

Pembroke Planning Board
Meeting Minutes
July 12, 2022
(Approved August 9, 2022)

MEMBERS PRESENT: Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Brent Edmonds, Kathy Cruson, Kevin Foss, Rick Frederickson, 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 were present. One alternate member was present.

Presentation

1. Zoning Audit Findings

Matt Monahan from CNHRPC

Matt Monahan and Steve Henninger from Central NH Regional Planning Commission conducted an audit and identified Town of Pembroke zoning ordinance issues. Their May 10, 2022 memo presented recommended changes and potential dates for the Planning Board to consider presenting the suggested revisions to the voters for consideration. Finally, there are suggested changes for the Table of Dimensional and Density Requirements and the Table of Uses, as well as a list of suggested redline changes that could be made to the zoning ordinance to address the formatting and "floating" regulations. Minor suggested changes have also been added regarding RSA citations and some definitions.

Matt Monahan made the presentation on the zoning audit findings. Please consider this as a menu of recommended changes the Planning Board can choose to pursue, or not, over the next few years. The first step was a general cleanup of the zoning ordinance to ensure that all RSA citations are correct, that information is consistent, and references were moved to the back of the document. The table of uses has color coded entries:

Green - explicitly described uses directly from the narrative

Light Blue- implied uses, gray areas that need to be reviewed and discussed

Yellow - suggested uses, need to be reviewed and discussed

Vice Chairman Bourque would like to see a larger font used in the tables. The tables are hard to read. Member Cruson wanted to give feedback that page breaks are not falling correctly. Matt Monahan said page breaks by section will be correct in the final version. Matt Monahan explained that the third column contains "Special Conditions" that Regional Planning staff tried to incorporate from the footnotes. An example is that under agriculture, a commercial stable is an allowed use. A private, non-commercial stable is less clear.

First, Planning Board members can skim the copy of the ordinance and see if the housekeeping changes are acceptable. Page numbers do continue to be off at the end of the document and will be corrected in the final version. The second task is to double check all the dimensional figures for correctness. The third task for the Planning Board is

to review and update the Table of Uses. This step will take the most time. Matt Monahan noted that another town went through this process last year. It was time intensive but now that town's ordinance is so much clearer. The dimensional figures were broken down to the table from the narrative. Once the review is complete, the table of uses and dimensions will be easy to use and maintain. Chairman Seaworth reemphasized that the Planning Board want to give feedback now, then review the table of uses and come back to discuss with Regional Planning.

Vice Chairman Bourque noted that in this copy of the zoning ordinance, the date and section that was amended was moved to a reference/appendix in the back of the document. Matt Monahan said it makes the ordinance cleaner to read. Chairman Seaworth stated we have seen it both ways. When someone wants to know the date of the last change, the notation is helpful. The applicant does not care when the ordinance was changed. Applicant wants current regulations. Vice Chairman Bourque said we will have to hunt in the back to research amendments. I prefer to keep notations where they are. Chairman Seaworth said we can discuss, and it is up to the board.

Selectmen's Rep Frederickson said the table key is explained at the beginning of the document. He would like to see the legend also repeated as a header on each page of the table to eliminate the reader having to flip back for an explanation of the key. Another helpful item would be having a map of zoning districts to access in the same location. Chairman Seaworth noted we once had a two-page foldout map of zoning districts in our binder. Matt Monahan could insert a hyperlink to take the reader to a map. Chairman Seaworth agreed we need to improve the format. Member Cruson said the two-page version was easier to read. Chairman Seaworth noted there is some dimensional vagueness driven by the footnotes. The tables are repetitive, such as for maximum building height the figure is all the same. Matt Monahan said he met with Planner Cronin and Chairman Seaworth regarding dimensions.

Vice Chairman Bourque noted that the 50-foot roof height is not of any consequence. The most important figure is the 35-foot height limit to the tops of the highest window of occupied space. This is the maximum height the fire department equipment can reach to rescue residents. Hopefully, we can eliminate the footnote and simplify the requirements where possible. Matt Monahan agreed that we need to better clarify the reason for the 35-foot height limit to the top of highest window with occupied space.

Chairman Seaworth noted that height limits in all the districts are the same, except for the Soucook River District known as TIF, tax incentive finance area. There are still properties in the Soucook River District without commercial uses, but the TIF no longer exists. Member Cruson asked if there were any chance a residential use could be put in the Soucook River District. Matt Monahan stated that things change over time. This kind of consideration can come out of discussions over dimensions, and their correctness. Matt Monahan will put these items on a To Do list to revisit in the future. Chairman Seaworth would like to split the changes over two years. He suggested the board look at the ordinance, incorporate it into the Table of Uses, then relook at the ordinance. Matt Monahan want to make sure Regional Planning is going in the right direction.

On a straw poll, the board prefers to keep the references imbedded in the section of the ordinance it applies to. Selectmen's Rep Frederickson said, that would be the last modified date and year adopted. His work software allows detailed flags that provide more information if desired. Vice Chairman Bourque said we never posted the reason for the change, just the date. Member Hanson noted the data would be in the documentation files for the town meeting year. Vice Chairman Bourque noted it is possible to research the explanation for the change. Chairman Seaworth would like to keep the reference in the ordinance. For example, page 10 "amended 3-8-2011." Amendments are only made once a year at town meeting. Chairman Seaworth asked what if the section was amended three times? Selectmen's Rep Frederickson stated that there would be multiple dates, separated by semicolons. Matt Monahan referenced page 195 of 180 as an example. Vice Chairman Bourque noted that State RSA shows all amended dates. Member Foss would like to put the date, and any additional descriptive notes where such notes already exist. Chairman Seaworth noted that about five percent of the notes have more detail than a date. Those notes would stay in the section.

Member Hanson suggesting leaving the notes in the appendix and looking up what happened in the past if interested. It is not helpful to the developer who wants to find the requirements today. Vice Chairman Bourque said it is helpful to know what was in effect on a certain date. Matt Monahan stated that notes were moved to the appendix to make the ordinance more user friendly. Chairman Seaworth confirmed the Planning Board did give general instruction to Regional Planning to make the zoning ordinance easier to use. Member Foss asked why we would make a change that does not have to be made. Planner Cronin will research how other towns format their zoning ordinance. Member Hanson favors the appendix, leaving the ordinance clean. Chairman Seaworth noted that Planning Board members are almost the only ones who care about that level of detail. Member Hanson said if it is for us, why make it more complicated for others?

Regarding board review of the table of uses, would members prefer to update the table in multiple steps? For example, accept all green recommendations which flow from the narrative. Matt Monahan stated that for a lot of others, interpretation comes into discussion. Vice Chairman Bourque noted that residents will go along with Planning Board recommended zoning ordinance changes that are explained to them. Member Cruson said the ordinance must be easy to read and understand. Selectmen's Rep Frederickson stated the ordinance must be reasonable and not confusing, with less gray areas. Some items must be explained. Matt Monahan stated if the board does a good job on the entire table of uses between now and Christmas, the updated ordinance could be presented at town meeting 2023. Chairman Seaworth stated the table of uses review is homework for us. Updating the entire table is too much for a first cut. Vice Chairman Bourque stated I hate to be rushed or feel like a deadline is made for review. Whatever the board gets to and agrees on will go forward. The Planning Board will work on the rest.

Matt Monahan stated that is good direction from the board.

Old Business

2. Range Road Planning

Matt Monahan from CNHRPC

Matt Monahan presented a rough outline of the scope of the Range Road project. The boundaries would be looking at buildout of 3rd Range Road and 4th Range Road, the cost per foot to build the improved road, and the impact to Route 3. Selectmen's Rep Frederickson stated the feedback from the Board of Selectmen is that looking at only 3rd and 4th Range Roads is too limited. They would like broader data including 5th Range Road, 6th Range Road and 7th Range Road. Matt Monahan noted that the current master plan only addresses 3rd Range Road and 4th Range Road. There is a different quality of existing road on each of these. Matt Monahan suggesting starting with 3rd and 4th Range Roads and phasing the study to include the higher range roads. Things change and evolve over time. If we get information on higher range roads now, it may be obsolete before the time to take any action occurs.

Member Cruson stated that a key factor is where do the range roads lead to? Is it a dead end? Does it connect to a state highway? We must see where the range roads tie in on a map. Matt Monahan stated that is a good point. Previously, Holden Engineering as the town's engineering firm went to NH DOT and reviewed many old plans. They attempted to document the layout of the range roads and legal status all the way back to 1806. Member Cruson said a lot of people do not have any idea where resting water is on the range roads. One of the first things is to determine where the road starts and ends. Is there ledge, steep slopes, or other development constraints? Member Edmonds said, most importantly, does the Town of Pembroke have authority and are these public ways? Matt Monahan explained that Class VI roads may be subject to gates and bars. Chairman Seaworth noted that it is the owner who can put up gates and bars, for instance so his livestock can cross the road on his property not the town that puts up gates and bars. Are the range roads fully passable? Member Edmonds is not convinced that the town owns the range roads.

Matt Monahan said I see a day spent at NH DOT archives to perform some level of title search. Planner Cronin stated that David Jodoin, Town Administrator, has accumulated a wealth of knowledge on the history of range roads doing research each time a request to open a section of road is presented to the Board of Selectmen. David has found notes in town meeting reports where roads have been reclassified. Matt Monahan agreed that it may be necessary to go through every town report to see if restrictions have been changed. Member Edmonds said it is a noble intent to improve the town roads, but not at the expense of property owner rights. Member Cruson said that David Jodoin has in house knowledge of historic plans. His knowledge will be invaluable. Matt Monahan said he has viewed plans at NH DOT archives on good paper from the 1950's and more fragile plans dating back to 1800s.

Member Hanson stated that the first thing we need is a beginning and end point of each road. We cannot trap traffic where it can not exit. The improvements will benefit people who live in the area. Eminent domain issues come into play with any plans for Route 3 widening, but that would be a state issue. Matt Monahan stated we may see an immediate benefit to rerouting traffic. To what extent it would alleviate Route 3 traffic is less certain. Member Hanson sees mostly local traffic using improved roads. China Mills has 150 units and Assisted Living has 125 units going in, and a lot of additional traffic will be coming north from Hooksett and Allenstown.

Matt Monahan stated we also need to know the legal status of each road, along with where it begins and ends. Member Hanson said there would be an incentive for the town to upgrade the roads and raise taxes when a developer comes in. Matt Monahan said that assumes the road is a paper street and is town owned. Chairman Seaworth stated there is an incentive to using the Board of Selectmen process to open a town road unless it is cheaper to build a brand-new parallel road.

Member Cruson stated that the concept is that property owners have the right to use their land as they want. Vice Chairman Bourque said we must look at both sides. Member Foss stated that we should have rules that steer development where the town wants it. Member Edmonds stated that a lot of back land in the town is not being used after logging is completed and may remain stagnant unless the town takes steps to provide access. Member Foss stated that the Conservation Commission discussed how do we make it possible for a non-developer to build a house on a range road? Town Hall receives calls of this nature every time land is listed for sale. Matt Monahan said all towns get those calls. For example, a private road on a 5-acre lot, off a Class VI Road, which is off a Class V Road. One must park the car on the side of the road and walk in one mile with groceries. It is like having a car with no engine.

Vice Chairman Bourque suggested allowing gravel roads instead of paved roads to upgrade from Class VI to Class V roads. A gravel road is a lot less expensive to build. We could build a fee schedule to pay for it. Matt Monahan summarized options mentioned, that include parallel road, gravel road, paved road, and narrower road. DPW will need to weigh in. Chairman Seaworth noted that Member Cruson brought up the case of three houses on 3rd Range Road (Class VI Road) that have an agreement to self-manage their gravel road into perpetuity. Member Cruson also said the town issued building permits for several houses off 6th Range Road. Chairman Seaworth noted that DPW has found the expense of winter maintenance is not worth it on gravel roads. The town undertook a project to pave all town roads. Paved roads are easier to maintain and present less risk to DPW trucks and equipment.

It did not used to be one or the other (paved or gravel). It was up to the individual property owner to maintain the road under a structured or loose agreement. Matt Monahan would be interested in seeing that 1970's agreement. There could also be private deed restrictions. Chairman Seaworth asked what happens when the person who did the road maintenance eventually sells the property. Selectmen's Rep Frederickson noted that a comment in a different meeting suggested alternating paving and gravel in quarter mile increments on a road. Chairman Seaworth noted that when one owner upgrades a section of the road, other owners on the road benefit. How do we make this equitable? Matt Monahan suggested implementing impact fees to all who benefit and including a town share. The funds collected need to be spent within six years on a clear and specific need. Vice Chairman Bourque agreed that is the way to go legally.

Selectmen's Rep Frederickson asked when the Planning Board might expect a report. Matt Monahan said he could not project an accurate date, but between eight months and a year. It would take less time than a master plan. Vice Chairman Bourque asked if the board could get periodic updates, such as a six month check in with percent of work complete. Matt Monahan noted Regional Planning staff are attending 8-9 meetings per

month now. Member Hanson noted that in Massachusetts, where gates and bars were granted on a road and not used within a period, the approval is nullified. Matt Monahan stated that historical title search can take some time but will be interesting. What used to be private ways may now be public and the opposite could be true. Chairman Seaworth thanked Matt Monahan for his presentations tonight.

Minutes

- June 14, 2022
- June 28, 2022

MOTION: Vice Chairman Bourque moved to postpone action on the June 14, 2022 and June 28, 2022 minutes to the July 26, 2022 meeting. Member Hanson seconded.

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

MOTION TO POSTPONE ACTION ON MINUTES TO JULY 26, 2022 PASSED ON A 7-0 VOTE.

Miscellaneous

1. Correspondence- none
2. Committee Reports

TRC – Vice Chairman Bourque reported that TRC met this morning. There was a visit from an Eversource representative. Eversource is installing parallel structures on its M108 line, like their 145 lines. Once the new structures are complete, Eversource will switch over to the new structures. Taller poles are being installed. Work is planned for July 2022. There is a wetland crossing on Pembroke Hill Road.

Board of Selectmen – Selectmen's Rep Frederickson reported that Consolidated is still refusing to move five poles to the opposite side of the road at their cost. One of the poles was red flagged five years ago. Member Edmonds explained that the poles in their current location impede ADA improvements to the sidewalk. This issue will be addressed by Town Legal Counsel and will not delay the project. Alternate Member Christiansen noted that the utility company is understaffed. Vice Chairman Bourque suggested calling PUC about the matter.

3. Other Business- none
4. Planner Items – Planner Cronin noted that the meeting agenda on July 26, 2022 will include Pembroke Pines Subdivision Plan and Site Plan, the Kimball Street Site Plan, an Eversource application and a driveway Wetlands Crossing request.
5. Board Member Items – Member Cruson asked what the status was of the Stop sign on Blane Circle. It has been lying down on the ground. Planner Cronin will check with the Town Engineer.
6. Audience Items - none

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

Without objection the meeting was adjourned at 8:45 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary