

**Pembroke Planning Board  
Minutes of Meeting  
(ADOPTED)  
October 24, 2017**

**MEMBERS PRESENT:** Alan Topliff, Chairman; Brian Seaworth, Vice Chairman; Larry Young, Sr.; Brent Edmonds; Richard Bean; Kathy Cruson

**ALTERNATES PRESENT:**

**EXCUSED:** Alternate Robert Bourque; Alternate Kellie Dyjak; Selectman's Rep. Sandy Goulet

**STAFF PRESENT:** Stephanie Verdile, Town Planner; Jocelyn Carlucci, Recording Secretary

Chairman Topliff called the meeting to order at 7:02 pm.

**New Business**

**1. Conceptual Consultation, Major Subdivision on Tax Map 262-45 located at 373 4<sup>th</sup> Range Road in the Rural Residential/Agricultural (R3) Zone.**

Jon Rokeh of Rokeh Consulting, LLC acting as the applicant on behalf of property owner SAN-KEN Homes, Inc. of New Ipswich, NH, seeks non-binding input on a proposed 30-lot subdivision that includes a new road and an upgrade of an existing Class VI Road to a Class V Road. The lots will be served by individual well and septic systems.

**Present:** Jon Rokeh of Rokeh Consulting, LLC and Sandy and Ken of SAN-KEN Homes, Inc.

Chairman Topliff explained that a Conceptual Consultation is an informal discussion between the Planning Board and the applicant. It is nonbinding on both parties. Those who have an interest in the application are welcome to listen but it is not a public hearing and, therefore, the Board will not be taking public input. If and when SAN-KEN Homes makes a formal application to the Planning Board and it is on the Board's agenda, there will be a public hearing and the Board will take public comments.

Ms. Verdile said that this is a conceptual consultation and the applicant has submitted a plan.

Mr. Rokeh introduced himself along with Sandy and Ken of SAN-KEN Homes of New Ipswich, NH. He said that SAN-KEN Homes recently purchased a bankruptcy proceeding of the Dale Robinson parcel which consists of 111 acres with frontage on Fourth Range Road and Flag-Robinson Road.

Mr. Rokeh said that they began with conversations with Mr. Hodge and Ms. Verdile. They have been working on concept plans and were directed to meet with the Board of Selectmen.

He continued to say that the initial plan only concentrated on Flagg-Robinson Road. The form of ingress and egress was in two places on Flagg-Robinson Road. The Selectmen suggested that the applicant meet with the Roads Committee.

Mr. Rokeh said that the Roads Committee made recommendations. They did not like the way the development came back onto Flagg-Robinson Road in 2 places. They indicated that they would rather see a full length upgrade of Flagg-Robinson Road and Fourth Range Road up to the end of the applicant's property. By doing so, it would allow for a 4-way intersection that the applicant could work with a traffic engineer to square-off the intersection. Mr. Rokeh said that it is their understanding that the area is very busy and the intersection would be a good thing.

Mr. Rokeh also pointed out that, by creating the intersection, it provides two-way access throughout the subdivision which is good for the Fire and Police Departments.

When the applicant met with the Technical Review Committee (TRC), they showed them the revised plan. The Police and Fire Departments were very happy to see the change.

Mr. Rokeh said that the project is a 32-lot subdivision. They have not completed a full wetland delineation or full boundary and topography survey because it would be a major expense for the acreage involved. He said that if there was something that would prevent the applicant from pursuing the project that is above-and-beyond the Town's requirements, or if there was something that would stop the applicant from trying to pursue the project, they wanted to know before spending a lot of money.

Mr. Rokeh said that he realizes that some towns are not interested in upgrading range roads and they are trying to troubleshoot some of the obstacles before spending a lot of money.

Chairman Topliff said that, with regard to upgrading the range roads, it is his understanding that the Town is not interested in spending taxpayer money to upgrade roads, but, to the extent that a developer is proposing to upgrade a range road to a Class V road, it is acceptable.

Mr. Rokeh said that they have discussed open vs. closed drainage with Ms. Verdile and the Roads Committee. He said that the town would love to see closed drainage but because the project consists of a lot of road, they are still trying to figure out if it is feasible to do so. He asked if the Planning Board had any input on the drainage or if they typically take the input from the Board of Selectmen and the Roads Committee.

Chairman Topliff said that the Planning Board relies on the Roads Committee and the Town Engineer for guidance.

Vice Chairman Seaworth said that individual members of the Roads Committee have different levels of commitment to closed drainage. The consensus when the applicant was at the Roads Committee meeting was that they would prefer closed drainage because of past experiences with the maintenance of open drainage. The Committee recognized that in a more rural development it could be prohibitively expensive so they said that they would wait to see what the applicant came up with.

Chairman Topliff said that there was nothing in the Town regulations that stipulated open vs. closed drainage. He also said that for the Planning Board to require closed drainage, there would have to be a very strong compelling reason to do so.

Mr. Rokeh said that Flagg-Robinson Road has areas where the stone walls are not 50' apart. The applicant owns everything on one side of Flagg-Robinson Road. He said that they could dedicate their own 50' on their side of Flagg-Robinson Road and finish it off. He asked if the Planning Board had seen that type of solution before.

Vice Chairman Seaworth said that he had not personally seen it and that the Roads Committee did not seem to know how to react to it either. He said that it was a new thing since he's been on the Roads Committee – to see that the stone walls provide less space than what the Town says it needs for the road, ditching, etc. He said that the Roads Committee did not have an answer for it. They preferred to see what engineering would come up with.

Chairman Topliff said that the 50' right-of-way was important but, to the extent that the applicant owns the land on the South and East sides of Fourth Range Road, he did not see an issue with creating the 50' area.

Mr. Rokeh said that they could create their own 50' with what they are presently proposing.

Kenny of SAN-KEN Homes asked if the Board had any preference to relocating or rebuilding the stone wall when they create the 50' area.

Chairman Topliff said that the Board did not have an answer but said that it was a good question to ask.

Member Edmonds said that as the applicant gets further along in the development of the roadways, the right-of-way width would depend quite a bit on what the typical roadway section would accommodate taking into consideration the roadway ditches, shoulders, etc.

Mr. Rokeh said the 50' right-of-way would definitely be required with open drainage because it would widen everything out with the ditches on both sides and curbing, etc. He pointed out that in the area of Flagg-Robinson Road and Fourth Range Road, there are no sidewalks. He asked if there would be a sidewalk requirement.

Ms. Verdile said that there would be a waiver for that.

Member Cruson said that there will probably be children in the subdivision and a school bus stop at some location and, since the applicant has hammerheads in the design, she would think that it would be wise to have sidewalks on one side of the road so the children could walk to the bus.

Mr. Rokeh asked if the sidewalk would be on every bit of the road because adding the sidewalks would boost the price up quite a bit.

Ms. Verdile asked if the Board was thinking of sidewalks only on the internal subdivision roads.

Member Bean said that he was thinking of one sidewalk on all of it. Member Cruson agreed.

Vice Chairman Seaworth said that that might be a consideration if that is what it takes to keep the stone walls in place – to say that sidewalks do not go along Flagg-Robinson Road but comes around on Fourth Range Road.

Member Cruson said that, in her opinion, the sidewalks are more important than the stone wall. She said that it is a dangerous corner and she would not think that the applicant would want children walking to a bus stop without a place to walk.

Chairman Topliff said that the sidewalks are an important safety consideration. As a society, we are trying to promote people walking for exercise, and considering that people drive faster than they should, sidewalks would be good.

Mr. Rokeh said that, with regard to hammerheads, the TRC wanted to see a teardrop cul-de-sac on the ends. It has not been changed yet on the plan.

Ms. Verdile said that Mr. Rokeh and the applicant are aware that the intersection would require offsite improvements.

Member Cruson said that presently the banking and the elevation on the road is very poorly done and is a hazard.

Mr. Rokeh said that the way that they presently have the lots laid out, they wondered how the Board handled back lots. He described a back-lot as one having a narrow corridor (driveway), which is the lot's only frontage, leading to a larger lot behind the other frontal lots.

Ms. Verdile said that back lots are in the ordinance.

Vice Chairman Seaworth said that he had not seen back-lots with other new subdivisions. He said that if the lot does not meet the minimum frontage on a town road, it would not be buildable.

Chairman Topliff said that if it does not meet the 200' frontage required on a town road, it would create a non-buildable lot. The only way the applicant could have less than 200' frontage would be with an open space development.

Mr. Rokeh asked, if the applicant went with a cluster development, would he need to design it twice -- a full design to prove that the conventional works or do they do a concept of their conventional.

Ms. Verdile said that he would have to do a yield plan which she would be happy to sit with Mr. Rokeh and discuss how to do so.

Ms. Verdile said that the yield plan is not as intense. It would not need to show septic, wells, details or road design and drainage but would need to show wetlands, slopes, etc.

Mr. Rokeh asked if there was a provision for the yield plan for a higher number or if it is exactly the same. If he can prove a 30 lot conventional, then is the cluster the same number of lots or is there a bonus of some sort.

Chairman Topliff said that the benefit is that a cluster reduces the cost of construction.

