda items to please rise, state their name for the record and direct all questions to him.

Mr. Kay said there was no plan change in the operation of the facility as approved in 2011. There will be no additional pavement being proposed so that there will be no addition run-off. Continental merely would like to add a fourth silo adjacent to the existing silos as were previously approved.

Mr. Kay said there was a concern from the Conservation Commission regarding looking at this application as an expansion of Continental's use of the facility. Mr. Kay said they will not be bringing anything additional to the site that is not already there. The additional silo will allow them to meet supply and demand specifically from the northern region.

Chairman Topliff said the report from the Technical Review Committee (TRC) dated September 28, 2016 indicated that Mr. Charbonneau said the silo will not increase the existing capacity of products stored on the site, yet the Special Use Permit Application said the additional silo is to store additional paving product on the site. He asked Mr. Charbonneau to explain.

Mr. Charbonneau said the state requires different asphalt above Concord, known as 58-28. Other parts of the state require 64-28. The fourth silo will allow them to make and store the required asphalt for their customers above Concord.

Ms. Verdile read aloud the proposed Conditions of Approval. She indicated the second proposed condition was erroneously included but was not applicable to this application. The Board agreed to eliminate proposed Condition No. 2.

There being no further comments from the Board or the public, Chairman Topliff closed the public hearing at 7:12 p.m.

MOTION: Vice Chairman Seaworth moved to approve the #16-310-SUP-AC Application with the following conditions to be included as notes on the plan:

1. Special Use Permit, Case #16-310-SUP-AC, for activity within the Aquifer Conservation District is granted conditionally until the related Case #16-107, Continental Paving, Inc. Ricker Road Asphalt Plan-Fourth Silo and Site Overview Plan, has received final approval, at such time this Special Use Permit becomes final for as long as Case #16-310, Continental Paving, Inc. Ricker Road Asphalt Plan- Fourth Silo and

Site Overview Plan 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 October 25, 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 Young.

VOTE:	A. Topliff - Y	B. Seaworth - Y	R. Bean - Y
	K. Cruson - Y	B. Edmonds - Y	L. Young - Y
	V. Greco - Y		

MOTION TO APPROVE THE #16-310-SUP-AC APPLICATION WITH THE FOLLOWING CONDITIONS TO BE INCLUDED AS NOTES ON THE PLAN:

1. **SPECIAL USE PERMIT, CASE #16-310-SUP-AC, FOR ACTIVITY WITHIN THE AQUIFER CONSERVATION DISTRICT IS GRANTED CONDITIONALLY UNTIL THE RELATED CASE #16-107, CONTINENTAL PAVING, INC. RICKER ROAD ASPHALT PLAN-FOURTH SILO AND SITE OVERVIEW PLAN, HAS RECEIVED FINAL APPROVAL, AT SUCH TIME THIS SPECIAL USE PERMIT BECOMES FINAL FOR AS LONG AS CASE #16-310, CONTINENTAL PAVING, INC. RICKER ROAD ASPHALT PLAN-FOURTH SILO AND SITE OVERVIEW PLAN 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 OCTOBER 25, 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 7-0 VOTE.**

MOTION: Vice Chairman Seaworth moved to approve the Minor Site Plan Case #16-107, Continental Paving, Inc. Ricker Road Asphalt Plan-Fourth Silo and Site Overview Plan with the following conditions to be noted on the final plan:

1. All applicable conditions of approval from June 28, 2011 for the Asphalt Plan remain in effect for this application.
2. There shall be no long term storage of vehicles or service or maintenance on any vehicles on pervious surfaces.
3. Pre-construction meeting with Town Planner, Building Inspector, and Town Engineer shall take place prior to any site activity or site work begins.
4. The Code Enforcement Officer will not issue any permits until the final plan is signed and the Notice of Decision is recorded.
5. Provide the original signatures of property owner on the final plat.
6. 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.
7. After plan signature and Notice of Decision is recorded but prior to issuance of building permits and/or beginning site work; the applicant shall coordinate with Town Planner, Code Enforcement Officer, and Town Engineer to arrange an on-site, pre-construction meeting.
8. The site plan will not be considered as having received final approval until all applicable conditions of approval are met, the final plan in signed, and the Notice of Decision is recorded.
9. Submit funds in escrow as recommended by KV Partners for construction site inspections and site restoration.
10. As applicable, prior to the release of site escrow funds, the applicant shall submit an As- built-revised site plan that reflects any changes made during construction.

Seconded by Member Young.

VOTE:	A. Topliff - Y	B. Seaworth - Y	R. Bean - Y
	K. Cruson - Y	B. Edmonds - Y	L. Young - Y
	V. Greco - Y		

**MOTION TO APPROVE THE MINOR SITE PLAN CASE #16-107,
CONTINENTAL PAVING, INC. RICKER ROAD ASPHALT PLAN-
FOURTH SILO AND SITE OVERVIEW PLAN WITH THE FOLLOWING
CONDITIONS TO BE NOTED ON THE FINAL PLAN:**

- 1. ALL APPLICABLE CONDITIONS OF APPROVAL FROM JUNE 28, 2011 FOR THE ASPHALT PLAN REMAIN IN EFFECT FOR THIS APPLICATION.**
- 2. THERE SHALL BE NO LONG TERM STORAGE OF VEHICLES OR SERVICE OR MAINTENANCE ON ANY VEHICLES ON PERVIOUS SURFACES.**
- 3. PRE-CONSTRUCTION MEETING WITH TOWN PLANNER, BUILDING INSPECTOR, AND TOWN ENGINEER SHALL TAKE PLACE PRIOR TO ANY SITE ACTIVITY OR SITE WORK BEGINS.**
- 4. THE CODE ENFORCEMENT OFFICER WILL NOT ISSUE ANY PERMITS UNTIL THE FINAL PLAN IS SIGNED AND THE NOTICE OF DECISION IS RECORDED.**
- 5. PROVIDE THE ORIGINAL SIGNATURES OF PROPERTY OWNER ON THE FINAL PLAT.**
- 6. 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.**
- 7. AFTER PLAN SIGNATURE AND NOTICE OF DECISION IS RECORDED BUT PRIOR TO ISSUANCE OF BUILDING PERMITS AND/OR BEGINNING SITE WORK; THE APPLICANT SHALL COORDINATE WITH TOWN PLANNER, CODE ENFORCEMENT OFFICER, AND TOWN ENGINEER TO ARRANGE AN ON-SITE, PRE-CONSTRUCTION MEETING.**
- 8. THE SITE PLAN WILL NOT BE CONSIDERED AS HAVING RECEIVED FINAL APPROVAL UNTIL ALL APPLICABLE CONDITIONS OF APPROVAL ARE MET, THE FINAL PLAN IN SIGNED, AND THE NOTICE OF DECISION IS RECORDED.**
- 9. SUBMIT FUNDS IN ESCROW AS RECOMMENDED BY KV PARTNERS FOR CONSTRUCTION SITE INSPECTIONS AND SITE RESTORATION.**
- 10. AS APPLICABLE, PRIOR TO THE RELEASE OF SITE ESCROW FUNDS, THE APPLICANT SHALL SUBMIT AN AS- BUILT-REVISED**

**SITE PLAN THAT REFLECTS ANY CHANGES MADE DURING
CONSTRUCTION.
PASSED ON A 7-0 VOTE.**

- 3. Major Subdivision Application, Subdivision #16-06, Pembroke Meadows, LLC and DHB Homes, LLC. (c/o Bob Meissner), on Tax Maps 264, 266, and 567, Lots: 4 and 7, 25-4 and 26, and 1 respectively located at 282 Pembroke Street, in the Medium Density-Residential (R1) Zone, Architectural Design (AD) District, the Wetlands Protection (WP) District, and the Aquifer Conservation (AC) District.** The applicant Patrick R. Colburn, P.E. of Keach-Nordstrom Associates, Inc., on behalf of the property owner Pembroke Meadows, LLC and DHB Homes, LLC (Bob Meissner) is proposing a major subdivision that includes: the consolidation/merger of five existing lots of record, totaling approximately 125 acres of land, and re-subdivide the consolidated lots in order to create 110 new residential building lots, connection to municipal water and sewer systems, and the construction of approximately 10,800 linear feet of new roadway.
- 4. Special Use Permit Application, SUP-WP #16-308, Pembroke Meadows, LLC and DHB Homes, LLC. (c/o Bob Meissner), on Tax Maps 264, 266, and 567, Lots: 4 and 7, 25-4 and 26, and 1 respectively located at 282 Pembroke Street, in the Medium Density-Residential (R1) Zone, Architectural Design (AD) District, the Wetlands Protection (WP) District, and the Aquifer Conservation (AC) District.** The applicant Patrick R. Colburn, P.E. of Keach-Nordstrom Associates, Inc., on behalf of the property owner Pembroke Meadows, LLC and DHB Homes, LLC (Bob Meissner), requests a Special Use Permit from Article 143.72. D (2), Wetlands Protection District, which is required for the construction of streets, roads, and other access ways and utility rights-of-way, if essential to the productive use of adjoining land. This permit is associated with the Major Subdivision Plan application. Sub #16-06.
- 5. Special Use Permit Application SUP-AC #16-309, Pembroke Meadows, LLC and DHB Homes, LLC. (c/o Bob Meissner), on Tax Maps 264, 266, and 567, Lots: 4 and 7, 25-4 and 26, and 1 respectively located at 282 Pembroke Street, in the Medium**

Density-Residential (R1) Zone, Architectural Design (AD) District, the Wetlands Protection (WP) District, and the Aquifer Conservation (AC) District. The applicant Patrick R. Colburn, P.E. of Keach-Nordstrom Associates, Inc., on behalf of the property owner Pembroke Meadows, LLC and DHB Homes, LLC (Bob Meissner), requests a Special Use Permit from Article 143-68.E, Aquifer Conservation District for construction roads, utilities, infrastructure, and building lots for a 110-lot subdivision. A Special Use Permit is required for any activity taking place within the Aquifer Conservation (AC) District. This permit is associated with the Major Subdivision Plan Application, Sub #16-06.

Present: Patrick Colburn, Keach-Nordstrom Associates and Bob Meissner

Ms. Verdile said the application falls under a few criteria for the State RSAs and the Town's Subdivision Regulations as far as what would constitute an application to be deemed a Development of Regional Impact (DRI).

She explained that the board has the following options:

1. Consider the waiver requests from the checklist items, accept the Application as complete, open the public hearing and allow the applicant to make a presentation without declaring it a DRI. She did not recommend doing so since the criteria for the Application meets State and local criteria for its declaration as a DRI.
2. Discuss the criteria for declaring it a DRI and continue the Application to the Board's November meeting which would allow Central NH Regional Planning Commission, and whatever abutting communities or bodies that the Board sees fit, to be granted abutter status for the purpose of reviewing and providing comment on the application. There would be no public hearing until the November meeting.

Chairman Topliff said the size of the project could have an impact on some of Pembroke's neighbors and it is the Board's responsibility to take that into consideration. He explained if the Board decided to deem the Application a DRI, it would allow any abutting communities and organizations to be

granted abutter status which give them the opportunity to review the plan. The downside to doing so is that there would be no public hearing until the next meeting so that all abutting communities could weigh-in on the project.

MOTION: Vice Chairman Seaworth moved to grant the checklist waiver requests for: Part A, Item W of the Major Subdivision Plan Review Checklist for Application #16-06. Seconded by Member Cruson.

VOTE: A. Topliff - Y B. Seaworth - Y R. Bean - Y
 K. Cruson - Y B. Edmonds - Y L. Young - Y
 V. Greco - Y

**MOTION TO GRANT THE CHECKLIST WAIVER REQUESTS FOR:
PART A, ITEM W OF THE MAJOR SUBDIVISION PLAN REVIEW
CHECKLIST FOR APPLICATION #16-06 PASSED ON A 7-0 VOTE.**

Ms. Verdile stated the application was complete.

MOTION: Vice Chairman Seaworth moved to accept the Major Subdivision Plan Application #16-06 as complete. Seconded by Member Cruson.

VOTE: A. Topliff - Y B. Seaworth - Y R. Bean - Y
 K. Cruson - Y B. Edmonds - Y L. Young - Y
 V. Greco - Y

**MOTION TO ACCEPT THE MAJOR SUBDIVISION PLAN APPLICATION
#16-06 AS COMPLETE PASSED ON A 7-0 VOTE.**

Ms. Verdile read aloud the standards for regional impact as outlined in the Town's Subdivision Regulations (§205-12). The development would be considered to have a regional impact if it met any one of the criteria. She said that it met criteria Nos. 1, 3, 7, and 8:

1. Proposed subdivisions where, within five (5) years or less, a total of sixty (60) or more dwelling units would be constructed;
3. Proposed subdivisions of one hundred (100) acres or more, which result in four (4) or more lots or a new street or roads;

7. Proposals before the Planning Board which may reasonably be expected to contribute substantially to air or water pollution, school enrollment, solid waste disposal, demand for water supply or wastewater treatment, street deterioration, traffic safety or otherwise substantially affect another municipality;
8. Proposals before the Planning Board which, in the sole discretion of the Planning Board, are reasonably likely to have a substantial effect on another municipality.

Vice Chairman Seaworth pointed out that since the Board only had to agree that the application met one criteria, he proposed choosing No. 3. The Board agreed.

MOTION: Member Bean moved to declare the applications as a Development of Regional Impact according to Town of Pembroke Subdivision Regulations Section 205-12.3 and RSA 36:55 I., II., III., and continue the public hearing for: Major Subdivision #16-06, Special Use Permit Application, SUP-WP #16-308, Special Use Permit Application SUP-AC #16-309 until November 22, 2016. Seconded by Selectmen's Rep. Greco.

VOTE:	A. Topliff - Y	B. Seaworth - Y	R. Bean - Y
	K. Cruson - Y	B. Edmonds - Y	L. Young - Y
	V. Greco - Y		

MOTION TO DECLARE THE APPLICATIONS AS A DEVELOPMENT OF REGIONAL IMPACT ACCORDING TO TOWN OF PEMBROKE SUBDIVISION REGULATIONS SECTION 205-12.3 AND RSA 36:55 I., II., III., AND CONTINUE THE PUBLIC HEARING FOR: MAJOR SUBDIVISION #16-06, SPECIAL USE PERMIT APPLICATION, SUP-WP #16-308, SPECIAL USE PERMIT APPLICATION SUP-AC #16-309 UNTIL NOVEMBER 22, 2016 PASSED ON A 7-0 VOTE.

Chairman Topliff announced that the original abutters for this application would not be renoticed. The public hearing was postponed until November 22, 2016. All interested parties were encouraged to check the Town website or call the Planning Department to get information pertaining to future meetings and locations.

After a brief discussion, the Board agreed that the following entities should be granted abutter status: **Central NH Regional Planning Commission, Allenstown, Concord, Hooksett, and Epsom.**

Member Bean agreed to create a .pdf file of the applicant's plan for the Planning Department.

Mr. Jodoin said there should be a paper copy of the plan set at Town Hall for anyone interested in seeing them.

MOTION: Chairman Seaworth moved to consider continuation of: **Major Subdivision Application, Subdivision #16-06; Special Use Permit Application, SUP-WP #16-308; and Special Use Permit Application SUP-AC #16-309** until November 22, 2016. Seconded by Member Young. Unanimously approved.

6. **Special Use Permit Application SUP-AC #16-301 John's Wrecker Service on Tax Map 561, Lot 35, located at 107 Sheep Davis Road, in the Commercial/Light Industrial (C1) and the Aquifer Conservation (AC) District. The applicant, Mark Sargent, of Richard Bartlett & Associates, LLC, on behalf of the property owner, John Dapergolas, 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 #16-101.**
7. **Major Site Plan Application #16-101, John's Wrecker Service on Tax Map 561, Lot 35, located at 107 Sheep Davis Road, in the Commercial/Light Industrial (C1) and the Aquifer Conservation (AC) District. The applicant, Mark Sargent, of Richard Bartlett and Associates, LLC, on behalf of the property owner, John Dapergolas, Inc., proposes a Change in Use of an existing, vacant, commercial facility to permit an automotive wrecker, maintenance, outside storage facility with associated office space.**

Present: Mark Sargent of Richard Bartlett and Associates, LLC; John Dapergolas; representing MBI Trucking; Jason Woodard, Manager of MBI Trucking; and Attorney James Steiner

Chairman Topliff said at a previously held public hearing, the Board decided to consider revocation of the previously conditionally-approved site plan. Concluding the public hearing, the Board voted to make a decision of whether to proceed with site plan revocation and to do so prior to considering the agenda items before the Board this evening.

Alternate Member Bourque recused himself for the revocation.

Ms. Verdile read aloud the original Conditions of Approval that were to be completed prior to occupying the building:

7. The Applicant, Pembroke Water Works Superintendent, and Pembroke Sewer Operations Director shall perform a site inspection together of the site and buildings after plan signature and prior to issuance of demolition and/or building permits. The inspection will be to determine the necessary retrofitting of buildings, installation of equipment, and site improvements for the proposed uses of vehicles repair, storage, and maintenance. This shall be in conjunction with any conditions of approval from the Special Exception granted.

Ms. Verdile said in preparation for the September meeting, Matt Gagne of the Pembroke Water Works performed inspections of the buildings and provided a letter describing the issues of concern.

She said the Pembroke Water Works submitted an e-mail today stating that they discussed the test well results which showed non-detectable for VOCs. They followed up with their hydrogeologist and believe that MBI Trucking at the Sheep Davis Road location is a potential threat to the groundwater but feel that Pembroke Water Works can manage the threat by Best Management Practices (BMP) inspections.

8. Applicant shall declare existing septic system on site failed, provide proof of decommissioned system to Pembroke Sewer

Department, and connect to Town Sewer before issuance of a Certificate of Occupancy.

Ms. Verdile said it is her understanding that the applicant is connected to Town Sewer.

9. Any use proposed under a different owner/applicant, which is permitted by right in the zone, shall require a special use permit application be submitted to the Planning Board.

Ms. Verdile said the Applicant submitted a Special Use Permit. The Board determined in September the Applicant would also need a Major Site Plan Application. The Board tabled the Special Use Permit Application to tonight's meeting and is to consider the Major Site Plan Application for the use. The site plan violation was the building was occupied and running prior to getting the Special Use Permit. With regard to the Conditions of Approval, the Applicant has a year to complete them, but No. 9 (above) was a blatant violation. The Applicant applied for the Special User Permit which is the site plan compliance version as well as the additional major site plan which was determined to be necessary at the last meeting.

14. Outdoor fuel storage shall have containment and overhead coverage. Salt or other ice treatment shall have overhead coverage and be stored on an impervious surface.

Ms. Verdile said it is her belief that the Applicant completed No. 14 at the September public hearing.

15. Knox Box capabilities approved by the Fire Department shall be installed on the gate with access provided to Fire Department.

Ms. Verdile reported No. 15 had been completed.

23. All chemicals or other possibly hazardous materials will be stored and handled in a manner approved by the Fire Department, Code Enforcement Officer and the Pembroke Water Works.

Ms. Verdile reported that No. 23 was completed through the Certificate of Occupancy sign-off process.

Chairman Topliff reminded the Board the primary reason why the Board had the public hearing on revocation was because the property owner, in spite of not having completed the conditions of approval and not having a Certificate of Occupancy, rented out one of the buildings on the site and was making use of it and performing a use of the building that was not permitted at all.

He said that his understanding was that MBI was no longer using the back building on the site.

Ms. Verdile said they relocated to Integra Drive.

Chairman Topliff asked the Board to comment on whether or not the Board should revoke the site plan.

Member Young asked for an explanation of last night's ZBA approval and how it affects the Planning Board.

Chairman Topliff said that the ZBA voted to add the additional use with conditions. Now that the ZBA has made that decision, the Planning Board must abide by it although they do not have to approve the use.

Member Young said the Pembroke Water Works is placing a lot of weight on the fact that they can catch the hazard. He said he does not feel that the Board would have allowed the project to proceed if the original application was to do the things that are presently being done.

Member Cruson said she completely agreed with Member Young. She said she has a great concern about the amount of time that could elapse between the Pembroke Water Works inspection of the water and its pollution. She said she did not feel that Pembroke Water Works would be able to regularly monitor the water and that the risk was too great to the public water supply.

Chairman Topliff asked if the Board felt they should revoke the site plan. The original reason to consider doing so was because the Applicant had undertaken a use that was not approved and one that could put the aquifer in significant danger. That is no longer taking place and said that he would encourage any discussion of whether site plan revocation was still appropriate.

Vice Chairman Seaworth said the revocation was a “very big hammer” for what perhaps might be a small problem particularly since the Applicant has addressed the Board’s main concerns. The goal was to have a business operate by State rules. He suggested setting aside the Site Plan revocation and move on with the new application.

Member Edmonds said he agreed with Vice Chairman Seaworth since the enforcement activities have been successful.

Selectmen’s Rep. Greco and Member Bean agreed.

MOTION: Member Bean moved to give the property owner 30 days to complete outstanding issues, as determined by the Board, as a “Revocation of Recorded Approval” will be recorded at the Merrimack County Registry of Deeds and commence immediately. Seconded by Member Young.

Member Cruson asked who would monitor the 30 days. Chairman Topliff said that Ms. Verdile and Mr. Hodge (Code Enforcement Agent) would begin on October 26, 2016.

Vice Chairman Seaworth asked what the outstanding issues were.

Ms. Verdile said the proposed motion was left open in case the Board felt that there were issues still outstanding. She said she was not aware of any outstanding issues. Mr. Jodoin said he understood that “everything was cleaned up.”

Member Bean decided to amend his motion as follows:

MOTION: Member Bean moved to not move forward with the revocation of the recorded approval. Seconded by Member Young.

VOTE: A. Topliff - Y B. Seaworth - Y R. Bean - Y
 K. Cruson - Y B. Edmonds - Y L. Young - Y
 V. Greco - Y

MOTION TO NOT MOVE FORWARD WITH THE REVOCATION OF THE RECORDED APPROVAL PASSED ON A 7-0 VOTE.

Chairman Topliff noted that Alternate Member Bourque returned to the Board.

Ms. Verdile read aloud the full October 24, 2016 ZBA decision to approve the Applicant's Special Exception Request.

The Applicant submitted the following waiver requests for the application:

Part A-GENERAL INFORMATION

- C. The construction drawings as detailed in Part C;
- G. Exterior height of each building;
- L. Multifamily housing;
 - (1) Estimate number of dwelling units for the elderly;
 - (2) Facilities provided for the handicapped; and
 - (3) Estimate the number of children school aged (6-17) for the development.

Part B-SITE PLAN INFORMATION

- (6) The locations, dimensions, and footing area of all proposed buildings.
- (7) The locations, dimensions and area of all property proposed to be set aside for park or playground use, open space, or other public or private reservation, with designation of the purpose thereof, and conditions, in any, of the dedication or reservation.
- (11) Names of all new proposed streets subject to approval by the Board of Selectmen.

(16) The proposed location of all soil test pits, test borings, and percolations test pits.

(19) Soil types and boundaries based upon an on site survey, US Geological Survey, or other common source and the source date. Soil boundaries shall be shown by dotted lines.

(20) Full legal descriptions of the drainage easements, site easements, rights-of-way, covenants, reservations, or other restrictions shall accompany the site plan with notations of each on the site plan.

PART C-CONSTRUCTION PLAN SUBMITTAL INFORMATION

A. Plans – Plans of all areas to be disturbed for construction of streets, drainage ways, and structures, sewer, water and electric lines, erosion and sediment control structures, and other areas to be disturbed for the construction of improvements shall be made showing existing topography shown in dashed lines and proposed contours shown in solid lines at a contour interval no greater than two (2) feet plus spot elevations, soil types and boundaries shown in dotted lines, existing tree lines and proposed trees and all other plantings, edge of all paved areas, location and size of all structures, piping and other materials, center line stationing of all proposed roads at fifty (50) foot intervals, and the location of all lot lines with the lot numbers. Plans shall be drawn at a scale of not more than one (1) inch equals fifty (50) feet.

B. Profiles – Profiles of all proposed roadways, showing existing and proposed elevations along the center lines of all proposed roads, and all structures, piping, and other materials. Profiles shall be drawn at a scale of one (1) inch equals fifty (50) feet horizontal scale and one (1) inch equals five (5) feet vertical scale.

C. Cross-Sections – Cross-sections of all proposed roadways at one (100) foot stations and at all catch basins or culverts showing the roadway and all areas to be disturbed for the construction of all proposed roadways, existing grades, proposed sub-grades, proposed final grades, and all utilities and other structures. Cross-sections shall be drawn to a convenient scale of not more than one (1) inch equals ten (10) feet, both the horizontal and vertical scales shall be the same.

D. Details – Construction details of all roadways, curbing, sidewalks, drainage structures, sediment and erosion control structures and any other required improvements shall be shown at a convenient scale.

E. Erosion and Sediment Control – Plans and other information indicating how increased runoff, sedimentation, and erosion shall be controlled during and after construction or required improvements.

F. Impact from Site – Potential impact to abutting lots including but not limited to drainage, access, traffic, noise shall be described in plan Notes and offer mitigation options as appropriate for Board consideration.

Ms. Verdile said that all the waiver requests are considered not applicable.

MOTION: Vice Chairman Seaworth moved to grant the waiver requests for checklist items: Part A-Items: C, G, and L; Part B-Numbers: 6, 7, 11, 16, 19, and 20; Part C- A, B, C, D, E, F. Seconded by Member Edmonds.

VOTE:	A. Topliff - Y	B. Seaworth - Y	R. Bean - Y
	K. Cruson - Y	B. Edmonds - Y	L. Young - Y
	V. Greco - Y		

MOTION TO GRANT THE WAIVER REQUESTS FOR CHECKLIST ITEMS: PART A-ITEMS: C, G, AND L; PART B-NUMBERS: 6, 7, 11, 16, 19, AND 20; PART C- A, B, C, D, E, F PASSED ON A 7-0 VOTE.

Ms. Verdile said that nothing affects completeness of the Special Use Permit, Aquifer Protection or the Major Site Plan.

MOTION: Vice Chairman Seaworth moved to accept the application as complete. Seconded by Member Young.

VOTE:	A. Topliff - Y	B. Seaworth - Y	R. Bean - Y
	K. Cruson - Y	B. Edmonds - Y	L. Young - Y
	V. Greco - Y		

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

Chairman Topliff opened the public hearing at 8:13 p.m.

Mr. Sargent said they received a few special exceptions from the ZBA to allow the Applicant to occupy the building for his wrecker service and for MBI Trucking to occupy the building in the rear.

The proposal before the Board is to permit the occupation of a 4,475 sq. ft. building to MBI Trucking for light repair and maintenance of tractor trailer tractors and trailers. They would also be storing dry trailers on the site. The plan before the Board, reflects the changes that have been made to the site. A few buildings were removed and a few buildings which have yet to be removed. He pointed out the location of the monitoring well and the sewer connections to the small building and larger building.

Mr. Woodard said MBI Trucking is located in 38 states. They have approximately 1300 tractors. They began in 1980. They have 20 tractors in NH that haul to different land fills and large waste companies. The Sheep Davis Road shop will be used as a warehouse for storage of tires, parts, etc. There will be one full time and one part time mechanic on site. The majority of their work is on road service. They have two service trucks.

Mr. Woodward said there will only be minor repairs on site. All their equipment, including the trucks are five years old or newer. MBI likes to keep their trucks under warranty. Kenworth and Peterbuilt do all their major servicing and engine repairs. They moved from Auburn, NH to be closer to the repair facilities.

He said that seven to 10 tractors and trailers will be serviced at the site.

He said minor maintenance includes changing hand brakes, landing gear, fixing a hole in the sides of a trailer, changing oils, although he said that changing oil does not happen very often since they only change them every 25,000-30,000 miles to keep them under warranty. He said they do more road calls and tires, or changing the landing gear, greasing, etc.

Member Bourque asked if they would do brake work. Mr. Woodard said yes, they do brakes. The dealer typically handles the exhaust systems. He said that they do not "tear down" engines. They might change a clutch (but rarely) and transmissions are warranty items.

Mr. Woodard said all maintenance will take place inside the building. The tractor and the trailer fit in the building.

Mr. Woodard said they use pilot fueling stations. They do not have a fueling station on site.

With regard to BMPs inside the building, Mr. Sargent said there are secondary containments in the building for oil drums to make sure that everything remains inside the building. They use fueling pilots. They do not have their own fuel. The cracks in the floor have been repaired. There are no floor drains in any of the buildings at the facility. A Zamboni-like machine will be used to clean the floors. The waste water will be stored in 55-gallon drums and disposed of by Clean Harbor.

Chairman Topliff clarified that MBI is a household trash hauler and anything could end up in the trash such as hazardous waste. Even though the trash is emptied before returning the tractors and trailers to the site, he was concerned about any residue washing off the trailers during a heavy rain while it is parked on site. He was concerned that hazardous waste could seep into the ground. He asked what could be done to make sure that there is no runoff on the ground.

Mr. Woodard said they could park the trailers on the concrete. Chairman Topliff pointed out that unless there is a containment tool that captures all the runoff, it would eventually seep into the ground.

Mr. Woodard said the trailers have rubber roll tarps that cover them. They sweep the trailers out before they go back to the transfer station or shop.

Chairman Topliff pointed out that the aquifer is a precious commodity for Pembroke. The Board's duty is to protect the aquifer because if and when it becomes contaminated it is irreplaceable. He said he is not comfortable that a tarp covering the trailer would ensure that nothing hazardous would run onto the ground. If the trailers were parked on an impervious surface to capture and treat or capture and remove the runoff, then he might feel more comfortable.

Member Bourque suggested constructing something to park the trailers under. He said it would only take a few hours between the residue washing onto the ground and contaminating the aquifer. By the time it showed up in the test wells, it would be too late.

Mr. Woodard said the tarp system is rubberized and strapped down on the side. The trucks travel the roads like that. MBI hauls trash and construction debris.

Mr. Woodard said all the trailers are open-top trailers. The tractors and the trailers return to the site at night and leave the next morning. They are all stored outdoors.

Chairman Topliff said another concern he has is that the ZBA has instructed the property owner to follow Best Management Practices (BMPs) but how does the Board know that that is actually being done and the aquifer is being protected. He was not certain the Pembroke Water Works, Code Enforcement Officer or the Planning Department had the resources to inspect to the degree and frequency that, in his opinion, would be necessary to ensure that BMPs were being followed or that someone had not decided to undertake an activity that would put the aquifer at risk.

He suggested the Board consider requiring the property owner to hire an environmental firm or outside third party to monitor and go in on a periodic basis, to inspect and provide a report to Pembroke.

It was pointed out that the Integra Drive site was also over the aquifer.

Ms. Verdile said the City of Concord was involved with the monitoring well issue but, other than that, there has been no conversation about the site.

Chairman Topliff asked what action Concord was taking to make sure that BMPs are being done.

Mr. Sargent asked Mr. Dapergolas if Concord inspects the Integra Drive site. The approval was given a number of years ago.

Mr. Dapergolas said no.

Mr. Sargent said Concord considers Mr. Dapergolas a good citizen.

Member Bourque said the Pembroke site is very close to Pembroke's well heads.

Mr. Sargent pointed out that what Mr. Dapergolas has done at his site that is different from the other sites along Rt. 106 is that he is willing to do monitoring well testing on a six-month basis. He is allowing inspections to be done at will. Mr. Sargent said that Mr. Dapergolas is going above and beyond any other business along Rt. 106.

Chairman Topliff said it is unfortunate, but the actions that the applicant took were in violation of approvals, and raises real doubt in his mind that Mr. Dapergolas will follow the rules in the future. He said that actions speak louder than words.

Mr. Jodoin said the Water Department is as concerned as everyone else about the aquifer.

Chairman Topliff pointed out the Pembroke Water Works has told the Board many times that their inspections are done every 3 years.

Member Cruson said the testing of the monitoring wells is after the affect. She said that she would rather have the inspection during the use of the property so something could be caught before the aquifer is affected.

Ms. Verdile said the ZBA approval does not discuss the monitoring well. It talks about future inspections of the site at will. She understood that the intent of the approval is for the inspections of the building and the whole site at will. She said that that was significant.

Chairman Topliff said the Board could continue the public hearing and specifically request that the Pembroke Water Works come to the next meeting to help the Board understand what their thoughts are. He said that the Board could also ask the Applicant to explore possible ways that the trailers could be protected from the rainfall and ask the Applicant to explore possible third-party contractors to report to Pembroke regarding compliance to BMPs and other concerns relative to the site.

Selectmen's Rep. Greco said it is human nature that, as time goes by, there is less frequent inspections unless it's contracted to someone who is being paid to do it. He said the Applicant's site is dealing with a lot of fluids.

Ms. Verdile said the Conservation Commission was not in favor of a tractor trailer repair business in the Aquifer Conservation District.

Member Edmonds said the Conservation Commission discussed the merits of the application and the general feeling was that they took exception to any new or expanded activity that could pose a threat to the Town's natural resources.

Vice Chairman Seaworth said the Board does not want to overreact or under protect the aquifer. If the Water Department has a solution that they think is fine, the Board should not need to go beyond that at the facility. He agreed that it would be best to meet with them to assure the Board that the use will be safe for the Town.

Member Bean asked if the ZBA was aware that the trailers had open tops. Member Bourque said that nothing was mentioned at the meeting.

Vice Chairman Seaworth said that the storage of vehicles was permitted by the current plan so the ZBA may not have considered it an issue since it was not an exception to the zoning regulations.

It was agreed that a conversation with the Pembroke Water Works would be best. They may not be aware that there will be open trailers being stored.

Attorney Jim Steiner read aloud the original narrative of the project. He pointed out that it specifically says that the applicant proposes to lease the 4,475 sq. ft. building to a tractor trailer repair business. The gravel area would be used for storage of trailers from the business along with campers, recreational vehicles, etc. All the vehicles store on the surface will be drained of all liquids.

He said Mr. Dapergolas was making a huge investment in his land and business. The Applicant tried three times to establish a monitoring well. He said the Town's hydrogeologist said that the monitoring well may not be needed because the ledge, itself, is its own filter for the protection of the aquifer.

When the plan was approved, there was no change. The result of the monitoring well test was that it was completely clean. Mr. Dapergolas has had vehicles onsite for a year and MBI has been on the site for a number of months.

Attorney Steiner said Mr. Dapergolas did have vehicles on the site without approval, but is now asking for approval. He said Mr. Dapergolas has worked very hard with the Sewer Department and his own contractor to get the monitoring well in so that the initial test could be done.

With regard to MBI, Attorney Steiner said the activity that will occur on site will be minimal and that dry storage is already an approved part of the plan for trailers. MBI is an excellent candidate because they keep their fleet new within 5 years so that they are always under warranty and can go to Peterbilt and Kenworth for any heavy repair work to be done.

Tire changing and oil changing are done in other places so the warranties are not breached.

Attorney Steiner said Mr. Dapergolas has never had an environmental problem on Integra Drive since he has been there (approximately 28 years) and MBI is presently on Integra Drive.

He also said the Board allowed vehicles to be stored on the Route 106 site and, upon inspection by the Code Enforcement Agent, Mr. Hodge observed that Mr. Dapergolas' 10-wheeler had broken down and was being hauled off the site to be repaired. Even when vehicles are in the building on the concrete pad, Mr. Dapergolas places metal pans under them as an extra protection.

Attorney Steiner said Matt Gagne of the Pembroke Water Works admitted at previous meeting that he had concerns but was now rejecting those objections.

Member Bean said it was his understanding that Mr. Dapergolas came before the Board for tractor trailer storage and tractor trailer maintenance meaning the trailer portion of it. He said that now it had changed from the trailers to the tractors and the trailers.

Attorney Steiner said he did not know where Member Bean got that interpretation because the original narrative explains that it was for a tractor trailer repair business.

Chairman Topliff offered to clarify. He said that he specifically asked Mr. Dapergolas during the public hearing if there would be repairs of tractors or trailers and he said "just trailers." A number of Board members recall that conversation.

Ms. Verdile said the site plan application for MBI and the revocation for John's Wrecker are very confusing because they are dovetailed. Mr. Dapergolas has 12 months to complete the Conditions of Approval from the March approval for John's Wrecker. The incident that started the whole revocation process was because Mr. Dapergolas was in complete violation of the March site plan, specifically the condition of approval that says, 'any use, even if allowed by right, requires a Special Use Permit'. He did not go before the Board for a Special Use Permit. That is the crutch of the problem with the revocation of John's Wrecker and with the new plans for MBI. The Applicant entered into an agreement with MBI in June before obtaining the proper approvals from the Town, which was a complete violation of the site plan approval for John's Wrecker. That also triggered a zoning violation that says someone cannot establish a use or occupy a building without first obtaining approvals from the Town. While the Town welcomes Mr. Dapergolas to Pembroke, he has not been the most upfront dealing with his approval and following town regulations.

Other than with the MBI issue, Attorney Steiner said that, as witnessed by the Building Inspector, Mr. Dapergolas is playing by the rules. There being no further questions or comments from the Board or the public, Chairman Topliff closed the public hearing at 9:00 p.m. He said that if anyone continues to have an interest in this application, to monitor the

Town's website or call the Planning Department for subsequent meetings since abutters will not be renoticed.

MOTION: Member Cruson moved to continue the public hearing to November 22, 2016. Seconded by Member Young. Unanimously approved.

Chairman Topliff asked Ms. Verdile to send a letter to Mr. Dapergolas asking him to explore possible ways that the trailers might be covered when they are stored on site and to explore the possibility of engaging a private firm to conduct inspections of the site to ensure compliance with BMPs.

Member Young asked that Ms. Verdile ask Mr. Gagne of the Pembroke Water Works to attend the next Board meeting.

Minutes- October 11, 2016 Meeting Minutes

The Board agreed to consider the October 11, 2016 Meeting minutes at the next meeting.

Miscellaneous

1. Correspondence- Ms. Verdile received the Planning Magazine and the Town and City Magazine.
2. Committee Reports- Tri-Town Ambulance – Member Bourque said that they only discussed policies.

Conservation Commission – Member Edmonds reported that Attorney Whitley has been hired by the Town to represent the Town for the Northern Pass Issue. Ammy Heiser, the Chair, has been voted as intervenor. The annual meeting of the NH Association of Conservation Commissions will be held in Pembroke on November 12, 2016 at Pembroke Academy.

Mr. Jodoin said the Town will partner with other communities to raise questions and filings on Northern Pass. He said that in 2013 they wanted the lines buried. That is where the Board of Selectmen stand. They feel that if the lines can be buried up north, than they can be buried here.

Chairman Topliff asked Member Young if he would prepare a CIP report.

Central NH Regional Planning Commission: Member Cruson said that the Commission had someone who specialized in evaluating communities speak on the trends in those communities. He spoke about the aging of NH. As of now, NH is No. 2 in the nation behind Maine. The speaker said that Towns should be accommodating that trend through zoning and master plans.

Member Cruson very strongly urged the Board to consider mixed uses since there is very little public transportation.

3. Planner Items- November 15, 2016 Worksession Agenda, Northern Pass

Ms. Verdile said the first public hearing for the ADU amendment will be November 15, 2016. She will also notice it as the first public hearing for the sign ordinance.

She presented the Board with the first draft version of the ADU amendment for their review.

An edited version of the sign ordinance was also given to the Board which was prepared by Mr. Hodge and Attorney Whitley. They removed everything that did not comply with Reed vs. Gilbert.

Alternate Member Bourque pointed out that if the next business meeting is to be held at Three River School, it would be best to have a public address system.

Chairman Topliff asked Ms. Verdile to make arrangements for a speaker system at the next meeting.

Ms. Verdile said the National Guard will be coming in for their new Readiness Center on their site on Sheep Davis Rd. The Planning Board is afforded the opportunity to provide non-binding comments on the application.

Mr. Dapergolas approached the Planning Department to ask how a request should be handled. He was approached by someone who requested use of the bay to build a wooden bridge truss for NY. It is a one-year project. It is a use that has already been allowed. There is no hazardous waste, no staining. Everything will come pre-done. They will just assemble the bridge, break it down, put it on tractor trailers, and transport it to its site. Mr. Jodoin asked how it would impact the site compared to the present changed use and if they needed Planning Board approval.

Chairman Topliff said since the building sat vacant for more than a year any approved uses would have lapsed. It may be an approved use in the zone but Mr. Dapergolas would still have to add that as an approved use through the Planning Board.

Ms. Verdile explained Mr. Dapergolas was approached to locate a nail salon in the model home on site. She said Mr. Hodge interpreted that use as a professional office which was what the model home was originally used for by Epoch Homes.

Chairman Topliff said just because a use is allowed by right in the zone does not mean that it is automatically approved.

Alternate Member Bourque pointed out Mr. Dapergolas is beginning to put a number of different businesses on one property.

MOTION: Member Bean moved to adjourn the meeting. Seconded by Member Young. Unanimously approved.

The meeting was adjourned at 9:38 p.m.

Respectfully submitted,
Jocelyn Carlucci, Recording Secretary