

**PEMBROKE PLANNING BOARD  
MEETING MINUTES  
(ADOPTED)  
January 8, 2019**

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

**ALTERNATES PRESENT:** Timothy Goldthwaite

**EXCUSED:** Kellie Dyjak

**STAFF PRESENT:** Carolyn Cronin, Town Planner

Vice Chairman Seaworth called the meeting to order at 7:00 pm.

He said that the Board of Selectmen received a note from Member Bean indicating that he would be resigning from the Planning Board and, therefore, will not be attending this meeting. Vice Chairman Seaworth said that, at the end of the meeting, the Board may wish to make a recommendation to the Board of Selectmen to replace Member Bean.

Ms. Cronin said that she has not heard from Alternate Member Dyjak.

Vice Chairman Seaworth appointed Alternate Member Goldthwaite to vote in place of Member Bean.

He said that if the zoning amendments are acceptable and the Board votes to place the amendments on the warrant, this will be the final public hearing and the language would appear on the Town ballot as written. If the Board changes any of the language, another public hearing for the new language will be necessary.

With regard to the Petition Warrant, Vice Chairman Seaworth clarified that the Planning Board has no authority to modify the language or say that it does not belong on the ballot. The Planning Board will vote to support or not support the Petition language as submitted.

**Public Hearing**

Proposed Zoning Amendments for 2019 Town Meeting

- Zoning Amendments Recommended by the Planning Board

**Amendment #1**

Are you in favor of the adoption of Amendment #1, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-8 Definitions to add a new definition for "Shed," as follows:

**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.**

***The purpose of Amendment #1 is to add a definition for “Shed.”***

Vice Chairman Seaworth opened the public hearing at 7:07 pm on Amendment #1. He announced that anyone wishing to speak should state their name and street address for the record.

Member Cruson asked for a definition of “Garage” for comparison.

Ms. Cronin said that there is no definition for Garage in the Zoning Regulations.

Selectmen’s Rep. Bond said that it is classified as “accessory” which is different from a “shed” because an accessory building is larger.

Ms. Cronin said that a garage would be considered an accessory building which has a definition and its own zoning standards.

Member Cruson said that if someone wanted to build a structure adjacent to their house, they would need to know whether it was considered a shed or a garage, and what the differences were with regard to size and supports.

Ms. Cronin said that the definition of Accessory Building is:

“Building, Accessory: A detached building, the use of which is customarily incidental and subordinate to that of the principal building and which is located on the same lot as that occupied by the principal building.”

Member Cruson said that there is nothing about the foundation, support, or size. She said that the Board should look at this more closely.

Ms. Cronin said that currently a shed or an accessory building has the same permit process. There are provisions in the Zoning §143-22 that pertain specifically to accessory buildings such as: it cannot occupy more than 25% of the required rear yard and cannot exceed 35 ft. in height. There are reduced setbacks in the R1, B1, B2, and LO zones. If someone wanted a shed larger than the provisions in the proposed definition, it would be classified under “Accessory Building” and would have to meet those provisions.

Chairman Topliff said that the Board typically does not define common-use terms. He suggested that shed and garage are common-use terms. A garage is commonly known as the place where one parks the car. Shed is more associated with the storage of bicycles, lawnmowers, garden tools, and other forms of personal items and situated away from the house. These terms are typically undefined because they are commonly used and understood terms.

Vice Chairman Seaworth said that the Code Enforcement Officer's concern was when someone fills out an application for a "shed", and then builds a barn. A "shed" might not be scrutinized as closely as a larger structure. He said that by defining "shed", someone cannot build a building that does not fit that definition. If a larger building was desired, it would fall under "Accessory Building" with its own regulations pertaining to size, etc.

Although Vice Chairman Seaworth understood that the term "garage" was not defined, he pointed out that the ordinance also did not contain regulatory language for a garage.

Member Bourque asked if the description "not greater than 12 ft. from the floor to the ridge", meant to the top or bottom of the ridge. He said that he assumed that Mr. Pendergast meant to the top of the ridge with a maximum height of 12 ft. from the floor.

