

**Meeting Minutes  
(ADOPTED)  
January 28, 2020**

**MEMBERS PRESENT:** Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Clint Hanson; Dan Crean; Ann Bond, Selectman's Rep.

**ALTERNATE MEMBERS PRESENT:** Ian Blakeney

**EXCUSED:** Kathy Cruson

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

Chairman Seaworth called the meeting to order at 6:30 pm. He welcomed new alternate member Ian Blakeney and encourage him to contribute and ask questions. Chairman Seaworth stated that Ian might be asked to vote on new matters on the agenda. With everyone's cooperation, we may get through this heavy agenda tonight. A public hearing is for discussion with the board. Please do not have debates in the audience or repeat information already submitted. Please be cognizant of the time factor. We may need to put time limits on applications if necessary.

**Public Hearing**

The first item of business is Final Public Hearing on Proposed Zoning Amendments for 2020 Town Meeting. These have been revised from a previous session. Chairman Seaworth read Amendments 6, 7 and 8 in full.

Planner Cronin explained that there was no changes to Garden Center use in the R3 zone from the last hearing. The change posted was for Industrial Greenhouse only. Chairman Seaworth noted that some members thought the change was for garden centers also. Planner Cronin stated this is the final hearing for the 2020 town meeting. If a proposed amendment is not put forward, we need to pull it back and work on it for next year. Chairman Seaworth stated making changes to these amendments is not on the table for tonight, only the decision whether to send them to town meeting.

**Amendment #6**

Are you in favor of the adoption of Amendment #6, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-8 Definitions to replace the definition and use called "Commercial Greenhouses" with new uses defined for "Garden Center" and "Industrial Greenhouse." "Garden Center" shall be permitted in the R3 and C1 zones; permitted by special exception in the R1, B1, and LO zones; and prohibited in the B2 zone. "Industrial Greenhouse" shall be permitted in the C1 zone; permitted by special exception in the R1, R3, B1, and LO zones; and prohibited in the B2 zone.

**Amendment #7**

Are you in favor of the adoption of Amendment #7, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-72 Wetlands Protection (WP) District, to increase the wetland buffer from 20 ft. to 50 ft., require wetland demarcation, and broaden the types of studies and professionals authorized by the Planning Board in order to more thoroughly assess wetland impacts.

**Amendment #8**

Are you in favor of the adoption of Amendment #8, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-72 Wetlands Protection (WP) District, to establish a 100 ft. vernal pool buffer and define “vernal pools” in accordance with NH Code of Administrative Rules, Section Env-Wt 101.108.

Chairman Seaworth opened the public hearing on all three proposed amendments at 6:47 p.m.

Stephen Keith, North Pembroke Road, asked what the definition of vernal pool is. Planner Cronin read the full definition of vernal pool as taken from NH Department of Environmental Services. It is a natural pool in spring that dries up during the year and meets specified characteristics. The proposed zoning amendment adopts the definition and establishes a 100-foot buffer from a vernal pool. Questions arose at the last hearing on what can be done in the buffer. No structures or construction is allowed in the buffer. Chairman Seaworth stated that the language used is “no disturb,” and there are implications from that language. He asked someone present from Pembroke Conservation Commission to speak to this matter.

Ammy Heiser, Chair, Conservation Committee, stated we need buffers to adequately protect our wetlands. The consequences of not protecting wetlands are erosion, stormwater runoff and fertilizer introduced into the wetlands that destroy its function. A disturbance is smoothing out the grade of the land. You cannot change the flow of the water. A change can lead to damage to roads and basements. Vernal pools are specific to amphibians and are home to diminished population habitat ecosystems. There are not many vernal pools. If you see frog eggs, it is probably a vernal pool. Pembroke does not have a lot of land protected in the Master Plan.

Ammy Heiser stated that “No Disturb” means do not dig, keep natural vegetation in place, and do not park vehicles on wetlands. Homeowner with wetlands making minor changes to topography have some leeway, but technically no lawns are allowed in wetlands or the buffers. At the last hearing, invasive plants were mentioned. Invasive plants are harmful. Property owners can pick them out by hand. Otherwise, no fuel tanks, no regrading, no removing stumps, no fill and dredge or draining wetlands is allowed in the wetland buffer. In new developments, we want to provide more protection. Existing homeowners have a 20-foot buffer to wetlands. Amendment 7 is more restrictive with 50-foot buffers. Existing buffers are grandfathered, but new additions like a garage would be subject to 50-foot buffers if the warrant article passes.

Chairman Seaworth noted that we have permitted uses in a wetland with a Special Use Permit. Is use of the buffers more restrictive than wetlands? Ammy Heiser stated that people do not realize the value of buffers and how they protect the integrity of wetlands. Vice Chairman Bourque asked if an application already approved with 20-foot buffers is grandfathered. Planner Cronin said yes. Member Bourque noted that the buildable area of a two-acre lot subtracts wetlands, buffers, steep slopes and other items from the total area to get the buildable area. I do not agree with that. Planner Cronin stated it is the same with setbacks. Changes apply to new activity. Chairman Seaworth stated if there were a wetland on the property, the owner would need a Special Use Permit. Planner

Cronin stated that interpretation of the proposed amendments would continue to be fine-tuned if they are passed.

Alternate Member Blakeney proposed a scenario where the wetland is on the small farthest corner of the owner's lot and the proposed garage is on the opposite corner. Is there room on a half-acre lot to add a garage?

Kenny Lehtonen, San Ken Homes, stated that the wetland buffer circumference goes from 1,256 to 7,850, a 625% increase if the buffer is changed from 20 feet to 50 feet. Steve Keith, North Pembroke Road, asked if a property owner is allowed to take down trees capable of hitting your home in a buffer area if you leave the stump. Chairman Seaworth stated there is no legal advice available here. Residents with questions should contact the regulatory authority with specific questions.

There being no further input, Chairman Seaworth closed the public hearing at 7:10 p.m.

Selectmen's Rep Bond asked for clarification that as written in the proposed amendment #6, Garden Centers are permitted in the R3 zone by right. Yes, that is correct. The amendment replaces "Commercial Greenhouse" use with new uses "Garden Center" and "Industrial Greenhouse". Selectmen's Rep Bond asked Planner Cronin to ensure that a large map showing zoning districts be available at the elections.

**MOTION:** Vice Chairman Bourque moved to send proposed zoning amendment #6 to Town Meeting. Seconded by Member Crean.

**VOTE:** B. Seaworth – Y      C. Hanson – Y      A. Bond - NO  
D. Crean – Y      R. Bourque – Y

**MOTION TO SEND PROPOSED ZONING AMENDMENT TO TOWN MEETING  
PASSED ON A 4-1 VOTE.**

**MOTION:** Member Hanson moved to send proposed zoning amendment #7 to Town Meeting. Seconded by Vice Chairman Bourque.

**VOTE:** B. Seaworth – Y      C. Hanson – Y      A. Bond - Y  
D. Crean – Y      R. Bourque – Y

**MOTION TO SEND PROPOSED ZONING AMENDMENT TO TOWN MEETING  
PASSED ON A 5-0 VOTE.**

**MOTION:** Member Crean moved to send proposed zoning amendment #8 to Town Meeting. Seconded by Vice Chairman Bourque.

**VOTE:** B. Seaworth – Y      C. Hanson – Y      A. Bond - Y  
D. Crean – Y      R. Bourque – NO

**MOTION TO SEND PROPOSED ZONING AMENDMENT TO TOWN MEETING  
PASSED ON A 4-1 VOTE.**

## **Old Business**

- 1. Minor Site Plan Application #19-106, Sue Morrison and Dan Robinson, ReVision Energy, Inc., acting as Applicant on behalf of Renarl Ave, LLC,**

**owner of Tax Map VW, Lot 47 located at 8-14 Renarl Avenue in the Medium Density Residential (R1) Zone.**

The Applicant proposes to construct a 100KW ground mounted solar array. A landscape plan was made a condition subsequent.

Planner Cronin noted that the applicant met with her and has submitted a landscaping plan in a color rendering, with different types of plants arranged around the fencing.

Chairman Seaworth opened the public hearing at 7:16 p.m. If this case is not resolved this evening, it will be continued to a future meeting. It will not be renoticed and interested persons should view future agendas on the town website.

Dan Robinson, ReVision Energy, stated that he met with Mary Thibeaux of UNH Extension. She offered ideas of types of local plantings but did not assist with landscape design. He also worked with Denise Ricco, Terra Designs, who is present at the meeting tonight to answer any questions. Dan Robinson brought samples of "wood chips" to the meeting. These are not small uniform pieces of mulch one would imagine. They are long pieces of shaved wood dried into various shapes. The large wood chips are less likely to move with rainy weather. Dan showed the locations on the plan where these wood chips would be used. The chips are made from native material and are not like playground mulch. Vice Chairman Bourque asked why there was no shrubbery on the east side of the array. Dan Robinson stated that is because there is a lot of existing vegetation in that area. Member Crean asked what the timetable was for the landscaping to be mature. Denise Ricco explained that shrubbery would be mature and cover the view of the fence in five years. The seeding will be mature in two years. Selectmen's Rep Bond asked how tall the flowering plants would be at planting. Denise Ricco stated the flowering plants would be approximately 3 feet tall when planted.

There being no further questions, Chairman Seaworth closed the public hearing at 7:23 p.m.

Vice Chairman Bourque proposed that if this landscape plan is approved the Planning Board should add a condition that any shrubbery that dies must be replaced within a reasonable time. Member Crean stated that the landscape plan is part of the site plan. The Code Enforcement Officer has the authority to enforce any conditions of the plan. Chairman Seaworth stated the landscape plan is explicit to guide enforcement. Member Crean stated we do not need an additional condition as the Code Enforcement Officer has jurisdiction.

**MOTION:** Member Crean moved to accept the landscaping plan from ReVision Energy as presented. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y      C. Hanson – Y      A. Bond - - Y  
D. Crean – Y      R. Bourque – Y

**MOTION TO ACCEPT LANDSCAPING PLAN FROM REVISION ENERGY AS PRESENTED PASSED ON A 5-0 VOTE.**

**2. Major Subdivision Application #19-03, Jon Rokeh, Rokeh Consulting, LLC, acting as Applicant on behalf of San-Ken Homes, Inc., owner of Tax Map 262,**

**Lots 43 & 45 located at 373 Fourth Range Road in the Rural/Agricultural-Residential (R3) Zone and the Wetlands Protection (WP) District.**

The Applicant proposes a 56-lot Open Space Development with individual lots to be served by on-site septic and wells. 95 acres of open space are proposed.

➤ **Special Use Permit Application SUP-WP #19-310.**

The Applicant requests a Special Use Permit in accordance with Article 143-72.D., Wetlands Protection District, for construction of roadway resulting in impacts to the wetlands.

➤ **Special Use Permit Application SUP-OSD #19-311.**

The Applicant requests a Special Use Permit in accordance with Article X, Open Space Development, for Reduction in Specification Standards.

Chairman Seaworth reminded attendees that there is a lot of information on this application. General practice is that the Planning Board will take a vote on continuing the meeting past 9:00 p.m. It is now 7:30 p.m. and I would like to see this public hearing complete by 8:30 p.m. or so. We would like everyone who wants to speak to have an opportunity. The applicant has presentations from several experts, and the Planning Board has a report from a subject matter expert. I would like us to stay on point. This application was determined to be a Development of Regional Impact and now we are pushing up against a 65-day review period. A letter was presented to Chairman Seaworth from the applicant. Chairman Seaworth read it aloud. Dear members of the Planning Board, I request that review time for this application be extended to February 28, 2020, signed Kenneth Lehtonen, Vice President, San Ken Homes. The Board can take a motion on this request after the public hearing.

