

**Pembroke Planning Board
Meeting Minutes
(ADOPTED)
October 9, 2018**

MEMBERS PRESENT: Brian Seaworth, Vice Chairman; Kathy Cruson; Brent Edmonds; Selectman's Rep. Ann Bond

ALTERNATES PRESENT: Robert Bourque; Timothy Goldthwaite

EXCUSED: Alan Topliff, Chairman; Richard Bean; Larry Young, Sr.; Kellie Dyjak

STAFF PRESENT: Carolyn Cronin, Town Planner; Jocelyn Carlucci, Recording Secretary

In the absence of Chairman Topliff, Vice Chairman Seaworth called the meeting to order at 7:00 pm. He asked Alternate Member Bourque to vote in place of Chairman Topliff and Alternate Member Goldthwaite to vote in place of Member Bean.

New Business

1. Discussion of Zoning Amendments for 2019

The Board agreed that if, at 8:30 pm, the Board was still discussing the zoning amendments, they would skip the additional items.

Aquifer Conservation District

Proposal: Create consistency in who provides input for Aquifer Special Use Permits and Special Exceptions.

Ms. Cronin said that she and Mr. Pendergast, the Code Enforcement Officer, found that in the Aquifer Conservation District, there are two possible channels for the applicant to follow: (1) Going through the Planning Board for Aquifer Special Use Permit; or (2) the Zoning Board for Special Exception. She said that, at times, an applicant has to go to both Boards with the same application. She said that Aquifer zoning has two different criteria to meet the same goal.

Ms. Cronin said that the Planning Board receives comments from the Pembroke Water Works and the Health Officer. The Zoning Board looks at comments from the Health Officer, the Conservation Commission, and Planning Department. She said that she and Mr. Pendergast wondered if it would make sense to create consistency by having the Planning Board and Zoning Board review comments from the same departments in order to achieve the same goal.

Acting Chairman Seaworth said that he saw no reason why that should not be done.

Alternate Member Bourque asked if Acting Chairman Seaworth was suggesting that there be one Aquifer Special Exception.

Acting Chairman Seaworth said he would like to discuss that topic later.

Ms. Cronin asked the Board which departments add value to the aquifer decision-making process. She asked if there was value to the Planning Board receiving Conservation Commission comments and if there was value to the ZBA receiving comments from the Pembroke Water Works.

Acting Chairman Seaworth said that the Water Works comments are one of the most critical pieces of information that the Board uses to evaluate aquifer protection issues. He wondered if the Board should also get comments from the Conservation Commission.

Selectmen's Rep. Bond said that each Board should have access to the same information.

Acting Chairman Seaworth said that the one issue with the Conservation Commission is the timing. The Commission, depending on the application's timing, may not be meeting prior to the applicant coming before the Planning Board. Would the Board want to delay every Special Use Permit by a month in order to receive the Commission's comments.

Member Edmonds said that Ms. Cronin has tried to streamline the process a bit by getting the information out more quickly and more broadly to all the members. He said that, at times, the Commission does not meet because of a conflict which could delay the application process.

Member Cruson said that perhaps the Departments should be required to return information within 30 days.

Ms. Cronin said that, for the Wetland Special Use Permit, the Conservation Commission has 30 days to comment or they give up their ability to comment. She wondered if the ZBA Special Exception had a similar timeframe for comments.

Ms. Cronin said that the regulations say that for the Planning Board "the Special Use Permit **SHALL BE REVIEWED** by the Planning Board, Health Officer and the Pembroke Water Works". For the Special Exception for the aquifer, the ZBA "**SHALL REQUEST INPUT FROM** the Planning Department, Conservation Commission and the Health Officer".

She said that she was trying to find consistency between the two processes.

Alternate Member Bourque asked what the difference was between the Planning Board Special Use Permit and the ZBA Special Exception for the aquifer.

Ms. Cronin said that the difference is what triggers it. For example, the Planning Board application would trigger the Aquifer Special Use Permit if it was in the aquifer. The ZBA Special Exception would be triggered if the applicant wanted an exception to the regulations and the property happened to be in the aquifer or if the applicant is asking relief for the Aquifer Conservation District restrictions.

Ms. Cronin said that the ZBA would benefit from comments by the Pembroke Water Works since they do the inspections on the different containment systems, etc.

Acting Chairman Seaworth suggested that the ZBA be asked for their opinion before the Planning Board changes the requirements.

Ms. Cronin said that she will look for history of the ordinance language.

Proposal: Streamline aquifer review between the Planning and Zoning Board to eliminate redundancy.

Acting Chairman Seaworth said that some applicants go the ZBA and the Planning Board and, therefore, incur redundant information and fees. He asked how this could be resolved.

He said that, in some cases, when the ZBA grants an exception to the zoning ordinance, they might preempt further Planning Board action. For that reason, the Board did not want to eliminate the Zoning Board's consideration of the Aquifer Protection District before the ZBA grants the Special Exception. He said that he would like the ZBA to be aware that they should not grant something that the Planning Board would not be able to reconsider.

Ms. Cronin gave an example: If someone wanted to build and operate a new Bed & Breakfast in the R1 zone, they would have to come before the Planning Board for a site plan review and, if it was in the aquifer, they would need an Aquifer Special Use Permit tied to the site plan review. She said that a Bed & Breakfast is a Special Exception use in the R1, so they would have to go to the ZBA first for the use. She also said that, because it is in the aquifer and are before the ZBA, it would trigger an Aquifer Special Exception from the ZBA.

She asked the Board, how, in this circumstance they would reduce redundancy. Both Boards are reviewing the same criteria and are both looking for the same goals for the Aquifer Conservation District. The applicant would have to file both applications, both fees, notice both hearings for the aquifer and have it reviewed twice. She asked: (1) if there was a mechanism to provide relief; (2) if the Board wanted to provide relief; and (3) should it be discussed on a case-by-case basis.

Alternate Member Bourque asked if the ZBA could defer the Aquifer Special Exception to the Planning Board.

Acting Chairman Seaworth said that the ZBA could grant the exception and defer the case to the Planning Board, but if, for example, the Water Works said that a septic system for a single family home would be acceptable because it is far enough away from the Town's wells but a 16-room Bed & Breakfast septic system would be too close to the Town's wells, the Planning Board would have lost an avenue to say that the application is inappropriate because the ZBA granted the

applicant the right to build a Bed & Breakfast on that lot. The Planning Board would have no option but to make that Bed & Breakfast work on that lot.

Alternate Member Bourque agreed that, if the ZBA gave the applicant the Special Exception for the aquifer to let them build the Bed & Breakfast, the Planning Board would have no control.

Acting Chairman Seaworth said that they would still have to get a Special Use Permit which meant that the Board would go through the same review as if the ZBA never saw the case. He said that the Board does not want to leave the ZBA out of aquifer cases.

Acting Chairman Seaworth suggested a joint Aquifer application with one set of paperwork, one set of fees, and cycles for one set of reviews that satisfies both issues.

Selectmen's Rep. Bond said that the two meetings would still have to be noticed.

Ms. Cronin said that they would have to pay the legal ad fee twice regardless.

Ms. Cronin said that she would review old minutes to see why the ZBA never received comments from the Pembroke Water works and will ask Mr. Pendergast to discuss the dual application possibility with the ZBA to get their input.

Member Edmonds asked if other towns had the same problem. Ms. Cronin said that she had not seen it.

Alternate Member Bourque referred to §143-68 (page 103) which requires the ZBA to consider the aquifer.

Ms. Cronin said that she would be willing to check with Central NH Regional Planning Commission to see if they have encountered a similar issue in the past with other towns.

Proposal: In Section H. Exclusions, replace "than" with "then".

The Board agreed.

Proposal: In Section E. Special Use Permit, renumber the second (1) and (2) to (4) and (5).

The Board agreed.

Shoreland Protection District

Proposal: In Section C.(2), the first "of" should be replaced with "or".

The Board agreed.

Acting Chairman Seaworth asked Ms. Cronin to ask legal counsel if it is necessary to take typos to a Town vote.

Table of Uses

Proposal: Strike “Planned Residential Development” under Residential Use #4.

Alternate Member Bourque suggesting deleting reference to “Planned Residential Development” and add “Reserved” and a dash under R1 and LO to hold the spot. The Board agreed.

Definitions

Proposal: Choose one definition, either “lot consolidation” or “lot merger”.

Ms. Cronin said that there is a “Lot Merger” application and the Assessing Department refers to the action as a “lot merger” but there is nothing in the ordinance that states provisions on how to do a lot merger.

The Board chose to remove “lot consolidation”.

Table of Contents:

Proposal: Include a formal Table of Contents.

The consensus of the Board was that a Table of Contents in the Zoning Ordinance would be helpful. Acting Chairman Seaworth said that he thought that the Board could create a Table of Contents administratively without bringing it to a Town vote.

Ms. Cronin said that the Table of Contents would be useful in the 2019 print copy and the online copy.

The Board agreed.

Technical Review Committee

Proposal: Strike Section 143-30, Technical Review Committee.

Ms. Cronin said that this was added when the Board discussed having the Technical Review Committee (TRC) review minor site plans. The Board later found that the Planning Board could not delegate it to TRC.

Acting Chairman Seaworth said that the Town gave the Planning Board the authority to delegate to the TRC. By striking this language, the Board is saying that they do not want the authority anymore that the Town granted them.

Member Cruson suggested asking Chairman Topliff if Town Counsel now is the same as the one that was present when the decision came through. If not, she said that the Board should ask the current counsel if they deem that that Section does not mean what the Board thinks it means.

Acting Chairman Seaworth said that he would like clarification on RSA 674:43.III by Town Counsel.

Alternate Member Bourque said that the overall plan that the Board came up with was not workable under RSA 674:43 and perhaps it should be revamped. Chairman Topliff may have some ideas about it. He said that he would not want to give up the authority that the Town gave the Board unless Town counsel says that it is not allowed.

It was the consensus of the Board that they would like to make Minor Site Plans easier on applicants. Acting Chairman Seaworth said that if the applicant only need to get comments from the Town and abides by those comments, they should not need to go through the process of meeting with the Planning Board.

Architectural Design District:

Proposal: Discuss adding design criteria or striking article from Ordinance.

The Board agreed that they do not have any criteria for the district.

Since the architecture along Pembroke Street is so varied, Member Cruson asked if there could be a desired Architectural Design District based on what the Board would like to see rather than what is presently there.

Ms. Cronin said that she assumes the intent of the District is to meet the rural residential character that has been designated in the Master Plan as the architectural and scenic character of the Town, which the Town wants to preserve. She said that she would love to have architectural design standards and said that the Board may need to talk to someone from an architectural firm who could come up with criteria.

It was pointed out that the 2004 Master Plan and the one presently being drafted indicates that the rural look of Pembroke Street is important and should remain.

Selectmen's Rep. Bond suggested that Ms. Cronin get information on what other towns do. She said that many residents want to keep Route 3 consistent with the residential rural neighborhood.

Acting Chairman Seaworth said that a steel and glass building would not work on Pembroke Street. There needs to be harmony. Adding additional information would be better than just striking the district.

Member Cruson said that Central New Hampshire Regional Planning may be helpful. She suggested that Ms. Cronin speak with them.

Seeing that it was 8:30 pm, Acting Chairman Seaworth said that the Board would not be addressing the tentative new business.

Variances & Special Exception

Proposal: HB 1533 authorizes municipalities the ability to terminate all variances and special exceptions granted prior to August 19, 2013 that have not been acted on. Towns would have to post notice of the termination, and any variance or special exception affected may be exercised within 2 years of the expiration date of the posted notice.

Acting Chairman Seaworth asked how many old variances were granted and never acted upon.

Member Cruson suggested asking Mr. Pendergast.

Alternate Member Bourque asked if reference to the house bill could be placed in the regulations (variances and special exceptions).

Ms. Cronin said that the town could adopt HB1533 and would then have to post notice that it is happening and then place it in the zoning regulations.

Alternate Member Bourque said that if the State law has changed to say that it expires after a certain number of years, that language should be added into the regulation so that anyone, in the future, would be aware that there is a time limit.

Acting Chairman Seaworth said that HB 1533 only talks about variances granted before August 19, 2013. It does not refer to variances after August 19, 2013.

He said that if the Town takes action at Town meeting, the Town can go back and expire those variances that were granted prior to August 19, 2013 but not acted upon. There will be a two year grace period to enact the variance.

Acting Chairman Seaworth reiterated that Alternate Member Bourque would like to review the existing ordinances and see if it is clear that variances have a limit of 2 years per state law. Alternate Member Bourque agreed.

Acting Chairman Seaworth said that it might not be worth the time to investigate what variances have not been acted upon.

Ms. Cronin said that the following zoning amendments were brought to light by Mr. Pendergast.

Corner Setback

Proposal: Limit the height of fences, walls, vegetation, and structures within a larger setback from an intersection (triangular area).

Member Cruson said that corner setbacks make sense. The Town should limit obstructions from intersections.

Acting Chairman Seaworth said that he agreed in principal but is concerned about the details. Fences, walls and structures are permitted. Vegetation comes in on its own. He asked how someone would encompass the two and how it would be enforced. If there is vegetation in the Town right-of-way that is obstructing an intersection, the Town cuts it down.

He asked if the Board should be modifying the subdivision regulations to increase the Town's right-of-way in order to avoid future legal issues when the obstruction is on private property.

Acting Chairman Seaworth said that if fences, walls, and structures limit sight distance at an intersection, permits would not be issued. Vegetation should be handled separately.

It was agreed that the Board would have to review appropriate language at another time.

Alternate Member Bourque suggested that the topic be discussed with the Department of Public Works.

Distinguish Between Shed, Garage, Barn, and Other Accessory Buildings

Proposal: Draft definitions for each and limit the number and size of each.

Ms. Cronin said that Mr. Pendergast pointed out that the building permit application does not differentiate between a shed, garage, or barn yet the building code is different depending on what is being built. He would like to make it more compliant with building code standards.

Alternate Member Bourque suggested that Mr. Pendergast come up with appropriate definitions.

Member Cruson suggested tabling this amendment, along with Junk & Junk Vehicles, Unsafe Structures, and Agricultural until Mr. Pendergast can comment and more information be presented.

Junk & Junk Vehicles

Proposal: Draft provisions for addressing junk and junk vehicles.

Unsafe Structures

Proposal: Address removal or replacement of damaged and unsafe structures (.e. fire damage).

Agricultural

Check legality of restrictions on agricultural uses. Questions to Town Attorney are pending.

Rezoning Silver Hills Drive Area

Discuss the potential of re-zoning Silver Hill Drive from Rural/Agricultural – Residential (R3) to commercial and/or industrial use. Discuss appropriate bounds and appropriate uses.

After a short discussion, it was agreed that it was a good time to begin working on re-zoning the area for commercial or office.

It was suggested that Central NH Regional Planning Commission be asked to outline the process required to change the zoning in the Silver Hill Drive area.

Member Cruson said that meetings should be held so that concerned residents can comment.

It was suggested that Ms. Cronin should find the google map on which Jeff Gaeta outlined the potential boundaries for the commercial zone so that the Board could begin discussions.

Acting Chairman Seaworth said that Matt Monahan of Central NH Regional Planning Commission was advocating for the creation of a new zone which would not allow everything that is allowed in the present C1 zones.

Alternate Member Bourque suggested that Mr. Monahan should be asked to work on this with the Board.

The consensus of the Board was that steps to rezone the new commercial zone should begin.

Minutes:

September 25, 2018

MOTION: ALTERNATE MEMBER BOURQUE MOVED TO POSTPONE APPROVAL OF THE SEPTEMBER 25, 2018 MINUTES UNTIL THE NEXT PLANNING BOARD MEETING. SECONDED BY MEMBER CRUSON. UNANIMOUSLY APPROVED.

Miscellaneous

1. Correspondence

Ms. Cronin said that the entire case involving the Pembroke Pines condominium appeal was dismissed. A motion to clarify with the Court was filed by Ms. Manzelli.

She said that the project can continue moving forward toward meeting the conditions.

2. Committee Reports

Roads Committee: Acting Chairman Seaworth said that residents on Union Street came to discuss site lines on Union Street. The Committee recommended limiting parking to one side.

The Department of Public Works has a number of culverts that they would like to replace. They want to use a substantial portion of the Roads Committee budget to do so. They discussed the possibility of doing so at the 2019 Town meeting and establishing its own capital improvement fund.

Selectmen's Rep. Bond said that out of \$275,000, they wanted to use \$200,000 to repair culverts and \$75,000 for paving. It was pointed out that very little could be paved for \$75,000. She said that drainage is also a factor when replacing culverts.

Board of Selectmen: Selectmen's Rep. Bond said that a resident of Upper Beacon did not like the size of the new catch basins on Beacon Hill. The resident also did not like the catch basin covers. The Selectmen decided not to change them.

3. Planner Items

Ms. Cronin said that there was a meeting with the SAU, Police, Fire, Building, and Planning to discuss the merger of the Hill and Village Schools. They discussed safety and building concerns with closing the Village School. Planning was concerned with merging with the Hill School.

At the last Planning Board meeting, there was discussion about new residential development and a possible influx of school-age children affecting enrollment. The point was that if the Board does not have a sense of what school enrollment is, should it continue to approve new residential

subdivisions. Also, if the school does not know what is going on with residential development, how can they plan school needs.

She asked the superintendent for data on enrollment trends. Although the superintendent said that it was very difficult to predict a number because it depends on the grade that the children are in and classroom sizes, but she would attempt to get some enrollment numbers to Ms. Cronin.

Member Cruson said that she wanted it on record that the Hill School has substantial drainage, traffic and safety issues. She said that if they looked at Three Rivers School instead, she thought it would be more sound in terms of protecting the children's safety and also the integrity of the structure. She said that the Hill School is not a building that should be added onto.

Member Cruson pointed out that there is no way out of the Hill School without using Pembroke Street. Three Rivers School has Buck Street, Academy Road, and Pembroke Street.

Ms. Cronin said that there will be a public forum on October 16, 2018 at 6:00 pm at the Hill School. They are looking for people to sit on a committee for the merger.

Member Cruson said that the school recently had a citizens committee and they did not listen to the committee.

Selectmen's Rep. Bond suggested that a Planning Board member be assigned to the Hill School Committee.

Member Cruson suggested that Patty Sherman be invited to a Planning Board meeting.

Selectmen's Rep. Bond suggested that a member of the School Board sit on the Planning Board or TRC so that they know what's going on with new development.

Ms. Cronin said that she and Superintendent Patty Sherman agreed that she would send Patty information on any new residential development applications so that Patty could share them with the School Board. This is a good first step toward opening the lines of communication between the Planning Board and the Schools.

Ms. Cronin also said that the NH Municipal Association is holding their annual conference on November 14 and 15. Anyone interested in attending should contact her.

She also said that there is a free NH Complete Street conference on October 19th from 9:00 am to 3:00 pm. It is free and interested people can sign up online.

MOTION: Alternate Member Bourque moved to adjourn the meeting. Seconded by Member Edmonds. Unanimously approved.

The meeting was adjourned at 9:42 p.m.

Respectfully submitted,
Jocelyn Carlucci, Recording Secretary