

**Pembroke Planning Board**  
**Minutes of Meeting**  
**(Adopted)**  
**Tuesday, January 13, 2009**

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

**ALTERNATE PRESENT:** Brian Seaworth

**EXCUSED:** Kevin Krebs; Cindy Lewis, Selectmen's Representative

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

Chairman Bourque opened the meeting at 7:00 p.m. Member Krebs and Selectmen's Rep. Lewis were excused. Chairman Bourque appointed Alternate Seaworth to vote in place of Member Krebs.

**Zoning Ordinance Public Hearings**

- 1. Amendment 1. § 143-8. Definitions.** To amend the Zoning Ordinance to add definitions of buildable area, non-buildable area, submerged areas, and maximum height, and to remove Note 11 of §143-21. Table of Dimensional and Density Regulations regarding height restrictions, as its provisions are contained in the new maximum height definition, and to amend the definition of usable land.

**Buildable Area - That area of a lot that excludes all soils identified as poorly and very poorly drained, all wetlands, floodplains, submerged areas, land set aside for open space or conservation purposes, slopes 15% or greater, 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.**

**Non-Buildable Area - That area of a lot including all soils identified as poorly and very poorly drained, all wetlands, floodplains, submerged areas, land set aside for open space or conservation purposes, slopes 15% or greater, and dedicated easements or rights-of-way.**

**Contiguous Buildable Area - A contiguous area which consists of buildable area on a single lot, unfragmented by non-buildable area.**

**Maximum Height – Maximum height of buildings shall be measured from the finished grade to the highest point of the roof and shall not exceed 50' in height. Occupied space shall not exceed 35' in height from the finished grade on each side of the building to the top of the highest window on each side of the building. This definition shall not apply to chimneys, elevator bulkheads, skylights, ventilators, cooling towers, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above the roof, nor to domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than 20% of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae, and other like structures, which do not occupy more than 20% of the lot area, provided the excepted appurtenances are not located within the flight paths of an airport as defined by F.A.A. regulations.**

**Submerged Areas – Areas which are covered or inundated by water.**

**Usable Land – Means the same as contiguous buildable area.**

Chairman Bourque read the Amendment aloud and distributed a handout with three variations of the definition of usable land. After a discussion on the distinction between usable land and buildable land, the Board agreed that usable land should mean the same as contiguous buildable area.

Chairman Bourque opened the public hearing at 7:31 pm.

There being no questions or comments, Chairman Bourque closed the public hearing at 7:31 p.m.

**MOTION:** Vice Chairman Topliff moved to (1) amend the definition of usable land to be defined as contiguous buildable area; (2) remove Note 1 of §143-21 of the Zoning Ordinance; (3) amend Reference Heading A of §143-21 of the Zoning Ordinance to read “Minimum Lot Area (square feet)”; and (4) to hold a second public hearing. Seconded by Member Zydel.

**VOTE:** Robert B. – Y      Brian S. – Y      Mark Z. – Y  
Alan T. – Y      Kathy C. – Y      Todd T. – Y

**MOTION TO (1) AMEND THE DEFINITION OF USABLE LAND TO BE DEFINED AS CONTIGUOUS BUILDABLE AREA; (2) REMOVE NOTE 1 OF §143-21 OF THE ZONING ORDINANCE; (3) AMEND REFERENCE HEADING A OF §143-21 OF THE ZONING ORDINANCE TO READ “MINIMUM LOT AREA (SQUARE FEET)”;** AND (4) TO HOLD A SECOND PUBLIC HEARING PASSED ON A 6-0 VOTE.

**2. Amendment 2. §143-21. Table of Dimensional and Density Regulations.** To amend the provisions of Note 5 so that setback requirements also apply to accessory buildings, to add new minimum contiguous buildable area requirements, and to add provisions for siting building and private septic systems.

5) Within the R1, B1, and B2 districts only, a dwelling **or accessory building** need not be set back a distance greater than the average set-backs of dwellings **or accessory buildings** on the lots adjacent to either side.

**12) In addition to the required minimum lot size there shall be a minimum contiguous buildable area on each lot which shall equal or exceed seventy percent (70%) of the minimum lot size for that zoning district.**

**13) Any building and any septic system must be sited within the 70% minimum contiguous buildable area but not within any setback or buffer.**

Chairman Bourque read the Amendment aloud along with proposed language to be added to Amendment 2, 143-21, Note 13 as submitted by Everett Hodge, Pembroke Code Enforcement Officer.

**The Code Enforcement Officer will be responsible for reviewing and approving any new private septic system plans prior to the plans being submitted for State approval. The approved plans shall be stamped and signed by the Code Enforcement Officer.**

The Board agreed to accept the following changes: (1) changing the word “approving” to “accepting” and “approved” to “accepted” in the proposed Note 13 language submitted by Mr. Hodge; (2) changing “building” to “buildings” and replacing “any private septic system” with “any septic system” in Note 13.

Chairman Bourque opened the public hearing at 7:46 pm.

There being no questions or comments, Chairman Bourque closed the public hearing at 7:46 p.m.

**MOTION:** Member Terrien moved to (1) amend §143-21 Table of Dimensional and Density Regulations as follows:

5) Within the R1, B1, and B2 districts only, a dwelling **or accessory building** need not be set back a distance greater than the average set-backs of dwellings **or accessory buildings** on the lots adjacent to either side.

**12) In addition to the required minimum lot size there shall be a minimum contiguous buildable area on each lot which shall equal or exceed seventy percent (70%) of the minimum lot size for that zoning district.**

**13) 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.**

and (2) hold a second public hearing. Seconded by Chairman Bourque.

**VOTE:**     Robert B. – Y             Brian S. – Y             Mark Z. – Y  
                 Alan T. – Y                     Kathy C. – Y             Todd T. - Y

**MOTION TO (1) AMEND §143-21 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS AS FOLLOWS:**

**5) WITHIN THE R1, B1, AND B2 DISTRICTS ONLY, A DWELLING OR ACCESSORY BUILDING NEED NOT BE SET BACK A DISTANCE GREATER THAN THE AVERAGE SET-BACKS OF DWELLINGS OR ACCESSORY BUILDINGS ON THE LOTS ADJACENT TO EITHER SIDE.**

**12) IN ADDITION TO THE REQUIRED MINIMUM LOT SIZE THERE SHALL BE A MINIMUM CONTIGUOUS BUILDABLE AREA ON EACH LOT WHICH**

**SHALL EQUAL OR EXCEED SEVENTY PERCENT (70%) OF THE MINIMUM LOT SIZE FOR THAT ZONING DISTRICT.**

**13) 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.**

**AND (2) HOLD A SECOND PUBLIC HEARING PASSED ON A 6-0 VOTE.**

**3. Amendment 3. §143-72. Wetlands Protection (WP) District.** To amend the wetland buffer requirements to prohibit roadways and construction work zones within the buffer and to remove requirements for wetlands buffer markers.

Chairman Bourque read the following Amendment aloud:

D. Other requirements: [Amended 3-13-2007 by Amendment No. 2]

(2) No structure, **roadway, or construction work zone** shall be located closer than 20 feet measured horizontally from any wetland.

~~(3) Wetlands buffer markers shall be placed every 25 feet along the perimeter of a delineated twenty-foot wetland buffer.~~

Ms. Alexander clarified that the Planning Board's rationale for removing No. 3 from §143-72 Wetlands Protection (WP) District in the Zoning Ordinance was to preserve its integrity and the Planning Board's flexibility by placing it within the Site Plan and Subdivision Regulations. Therefore, the Planning Board would have control over the placement of the wetland buffer markers. Member Terrien suggested that a memo of the change be sent to the Conservation Commission for their review.

Chairman Bourque opened the public hearing at 7:54 pm.

There being no questions or comments, Chairman Bourque closed the public hearing at 7:54 p.m.

**MOTION:** Member Terrien moved to hold a second public hearing on Amendment 3 and notify the Conservation Commission. Seconded by Chairman Bourque.

**VOTE:** Robert B. – Y      Brian S. – Y      Mark Z. – Y  
Alan T. – Y      Kathy C. – Y      Todd T. - Y

**MOTION TO HOLD A SECOND PUBLIC HEARING ON AMENDMENT 3 AND NOTIFY THE CONSERVATION COMMISSION PASSED ON A 6-0 VOTE.**

- 4. Amendment 4. §143-81. Special requirements; CRD-2 Rural Open Space Development.**  
To amend the Zoning Ordinance to add the lot area, frontage, and setbacks for the Limited Office (LO) and Medium Density-Residential (R1) Districts by inserting provisions for when town water and sewer are available.

Chairman Bourque read the following Amendment aloud:

- B. Minimum areas and yard requirements for Rural Open Space Developments shall be the following:

**(3) R1 and LO Districts with town water and sewer:**

<b><u>Lot Area</u></b>	<b><u>25,000 Square Feet</u></b>
<b><u>Frontage</u></b>	<b><u>100'</u></b>
<b><u>Side Yard Set-back</u></b>	<b><u>15'</u></b>
<b><u>Rear Yard Set-back</u></b>	<b><u>50'</u></b>
<b><u>Front Yard Set-back</u></b>	<b><u>25'</u></b>

Chairman Bourque opened the public hearing at 7:56 pm.

There being no questions or comments, Chairman Bourque closed the public hearing at 7:56 p.m.

**MOTION:** Chairman Bourque moved to send Amendment 4 as presented to Town Meeting.  
Seconded by Member Zydel.

**VOTE:** Robert B. – Y      Brian S. – Y      Mark Z. – Y  
Alan T. – Y      Kathy C. – Y      Todd T. – Y

**MOTION TO SEND AMENDMENT 4 AS PRESENTED TO TOWN MEETING PASSED ON A 6-0 VOTE.**

- 5. Amendment 5. Article XVII, Growth Management Ordinance.** To readopt the existing Article XVII Growth Management Ordinance to extend the termination date for one year through March 31, 2010 by amending §143-139. Effective Dates.

Chairman Bourque read the following Amendment aloud:

**§143-139. Effective dates.**

This article becomes effective at 11:59 PM March 31, 2009 and shall remain in effect until 11:59 PM March 31, ~~2009~~ 2010. However, the Planning Board shall annually review the need for the article and send a status report on growth and the progress Pembroke has made toward improving its capital facilities to the Board of Selectmen by January 1 of each year the article is in effect. If the Board of Selectmen finds that the capital facilities needs have been resolved, then it shall make a recommendation for repeal of this article.

Ms. Alexander clarified that the recommendation by Town Counsel was to eliminate the words “upon adoption” from the first line. “This article becomes effective ~~upon adoption~~ at 11:59 AM March 31, 2009 . . .”

The Board agreed that §143-139. Effective Dates should read as follows:

This article becomes effective ~~upon adoption~~ at 12:00 AM April 1, 2009 and shall remain in effect until 11:59 PM March 31, ~~2009~~ 2010. However, the Planning Board shall annually review the need for the article and send a status report on growth and the progress Pembroke has made toward improving its capital facilities to the Board of Selectmen by January 1 of each year the article is in effect. If the Board of Selectmen finds that the capital facilities needs have been resolved, then it shall make a recommendation for repeal of this article.

Chairman Bourque opened the public hearing at 8:03 pm.

There being no questions or comments, Chairman Bourque closed the public hearing at 8:03 p.m.

**MOTION:** Member Terrien moved to (1) accept Amendment 5 as follows:

This article becomes effective ~~upon adoption~~ at 12:00 AM April 1, 2009 and shall remain in effect until 11:59 PM March 31, ~~2009~~ 2010. However, the Planning Board shall annually review the need for the article and send a status report on growth and the progress Pembroke has made toward improving its capital facilities to the Board of Selectmen by January 1 of each year the article is in effect. If the Board of Selectmen finds that the capital facilities needs have been resolved, then it shall make a recommendation for repeal of this article.

and (2) hold a second public hearing. Seconded by Chairman Bourque.

**VOTE:**     Robert B. – Y             Brian S. – Y             Mark Z. – Y  
                   Alan T. – N                     Kathy C. – Y             Todd T. - Y

**MOTION TO (1) ACCEPT AMENDMENT 5 AS FOLLOWS:**

**THIS ARTICLE BECOMES EFFECTIVE UPON ADOPTION AT 12:00 AM APRIL 1, 2009 AND SHALL REMAIN IN EFFECT UNTIL 11:59 PM MARCH 31, 2009 2010. HOWEVER, THE PLANNING BOARD SHALL ANNUALLY REVIEW THE NEED FOR THE ARTICLE AND SEND A STATUS REPORT ON GROWTH AND THE PROGRESS PEMBROKE HAS MADE TOWARD IMPROVING ITS CAPITAL FACILITIES TO THE BOARD OF SELECTMEN BY JANUARY 1 OF EACH YEAR THE ARTICLE IS IN EFFECT. IF THE BOARD OF SELECTMEN FINDS THAT THE CAPITAL FACILITIES NEEDS HAVE BEEN RESOLVED, THEN IT SHALL MAKE A RECOMMENDATION FOR REPEAL OF THIS ARTICLE.**

**AND (2) HOLD A SECOND PUBLIC HEARING PASSED ON A 5-1 VOTE.**

**Minutes**

**6. Review and Approve Meeting Minutes of December 9, 2008**

**MOTION:** Member Zydel moved to accept the Meeting Minutes of December 9, 2008 as amended. Seconded by Chairman Bourque.

**VOTE:**     Robert B. – Y            Brian S. – Y            Mark Z. – Abstained  
              Alan T. – Y                Kathy C. – Y            Todd T. - Abstained

**MOTION TO ACCEPT THE MEETING MINUTES OF DECEMBER 9, 2008 AS AMENDED PASSED ON A 4-0 VOTE WITH 2 ABSTENTIONS.**

**Miscellaneous**

**7. Correspondence**

Ms. Alexander reported that Mr. Cormier received a wetland violation complaint and is being asked by DES to answer it.

Correspondence:

1. Town of Bow abutter notification for Phase 2 of site plan for Clean Air Project. The Public hearing will be January 22, 2009.
2. Planning Board annual report is available for review and it will be inserted in the Town Report.
3. To be filed with Associated Grocers of New England project: Irrevocable Letter of Credit for Cooperative Way of which a full release was granted.
4. Multiple letters from the Planning Office to:
  - a. Townsend/Hutchinson lot line approval courtesy letter.
  - b. Bolton Holdings letter regarding Knollcrest Extension.
  - c. Zoning Board Chairman regarding the Barloe meeting minute discrepancies.
  - d. Community Services Council Of NH. The approved site plan submission has not been received for Beacon Landing. Deadline was January 10. (Ms. Alexander asked Town Administrator Jodoin to call Community Services Council of New Hampshire.
  - e. Former Interim Town Administrator Carol Murray from Regional Planning Commission indicating the potential for an open space plan to be developed at no charge through the CTAP program. The letter was also forward to Conservation Commission.

**8. Committee Reports**

Alternate Member Seaworth reported that the Roads Committee discussed alternative routes to Route 3. This discussion came as a result of Route 3 being closed during the last ice storm which emphasized the need for an alternative route. The suggestion was to open Third Range Road. Selectmen Kline thought that the money previously available to improve the Pembroke Hill/Route 3 intersection may be available to find an alternative route to Route 3. This alternative plan may improve the intersection of Pembroke Hill Road and Route 3.

**9. Other Business**

- a. January 27 Agenda – Dolcha Minor Subdivision, JBI Helicopter Major Site Plan, Dennison-Merrill Minor Site Plan, Dennison-Merrill – Pembroke Crossing Lot Line Adjustment

Ms. Alexander reported that there will be four Zoning public hearings and four new application public hearings.

1. A two-lot site division
2. A major site plan at JBI Helicopter site
3. Two projects that are dependent on one another, namely the Dennison/Merrill minor site plan amendment which will serve the lot line adjustment between Dennis/Merrill and Pembroke Crossing. There may be a major site plan application in the future for that site.

Town Administrator Jodoin said that on July 24, 2008 a letter was sent to Pembroke Crossing regarding a letter of credit and road bond. A letter dated October 10, 2008 from the Bank stated that they have elected not to renew the Letter of Credit. The expiration of the bond Letter of Credit was October 12, 2008. Town Administrator Jodoin called Art Rose but has not heard back from him. The Board agreed to place this on the February 10, 2009 work session agenda.

- b. Planner Items – None
- c. Board Member Items -

The Board agreed to discuss workforce housing at its March 10, 2009 work session and asked that information be gathered in the meantime. Town Administrator Jodoin suggested a review of the Northern New England Real Estate Network for appropriate data. Ms. Alexander will ask Town Counsel if there are any parameters in the law that the Board should be aware of.

Vice Chairman Topliff suggested applying for 2008 CTAP grant money, if available, to discuss workforce housing.

Vice Chairman Topliff said he would e-mail Steve Whitman for clarification as to whether he is working on phasing of housing developments.

**MOTION:** Member Zydel 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