

Pembroke Planning Board
Meeting Minutes
August 9, 2022
(Approved August 23, 2022)

MEMBERS PRESENT: Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Brent Edmonds, Kathy Cruson, Kevin Foss, Karen Yeaton, 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.

Discussion

Legislative Update on Planning and Zoning Changes

Planner Cronin shared a guide put together by NH Municipal Association summarizing a few State of NH bills recently passed that affect Planning Board and Zoning Board of Adjustment members. There is a summary of the major changes, and a line-by-line analysis of changes in language in the RSAs. In section 70, trainings are offered to planning board and zoning board members. Alternate members may also receive training. OPD will develop and make available training materials and tests. Members can register by email and receive certification after completing the training. The training is optional. At one point, training was going to be mandatory. Chairman Seaworth noted that the language of the training section was worse before they changed the training to being optional. This should not hurt recruitment of volunteer board members. Planner Cronin will keep the board updated. Planner Cronin is attending an online training tomorrow that will answer questions about the new legislation. Members of the Planners Forum are still trying to understand the changes, some of which go into effect in two weeks.

Planner Cronin noted that at the staff level, towns are required to post all fees for applications in one document known as Notice of Land Use Board Fees. She plans to scan all town fee documents into one document with a cover sheet effective 8-23-2022. Fees must be transparent and easy to find.

Housing procedural incentives can be put in place on a trial basis for one year. Written findings of fact must be part of Planning Board and Zoning Board notices of decision. For denials, the reason must be included in the notice. That way, any future reviewing body gets detail of the discussion. It is anticipated that staff and town legal counsel will create the written findings of fact. Member Cruson stated this requirement will increase legal costs. Planner Cronin said if a decision is likely to be appealed, legal review is prudent. Chairman Seaworth noted that NH Municipal Association does not state that this is the only way to create a findings of fact document. Emphasis is on denials and controversial cases. The penalty for not providing findings of fact documents is automatic approval of the application if it goes to appeal. Chairman Seaworth suggested letting more information come in before changing any procedures. Vice Chairman Bourque suggested that a share of the legal cost be passed on to the applicant if a lawyer is required. Selectmen's Rep

Yeaton noted that if a lawyer is not required, the town cannot pass on the cost. Member Cruson asked if we are still functioning under unfunded mandate.

Chairman Seaworth noted that the governor signed the nonpartisan bill. Advocates say no it is not an unfunded mandate. The ZBA is very deliberative of criteria. There is no requirement to engage legal to make the process of appeals go smoother. Vice Chairman Bourque noted that at least one decision made by the Board of Selectmen included the reasons for the decision not to open a range road. Chairman Seaworth said we can work on an appropriate approach to findings of fact document. Staff can work on it after a meeting. The motion and discussions are all part of the motion process. Selectmen's Rep Yeaton asked if boards can incorporate documents into their minutes. Chairman Seaworth said yes. The Planning Board receives considerable documentation including staff report and Technical Review Committee report, which are all available in the case file.

Vice Chairman Bourque asked what the time period was to provide the Notice of Decision and Findings of Fact. Planner Cronin stated that Notice of Decisions are five business days. She emails a copy of the decision to the applicant ahead of the signed written document. Planner Cronin said no guidance has been set on the timeframe for finding of facts. More information may be available after the online seminar tomorrow. The Planning Board timeline is 65 days review time. There is an option where applicant and board agree on extension of time for a Planning Board decision. If the Planning Board did not decide on time, the applicant could go to the Board of Selectmen and request a decision within 30 days. Now the Selectmen would grant an automatic approval. Chairman Seaworth stated that asking the Board of Selectmen for a decision has been removed. Chairman Seaworth stated that the planning board could decide to deny without prejudice if significant information needed to decide is missing when the review time is up. This allows the applicant to resubmit the same or similar application as a new submitted application.

Chairman Seaworth noted that designating an application a Development of Regional Impact adds 30 days to the review timeline. The clock starts when the public hearing starts. Vice Chairman Bourque stated that the Pembroke Planning Board always asks the applicant to make the request for a review time extension in writing before the meeting. This makes the request clear in the record. Superior Court can require a bond to award the cost of fees to the party that prevails. Chairman Seaworth stated the requirement for a bond also limits frivolous appeals.

Planner Cronin stated that the section on workforce housing allows towns to fund acquisition of property through a TIF District. Vice Chairman Bourque stated in one municipality, two public parking lots that were underutilized were being transformed to housing. Ten percent of the housing must be reasonable rent. Affordable housing is currently defined as \$330,000 for a single-family home. Chairman Seaworth noted that sometimes towns are grouped together for one average. Member Cruson asked if housing must be available or existing. Vice Chairman Bourque said if a large development came to the planning board, it would be in their purview to request a study on whether too much high-end housing would upset the workforce housing balance. Chairman Seaworth said the town can incentivize workforce housing. Vice Chairman Bourque said Bedford has a

zone. Planner Cronin stated that it could be achieved through a TIF district now. Chairman Seaworth said a TIF district was initially more for commercial development. Member Cruson asked if a commercial TIF can be rezoned to a residential use. Planner Cronin stated the purpose of the TIF is set up in advance and could not be changed once the TIF is established, it would have to be a new TIF district.

Planner Cronin noted that new language gives religious uses the ability to bypass some site plan regulations. A new site plan submitted would be subject to basic dimensional requirements but not signage, noise, lighting, drainage, parking, and hours of operation. Selectmen's Rep Yeaton asked if a religious use application would have to comply with MS4 stormwater regulations. Chairman Seaworth noted that lawsuits will follow. Towns would need to ask NH DES or other agencies to intervene. Vice Chairman Bourque said I can see this is going to be a big problem. Planner Cronin will attend the online seminar at noon tomorrow. Board members are welcome to sign up for the online seminar. Planner Cronin will share the presentation when it is available on You Tube.

Minutes

- June 14, 2022

MOTION: Member Foss moved to approve the June 14, 2022 as amended (Page 8 of 10, mowing, irrigation and fertilization already occur and a strike out). Member Bourque seconded.

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

MOTION TO APPROVE JUNE 14, 2022 MINUTES AS AMENDED PASSED ON A 7-0 VOTE.

- June 28, 2022

MOTION: Vice Chairman Bourque moved to approve the June 28, 2022 as amended (Page 5 of 11, Change to: also asked if the developer plans to add sidewalks to Pembroke Street as discussed). Member Foss seconded.

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

MOTION TO APPROVE JUNE 28, 2022 MINUTES AS AMENDED PASSED ON A 7-0 VOTE.

- July 12, 2022

MOTION: Member Foss moved to approve the July 12, 2022 as amended (Page 3 of 8, clarify houses on 3rd Range Road have an agreement. Building permits were issued on 6th Range Road). Vice Chairman Bourque seconded.

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

MOTION TO APPROVE JULY 12, 2022 MINUTES AS AMENDED PASSED ON A 7-0 VOTE.

- July 26, 2022

MOTION: Vice Chairman Bourque moved to approve the July 26, 2022 as amended (Page 13, five lines down should be Vice Chairman Bourque not Chairman Seaworth. Member Foss asked if we could incorporate the two submissions from the attorney to the minutes. Yes, can include map and narrative as part of minutes record. Page 22, take out Member Cruson sentence not relevant) Member Hanson seconded.

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

MOTION TO APPROVE JULY 26, 2022 MINUTES AS AMENDED PASSED ON A 7-0 VOTE.

Miscellaneous

1. Correspondence – Planner Cronin noted that Regional Planning Commission coordinates the NH DOT 10 Year plan. They send a letter to towns with projects on the plan, or which have next round considerations to add to the plan. Pembroke has no projects on the current plan. Glass Street may be eligible for federal funding, and portions of Pembroke Street are in the Master Plan. Planner Cronin will provide copies of the letter. Member Cruson recalled that previous grant money for bike lanes on Pembroke Street required the town to keep them up. Chairman Seaworth noted that there are multiple agreements between the State and Town of Pembroke on Pembroke Street maintenance.
2. Committee Reports TRC – Vice Chairman Bourque reported that TRC met this morning. One was Kent Brown on Commerce Way to store empty containers, and the other was Pembroke Golf LLC to construct a driving range and golf cart pathway. Special Use Permits for wetlands and aquifer are requested.

Board of Selectmen – Selectmen's Rep Yeaton reported that the Town has a new Library Director. Ryan O'Hora was introduced to the town by email newsletter and will meet the Board of Selectmen at a future meeting. There is a vacancy for a Checklist Supervisor and the Budget Committee. Old Home Day is August 27, 2022. CIP is meeting on Thursday evenings.

Roads Committee – Chairman Seaworth reported that Roads Committee met last week. Routine roads projects were discussed. The Public Works Director presented the paving plan next year for submission to CIP. Chairman Seaworth noted this is the first year the town is fully on the system to determine road work by algorithms.

Conservation Commission/CIP – Member Foss reported that Conservation Commission will meet next week. CIP has started meeting to make priority recommendations for all capital projects. Challenges to the Budget Committee will be the cost of purchases and delivery constraints for purchases laid out by departments in their 7-year plan. Capital Reserve warrant articles may need to be amended.

3. Other Business –

4. Planner Items

- A. Pembroke Pines Conservation Parcel – Planner Cronin reported that the Planning Board conditionally approved the multi-family site plan last month. A conservation donation of a 15-acre parcel got missed as a condition of approval.

Applicant's attorney reached out to confirm that applicant is still committed to making this donation. Notes on the subdivision plan indicate that 15.58 acres is intended to be deeded to Town of Pembroke. Work will continue on the donation.

5. Board Member Items

6. Audience Items

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

Without objection the meeting was adjourned at 8:13 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary