

Pembroke Planning Board
Minutes of Meeting
(ADOPTED)
Tuesday, November 10, 2009

MEMBERS PRESENT: Robert Bourque, Chairman; Alan Topliff, Vice Chairman; Brian Seaworth; Kathy Cruson; Cindy Lewis, Selectmen's Representative,

ALTERNATES PRESENT: Larry Young, Sr.; Jeff White

EXCUSED: Kevin Krebs; Mark Zydell; Ron Nowe

STAFF PRESENT: Stephanie Alexander, Interim Planner; David Jodoin, Town Administrator; Jocelyn Carlucci, Recording Secretary

Chairman Bourque called the meeting to order at 7:00 p.m. and noted that Members Krebs and Zydell, along with Alternate Member Nowe, were absent. Should a vote be necessary, Chairman Bourque appointed Alternate Member White to vote in place of Member Zydell and Alternate Member Young to vote in place of Member Krebs.

Discussion

1. Review Zoning Amendments

1. 143-11. Zoning Map (Amend)

Ms. Alexander stated that the December 8, 2009 meeting will be a business meeting dedicated to finalizing the Zoning Ordinance Amendments. The Amendments are scheduled to be posted on December 30, 2009 with public hearings to be held on January 12, 2010 and January 26, 2010.

A "Rezoning Proposal" map was submitted to the Board by an applicant interested in the rezoning of portions of Route 3, North Pembroke Road, and Route 106 to a commercial district (C1). The Board agreed to study the rezoning issue further. They (1) would prefer that the rezoning boundaries follow property boundaries in order to eliminate parcels being located in a variety of districts; (2) That the landowners of the proposed areas to be rezoned be consulted; and (3) consider any negative aspects of such a zoning change such as refinancing issues for the landowner if property was changed.

2. Article XVII, Growth Management Ordinance (Amend/Repeal)

Ms. Alexander said that Jae Whitelaw's memo dated 05/11/2009 regarding Pembroke Phasing indicated that phasing, in her opinion, is still a Growth Management Ordinance (GMO). It was suggested that it may be easier to stay with what is presently in place.

Vice Chairman Topliff said that he was not in favor of continuing the GMO for another year. Alternate Member Young said that a GMO should be tied to something such as road improvements, sewer, or schools.

In an update of the progress regarding the Allenstown's Sewer Plant, Harold Thompson of the Pembroke Sewer Commission said that the Allenstown Sewer Department submitted paperwork to move ahead with a Bio-mag process. The process will remove aluminum from the sewage. Federal stimulus money will help defray the cost of the upgrade and the remainder of the cost will come from septage

processing fees. If Allenstown does not gain permission for the Bio-mag process, they will insert another clarifier.

Chairman Bourque suggested that the Board hire someone to write a GMO that is defensible. In the meantime, Mr. Jodoin cautioned the Board that without a GMO in place, a developer could have a large subdivision approved for future development.

MOTION: Chairman Bourque moved to extend the Growth Management Ordinance another year. Article XVII, Growth Management Ordinance, 143-139 Effective dates to read as follows: This article becomes effective at 12:00 AM April 1, 2010 and shall remain in effect until 11:59 PM March 31, 2011. Seconded by Selectmen's Rep. Lewis.

VOTE: Robert B. – Y Alan T. – N Cindy L. – Y Kathy C. - Y
Larry Y. – N Brian S. – N Jeff W. – Y

MOTION TO EXTEND THE GROWTH MANAGEMENT ORDINANCE ANOTHER YEAR. ARTICLE XVII, GROWTH MANAGEMENT ORDINANCE, 143-139 EFFECTIVE DATES TO READ AS FOLLOWS: THIS ARTICLE BECOMES EFFECTIVE AT 12:00 AM APRIL 1, 2010 AND SHALL REMAIN IN EFFECT UNTIL 11:59 PM MARCH 31, 2011 PASSED ON A 4-3 VOTE.

3. Article XVIII. Special Use Permits (New)

Ms. Alexander will add a fifth Special Use Permit, namely Agricultural Retail Outlets, to the appropriate sections.

It was agreed that the following changes be made:

- 143-147 Denial of Application. In the event that an application is denied by the Planning Board, a resubmitted application shall follow the same procedures as the original and shall be treated as a new application.
- 143-145, A. The use is specifically authorized . . . 143-72 Wetland Protection (WP) District, Article X Open Space Subdivision, or by any other Section when specified in the . . .

The consensus of the Board was that Article XVIII. Special Use Permits as amended needed no further review.

4. 143-8. Definitions (New/Amendments)

143-8. Definitions. (New) Rooming house

Selectmen's Rep. Lewis said that rooming houses were not allowed by Pembroke's ordinance. A variance is necessary.

Everett Hodge, Pembroke Code Enforcement Officer, received an application for 5 bedrooms to be added to a home for rental income. There will be no additional cooking facilities.

Ms. Alexander said that the regulations state the Planning Board only has jurisdiction for multi-family units.

Mr. Hodge stated that the Town regulations do not specify the square footage per dwelling units in the Limited Office District (LO). It only states the total square footage.

Selectmen's Rep. Lewis said that LO is an overlay district and not its own district, therefore, if the property is in R3, then it is considered a residential district with an LO overlay. Rooming houses are not referenced in the Town ordinance and, therefore, are not allowed and would require a variance.

It was agreed that if the State required the Rooms and Meals Tax to be in affect for a rooming house, then it would be considered a commercial use. Chairman Bourque said that, if a person is creating a business by renting rooms, then it is a commercial use in a residential area which is not allowed.

Mr. Hodge said that the property in questions is not in an overlay district. There are 5 overlay districts: AD, AC, Floodplain, Home Business, and Shoreline Protection. The LO is not listed and is, therefore, its own zoning district. Selectmen's Rep. Lewis said that it is not how the Board intended the LO to be used and it is not how the LO has been enforced since its inception.

Mr. Hodge said that rooming houses should be defined in the regulations for future clarification.

MOTION: Vice Chairman Topliff moved to define Rooming House as: A building with guestrooms for rent. Seconded by Ms. Cruson.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO DEFINE ROOMING HOUSE AS: A BUILDING WITH GUESTROOMS FOR RENT PASSED ON A 7-0 VOTE.

143-8: Definition. Front Setback (Yard Depth) Measurement

MOTION: Selectmen's Rep. Lewis moved to define Front Setback (Yard Depth) Measurement as: The setback (yard depth) of a parcel shall be measured from the lot line. Seconded by Chairman Bourque.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO DEFINE FRONT SETBACK (YARD DEPTH) MEASUREMENT AS: THE SETBACK (YARD DEPTH) OF A PARCEL SHALL BE MEASURED FROM THE LOT LINE PASSED ON A 7-0 VOTE.

143-8 Definitions. (Amend) Lot of Record

MOTION: Vice Chairman Topliff moved not to amend the existing Lot of Record definition which reads: A lot or parcel of land laid out by plan or described by a separate description in a deed recorded at the

Merrimack County Registry of Deeds and being in separate and undivided ownership at the time of the enactment of this chapter or by any subsequent amendments. Seconded by Alternate Member Young.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION NOT TO AMEND THE EXISTING LOT OF RECORD DEFINITION WHICH READS: A LOT OR PARCEL OF LAND LAID OUT BY PLAN OR DESCRIBED BY A SEPARATE DESCRIPTION IN A DEED RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AND BEING IN SEPARATE AND UNDIVIDED OWNERSHIP AT THE TIME OF THE ENACTMENT OF THIS CHAPTER OR BY ANY SUBSEQUENT AMENDMENTS PASSED ON A 7-0 VOTE.

The consensus of the Board was that the revised definitions be added to the compilation of definitions known as the “Definition Chapter”.

MOTION: Vice Chairman Topliff moved to send the “Definition Chapter”(last revised on 07/14/2009, and consisting of approximately 15 pages) to public hearing. Seconded by Chairman Bourque.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Abstained
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO SEND THE “DEFINITION CHAPTER” (LAST REVISED ON 07/14/2009, AND CONSISTING OF APPROXIMATELY 15 PAGES) TO PUBLIC HEARING PASSED ON 6-0 WITH ONE ABSTENTION.

5. 143-19. Table of Uses (Amendments)

143-19. Table of Use Regulations (Amend) – Community Facilities. 10. Add **Rooming** house. S in R1, R3, B1, B2. Not permitted in C1 or LO.

The consensus of the Board was to strike this language.

Residential. Add 9. **Modular/Manufactured Home. P in R1/R3/B1/B2/C2/LO?** 9. **10.**
Accessory Uses. (or Amend 1. to add **Modular/Manufactured Home**)

Selectmen’s Rep. Lewis said that currently manufactured housing is allowed in manufactured housing parks in all districts.

Mr. Hodge said that the Town ordinance clearly mentions manufactured homes in manufactured housing parks or subdivisions but does not address manufactured homes on individual building lots. He referenced 143-32 and 143-33.

It was determined that, by reason of omission, manufactured housing on individual building lots are not allowed.

143-35.1 – Outdoor Storage of a Boat, Recreational Vehicle, Camping Trailer, or Motor Vehicles
(New)

Mr. Hodge noted that the town regulations do not address a property owner from storing a number of recreational vehicles on a piece of property for others.

MOTION: Chairman Bourque moved to add the following language to 143-35.1 Outdoor Storage of a Boat, Recreational Vehicle, Camping Trailer, or Motor Vehicles:

In all Districts except C1, any boat, recreational vehicle, or camping trailer stored on any lot shall be owned by the property owner or occupant of the residence.

No such equipment shall be used for living quarters, or housekeeping purposes in the Town of Pembroke. The Code Enforcement Officer may authorize by permit the temporary occupancy of recreational vehicles and camping trailers where adequate sanitary facilities are provided. Such temporary use shall not exceed 10 days within any 30 day period or 30 days within one calendar year.

On any lot in any District, not more than two (2) unregistered motor vehicles or trailers may be stored, except in a licensed junk yard as defined in RSA 236:112. All motor vehicles in excess of the two (2) unregistered motor vehicles or trailers must bear a valid inspection sticker. Any motor vehicles offered for sale must belong to the property owner or occupant of the residence.

The storage of antique, specialty, or collectible motor vehicles by legitimate hobbyists may be permitted by the Code Enforcement Officer.

Seconded by Vice Chairman Topliff. Unanimously approved.

MOTION: Chairman Bourque moved to bring the Amendment to Town Meeting as amended. Seconded by Vice Chairman Topliff.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – N Kathy C. - N
Larry Y. – Y Brian S. – N Jeff W. – Y

MOTION TO BRING THE AMENDMENT TO TOWN MEETING AS AMENDED PASSED ON A 4-3 VOTE.

143-19. Table of Use Regulations (Amend) – Retail and Service. Add 12. **Junkyards. S in C1. Not permitted in R1, R3, B1, B2, or LO.** Special condition **143-35.1.**

The Board amended 143-19 as follows:

143-19. Table of Use Regulations (Amend) – Retail and Service. Add 12. **Junkyards. Not permitted in R1, R3, B1, B2, LO, or C1.** Special condition **143-35.1.**

MOTION: Vice Chairman Topliff moved to bring the 143-19 Table of Use Regulations as amended to public hearing. Seconded by Alternate Member White.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO BRING THE 143-19 TABLE OF USE REGULATIONS AS AMENDED TO PUBLIC HEARING PASSED ON A 7-0 VOTE.

6. 143-36.1. Rooming houses. (New)

The Board agreed not to allow rooming houses.

7. Noise Ordinance. IV. Exemptions.

It was agreed that provisions should be made if, for example, a construction company required work to continue after 10 PM in order to prevent serious consequences. This is intended for use in exceptional circumstances such as weather or nature of the project.

MOTION: Vice Chairman Topliff moved to amend the Noise Ordinance. IV. Exemptions as follows: J. A person or company can obtain a written waiver for short durations from the Code Enforcement Officer or the Chief of Police from the time limits that a project needs to be completed because of the nature of the project or weather conditions.

Seconded by Chairman Bourque.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - N
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO AMEND THE NOISE ORDINANCE. IV. EXEMPTIONS AS FOLLOWS: J. A PERSON OR COMPANY CAN OBTAIN A WRITTEN WAIVER FOR SHORT DURATIONS FROM THE CODE ENFORCEMENT OFFICER OR THE CHIEF OF POLICE FROM THE TIME LIMITS THAT A PROJECT NEEDS TO BE COMPLETED BECAUSE OF THE NATURE OF THE PROJECT OR WEATHER CONDITIONS PASSED ON A 6-1 VOTE.

8. 143-21. Table of Dimensional and Density Regulations (Amend)

The consensus of the Board was to add LO to Note 7 of Table §143-21.

MOTION: Vice Chairman Topliff moved to edit Note 7, 143-21 Table of Dimensional and Density Regulations to include the LO District and bring to public hearing. Seconded by Member Young.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO EDIT NOTE 7, 143-21 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS TO INCLUDE THE LO DISTRICT AND BRING TO PUBLIC HEARING PASSED ON A 7-0 VOTE.

Note 14. Any buildings and any septic systems must be sited within the 70% minimum contiguous buildable area but not within any setback or buffer. The Code Enforcement Officer will be

responsible for reviewing and accepting new septic system plans prior to the plans being submitted for State approval. The accepted plans shall be stamped and signed by the code Enforcement Officer.

Note 15. The requirements for meeting the required Town set backs will be waived for failed systems on existing lots of record. State required setbacks can be used for failed systems only. A variance must be obtained before approval of plans for any new septic system that cannot meet the required Town setbacks for that Zoning District.

MOTION: Chairman Bourque moved to accept Note 14 and 15 as proposed and bring them to Town Meeting for approval. Seconded by Member Seaworth.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO ACCEPT NOTE 14 AND 15 AS PROPOSED AND BRING THEM TO TOWN MEETING FOR APPROVAL PASSED ON A 7-0 VOTE.

9. 143-68. Aquifer Conservation (AC) District. (Amend)

E. Special use permit: Any use permitted in the underlying district, except those which are expressly prohibited in section D, above, shall be reviewed by the Planning Board, the Health Officer, and Pembroke Water Works, and shall conform to the provisions of this section. Special use permits may be granted by the Planning Board subject to the following additional limitations:

MOTION: Vice Chairman Topliff moved to accept 143-68 E as amended. Seconded by Chairman Bourque.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO ACCEPT 143-68 E AS AMENDED PASSED ON A 7-0 VOTE.

10. 143-72. Wetlands Protection (WP) District. (Amend)

E. Special use permits. (1) The application for such special use permit having been referred by the Planning Board to the Conservation Commission and reported thereon prior to the public hearing or 45 days having lapsed following such referral without receipt of such report.

MOTION: Chairman Bourque moved to approve 143-72 E. Special use permits. (1) as amended. Seconded by Alternate Member White.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO APPROVE 143-72 E. SPECIAL USE PERMITS (1) AS AMENDED PASSED ON A 7-0 VOTE.

11. 143-19. Table of Uses (Amendments)

143-19. Table of Use Regulations (Amend) Agricultural. 2. Commercial Greenhouse. Amend from a S in the C1 to a P.

MOTION: Selectmen’s Rep. Lewis moved to approve 143-19. Table of Use Regulations. Agricultural. 2. Commercial Greenhouse as amended. Seconded by Chairman Bourque.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO APPROVE 143-19. TABLE OF USE REGULATIONS. AGRICULTURAL. 2. COMMERCIAL GREENHOUSE AS AMENDED PASSED ON A 7-0 VOTE.

12. Article X. Open Space Ordinance (Replace existing)

MOTION: Selectmen’s Rep. Lewis moved to send Article X. Open Space Ordinance to Town Meeting. Seconded by Chairman Bourque.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION TO SEND ARTICLE X. OPEN SPACE ORDINANCE TO TOWN MEETING PASSED ON A 7-0 VOTE.

13. 143-8. Definitions (New/Amendments)

143-8 Definitions. (Amend) **Calculated** Building Area

That area of a lot that excludes all soils identified as poorly and very poorly drained, all wetlands, floodplains, submerged area, land set aside for open space or conservation purposes, slopes 15% or greater^{1,2}, and dedicated easements or rights-of-way. Setbacks and wetland buffers may be included when calculating buildable area. However, no construction is allowed in the setbacks and wetland buffers.

¹ Areas of 15% or greater slopes may not be used when calculating density requirements or **when calculating buildable area needed to be set aside as open space.**

² **Areas of 15% or greater may in some cases be built upon and therefore may be used when calculating individual lot requirements.**

143-8. Definitions. Contiguous Buildable Area

A contiguous area which consists of **calculated** buildable area on a single lot, unfragmented by non-buildable area **except that slopes greater than 15% shall be included in buildable area.**

143-8. Definitions. Non-Buildable Area

That area of a lot including all soils identified as poorly and very poorly drained, all wetlands, wetland buffers¹, floodplains, submerged areas, land set aside for open space or conservation purposes, setbacks¹, and dedicated easements or rights-of-way.

¹ **Wetland buffers and setbacks may be included in calculated buildable area. However, no construction is allowed in the wetland buffers or setbacks.**

MOTION: Vice Chairman Topliff moved that the amended definitions for 143-8 be added to the Definition Chapter and sent to Town Meeting. Seconded by Selectmen's Rep. Lewis.

VOTE: Robert B. – Y Alan T. – Y Cindy L. – Y Kathy C. - Y
Larry Y. – Y Brian S. – Y Jeff W. – Y

MOTION THAT THE AMENDED DEFINITIONS FOR 143-8 BE ADDED TO THE DEFINITION CHAPTER AND SENT TO TOWN MEETING PASSED ON A 7-0 VOTE.

With regard to a memo from Everett Hodge to Ms. Alexander dated November 9, 2009 regarding site inspections, Mr. Hodge suggested that someone should inspect infrastructure or other large portions of a project. It was agreed that Mr. Hodge has the authority to provide inspections of required improvements at the construction stage. Site Plan Page 205:25 amended 01/15/2007. It is recommended that 2% of the estimated cost of construction be put into an escrow account for the inspection. Mr. Hodge said that there are no site plan permits, only building permits.

Chairman Bourque suggested that an applicant contact Mr. Hodge to inquire as to which stage of a project Mr. Hodge would want to inspect the infrastructure. He said that it is important to tie the inspection schedule to the applicant and the Code Enforcement Officer. He suggested that the Board review this topic at a later date.

Ms. Alexander said that the Planner's Report will be e-mailed to Chairman Bourque on November 13, 2009.

MOTION: Vice Chairman Topliff moved to adjourn. Seconded by Member Seaworth.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 10:16 p.m.

Respectfully submitted,
Jocelyn D. Carlucci, Recording Secretary