

**PEMBROKE PLANNING BOARD
MINUTES OF MEETING
Tuesday, January 9, 2007**

MEMBERS PRESENT: Robert Bourque, Chairman, Larry Young, Selectman, Roland Lemoine, Cindy Lewis, John Harrington

ALTERNATES PRESENT: Kevin Foss, Mark Zydel, Todd Terrien

EXCUSED: Alan Topliff

STAFF PRESENT: Laura Scott, Director of Planning; Jocelyn Carlucci, Recording Secretary

Chairman Robert Bourque called the meeting to order at 7:00 p.m.

Chairman Bourque designated Todd Terrien to vote for Alan Topliff and Mark Zydel to vote for resigned member, Bill Faith.

PUBLIC HEARING - 2007 Town Meeting Warrant Articles – Planning Board Proposed

§143-72 (D) Wetlands Protection District

Amendment would add a provision that no structure shall be located closer than 20' measured horizontally from any wetland and that wetland buffer markers shall be placed every 25 feet along the perimeter of a delineated 20 foot wetland buffer.

Chairman Bourque opened the public hearing at 7:04 p.m.

There being no input, Chairman Bourque closed the public hearing at 7:05 p.m.

MOTION: Todd Terrien moved to accept the Amendment as proposed. John Harrington seconded.

VOTE:	John H. – Y	Cindy L. – Y	Roland L. – Y	Robert B. – Y
	Larry Y. – Y	Todd T. – Y	Mark Z – Y	

PROPOSED AMENDMENT PASSED ON A 7-0 VOTE.

§143-8 Definitions

Amendment would delete the definition of Manufactured Housing Subdivision.

Comment: Laura Scott stated that Town Counsel advised not to strike the definition.

Chairman Bourque opened the public hearing at 7:06 p.m.

Ms. Scott explained that, according to Town Counsel, every town has two options: (1) to allow a resident to purchase a single family building lot and place a manufactured home on it; or (2) to

allow manufactured home subdivisions and parks. Since Pembroke does not allow a single family residential lot to have a manufactured home, then it must allow the ability to have manufactured housing subdivisions and parks. Given that the Planning Board has already changed the park regulations to be more in line with State law, and that there is not enough time to make additional changes to the subdivision regulation, it is Counsel's recommendation to keep the Manufactured Housing Subdivision portions – allowing it to remain in the table of uses, the ordinances and the definition.

There being no further input, Chairman Bourque closed the public hearing at 7:12 p.m.

MOTION: Roland Lemoine moved **not** to accept the Amendment to delete the definition of Manufactured Housing Subdivision. Todd Terrien seconded.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
Larry Y. – N Todd T. – Y Mark Z – Y

PROPOSED AMENDMENT WAS NOT PASSED ON A 6-1 VOTE.

§143-44 Agricultural Retail Outlets – (B) Farm Stand (Roadside Stand)

Amendment would remove the requirement for site plan review by the Planning Board and only require a Special Use Permit if they operate more than 4 months out of the year or they will be defined as a Temporary Agricultural Retail Outlet; changes the requirement that setbacks shall be set back 15 feet, not 30 feet, from abutting ROW lines; remove the restriction on the average yearly dollar of products purchased and resold; and amend the restriction that over 35% (currently 50%) of the products sold must be grown on site.

Chairman Bourque opened the public hearing at 7:15 p.m.

Ayn Whytemare, 730 Borough Road, asked if “agricultural” products would relate only to food or if they would also relate to plants.

Chairman Bourque answered that it relates to produce, plants, supplies, etc.

There being no further comments, Chairman Bourque closed the public hearing at 7:16 p.m.

MOTION: Mark Zydel moved to accept the Amendment as proposed. Seconded by Todd Terrien.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
Larry Y. – Y Todd T. – Y Mark Z – Y

PROPOSED AMENDMENT PASSED ON A 7-0 VOTE.

§ 143-25 Licensing

Amendment would delete this section from the Zoning Ordinance and delete the references to the licensing requirement from §143-32K, §143-34A, §143-34B(10), §143-34B(11), and §143-42A.

Chairman Bourque opened the public hearing at 7:16 p.m.

Cindy asked if the Board of Selectmen had looked into how licensing would be handled once it was deleted from the above-referenced sections.

Larry Young responded that Troy Brown, Town Administrator, will meet with Code Enforcement and the Fire Chief to discuss it.

There being no further input, Chairman Bourque closed the public hearing at 7:17 p.m.

MOTION: Roland Lemoine moved to accept the Amendment as proposed. Seconded by Todd Terrien.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
Larry Y. – Y Todd T. – Y Mark Z – Y

PROPOSED AMENDMENT PASSED ON A 7-0 VOTE.

§143-19 Table of Dimensional Regulations

Community Facilities - Amendment removes from the Table of Dimensional Regulations (3) public parks, conservation area and open spaces, including areas for passive recreation and (7) town buildings, fire stations, police stations, public libraries, and town equipment garages because it is not necessary.

Chairman Bourque opened the public hearing at 7:17 p.m.

Jim Kowalik, 425 North Pembroke Road, asked for clarification as to how the ballot will read at time of voting.

Laura Scott stated that the ballot would be written in such a way that residents would vote for either all of the relevant amendment changes to the Table of Dimensional Regulations or to none of them. Each section will not be separated for its own vote. We want to make sure that if the voter approve to add a new section they also approve to remove an old section.

Kevin Gagne, 935 Borough Road, asked why the Planning Board was deleting No. 3 under the Community Facilities portion of the 143-19 Table of Uses.

Larry Young stated that his impression is that the type of buildings or entities listed does not have to comply with the dimensional regulations.

Laura Scott agreed and explained that it is not necessary to list them since they are allowed in all zones.

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

Chairman Bourque allowed a brief discussion on the importance of protecting the aquifer district.

Roland Lemoine stated that it is important to make it clear that even the Town will not be allowed to do anything to harm the aquifer especially given that the Town is trying to stop other entities from jeopardizing the quality of the aquifer.

Larry Young stated that his understanding is that the State does not require the Town to comply with the regulations and, therefore, it would seem unnecessary to make this change.

Chairman Bourque stated that it shows the desire of the Board.

MOTION: Roland Lemoine moved to amend Part 7 of the Community Facilities section of the Table of Dimensional Regulations to read “(7) town buildings, fire stations, police stations, public libraries and town equipment garages could be a permitted use in every district as long as the requirements of the overlay districts are met.” Seconded by Cindy Lewis.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
 Larry Y. – N Todd T. – Y Mark Z – Y

PROPOSED AMENDMENT PASSED AS AMENDED ON A 6-1 VOTE.

Residential Use – Amendment removes (4) Planned Residential Development and (5) Rural Cluster Open Space Development from the Table of Dimensional Requirements and adds Open Space Subdivision as a permitted use in all districts except B2 and C1; adds (7) Manufactured Housing Parks as a permitted use in the R1 district; and (8) removes Manufactured Housing Subdivisions as an allowed use.

It was recommended by Laura Scott not to delete #8 and, given that the Planning Board recently voted to keep Manufactured Housing Subdivisions, she asked if the Board still wanted to expand the parks by changing #7.

After a brief discussion, the Board felt that they did not want to change Manufactured Housing Park (#7) and they did not want to delete Manufactured Housing Subdivision (#8).

Chairman Bourque opened the public hearing at 7:30 p.m.

There being no further input, Chairman Bourque closed the public hearing at 7:32 pm.

MOTION: Todd Terrien moved to amend the Amendment by removing #7 and #8. Seconded by John Harrington.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
 Larry Y. – Y Todd T. – Y Mark Z – Y

PROPOSED AMENDMENT PASSED AS AMENDED ON A 7-0 VOTE.

Agricultural - Amendment allows agricultural retail outlets to be a permitted use in all Zoning Districts except B2; removes temporary agricultural retail outlets from the table of dimensional regulations; allows by right the raising and/or keeping of livestock, horses, poultry, sheep, swine, or other farm animals for personal use in all districts except B2 and C1; and allows by Special Exception the raising and/or keeping of livestock, horses, poultry, sheep, swine, or other farm animals for commercial use in all districts except B2 and C1.

Chairman Bourque opened the public hearing at 7:35 p.m.

There being no further input, Chairman Bourque closed the public hearing at 7:35 p.m.

MOTION: Roland Lemoine moved to accept the Amendment as proposed. Seconded by Todd Terrien.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
Larry Y. – Y Todd T. – Y Mark Z – Y

PROPOSED AMENDMENT PASSED ON A 7-0 VOTE.

Retail and Service – Amendment allows day care, preschools, and kindergarten as a permitted use, as opposed to a special exception, in all zoning districts except B1.

Chairman Bourque opened the public hearing at 7:36 p.m.

There was a review of the area boundaries designating the B1 and B2 districts and discussion pertaining to allowing day care in the B1 district.

There being no further input, Chairman Bourque closed the public hearing at 7:36 p.m.

MOTION: John Harrington moved to amend the Amendment to allow daycare in all districts as a permitted use as opposed to a special exception. Seconded by Cindy Lewis.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
Larry Y. – Y Todd T. – Y Mark Z – Y

PROPOSED AMENDMENT PASSED AS AMENDED ON A 7-0 VOTE.

§143-38 Private Day Care, Preschool, or Kindergarten

Amendment removes the distinction of Private day care from other forms of day care; adds preschool to the ordinance; removes the outside play area space requirement; removes the requirement for parking areas to be screened; removes the reference to accessory use or principal use of a structure by a day care or kindergarten; removes the provision for signage; removes the requirement for licensing; and clarifies that accessory uses shall follow §143-18 and only require a special exception and that principal uses require site plan review.

Chairman Bourque opened the public hearing at 7:40 p.m.

A discussion ensued regarding principal use and accessory use requirements and ensuring that accessory uses follow the guidelines for play areas.

There being no further input, Chairman Bourque closed the public hearing at 7:43 p.m.

MOTION: Cindy Lewis moved to amend the Amendment to insert #5 in Paragraph F to read: In addition to the provisions listed above.” Seconded by Bob Bourque.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
 Larry Y. – Y Todd T. – Y Mark Z – Y
PROPOSED AMENDMENT PASSED AS AMENDED ON A 7-0 VOTE.

Article XVII Growth Management Ordinance

Amendment would delete the article from the Zoning Ordinance

Chairman Bourque opened the public hearing at 7:47 p.m.

Ayn Whytemare asked why the Planning Board felt it should remove the growth ordinance.

Chairman Bourque stated that the Planning Board did not feel that it could continue to support the Growth Management Ordinance given the slowing down of construction and taking into consideration that the Town did not have sewage capacity.

It was pointed out that the Growth Management Ordinance has a sunset clause in 2008.

Larry Preston, 443 Deerpath Lane, commented that growth, at the present time, is controlled by permits per year and if the Growth Management Ordinance were removed, then there would be nothing to control growth. He pointed out that Pembroke is a desirable location to live.

Fred Kline, Church Road, stated that the existing Growth Management Ordinance limits the number of lots in a subdivision and that that limit has been key in the number of subdivisions and building permits requested. He expressed concern that if we were to remove the Growth Management Ordinance, then septic systems and lot requirement sizes may not limit permits. He was concerned about the Planning Board recommending that the Growth Management Ordinance be removed.

Jim Kowalik asked how the town would propose another growth ordinance in the future.

Laura pointed out that there are only two ways that a zoning ordinance can be proposed: (1) by the Planning Board; and (2) by Citizens Petition.

Mr. Kowalik echoed the previous speakers and felt that by deleting the ordinance, it would not only be deleting the capital improvements program and some of the issues in the schools and

growth but would also eliminate some of the control that we have with the master plan. He felt it would dilute the master plan. He would like to see the Ordinance remain in place until it either expires or the public puts another one in place.

Laura Scott clarified that the sunset clause is March 31, 2008.

There being no further input, Chairman Bourque closed the public hearing at 8:04 p.m.

MOTION: Cindy Lewis moved **not** to accept the Amendment as proposed and keep the Growth Management Ordinance as is. Seconded by Roland Lemoine.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
 Larry Y. – Y Todd T. – Y Mark Z – Y

PROPOSED AMENDMENT WAS NOT PASSED ON A 7-0 VOTE.

Laura Scott pointed out that the Planning Board would have to undo the December vote to remove the Manufactured Housing Subdivision Ordinance. A hearing will have to be held on January 23rd. The Board agreed.

Article X Cluster Subdivision

Proposal is to replace the current Article X Cluster Subdivision Provision with the proposed Article X Open Space Subdivision Ordinance. The following is a summary of provisions in the proposed Open Space Subdivision Ordinance.

- 1) Clearly define the purpose of the Ordinance
- 2) Does not allow for more residential units that would be allowed under a conventional development
- 3) Allows for flexibility in lot size with lots as small as 20,000 sq. ft. in the R1, B1, and LO districts and 40,000 sq. ft. in the R3 district if on individual septic systems
- 4) Allows for flexibility on lot frontages and for front, side, and rear setbacks
- 5) Describes the requirements of the perimeter buffer and the conceptual long range development plan
- 6) Outlines the requirement for 40% of the parcel to be set aside for permanent open space, the type and location of the open space, and how it is to be managed.

Comment: Laura Scott pointed out that on Page 2, section B, the Planning Board has proposed making the square footage in the R1, B1, LO and R3 Districts more restrictive than the current cluster ordinance. This new ordinance would require the lots to be larger than is currently required. Is this the intent of the Board?

The Board agreed that it was their intent to make it more restrictive.

Chairman Bourque opened the public hearing at 8:06 p.m.

Ayn Whytemare felt that if demand has proven that new home buyers are happy with the size of the lots in a cluster subdivision, then it should be left that way which will provide more open space.

Harold Thompson asked if it was possible to sell conservation land at town meeting.

Laura Scott said it would depend on a number of factors such as (1) how the land was acquired, (2) if it was paid for with conservation money, (3) if there were deed restrictions, (4) if it was a requirement of the Planning Board for a specific Development .

Ayn Whytemare asked if this was a statement on conservation land in general or just the land set aside in an open space subdivision. Her understanding is that once there is open space set aside as part of a subdivision it is in conservation land for perpetuity and cannot be transferred, sold or developed.

Chairman Bourque explained that once the land is set aside it cannot be developed later.

Harold Thompson asked if the town could sell the land if the land was deeded to the town as part of this type of development.

Laura Scott said no, because it is a requirement of Planning Board approval and there would be deed restrictions.

Kevin Gagne stated that he is the Chairman of Conservation Commission and that it is his understanding that this certain type of open space would not be able to be sold and would remain undisturbed.

Further discussion ensued on the role of a homeowner association to police their own open space.

Kevin Krebs, 429 N. Pembroke Road, questioned the size of the lots in R1 and LO with town water and without town water. He also questioned the frontage change from 100' to 50' of frontage on the new proposal. Mr. Krebs also questioned the purpose of the changes.

Jim Kowalik felt that the Board should review their changes more closely.

Alan Clark pointed out that there seems to be a discrepancy in 143-80 which reads that there must be a perimeter buffer around the external perimeter or property line, but paragraph C reads as if access cannot be gained to the site because the buffer cannot be crossed.

Laura Scott said that the assumption was that the buffer was along the perimeter of the property, not where the road was.

Discussions continued regarding the buffer not impeding the ability to build a road into the parcel and to not stop future connections to abutting parcels.

Laura Scott said that the wording could be changed to read “all right of way, access/connections through the perimeter buffer for roads, connections to abutting parcels, future phases, and conservation land should be shown on the plan for Planning Board approval.” It would also be necessary to take “access roads” out of Part C.

Further discussion ensued regarding whether these new changes would coincide with the master plan and how the old Cluster Subdivision would differ specifically from the proposed Open Space Subdivisions. It was found that the proposed changes needed to be examined by the Planning Board more closely.

Roland Lemoine encouraged the public to volunteer to work on the master plan and stated that the Planning Board was always open to suggestions.

There being no further input, Chairman Bourque closed the public hearing at 8:44 p.m.

MOTION: John Harrington moved to table the Article X Open Space Subdivision Ordinance for one year. Seconded by Robert Bourque.

VOTE: John H. – Y Cindy L. – Y Roland L. – Y Robert B. – Y
 Larry Y. – Y Todd T. – Y Mark Z – Y

PROPOSED OPEN SPACE ORDINANCE WAS TABLED ON A 7-0 VOTE.

Chairman Robert Bourque called the meeting to order at 8:50 p.m.

Vacant Member Positions

Chairman Bourque noted that there are two vacant member positions. Kevin Foss and Mark Zydel have agreed to move from alternate member positions to full member positions.

MOTION: Chairman Bourque moved to send a letter to the Board of Selectmen recommending Kevin Foss and Mark Zydel be moved from alternate member positions to full member positions.

Correspondence

Laura Scott stated that there is a public forum in Allenstown regarding the DOT refueling facility on January 10, 2007 at 7 p.m. at St. John’s Parish Hall. A copy of which was enclosed in the member packets.

Ms. Scott also pointed out that she sent two memos to the Board of Selectmen regarding the Growth Management Ordinance and Licensing which were also enclosed in the member packets.

Ms. Scott also announced that there is a NHDES workshop which will be held in January, February and March. If anyone wishes to attend, registration can be done online or by filling out the registration form enclosed with the member packets.

Ms. Scott stated that the Town Report deadline is January 16, 2007 and that she drafted, at the Chairman’s request, language to be included in the Town Report.

After a review of the text, the Board approved the text for the Town Report.

Ms. Scott indicated that she will be drafting an article for the newsletter which will focus on the warrant articles to be voted on at town meeting..

Roland Lemoine asked when the new land use books were coming in. Laura said that she would check on them.

Miscellaneous

Cindy Lewis expressed her disappointment at how the Planning Board handled the petition for the accessory dwelling unit. She is also disappointed that the Planning Board is supporting it as a citizen's petition. She stated that if the Planning Board wanted it, they should have written it last summer. Her concern is that the units would later become duplexes. She encouraged other members of the Board to confer with other towns in order to see how they handle accessory dwelling units.

Ms. Lewis also inquired as to the decision of the Zoning Board of Adjustment regarding the North Pembroke Road subdivision.

Laura Scott stated that the ZBA granted the special exception because they felt that they met all the special exception requirements. She noted that the applicant will be coming before the Planning Board on January 23rd. She also noted that on January 23rd there will be a conceptual site plan discussion for Riverwood Drive, which is a planned industrial development, and a design review to upgrade a Class 6 to a Class 5 road at the corner of Third Range and Church Roads.

She also pointed out that there are three variance applications going to the Zoning Board on January 22nd -- Frank Merrill to move from his Sand Road site to the gravel pit site on North Pembroke Road.

Chairman Bourque asked Laura to place a few items on future agendas: (1) a review of the purpose of a 600' cul-de-sacs requirements and developer waiver requests and (2) the possible election of the Chair and Vice Chair in April which would allow the officers to be in place by the first work session in May.

Adjournment

MOTION: Bob Bourque moved to adjourn. Seconded by Todd Terrien.
Vote was unanimous in favor of the Motion.

The meeting adjourned at 9:08 p.m.

Respectfully submitted,
Jocelyn D. Carlucci
Recording Secretary