

Pembroke Planning Board
Meeting Minutes
May 10, 2022
(Approved May 24, 2022)

MEMBERS PRESENT: Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Brent Edmonds, Kathy Cruson, Kevin Foss, Peter Gagy, Selectman's Rep.; Clint Hanson

ALTERNATES PRESENT: Bryan Christiansen

MEMBERS EXCUSED:

STAFF PRESENT: Carolyn Cronin, Town Planner; Susan Gifford Recording Secretary

Chairman Seaworth called the meeting to order at 6:30 pm. Seven members and one alternate member were present.

Old Business

1. Range Road Discussion Update

Chairman Seaworth noted that at a prior work session the Planning Board agreed to have Central NH Regional Planning Commission assist with drafting a range roads policy. Planner Cronin provided an update that Regional Planning is in the process of pulling together a scope of work document with specific tasks. Planner Cronin spoke about the project at TRC. Department heads, especially police and fire, are eager and excited to participate in this process. Concerns include connectivity of range roads and diverting traffic from Route 3. Vice Chairman Bourque noted that the town needs to make some decisions about gravel road use by a single-family home. Scenic road designation provides limitations whereby the town can compromise between a paved Class V Road and a Class VI Road. One option is that a single-family home builder would improve the road up to gravel and the town would be responsible for paving. Vice Chairman Bourque asked what the average cost was for a quarter mile of paved road. Member Edmonds stated that he would need his reference material at home to estimate the cost. Member Edmonds stated that NH DOT has the weighted average cost of a linear or square foot of paved road based on certain conditions. This information is updated regularly and widely available. However, costs have escalated so much recently that the data would have to be adjusted to be accurate.

Chairman Seaworth stated that the cost of upgrading a road depends on the condition of the road to start with. If the board is looking for a ratio of cost of paved versus cost of gravel road, it depends on the level of drainage work and clearing needed for width of the road. This is what makes an estimate difficult. We were talking about private roads being gravel, but range roads are town roads and will remain so. Member Cruson stated that the town has allowed portions of 3rd Range Road to have houses built on them and the roads are private roads. This was 25-30 years ago. Individuals have also been allowed to build houses on 5th Range Road and 6th Range Road. Chairman Seaworth noted building on a range road is an option if the road is brought up to certain conditions. Vice Chairman Bourque noted that the property owner would take care of their own trash and plowing, and the road must be acceptable to fire and emergency services. Alternate Member Christiansen noted that he received permission to build on a Class VI Road with the understanding that no fire services were provided. He believes his homeowner insurance covered that liability. Chairman Seaworth noted that we want to look comprehensively at all issues. Vice Chairman Bourque noted that gravel roads are accepted in all New

England states. All the neighboring towns have some gravel roads. Member Foss confirmed that gravel roads are common in his drives to Northwood and Chichester.

Planner Cronin stated that the project could relate financial feasibility to paved and gravel roads. Member Hanson mentioned that the cost of clearing a road could be high, particularly on property with ledge. Alternate Member Christiansen stated the question is how to open roads, and which road is the path of least resistance. Chairman Seaworth stated zoning can be a tool. Regional Planning can help the town incentivize private road building. The town cannot tell owners where to build and must wait for property owners to come forward with a proposal. An owner may propose a farm in a location. Member Hanson stated that the town will have to set a standard that property owners must meet. Chairman Seaworth noted we have seen choices to build in a poor location. Member Hanson stated that in Massachusetts, when Route 495 went in a string of towns had major development come in. School enrollment rose in proportion to development. Member Cruson stated that she walks a lot on Pembroke Hill Road. The pavement is cracked due to use of the road by heavy trucks over the last couple of months, and you can see down two or three courses of pavement. Is there a weight limit on Pembroke Hill Road? There is not a weight limit that Planner Cronin is aware of.

Vice Chairman Bourque suggested stopping 10-wheeler trucks that travel Pembroke Hill Road and weighing them. Mud season is over, and the base has shifted under the pavement. Chairman Seaworth suggested that Pembroke DPW inspect Pembroke Hill Road and suggest remedies. Member Hanson suggested establishing a weight limit. Vice Chairman Bourque noted that trucks can be overloaded bringing material to a construction site.

New Business

2. MS4 Regulation Changes to Subdivision and Site Plan

Planner Cronin discussed some MS4 changes to the Subdivision and Site Plan regulations. Matt Monahan recommends the same change and language for both. The requirement would be that as built plans are provided to the town to be kept with the maintenance plan on a site subject to MS4 regulations. The Planning Board can hold a public hearing at a workshop meeting, ideally before the end of June. Planner Cronin confirmed that a public hearing could be held at the June work session. Planning Board members asked if a map of the MS4 area is available online. Chairman Seaworth stated that MS4 regulations are based on proximity to population. Vice Chairman Bourque stated we need a copy of the map of the MS4 District in our books. Planner Cronin noted that Kimball Street design review is the first proposal that comes under MS4 regulation. Rather than discharge to town stormwater, all stormwaters must be treated on site. Vice Chairman Bourque asked about the condominium project building near the Suncook River. Planner Cronin state that project must meet storm water regulations of today.

Chairman Seaworth observed that towns must impose the MS4 regulations after the Federal requirements are made with little or no staff to assist. Matt Monahan has noted that the federal government is learning that New Hampshire is not Boston, Massachusetts. Chairman Seaworth stated in Boston the biggest issue is the highway system and MS4 is seen as a positive. Member Edmonds asked if any qualitative analysis has been done on whether MS4 regulations are keeping sediment from landing in the river. Planner Cronin

agreed that a lot of extra DPW work on catch basin cleaning and vegetative ditches is required under MS4. Member Edmonds noted that MS4 regulations are needed where extensive amounts of sand and salt are used. Salt and sand use is negligible here. Vice Chairman Bourque asked what the effective date of the amended MS4 regulations would be. Planner Cronin stated that the effective date is the date of the vote. Planner Cronin suggested holding a public hearing on additional pavement thickness on the same date. The Planning Board can deal with updating drawings later. Shoulders are different in open and closed drainage. Consensus was to hold a public hearing on pavement thickness only.

Sign Ordinance

Chairman Seaworth noted that last fall the Planning Board received a letter from legal counsel suggesting that they look at the town sign ordinance. Planner Cronin explained that in 2015 there was a Supreme Court ruling on signs that found the majority of sign ordinance unconstitutional if it dictates content of the sign. Chairman Seaworth noted that when the ruling came out legal counsel provided a workshop to the town suggesting that a town be seen as trying to update their sign ordinance. The Planning Board consensus was to wait and see what the next supreme court sign case would be to challenge boundaries. Vice Chairman Bourque stated that one specific decision was made. Chairman Seaworth added that any regulation that depends on content of the sign is unconstitutional. Planner Cronin explained that the court case was an Arizona church with no fixed location. The sign listed the moving location of the meeting date, time, and place. It was found to be treating church signs differently from yard sale signs. Regulations can address size, shape, location but cannot regulate by message. Planner Cronin stated the Town of Pembroke sign ordinance is in good shape with regard to permanent signs. Temporary signs are problematic.

Planner Cronin provided Planning Board members with two documents. One is a redlined list of potential changes. The other is a list of recommendations.

Planner Cronin bolded items in the document that are content specific. One way to remedy this is to organize signs by type of sign – A frame, banner, marquis etc. - and type of material. Chairman Seaworth stated we were advised by legal to remove things that may cause us to lose in court, while reading into what would be the next Supreme Court challenge. We could wait for more rulings. One exception was signs for safety reasons can be regulated. Vice Chairman Bourque asked if sign size can be regulated. It can. Planner Cronin explained that what cannot be regulated is a political sign versus a business sign. For example, a property owner can put any message on one permanent free-standing sign of a certain size that is not illuminated. Vice Chairman Bourque asked if a permit fee can be required for temporary signs. Chairman Seaworth suggested making the most restrictive case universal. In September, political signs begin to appear. A property owner could theoretically be limited to two signs a certain distance apart. There is political participation for each office, on the federal, state, and local level. Enforcement of sign ordinance must not discriminate. Chairman Seaworth noted that state law does not apply to signs on your property that are located out of the right of way. Vice Chairman Bourque noted that the State of NH regulates construction signs, so towns do not have to cover that.

Planner Cronin stated that information will be forthcoming on how the sign ordinance intersects with the zoning audit being conducted by Regional Planning. Vice Chairman Bourque asked if Zoning Board members are involved with the zoning ordinance audit. My request would be to pass the recommendations by the ZBA in case they were to have any objections for any reason, or questions and suggestions. Planner Cronin agreed and noted that the intent of Regional Planning zoning audit is to make the zoning ordinance document user friendly, consistent, and to flag areas to look at. After review and discussion, we can request Regional Planning to participate in any specific project we would like to pursue.

Vice Chairman Bourque stated it would be appropriate to send a letter to Zoning Board of Adjustment Chair Bruce Kudrick inviting the ZBA to participate in the discussion of zoning audit recommendations. Planner Cronin will share the word document with both Planning Board and ZBA members. Vice Chairman Bourque suggested that Planner Cronin stop into a zoning board meeting while it is going on to share this information. Planner Cronin noted that one suggestion was that after the Planning Board figures out proposed zoning changes for the coming year, they have a joint meeting with ZBA before the public hearing in case there are any changes that ZBA may want to see. Chairman Seaworth noted that some proposed zoning changes originate from ZBA. The process has been that ZBA sends recommendations to the Planning Board. Vice Chairman Bourque noted that in the past, an enforcement list was provided to the ZBA from the Code Enforcement Officer listing items that the ZBA might clarify in the zoning ordinance to assist with enforcement.

Minutes

April 26, 2022

MOTION: Vice Chairman Bourque moved to postpone action on the minutes of April 26, 2022 to the May 24, 2022 meeting. Member Hanson seconded.

VOTE:	B. Seaworth – Y	C. Hanson – Y	K. Foss - Y
	B. Edmonds - Y	R. Bourque – Y	K. Cruson-Y
	P. Gagy - Y		

MOTION TO POSTPONE ACTION ON MINUTES OF APRIL 26, 2022 TO MAY 24, 2022 PASSED ON A 7-0 VOTE.

Miscellaneous

1. Correspondence- Planner Cronin received an amended Wetlands permit for bridge #107 over the Suncook River.

2. Committee Reports

Roads Committee - Chairman Seaworth reported that Roads Committee met last week. The 2022 projects are well on the way to completion. Warmer weather is needed to perform crack sealing. Some work is planned on Nadine Road where the new road comes in and sewer line was extended. Funds will be from the MacCormack project.

TRC – Vice Chairman Bourque reported that TRC met this morning. Bob MacCormack was present with two applications to divide one lot into five lots. Three single family lots, the golf course, and the sixty-two residences as a lot. These applications will be on the agenda at the end of May. Vice Chairman Bourque discussed the range road policy project. There was a lot of excited discussion. Department heads want input to the project

Conservation Commission – Member Foss reported that Conservation Commission met last night. A culvert was replaced on Borough Road. The Trail Dawgs were present to discuss loss of a section of trail due to new owners not allowing access. They are trying to reroute trail #15. OHRV signs have been updated with language to assist police with enforcement. Fifteen summonses were distributed to vehicles larger than one trip. The Pembroke Pines application was discussed.

Board of Selectmen – Selectmen's Rep Gagy reported that Mike Vignale discussed the Main Street project. Agreement with contractor has occurred. Start date is expected to be June 1, 2022. Discussions held to help American Legion resolve 2019 tax deeds. Trail Dawgs came in for a discussion on trails. 2022 cruiser purchase authorized. 2021 audit finalized

3. Other Business

Planner Cronin received a lot merger request. Planner Cronin explained that when the same property owner holds two adjacent lots, they can apply to merge them into one lot. All that is needed is a signature from the Planning Board Chair and filing at the Registry of Deeds. Vice Chairman Bourque asked if a reason was given. Planner Cronin stated that it was the first step in a possible subdivision of land.

MOTION: Vice Chairman Bourque moved that the Planning Board Chair sign the request to merge 485 Fourth Range Road and 489-491 Fourth Range Road. Member Hanson seconded.

VOTE:	B. Seaworth – Y	C. Hanson – Y	K. Foss - Y
	B. Edmonds - Y	R. Bourque – Y	K. Cruson-Y
	P. Gagy - Y		

MOTION FOR PLANNING BOARD CHAIR TO SIGN LOT MERGER AS REQUESTED AS PRESENTED PASSED ON A 7-0 VOTE.

- 4. Planner Items – none
- 5. Board Member Items – none
- 6. Audience Items - none

MOTION: Vice Chairman Bourque moved to adjourn the meeting. Seconded by Member Edmonds.

Without objection the meeting was adjourned at 7:55 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary