

**PEMBROKE ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
FEBRUARY 28, 2022
(ADOPTED)**

MEMBERS PRESENT: Bruce Kudrick, Chairman, Thomas Hebert, Vice Chairman, Dana Carlucci, Natalie Glisson

ALTERNATES PRESENT: Robert Bourque and Blakely Miner III

EXCUSED: Paul Paradis, Wendy Chase

STAFF PRESENT: Paul Bacon, Code Enforcement Officer

Chairman Kudrick called the meeting to order at 7:00 p.m.

Roll call was taken by the Reporting Secretary who also read the first case aloud.

PUBLIC HEARINGS

Case 22-01-Z A request has been made for a **Special Exception under Article IV, Use Regulations, §143-19, Table of Uses-Community Facilities #5**. The applicant, Pembroke Golf, LLC, 15 West Road, Canterbury, NH 03224 is requesting a **Special Exception** to relocate a driving range at the Pembroke Pines Country Club from Tax Map 634, Lot 23 to Tax Map 634, Lot 2. A **Special Exception** is required under **§143-19**. The property is owned by Keystone Pembroke LLC, 17 Bridge St #203, Billerica, MA 01821. The property is located at 65-89 Whittemore Rd, Map 634 Lot 2, in the R-1 Medium Density-Residential and the Aquifer Conservation (AC) Zoning Districts.

Applicant: Pembroke Golf, LLC
15 West Road
Canterbury, NH 03224

Property Owner(s): Pembroke Golf, LLC

Property Address: 65-89 Whittemore Road
Pembroke, NH 03275

Tax Map 634, Lot 2 in the R-1 Medium Density-Residential and
the Aquifer Conservation (AC) Zoning Districts

Included in the Member Packets: Letter dated February 7, 2022 from Charles F. Cleary, Esq.; Authorization from Pembroke Golf, LLC dated February 7, 2022; Special Exception Application; Notices of Decision for Cases 20-13-Z and Case 20-12-Z; tax map; assessing card; Request for Finding of Fact Under Zoning Ordinance Section 143-68F (Aquifer Conservation District); and Plot Plan Map by Promised Land Survey, LLC.

Present: Attorney Charles Cleary, Tim Peloquin of Promised Land Survey, LLC

Chairman Kudrick read aloud the rules governing the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed to the application will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak.

He stated that anyone wishing to speak must first give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider its approval.

Attorney Cleary said that this Application is a follow-up to the new clubhouse which was approved and is presently under construction. The new driving range will be located behind the Clubhouse on a portion of the golf course property near the 18th hole. The existing driving range was previously approved for housing.

Attorney Cleary read the Application aloud:

Please give a detailed description of your proposal below:

To relocate a driving range at the Pembroke Pines Country club (hereinafter referred to as "PPCC") from Tax Map 643, Lot 23 to Tax Map 634, Lot 2 to serve the members and public guests of the PPCC as shown on the Plan accompanying this Application.

- 1. Please describe how the requested use is essential or desirable to the public convenience or general welfare.** PPCC serves residents of Pembroke and the surrounding community with a well-maintained area for the recreational game of golf. Essential to any quality golf course is a driving range of sufficient size for the practice of golf swings by both members and the visiting public. PPCC has an existing driving range however that area is being converted to housing. The new driving range will be of sufficient size and desirable in its location as it will be conveniently located adjacent to the new Clubhouse.
- 2. Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** The requested use is in the form of a new driving range, replacing the older driving range located on an adjacent golf course parcel. The new driving range is not a use which generates any excessive noise or disturbance. The character of this particular area has long been associated with the golf course and the new driving range will continue to fit within the character of the area. The healthy sport of golf and a necessary driving range will promote the health, morals and general welfare of the community.
- 3. Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** The proposed site is an excellent location for the new driving range given its large area and proximity to the new Clubhouse (see Plan).

4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** The only third party abutters to the site on which the driving range will be constructed is the open space of Keystone Pembroke's residential housing development and conservation land controlled by the Town of Pembroke. Neither of the adjoining properties will suffer a diminution in value as a driving range is simply a component of a golf course, which has existed in this general community for 60 years.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** The proposed driving range use does not involve traffic. The driving range will not result in a nuisance or unreasonable hazard as no residences exist in the area.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** There are no facilities associated with the driving range. Facilities are contained within the fully approved Clubhouse under construction.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** The Applicant is not aware of any objections from the Town of Pembroke, which owns the White Sands Conservation Area, abutter Keystone Pembroke, LLC supports this Application for Special Exception.
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** The proposed driving range will not need public water supply for irrigation and requires no sewerage system. It will use surface water.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** N/A.

Chairman Kudrick asked how the tee boxes would be set up.

Mr. Peloquin said that it has not been integrally designed other than knowing the area that it will be placed. They will need site plan approval from the Planning Board which is when they will go through the design phase. It will most likely require an AOT (Alteration of Terrain) Permit so there is a lot of work to be done before they are prepared to submit a site plan application. He said that they know that they would like 400' of width (300' of width plus 50' of buffer on each side). They know that they have ample length. The approximate location of the boxes will be somewhere near the "Proposed Driving Range Location" (see map) near the angle point. The golf balls will be driven toward the old rail bed.

Chairman Kudrick referred to "unreasonable hazard" and asked what the applicant will do to protect golfers on the greens from being hit by golf balls coming from the driving range.

Mr. Pelloquin said that they recognize the need for a buffer. Once the area is regraded, an ample buffer and/or protection (such as a tree buffer, netting, or another protection solution) will be added. He also said that the people walking at White Sands should also be protected.

Chairman Kudrick asked about parking. He referred to the Plan which shows “New Clubhouse (Under Construction)” and asked if there would be any parking in that area.

Mr. Pelloquin said that there would be just the main parking by the Clubhouse. There may be a walkway where people would use carts. There may be a small building to sell buckets of golf balls.

Alternate Member Miner said that the phrase “unreasonable hazard”, in his opinion, refers to the general public. A golfer is a patron of the golf course and, therefore, takes certain risks when on the grounds.

Chairman Kudrick said that he wants everyone to be protected – people on White Sands and golfers alike. He did not want the Applicant to create a hazard.

He also asked if “surface water” meant the use of the existing ponds.

Mr. Cleary said that Mr. MacCormack presently uses the ponds to irrigate and is intending to use the same system.

Alternate Member Bourque asked if any part of the new driving range was in the already-set-aside open space.

Mr. Pelloquin said no. He said that there are some wetlands in the area but they would not be disturbing them which will be part of the NHDES/AOT permitting process and will be carefully monitored.

There was no one in favor or in opposition to the case.

There was no rebuttal by the applicant or those in favor or in opposition to the case. With regard to the Aquifer Conservation District Request for Findings of Fact §143-68F, Attorney Cleary said that it is very straight-forward in relation to the driving range. He read aloud, as follows:

- 1. The proposed use will not have a detrimental effect on the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants.** The goal of the Aquifer Conservation District is to regulate land uses which would contribute polluted waters to designated aquifers. 143-68A. The Applicant’s proposed use is for a new driving range to replace an existing driving range which has existed in the Aquifer Conservation District for

decades. The new driving range, like the Pembroke Pines golf course, will utilize best management practices in terms of grass treatment and fertilization of grass area with no pollution directly released to the aquifer and no anticipated pollutants which would threaten the aquifer over the long term.

2. **The proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer, or in the storage capacity of the aquifer.** This new driving range will not cause a significant reduction to the volume or capacity of the aquifer as it will not draw on Pembroke's public water supply or aquifer. The golf course uses only surface water for irrigation.
3. **The proposed use will discharge no wastewater on site other than that which is permitted under the provisions of this section.** The driving range does not generate any wastewater.
4. **The proposed use complies with all other applicable sections of this section.** As the proposed use is an open air driving range and is not one of the prohibited uses under 168D, and not the type of use that releases pollutants to the groundwater, it complies with all other applicable sections of Zoning Ordinance Section 143-68.
5. The Applicant shall request opinions from the Conservation Commission, the Health Officer, the Planning Department and Pembroke Water Works that the construction of the new driving range for Pembroke Pines Country Club is consistent with the Aquifer Conservation Ordinance.

Attorney Cleary said that he requested opinions from the Conservation Commission, the Health Officer, the Planning Department and Pembroke Water Works and only received a response from the Planning Department.

Alternate Member Bourque asked if they had already provided information on the fertilizers used on the course.

Mr. Peloquin said that the fertilizer used is biodegradable and all natural. He also said that every year they go through a state inspection which is very thorough.

The applicant and the Board had no further questions or comments.

Member Glisson summarized the case as follows:

Case 22-01-Z A request has been made for a **Special Exception under Article IV, Use Regulations, §143-19, Table of Uses-Community Facilities #5**. Mr. Cleary read through the criteria. Chairman Kudrick asked how the tee boxes would be set up. Mr. Peloquin shared that it had not gone to the design phase yet. Chairman Kudrick was concerned about "unreasonable hazard" and whether it

would interfere with golfers on the course. Mr. Peloquin stated that there would be an ample buffer. Chairman Kudrick asked about the parking location. Member Miner expressed his view of “unreasonable hazard” and how it was more geared toward the public as opposed to the patrons of the golf course. There was discussion about the irrigation system. No wells will be dug. No one spoke against or in favor of the proposal. Attorney Cleary made an aquifer presentation. Alternate Member Bourque asked about fertilizers used on the course. Mr. Peloquin said that every year the golf course goes through a thorough inspection.

Chairman Kudrick stated that the Board will decide all cases within 30 days. The Notice of Decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. The Board will either approve, deny, or continue deliberation on the case. No comments will be taken from the audience.

Chairman Kudrick officially closed the hearing at 7:25 p.m.

Chairman Kudrick asked that each member of the Board comment on each Special Exception criteria.

DELIBERATIONS: The Zoning Board of Adjustment reviewed the Special Exception criteria:

1. Please describe how the requested use is essential or desirable to the public convenience or general welfare.

Chairman Kudrick said that a golf course needs a driving range and a place for players to warm up.

Member Glisson agreed.

Vice Chairman Hebert said that the driving range will set them apart from other courses that don't have that feature and it will draw more golfers to the area.

Member Carlucci said that it is beneficial to the community.

Alternate Member Miner said that a golf course needs a driving range.

Alternate Member Bourque said that some golfers would rather just use the driving range than to play 9 or 18 holes. It will be a benefit to the course.

2. Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.

Chairman Kudrick and Member Glisson said that it is a very nice course.

Vice Chairman Hebert said that he does not see any way that it is a detriment to the surrounding area.

Member Carlucci said that the course's use of biodegradable fertilizers is an improvement to what was probably used 40 years ago.

Alternate Member Miner said that it is better than having unused land just sitting there.

Alternate Member Bourque said that it will not be a very noisy proposition to have a driving range nearby.

3. Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.

Chairman Kudrick said that a driving range is appropriate for a golf course.

Member Glisson said that it is a good use of the land.

Vice Chairman Hebert said that it fits in with the relocation of the clubhouse.

Member Carlucci said that the location is convenient and important.

Alternate Member Miner said that he agreed.

Alternate Member Bourque said that the parking will be advantageous to the Clubhouse.

4. Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.

Chairman Kudrick said that there is nothing that will be affected.

Member Glisson said that no one participated in the meeting in opposition.

Vice Chairman Hebert said that the course had a driving range before and will have a new one in a different location.

Member Carlucci and Alternate Member Miner agreed.

Alternate Member Bourque said that the new driving range would be more protected with the buffers.

5. Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.

Chairman Kudrick said that the Applicant explained that there will not be any undue traffic, etc.

Member Glisson, Vice Chairman Hebert, Member Carlucci, Alternate Member Miner and Alternate Member Bourque agreed that they felt that there would be no unreasonable hazard from this application.

6. Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.

Chairman Kudrick said that nothing in the facility's use or care will change.

Member Glisson said that she agreed.

Vice Chairman Hebert said that the existing course has all the equipment there to maintain the course and they will continue to do so.

Member Carlucci said that there is ample parking and the range is convenient to the Clubhouse.

Alternate Member Miner said that the application is only moving things from one side of the street to the other.

Alternate Member Bourque said that he agreed. Nothing will change.

IV. Approval of Minutes – January 24, 2022.

MOTION: Vice Chairman Hebert moved to approve Meeting Minutes of January 24, 2022 as presented. Seconded by Member Carlucci. Unanimously approved.

Chairman Kudrick reminded the Board of the meeting with Town Counsel at 7:15 pm on March 21, 2022.

VI. Adjournment.

MOTION: Vice Chairman Hebert moved to adjourn the meeting at 7:45 pm. Seconded by Member Carlucci. Unanimously approved.

Respectfully submitted,
Jocelyn Carlucci
Recording Secretary