

MINUTES
PEMBROKE PLANNING BOARD
Tuesday May 8, 2007

Attendance: Roland Lemoine, Chair; Cindy Lewis, BOS Rep.; Kevin Foss, Bob Bourque; Alan Topliff, Todd Terrien, Kathy Crusson, Mark Zydel; Dan Crean.

Staff: Laura Scott, Director of Planning; Linda Williams, Administrative Secretary.

CALL TO ORDER

Chairman Lemoine called the meeting to order at 7:00 P.M.

MEETINGS

Joint Meeting with Zoning Board of Adjustment (ZBA). Members Dana Carlucci, Bruce Kudrick, Tom Lopizzo, Stephanie Burnham and Bill Bonney, Chair.

Pending the arrival of all the members of the ZBA the Planning Board delayed the meeting and took up other business. The joint meeting began at 7:25 p.m.

Chairman Lemoine welcomed the ZBA members and explained his intent to have the Planning Board and ZBA work cooperatively on common issues. Mr. Lemoine explained that it is his hope that with open communication both Boards can effectively address recurring issues that are noted by ZBA at their hearings so that the needs of Town residents can be addressed through ordinance modifications if warranted. Mr. Lemoine stated that he has noted that ZBA has a checklist of items that they refer to at their hearings to arrive at their decisions. Mr. Kudrick confirmed that is what they do as required by State law. The checklist they refer to is per the State RSA and lists the criteria to be met in order to receive the variance. All items on the checklist must be met in order to receive a variance. There was discussion of the criteria to be met in order to be considered a "Hardship". Mr. Crean explained the Supreme Court's findings as to the criteria to be considered a hardship. Mr. Lemoine asked what the process was for someone coming to the ZBA for a variance. Mr. Kudrick explained that the developer would go to the Building Inspector or the Town Planner to determine if it is a special exception or a variance that they need to apply for and then they would have a hearing. Mr. Kudrick explained that over recent years they have had an increase in people who want to build on a class 6 roads which is not allowed. He explained that ZBA tries to determine what the intent of the Town is in making their decisions and gave the example of keeping the look of the Pembroke Street area as it is and not having it be overly commercial. The ZBA also tries to work with applicants in finding a resolution to their issue. Mr. Lemoine recommended that during the year the two boards hold joint meetings to see if there are items to work on to make things better, and he also suggested having representatives from PB and ZBA on each board. Mr. Crean cautioned against this as it could cause the disqualification of members from voting on issues as both boards act in a quasi-judicial capacity and members need to be unbiased. Mr. Kudrick stated that there have been many requests to ZBA to have "In-Law" apartments in residences. ZBA felt that PB did not want to address the issue so ZBA handled it from their end. Mr. Bonney suggested quarterly meetings of the two boards. Mr. Lemoine will get a meeting schedule together and have Ms. Scott send it to ZBA members. It was recommended that for the joint meetings an agenda be set up for the meetings. It was recommended that at the least a fall meeting be scheduled to review the ZBA decisions for the year to see if there are any zoning issues that might need to be amended at Town Meeting and also a spring meeting to discuss the changes that were adopted at Town Meeting should be held.

*No new business will be taken up after 10pm unless agreed to by the Planning Board.
Any remaining items will be placed on the agenda for the next regular Planning Board meeting.
Information pertaining to any item on the agenda is available for public review by contacting the Planning
Director at Town Hall during normal business hours or by calling for information at 485-4747.*

**Map 937 Lot 7 (Case 06-07) Condition of Approval
North Pembroke Road Cluster Subdivision Conservation Easement Language**

Ms. Scott explained that the developer has submitted a draft of the language for the restrictions on the conservation land in the cluster subdivision he has planned. The applicant has agreed to make all the changes as recommended by legal counsel. Those changes are to move up item C6 to allowed uses and to cross out item C7. The Conservation Commission is in agreement with the language of the easement. Mr. Lemoine voiced his concern with item 4 that restricts hunting, fishing and trapping on the land unless allowed by the Conservation Commission. He felt rights are being taken away from Town residents. _____ Aubin, the developer of the subdivision, explained that the language comes from the State conservation guidelines and that his intent was to allow the Conservation Commission to oversee this property for Town residents and that no other authority will supersede the CC on the usage of the property. Mr. Lemoine explained that he had attended the Conservation Commission meeting on 5/7/07 and explained that there was opposition by many Town residents in attendance at that meeting who are upset with the restrictions being put on conservation property. Ms. Scott explained that there is confusion regarding the policy the CC was trying to adopt at the meeting and the issue of the language of the conservation easement from Mr. Aubin. She pointed out that they are separate issues. Mr. Lemoine asked why hunting needed to be controlled. It was explained that this easement is on the land of a homeowners association and it was one of the restrictions. Mr. Lemoine asked if hunting could be taken out of the agreement. Ms. Scott explained that if the CC did not want to take the easement on the development it may jeopardize the whole development. It was asked what the process would be to be approved to hunt on the land. Mr. Aubin said that would be up the CC to determine. There was further discussion of the criteria to restrict uses of conservation properties. Mr. Aubin explained that the intent is that hunting is a use that could be allowed and a single hunter would not have to ask permission, but if the CC deems that there are too many hunters or there is mismanagement then the CC has the right to restrict usage to preserve the land. Mr. Topliff commented that the applicant has been doing his best to work with the CC on this issue and that the intent of the cluster subdivision is that open space is available to the public for continued use and it is therefore necessary to limit destructive uses of the land. Mr. Topliff did not see where hunting or fishing would be damaging to the land. He suggested providing feedback to the CC that the Planning Board these restrictions are inappropriate in context with the other activities listed that are destructive to the land. Mr. Aubin felt that the language can be reworded to have hunting, fishing and trapping allowed and also allow the CC to stop an activity if they feel it is necessary, with a public hearing. Mr. Crean recommended the language be changed as follow:

(Insert DC Language)

There was discussion of the ordinance regarding cluster development specifically article 10 the intent of which was to protect and preserve environmentally sensitive areas, such as wetlands. It was explained that when the cluster ordinance was written most were not conservation easements but were homeowner associations. Mr. Aubin will modify the language of the easement and submit a draft for review.

***No new business will be taken up after 10pm unless agreed to by the Planning Board.
Any remaining items will be placed on the agenda for the next regular Planning Board meeting.
Information pertaining to any item on the agenda is available for public review by contacting the town planner at
Town Hall during normal business hours or by calling for information at 485-4747.***

**Lot Merger Request
Map 567 Lots 22-2 and 22-3
Hillside Baptist Church**

Ms. Scott explained that this merger of the two lots owned by the church has been requested so that they can merge their church property with the property where the pastor's house is located. It was explained that this request cannot be denied if it meets zoning. The Building Inspector has found the house is an accessory structure to the church. Mr. Crean wanted it to be noted that with the merger the house will have to continue to be maintained as an accessory use to the church which may limit their options for the property.

Motion: Mr. Bourque moved to approve the merger with the restriction that the property be maintained as an accessory usage to the church. Mr. Topliff seconded. Motion passed unanimous. Chairman Lemoine abstained.

Non-Public Minutes 5-27-07

Motion: Mr. Bourque moved to approve the non-public minutes of 5/27/07 as presented. Mr. Terrien seconded. Motion passed unanimous. Chairman Lemoine abstained.

2007 CNHRPC Traffic Count Request

Mr. Scott explained that the membership with CNHRPC will be expiring in June and the application for traffic counts should be submitted as soon as possible. There was discussion of what traffic count information would be the most beneficial and what had been recommended by the Roads Committee. Following discussion it was recommended that the following roads be listed for traffic counts; North Pembroke Road north of Hardy Road, Cross Country Road during school session, Academy Road south of Church Road, Noyes Street, Cross Country Road west of North Pembroke Road, Broadway at Pembroke Street, Main Street at Pembroke Street, Cross Country Road east of 4th Range Road, and Cross Country Road West of North Pembroke Road.

**Request for Extension for Planning Board Approval
(Map 561- Lot 5-10)**

Motion: Mr. Topliff moved to approve the extension for a period of 6 months. Mr. Zydel seconded. Motion passed unanimous. Chairman Lemoine abstained.

**Technical Review Committee
Review of Current Process**

The technical review process was reviewed by the Board. In brief, the TRC process begins with the submission of the application, the Planner will distribute the information to various department heads, committees, etc. for their comments. Following the review a meeting is scheduled with the applicant to discuss the findings. Mr. Topliff explained that he has heard from Ms. Lewis that she is concerned that the policy precludes applicants from having direct contact with a department head or others regarding their application. Ms. Scott explained that has been the wish of the department heads. Ms. Lewis stated that she was also told she could not talk to the Water or Sewer Departments either. Mr. Topliff said he

*No new business will be taken up after 10pm unless agreed to by the Planning Board.
Any remaining items will be placed on the agenda for the next regular Planning Board meeting.
Information pertaining to any item on the agenda is available for public review by contacting the town planner at
Town Hall during normal business hours or by calling for information at 485-4747.*

could see the problems that might arise when an applicant may want to abuse the process and he stated he would hope that the department heads would realize when this was happening and be able to work it out. Ms. Scott explained that she is stuck in a hard place as the department heads do not want to be involved in reviewing plans and have asked her to have this process in place as they do not want to have applicants stopping in unannounced to discuss their plans. Mr. Crean recommended there be written procedures regarding the process of the TRC. Mr. Lemoine recommended talking with Water and Sewer Departments regarding their process and to review the TRC process. Ms. Scott explained that she cannot make any department head or others speak to an applicant. Mr. Crean explained that as this is part of the acceptance process for applicants the criteria of the TRC need to be detailed. He explained it is the duty of the Planning Board to assist applicants in complying with the regulations. Mr. Crean recommended a small subcommittee be formed to address the TRC process and prepare a draft for review at a subsequent worksession. Members on the sub-committee are Dan Crean, Roland Lemoine, Cindy Lewis, Bob Bourque, and Mark Zydel.

Planning Board Deadlines

The Board reviewed the listing of deadlines for submission of information for Planning Board review. There was discussion of mailing and receipt of the meeting packets for members. It was decided that the process is working and no modification is necessary.

OPE Conference

Alan Topliff, Mark Zydel, Kathy Cruzon and Todd Terrien attended the OPE Conference. All found the conference to be very worthwhile. Some of the topics of interest mentioned were; duties of a Planning Board, age-restricted housing myths, groundwater and stormwater management, technical review committee, and master plan implementation.

Legal Training

The Board has asked for in house training by legal counsel. Ms. Scott asked for specific topics of interest for training in. There was discussion as to what training would be most beneficial for the Board. Mr. Crean stated that he has developed a seminar for training of planning boards and would be glad to offer his course to the Board for moderate compensation. Mr. Zydel asked that it be looked into to see if it might be a conflict of interest for Mr. Crean, as a member of the Planning Board, to be giving instruction to the members regarding legal matters. Mr. Crean explained that his training will give members the ability to answer your own questions and to be able to come to a defensible decision that will not be challenged. Mr. Lemoine felt it was important to have this training and will talk with the Town Administrator about setting it up. Mr. Crean suggested a payment of \$100.00 for the training session.

Miscellaneous

Ms. Scott had presented various articles for the board to review.

Mr. Crean asked that his email address be corrected. He also advised members not to use their personal email address for Planning Board business so that in the event of a law suit their personal computer would not be taken.

*No new business will be taken up after 10pm unless agreed to by the Planning Board.
Any remaining items will be placed on the agenda for the next regular Planning Board meeting.
Information pertaining to any item on the agenda is available for public review by contacting the town planner at
Town Hall during normal business hours or by calling for information at 485-4747.*

PB Minutes

5/8/07

Page Five

Ms. Lewis was concerned regarding a site walk on a property that has not yet come to the Planning Board. Ms. Scott explained it was not a site walk it was a preliminary conceptual to see if the CC would be interested in holding an easement.

Next month Ms. Scott will start working on ordinance changes.

Adjournment

Motion: Mr. Terrien moved to adjourn. Mr. Bourque seconded. Motion passed unanimous and the meeting adjourned at 9:59 p.m.

*No new business will be taken up after 10pm unless agreed to by the Planning Board.
Any remaining items will be placed on the agenda for the next regular Planning Board meeting.
Information pertaining to any item on the agenda is available for public review by contacting the town planner at
Town Hall during normal business hours or by calling for information at 485-4747.*