Planner Cronin explained that two months have passed on this application. Several plan revisions were submitted in response to Planner and Town Engineer comments. A study by Mark West was completed on the wetlands, studies were submitted on hydrology, housing and tax rates, fire fighting measures and all elements of the Special Use Permit were reviewed. A lot was happening behind the scenes. The applicant has a team of consultants present at this meeting.

Chairman Seaworth opened the public hearing at 7:31 p.m. The format will be that we will hear all of the expert presentations and postpone questions until after they have all given their reports. If this application is not completed tonight, it will not be renoticed. Persons with interest in the case need to look at the agendas posted on the town website to see the next hearing date.

Jon Rokeh, Rokeh Consulting, LLC, stated that the open space development plan is secondary to the conventional plan we originally submitted. The conventional plan remains in the background. The open space development plan proposes 56 lots, adding another road and no upgrades proposed to Range roads. The 4<sup>th</sup> Range Road and Pembroke Hill Road connection will be addressed when Flagg Robinson Road is upgraded. We have addressed most of Town Engineer comments and have applied for State of NH alteration of terrain and wetlands permits. There was a letter with conservative comments received from State of NH on January 20, 2020. Steve Pernaw has updated his traffic study, Mark Fougere has a fiscal impact study, Fred Bickford has a

hydrology study, and Chris Guida has a report and a response to Mark West's environmental study. Fifteen-inch intersection pipe for the full length of culverts is proposed under Robinson Road.

Steve Pernaw, Pernaw and Company, first did a traffic study in June 2019 and updated it in October 2019. There is no new information on those studies. All of the flip charts are also in the bound report. The town specified the study area and NH DOT had a traffic counter south on Route 106 and on Bow Lane. Fifteen thousand cars travel Route 3 daily. The AM spike takes into consideration school traffic and the consolidation of schools. There was Wednesday data and Tuesday/Thursday data used for projections no build 2020 and no build 2030. 56 new units will generate 44 trips in the AM peak and 57 trips in the PM peak. Two thirds of the traffic heads to Pembroke Hill Road, with one third heading to 4<sup>th</sup> Range Road. This plan is an increase of 6 trips in the AM and 8 trips in PM peak time. Every study has an impact. There is a 2% increase at the signalized intersection. The delay estimate is 40/48 seconds in the morning and 17/18 seconds in the evening peak time. With the new development, Borough Road continues to be under capacity. Mr. Pernaw recommends the subdivision road be brought in opposite Pembroke Hill Road with STOP signs installed on all three roads. Pavement marking is optional, but as a traffic engineer I prefer it be marked.

Mark Fougere provided a fiscal impact report. The tax rate is lower as is the impact on municipal services. The homes will sell at \$390,000 on average and in total generate \$452,000 of property taxes. Adding registrations of vehicles will bring in \$468,000 gross to the town. Mark met with all town departments. At buildout, the subdivision will add 22 police, 2 fire, and 3 ambulance calls per year. DPW will add maintenance costs for 5,000 feet of public road, and trash will add \$30,000 costs. Culture costs will be \$7,000. The AER study from NH Housing Finance Authority projects .41 children per unit or 23 children added. Eight of the children will be K-4. Mark Fougere carried the cost of one-half of a teacher as school impact, but this will vary year to year. This makes the project \$380,000 gross positive.

Fred Bickford, Hydrosource, stated the project proposes individual domestic wells. The minimum acceptable rate is 2 gallons per minute to serve an individual household. NH DES has a database of drilled wells where drillers provide the information to the state. 397 wells were drilled in Pembroke, 56 within one-mile radius of the proposed housing. They did not have to drill deep to obtain adequate water. At 300 feet 12 gallons per minute of water was found. Four wells were drilled deeper than 500 feet. The range of flow rates is 1.5 gallon at the lowest. The wells at 300 feet all have the same geology. It is metasedimentary rock area, as is the area occupied by the subdivision. Sustainability is upgradient to the watershed area. Mr. Bickford specializes in small community systems. The precipitation water passes through bedrock fractures. If he includes data from 4<sup>th</sup> Range Road and Pembroke Hill Road, that adds 30 wells, or 83 wells total to account for precipitation. What fraction does the development need based on 8 inches of rain and snowmelt that seeps into fractures and provides total volume? There is 200 gallon per minute demand on 83 wells, counting existing wells plus proposed 56 new wells. This takes 13% of the available recharge. Mr. Bickford also took the density of the wells,

plotted Google Earth and DES data, and the planned development did not make unreasonable density. Some people need to dig deeper to produce acceptable wells.

Chris Guida, wetland soils scientist and septic design, stated that the footprint of the open space development is half or less of a conventional development. A 95-acre contiguous tract of land will be donated to the Conservation Commission and is good for wildlife. The open space development also lessens the wetland impact from 35,000 square feet to 10,000 square feet needing the lowest category NH DES permit. There are forested wetlands in the north section of land, largely undisturbed. The centralized development is mostly on high field area. The alteration of terrain square footage is minimized because forest soil will remain. Some materials will need to be brought in for septic options, as no sewer is available in this area. Decentralized septic systems will treat onsite to recharge ground water. 99% of treatment will occur one foot below the leach field. Microbes are a better treatment and have been found to provide good results. West Environmental's study located no archeological sites, lots of habitat types, wetlands and uplands together, a significant amount in the protected area concentrated in the north. Overall, a smaller footprint is environmentally better.