Ms. Verdile offered to go over the regulations with Mr. Rokeh.

- 2. Special Use Permit Application SUP-AC #17-304, Timothy Peloquin, Promised Land Survey, LLC, acting as the applicant on behalf of Keystone Pembroke, LLC, 17 Bridge Street, Unit 103 Billerica, MA, owner of Tax Map 634 Lot 1, located at 31-39 Whittemore Road in the Medium Density (R1) Residential Zone, the Aquifer Conservation (AC) District, the Wetlands Protection (WP) District.** The applicant requests a Special Use Permit from Article 143-68.E, Aquifer Conservation District for construction roads, utilities, infrastructure, and building lots for a three (3) lot subdivision and an Open Space Development. 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 #17-03.
- 3. Special Use Permit Application, SUP-WP #17-305, Timothy Peloquin, Promised Land Survey, LLC, acting as the applicant on behalf of Keystone Pembroke, LLC, 17 Bridge Street, Unit 103 Billerica, MA, owner**

**of Tax Map 634 Lot 1, located at 31-39 Whittemore Road in the Medium Density (R1) Residential Zone, the Aquifer Conservation (AC) District, the Wetlands Protection (WP) District.** The applicant 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 #17-03.

- 4. Special Use Permit Application, SUP-OSD #17-306, Timothy Peloquin, Promised Land Survey, LLC, acting as the applicant on behalf of Keystone Pembroke, LLC, 17 Bridge Street, Unit 103 Billerica, MA, owner of Tax Map 634 Lot 1, located at 31-39 Whittemore Road in the Medium Density (R1) Residential Zone, the Aquifer Conservation (AC) District, the Wetlands Protection (WP) District.** The applicant requests a Special Use Permit per Article XVIII Special Use Permits and Article X Open Space Development for the design and construction of an Open Space Development (OSD) and for OSD Reduction in Specification Standards. This permit is associated with the Major Subdivision Plan Application #17-03.
- 5. Major Subdivision Plan #17-03, Timothy Peloquin, Promised Land Survey, LLC, acting as the applicant on behalf of Keystone Pembroke, LLC, 17 Bridge Street, Unit 103 Billerica, MA, owner of Tax Map 634 Lot 1, located at 31-39 Whittemore Road in the Medium Density (R1) Residential Zone, the Aquifer Conservation (AC) District, the Wetlands Protection (WP) District.** The applicant proposes to subdivide Map 634 Lot 1 into three (3) single family lots and construct an Open Space Development consisting of eighteen (18) 4-plex two-bedroom units for a total of 75 residential dwelling units. The total area of the lot is approximately 88.8 acres with 23.54 acres developed for residential use, approximately 31.99 acres reserved for future activity for the Pembroke Pines Golf Course, and 33.3 acres to be dedicated/deeded to the Town of Pembroke/Conservation Commission.

Present: No applicant introductions were made.

Chairman Topliff gave a brief description of how the Planning Board conducts business in this type of case. He said that the Board first has to determine whether the application is complete. Once that is done, they must determine if the application meets the requirements of a Development of Regional Impact which means that they determine if the development is large enough that Pembroke should engage other communities along with Central NH Regional Planning Commission (CNHRPC) as abutters. If the Planning Board deems this a Development of Regional Impact, they are barred from holding a public hearing tonight because the Board must ensure that everyone who is a legal abutter has the opportunity to participate in all public hearing discussions.

The standard practice for the Planning Board is that the Board does not accept comments from the applicant or the public until they are in public session. The reason they do that is because they do not want, either before or after the public hearing, the Planning Board to have discussions with the applicant that the public has not had the opportunity to hear. He said that it is not fair for folks to only hear part of the discussion. The Board wants everyone to hear all the discussions to the extent that they have an interest in it.

Therefore, Chairman Topliff said that the Board would go through the process, and may or may not open the public hearing tonight depending upon whether or not it is deemed to be a Development of Regional Impact. If it is, the Board will table consideration of the application to the next business meeting which is November 28, 2017.

He then turned the meeting over to Ms. Verdile to introduce the application to the Board.

Ms. Verdile said that the Board received all the information in their packet. She said that her Staff Report gave a few options:

(1) The Board could consider acceptance of the application and accept the application as complete which would then start the 65-day clock of review on it and decide whether to open a public hearing or not.

There are no waivers of checklist items. Waivers that are being asked for are from Subdivision Regulations and Open Space Development.

(2) The Board could accept the application as complete and not open the public hearing and just discuss whether or not the Board feels that the application meets the criteria of a Development of Regional Impact.

(3) The Board could not accept the application as complete and discuss whether the application fits the criteria according to the State law and the Town's regulations for a Development of Regional Impact, identify abutting communities that they would like to notify and then declare it a Development of Regional Impact and continue the application to the November 28, 2017 Board meeting.

Ms. Verdile said that the last time that the Board had an application that was considered for a Development of Regional Impact, the application had waiver requests from the checklist. The Board considered and granted those waivers, accepted the application as complete, and declared it a Development of Regional Impact.

She said that this application is a little different but the Board could follow the same procedure if it desired. The waivers that the applicant is asking for can come later in the public hearing. They are not affecting completeness in any way according to the checklist.

Chairman Topliff noted that Ms. Verdile referred to the 65-day clock for the Board to make a determination of an application. The applicant can make a request for an extension but the Board cannot extend consideration of an application beyond the 65 days without the applicant's consent.

He asked the Board if they had a preferred approach. Chairman Topliff said that the Board could accept it as complete. He did not think that there was a big downside to the 65-day clock starting. The advantage would be that the applicant would get to hear from the Board whether or not they felt that the application was complete. The Board could not open the public hearing unless the application was accepted as complete. He would hate to have the public return only to hear that they still could not open a public hearing because there was some snag that was overlooked.

Member Young said that he did not see the need for it to be declared a Development of Regional Impact because it is residential in nature. He could not remember the last time that Pembroke notified Concord for a residential subdivision.

Ms. Verdile referred the Board to a copy of §205-12A. Development of Regional Impact and read those items that she felt would fit the criteria for a Development of Regional Impact for this application:

A. Standards for regional impact. A development shall be considered to have a regional impact if it meets any one (1) of the following criteria:

(1) Proposed subdivisions where, within five (5) years or less, a total of sixty (60) or more dwelling units would be constructed;

(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.

B. If, after a review of the application by the Town Planner or by the Board, the application is found to have a regional impact, notice of the meeting when the application will be submitted to the Board shall be sent by certified mail to all affected municipalities and the Central New Hampshire Regional Planning Commission to the attention of the



Executive Director at least fourteen (14) days prior to the date of such meeting.

- C. Within seventy-two (72) hours of reaching a decision regarding the development of regional impact the Planning Board shall send by certified mail to all affected municipalities and the Central New Hampshire Regional Planning Commission copies of the minutes of the meeting at which the decision was made.

Chairman Topliff said that No. 1, in his opinion, met the criteria with 72 dwelling units and, at 25 potential units being built in one year, the applicant could meet the criteria within 5 years or less.

Member Young said that other towns, such as Concord, have built 300-400 housing units and did not notify Pembroke, therefore, he did not see the need to notify Concord. It merely delays the process.

Member Cruson said that she sees this application as having regional impact because it would affect the traffic on Route 3 and No. 1 of §205-12A No. 1 fits the specifications. She said that it would also have impact on Town services referred in No. 7. She agreed that it should be deemed to be a Development of Regional Impact.

Vice Chairman Seaworth agreed with Chairman Topliff.

Member Edmonds agreed with Member Cruson.

Member Bean said that directly across from the development is the Town of Bow's aquifer on River Road. He asked Ms. Verdile to check on what effect it may have on the aquifer, drainage, etc. He also agreed that the Board should incorporate other towns because of its possible affect on the aquifer.

**MOTION:** Vice Chairman Seaworth moved to declare the applications as a Development of Regional Impact according to Town of Pembroke Subdivision Regulations Section 205-12, No. 1 and RSA 36:55 I., II., III., and continue the public hearing for: Special Use Permit Application SUP-AC #17-304, Special Use Permit Application, SUP-WP #17-305, Special Use Permit Application, SUP-OSD #17-306, Major Subdivision Plan #17-03, until November 28, 2017.

Seconded by Member Cruson.

<b>VOTE:</b>	A. Topliff – Y	B. Seaworth – Y	K. Cruson – Y
	R. Bean – Y	L. Young – N	B. Edmonds - Y

**MOTION TO DECLARE THE APPLICATIONS AS A DEVELOPMENT OF REGIONAL IMPACT ACCORDING TO TOWN OF PEMBROKE SUBDIVISION REGULATIONS SECTION 205-12, NO. 1 AND RSA 36:55 I.,II., III., AND CONTINUE THE PUBLIC HEARING FOR: SPECIAL USE PERMIT APPLICATION SUP-AC #17-304, SPECIAL USE PERMIT APPLICATION, SUP-WP #17-305, SPECIAL USE PERMIT APPLICATION, SUP-OSD #17-306, MAJOR SUBDIVISION PLAN #17-03, UNTIL NOVEMBER 28, 2017 PASSED ON A 5-1 VOTE.**

**MOTION:** Member Cruson moved to accept applications Major Subdivision Plan #17-03, SUP-AC #17-304; SUP-WP #17-305; SUP-OSD #17-306 as complete. Seconded by Member Young.

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

**MOTION TO ACCEPT APPLICATIONS MAJOR SUBDIVISION PLAN #17-03, SUP-AC #17-304; SUP-WP #17-305; SUP-OSD #17-306 AS COMPLETE PASSED ON A 6-0 VOTE.**

Chairman Topliff said that since the application has been accepted as complete, at the meeting on November 28, 2017 the Board will open the motion to continue all four agenda items. At that time it is reasonable to expect that there will be a public hearing. He said that all interested residents are welcome to return at that time. The Board would love to have them come back because their input is important.

After a short discussion, the consensus of the Board was that the following towns pertaining to the Development of Regional Impact would include Bow, Concord, Hooksett, Allenstown and CNHRPC.

**MOTION:** Member Bean moved to continue Agenda Items 2, 3, 4, and 5 to the November 28, 2017 Planning Board meeting. Seconded by Vice Chairman Seaworth. Unanimously approved.

**Minutes-** September 26, 2017 and October 10, 2017.

**MOTION: VICE CHAIRMAN SEAWORTH MOVED TO ACCEPT THE SEPTEMBER 26, 2017 MEETING MINUTES AS PRESENTED. SECONDED BY MEMBER EDMONDS. APPROVED WITH ONE ABSTENTION – CHAIRMAN TOPLIFF.**

**MOTION: MEMBER YOUNG MOVED TO ACCEPT THE OCTOBER 10, 2017 MEETING MINUTES AS AMENDED. SECONDED BY VICE CHAIRMAN SEAWORTH. APPROVED WITH ONE ABSTENTION – MEMBER BEAN.**

## **Miscellaneous**

### **1. Correspondence-**

Ms. Verdile received the Business NH Magazine.

### **2. Committee Reports-**

Conservation Commission: Member Edmonds reported that the Conservation Commission will have a presence at the Master Plan Visioning Forum. Brian Mrazik and Member Edmonds will represent the Commission.

Master Plan Steering Committee: Member Bean said that the Steering Committee is ready for this Saturday's forum. They have asked Department Heads and Board Members to attend. He said that he would make a few copies of the survey monkey data report for the Board. He also said that Ms. Verdile and Ms. Alexander did an amazing job putting the forum together.

Vice Chairman Seaworth said that no one volunteered to help on the Transportation portion of the forum.

### **3. Planner Items-**

Ms. Verdile said that she contacted Pembroke Meadows to ask them to add additional money to their escrow account. Since she did not hear from them, she called Patrick. He is forwarding the money request to the owner. Ms. Verdile said that the applicant may not come forward in November.

### **4. Board Member Items-**

Chairman Topliff said that, at the last work session meeting, he lost his "cool" and apologized for doing so. He said that the biggest source of his frustration is that the Board is being asked to significantly modify or throw out portions of the zoning ordinance that members have worked very hard to create language that they felt was important. The Planning Board is being asked by a member of the Zoning Board to change the ordinance because of one application that did not go well or an applicant who did not like something. He said that the more he thought about it, the more he felt uncomfortable with doing so.

Chairman Topliff said that he spoke with Ms. Verdile and suggested that before the Planning Board considers changes to the ordinance, he would like to know: (1) Who the request is coming from; (2) Why they are requesting it; (3) What the specific instances where that the particular ordinance language was a problem; and (4) What the problem was. He said that unless the Board has a clear idea of what the defect is, it cannot be fixed.

The Board agreed.

Member Cruson agreed and said that the problem needs to be defined and it needs to be a problem for more than 1 or 2 times. She said that in order to have an ordinance that fits, the Board needs to know what the problem is, when it is a problem, and who it affects.

Ms. Verdile gave the example that if there were a lot of applications coming in for frontage variances then that should be a trigger to look at the ordinance.

Member Young said that the Board has had to change the regulations because of enforcement issues. He said that it has always bothered him that the Board has tried to change the law because someone has violated the law. It is an enforcement issue. He said that it should be harder to change an ordinance and agreed with the proposed process.

Chairman Topliff asked Ms. Verdile to create a template so when someone wants to change a zoning ordinance, the questions that he suggested would be answered. He offered to work with her on the template.

**MOTION:** Vice Chairman Seaworth moved to adjourn the meeting. Seconded by Member Cruson. Unanimously approved.

The meeting adjourned at 8:20 p.m.

Respectfully submitted,  
Jocelyn Carlucci, Recording Secretary