

**Meeting Minutes
(ADOPTED)
June 23, 2020**

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

ALTERNATE MEMBERS PRESENT: Holli Germain

EXCUSED:

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

Pembroke Legal Counsel Laura Spector-Morgan was present.

Chairman Seaworth called the meeting to order at 6:30 pm. He read the legal notice required for remote meetings under the Governor's Emergency order. The Planning Board is utilizing Go to Meeting platform. The public has access to listen or participate as stated on the public notice of meeting. Five members were present at first roll call, sufficient to hold a meeting. Dan Crean joined the meeting several minutes later due to technical issues.

Old Business

- 1. 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.

Member Cruson recused herself for Major Subdivision Application #19-03 because of family land. Alternate Member Germain will participate but is not a voting member on this application as she was not present for prior discussions.

Planner Cronin provided an update on Major Subdivision Application Plan #19-03. Since the last meeting, the applicant has worked with the Code Enforcement Officer on firefighting water supply. NHDES approved septic permit. The applicant authorized and paid for a hydrology report to be completed by Aries Engineering. We hope to have the report early next week so the Board has plenty of time to review it for the July meeting.

Chairman Seaworth noted that the Planning Board is limited to how far they can go this evening until the hydrology report is available. Town Planner has provided draft conditions of approval for the two special use permits and the major subdivision plan. Most of the suggested conditions have nothing to do with the report. Once I do open the public hearing tonight, I would like to focus discussion on items talked about tonight.

Member Crean asked where the Planning Board stands on timing with this application. Chairman Seaworth noted there is legal language in the Planner report that the 65-day period expired before our March 2020 meeting that was cancelled. An extension was granted and expired May 15, 2020. Under the Governor's Emergency Order #23 deadlines for accepting, hearing and acting upon planning board applications are suspended due to the COVID-19 pandemic. That is why we have not pursued another extension.

Vice Chairman Bourque asked if the Chair would like to go through the draft conditions as we typically do near the end of reviewing a proposal.

Chairman Seaworth opened the public hearing on Major Subdivision Plan Application #19-03 at 6:45 p.m. If this application is not completed tonight, the public hearing and the application will be continued to a future meeting. He invited Jon Rokeh to speak first.

Jon Rokeh, Rokeh Consulting, LLC, stated that since the last meeting, the cistern locations have been finalized. He has updated the locations and needs to finalize the pipe sizing. Five lots on the end will need residential sprinkler systems. Jon Rokeh stated that the application received State of NH Subdivision approval for 56 lots along with well and radius easement documents. We are entirely permitted by the State of NH and Army Corps of Engineers. We authorized Planner Cronin to get quotes on a hydrology report. Carolyn and I took a site walk with George of Aries Engineering. His report is not complete for tonight. Fred Bickford, our hydrologist, will review the report. Jon Rokeh stated there is not much left to do in terms of the plan. He asked for questions from the Board.

Chairman Seaworth, seeing no questions, moved on to the suggested conditions of approval. Last month, Member Hanson suggested that the motion, when made, should be in the positive. We will review the suggested conditions to see if we agree with the wording and have all that we need. Many of the conditions are procedural, signatures, dates, permit numbers. On Special Use Permit for Wetlands Protection, the conditions are boilerplate. Member Crean stated he is uncomfortable talking about conditions when there is not a vote being taken. Chairman Seaworth stated he appreciates that we are not taking a vote, and the comments on suggested draft conditions are for discussion purposes only. The hydrology study could inform us about other conditions needed. Member Crean asked if we are waiting for another plan update. Jon Rokeh clarified that in early June all the final plans were state approved. Planner Cronin has all of the plans. There have been no changes to plans since submitted in February 2020 other than additional notes. Jon Rokeh stated that within the Town of Pembroke you have all of the final plans.

Chairman Seaworth stated we are discussing a limited scope of information on the permits and application with no intent to take a vote. Member Crean suggested withholding judgement until we have complete plans and supporting documents. Chairman Seaworth asked if other Board members had reservations about discussing potential conditions. Jon Rokeh stated any items that board members have issue with, it is better to know now and

have a month to develop a response. The applicant is looking for those suggestions tonight.

