

**Pembroke Planning Board
Minutes of Meeting
(Adopted)
Tuesday, August 12, 2008**

MEMBERS PRESENT: Robert Bourque, Chairman; Alan Topliff, Vice Chairman; Kathy Cruson; Todd Terrien

ALTERNATE PRESENT: Brian Seaworth

EXCUSED: Kevin Krebs; Mark Zydel and Cindy Lewis, Selectmen's Representative

STAFF PRESENT: Stephanie Alexander, Interim Planner and Jocelyn Carlucci, Recording Secretary

Chairman Bourque opened the meeting at 6:43 p.m. and stated that Alternate Member Seaworth will vote in Member Zydel's absence.

1. 6:30 Site Walk at 504-512 Borough Road, Minor Subdivision #08-05. Meet at Town Hall prior to walk.

Chairman Bourque noted that George Chadwick of Keach-Nordstrom Associates, Inc. and Stetson and Ammy Heiser of the Pembroke Conservation Commission were present. Mr. Chadwick represents the applicant.

Mr. Chadwick reviewed the map in conjunction with the on-site markers in order to establish a point of reference. The members walked onto Lot 45-1. The driveway for Lot 45-1 was not marked but the lot lines were. Member Cruson asked for clarification as to what portion of Lot 45-1 accounted for the contiguous land with less than a 15% steep slope. Mr. Chadwick said that he would color code the map and explain it in detail at the next Board meeting. He said that the buildable area and usable area are very close. He said that the contiguous/usable area is in front measuring approximately 56,000 sq. ft. Ms. Alexander suggested that he review the regulations regarding contiguous/usable area vs. buildable area.

The members then walked along Borough Road to Lot 45-2. Vice Chairman Topliff said that the plans indicate that the septic would be pumped from house to septic tank. Mr. Chadwick said that that could change depending on the homeowner.

Ms. Alexander said that there is a 60' front setback required. The map indicates that the septic for Lot 45-2 seems to be in the setback.

There being no further questions, Chairman Bourque concluded the site walk at 7:15 p.m. Mr. Chadwick said that he would discuss the maps and review the regulations with Ms. Alexander. Chairman Bourque said that Mr. Chadwick would not have to submit revised plans.

The Board returned to Town Hall at 7:27 p.m. and Chairman Bourque opened the meeting. He stated that the Board would not discuss the case. The purpose of the meeting is to clarify which definitions concern the Board Members and applicant. It was concluded that the definitions of buildable land and usable land were in question.

Mr. Chadwick read aloud the definition of Usable Land from the Pembroke Zoning Ordinance, Chapter 143:8. His interpretation is that he needs to provide a minimum of 80,000 sq. ft. of usable land. He said that the plans note his calculations used for usable land. Mr. Chadwick said that the Subdivision Regulations indicate that there must be 70% contiguous usable land on the property. He said that it does

not say “where” on the property, merely that there must be 70% contiguous usable land. He, therefore, calculated 70% of 80,000 sq. ft. resulting in 56,000 sq. ft. which is shown on the plan.

Mr. Chadwick said that the definition of usable land is located in the Zoning Regulations, not in the Subdivision Regulations. His interpretation of Ms. Alexander’s statement is that it is reasonable to infer that the definition of usable area and buildable area are the same. He has come up with the calculations on the map based on the written rule. He also pointed out that the rules do not say that he must exclude the setbacks.

Ms. Alexander read aloud Subdivision Regulations 205:43 2A “. . . and shall not be located within the required setback of that district.” Mr. Chadwick said he agreed with the statement, but that it does not have anything to do with creating a lot. He also said that he has a waiver in front of the Board to allow the septic to be located in the setback.

The Board members discovered that their copies of the regulations were incomplete. Chairman Bourque suggested that a complete review of the regulations be conducted to make sure that all Board members have a complete, up-to-date copy. He asked that they review the copies of the regulations at the next work session.

Mr. Chadwick said the usable land calculation did not include the 15% slopes, wetlands, or steep slopes, but did include the buffer areas and the setbacks.

Chairman Bourque recalled that the town voted to change the definition of contiguous area and other definitions but does not feel that the copy of the regulations that the Board presently has reflects those changes. He asked that someone research from approximately 2004 to the present in order to note all the regulations that were passed at Town meeting. He would like the subdivision, site plan, and zoning regulations to be checked and updated.

Guests

2. 8:00 Steve Whitman, Jeffrey H. Taylor and Associates, Inc. - Open Space Ordinance Interview

Steve Whitman and Jeffrey Taylor were present. Mr. Taylor gave a quick background of his work experience. He said that if he and Mr. Whitman were hired, Mr. Whitman would have a conversation with the Board to establish what the Board is looking to achieve with an open space cluster ordinance and determine what the Board likes or does not like about their present regulations. Mr. Whitman would be the contact person (he charges less per hour than Mr. Taylor). They would review the master plan and prepare a document based on the discussions.

Chairman Bourque said that the Board is looking for an alternative to a Growth Management Ordinance (GMO). Mr. Taylor said he would highly endorse that.

Mr. Taylor suggested ways that would have made Chickering Meadows more attractive such as: (1) placing the garages in the rear of the homes which would expose the front doors and porches creating a more “friendlier” atmosphere; (2) painting the units different colors; (3) create a less sterile open space section in the middle of the development.

Mr. Taylor said that a way to eliminate cul-de-sacs would be to dedicate a number of right-of-ways to future development parcels. This would be done when the subdivision was before the Board.

With regard to traffic calming, Mr. Whitman agreed with Interim Town Administrator Carol Murray, that narrow road widths naturally calm traffic speeds.

Mr. Taylor suggested touring the subdivisions in Pembroke with the Board and discussing what the Board likes and does not like in each. He said that the result of that tour would provide the information necessary to prepare a good model ordinance.

Mr. Taylor said that he saw no reason why an ordinance could not be drafted in time for Town meeting.

Chairman Bourque announced that Ms. Lewis has joined the Board (8:18 p.m).

3. 8:30 Gerald I. Coogan, AICP, Planning and Development Consultant - Growth Management Ordinance/Study Interview

Chairman Bourque asked Mr. Coogan to discuss ways to discontinue the GMO.

Mr. Coogan announced that he is now the Vice President/Chief Planner for TF Moran of Bedford, NH. He distributed information to the Board which discussed: (1) HB 1260 changes with regard to a GMO; (2) two exhibits of Loudon's GMO defenses; (3) Phasing in Deerfield in lieu of a GMO; (4) Data study on East Central, NH and Pembroke; (5) Proposed scope; (6) Expectations of the Planning Board; (7) Timeline; and (8) References.

Mr. Coogan gave an example of a technique to manage growth such as a village center design concept. He also suggested exploring transfer of development rights.

Mr. Coogan said that, if he were hired, he would do an in-depth work session, and a review of existing conditions of roads, school, water, and sewer in search of deficiencies. He would also look at population, municipal structure, and building trends. He would then have a dialogue with the Board, and make suggestions. There would be a total of 2-3 work sessions. He said it could be accomplished by Town meeting.

4. Conservation Commission – Discussion of Easements

Ammy Heiser and Stetson Heiser of the Pembroke Conservation Commission were invited by Ms. Alexander to meet with the Board.

Chairman Bourque asked Mr. and Mrs. Heiser to explain the difference between the Planning Board's concept of the Conservation Commission having easement ownership vs. the Town. Ms. Heiser said that all easements in the Town are town easements or L-chip or other organizations. She does not see a distinction between the Town and the Conservation Commission. Mr. Heiser said that conservation easements cannot be held by the Conservation Commission. It must be held by another organization.

Selectmen's Rep. Lewis said that the Conservation Commission maintains the property, and establishes the rules and regulations pertaining to the property. Ms. Heiser explained that the Conservation Commission held two public hearings in order to establish Conservation rules and discussed hunting, fishing, and other activities. The Commission did not want to monitor camping, therefore, they agreed that camping would be allowed with permission. Hunting and fishing are allowed based on NH laws. She said that the Commission took into consideration the comments that were made at the hearings and changed their rules accordingly. Ms. Heiser gave a copy of the Conservation Commission regulations.

Ms. Heiser said that the Conservation Commission consists of a group of volunteers that monitor the conservation land for littering and dumping and have been cleaning the land of the litter. She said that the town has very few conservation easements. The Conservation Commission are stewards of the land and monitor the land.

With regard to Ames Brook, it is a conservation easement owned by an association. Most of the other easements that the Conservation Commission has are those that developers have given them as open space (5-7 acre pieces), but they are not owned by the Conservation Commission. Ms. Heiser said that the Commission is attempting to learn how to purchase land and how to make their money go farther. She said that the Commission would like to preserve land and protect the Town's well-head area.

Selectmen's Rep. Lewis said that the Planning Board has had discussions on whether a conservation easement is necessary in a wetland area and how a conservation easement affects the tax rate. Mr. Heiser said that the Conservation Commission has had the same conversations.

Member Terrien asked for clarification on the Scripture land which has an easement yet the Town residents cannot use the land. He also noted that a business is being run in a conservation easement. Ms. Heiser said that the Scripture easement was in place when the Commission received it. The Commission cannot impose anything on that easement. It is all within the legal limit. The Commission became aware of the easement by the former Town Planner, Laura Scott. The Town had been issuing the property owners permits without noting that there was an easement on the property. Mr. Heiser said that there are very few easements that are given of which the public cannot enjoy the land.

Ms. Heiser said that the Commission is spending a great deal of time cleaning the conservation areas and are concerned that they will lose Board members because of it.

Ms. Heiser said that the Commission is looking at the 42-acre Hillman property on the Suncook River with the possibility of getting farmland protection for it. Stanley Grimes would continue to farm the land.

With regard to the trash dumping at White Sands, Ms. Heiser spoke with Everett Hodges and Geoff Ruggles. Selectmen's Rep. Lewis said that the dumping is partially due to the fact that the Town has changed its fee schedule with relation to construction debris disposal.

Vice Chairman Topliff said that, in his view, the Conservation Commission should not be cleaning debris. The dumping is a direct byproduct of the Town's decision to make changes at the Transfer Station and, therefore, the Board of Selectmen should ask the Highway Department to clean it up.

Selectmen's Rep. Lewis said it would be helpful if the Planning Board was kept informed of any easements/open space areas that the Conservation Commission is considering. Open space areas are calculated as part of the overall lot size.

Mr. Heiser asked about transfer of development rights. Selectmen's Rep. Lewis explained that a greater density could be allowed in one area if a piece of land in another location was donated.

Chairman Bourque instructed Ms. Alexander to make a copy of the Conservation Commission's regulations for each Board member.

Discussion

5. CTAP Build-out Scenario Selection

Vice Chairman Topliff suggested looking at the Town's existing subdivision regulations, while bearing in mind that it would be helpful to take road construction into consideration when preparing the buildout. Ms. Alexander said she did not think that the buildout program could consider roads. She suggested using the current open space subdivision regulations. Member Cruson suggested using 3-acre parcels. The Board agreed.

6. Final Review of Driveway Regulations

The Board concluded that the driveway regulations were ready for public hearing. Ms. Alexander will set a public hearing on August 26, 2008.

7. Final Review of Active and Substantial Development Regulation

Chairman Bourque noted the letter from Attorney Jae Whitelaw regarding the proposed amendment to the Subdivision Regulations with regard to active and substantial development and substantial completion.

Ms. Alexander pointed out that "active and substantial development" would constitute completion of 50% of basic infrastructure and "substantial completion" would constitute completion of 75% of the entire project.

Selectmen's Rep. Lewis was concerned with the 75% completion language given that it could be problematic if, for example, only 75% of the drainage was completed. She would not be concerned if it was 75% of the landscaping. Not completing certain portions of construction could cause future problems and void best management practices. Interim Town Administrator, Murray, said that she would be concerned about justifying the percentage in a courtroom setting.

The Board agreed that they would prefer 100% completion of drainage and infrastructure.

Minutes

8. Review and Approve Meeting Minutes of July 8, 2008

MOTION: Chairman Bourque moved to accept the July 8, 2008 meeting minutes as amended. Seconded by Member Cruson.

VOTE:	Robert B. – Y	Todd T. – Y	Brian S. – Y
	Kathy C. – Y	Alan T. – Y	Cindy – Abstained

MOTION TO ACCEPT THE JULY 8, 2008 MEETING MINUTES AS AMENDED PASSED ON A 5-0 VOTE.

9. Review and Approve Meeting Minutes of July 22, 2008

MOTION: Chairman Bourque moved to accept the July 22, 2008 meeting minutes as amended. Seconded by Member Terrien.

VOTE:	Robert B. – Y	Todd T. – Y	Brian S. – Y
	Kathy C. – Y	Alan T. – Y	Cindy – Abstained

MOTION TO ACCEPT THE JULY 22, 2008 MEETING MINUTES AS AMENDED PASSED ON A 5-0 VOTE.

Miscellaneous

10. Correspondence

- Bow PSNH DRI

Ms. Alexander announced that the NH Association of Regional Planning Commissions is co-sponsoring the OEP fall conference on Saturday, October 25, 2008 at Loon Mountain. Information will be forthcoming.

Ms. Alexander said that in response to the Board's July 29, 2008 letter to the Town of Bow, PSNH is required to do a balloon test in order to provide the chimney height recommendation methodology for the Bow Power Plant. Interim Town Administrator Murray stated that the Board of Selectmen will meet on Monday, at approximately 7:30 p.m., with PSNH to discuss the final engineered plans.

- Chickering Meadows

Ms. Alexander noted the letter to Bob Pace of Starter Building and Development from Everett Hodge dated July 31, 2008 regarding Chickering Meadows that was placed in the member packet for the Board's review. Mr. Hodge will continue to monitor the project.

- State of NH – Gravel Excavation Review

Ms. Alexander noted a letter to the Town from the Department of Revenue Administration dated July 28, 2008 regarding excavations in Pembroke. It includes corrections and suggestions on how to improve Pembroke's gravel regulations.

Selectmen's Rep. Lewis asked if the gravel regulations could be placed on the agenda for the next work session. Ms. Alexander will also present the Town meeting schedule and the ordinance deadline schedule at that time.

Noting that Harold Thompson, Sewer Commissioner was in the audience, Vice Chairman Topliff invited him to join the Planning Board.

Selectmen's Rep. Lewis said that conservation wetland markings are noted in the zoning regulations, therefore, the Board cannot change them until town meeting. She suggested that the Board move them to the site plan and subdivision regulations so alterations can be easily made.

Ms. Alexander said that she received a letter from Dan Scott of Pembroke 600 which was submitted as their report. She read aloud the following phrase: "Please note that this and all attachments are STRICTLY CONFIDENTIAL." She said that the letter will go in a folder as public information. Mr. Scott also noted that Jim Bouchard has been copied for further comments. Ms. Alexander said that she has drawing revision status sheets which note all changes that have been made.

11. Committee Reports - None

Selectmen's Rep. Lewis said that the CIP Committee is looking for a Planning Board representative.

12. Other Business

Ms. Alexander said that the Roads Committee is looking for an alternate Planning Board member in case Member Zydel is not available.

Ms. Alexander included buildable and usable area definition samples in the member packets. She said that the purpose of the suggestions was to get a definition that was as close as possible to buildable area or usable area definitions.

Ms. Alexander said that Mike Vignale, Pembroke's Town engineer, is interested in responding to an RFP to another community for a Town engineering position and asked if the Board would be willing to write a recommendation for him. The Board instructed Ms. Alexander to prepare the letter.

Ms. Alexander said that all the conditions of approval have been met for both the lot line adjustment and the site plan for Pleasant View Gardens and Silver Hill Development, however, one of the conditions of approval stated that a temporary access easement would be provided so that Silver Hill Development could access the property. Ms. Alexander received a call from Mr. Bernier saying that he had a discussion with the client's attorney and the attorney decided that a license was more appropriate. She received a telephone call from the attorney and the license was received which, basically, is a lease. Ms. Alexander sent it to Town Counsel after she added language regarding the gravel excavation rights. Town Counsel said that a license was more appropriate for the situation and understood why the applicant would not want to create an easement (it would run with the land, even if it was temporary). Ms. Alexander said she spoke with Chairman Bourque and, although they agreed that it would fulfill the condition of approval, they wrote a letter indicating that the next time the applicant wishes to change a condition of approval, they must speak to the Board first. A copy of that letter will be in the file.

The Board discussed the consultant review and agreed that they were impressed with Steve Whitman and Jeffrey H. Taylor and Associates, Inc. for the open space regulations and GMO.

Selectmen's Rep. Lewis said there was \$7500 in the Planning Board budget for the study. Interim Town Administrator Murray said that CTAP will be discussed at the Board of Selectmen's meeting on Monday. Chairman Bourque suggested that CTAP provide the GMO study and a consultant be hired for the open space regulations for \$7,500.

Interim Town Administrator Murray said that the CTAP money must be used within six months.

Chairman Bourque asked Ms. Alexander to call Jeff Taylor & Associates and ask them for an estimate.

Adjournment

MOTION: Member Topliff moved to adjourn. Seconded by Member Terrien.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 10:26 p.m.

Respectfully submitted,
Jocelyn D. Carlucci, Recording Secretary