

**Pembroke Planning Board
Meeting Minutes
November 15, 2022**
(Approved on November 22, 2022)

MEMBERS PRESENT: Brian Seaworth, Chairman; Brent Edmonds, Kathy Cruson, Kevin Foss, Rick Frederickson, Selectman's Rep.; Clint Hanson

ALTERNATES PRESENT: Bryan Christiansen

MEMBERS EXCUSED: Robert Bourque, Vice Chairman

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

Chairman Seaworth called the meeting to order at 6:30 pm. Six members were present. One alternate member was present. Chairman Seaworth designated Bryan Christiansen to vote for Robert Bourque. Matt Monahan, Central NH Regional Planning Commission (CNHRPC), attended meeting virtually.

New Business

1. Proposed Zoning Changes for 2023 Town Meeting

a. Special Use Permit process

Planner Cronin described an email in the packet from Town Counsel recommending that the Board has two options to address the Special Use Permit reapplication process.

1. The Board can strike the Section 143-147 "Denial of Application". The result would be that the only recourse for a denied Special Use Permit is an appeal to Superior Court.
2. The Board can amend Section 143-147 "Denial of Application" as follows:

In the event that an application is denied by the Planning Board, **a subsequent application may be considered only if there is a material change of circumstances affecting the merits of the application or the application is for a use that materially differs in nature and degree from the first application** ~~a resubmitted application shall follow the same procedures as the original and shall be treated as a new application.~~ **Any such subsequent application shall follow the same procedures as the original and shall be treated as a new application.**

Option one for a Special Use Permit denial is to appeal to Superior Court. Option two adds language that allows applicant to pay the fees and submit a new application if there is a "material change of circumstances." Member Christiansen asked who would determine whether there was a material change? Planner Cronin stated that determination of "material" would be at the discretion of the Planning Board. Selectmen's Rep Frederickson stated that when there is a denial, Planning Board files include a "finding of facts" document. A material change would take the reason the special use permit was denied away. Chairman Seaworth stated we want to avoid nuisance applications. We assumed that special use permits would be tied to a site plan. Member Hanson stated my concern is the word "material." Member Christiansen stated that option one is a certainty, and option two is uncertainty up for interpretation. Chairman Seaworth stated that in an appeal, Superior Court usually returns the case back to the board for rehearing. However, the court can rule on the matter.

Member Christiansen would like to see the appeal of denial of special use permit parallel the site plan appeal procedure as much as possible. A different special use permit application from an applicant may have a different result. Chairman Seaworth stated an appeal could be for a similar use on the same property. Member Hanson stated if the Planning Board decides to hear a new application, we need to be consistent as a board. Chairman Seaworth stated the reason for denial is clearly articulated in the original decision. Selectmen's Rep Frederickson agreed that the reasons for denial are written down. Member Foss supports an opportunity for an applicant to submit a new application. Planner Cronin stated the board can revisit the language at the December 13, 2022 business meeting before the January 10, 2023 public hearing. Chairman Seaworth stated the board consensus is to post Option 2, the amended Special Use Permit reapplication process, for January 10, 2023 public hearing.

MOTION: Member Hanson moved to send special use permit amendment Option 2 to public hearing on January 10, 2023. Selectmen's Rep Frederickson seconded.

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

MOTION TO SEND SPECIAL USE PERMIT AMENDMENT OPTION 2 TO PUBLIC HEARING ON JANUARY 10, 2023 PASSED ON A 7-0 VOTE.

b. Zoning Audit items

Zoning Audit Findings

Table of Uses discussion items

Planner Cronin provided a color-coded amendment to the Table of Uses prepared by Town staff and CNHRPC staff. Uses highlighted in green are uses that are already present in other sections of the zoning ordinance, but not included in the table. CNHRPC included all uses into the table to create a comprehensive list for easy and thorough reference. The Board can decide whether to accept these "green" uses into the table.

Items highlighted in blue or yellow are implied uses and suggested uses, respectively. Something else to consider is whether to add definitions for any new uses added to the table. These items require more discussion and consideration than there is time for the 2023 Town Meeting. These can be items for future discussions.

Planner Cronin stated that the Zoning Audit report from CNHRPC in Summer 2022 included many recommendations. The board needs to pare the suggestions down to items that are manageable this year with no substantial changes. The green items are already present in other sections of the zoning ordinance but are not in the table. The table column SR (Soucook River Development District) includes uses allowed in the SR Zone. SR has its own district dimensions and requirements. Blue and yellow items are implied and suggested items that need more discussion. To make the table all inclusive, office conversion is in a row but only relates to the Limited Office District. The last two sheets are a new Table of Accessory Uses that does not exist currently. Yellow coding is completely new to consider in the future. Green changes are mostly format changes that

can be forwarded to town meeting 2023. The information put into the table will remain in the same location it was in the Zoning Ordinance. Matt Monahan stated that at some point, items should be removed from the narrative. A lot of towns are struggling with this process now.

Do we delete information in other areas because the table will contain that information? Selectmen's Rep Frederickson suggested using descriptive narrative in the table. Matt Monahan stated there needs to be a bridge to the narrative if the changes are being made over multiple town meeting years. Some descriptions are too vague. Precision is what we are striving for so that ten years from now, the table will eliminate a lot of confusion. Selectmen's Rep Frederickson suggested removing all vague or contradictory narrative.

Chairman Seaworth noted that items on the recommendation report color coded yellow and light blue need further consideration. Green coded items can be put forward to town meeting 2023. Chairman Seaworth clarified that the information appears in rows and columns. Columns where information is left out should not be in the table. Accessory Uses Table does not exist currently. It has lots of new yellow rows and needs to be a future item. It is easier to search Soucook River requirements in text, not table. Matt Monahan suggested reviewing line by line yellow columns and rows. Under Laundry/Dry Cleaning, the use is not permitted in the Soucook River District but is permitted in C1 District with a special exception. Selectmen's Rep asked if we could leave "tbd" in the table where items are blank. Matt suggested that nothing changes this year, and we can revisit next year. Chairman Seaworth stated there are not that many undeveloped lots left in the Soucook River District. Planner Cronin agreed that because Table of Accessory Uses is not in effect now, the board can tackle that next year.

Planner Cronin suggested that if the board only does the green changes and not include Soucook River in the table, there would only be about three changes. We are going to ask voters to approve a table with public park, office conversion, and adult entertainment uses. Is it worth it? Chairman Seaworth stated the technical issue is that adult entertainment is not permitted by right in the C1 zone, it is only allowed in a specific portion of C1 near Ricker Road off Route 393. Planner Cronin noted that Office Conversion is in section 143-30.1 limited to LO to B1 district along Pembroke Street. Office conversion has very specific criteria to uphold.

Member Cruson stated that it makes the table more nebulous when things that do not fit are included. Selectmen's Rep Frederickson recommended leaving exceptions where they are in the zoning ordinance, as the explanatory text is necessary. Chairman Seaworth noted that several new rows are added. Specifically, a row for park and conservation, and a row for elderly housing (implied use) are added to the table. "Rest Homes" is an out-of-date term. Self-storage use may need a variance in the B1 district. Matt Monahan asked how easy is reference to "self-storage" to find as a permitted use? Planner Cronin stated research on what has been done in the past is required for self-storage use is required. A bigger packet of changes to zoning ordinance may need to wait until next year town meeting. Matt Monahan stated some narrative is clear. Other narrative needs a two-phase process. Phase 1 is put clarity in the narrative and Phase 2 is put the information in the table in the future.

Chairman Seaworth stated that housekeeping changes can be brought forward to town meeting 2023. There is not enough time to make changes that require additional discussion and thought. Board consensus was to wait on changes to the Table of Uses until a future Town Meeting.

Dimensional Requirements Table discussion items

Planner Cronin reported that CNHRPC included all dimensional requirements for all zoning districts, overlay districts, and special uses into the table to create a comprehensive list for easy and thorough reference. The Board should discuss whether they like the format and agree with including all overlays and special districts into the table.

Multifamily frontage in the (existing) table conflicts with (existing) Note #6 on Zoning page 44. The table states a specific frontage for multifamily buildings, but the note states that an additional ten feet per unit needs to be added to the frontage. These numbers do not reconcile when determining the frontage for a 3-family building. For example, does a three-family in the R1 require the 150 feet as stated in the table or the 160 feet (adding ten feet to duplex frontage) as described in the notes? Board and staff need to resolve this conflict.

Staff recommends reversing the pervious percentage so that we require maximum impervious rather than minimum pervious as it is a more intuitive way to read it. Another conflict is that we do not want a maximum building height of one hundred feet in the SR Zone since building height is dependent on fire equipment with a 35 feet max reachable height. Something to consider.

Planner Cronin noted that the table does not match the notes in the Dimensional Requirements Table. Member Hanson stated the difficulty is how to report the information in table format, and how to address anomalies and make the table agree with the math. Chairman Seaworth stated that dimensions for three or more units in a building is subject to a formula. Chairman Seaworth stated that the frontage dimension requirement for a three-family building was never meant to be 150 feet, same as for a duplex. A formula adds ten feet of frontage requirement for each additional unit over two in a building. Member Christiansen stated the footnote says to see the formula.

Planner Cronin noted that town water and sewer is required for multifamily dwellings. Chairman Seaworth suggested that a 55+ rooming house may need a variance because the frontage requirement does not apply and may not be located on water or sewer. Planner Cronin suggested that notes can manage the frontage requirement for more than two units per building. Member Cruson expressed concern about Building Height up to one hundred feet in the Soucook River development district as being too tall for fire services. Chairman Seaworth noted that a future task is to change the Soucook River zone incentives or eliminate the SR district after the bond is paid off. The key is that building height in SR district is at Planning Board discretion. Planner Cronin clarified that buildings could increase ten feet in height for each additional acre in the zoning ordinance. Member Foss stated that there are ways to have safe buildings over thirty-five feet high. Chairman Seaworth asked does it help or overcomplicate the table to have special districts included. The table must be easily readable.

Board consensus is to continue to exclude Soucook River, overlay districts and special districts from the Dimensional Requirements table because they do not add value. Keep standard zone notes number 2 and number 3, strike the rest, and convert minimum pervious to maximum impervious in the table.

Setbacks and Yard Requirements Table

Planner Cronin reported that CNHRPC included all setback requirements for all zoning districts, overlay districts, and special uses into the table to create a comprehensive list for easy and thorough reference. The Board should discuss whether they like the format and agree with including all overlays and special districts.

Planner Cronin stated that setback from residential property column can go away, and Accessory Building setback and rear setback can be included in the table. It is typical for an accessory building to have a shorter rear setback.

The Board consensus is to continue to exclude Accessory Building Setback, Setback from Residential Property, Landscape, and Overlay Districts and Special Uses. The Board kept notes labeled as 1, 2, 3, asterisk, and pound sign.

Lot Size Table discussion items

Planner Cronin reported that CNHRPC included all lot size requirements for all zoning districts, overlay districts, and special uses into the table to create a comprehensive list for easy and thorough reference. The Board should discuss whether they like the format and agree with including all overlays and special districts into the table.

Chairman Seaworth stated that once the tables are cleaned up, they will be very useful tools. Matt Monahan stated the process is good. Chairman Seaworth noted that special districts are not dependent on town water and sewer. Each special use has its own minimum lot size. Planner Cronin noted that contiguous buildable area is a high priority when analyzing an application. Chairman Seaworth suggested contiguous buildable area should be on the subdivision application so the Planner can determine minimum contiguous buildable area up front as part of the review for application completeness. Planner Cronin stated contiguous buildable area is on the Subdivision Application checklist.

The Board consensus is to continue to exclude Overlay Districts and Special Uses from the Lot Size Table, to keep notes labeled as asterisk, pound sign, and the contiguous buildable area note, as well as include a new note stating, "Overlay Districts have no impact on minimum lot sizes."

MOTION: Selectmen's Rep Frederickson moved to accept amended Dimensional Requirements Table, Setbacks and Yard Requirements Table, and Lot Size Table as discussed and send them to public hearing on January 10, 2023. Member Christiansen seconded.

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

MOTION TO SEND AMNEDED TABLES TO PUBLIC HEARING ON JANUARY 10, 2023 PASSED ON A 7-0 VOTE.

Zoning Ordinance Formatting

Planner Cronin reported that CNHRPC suggests adding all the amendments to a separate reference section in the back of the ordinance. There are many ways to reference amendments. Matt Monahan noted the reference is usually date of change and NH RSA updated citation. An example of "floating boxes" is found on page 105 Section 143-147. Member Cruson stated I prefer to have references by the text as it is now. Board consensus is to leave amendments as they are now. Planner Cronin will leave amendment references in the section that they pertain to and remove "reserved" sections not used.

MOTION: Member Hanson moved to accept all of Matt Monahan's formatting changes to the Zoning Ordinance except moving amendments to the back of the document and send them to public hearing on January 10, 2023. Selectmen's Rep Frederickson seconded.

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

MOTION TO SEND ZONING ORDINANCE FORMATTING CHANGES AS DISCUSSED TO PUBLIC HEARING ON JANUARY 10, 2023 PASSED ON A 7-0 VOTE.

Discussion on zoning ordinance changes was completed at 8:57 p.m.

Minutes & Finding of Facts

- October 25, 2022

MOTION: Member Foss moved to approve the October 25, 2022 minutes as presented. Member Cruson seconded.

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

MOTION TO APPROVE OCTOBER 25, 2022 MINUTES AS PRESENTED PASSED ON A 7-0 VOTE.

1. Correspondence - none
2. Committee Reports – Board of Selectmen – Selectmen's Rep Frederickson provided an update on board discussion of ongoing solid waste issues, and methods to reduce the Casella rates the town is experiencing. It is irresponsible to fill up the landfill faster until the town can switch back to recycling later when it is profitable. Some ideas were bringing recycle to burn/recycle sites in Massachusetts and technology at waste to energy facilities. Chairman Seaworth noted that talk about going to Boscawen, NH as a partner never came to be. Roads Commission- Chairman Seaworth stated Roads Commission met two weeks ago. The proposals for next year's road projects are being sent out now. For the last two years, the town has gone out to bid prior to and

contingent on March town meeting. Lower quotes have been received as a result. Conservation Commission – Member Foss stated that Conservation Commission met last night. Matt Gagne, Pembroke Water Works, addressed how Conservation can help Pembroke Water Works.

3. Other Business

A. 2023 Meeting Schedule – Meeting schedule for 2023 will be revised with year “2023” in dates.

4. Planner Items – Planner Cronin noted that two continued applications are on the agenda for the November 22, 2022 meeting.

5. Board Member Items

6. Audience Items

MOTION: Member Foss moved to adjourn the meeting. Seconded by Selectmen’s Rep Frederickson.

Without objection the meeting was adjourned at 9:07 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary