

**Pembroke Planning Board  
Meeting Minutes  
November 28, 2023**

Approved December 12, 2023

**MEMBERS PRESENT:** Brian Seaworth, Chairman; Rick Frederickson, Selectmen's Rep; Kathy Cruson, Brent Edmonds, Clint Hanson

**MEMBERS EXCUSED:** Robert Bourque, Vice Chair

**ALTERNATES PRESENT:** Bryan Christiansen

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

Chairman Seaworth called the meeting to order at 6:30 pm. Five Planning Board members were present. One alternate member was present. Chairman Seaworth designated Bryan Christiansen to vote for Robert Bourque, Vice Chair. Chairman Seaworth noted that the board has an uncharacteristically large meeting attendance tonight, and a lengthy agenda. The purpose of a public hearing is to give the board information to help make their decision. Minutes are critical to our process, and because there are microphones in the ceiling to record the meeting which our minute taker uses to process minutes, we ask that everyone not have private conversations that may be picked up by the microphones. When the public testimony section of the public hearing is announced, please state your name and street, keep testimony as short as it needs to be and direct all your comments to the board. The board has a lot of applications on the agenda. Persons recognized to speak will have one opportunity to address their comments to the board. We will defer answering questions posed until after testimony is complete. Town Hall is the forum for issues with the town or other departments. Until the public hearing is opened, we are not taking testimony from applicants either.

**New Business**

- 1. Major Subdivision Application #23-06, Brian D. Jones, Allen & Major Associates, Inc. acting as Applicant on behalf of William P. Byrne, owner of Tax Map 264, Lot 80 located at 336 Pembroke Hill Rd. in the Rural Agricultural Residential (R3) Zone and the Wetlands Protection (WP) District.**

The Applicant proposes a 3-lot subdivision, including a new roadway, to be served by onsite well and septic.

Present: Brian Jones, Allen & Major Associates, Inc.

Planner Cronin stated that the owner proposes to subdivide the lot into three lots, one lot for the existing single-family home plus two new lots, to be served by a new roadway with associated stormwater management. All lots will be served by onsite well and septic. Several waivers were requested from the checklist and the Subdivision Regulations.

A TRC meeting was held on November 14<sup>th</sup>. Drainage and the status of the road being public vs. private were discussed. The Town Engineer issued preliminary comments on stormwater and roadway design. He agrees that a sidewalk would not make sense for

the project. The Conservation Commission discussed the application at their November 13<sup>th</sup> meeting and had no concerns.

The checklist waiver request for D. (prior subdivision) is because the lot has not had any prior plans to subdivide in the last 10 years. The checklist waiver request for S. (open space), T. (phasing), and W. (open space development) are appropriate as they do not apply to the application. Three waivers were requested from the Subdivision Regulations. The waivers are from providing sidewalk within one mile of a school, strict compliance with 600 foot length of roadway, and strict compliance with super elevation. The Board does not need to vote on these items prior to completeness. Those waivers should be discussed in the public hearing. The applicant is working on revised plans to address the Town Engineer's comments. Revised plans and a revised drainage report were emailed yesterday for the Town Engineer to review. He did not have a chance to review, but at a quick glance he said they appeared to address his comments.

**MOTION:** Member Edmonds moved to grant the waiver requests for checklist items: Part A, Items: D, S, T, and W as requested by the applicant. Seconded by Member Cruson.

**VOTE:** B. Seaworth – Y      C. Hanson – Y                      K. Cruson - Y  
                 B. Edmonds – Y                      R. Frederickson – Y                      B. Christiansen - Y

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

**MOTION:** Member Edmonds moved to accept the application as complete. Seconded by Member Hanson.

**VOTE:**            B. Seaworth – Y      C. Hanson – Y                      K. Cruson - Y  
                         B. Edmonds – Y      R. Frederickson – Y                      B. Christiansen - Y

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

At 6:40 p.m. Chairman Seaworth opened the public hearing on Major Subdivision Application #23-06. 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.

Brian Jones, Allen & Major Associates, Inc., stated that company surveyors did the work on this application. The land is a 10 acre parcel that the owner would like to share with his children. The land slopes in a north/south direction to Pembroke Hill Road. There is a 650 foot roadway proposed because it is 500 feet to the cul-de-sac. There will be a swale with a depression in the center to collect all stormwater. We will be filing for NH State subdivision approval. There is a nice level area at the bottom of the roadway which meets or exceeds stopping and sight distances. There will not be a need for much imported fill.

Member Cruson asked what the water depth was at the depression. Brian Jones stated it is 18 to 30 inches at the depression and looks like a water feature. There are no

plans to fence off the area. Member Edmonds asked for more details at the intersection of Pembroke Hill Road. Selectmen's Rep Frederickson asked if the Fire Department commented on the radius of the curve. Is the road proposed to be a private road? Brian Jones responded that the intention is to build a right of way to town standards and convey the road to the town in the future. There are only two residences on the driveway. Applicant is requesting a waiver from providing sidewalk within a mile of a school.

Member Edmonds informed the applicant that the previous 3 inch pavement depth town standard has increased to a 4 inch pavement standard in the town. He advised that applicant make note of it for future town conveyance plans. Member Edmonds noted that the roadway exceeds 600 feet. The Planning Board routinely grants increased small distances of roadway as a condition of approval. However, the Town Engineer review is not fully complete. Planner Cronin noted that draft condition of approval #3 is the applicant will address all review comments from the Town Engineer.

Chairman Seaworth opened the public hearing up to the public. Please state your name and street along with comments to the board. No requests to comment were seen, so Chairman Seaworth went through the draft conditions of approval. Planner Cronin read all eleven conditions. Member Edmonds would like to add a condition that a DPW driveway permit is required for lots 2 and 3. Chairman Seaworth asked if we tied driveway permits to subdivision approval in the past. Planner Cronin said yes in San Ken Homes application. Member Christiansen would like to add the condition that driveway permits are required for lots 2 and 3 to be consistent.

There being no further input Chairman Seaworth closed the public hearing at 6:56 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:** Member Christiansen moved to grant the waiver request of Subdivision Regulations, 205-41.E.(19)(A) Sidewalks as requested by the applicant. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION TO GRANT THE WAIVER REQUEST AS LISTED PASSED ON A 6-0 VOTE.**

**MOTION:** Member Christiansen moved to grant the waiver request of Subdivision Regulations, 205-41.E.(8) Dead-end Roads as requested by the applicant. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION TO GRANT THE WAIVER REQUEST AS LISTED PASSED ON A 6-0 VOTE.**

**MOTION:** Member Christiansen moved to grant the waiver request of Subdivision Regulations, 205-41.E.(3) Superelevation as requested by the applicant. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION TO GRANT THE WAIVER REQUEST AS LISTED PASSED ON A 6-0 VOTE.**

Chairman Seaworth discussed Findings of Fact for Major Subdivision Application #23-06. The application was complete after waivers requested from the checklist were approved by the board. The project met all zoning ordinances, the project met subdivision regulations, and there was no need for a special use permit.

Planner Cronin interjected that the draft conditions did not capture the pavement thickness depth of 4 inches as new town standard. Member Edmonds stated I would like to add condition #13 that prior to town roadway acceptance, the pavement depth shall be in accordance with town standards at that time. This plan triggered the conversation about the increased town standard.

**MOTION:** Member Edmonds moved to approve Major Site Plan Application #23-06 with the following conditions:

1. All waivers and the date granted shall be listed on the plan.
2. All conditions of approval shall be listed on the plan.
3. Prior to signature, the plans shall be revised to address all review comments from the Town Engineer and any applicable concerns and issues.
4. The original signatures of all property owners shall be provided on the final plan.
5. NHDES Subdivision approval is required.
6. All recording fees shall be paid to the Town of Pembroke.
7. The final plan shall be recorded at the Merrimack County Registry of Deeds. LCHIP check to accompany the final plan.
8. The plan will not be considered as receiving final approval until all conditions of approval are met.
9. The proposed street name is subject to approval by the Board of Selectmen.
10. The property owner is responsible for all street maintenance, snow plowing, and trash removal until the Board of Selectmen accept the road as a public way.
11. Pre-construction and construction requirements and procedures, including provisions for surety, shall comply with the Town of Pembroke Subdivision Regulations.
12. Driveway permits are required for lots #2 and #3.
13. Prior to town roadway acceptance, the pavement thickness shall be in accordance with the existing standards at that time.

Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y R. Frederickson – Y C. Hanson– Y  
B. Edmonds - Y B. Christiansen– Y K. Cruson – Y

**MOTION TO APPROVE MAJOR SUBDIVISION APPLICATION #23-06 WITH CONDITIONS PASSED ON A 6-0 VOTE.**

- 1. ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.**
- 2. ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.**
- 3. PRIOR TO SIGNATURE, THE PLANS SHALL BE REVISED TO ADDRESS ALL REVIEW COMMENTS FROM THE TOWN ENGINEER AND ANY APPLICABLE CONCERNS AND ISSUES.**
- 4. THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.**
- 5. NHDES SUBDIVISION APPROVAL IS REQUIRED.**
- 6. ALL RECORDING FEES SHALL BE PAID TO THE TOWN OF PEMBROKE.**
- 7. THE FINAL PLAN SHALL BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS. LCHIP CHECK TO ACCOMPANY THE FINAL PLAN.**
- 8. THE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.**
- 9. THE PROPOSED STREET NAME IS SUBJECT TO APPROVAL BY THE BOARD OF SELECTMEN.**
- 10. THE PROPERTY OWNER IS RESPONSIBLE FOR ALL STREET MAINTENANCE, SNOW PLOWING, AND TRASH REMOVAL UNTIL THE BOARD OF SELECTMEN ACCEPT THE ROAD AS A PUBLIC WAY.**
- 11. PRE-CONSTRUCTION AND CONSTRUCTION REQUIREMENTS AND PROCEDURES, INCLUDING PROVISIONS FOR SURETY, SHALL COMPLY WITH THE TOWN OF PEMBROKE SUBDIVISION REGULATIONS.**
- 12. DRIVEWAY PERMITS ARE REQUIRED FOR LOTS #2 AND #3.**
- 13. PRIOR TO TOWN ROADWAY ACCEPTANCE, THE PAVEMENT THICKNESS SHALL BE IN ACCORDANCE WITH THE EXISTING STANDARDS AT THAT TIME.**

**2. Major Site Plan Application #23-102, Timothy Bernier, T. F. Bernier, Inc. acting as Applicant on behalf of Silver Hill Development Corporation, owner of Tax Map 559, Lots 12-3 and 12-3-1 located at 789 & 799 Silver Hills Dr. in the Commercial/Light Industrial (C1) Zone and the Aquifer Conservation (AC) District.**

The Applicant proposes to construct a new office building with associated parking, well, and septic on Lot 12-3-1 and to increase the gravel storage area on Lot 12-3.

➤ **Special Use Permit Application SUP-AC #23-308**

The Applicant requests a Special Use Permit in accordance with Article 143-68.E., Aquifer Conservation District, for commercial use over the aquifer.

Planner Cronin stated that Soake Pools plans to construct a new building for office space and training with a display pool outside. The plan also shows as-built conditions for the abutting Lot 12-3. The gravel storage area encroaches onto Lot 12-3-1 and is shown as part of this application.

The Health Officer and Water Works have no concerns about the Aquifer Special Use Permit. A waiver was requested from MSDS. A TRC meeting was held on November 14, 2023. Site security, lighting, traffic, and road maintenance were discussed. The Town Engineer issued comments on November 13<sup>th</sup> relative to the sidewalk and culvert. At their November 13<sup>th</sup> meeting, the Conservation Commission reviewed the application and had no concerns. The plans requires minor revisions to address engineering comments.

Planner Cronin noted that the property is located within Concord's wellhead area. The applicant sent a notification of the project to City of Concord on November 3<sup>rd</sup>. The Board should discuss whether it feels this project should be declared a development of regional impact. State law requires 14 day notice to Development of Regional Interest (DRI) parties, along with a copy of the minutes where the project was determined to be a DRI. Pembroke Water Works does not believe the proposed use affects the aquifer. There is a copy of the formal notification to City of Concord.

Chairman Seaworth stated that because Pembroke had such an issue with DRI notice and deadlines at the November meetings, he tried to change the law. Best practice is to determine DRI at the beginning of consideration. With more information, an entity may decide that an application is a DRI later. Member Cruson asked if the volume of additional traffic was substantial. Planner Cronin stated that a lot of employees who will move to the new building are already located at Silver Hill Drive. The proximity to the Concord wellhead is the only town specific criteria that would trigger a DRI on this application. Member Edmonds stated this application does not rise to the level of a DRI.

**MOTION:** Member Edmonds moved that this application is not a Development of Regional Impact. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION THAT THIS APPLICATION IS NOT A DEVELOPMENT OF REGIONAL IMPACT PASSED ON A 6-0 VOTE.**

Planner Cronin stated that the checklist waiver requests are appropriate as they are not applicable to the project. Those waivers are for Part A – General Information: K. Potential hazards, L. Multifamily housing, Q. MSDS; Part B – Site Plan Information: B.(7) Open space, B.(11) Proposed streets; Part C – Construction Plans, B. Roadway profiles, and C. Roadway cross-sections.

**MOTION:** Member Edmonds moved to grant the waiver requests for checklist items: Part A. Items K, L, and Q; Part B. Items B.(7) and B.(11); and Part C. Items B. and C. as requested by the applicant. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

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

**MOTION:** Member Hanson moved to accept the application as complete. Seconded by Member Cruson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

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

At 7:17 p.m. Chairman Seaworth opened the public hearing on Major Site Plan #23-102 and Special Use Permit SUP-AC #23-308. 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.

Tim Bernier, T.F. Bernier, Inc., stated that he reached out to Heather Shank, Planner for City of Concord today. She confirmed that she presented the plans to the entire staff and there were no comments. Soake Pools makes small swimming pools and soaking tubs. The company mostly sells online and then ships tubs all over the country. Staff travel to install the tubs. In 2018, Soake pools moved to Pembroke, NH. In 2019 they added 4,500 square feet of manufacturing. In 2020, they added covered storage across from the manufacturing facility. In 2020-2021, they again added 2,500 square feet of manufacturing. Soake Pools negotiated for a separate building to house Administration, Sales, and Training on the last lot of Silver Hill Drive. There will be classroom training facilities in the new building, as well as a completed pool out back landscaped like a pool would be at one's home for training purposes. Purchasers could also come to view an installed pool. A large gravel area storing pool bases has been added to this site plan.

Tim Bernier stated that stormwater facilities were initially designed for all the future infrastructure on site. NH DES has still made the applicant get an Alteration of Terrain permit for every single lot as additions were made to demonstrate that the original design still meets the actual use. At the end of the industrial park improvements, Tim Bernier reviewed the original calculations of the design and so much more could have been added. Since the development was created, NH DES changed/increased stormwater standards. Tim Bernier stated the original calculations meet the new standards as well. State Septic approval is pending. The parking lot will be used for the training session. There is not a lot of foot traffic on site. Soake Pools is moving small numbers of employees from other locations at Silver Hill to the separate building for Administration, Sales, and Training. Member Edmonds asked if the new building maxes out the site. Tim Bernier stated that unless mining ends and Silver Hill extends the road, this is the last lot in this phase. Chairman Seaworth noted that at TRC, it was discussed that plans to turn the road over to the town were reviewed at 50% and 75% of development. A lot of truck traffic continues to travel Silver Hill Road. The current tenants are not complaining about road maintenance and no comments have been received from the public. The road will remain private for the time being.

Planner Cronin read the suggested draft conditions. These were sent to the applicant prior to the meeting. Applicant agrees with conditions. Chairman Seaworth discussed the Findings of Fact. This is a straight forward plan that complies with zoning regulations. With the checklist waivers granted, the plan complies with Site Plan Regulations. The plan meets all the criteria for a special use permit. Chairman Seaworth stated that state law now requires that Findings of Fact be a part of the planning board's written decision. Discussing findings of fact informs the final vote.

**MOTION:** Selectmen's Rep Frederickson moved to approve Special Use Permit SUP-AC #23-308 conditionally until Major Site Plan #23-102 has received final approval, at which time the Special Use Permit becomes final for as long as the plan is approved. If at any time the plan is revoked or final approval is not received, the Special Use Permit becomes invalid. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION TO CONDITIONALLY APPROVE SPECIAL USE PERMIT PASSED ON A 6-0 VOTE.**

**MOTION:** Member Edmonds moved to approve Major Site Plan Application #23-102 with the following conditions:

1. All waivers and the date granted shall be listed on the plan.
2. All conditions of approval shall be listed on the plan.
3. Prior to signature, the plans shall be revised to address all review comments from the Town Engineer and any applicable concerns and issues.
4. The original signatures of all property owners shall be provided on the final plan.
5. The Site Plan Review and Special Use Permit Notices of Decision are to be recorded at the Merrimack County Registry of Deeds and recording fees paid to Town of Pembroke.
6. AOT Permit is required.
7. Town Driveway Permit is required.
8. The site plan will not be considered as receiving final approval until all conditions of approval are met.

Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION TO APPROVE MAJOR SITE PLAN APPLICATION #23-102 WITH CONDITIONS PASSED ON A 6-0 VOTE**

1. **ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.**
2. **ALL CONDITIONS OF APPROVAL SHALL BE LISTED ON THE PLAN.**
3. **PRIOR TO SIGNATURE, THE PLANS SHALL BE REVISED TO ADDRESS ALL REVIEW COMMENTS FROM THE TOWN ENGINEER AND ANY APPLICABLE CONCERNS AND ISSUES.**
4. **THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.**

5. THE SITE PLAN REVIEW AND SPECIAL USE PERMIT NOTICES OF DECISION ARE TO BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AND RECORDING FEES PAID TO TOWN OF PEMBROKE.
6. AOT PERMIT IS REQUIRED.
7. TOWN DRIVEWAY PERMIT IS REQUIRED.
8. THE SITE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.

3. **Minor Subdivision Application #23-07, Timothy Bernier, T. F. Bernier, Inc. acting as Applicant on behalf of D’Pergo Realty Investments, LLC, owner of Tax Map 561, Lot 35 located at 107 Sheep Davis Rd. and 316-318 Borough Road, LLC, owner of Tax Map 561, Lot 36 located at 316-318 Borough Rd. in the Commercial/Light Industrial (C1) Zone and the Aquifer Conservation (AC) District.**

The Applicant proposes a lot line adjustment to convey 26,528 SF from Lot 35 to Lot 36.

Planner Cronin noted that there is a separate proposal to construct housing for seasonal agricultural workers on Lot 36. This application is only relative to a proposal to convey 26,528 SF of back land from Lot 35 to the back of Lot 36. Chairman Seaworth invited attendees to come up and take a closer look at the applicant’s plan without disrupting the meeting. Many of the comments attendees may wish to make are more appropriate to the second plan, the site plan. The first plan is a lot line adjustment.

A TRC meeting was held on November 14<sup>th</sup> and there were no concerns from department heads about the lot line adjustment. The Applicant has submitted the following waiver requests: Part A – General Information: G. All boundary lines, I. Topography, J. All features within 60 feet, K. Sewer and water lines, L. Connection to water and sewer, M. Stormwater management, N. Soil types, O. Test pits, Q. Easements, R. Open space, S. NHB Datacheck, and U. Open Space Development.

Planner Cronin stated the checklist waiver requests are appropriate. Items G. (All boundary lines), J. (All features within 60’), and Q. (Easements) are partial waivers as those are shown in the subject area of the plan. The remaining items do not apply to a simple lot line adjustment and will be provided relative to the associated proposed site plan. The only missing item is Contiguous Buildable Area, which will be provided on the next plan revision.

**MOTION:** Member Hanson moved to grant the waiver requests for checklist items: Part A, Items: G, I, J, K, L, M, N, O, Q, R, S, and U as requested by the applicant. Seconded by Member Cruson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
 B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

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

**MOTION:** Member Edmonds moved to accept the application as complete. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

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

At 7:39 p.m. Chairman Seaworth opened the public hearing on Minor Subdivision Application #23-07. 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.

Tim Bernier, T. F. Bernier, Inc., stated that the lot adjustment is between Lot 35 on Route 106 and Lot 36 on Borough Road. The land on Sheep Davis Road is 20 feet lower than the land on Borough Road. There is a disconnect from the operation below. The proposed new property line is on top of the slope. This lot line adjustment puts usable land with the lot that can use it. Tim Bernier stated that the Planning Board is considering whether the two lots after the lot line adjustment meet all requirements.

Lisa Mills, Nicole's Greenhouse, 91 Sheep Davis Road, asked how is it that property owned by two different LLC's can do a lot line adjustment and not a sale of land?

Tom Hartley, 532 Fourth Range Road, asked if approval of the lot line adjustment would lead to consideration of item #4 on the agenda.

Planner Cronin explained that at the Planning Board level, the board does not require deeds to land proposed for lot line adjustment. The Planning Board approves change to the physical lot. If passed, the lot line adjustment would not take legal effect until it is filed at Registry of Deeds. Monetary transaction is up to the two landowners and outside of the Board's jurisdiction.

Planner Cronin read the five draft conditions of approval that are boilerplate for a lot line adjustment. The applicant concurs with the proposed conditions.

Tim Bernier stated that one lot kept a potential future access easement because it only has one exit at this time. It is very important that John's Wrecker has an option for two exits on the lot with no DPW opposition.

There being no further input Chairman Seaworth closed the public hearing at 7:45 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.

Chairman Seaworth discussed the Findings of Facts. A lot line adjustment is a minor subdivision. After limiting the checklist to the items applicable the plan met the minor subdivision checklist. The plan met subdivision requirements. The plan did not have a need for a special use permit.

Chairman Seaworth asked when a lot line adjustment is pursuant to a particular plan and the development plan does not go through, what happens to the lot line adjustment? Planner Cronin stated that an applicant has one year to meet conditional approval. If the proposed lot line adjustment is not filed at Registry of Deeds within a year, the conditionally approved lot line adjustment goes away. An applicant would need to come back to the Planning Board with a new application.

**MOTION:** Member Edmonds moved to approve Subdivision Application #23-07 with the following conditions:

1. All waivers and the date granted shall be listed on the plan.
2. All conditions of approval shall be listed on the plan.
3. The original signature of all property owner shall be provided on the final plan.
4. The plan shall be recorded at the Merrimack County Registry of Deeds accompanied by an LCHIP check.
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 C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION TO APPROVE SUBDIVISION APPLICATION #23-07 WITH  
CONDITIONS PASSED ON A 6-0 VOTE**

**4. Major Site Plan Application #23-103, Timothy Bernier, T. F. Bernier, Inc. acting as Applicant on behalf of 316-318 Borough Road, LLC, owner of Tax Map 561, Lot 36 located at 316-318 Borough Rd. in the Commercial/Light Industrial (C1) Zone and the Aquifer Conservation (AC) District.**

The Applicant proposes to construct new worker housing buildings for seasonal agricultural workers employed by New England Flower Farms. The site includes paved parking, municipal water and sewer, stormwater ponds, and recreation area.

➤ **Special Use Permit Application SUP-AC #23-309**

The Applicant requests a Special Use Permit in accordance with Article 143-68.E., Aquifer Conservation District, for worker housing over the aquifer.

Planner Cronin stated that New England Flower Farms proposes to construct housing for seasonal agricultural workers in the H2A Visa Program. Four 3,848 SF buildings, each with a maximum capacity of 64 workers, are proposed on the lot, which currently has a single-family home. The plan includes associated parking, stormwater management, recreation area, and landscaping.

In October 2023, the Zoning Board granted a use variance to allow dormitory-style housing for seasonal workers. The Planning Board will need to review and vote on the Special Use Permit. The Health Officer has concerns about the effects of the septic on the aquifer. He requested further study before approving the plan on septic. Pembroke Water Works submitted a letter dated November 17<sup>th</sup> expressing concerns about the effects of the Phase I septic system on the aquifer and advising the applicant on the existing onsite well.

A TRC meeting was held on November 14<sup>th</sup>. Transportation, parking, and access for emergency services were discussed. The Conservation Commission reviewed the application at their November 13<sup>th</sup> meeting and had concerns about the septic system. The Town Engineer reviewed the plans and issued preliminary TRC comments in an email dated November 13<sup>th</sup>. A full engineering review is forthcoming once the drainage calculations are received.

Planner Cronin noted that because the proposed use is unique to our zoning (not permanent residential, but not commercial either), the project does not fit nicely into the DRI criteria in the Site Plan Regulations. The Board should consider the general impacts of the project as described in RSA 36:55 such as the size and scope of the project, proximity to neighboring communities, traffic, light, noise, emissions, proximity to aquifer and surface waters, and shared community facilities. The Board should discuss whether these items or any other reason would classify this project as a Development of Regional Impact (DRI). If the Board votes to determine the project a DRI, the public hearing cannot be held. Notice is sent to abutting towns and CNHRPC, and the hearing continues once comments are received.

The checklist waivers appear to be reasonable because they are not applicable to the proposal. Those items are: Part A, General Information: K. Potential hazards, L. Multifamily housing, Q. MSDS; Part B, Site Plan Information: B.(7) Open space, B(11) Proposed streets; Part C, Construction Plans: B. Roadway profiles and C. Roadway cross-sections. The only missing item is contiguous buildable area, which will be provided on the next plan revision. The Planning Board received a letter by mail from a resident yesterday.

Chairman Seaworth stated that the board will first discuss Development of Regional Impact (DRI). Selectmen's Rep Frederickson stated he has concerns about 256 people (64 residents times 4 buildings) using septic in a small area. There is no town sewer capacity for this proposal right now. Phase I is proposed as two buildings on septic onsite. The applicant would wait for sewer capacity for full buildout. Member Christiansen has concerns about 256 residents living a mile from a neighboring community. Once declared a DRI, Central NH Regional Planning Commission would provide comments on impact and neighboring towns would have the rights of an abutter and time to prepare comments. Member Cruson stated she has concerns about septic and well. Pembroke Water Works wrote a letter about decommissioning a well for the single family house onsite. Selectmen's Rep Frederickson has concerns about 36

proposed parking spaces. What are we looking at for vehicle usage by residents? Planner Cronin stated that bussing is planned from the dormitories to the farm work site and will also take workers to grocery stores for shopping needs. Individual workers will not have personal vehicles on site. Weekly trip totals are provided for vehicles, passenger vans and busses. Chairman Seaworth stated the impact of trips on Borough Road is a separate concern.

Member Edmonds stated that Pembroke Conservation Commission is concerned about wastewater effluent. We would all rather see the use of the town sewer for the proposal. I would hope the City of Concord would want to weigh in on that decision. Member Cruson stated that it would be better to notify the City of Concord and surrounding towns about the plan. Member Christiansen asked what the historical perspective has been on proposed larger developments. Planner Cronin stated San Ken was a DRI. Notice went to Chichester and Epsom. Pembroke Pine was a DRI. Notice went to City of Concord, Allenstown, and Hooksett. Chairman Seaworth stated that Pembroke's town-specific criteria triggers a DRI on the proposal. State law is very strongly worded that if in doubt, a community must declare a DRI. Member Hanson would prefer that the Planning Board have City of Concord feedback on the proposal. Planner Cronin stated that the vans and buses used for daily transportation would park on site. Selectmen's Rep Frederickson would like detail on the 36-space parking area. Chairman Seaworth noted that workers would be at the Loudon site. Member Cruson would like contact to City of Concord and Town of Loudon at a minimum. Chairman Seaworth agreed that the work location is impacted.

Member Christiansen asked what declaring a DRI would do to the timeline for considering an application. Chairman Seaworth stated that the Planning Board normally meets twice a month, except for the month of December. One combined work session/business meeting is held the second week of December. State law requires 14 day notice to Development of Regional Impact (DRI) parties, along with a copy of the minutes where the project was determined to be a DRI, which need to be sent within 5 business days. Planner Cronin noted that DRI notice would have to go out tomorrow to comply with state law and there would be no way to have the minutes ready by then. Chairman Seaworth asked about the impact of continuing the plan to the January 23, 2024 meeting. The Planning Board has 65 days to review a submitted plan. If a DRI is declared, that usually brings consideration to the next month's meeting. An accepted plan in for review does not receive automatic approval if the Planning Board has not received all the information it needs to decide. Chairman Seaworth stated that state law has been changed so that if a DRI is declared, the Planning Board receives an additional 30 days to consider a plan. A planning board should always have two meetings to consider an application. The period can be extended with mutual agreement between a town and an applicant. Member Cruson asked if a planning board can use a work session date for a business meeting if necessary. It was discussed that a recording of the Planning Board meeting at which a DRI is declared is not appropriate to notice affected parties. Planner Cronin confirmed a written copy of

the meeting minutes must be sent with a copy of the plans for compliance with notification process.

**MOTION:** Member Hanson moved to declare the application as a Development of Regional Impact pursuant to RSA 36:55, and notify Concord, Loudon, and the Central NH Regional Planning Commission, and continue the public hearing for Major Site Plan #23-103 and Special Use Permit SUP-AC #23-309 to January 23, 2024. Seconded by Selectmen's Rep Frederickson.

**VOTE:** B. Seaworth – Y    C. Hanson – Y                    K. Cruson - Y  
          B. Edmonds – NO    R. Frederickson – Y                    B. Christiansen - Y

**MOTION TO DECLARE THE APPLICATION AS A DEVELOPMENT OF REGIONAL IMPACT PURSUANT TO RSA 36:55, AND NOTIFY CONCORD, LOUDON, AND THE CENTRAL NH REGIONAL PLANNING COMMISSION, AND CONTINUE THE PUBLIC HEARING FOR MAJOR SITE PLAN #23-103 AND SPECIAL USE PERMIT SUP-AC #23-309 TO JANUARY 23, 2024. PASSED ON A 5-1 VOTE.**

Chairman Seaworth announced that as he reads state law, a public hearing cannot be opened until notification is provided pursuant to a declaration of Development of Regional Impact (DRI). All the parties, including Central NH Regional Planning Commission must be properly notified and allowed time to comment.

Chairman Seaworth stated that the motion carries with a majority of Pembroke Planning Board members in favor of declaring the application a DRI. A lot of attendees may want to go home now that this action has been taken. Please be aware we still have business items on the agenda.

The application for the public hearing for Major Site Plan #23-103 and Special Use Permit SUP-AC #23-309 is continued to January 23, 2024. This application is not being considered tonight. If you wish to comment on this application, please attend the meeting where the Public Hearing for this application is opened. Alternatively, you can write a letter or send an email to the Pembroke Town Planner's office.

A lengthy, noisy clearing of the conference room occurred for the next 10-15 minutes. Very verbal complaints were made as visibly frustrated attendees demanded to speak at this meeting. Chairman Seaworth stated that if we allow people to speak on an application that has not yet been accepted, the Planning Board would be breaking the law.

**5. Major Site Plan Application #23-104, Chris Glenn, BNB, LLC, owner of Tax Map VE, Lot 174 located at 6 Glass St. in the Central Business (B2) Zone, the Aquifer Conservation (AC) District, the Suncook Business (SB) District, and the MS4 District.**

The Applicant proposes an interior renovation to extend the existing mezzanine for additional seating, bar area, and bathroom.

➤ **Special Use Permit Application SUP-AC #23-310**

The Applicant requests a Special Use Permit in accordance with Article 143-68.E., Aquifer Conservation District, for brewery use over the aquifer.

Planner Cronin stated that the applicant proposes interior renovations to extend the mezzanine to add more seating capacity, add a new bathroom, and relocate the stairs and the bar. The major site plan is necessitated by the increase in square footage and the increase in seating, which in turn increases the parking requirement. No changes to the building footprint or exterior are proposed.

An Aquifer Special Use Permit is required and the Health Officer and Water Works expressed that they have no concerns. A waiver was requested from MSDS as most of the production is moving offsite and with it most of the stored cleaners and chemicals.

Based on the proposed use and seating chart, 10 parking spaces are required where 5 were originally required. The property has no onsite parking and no physical room to provide onsite parking. The Applicant submitted a request to waive the onsite parking requirements in accordance with Zoning §143-48.A., which grants waivers from parking for Village businesses.

Planner Cronin stated a TRC meeting was held on November 14, 2023. Sewer capacity, fire code, and parking were discussed. The Town Engineer has no concerns. The Conservation Commission reviewed the plan at their November 13<sup>th</sup> meeting and had no concerns.

Chairman Seaworth stated that when the applicant changed the space to add more tables, it triggered a Major Site Plan.

The Applicant has submitted the following waiver requests. Part A – General Information: E. Driveway locations, G. Building height, K. Potential hazards, L. Multifamily, N. Landscaping; Part B – Site Plan Information: B.1. Surrounding properties, B.2. All boundary lines, B.3. Contiguous buildable area, B.4. Existing land features, B.5. Streets and right of ways, B.6. Footings, B.7. Open space, B.10. Monuments, B.11. Proposed streets, B.15. Vicinity map, B.16. Test pits, B.17. State and federal approvals, B.18. Topography, B.19. Soil types, B.20. Easements, B.21. Water and sewer locations; Part C – Construction Plans: A. Construction plans, B. Roadway profiles, C. Roadway cross-sections, D. Construction details, E. Erosion control and F. Construction impacts.

Planner Cronin stated that the checklist waiver requests are appropriate as the project scope is entirely interior. No changes to the site or the building exterior are proposed. To require a full site plan would be a hardship in this scenario.

**MOTION:** Member Edmonds moved to grant the waiver requests for checklist items:  
Part A. Items E, G, K, L and N.

Part B. Items B.1 through 7, B.10, B.11, B.15 through 21.

Part C. Items A. through F.

as requested by the applicant. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

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

**MOTION:** Member Edmonds moved to accept the application as complete. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

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

At 8:37p.m. Chairman Seaworth opened the public hearing on Major Subdivision Application #23-104 and SUP-AC-#23-310. If this business item is not resolved tonight, the application and the public hearing will be continued without being renoticed. Information will be listed on the town website for a future agenda item.

Chris Glenn, BNB, LLC stated that he wants to add a second bathroom and flip the orientation of the stairwell. Chris Glenn stated he asked Paulette Malo about sewer capacity for the new design. Paulette Malo confirmed that when the applicant moved production offsite, sewer usage went down. Pembroke Sewer Commission is keeping sewer allocation at its original allocation, and there is adequate sewer capacity. Selectmen's Rep Frederickson asked whether the municipal parking lot was usually full, or had parking spots available, during peak times at the brewery. Chris Glenn stated it has been my experience that in the winter, the municipal parking lot is mostly used for overnight parking. Then the parked vehicles move out during the day. Chairman Seaworth asked about expected increase in customers with more restaurant space. Chris Glenn stated that a lot of regular customers are locals, who will continue to frequent the brewery. He expects that weekend customers may increase 30% to 40%. Planner Cronin reviewed the draft conditions. Applicant agreed with conditions as read.

There being no further input Chairman Seaworth closed the public hearing at 8:43 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.

Chairman Seaworth discussed the Findings of Fact. Once the waivers were granted, the application met the major site plan application checklist. The application met the zoning ordinance in that the use is permitted in the B2 District. Application met the criteria for Special Use Permit. A parking waiver was granted to waive the onsite parking requirements in accordance with Zoning §143-48.A. The applicant has

Pembroke Planning Board  
(Approved)

Page 16 of 19

Meeting Minutes – November 28, 2023

demonstrated that public parking abuts the property. The purpose of the parking waiver is to encourage more business in the Village area, and this meets that intent.

**MOTION:** Member Edmonds moved to approve Special Use Permit SUP-AC #23-310 conditionally until Major Site Plan #23-104 has received final approval, at which time the Special Use Permit becomes final for as long as the plan is approved. If at any time the plan is revoked or final approval is not received, the Special Use Permit becomes invalid.

Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION TO GRANT THE SPECIAL USE PERMIT AS LISTED ON A 6-0 VOTE.**

**MOTION:** Member Edmonds moved to grant a waiver from the Zoning Ordinance, in accordance with Section 143-48.A., to waive all 10 required parking spaces. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y C. Hanson – Y K. Cruson - Y  
B. Edmonds – Y R. Frederickson – Y B. Christiansen - Y

**MOTION TO GRANT THE PARKING WAIVER FROM ZONING ORDINANCE AS LISTED PASSED ON A 6-0 VOTE.**

**MOTION:** Member Edmonds moved to approve Major Site Plan Application #23-104 with the following conditions:

1. All waivers and the date granted shall be listed on the plan.
2. 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 Site Plan Review and Special Use Permit Notices of Decision are to be recorded at the Merrimack County Registry of Deeds and recording fees paid to Town of Pembroke.
5. Building plans to be reviewed by the Building Inspector and Fire Chief.
6. The site plan will not be considered as receiving final approval until all conditions of approval are met.

Seconded by Member Hanson.

**MOTION TO APPROVE MAJOR SITE PLAN APPLICATION #23-104 WITH CONDITIONS PASSED ON A 6-0 VOTE**

1. **ALL WAIVERS AND THE DATE GRANTED SHALL BE LISTED ON THE PLAN.**
2. **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 SITE PLAN REVIEW AND SPECIAL USE PERMIT NOTICES OF DECISION ARE TO BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AND RECORDING FEES PAID TO TOWN OF PEMBROKE.**
5. **BUILDING PLANS TO BE REVIEWED BY THE BUILDING INSPECTOR AND FIRE CHIEF.**

**6. THE SITE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.**

Chairman Seaworth stated that this concludes our applications on the agenda tonight. The Planning Board did all we could do with the applications. Item #4 will be the first application on the January 23, 2024 meeting agenda. We have some additional Planning Board items to consider tonight.

**Minutes**

November 14, 2023

**MOTION:** Selectmen's Rep Frederickson moved to approve the November 14, 2023 minutes as amended (page 3 at bottom, speaker was Planner Cronin not Member Cruson). Member Edmonds seconded.

**VOTE:** B. Seaworth - Y B. Edmonds - Y C. Hanson - ABSTAIN

B. Christiansen – Y K. Cruson - Y R. Frederickson - Y

**MOTION TO APPROVE NOVEMBER 14, 2023 MINUTES AS AMENDED PASSED ON A 5-0-1 ABSTAIN VOTE.**

**Miscellaneous**

1. Correspondence - none
2. Committee Reports - Board of Selectmen – Selectmen's Rep Frederickson reported that the board met on November 15, 2023. The board accepted a donation from Amoskeag Rowing Club. The Board of Selectmen approved several trust fund requests. Retirement wishes were given to the Police Department Administrator for 30 years of service.
3. Other Business - none
4. Planner Items – Planner Cronin reported that there is one new application for the December 12, 2023 meeting. Michel's on Sheep Davis Road has acquired a lot and plans to use it for more storage.
5. Board Member Items – Member Cruson asked when Central NH Regional Planning Commission would be in to discuss the Range Road project. Planner Cronin stated a presentation would be scheduled in the new year.  
Chairman Seaworth commented on the 2024 Planning Board Meeting Schedule and Deadlines provided in the agenda packet. Because 2024 is a presidential voting year, the work session scheduled for November 12, 2024 will be at a very busy time. Member Hanson stated that he would be available to attend CIP meetings next year. Chairman Seaworth stated that the Planning Board will be revisiting committee assignments after Town Meeting. Any member interested in a new assignment/changed assignment/ serving as Chair or Vice Chair should be thinking about what they would like to do in 2024.
6. Audience Items - none

**MOTION:** Member Christiansen moved to adjourn the meeting. Seconded by Member Cruson. Without objection the meeting was adjourned at 8:59 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary