

**Pembroke Planning Board
Meeting Minutes
(ADOPTED)
December 11, 2018**

MEMBERS PRESENT: Alan Topliff, Chairman; Brian Seaworth, Vice Chairman; Kathy Cruson; Brent Edmonds; Richard Bean; Robert Bourque; Selectman's Rep. Ann Bond

ALTERNATES PRESENT: Timothy Goldthwaite

EXCUSED: Kellie Dyjak

STAFF PRESENT: David Jodoin, Town Administrator; Carolyn Cronin, Town Planner; Dana Pendergast, Code Enforcement Officer; Jocelyn Carlucci, Recording Secretary

Vice Chairman Seaworth called the meeting to order at 7:01 pm.

Work Session Items:

Proposed Zoning Amendments

- Commercial Greenhouse

He said that, at the last work session, the Board discussed commercial greenhouses and, because of questions, the conversation was deferred to this work session.

Vice Chairman Seaworth summarized that there are three different proposals with different goals. The staff proposal was to remove the distinction between commercial greenhouses and any other commercial agriculture. At the present time, all other commercial agriculture is treated one way and commercial greenhouses are treated differently.

The second proposal was not to remove the distinction entirely but rather to review where the uses are allowed in the ordinance.

The third proposal was to define commercial greenhouses vs. non-commercial greenhouses.

He continued to say that with any of the three proposals, the Board could (1) take a proposal to public hearing at the next meeting; (2) decide that the issue is not urgent and postpone further discussion to another time; or (3) postpone it indefinitely.

Ms. Cronin said that she had an email exchange with Attorney Laura Spector-Morgan. The proposal from staff to remove commercial greenhouse as a separate use and include it with the list of other commercial agricultural uses stemmed from the Town Attorney's office. Ms. Cronin said that, as the topic presently stands in the zoning regulations, it is conflicting. It says that a "commercial greenhouse" is allowed by special exception in some zones and permitted in other zones. However, commercial horticulture and commercial floriculture, which essentially would be the same use (growing and selling plants for retail or wholesale), is permitted by right in all zones.

Ms. Cronin said that if someone came into the Planning Department and said that they were not a commercial greenhouse but rather an agricultural floriculture business, it would be permitted without a special exception.

Attorney Spector-Morgan recommended that the Board remove commercial greenhouse from the zoning regulations because of the conflict and because it is a protected agricultural use under the NH agricultural RSAs.

Chairman Topliff said that the Board has always been very encouraging of farmstands and farming in general, and in reading through the information that was provided, he said that it seemed that the Board wanted to continue as such.

He continued to say that it appeared, from the perspective of what the Planning Board can and cannot limit, the Board cannot say that someone cannot put up a greenhouse if it supports someone's personal agricultural needs. The Board can, however limit, to some extent, commercial operations, for example Nicole's Greenhouse. He said that, in his view, Nicole's is a commercial greenhouse/floriculture business.

With that in mind, he said that he would hate to see a whole bunch of greenhouses spring up on Pembroke Street. He continued to say that Town Counsel mentioned some limitations such as parking, traffic, and other safety concerns.

Chairman Topliff said that he would not want to make it any more difficult for those in the farming business, but he did not think that the Board would want to see roadside commercial greenhouses springing up everywhere.

Vice Chairman Seaworth said that, in prior conversations, the following scenario was given: If there was a field that someone planted flowers in, the Board would treat it one way and if someone placed a cover or building over it, it would be in a different category. He said that it does not seem to make sense that it would be the glass of the greenhouse that should make a difference. Why treat a greenhouse as a special thing when the same person may have had a field of plants growing and had a stand and a store.

Mr. Pendergast said that the difference in the current regulations is the building itself – whether it is a wooden structure growing plants under lights or a glass structure growing plants. Everyone seems to understand that both are considered “agricultural use”. The issue is the physical structure.

Ms. Cronin said that the only real difference between how the zoning treats commercial greenhouses and other agricultural ventures is the extra layer of permitting for the special exception. If someone wanted a commercial greenhouse and met the criteria of the special exception, it would be allowed.

She also said that the conflict is in the application process. They have to determine if the applicant is a commercial greenhouse and is required to go to the ZBA or if it is considered

a commercial floriculture/horticulture business, which is allowed by right and would not have to go to the ZBA. In either case, they would still need building permits and a site plan, and also meet whatever zoning dimensional and use restrictions that Pembroke has.

Member Cruson said that there is an obvious distinction between having a building over a field and just having a field. She said that at her family tree farm, they dig plants out of the ground and put them in pots. If they put a glass building over the same plants, it would be a structure so it would be something different. She said that she did not understand why the Board did not want to call it a commercial greenhouse. Member Cruson continued to say that there is a difference between digging a plant out of the ground and selling it and growing something in a commercial greenhouse and selling it.

Vice Chairman Seaworth said that Mr. Pendergast made the distinction that if someone was growing plants in a barn under grow-lights for a portion of the season and then transplanting them into a field, the activity would be under "everything else" which includes all commercial activity, except greenhouses.

A greenhouse is a separate use in the Zoning. If someone wanted to have a retail facility that would not be a commercial greenhouse, it would be "all other commercial agriculture" activity.

Member Cruson said that if she had a farm and was allowed to sell her produce on her property, it would be given special rights because it is agriculture.

Vice Chairman Seaworth said yes.

Member Cruson said that she did not think it correlated and that she should be allowed to have a structure over her plants, sell retail, and be excluded from the restrictions that would be part of any other commercial business.

Vice Chairman Seaworth said that the staff is saying that there should be no distinction between a commercial greenhouse and any other commercial business. They should be treated exactly the same.

Member Cruson said that if she was to grow plants under a commercial greenhouse and sell them, she would be treated like any other business in the commercial area.

Vice Chairman Seaworth said yes.

Member Cruson asked if a commercial greenhouse would be allowed in the R3 zone.

Vice Chairman Seaworth said that commercial agriculture is currently allowed in every zone.

Member Cruson said that she did not think that commercial greenhouses should be allowed in R3. For example, when looking at the greenhouses along Route 106 in Loudon, she would not want them in residential areas. They are very different from other structures.

Member Cruson said that, in her opinion, an applicant should have to go to the ZBA or not be allowed to have a large commercial greenhouse in a residential area. Many of them are very large and have lights on all night.

Vice Chairman Seaworth said that a commercial greenhouse could be the size of a small shed, but if the person is selling whatever is grown inside, it should be considered a commercial greenhouse.

Member Cruson agreed. She said that if she was a homeowner with a greenhouse on her property, she would not disagree with that use. But, if she was selling what was produced within the greenhouse and, functioning as a business, she would be opposed to it because it would not belong in a residential area.

Member Bourque said that he is not sure how agricultural retail outlets fit into the overall distinction between commercial or non-commercial greenhouses. He said that the way that the business is regulated is fine, but that the Board needs to define commercial and non-commercial greenhouses in order to solve the issue.

Ms. Cronin said that it would be difficult to define because if someone says that they want to grow and sell plants, the way the zoning is presently set up, she and Mr. Pendergast first have to determine the applicant's business plan in order to figure out where to categorize the business in the Table of Uses. Then, once that is determined, they can then guide them through the regulations.

She continued to say that because of that that, it is difficult to create definitions for "commercial greenhouses" because a greenhouse could be anything from a large "New England Flower Farm"-sized wholesale business to a person who wants to sell plants to the public from their house. The two uses are very different by their nature and impact. The present zoning regulations do not adequately define the categories.

Mr. Pendergast said that someone could apply for an accessory building permit. The regulations say that the accessory building cannot be larger than 25% of their yard and taller than 35 ft. That could be a big greenhouse. He said that if someone had a big lot, they could put up a 200 sq. ft. greenhouse. Then they could come for a major home business approval. The question is whether it is now considered a commercial greenhouse.

Mr. Pendergast said that the zoning regulations address the commercial horticulture subject. If someone plows their whole lot to create a garden and sell the produce from their house, it is permitted. The minute that the person puts a greenhouse over it, it changes

everything. He also questioned whether “hoop” greenhouses would be allowed and how they would be handled because they are portable.

Member Cruson said that she would support the hoop structure being regulated because they usually have plumbing, air transfer equipment and heating. With all those systems involved, it is essentially the same as a greenhouse. She said that all of these scenarios should be looked at.

Member Bourque asked for a straw vote to see how the Board should proceed.

Vice Chairman Seaworth asked if the Board wanted to take the following to public hearing: Eliminate the current distinction between commercial greenhouse and all other commercial agriculture uses as proposed by the staff.

Selectmen’s Rep. Bond and Member Bourque voted yes. Members Cruson, and Alternate Member Goldthwaite voted no. There were a few abstentions.

Member Bourque said that he felt that the topic needed more work but for now, if the Board voted to accept the staff’s recommendation, it would help them to address the greenhouse issue while the Board continues to work on it throughout the year.

Vice Chairman Seaworth said that since the Board does not seem to be able to decide how to handle the topic, and since Ms. Cronin said that it was not an urgent matter, he suggested that it all be deferred for another year.

MOTION: Chairman Topliff moved to not take action on the commercial greenhouse subject for the 2019 Town Meeting, but for the Planning Board to make it a priority in 2019 to work on it. Seconded by Vice Chairman Seaworth.

VOTE:	K. Cruson – Y	R. Bean – Y	B. Seaworth – Y
	A. Topliff – Y	R. Bourque – Y	B. Edmonds – Y
	A. Bond - Y		

MOTION TO NOT TAKE ACTION ON THE COMMERCIAL GREENHOUSE SUBJECT FOR THE 2019 TOWN MEETING, BUT FOR THE PLANNING BOARD TO MAKE IT A PRIORITY IN 2019 TO WORK ON IT. PASSED ON A 7-0 VOTE.

Chairman Topliff asked Mr. Pendergast about the utility shed and greenhouse topic from last meeting. He questioned the height not being greater than 7 ft. given that most dimensional lumber comes in 8 ft. lengths.

Mr. Pendergast said that the 7 ft. pertains to the eaves. The maximum ridge pole height would be 12 ft. He said that he was trying to eliminate someone calling a large structure (like a barn), a shed. Presently the regulations do not differentiate between sheds and accessory buildings. He said that he was trying to define “shed” and put a limit on the size.

After a short discussion, the Board decided to eliminate the eave requirement.

MOTION: Member Cruson moved to accept the following definition: SHED – A utility shed or greenhouse not larger than three hundred twenty (320) square feet of floor area with a height not greater than twelve (12) feet from the floor to the ridge. Seconded by Selectmen's Rep. Bond.

VOTE:

K. Cruson – Y	R. Bean – N	B. Seaworth – Y
A. Topliff – Y	R. Bourque – Y	B. Edmonds – Y
A. Bond - Y		

**MOTION TO ACCEPT THE FOLLOWING DEFINITION: SHED – A UTILITY SHED OR GREENHOUSE NOT LARGER THAN THREE HUNDRED TWENTY (320) SQUARE FEET OF FLOOR AREA WITH A HEIGHT NOT GREATER THAN TWELVE (12) FEET FROM THE FLOOR TO THE RIDGE.
PASSED ON A 6-0 VOTE.**

Vice Chairman Seaworth said that the Board recently discussed making the rezoning of Silver Hills Drive a priority after Town Meeting. He said that if the Board wanted the hearing to take place quickly after Town Meeting it might be best to schedule it before Town Meeting so that it can be advertised at the next meeting and at the March Town Meeting.

Ms. Cronin said that there is a resident petition to rezone the Silver Hills Drive area from R3 to C1. The petition will be on the Planning Board public hearing agenda on January 8, 2019. The Board can vote to support or not support the petition at that time. The petition was created by Paulette Malo. Ms. Cronin has not seen the exact bounds associated with the petition but it does include Silver Hills Drive. The petition is due tomorrow.

Once she receives it, Member Bourque asked Ms. Cronin to give the Board a map of the proposed rezoned area as described in the petition. She agreed to do so.

In response to Member Bean's question, Ms. Cronin explained that the Silver Hills Drive area is presently zoned R3 and anytime a business wants to locate on Silver Hills Drive, they must go to the ZBA for a use variance which is an extra level of permitting, expense, and time. Potential applicants are always shocked that the area, which already appears to be commercial, is still a residential zone.

Ms. Cronin said that the task of rezoning that area has been a Planning Board priority for the last 20 years.

Minutes:

November 27, 2018

MOTION: MEMBER BOURQUE MOVED TO ACCEPT THE NOVEMBER 27, 2018 MINUTES AS AMENDED. SECONDED BY MEMBER EDMONDS. APPROVED WITH TWO ABSTENTIONS – MEMBER BEAN AND CHAIRMAN TOPLIFF.

Miscellaneous

1. Correspondence

Ms. Cronin said that the Planning Department received a copy of a NHDES Wetlands Permit Application for the removal of a portion of the dam under the Main Street bridge in Suncook Village. She explained that the bridge had been damaged for many years and the water rises over it and floods the apartment area. The NHDES application proposes the partial dam removal of the Pembroke Hydro-electric Dam.

2. Committee Reports

Roads Committee: Vice Chairman Seaworth said that the Committee has been discussing reprioritizing the paving of the roads. There is a program funded by the federal government and administered by Central NH Regional Planning Commission (CNHRPC) which will prioritize the road projects in Town. The pilot town was Bow. When they were soliciting other towns to get on the program, Pembroke became third on the list.

The Roads Committee was given a presentation on the program. CNHRPC inspected all the Town roads, and entered that data into the program software. The data consisted of the existing condition of the roads, the importance of each road to the Town, and the associated traffic counts. The result is a list of project priorities.

Vice Chairman Seaworth said that the new system considers a road that is in good shape as a higher priority than one in bad shape because it is more cost-effective to maintain roads in good condition for a long time than always throwing money at the worst roads while the good roads deteriorate. The program suggests different treatments for the roads' surface.

At the present time, the program seems to agree with the Roads Committee which is that Main Street should be the next project.

Alternate Member Goldthwaite said that the culvert project was awarded to Advanced Paving and Excavating.

There was also discussion on encumbering money for next year to cover the remaining crack sealing and repaving projects that were not completed this year.

Board of Selectmen: Selectmen's Rep. Bond said that the Board voted Bob Bourque in as a full member of the Planning Board.

She also said that the Selectmen tabled the Village School Reuse Committee until December 17, 2018 in order to get more information.

Selectmen's Rep. Bond reported that the streetlight conversion will begin this week.

Member Bourque said that the Village School Reuse Committee has now been postponed until January 2019.

Conservation Commission: Member Edmonds said that he attended the Commission meeting last night and was greeted with a fair amount of hostility, but with good reason. It seems that the Commission was given some misinformation by a developer concerning how the Planning Board conducts their rules and processes.

Member Edmonds said that the Commission received a non-binding presentation on the Robinson property. The Commission was concerned about the amount of build-out on the parcel. They felt that it was a pretty dense proposal for the amount of property.

The Commission asked the developer why he was building so many houses and why there was not more conservation land available considering the size of the land. He told them that they had to do this design in order to comply with the Planning Board regulations and requirements. The presenter said that because of the Planning Board's access requirements, they had to build the connector road which runs through the middle of the property. In order to pay for it, they had to develop more of the backlot property.

Member Edmonds said that the presenter then went on to say that this is a case where the Planning Board regulations are probably working at odds with the conservation agenda. That statement upset the Commission.

Chairman Topliff said that the presenter probably had not looked at open space.

Member Edmonds said that the Commission asked him why the Board mandated such a proposal, which opposes the Conservation agenda. Member Edmonds said that he explained that the Planning Board does not dictate the developer's design. Each developer interprets the regulations and then comes before the Board with a proposal. The Board then evaluates the pros and cons of each development design.

Member Edmonds said that he had a discussion with Ammy Heiser, Chair of the Conservation Commission. Ms. Heiser said that she also spoke with Ms. Cronin who reinforced Member Edmonds' explanation.

Member Bean said that the Board could send the Commission the minutes of the meeting with the developer.

Member Edmonds said that it looked as if the developer was using the Planning Board as his justification for a full development of the parcel.

Member Bourque said that if the property supports the plan, there should be no issue from the Conservation Commission. The presenter at the last Planning Board meeting said that he had 56,000 sq. ft. of buildable area on each lot and each lot was 80,000 sq. ft.

Member Edmonds said that, on the surface, that is correct, but when the presenter commented that the Planning Board rules were undermining the Conservation Commission's ability to conserve land and obtain open space, that was incorrect.

Mr. Jodoin said that if the Board looks at the regulations, the developer was probably referring to the regulations that discourage or prohibit dead-ends while the Fire Department also wants the means of egress. The connector road impacted the wetlands which created more problems. He said that the Conservation Commission would prefer that no one build on the range roads.

Member Edmonds said that the Conservation Commission, at one time, wanted to purchase the Robinson property but was not able to come to terms with the Robinson Estate.

Mr. Jodoin said that he thinks that that is why the developer is returning to the Roads Committee. He is hoping that the Committee will release the requirement of the dead ends and allow for hammerheads.

Member Edmonds said that he was concerned with the drainage designs. He said that open ditches are a terrible idea because right now the Town is fixing a number of them all over town with underground drainage.

Vice Chairman Seaworth said that the Roads Committee did not discuss open vs. closed drainage pertaining to the Robinson Development but the Roads Committee has always tried to discourage open drainage because of existing problems around Town.

Vice Chairman Seaworth said that the Board should not discuss details pertaining to any proposed development without applicant representation.
The Board agreed.

3. Other Business

A. Representative to the Technical Review Committee (TRC) and Capital Improvement Program Committee (CIP)

Vice Chairman Seaworth said that with Larry Young's resignation from the Board, there is a need for a representative to the TRC and the CIP committees.

Member Bean said that he would be interested in CIP.

Member Bourque said that he would be interested in TRC.

The Board appointed Member Bean to the CIP Committee and Member Bourque to the TRC Committee.

Chairman Topliff encouraged the Board to discuss the rezoning of the Pembroke Meadows property across from Pembroke Academy to allow for light commercial uses as well as residential. This would be an attempt to rejuvenate the central village feel that the Town has discussed and it would also lessen the impact on the schools.

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

The meeting was adjourned at 8:36 p.m.

Respectfully submitted,
Jocelyn Carlucci, Recording Secretary