Mark West, West Environmental, Nottingham NH, performed a site visit on December 28, 2019. His report was in the meeting packet. Mark stated that Chris's response did not address the need for hydrology study, drainage, water quality, wetlands and wildlife habitat. The loss of farm fields affects birds of prey and songbirds. Some mitigation is being done in other areas. Several lots in the proposed development area are within Fish and Game's highest ranked area for habitat. The open space area has intact forest and stream system. Mark West expressed concern about what deed restrictions the homeowner association would put in place and mechanisms to protect resources. Gates may be needed to limit ATV use. Active management and a stewardship plan may be needed. The land needs to be properly protected to get mitigation for the loss that will be incurred by development. To determine the amount of developmental secondary impact to wetland crossing, there needs to be a functional assessment of wetlands in the field, meadow and forest. Mark saw the site heavily hard cut of trees but did not see a restoration plan. Mark West recommends functional evaluation of the wetlands, the function of the pond, evaluation of the detention basin, consideration of erosion control measures and plans for management of the open space in the future.

Chairman Seaworth asked if Board members had specific questions for the experts. Member Crean stated that Mr. West addressed the need for management of the protected land. It is my understanding that there will not be a homeowner's association. The development is planned to have town roads with individual owners. The plan proposes deeding the open space to the Pembroke Conservation Commission at some cost to the town. Homeowner associations usually take on the cost of maintaining open space.

Selectmen's Rep Bond asked who would be maintaining the field. The Conservation Commission does not have the capacity to mow fields. How many retention ponds are there? Ken Lehtonen stated there are four detention ponds. The cost of maintaining swales is in the fiscal report by Mark Fougere.

Chris Guida mentioned that the Society for the Protection of NH Forests might get involved to help manage and maintain the open space. There is also opportunity for some sustainable timber harvest.

Member Hanson noted that Mr. West said the lower right corner of development is in the highest ranked habitat connected to the large lot. Lots 13-19 are in that section on the area most vulnerable for habitat. Member Hanson asked if the developer would consider eliminating the lots on that section and one cul de sac, which is a safety concern.

Chairman Seaworth noted these lots are of a smaller size than the others are. Lots in open space development ordinance are different as lot sizing is not per table for the zoning district as with conventional subdivisions. Double the density is allowed for leaving open space. Open space ordinance does not set minimum lot size. Lot size in this zone would be 80,000 square feet with 56,000 square feet contiguous for a conventional subdivision. The applicant provided the Board a list of lots with average lot size. There are tradeoffs involved with open space development to get agreement on what is best for everyone involved. Cutting contiguous lot size in half is 28,000 square feet. The list show average buildable lot area as 34,697 square feet. However, some lots are considerably smaller. There is no minimum size area to support a well and septic. At what point do we worry about a well and septic fitting on a one-quarter size lot. Chairman Seaworth asked the Town Engineer about recommended lot size for well and septic. Mike Vignale stated that his area of expertise is engineering.

Chris Guida, wetlands scientist and septic design, explained that state regulations for subsurface require a 4,000 sf area for a conventional septic. Actually, for open space development there has to be an area noted on the plan that is twice the size of the leach field, 600 square feet x 2 or 1,200 square feet shown. Septics are sized for a four-bedroom house utilizing lot loading. As long as it meets setbacks and is an acceptable septic system, it will fit on the lot. The highest ranked habitat area is an undisturbed large lot. The farm pond on the lot is manmade. The bog area is valuable. In addition, the 95 acre open space is adjacent to a 133 acre undisturbed area.

Ian Blakeney asked about construction of homes and whether they would have basements. The applicant replied that all homes would have basements. Ian noted there is a significant wetland impact from diversion of water, saturation and flooding.

Chris Guida, wetlands scientist, stated the water table is set and the building area is not in a flood zone. It does have a high water table with seasonal average 20-36 inches found in 90% of test pits. Four feet separation brings foundation drainage away from home. The roads will be engineered to meet all state and local standards.

Ian Blakeney noted that condensed development accounts for infiltration to roadways. Applicant noted he is aware pre and post conditions cannot exceed the pre-condition. Ian asked Mark Fougere if \$390,000 selling price will sell quickly in the market when demand is higher for homes under 225K. In addition, will the homes be insurable for water damage.



Mark Fougere said the development is planned for 3-4 year buildout. In addition, the price of some homes will be lower than 390K.

Ken Lehtonen, VP San Ken Homes, stated that his company just completed 54 homes selling in Milford NH from 400K-600K over a 3-4 year buildout. They own a REMAX franchise and market their own developments. Inventory is low with five homes actively for sale in Pembroke. The demand is strong and there is no new construction available in NH under 300K at this time. Construction costs prohibit a lower price.

Selectmen's Rep Bond asked about effect of 80 homes currently under development in Pembroke going on now would have on another development.

Ken Lehtonen, VP San Ken Homes, stated that there were 4-5 developments going on in Milford at the same time he was building, with no effect on their development sales.

Chairman Seaworth asked about the figure of 13% groundwater recharge needed for the wells in the new development. What number would cause concern?

Fred Bickford, Hydrosource, stated that only once, in upstate New York, he encountered a number higher than expected. The figure of 13% recharge watershed area includes most wells to the top of Pembroke Hill Road and is reasonable.

Chairman Seaworth asked if abutters had questions for the experts.

Paula Heath, 429 4<sup>th</sup> Range Road, questioned the accuracy of the traffic study for 56 trips when most households have 2-3 vehicles. She put an addition on her house and it was flooded by underground springs. There will be major drainage impact from 56 homes each with its own well and septic. My well is at 150 feet. I am a contractor's daughter and have owned many houses. I personally would never look at a home priced at 390K without designated acreage or lot lines. I am afraid of contamination in wells. I looked at that area for a horse property but it was too impacted by water.

Brian Mrazik, Pembroke Hill Road, my overreaching comment is what is the implication of this development on Pembroke Hill Road? Why are we making decisions one subdivision at a time? The town needs to look at the bigger picture. What happens when Gelinas Farm and Townsend Farm sell?

Peter Gailunas, 4<sup>th</sup> Range Road, concerned about use of water softeners in wells. Why doesn't the developer put in a pump station and have town water available to 4<sup>th</sup> Range Road.

Steve Keith, North Pembroke Road, asked where the access would be to the donated land. Will the homes need to be split level to stay above water level.

Selectmen's Rep Bond asked can you drive over the septic.

Chris Guida, wetland scientist, stated yes if the septic is designed properly. For open development, you have to show 1200 square feet for leach field. Do not design under a driveway.

Jon Rokeh, Rokeh Consulting LLC, stated that no driveways are located over leach fields on this plan.

Selectmen's Rep Bond asked if the well treatment salt could be drained into a septic drywell for discharge.

Chris Guida, wetlands scientist, stated each home has a unique treatment for its well. There are no large doses of salt, and it does change the chemistry in the leach field.

Ammy Heiser stated that Jon Rokeh, Rokeh Consulting LLC, came to a Conservation Commission meeting about a letter from NH DES, which addressed issues of overlapping well radii. Open space development has less wetland impact but still has impact. The developer rearranged lots to address overlapping well radii by bringing the houses right up to the wetland buffer. Where does one put a lawn with 50-foot wetland buffers? The developer has set up a situation where the wetlands is at your door. Some lots in the back are in the highest value habitat. Conservation Commission does monitor and manage lands. We do not have the manpower to build trails. The Society for Forest Protection has limited personnel to help manage lands all over the state. Land management comes with a cost.

Chairman Seaworth asked if the building envelope, with 50-foot separation, and wetland buffers up to 50 feet would be restrictive to open space development.

Ammy Heiser stated that the "no disturb" buffer means no lawns for 56 houses in a very wet area. The proposed plan does not function in reality as nicely as on the map.

Ken Lehtonen, VP San Ken Homes, stated that the wetland setback is going to town meeting for a vote to be increased from 20 to 50 feet. We submitted our plan before the town meeting vote so we are subject to current wetland setback of 20 feet. There is room for a 30-foot yard. I also want to respond to comments on water well treatment. In my experience, there has been no well we were unable to treat. It is common practice that it is well dependent, and you treat each accordingly to deliver potable water. Also in response to comments on property being potentially uninsurable, it is not in a FEMA flood zone and is not concentrated around rivers so they will be insurable.

Ian Blakeney asked is it part of your presentation to potential buyers to show the wetlands that are present.

Ken Lehtonen, VP San Ken Homes, stated almost every lot has wetlands.

Chairman Seaworth stated that the public hearing would be continued. The board is aware of some existing problems.

Vice Chairman Bourque asked that any more questions for the expert presenters could be taken so that they do not all have to be present for the next hearing.

Jon Rokeh, Rokeh Consulting LLC, agreed.

Chairman Seaworth asked if there is any information the board would like to have for the next meeting. Member Hanson suggested revising the plan to eliminate the eight lots in the environmentally sensitive area and the cul de sac for safety concerns. This would bring the total lots down to 48 lots.

Ken Lehtonen, VP San Ken Homes, stated eliminating those lots is not a viable option for us.

Hercules Heath, 429 4<sup>th</sup> Range Road, asked if the subject matter expert reports are available for the public to review. Chairman Seaworth stated that each expert submitted written reports, which are available for the public to review. Please contact Planner Cronin to ask for copies, as some are available as electronic attachment. Others may need to be viewed in hard copy.

Selectmen's Rep Bond asked Mark Fougere if he had a conversation with the School Superintendent after the November 19, 2019 letter about overcrowding when 60 unexpected students arrived in the fall.

Mark Fougere stated the houses would take 3-4 years to construct. Only eight children are expected to be in elementary school. There is declining enrollment in all of the other Pembroke schools.

Ian Blakeney asked when in 2019 Steve Pernaw took his data and did he consider any weekend data. It was May 2019. No weekend data was taken.

Ian Blakeney asked if the town opens up Flagg Robinson Road will the intersection be addressed. Jon Rokeh, Rokeh Consulting LLC, stated they have an easement for that possibility.

Vice Chairman Bourque asked if the school consolidation was taken into account in the traffic study. Steve Pernaw said yes.

Lisa Gilbert, 473 4<sup>th</sup> Range Road, stated that there is more traffic on the weekend because of the Gelinis and Townsend Farms. She would be interested in a weekend traffic count.

Chairman Seaworth closed the public hearing at 9:22 p.m.

**MOTION:** Member Crean moved to approve the request for time extension for plan review to February 28, 2020 at the request of the applicant. Seconded by Member Hanson.

**VOTE:**        B. Seaworth – Y        C. Hanson – Y        A. Bond - Y  
                  D. Crean – Y         R. Bourque – Y

**MOTION TO APPROVE THE REQUEST FOR TIME EXTENSION FOR PLAN REVIEW TO FEBRUARY 28, 2020 AT THE REQUEST OF THE APPLICANT PASSED ON A 5-0 VOTE.**

**MOTION:** Member Crean moved to continue the public hearing on Major Subdivision Application #19-03 to February 25, 2020. Seconded by Member Hanson.

**VOTE:** B. Seaworth – Y A. Bond – Y C. Hanson – Y  
D. Crean – Y R. Bourque – Y

**MOTION TO CONTINUE PUBLIC HEARING TO FEBRUARY 25, 2020 PASSED ON A 5-0 VOTE.**

Chairman Seaworth said that the public hearing would not be renoticed. The public is advised to call the Planning Department or check the Town website for any updates or schedule changes.

**MOTION:** Vice Chairman Bourque moved to continue the Planning Board January 28, 2020 meeting. Seconded by Selectmen's Rep Bond.

**VOTE:** B. Seaworth – Y C. Hanson – Y A. Bond - Y  
D. Crean – Y R. Bourque – Y

**MOTION TO CONTINUE JANUARY 28, 2020 MEETING PASSED ON A 5-0 VOTE.**

Chairman Seaworth designated Ian Blakeney to vote for the vacant Planning Board member position for the new agenda items beginning with Major Site Plan Application #19-108.

**New Business**

- 3. Major Site Plan Application #19-108, Timothy Bernier, T.F. Bernier, Inc., acting as Applicant on behalf of Silver Hill Development Corporation, owner of Tax Map 559, Lot 12 located at 774 Silver Hills Drive in the Commercial/Light Industrial (C1) Zone and the Aquifer Conservation (AC), Wetlands Protection (WP), Floodplain Development (FD), and Shoreland Protection (SP) Districts.** The Applicant proposes an amendment to the scale house to show as-built conditions and a proposed paved parking area.

➤ **Special Use Permit Application SUP-WP #19-312.**

The Applicant requests a Special Use Permit in accordance with Article 143-72.D., Wetlands Protection District, to make site improvements on a parcel that contains wetlands.

➤ **Special Use Permit Application SUP-AC #19-313.**

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

Present: Timothy Bernier, T.F. Bernier, Inc.

Planner Cronin explained that the Planning Board approved a plan to relocate the scale house from the Pleasant View Gardens side of the property to the end of Silver Hills Drive. The scale house was constructed in 2019. Upon inspection, it was discovered that the building was oriented a different way than the approved plan. When the issue was raised,

the owner decided to design a new paved parking area to suit the position of the scale house. This amended plan is to review the as-built condition of the scale house and the new proposed parking lot. The property is within Concord's Wellhead area. All plans were provided to City of Concord. Regarding the Special Use Permit, the Pembroke Health Officer, Water Works, and Conservation all had no concerns. The waivers are requested because the plan is for a paved parking area.

**MOTION:** Vice Chairman Bourque moved to grant the waiver requests for checklist items: Part A, Items: D, L, N, O and P; Part B, Items B.(2), B.(6), B.(7), B.(11), B.(16), B.(20), and Part C, Items B and C as requested by the applicant. Seconded by Selectmen's Rep Bond.

**VOTE:**            B. Seaworth – Y        C. Hanson – Y        A. Bond - Y  
                     D. Crean – Y            I. Blakeney – Y       R. Bourque – Y

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

**MOTION:** Vice Chairman Bourque moved to accept the application as complete. Seconded by Selectmen's Rep Bond.

**VOTE:**            B. Seaworth – Y        C. Hanson – Y        A. Bond - Y  
                     D. Crean – Y            I. Blakeney – Y       R. Bourque – Y

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

Planner Cronin noted that MSDS sheets were provided and propane is used. The size of the project does not trip Development of Regional Impact (DRI).

Member Crean asked if the applicant had contact with City of Concord. Tim Bernier submitted plans to City of Concord. He addressed their comments and resubmitted plan.

Chairman Seaworth stated on a side note, he received advice at a conference he attended that the town could be more flexible about Development of Regional Impact. A DRI requirement is to notify the regional planning commission. The direction the board had considered is wrong.

**MOTION:** Vice Chairman Bourque moved that the application is NOT a Development of Regional Impact. Seconded by Selectmen's Rep Bond.

**VOTE:**            B. Seaworth – Y        C. Hanson – Y        A. Bond - Y  
                     D. Crean – Y            I. Blakeney – Y       R. Bourque – Y

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

Chairman Seaworth opened the public hearing at 9:38 p.m. Chairman Seaworth said that if the application is not completed tonight, the public hearing would not be renoticed. The public is advised to call the Planning Department or check the Town website for any updates or schedule changes.

Tim Bernier, T.F. Bernier, Inc., prepared plans for the applicant. He explained the scale house was approved in the site plan in May 2018. After consideration of which side of the scale should be on the driver's side, Silver Hill decided the scale house was in the right

footprint, but facing the wrong direction. The light gray areas is existing pavement. There was extensive discussion of whether the building should be on the truck driver's side coming in or out of the facility. The applicant brought in a transformer to plug in the vehicles in winter. After a meeting with Code Enforcement Officer, the applicant was asked to provide an as-built plan. The applicant wants to park his trucks and plug them in. For safety he wants to pave the parking area with 24 truck parking spots. Tim Bernier has designed stormwater management to handle development of the entire lot. Applicant has applied for amended State AOT permit under 41,000 square feet. One comment received was to rip rap the swale, which will be done.

Tim Bernier stated that the scale and parking area are temporary for the operation of the sand pit. This is continuation of industrial lots in a 100-acre gravel pit. The scale house is in its original location. Pleasant View Gardens has been waiting ten years for the decision to move the scale. Planner Cronin read the draft conditions of approval.

Chairman Seaworth closed the public hearing at 9:48 p.m.

**MOTION:** Vice Chairman Bourque moved to approve Wetlands Special Use Permit SUP-WP #19-312 conditionally until Major Site Plan #19-108 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 Selectmen's Rep Bond.

**VOTE:** B. Seaworth – Y C. Hanson – Y A. Bond - Y  
D. Crean – Y I. Blakeney– Y R. Bourque – Y

**MOTION TO APPROVE WETLANDS SPECIAL USE PERMIT SUP-WP#19-312 PASSED ON A 6-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to approve Aquifer Special Use Permit SUP-AC #19-313 conditionally until Major Site Plan #19-108 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 Selectmen's Rep Bond.

**VOTE:** B. Seaworth – Y C. Hanson – Y A. Bond - Y  
D. Crean – Y I. Blakeney– Y R. Bourque – Y

**MOTION TO APPROVE AQUIFER SPECIAL USE PERMIT SUP-AC#19-313 PASSED ON A 6-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to approve to approve Major Site Plan Application #19-108 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 discussed in KV Partners' review letter dated January 13, 2020.
4. Prior to signature, the plans shall be revised to show the zoning district boundary in the vicinity map.

5. Amended AOT Permit is required.
6. The original signatures of all property owners shall be provided on the final plan.
7. The Special Use Permit Notices of Decision (SUP-WP #19-312 and SUP-AC #19-313) and the Site Plan Review #19-108 Notice of Decision are to be recorded at the Merrimack County Registry of Deeds.
8. All engineering review fees and all recording fees to be paid in full to the Town of Pembroke.
9. The site plan will not be considered as receiving final approval until all conditions of approval are met.

Seconded by Selectmen's Rep Bond.

**VOTE:**        B. Seaworth – Y        C. Hanson – Y        A. Bond - Y  
                   D. Crean – Y        I. Blakeney– Y        R. Bourque – Y

**MOTION TO APPROVE MAJOR SITE PLAN APPLICATION #19-108 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 DISCUSSED IN KV PARTNERS' REVIEW LETTER DATED JANUARY 13, 2020.
4. PRIOR TO SIGNATURE, THE PLANS SHALL BE REVISED TO SHOW THE ZONING DISTRICT BOUNDARY IN THE VICINITY MAP.
5. AMENDED AOT PERMIT IS REQUIRED.
6. THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.
7. THE SPECIAL USE PERMIT NOTICES OF DECISION (SUP-WP #19-312 AND SUP-AC #19-313) AND THE SITE PLAN REVIEW #19-108 NOTICE OF DECISION ARE TO BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS.
8. ALL ENGINEERING REVIEW FEES AND ALL RECORDING FEES TO BE PAID IN FULL TO THE TOWN OF PEMBROKE.
9. THE SITE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.

4. **Major Subdivision Application #19-05, Timothy Bernier, T.F. Bernier, Inc., acting as Applicant on behalf of Ellen J. Vermilyea, Trustee, owner of Tax Map 264, Lot 39 located at 285 Cross Road in the Medium Density-Residential (R1) Zone and the Wetlands Protection (WP) District.**

The Applicant proposes a 4-lot subdivision with individual lots to be served by on-site septic and wells.

➤ **Special Use Permit Application SUP-WP #19-314.**

The Applicant requests a Special Use Permit in accordance with Article 143-72.D., Wetlands Protection District, for construction of a driveway resulting in impacts to the wetlands.

Present: Timothy Bernier, T.F. Bernier, Inc.; Ellen Vermilyea

Planner Cronin reported that the applicant proposes a 4-lot subdivision consisting of three new lots in addition to the existing house. The houses are to be serviced by private on-site well and septic. The use is permitted in the R1 district. A Special Use Permit is required in the WP District.

Planner Cronin noted that the subdivision plan needs to meet the Water Supply ordinance adopted on November 5, 2019. The applicant has proposed to sprinkle each house. This should be made a condition of approval. No new roadway is proposed. The lots will use existing frontage. There is a wetlands crossing for one driveway. The waiver of the full onsite soils survey is based on web soil data and test pit data.

**MOTION:** Vice Chairman Bourque moved to grant the waiver requests for checklist items: Part A, Items: N, R, S, and W; and Part B, Construction Plan Submittal information B. Roadway profiles and C. Roadway cross-sections as requested by the applicant.  
Seconded by Member Crean.

**VOTE:** B. Seaworth – Y C. Hanson – Y A. Bond - Y  
D. Crean – Y I. Blakeney – Y R. Bourque – Y

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

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

**VOTE:** B. Seaworth – Y C. Hanson – Y A. Bond - Y  
D. Crean – Y I. Blakeney – Y R. Bourque – Y

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

Chairman Seaworth opened the public hearing at 9:55 p.m. Chairman Seaworth said that if the application is not completed tonight, the public hearing would not be renoticed. The public is advised to call the Planning Department or check the Town website for any updates or schedule changes.

Tim Bernier noted that applicant Ellen Vermilyea is present. The intent is to create three new building lots. The fourth lot contains the old, original house and accessory dwelling unit. The new lots all have 200 feet of frontage. Each lot is 80,000 square feet and mostly field. The ridge is located such that half the property drains each way from the ridge. There will be handicapped accessible sidewalk created where the cut in the sidewalk is made. The road creates wetland because the other side of the road is lower. Three-foot culverts will be installed. The subdivision plan meets all requirements. State application for subdivision approval and DES have been submitted. Lot 439-6 has a small wetland crossing to put in a culvert. Tim Bernier checked with NH DES and the Wetland bureau is way behind on issuing permits. All of the lots will be served by on-site wells and septic. Public Works Rep was in the audience.

Selectmen's Rep Bond asked if driveways have been designated yet. One driveway is in a gap between culverts. There is roadside ditch and good sight distance. Tim Bernier stated a driveway permit is needed for the fourth driveway. Fifteen inch culvert will be used for the full length.



Chairman Seaworth asked how the new driveways would affect stone walls on the plan. Tim Bernier stated stone walls are not protected and will be cut where needed. Ellen Vermilyea stated she has lived in Pembroke for 41 years. When was the road last paved? It was thought 8-10 years ago. That is when the drainage pipes put in created standing water.

Chairman Seaworth asked for the reason a waiver of stormwater drainage was requested. Tim Bernier stated that the subdivision creates 3 new single-family lots on 9 acres. As noted earlier, half of the water drains on each side of the ridge. There will be detached stormwater discharge and no connected flow.

Selectmen's Rep Bond noted the existing house has an in ground pool. The fence does not have to meet fifteen-foot setbacks. Mailboxes are located on the opposite side of the street. Planner Cronin read the proposed conditions.

Chairman Seaworth closed the public hearing at 10:16 p.m.

**MOTION:** Member Blakeney moved to grant the waiver request from Subdivision Regulation 205-44 to waive the requirement of drainage of storm water as requested by the applicant. Seconded by Vice Chairman Bourque.

**VOTE:** B. Seaworth – Y C. Hanson – Y A. Bond - Y  
D. Crean – Y I. Blakeney – Y R. Bourque – Y

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

**MOTION:** Member Blakeney moved to approve Wetlands Special Use Permit case SUP-WP #19-314 with the following condition: This Special Use Permit is in accordance with Article 143-72.D.(2), Wetlands Protection District, to construct a residential driveway with one wetland crossing. It includes work within a wetland and wetland buffer and shall be constructed according to the submitted plans and the NHDES Wetlands Permit conditions of approval.

SUP-WP #19-314 is approved in conjunction with Major Subdivision Plan #19-05. If at any time Major Subdivision Plan #19-05 is revoked or final approval is not received, this Special Use Permit becomes invalid. Seconded by Vice Chairman Bourque.

**VOTE:** B. Seaworth – Y C. Hanson – Y A. Bond - Y  
D. Crean – Y I. Blakeney – Y R. Bourque – Y

**MOTION TO APPROVE WETLANDS SPECIAL USE PERMIT SUP-WP #19-314 PASSED ON A 6-0 VOTE.**

**MOTION:** Vice Chairman Bourque moved to approve to approve Major Subdivision Plan Application #19-05 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 PLAN SHALL BE REVISED TO ADD A NOTE STATING THAT SIDEWALK MODIFICATIONS TO ACCOMMODATE NEW DRIVEWAYS WILL BE ADA COMPLIANT.
4. THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.
5. THE FINAL PLAN AND THE SPECIAL USE PERMIT (SUP-WP #19-314) NOTICE OF DECISION SHALL BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS.
6. ALL RECORDING FEES TO BE PAID IN FULL TO TOWN OF PEMBROKE.
7. LCHIP CHECK MADE OUT TO MERRIMACK COUNTY REGISTRY OF DEEDS SHALL ACCOMPANY THE FINAL MYLAR PLAN.
8. DRIVEWAY PERMITS ARE REQUIRED AND ALL CURB CUTS SHALL CONFORM TO THE TOWN OF PEMBROKE DRIVEWAY REGULATIONS.
9. PRIOR TO OCCUPANCY, ALL NEW LOT CORNERS SHALL BE MONUMENTED IN THE FIELD.
10. PRIOR TO OCCUPANCY, ALL NEW HOMES SHALL MEET THE STANDARDS OF THE WATER SUPPLY ORDINANCE.
11. PRIOR TO OCCUPANCY, HOUSE NUMBERING SHALL BE VISIBLE FROM THE STREET.
12. THE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.
13. NHDES WETLANDS PERMIT IS REQUIRED.
14. NHDES SUBDIVISION APPROVAL IS REQUIRED.
15. THE CULVERT ON LOT 39-6 SHALL BE 15 INCHES.

Seconded by Member Hanson.

**VOTE:**        B. Seaworth – Y        C. Hanson – Y        A. Bond - Y  
                   D. Crean – Y        I. Blakeney– Y        R. Bourque – Y

**MOTION TO APPROVE MAJOR SUBDIVISION PLAN APPLICATION #19-05 WITH THE FOLLOWING 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 PLAN SHALL BE REVISED TO ADD A NOTE STATING THAT SIDEWALK MODIFICATIONS TO ACCOMMODATE NEW DRIVEWAYS WILL BE ADA COMPLIANT.
4. THE ORIGINAL SIGNATURES OF ALL PROPERTY OWNERS SHALL BE PROVIDED ON THE FINAL PLAN.
5. THE FINAL PLAN AND THE SPECIAL USE PERMIT (SUP-WP #19-314) NOTICE OF DECISION SHALL BE RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS.
6. ALL RECORDING FEES TO BE PAID IN FULL TO TOWN OF PEMBROKE.
7. LCHIP CHECK MADE OUT TO MERRIMACK COUNTY REGISTRY OF DEEDS SHALL ACCOMPANY THE FINAL MYLAR PLAN.
8. DRIVEWAY PERMITS ARE REQUIRED AND ALL CURB CUTS SHALL CONFORM TO THE TOWN OF PEMBROKE DRIVEWAY REGULATIONS.

9. PRIOR TO OCCUPANCY, ALL NEW LOT CORNERS SHALL BE MONUMENTED IN THE FIELD.
10. PRIOR TO OCCUPANCY, ALL NEW HOMES SHALL MEET THE STANDARDS OF THE WATER SUPPLY ORDINANCE.
11. PRIOR TO OCCUPANCY, HOUSE NUMBERING SHALL BE VISIBLE FROM THE STREET.
12. THE PLAN WILL NOT BE CONSIDERED AS RECEIVING FINAL APPROVAL UNTIL ALL CONDITIONS OF APPROVAL ARE MET.
13. NHDES WETLANDS PERMIT IS REQUIRED.
14. NHDES SUBDIVISION APPROVAL IS REQUIRED.
15. THE CULVERT ON LOT 39-6 SHALL BE 15 INCHES.

**MOTION:** Vice Chairman Bourque moved to waive the remaining business on the agenda to the February 18, 2020 meeting. Seconded by Member Crean. Unanimously approved.

### **Minutes**

**Minutes-** January 14, 2020

### **Miscellaneous**

1. Correspondence
2. Committee Reports
3. Other Business
4. Planner Items
5. Board Member Items
6. Audience Items

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

The meeting was adjourned at 10:20 p.m.

Respectfully submitted,  
Susan Gifford, Recording Secretary