

**Pembroke Planning Board
Meeting Minutes
June 27, 2023**

Approved July 25, 2023

MEMBERS PRESENT: Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Kathy Cruson, Kevin Foss, Clint Hanson, Brent Edmonds

ALTERNATES PRESENT: Bryan Christiansen

MEMBERS EXCUSED: Rick Frederickson, Selectmen's Rep

STAFF PRESENT: Carolyn Cronin, Town Planner; Susan Gifford, Recording Secretary

Chairman Seaworth called the meeting to order at 6:30 pm. Six members and one alternate member were present. Member Cruson recused herself for New Business Item 1., Minor Subdivision Application #23-04. Chairman Seaworth designated Alternate Member Christiansen to vote for Member Cruson on this case.

New Business

- 1. Minor Subdivision Application #23-04, Timothy Bernier, T.F. Bernier, Inc. acting as Applicant on behalf of Manson A. Donaghey Revocable Trust, owner of Tax Map 264, Lot 72 located at 359 Third Range Rd. in the Medium Density Residential (R1) Zone, the Rural Agricultural Residential (R3) Zone, and the Wetlands Protection (WP) District.**

The Applicant proposes to subdivide the lot into 3 residential lots to be served by onsite well and septic.

Planner Cronin explained that the existing lot has a single-family home and Christmas tree farm. The owners propose to subdivide the lot into three lots to be served by onsite well and septic. A Technical Review Committee meeting was held on June 13th. Addressing, driveways, and a potential fire pond were discussed. The Town Engineer and Conservation Commission have no concerns.

Waiver requests have been submitted by the Applicant for Part A. General Information, Items: G. All dimensions, I. All topography, J. All wetlands, M. Surface water collection, N. Soil survey, Q. Easements, R. Open space, and U. Open space development. Planner Cronin stated that the waiver requests for M. (surface water collection), Q. (easements), R. (open space), and U. (open space development) are appropriate as they do not apply to the application. N. (soil survey) is requested in lieu of test pits. Items G. (all dimensions), I. (all topography), and J. (all wetlands) are partial waiver requests. The parent lot is 72 acres. The Applicant has performed a field survey of these items in the subject area of the plan where the new lots would be subdivided. Given the size and shape of the parcel, this is a reasonable request.

MOTION: Vice Chairman Bourque moved to grant the waiver requests for checklist items Part A – Items G, I, J, M, N, Q, R and U as requested by the applicant. Seconded by Member Hanson.

VOTE: B. Seaworth – Y B. Christiansen -Y K. Foss - Y
B. Edmonds - Y R. Bourque – Y C. Hanson - Y

MOTION TO GRANT THE WAIVER REQUESTS AS LISTED ABOVE PASSED ON A 6-0 VOTE.

MOTION: Vice Chairman Bourque moved to accept the application as complete. Seconded by Member Hanson.

VOTE: B. Seaworth – Y B. Christiansen- Y K. Foss - Y
B. Edmonds - Y R. Bourque – Y C. Hanson - Y

MOTION TO ACCEPT THE APPLICATION AS COMPLETE PASSED ON A 6-0 VOTE.

At 6:35 p.m. Chairman Seaworth opened the public hearing on Minor Subdivision Application #23-04. If this business item is not resolved tonight, the application and the public hearing will be continued without being renoticed. Information will be on the town website for a future agenda item. Please address your comments to the board and state your name and street address for the record.

Timothy Bernier, T.F. Bernier, Inc., on behalf of the applicant, provided a summary of the proposed subdivision. The recorded plan includes a complete survey of the 72 acre parcel. The lot has 1,249 feet of frontage on 3rd Range Road and 762 feet of frontage on 4th Range Road. One lot will contain the existing house. The proposed building lot is 80,000 square feet and meets all zoning requirements for the R3 zone. Although part of the lot is in the R1 zone, most of the lot is in the R3 zoning district. The remaining 67 acres is the Christmas tree farm. The existing driveway will be used for the house and the road agent will issue a new driveway permit for the buildable lot. Tim Bernier reported that State Subdivision approval was received today. The proposed lots have frontage of 259 feet and 297 feet, which exceeds the required frontage. The existing house lot is 2.8 acres, and the building lot is 80,000 square feet. Many family members are at the meeting tonight. We are happy to answer any questions.

Vice Chairman Bourque asked how NH DES Subdivision Approval gets involved in this subdivision. Tim Bernier stated that NH DES subdivision approval is required for lots less than five acres. Susan Seidner, 439 Deerpath Lane, stated that the larger parcel is staying as it is, a Christmas tree farm and family recreation land.

Planner Cronin reviewed the proposed conditions of approval. Item 5 can be struck as NH DES approval was provided. One question arose on whether the town driveway permit was required prior to construction on the new lot. A driveway permit is required before the issuance of a building permit. The conditions are acceptable to the applicant.

Chairman Seaworth asked if a lot is in two different zoning districts, how does that work? Planner Cronin stated that when the construction site is based on two zoning districts, the applicant can extend the majority zoning by 100 feet. Tim Bernier noted that the only difference is the setback lines, not the use. Building setbacks change at the zone boundary where wider setbacks would be required.

There being no further input Chairman Seaworth closed the public hearing at 6:48 p.m. for tonight. Chairman Seaworth noted that if this application is not completed tonight, the application and its public hearing will be continued to a future meeting and not renoticed.

MOTION: Vice Chairman Bourque moved to approve Minor Subdivision Application #23-04 with the following conditions as amended:

1. Prior to signature, all waivers and the date granted shall be listed on the plan.
2. Prior to signature, all conditions of approval shall be listed on the plan.
3. The original signatures of all property owners shall be provided on the final plan.
4. Prior to issuance of a building permit, Town Driveway Permit is required for Lot 72-2.
5. The final plan shall be recorded at the Merrimack County Registry of Deeds. LCHIP check to accompany the final plan.
6. The plan will not be considered as receiving final approval until all conditions of approval are met.

Seconded by Member Hanson.

VOTE: B. Seaworth – Y B. Christiansen - Y K. Foss - Y
 B. Edmonds - Y R. Bourque – Y C. Hanson - Y

MOTION TO APPROVE MINOR SUBDIVISION APPLICATION #23-04 WITH CONDITIONS PASSED ON A 6-0 VOTE.

- 1. PRIOR TO SIGNATURE, ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.**
- 2. PRIOR TO SIGNATURE, ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.**
- 3. THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.**
- 4. PRIOR TO ISSUANCE OF A BUILDING PERMIT, TOWN DRIVEWAY PERMIT IS REQUIRED FOR LOT 72-2.**
- 5. THE FINAL PLAN SHALL BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS. LCHIP CHECK TO ACCOMPANY THE FINAL PLAN.**
- 6. THE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.**

Chairman Seaworth stated that this application #23-04 is in compliance with all zoning requirements.

Member Cruson returned to the Planning Board as a voting member. Alternate Member Christiansen no longer voting.

- 2. Minor Subdivision Application #23-05, Joseph Wichert, Joseph M. Wichert, LLS, Inc. acting as Applicant on behalf of Renarl Ave, LLC, owner of Tax Map VW, Lot 47 located at 8-14 Renarl Ave. in the Medium Density Residential (R1) Zone.**
The Applicant proposes to convert an existing 4-building apartment complex into condominium ownership. No physical changes to the site are proposed.

Planner Cronin reported that the applicant requests a condominium conversion of the existing apartment complex. The applicant proposes a land condominium to the buildings, not the units,

so that each of the four buildings could be separately owned. One of the buildings has existing solar panels, which stay with the building. No changes are proposed to the lot lines or to the site. The only change is to the form of ownership.

A Technical Review Committee meeting was held on June 13th. Sewer, addressing, and the solar panels were discussed. The Town Engineer has no concerns. The Conservation Commission has no concerns.

Planner Cronin noted that the waiver requests are appropriate as they do not apply to the condo conversion. No new lots are being created and no lot lines are being amended. No changes to the structures are proposed. The condo docs will have no implications on town services, only for the building owners. The waivers requested are Part A. General Information, Items C. Proposed streets, H. Buildable area, I. Topography, J. All features within 60 feet, K. Utilities, L. Water and sewer connection, M. Surface water collection, N. Soil types, O. Test pits, R. Open space, S. NH Natural Heritage Inventory, and U. Open space development

MOTION: Vice Chairman Bourque moved to grant the waiver requests for checklist items Part A – Items C, H, I, J, K, L, M, N, O, R, S, and U as requested by the applicant. Seconded by Member Hanson.

VOTE: B. Seaworth – Y K. Foss - Y C. Hanson - Y
B. Edmonds - Y R. Bourque – Y K. Cruson – Y

MOTION TO GRANT THE WAIVER REQUESTS AS LISTED ABOVE PASSED ON A 6-0 VOTE.

MOTION: Vice Chairman Bourque moved to accept the application as complete. Seconded by Member Hanson.

VOTE: B. Seaworth – Y K. Foss - Y C. Hanson - Y
B. Edmonds - Y R. Bourque – Y K. Cruson – Y

MOTION TO ACCEPT THE APPLICATION AS COMPLETE PASSED ON A 6-0 VOTE.

At 6:53 p.m. Chairman Seaworth opened the public hearing on Minor Subdivision Application #23-05. If this business item is not resolved tonight, the application and the public hearing will be continued without being renoticed. Information will be on the town website for a future agenda item. Please address your comments to the board and state your name and street address for the record.

Joseph Wichert, Joseph Wichert, LLC, on behalf of the applicant, provided a summary of the proposal. The complex has 40 feet frontage on Renarl Avenue. There are four existing 6-unit buildings. Each building has its own utilities and meters. Each building has a separate parking area, along with a common visitor parking area. The addresses are currently 8, 10, 12, and 14 Renarl Avenue. The addresses will become Unit 1, Unit 2, Unit 3 and Unit 4. The units will receive four separate tax bills. The applicant has submitted 49 page condominium documents. All the units have been recently rehabilitated. The oldest brother, Jody Keeler, has health issues, so the intent is to simplify administration by selling two buildings.

Member Cruson asked who would own the building with the solar panels. That building is 10 Renarl Avenue, Unit 2, which the Keeler family will retain. Vice Chairman Bourque asked about ownership and maintenance of the solar panels. Joseph Wichert stated that the solar field is permanently attached to the building and ownership goes with the building. Maintenance is addressed in the condominium documents. Because the solar panels generate income above the building's electric use, it benefits the owner to maintain the solar panels. Member Edmonds asked who would provide winter plowing and spring lot sweeping. Each individual building will take care of its maintenance. VS Excavation currently provides these services for all four buildings. The potential buyer for two buildings wants to keep the same arrangement for maintenance. Maintenance of the sewer line is addressed in the condominium documents and is also the responsibility of all four building owners. The cost of maintenance is to be shared equally by all four building owners.

Planner Cronin reviewed the proposed conditions of approval. The conditions are acceptable to the applicant.

There being no further input Chairman Seaworth closed the public hearing at 7:00 p.m. for tonight. Chairman Seaworth noted that if this application is not completed tonight, the application and its public hearing will be continued to a future meeting and not renoticed.

MOTION: Vice Chairman Bourque moved to approve Minor Subdivision Application #23-05 with the following conditions:

1. Prior to signature, all waivers and the date granted shall be listed on the plan.
2. Prior to signature, all conditions of approval shall be listed on the plan.
3. The original signatures of all property owners shall be provided on the final plan.
4. The condominium plans, declaration, and bylaws shall be recorded at the Merrimack County Registry of Deeds. LCHIP check to accompany the final plan.
5. The plan will not be considered as receiving final approval until all conditions of approval are met.

Seconded by Member Hanson.

VOTE: B. Seaworth – Y K. Foss - Y C. Hanson - Y
 B. Edmonds - Y R. Bourque – Y K. Cruson – Y

MOTION TO APPROVE MINOR SUBDIVISION APPLICATION #23-05 WITH CONDITIONS PASSED ON A 6-0 VOTE.

- 1. PRIOR TO SIGNATURE, ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.**
- 2. PRIOR TO SIGNATURE, ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.**
- 3. THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.**
- 4. THE CONDOMINIUM PLANS, DECLARATION, AND BYLAWS SHALL BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS. LCHIP CHECK TO ACCOMPANY THE FINAL PLAN.**
- 5. THE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.**

Chairman Seaworth stated that this application #23-05 does not make any physical changes to the site and is in compliance with all zoning requirements.

Minutes

June 13, 2023

MOTION: Vice Chairman Bourque moved to approve the June 13, 2023 minutes as amended (page 3 of 7, change second reference to 'ZBA'). Member Hanson seconded.

VOTE: B. Seaworth – Y B. Edmonds – Y K. Foss - Abstain
R. Bourque - Y C. Hanson - Y K. Cruson- Y

MOTION TO APPROVE JUNE 13, 2023 MINUTES AS AMENDED PASSED ON A 5-0-1 ABSTAIN VOTE.

Miscellaneous

1. Correspondence – Planner Cronin reported that the Planning Board received a public notice from the Town of Boscawen regarding a 120 foot wireless technology facility at 335 Daniel Webster Highway. Notice is required of all towns within a 20-mile radius.
2. Committee Reports - none
3. Other Business – Planner Cronin provided a legal response received from NHMA legal staff regarding towns' responsibilities to maintain sidewalks in winter. The NHMA legal opinion discussed liability of a town but not of a property owner. Vice Chairman Bourque noted that years ago an article was published about a store owner on Elm Street in Manchester, NH, when property owners were required to clear sidewalks in front of their property. Why does the Town of Pembroke insist that applicants for a subdivision provide sidewalks, if the sidewalks are not later maintained? Member Hanson noted that it will take a claim against an insurance company to resolve this issue.
4. Planner Items – Planner Cronin reported that the Zoning Board of Adjustment members have been invited to the Planning Board regular work session on July 11, 2023 at 6:30 pm. The primary goal is to discuss Accessory Dwelling Unit requirements, but the session will be open to any issues that ZBA members see as needing zoning changes.
5. Board Member Items - none
6. Audience Items - none

MOTION: Vice Chairman Bourque moved to adjourn the meeting. Seconded by Member Foss. Without objection the meeting was adjourned at 7:13 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary