

Pembroke Planning Board
Minutes of Meeting
(Draft)
Tuesday, November 25, 2008

MEMBERS PRESENT: Robert Bourque, Chairman; Alan Topliff, Vice Chairman; Kevin Krebs; Mark Zydel; Todd Terrien; Cindy Lewis, Selectmen's Representative

ALTERNATE PRESENT: Brian Seaworth

EXCUSED: Kathy Cruson

STAFF PRESENT: Carol Murray, Interim Town Administrator and Jocelyn Carlucci, Recording Secretary

Chairman Bourque opened the meeting at 7:00 p.m. Chairman Bourque noted that Member Cruson had a death in the family and would not be in attendance. He appointed Alternate Member Seaworth to vote in Member Cruson's absence.

Old Business

1. **Minor Subdivision. Curley-Cushman. Case #08-07.** Pembroke Map 265, Lot 3 at 755 Robinson Road in the Rural/Agricultural Residential (R3) District and Chichester Map 2, Lot 50 near Horse Corner Road. The applicant, FWS Land Surveying, PLLC, on behalf of owners Burton H. & Fernande H. Curley and David E. Sr. & Sylvia A. Cushman, is proposing a lot line adjustment to adjust Lot 3 from 4.202 acres to 2.716 acres and Lot 50 from 69+/- acres to 70.5+/- acres.
Application accepted as complete at 10/28/08 meeting. Application noticed as a Development of Regional Impact. Board to hold public hearing.

There being no questions from the Board, Chairman Bourque opened the public hearing at 7:02 p.m.

J. Webster Stout of FWS Land Surveying PLLC represented the applicants, Burton E. Curley, Fernande H. Curley, David E. Cushman, Sr., and Sylvia Cushman. Mr. Stout gave the Board a full copy of the plan. He noted that the application has been deemed a Development of Regional Impact and the plan has been approved by the Town of Chichester.

With regard to the question of whether the Cushman's could access their property from another location, Mr. Stout showed the Board a photograph of the extensive swamp that prevented them from doing so.

Mr. Stout said that the following notes were added to the plan: (1) Note 6 stating that this is farmland of local importance; and (2) Note 7 stating that the portion of the existing driveway that comes across the Curley property will be removed.

Mr. Stout said that the applicant received the outstanding driveway permit. He also addressed two requested conditions of approval:

- (1) *Display the driveway of extending from Robinson Road to the town line with Chichester on the plan.*

Mr. Stout said that he did not feel it would be appropriate to note a "potential driveway location" on the plan since the Cushman's have not decided on a location for the driveway.

- (2) *Display the telephone numbers of the applicants on the plan.* Mr. Stout said that since the plans will be recorded and may be accessed by the public, the applicants do not want their telephone numbers displayed on the plan.

It was noted that telephone numbers are not normally displayed on the plan but are listed on the application.

Seeing no further questions from the Board or the public, Chairman Bourque closed the public hearing at 7:10 p.m.

MOTION: Chairman Bourque moved to approve the application as presented without conditions. Seconded by Member Krebs.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y Todd T. - Y
Mark Z. – Y Alan T. – Y Cindy L. – Y

MOTION TO APPROVE THE APPLICATION AS PRESENTED WITHOUT CONDITIONS PASSED ON A 7-0 VOTE.

Conceptual Consultation

2. Minor Site Plan Change of Use. Furniture Consignment Store. Case #08-111. Map 632, Lot 18-9 at 716 Riverwood Drive in the Commercial/Light Industrial (C1) District and Aquifer Conservation (AC) District Overlay. The owner, Nancy Cole, is opening a retail Furniture Consignment Store, to replace the retail NH Tool Outlet, on December 1. *Board to determine whether this is a like use or change of use requiring a site plan review.*

Chairman Bourque noted that the Applicant was not present.

MOTION: Chairman Bourque moved to hear the conceptual plan at the end of the meeting in hopes of the Applicant's arrival. Seconded by Vice Chairman Topliff. Unanimously approved.

(Continued to No. 10.)

Guests

3. Discussion of Regulatory Audit Draft with Steve Whitman, Jeffrey H. Taylor & Associates.

Mr. Whitman of Jeffrey H. Taylor & Associates reviewed the Master Plan and Land Use Regulation Audit which was included in the Member packet. He said the most pertinent items (Section 1 and 2) were pulled directly from the Master Plan and the following three sections relate to zoning, subdivision, and site plan review regulations.

Mr. Whitman said that, along with the Audit, his scope of work also includes working on the open space subdivision regulations and the overall definition section.

Selectmen's Rep. Lewis said that the lack of sewer capacity has curbed the growth in the R1 district. Vice Chairman Topliff stated that the Growth Management Ordinance is still in effect until town meeting.

Vice Chairman Topliff stated that Mr. Whitman has suggested increasing lot sizes significantly in the agricultural/forested areas. He pointed out that the Board should be cautious when proceeding with

increasing the lot sizes and be sensitive to the fact that a landowner, with a large track of land in forestry or agricultural, may be holding the property as his retirement. Other possibilities, such as the Conservation Commission purchasing development rights, may be a consideration.

Mr. Whitman said that there are a growing number of communities that are increasing their lot sizes from 10-25 acres and producing data to justify their decision.

Selectmen's Rep. Lewis said that the Conservation Commission is funded through a current use penalty tax which has seen little income over the last few years. Other alternatives may be worth pursuing.

Member Krebs suggested that the most recent revisions to the office/home business and occupation sections be given to Mr. Whitman. He also noted that cluster subdivisions are now referred to as open space subdivisions.

Mr. Whitman will make the appropriate changes to the Audit and will work on the first draft of the open space subdivision and send them to the Board via Ms. Alexander. He will be available to meet with the Board either on January 24, 2009 or February 10, 2009.

Mr. Whitman suggested that the Board review the Conservation Subdivision Section of the Innovative Land Use Handbook. He will send it to the Board as a reminder through Ms. Alexander.

He said the following were the most critical items for Pembroke's long range planning: (1) the three top bulleted items on Page 1 of the Master Plan and Land Use Regulation Audit; (2) changes in the regulations for low impact development with regard to storm water management; (3) working with cluster provisions and, (4) making cluster provisions useful to an applicant early on in the project before they have invested in designs.

Mr. Whitman suggested that the Board circulate the Audit to other Boards for their comments.

Minutes

4. Review and Approve Meeting Minutes of October 28, 2008

MOTION: Member Terrien moved to accept the meeting minutes of October 28, 2008 as amended. Seconded by Alternate Member Seaworth.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y Todd T. - Y
 Mark Z. – Y Alan T. – Y Cindy L. – Abstained

MOTION TO ACCEPT THE MEETING MINUTES OF OCTOBER 28, 2008 AS AMENDED PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

5. Review and Approve Meeting Minutes of November 11, 2008

MOTION: Chairman Bourque moved to accept the meeting minutes of November 11, 2008 as presented. Seconded by Vice Chairman Topliff.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y Todd T. - Y
 Alan T. – Y Cindy L. – Y Mark Z. – Abstained

MOTION TO ACCEPT THE MEETING MINUTES OF NOVEMBER 11, 2008 AS PRESENTED PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

Miscellaneous

6. Other Business:

Norman Provencher, Business Manager for Pembroke Water Works, said that the Water Works in conjunction with the City of Concord has applied to the State for a \$15,000 2008 Local Source Water Protection Grant. He is asking the Planning Board to write a letter to the State of New Hampshire in favor of the Water Works' grant proposal. The grant is to study the effects that the commercial buildup along the Soucook River has had on the river and Concord's and Pembroke's wells. The Water Works will then make possible zoning regulation recommendations to Pembroke, Loudon, Concord, and Canterbury for the protection of the water source.

MOTION: Vice Chairman Topliff moved that the Planning Board write a letter to the State of New Hampshire in favor of the grant application. Seconded by Chairman Bourque. Unanimously approved.

Chairman Bourque asked Interim Town Administrator Murray to write the letter.

Mr. Provencher said that the Department of Environmental Services (DES) notified the Pembroke Water Works that the National Guard is proposing to purchase all the available land (approximately 110 acres) on Riverwood Drive for classrooms and a pistol and rifle firing range which will include the use of artillery shells, and smoke grenades. The Water Work's is concerned that, although they will be shooting blanks, there are compounds that would filter into the air and eventually into the ground. The plans also include a garage and a track for rubberized vehicles which could tear up the terrain and affect the water quality. The government has also estimated 12,000 gallons of sewage per day will go into septic systems.

Sixty percent (60%) of the Town's water supply for Pembroke, Allenstown, and Hooksett are nearby. The wells are 60 feet deep and the water level is, in some places, approximately 7 ft. The Water Works feels that this proposed property use could greatly affect Pembroke and its water quality in the future.

Mr. Provencher said that the United States government is not obligated to come before the Planning Board. The New Hampshire Environmental Protection Agency (EPA) received notice of the proposed purchase. Although they have no authority, they have requested a full environmental study of the area, given the past environmental impact that occurred on Cape Cod's government site which drastically reduced the amount of water that was available to the area.

The Water Works will be sending a letter to the National Guard stating their concerns and are hoping that, at a minimum, the sewer would run through the sewer system rather than seep into the ground.

Ms. Murray said that the Board of Selectmen has presently drafted a letter outlining their concerns. After reading through the National Environmental Protection Agency (NEPA) information, she has learned that the army has a separate NEPA process. The EPA's comments were very strong and concluded that, at the

very least, if the army has no abandonment site, the environmental assessment should become a full Environmental Impact Statement. Chris Culberson, Superintendent of the Pembroke Water Works, will speak with the Board of Selectmen on Monday, December 1, 2008.

Selectmen's Rep. Lewis said that the Board of Selectmen have requested that citizens contact their Congressmen and Senators in hopes of stopping the project.

Mr. Provencher stated that DES was surprised that there was no public notification. Even though the Water Works is an abutter to the land, they never received notification of the proposed project. Good quality water is hard to find, and Mr. Provencher said that the Pembroke Water Works does not chlorinate the water unless there is a large disturbance to the water such as flushing hydrants or a water main break. To treat contaminated water costs millions of dollars.

Ms. Murray said that Pembroke only has authority to inspect a limited area.

Selectmen's Rep. Lewis pointed out that the proposed site is the majority of Pembroke's commercial district which would be a great loss of potential tax revenue for the Town. Pembroke recommended five other sites but the National Guard would only consider commercial property.

The Pembroke Water Works will be meeting with one of the representatives of the National Guard.

Ms. Murray suggested meeting with the Chairman of the Public Works who oversees the capital budget (Candice White Bouchard)

7. Zoning Amendment Changes/Assignments

Chairman Bourque asked that the Zoning Amendment changes be placed on the Board's next work session and that the list of changes be e-mailed to the Board members.

8. Correspondence - None

9. Committee Reports

Member Krebs reported that the Conservation Commission had a site walk on Steve Fowler's property. Mr. Fowler is interested in selling a conservation easement to the Conservation Commission. The Commission will explore the possibilities. Mr. Fowler is interested in keeping the land open to the public activities such as fishing, hunting, and walking excluding the use of recreational vehicles.

At the November 11, 2008 meeting, Member Cruson asked how the rerouting of trucks from Main Street to Broadway occurred. Alternate Member Seaworth said that his research showed that seven years ago a Main Street residents' petition to reroute the trucks from Main Street onto Broadway was presented and agreed upon.

Mr. Seaworth also said that the Beacon Hill Road development by Leo Dumont is expecting to soon come before the Board.

Member Krebs suggested that the Planning Board purchase a few copies of the Innovative Land Use Planning Technology handbook.

10. Other Business

- a. Chickering Meadows: Ms. Murray said Michael Vignale of Keach Nordstrom submitted an updated punch list of things that do not need to be done immediately but should not be overlooked for final acceptance. The Board received a copy of the checklist. The notes marked in the margins of the punch list such as “Now”, “Spring”, indicate the agreed timeline reached at last Friday’s meeting. Stephanie Alexander, Interim Planner has not had a chance to formalize the agreement. Ms. Murray said that Town Counsel was not sure that the Board had the authority to withhold all Certificates of Occupancies (CO) at this time. Many communities withhold the last CO as leverage to ensure that the checklist has been met.

Selectmen’s Rep. Lewis said that the Code Enforcement Officer has authority to withhold COs if the project is not complete.

- b. North Pembroke Road: Ms. Murray and Mr. Vignale met with the parties of the North Pembroke Road project. Mr. Vignale reported making progress regarding the cleanup and that there is no equipment presently on the site. Mr. Vignale will return to the site after the Thanksgiving holiday. He has contacted the developer for a status update and has been speaking with DES. The Planning Board’s complaint has been filed and Mr. Vignale’s time is being billed to the property owner.
- c. Selectmen’s Rep. Lewis said that she has no information regarding NH DES and the Sixth Range Road project.
- d. Planner Items – Update on Foy Insurance ADA parking space, others as needed: Ms. Murray reported that Foy Insurance is planning to move onto the site on December 5, 2008. Ms. Alexander suggested to the Applicant to designate the questionable parking space as “reserved” rather than handicapped.

Everett Hodge, Code Enforcement Officer noted that the applicant has added two new roofs that were not on the plan.

The Board agreed that the motion taken at the past meeting regarding the ADA parking space may have been erroneously made.

MOTION: Vice Chairman Topliff moved to reconsider his motion made at the October 28, 2008 meeting regarding Foy Insurance, Case #08-108 and changes to the parking lot, handicapped parking space, and the 5’ zoning requirement setback from the property line. Seconded by Chairman Bourque.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y Todd T. - Y
Mark Z. – Y Alan T. – Y Cindy L. – Abstained

MOTION TO RECONSIDER HIS MOTION MADE AT THE OCTOBER 28, 2008 MEETING REGARDING FOY INSURANCE, CASE #08-108 AND CHANGES TO THE PARKING LOT, HANDICAPPED PARKING SPACE, AND THE 5' ZONING REQUIREMENT SETBACK FROM THE PROPERTY LINE PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

MOTION: With regard to Foy Insurance, Case #08-108, Vice Chairman Topliff moved that the Planning Board delegate authority to the Code Enforcement Officer for determining appropriate handling of the ADA parking space requirement, and that the 5 foot zoning requirement setback on the property line be waived. Seconded by Member Terrien.

VOTE: Robert B. – Y Brian S. – Y Kevin K. – Y Todd T. - Y
Mark Z. – Y Alan T. – Y Cindy L. – Abstained

MOTION WITH REGARD TO FOY INSURANCE, CASE #08-108, THAT THE PLANNING BOARD DELEGATE AUTHORITY TO THE CODE ENFORCEMENT OFFICER FOR DETERMINING APPROPRIATE HANDLING OF THE ADA PARKING SPACE REQUIREMENT, AND THAT THE 5 FOOT ZONING REQUIREMENT SETBACK ON THE PROPERTY LINE BE WAIVED PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

e. Furniture Outlet conceptual. (continued from page. 3)

Chairman Bourque observed that the Applicant was not present. Code Enforcement Officer Hodge said that the Applicant is planning to open the business on Monday, December 1, 2008. He said that the agreement for the sign located on the Merriam Graves' property was between the NH Tool Outlet and Merriam Graves. In order for the new Applicant to use the sign, they would have to apply for a sign permit and have a sign lease agreement.

Selectmen's Rep. Lewis said that it appears that the Applicant will be occupying 4,800 ft. of the already approved 6,000 sq. ft. retail space. Thayer Corporation is occupying the rear portion of the building. Sewer for two units has been approved. The Board agreed that if the property owner wishes to have a third unit, he would have to approach the Sewer Department.

Vice Chairman Topliff pointed out that the property will already have three businesses – Thayer Corporation, the Furniture Outlet, and the corporate office for NH Tool Outlet. Mr. Hodge said that no new bathrooms in the facility have been added.

A discussion of business licensing followed. It was agreed that licensing new businesses would help determine the number of businesses in Town and would facilitate including them in the Town Business Directory. A one-time licensing fee was discussed and noted that licensing cannot be done at the Planning Board level.

The Board agreed that this application is not a change of use and would like to see an updated site plan to include the names of the occupants of the building, the sections that each occupant occupies, the location of doors and walls, and clarification of the footage of each unit. The Board agreed that the information could be added to the already-submitted plan.

Adjournment

MOTION: Chairman Bourque moved to adjourn. Seconded by Member Terrien.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 8:44 p.m.

Respectfully submitted,
Jocelyn D. Carlucci, Recording Secretary