Chairman Seaworth stated we would proceed cautiously with limited scope. The Wetlands Protection Special Use Permit contains boilerplate conditions. Planner Cronin explained that she proposed 10 conditions for the Open Space Development (OSD) Special Use Permit. The OSD Special Use Permit is the mechanism that permits open space developments. The permit lays out the allowed dimensions for open space development and could be very helpful to future homeowners. It captures information from the regulations and all variations from conventional subdivision requirements, such as waivers for road design, sidewalk and curbing. One of the proposed conditions is lot sizes average a minimum of 40,000 square feet. Building setbacks are as requested by the applicant, which is half of the setbacks for the underlying district. Frontage minimum is in accordance with the plan as presented. The open space and number of lots are confirmed. This is a Planning Board permit. Chairman Seaworth stated he would like to see conditions that are from the regulations reference a section number.

Chairman Seaworth discussed items 2, 3, and 4. These conditions can be added to or altered. Member Germain stated her concern with #5 is that lot size of 40,000 square feet is not met on all lots. Chairman Seaworth clarified that the average of all lots is 40,000 square feet. Some can be smaller, some larger and this is required by open space development regulations. Jon Roken noted that the applicant provided a table listing contiguous buildable area for each lot as requested by the Board. With 50-foot wetland buffers, there is less contiguous buildable area than with 20-foot wetland buffers. 40,000 square feet is gross lot size. Chairman Seaworth said that buildable area is one factor of adequate lot size. Chairman Seaworth would like the conditions that are from regulations to use a number.

Vice Chairman Bourque stated that on the application, 13 lots have under 100 feet frontage. Frontage requirement in the R3 zoning district is 200 feet and 100 feet is half. The applicant and the Board agreed to cut the underlying district dimensions in half. Jon Rokeh stated after the last meeting we calculated average lot frontage of 151 feet. Jon Rokeh stated there is no required frontage in Town of Pembroke open space development regulations. Vice Chairman Bourque stated nothing in the regulations allows average frontage.

Jon Rokeh stated that Pembroke open space regulations allows no lots at all. We could eliminate all lot lines and still be in compliance. Vice Chairman Bourque stated I feel 100 feet frontage per lot is a minimum. Averages only figure in calculating lot size. Jon Rokeh stated I would look into that. Chairman Seaworth stated that by looking at average frontage, you could have lot with one foot of frontage. At some point, little to no road frontage is a problem to the Planning Board. The modified setbacks from the underlying district are clear. Frontage is less clear. Selectmen's Rep Bond stated I agree with what Vice Chairman Bourque is saying.

Chairman Seaworth stated the point of tonight is not to vote on this. It is to remove and amend suggested conditions of approval. Kenny Lehtonen, San Ken Homes, stated if frontage is a problem, we are open to a plan with no lot lines. Planner Cronin suggested

that legal counsel weigh in on the frontage question. Laura Spector-Morgan stated I would want to look at the regulation in the next week. Chairman Seaworth stated a plan with no lot lines makes me more uncomfortable than a plan with less frontage. Selectmen's Rep Bond said my question is if the lot lines are removed, how are the lots sold? Jon Rokeh stated your open space regulations allow all the homes on one lot managed by a homeowners association.

Member Crean stated that wetlands and overall design of the cul de sacs is a safety issue. I would like to see a plan to connect the two proposed roads. What if a second loop road connected the two cul de sacs? Chairman Seaworth thanked Member Crean for his suggestion.

Chairman Seaworth moved on to items 7 and 8 wetlands setback from the ordinance section. Planner Cronin said the wetlands language is not unique to the plan. Twenty-foot buffers are required to structures. Utilities, well and septic must meet the 20-foot buffer requirement. Chairman Seaworth said part of the reason we are doing this review is for owner posterity. Is the building envelope on individual lots? What is subject to the 20-foot wetland buffer and what is subject to the new 50-foot wetland buffer?

Planner Cronin clarified that if a lot is approved on an approved subdivision plan, the owner only has to meet the 20-foot wetland buffer in the plan. Chairman Seaworth asked if the 50-foot wetland buffer applies to older lots that make changes. Laura Spector-Morgan stated that once an application is accepted, no changes could be made to requirements. Chairman Seaworth asked if an older lot not subject to subdivision wanted to add a deck, would the 50-foot wetland buffer apply. I find it confusing. Laura Spector-Morgan stated owners of a subdivision are exempt from all future zoning changes unless there is a health and safety issue. What if there were no lot lines? Chairman Seaworth will discuss this later with legal counsel.

Chairman Seaworth moved on to items 9 and 10, number of lots and area of open space. You cannot further subdivide lots created in subdivision. Is anything missing from the list of suggested conditions?

Brian Mrazik, Pembroke Hill Road, asked if the hearing was taking public comment. Yes, if focused on suggested conditions of approval. Brian Mrazik recommended defining the terms "permanently protected" and "designated open space" especially if it required legal agreements to be signed. Chairman Seaworth thanked Mr. Mrazik for the thoughts. You have brought up good points that may be more appropriate to the application itself and not the permit. For example if the applicant were donating land to the town. Any further thoughts on the Special Use Permit conditions? Seeing none, Chairman Seaworth moved on to the 25 suggested conditions for the subdivision plan application itself. In the interest of time, he asked Planner Cronin to provide an overview.

Planner Cronin explained that many of the proposed conditions were standard procedural items – recording the plan, fees, executing lot merger, legal counsel review of all documents, monuments at lot corners, wetland medallions, house numbering, firefighting water supply, owner responsibilities until the road is accepted by the Town of Pembroke, nothing particularly unique. Applicant must provide bond for the required firefighting water

infrastructure and water supply shall be in place prior to occupancy. Member Germain asked who approves the firefighting plan. Planner Cronin said the Fire Department and Code Enforcement approve the firefighting plan. Vice Chairman Bourque asked about item 22. Who makes the owner aware of the responsibility of wetland medallions? Planner Cronin said NH DES requires this be in the deeds. Chairman Seaworth asked if the applicant was following along with the suggested conditions for the application. Jon Rokeh stated yes, we have a copy of all the proposed conditions.

Chairman Seaworth asked for public comment on the suggested conditions of approval for the application itself. Brian Mrazik, Pembroke Hill Road, asked if stormwater drainage was included in the owner responsibilities until the road is accepted by the town. Planner Cronin confirmed it was.

Chairman Seaworth asked if there were any other items members of the Board would like to discuss. Items from the applicant? Jon Rokeh stated that this evening's discussion was very productive. He will get additional information on lot frontages and review the report from the hydrologist.

At 7:54 p.m. Chairman Seaworth closed the public hearing on #19-03.

MOTION: Vice Chairman Bourque moved to continue public hearing on Major Subdivision Application #19-03 and associated permits to July 27, 2020. Member Hanson seconded.

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

MOTION TO CONTINUE PUBLIC HEARING ON #19-03 TO JULY 28, 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.

Member Cruson and Alternate Member Germain returned to the Planning Board as voting members. Member Germain was designated to vote for the vacant Planning Board set.

New Business

- 2. Minor Subdivision Application #20-01, Mark C. Sargent, Richard D. Bartlett and Associates, LLC, acting as Applicant on behalf of Ayn B. Whytemare-Donovan, owner of Tax Map 561, Lot 4 located at 636-674 Fourth Range Road in the Commercial/Light Industrial (C1) Zone, the Rural/Agricultural-Residential (R3) Zone, and the Wetlands Protection (WP) District and Pembroke Animal Hospital PC, owner of Tax Map 563, Lot 5 located at 13 Sheep Davis Road in the Commercial/Light Industrial (C1) Zone, the Aquifer Conservation (AC) District, and the Wetlands Protection (WP) District. The Applicant proposes a lot line adjustment to convey 13.02 acres of Map 561, Lot 4 to Map 563, Lot 5.**

Planner Cronin noted this is a simple lot line adjustment. Ayn Whytemare-Donovan is selling some land to Pembroke Animal Hospital. A number of waivers are requested, as they are not applicable. There is no development proposed and there was no TRC. I did

share the plan with town departments. Assessing noted that there is no current use penalty at this time. One missing item is to show the zoning district boundaries can be made a condition of approval.

MOTION: Member Hanson moved to approve the waivers as requested by the applicant. Seconded by Vice Chairman Bourque.

VOTE: B. Seaworth – Y C. Hanson – Y A. Bond - Y
D. Crean – Y R. Bourque – Y K. Cruson - Y H. Germain-Y

MOTION TO APPROVE THE WAIVERS REQUESTED BY THE APPLICANT PASSED ON A 7-0 VOTE.

MOTION: Vice Chairman Bourque moved to accept Minor Subdivision Application #20-01 as complete. Seconded by Member Hanson.

VOTE: B. Seaworth – Y A. Bond – Y C. Hanson – Y
D. Crean – Y R. Bourque – Y K. Cruson - Y H. Germain-Y

MOTION TO ACCEPT APPLICATION AS COMPLETE PASSED ON A 7-0 VOTE.

At 8:03 p.m. Chairman Seaworth opened the public hearing on Minor Subdivision Application #20-01.

Mark Sargent, Richard Bartlett and Associates, representing both Ayn Whytemare-Donovan and Pembroke Animal Hospital. The lot is 82.16 acres with frontage on Beacon Hill Road. The lot is in the C1 Industrial, Aquifer Conservation and Wetlands Protection zoning districts. Pembroke Animal Hospital will increase from 7.09 acres to 13.02 acres with frontage on Sheep Davis Road. The Whytemare-Donovan new lot will be 20.11 acres with Class VI road frontage. Member Crean asked if any development is imminent. Mark Sargent said the purpose is to expand the animal hospital with further subdivision at Beacon Hill/4th Range Road. Member Cruson noted that the animal hospital once mentioned opening a doggy daycare.

Ayn Whytemare-Donovan stated that she came into the possession of this property two years ago after the passing of her father. A family corporation owned the lot. The owner of Pembroke Animal Hospital asked if I was interested in selling a portion of my land. The majority of my frontage is on a Class VI road and he has frontage on Sheep Davis Road/Route 106 so this land would be of more value to the animal hospital. I want to improve the lives of the people in Pembroke.

Planner Cronin proposed seven conditions of approval, all standard procedural. Mark Sargent stated he has seen the proposed conditions and will add them to the plan.

There being no further discussion, Chairman Seaworth closed the public hearing at 8:13 p.m.

MOTION: Vice Chairman Bourque moved to approve Minor Subdivision Application #20-01 with conditions. Seconded by Member Hanson.

VOTE: B. Seaworth – Y C. Hanson – Y A. Bond - Y
D. Crean – Y R. Bourque – Y K. Cruson - Y H. Germain-Y

1. Prior to signature, revise the vicinity map to include zoning district boundary lines.
2. Prior to signature, all waivers and the date granted shall be listed on the plan.
3. All conditions of approval shall be listed on the plan.
4. The original signatures of all property owners shall be provided on the final plan.
5. The plan will not be considered as receiving final approval until all conditions of approval are met.
6. The plan shall be recorded at the Merrimack County Registry of Deeds.
7. All recording fees shall be paid to Town of Pembroke.

MOTION TO APPROVE MINOR SUBDIVISION PLAN #20-01 WITH CONDITIONS PASSED ON A 7-0 VOTE.

Discussion

3. Michael and Maranda Donnelly, It Takes a Village Day Care, 617 Buck Street

The applicant requests direction on site plan expectations before making a formal application submittal to Board.

Planner Cronin stated that this is a conceptual discussion that is non-binding. The applicant proposes a change of use for one side of the duplex at 617 Buck Street. They are planning to engage an engineer to do a site plan for their small day care business and wanted more information on the level of detail required. Planner Cronin gave Michael and Maranda Donnelly a Major Site plan application checklist. They would be seeking a number of waivers. Some of the items to discuss would be existing conditions, traffic circulation, topography, need for professional engineer stamp. Planner Cronin spoke with them, and put them on tonight's Planning Board agenda and sent them a copy. They were aware they needed to attend. Planner Cronin did not hear from the Donnelly's tonight.

Chairman Seaworth stated that this is not a public hearing so the residents can request to be on another agenda in the future. No discussion will be held in the absence of the applicants.

Minutes June 9, 2020

MOTION: Member Hanson moved to approve the minutes of June 9, 2020 as presented. Seconded by Member Cruson.

VOTE: B. Seaworth – Y C. Hanson – Y A. Bond - Y H. Germain-
D. Crean – Y R. Bourque – Y K. Cruson - Y Abstain

MOTION TO APPROVE THE JUNE 9, 2020 MINUTES PASSED ON A 6-0-1 VOTE.

Miscellaneous

1. Correspondence

- A.** Notice of Virtual Public Hearing on July 1, 2020 at 6:30 p.m. from Allenstown Planning Board regarding The Lofts at 25 Canal/China Mill site plan for 150 residential units. Please email Planner Cronin if you would like to receive the ZOOM information for this agenda item.

2. Committee Reports

Zoning - Vice Chairman Bourque reported that the Zoning Board met last night and heard two cases, one regarding a shed and one regarding a sign at Found Well Farm.

PACE – Member Hanson reported that PACE received NH Department of Education approval to have credit recovery at the facility. PACE graduated its last three students from class of 2020.

Board of Selectmen – Selectmen’s Rep Bond reported that the Board of Selectmen discussed opening Memorial Field at your own risk. They approved a stop sign at Micol and Nadine Road. The Board of Selectmen are going to accept a donation of property once it has been surveyed. The land abuts Memorial Field to the Concord border. The land could be beneficial to the rail trail. Selectmen’s Rep Bond will bring the rail trail up at the next Board of Selectmen meeting. Pembroke Academy decided to hold class of 2020 graduation at Fisher Cat stadium in Manchester, NH in the fall. Pembroke Academy held a small ceremony for five members of the class who were leaving to go into the military. The school board is calculating the amount of funds it will return as tax relief. They should have a figure by the end of July. It is unclear how school will look in the fall.

CNHRPC – Member Cruson reported that the Central NH Regional Planning Commission received a new 10-year plan from NH DOT. The bridge is funded by Pembroke, Epsom Traffic Circle has issues, and plans to widen Manchester Street are under consideration.

Conservation Commission – Member Germain attended a Conservation meeting where they discussed the Whittemore donation. They also discussed using a drone to monitor conservation lands.

3. Other Business- Chairman Seaworth noted that the Planning Board has a full Planning Board member position open at this time. He asked if Alternate Member Germain would like to move up to regular member. Alternate Member Germain agreed.

MOTION: Vice Chairman Bourque moved to appoint Holli Germain a full regular member of the Pembroke Planning Board. Seconded by Member Hanson.

VOTE: B. Seaworth – Y C. Hanson – Y H. Germain – Y A. Bond -
D. Crean – Y R. Bourque – Y K. Cruson - Y Abstain

MOTION TO APPOINT HOLLI GERMAIN TO PLANNING BOARD PASSED ON A 6-0-1 VOTE. (Selectmen’s Rep Bond must vote at BOS meeting)

Planner Cronin will forward paperwork to Board of Selectmen.

4. Planner Items - Planner Cronin reported that the full draft of the Pembroke Master Plan is posted on the CNHRPC website for Planning Board review. Any edits, changes or questions should be emailed to Mike Tardiff at CNHRPC. After a week, it will be posted on the Town of Pembroke website for public comment.
5. Board Member Items – Member Cruson asked if the Planning Board could pursue a Pembroke Street Corridor study. Chairman Seaworth stated it would be an appropriate workshop agenda item. Planner Cronin will invite Mike Tardiff to a future workshop to discuss this item.
6. Audience Items

ADJOURN: Member Hanson moved and Member Crean seconded to adjourn at 8:40 p.m. Approved unanimously without objection.

Respectfully submitted,
Susan Gifford, Recording Secretary