Selectmen's Rep. Bond said that she understood that it was to the top of the ridge.

Member Bourque said that he also thought that Mr. Pendergast meant "to the top of the ridge."

Member Cruson said that normally the Board runs into problems when terms are not well-defined. In her opinion, it would be best to define things as carefully as possible so when someone is reading the amendments, they would know what the intent was. Vice Chairman Seaworth agreed.

Marc Dumont, 36 Donna Drive, asked if defining a shed would get in the way of an open shelter for horses which is a little bigger than a shed, yet is called a shed, and meets the dimensions.

He also suggested that the shed height be raised in order to have a better pitch. He said that some garages are 20 ft. x 16 ft. He would not want the roof structure to collapse because they did not remove snow from the roof.

Mr. Dumont also said that the size of the yard as it pertains to whether a fire truck and emergency personnel could fit along with whether the shed is a hazard to the neighborhood is important. He recommended that the Board clarify the type of foundation in the "shed" definition. He felt that the foundation was more important than the size.

Mr. Dumont continued to say that a shed should not be confused with a greenhouse. People are getting into horticulture and growing their own food which will only get more popular. He said that the way that the Board is defining a shed could cause more problems in the future.

Member Bourque clarified that the only reason the Board is trying to define a shed is because they have had many applicants who have requested to build a shed and end up building a garage. By limiting the number of square feet for a "shed", it does not limit

someone from building anything else. It merely would categorize it as an “accessory building”. If someone wanted to build a shelter for their horses that is 20 ft. tall, they could certainly do that, but just could not call it a “shed”. It would have to be called an “accessory building” which has a different set of parameters and would be scrutinized by the Code Enforcement Officer to be sure that the building meets code.

Seeing no further questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #1 at 7:22 pm.

The consensus of the Board was to change the definition of “shed” by adding “to the top of the ridge.”

**MOTION: MEMBER BOURQUE MOVED TO AMEND THE PROPOSED DEFINITION TO READ:**

**“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 TOP OF THE RIDGE.”**

**SECONDED BY CHAIRMAN TOPLIFF. UNANIMOUSLY APPROVED.**

Ms. Cronin said that Amendment #1 would mandate a second public hearing.

#### **Amendment #2**

Are you in favor of the adoption of Amendment #2, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-8 Definitions to delete the definition of “Lot Consolidation.”

***The purpose of Amendment #2 is to delete the definition of Lot Consolidation because it is identical to the definition of “Lot Merger.”***

Vice Chairman Seaworth opened the public hearing on Amendment #2 at 7:25 pm.

There being no questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #2 at 7:26 pm.

**MOTION: MEMBER BOURQUE MOVED TO ACCEPT PROPOSED AMENDMENT #2 AND MOVE IT TO TOWN MEETING. SECONDED BY CHAIRMAN TOPLIFF. UNANIMOUSLY APPROVED.**

#### **Amendment #3**

Are you in favor of the adoption of Amendment #3, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-8 Definitions to amend the definition of "Junk Yard," as follows:

**JUNK YARD** – Shall be as defined in RSA 236:112 (I), as amended. (Also salvage yard).  
**Junk yards are not permitted in any zoning district, per the Table of Uses.**

***The purpose of Amendment #3 is to clarify that junk yards are not a permitted use.***

Vice Chairman Seaworth opened the public hearing on Amendment #3 at 7:27 pm.

Vice Chairman Seaworth clarified that this amendment does not change the regulations pertaining to junk yards. They are not permitted in any zone by the Zoning Ordinance but, if an applicant is not aware of that, including it in the definitions would help to clarify that point.

Chairman Topliff asked if junk yards could be permitted by the ZBA.

Ms. Cronin said that junk yards are not permitted in Town. It is not a Special Exception use.

Vice Chairman Seaworth asked if there was a variance.

Ms. Cronin said that she did not know if a variance from junkyards could specifically be requested by the ZBA, but supposed that anything could be requested by variance.

There being no questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #3 at 7:28 pm.

**MOTION: MEMBER BOURQUE MOVED TO ACCEPT PROPOSED AMENDMENT #3 AND MOVE IT TO TOWN MEETING. SECONDED BY ALTERNATE MEMBER GOLDTHWAITE. UNANIMOUSLY APPROVED.**

#### **Amendment #4**

Are you in favor of the adoption of Amendment #4, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-19 Table of Use Regulations to delete Residential Use #4, "Planned Residential Development" and reserve Residential Use #4.

***The purpose of Amendment #4 is to remove Planned Residential Development from the Table of Uses since there are no provisions or other reference to it in the Zoning Ordinance.***

Vice Chairman Seaworth opened the public hearing on Amendment #4 at 7:29 pm.

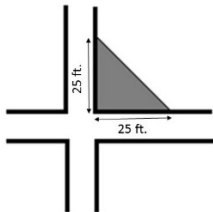
There being no questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #4 at 7:30 pm.

**MOTION: MEMBER BOURQUE MOVED TO ACCEPT PROPOSED AMENDMENT #4 AND MOVE IT TO TOWN MEETING. SECONDED BY ALTERNATE MEMBER GOLDTHWAITE. UNANIMOUSLY APPROVED.**

#### **Amendment #5**

Are you in favor of the adoption of Amendment #5, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-21 Table of Dimensional and Density Regulations to add provisions for corner clearance to the notes of the Table of Dimensional and Density Regulations including a graphic depicting the corner clearance area, as follows:

**16) On any corner lot, there shall be no building, structure, fence, landscaping, sign, or obstruction from vision more than three (3) feet above curb level, within a triangular area formed by measuring twenty-five (25) feet along the two lot frontages from their point of intersection and connecting the two endpoints, so as not to interfere with traffic visibility.**



***The purpose of Amendment #5 is to provide safe sight distance and unobstructed views for vehicles and pedestrians at intersections.***

Vice Chairman Seaworth opened the public hearing on Amendment #5 at 7:31 pm.

Marc Dumont, 36 Donna Drive, said that he lives on a corner. He said that Amendment #5 could get in the way of placing a basketball hoop in his driveway, planting a tree or bushes on the corner of his yard which would not be in the way of anyone stopping at the stop sign. He said if the Town is going to be worried about an obstruction at all corners, then we should also be worried about an obstruction at every driveway. He said that the “25 ft. thing is going too far.” He said that they cannot dummy-proof the whole town. He did not agree with the Amendment.

Member Bourque asked if it was only on new construction or to prevent overgrown vegetation.

Vice Chairman Seaworth said that the way that the language is written, it is all encompassing. One of the reasons that the Board discussed overgrown vegetation is because buildings and structures cannot be in a setback. The focus is on vegetation because this would be entirely within the setback of all residential zones. A basketball hoop would not be a structure.

Ms. Cronin agreed that a basketball hoop would not be a structure.

Mr. Dumont said if a basketball hoop was cemented into the ground it would not move.

Vice Chairman Seaworth said that the basketball hoop would not be considered a structure as far as the setbacks are concerned, but Mr. Dumont is correct in that it may be considered an obstruction from vision according to the amendment.

Mr. Dumont said that it would also prevent him from planting a flowering pear tree. He said that people living on corners want privacy too. With regard to the stop sign, there are already setbacks. He said that he could increase the size of his driveway closer to the road than the 25 ft. and park a Recreational Vehicle there which would cause an obstruction. He said that all corners are not the same and this would stop him from doing anything on 25 ft. of his property.

Chairman Topliff said that he understood Mr. Dumont's concern but he has experienced being at a stop sign and not being able to see oncoming traffic in one direction because of an obstruction at the corner. He said that he has pulled out of the intersection from the stop sign hoping that no one is coming.

Mr. Dumont asked at what point is Chairman Topliff's safety going over the liberty of someone's property. He said that there is currently a setback required near a stop sign. He said that even if he wanted to place a 3 ft. "For Rent" sign on his property, the amendment would require him to not place the sign near the corner of his property. He also said that campaign signs are always placed within 25 ft. of the corner.

Member Cruson clarified that the Amendment is specifying 3 ft. above curb level so an election sign would not qualify.

Mr. Dumont asked about overgrown vegetation.

Vice Chairman Seaworth said that an amendment such as this is in the Zoning Regulations so it would not be retroactive but it would apply to new landscaping going forward or new fences being built.

Mr. Dumont said that he would not be able to do anything with the corner of his property.

Member Cruson asked if this came from Mr. Pendergast.

Vice Chairman Seaworth said yes.

Member Cruson said that she has seen tall hedges at corners in Town that are more than 6 ft. tall and it is impossible to see past them. She said it is the same with snow banks.

Mr. Dumont said that the Town cannot get rid of existing hedges.

Member Cruson said that if this amendment passes, the Town could say “no hedges” going forward. She asked if Mr. Pendergast could be asked to change the number of feet from the corner such as reducing it from 25 ft. to 12 ft. which is the length of a car.

Vice Chairman Seaworth said that the Board could amend the language and hold a second public hearing but, if the Board decided at the second public hearing to change it again, the amendment would not be able to go to Town Meeting in March.

Ms. Cronin said that 25 ft. was chosen because the Town’s parking corner clearance regulation is 25 ft. from the corner which is enforced by the Police.

Selectmen’s Rep. Bond asked Mr. Dumont how much of his land was in the Town right-of-way from the road.

Member Bourque said that the issue is to see around the corner and some areas have 25-35 mph speed limits. Sometimes having to pull the nose of a vehicle out into traffic to see around an obstruction is the only way to see oncoming traffic which is dangerous. He said that there has to be some kind of clearance at the corner. He was not sure if 25 ft. was too much or if 12 ft. was too little.

Selectmen’s Rep. Bond said that when the Town redid Beacon Hill Road, the Town paid for landscaping to be pushed back because they built within the Town’s right-of-way. She said that she was concerned about landscaping because someone could plant a 30-year old pine tree and when Mr. Pendergast approaches them, how can he be sure that it was not previously there as an established plant. She said that the amendment also does not state “going forward”. She said that it places the Town and Mr. Pendergast in a difficult position to say that a resident has to remove or trim their landscaping.

Vice Chairman Seaworth agreed. He said that some of the items, such as a fence, needs a Town permit in order to be built and, therefore, Mr. Pendergast could forewarn the applicant of the new regulations but to plant a tree does not require a permit from the Town. Enforcement would be different because Mr. Pendergast would only be aware of the tree-planting if someone complained which would required him to investigate.

Selectmen’s Rep. Bond said that the enforcement of landscaping is placing Mr. Pendergast at a disadvantage.



Member Edmonds said that there are 2 different scenarios at work. One is public right-of-way and the other is private property. He said that the Town did pay to relocate some vegetation at Beacon Hill, however, it was within the public right-of-way. He said that the Town could have cut those trees down. He said if this amendment were allowed to pass, and the obstruction was within the Town right-of-way which was not permitted, the Town could pull them out – landowner protest aside.

Selectmen's Rep. Bond said that if the right-of-way is 25 ft. and she planted a 30-year-old pine tree, Mr. Pendergast may not understand that the tree is brand new.

Member Edmonds said if someone was erecting a structure and making improvements on their property and it was not in the Town's right-of-way, then that should be permitted. A landowner has certain rights. Member Edmonds said that this Amendment will require more work but if the Town establishes a zone of this nature, it should be evaluated on a case-by-case basis and permitted accordingly.

Chairman Topliff said that a neighbor would probably clarify whether the tree was a new addition.

Member Bourque agreed with Selectmen's Rep. Bond and Member Edmonds. He said that Amendment #5 should be tabled and more work should be done to make it clearer.

Mr. Dumont agreed that 25 ft. was too much. He suggested that the Board measure from the center of the road. Certain objects, such as rocks, may not be able to be moved.

Mr. Dumont said that post fences are pretty easy to see through and are usually over 3 ft. He asked if the Board would consider that an obstruction.

Member Bourque said that he is pretty sure that Mr. Pendergast would not allow anyone to place a fence in the setback.

There being no questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #5 at 7:51 pm.

**MOTION:** Member Bourque moved to defer Amendment #5 for further study and not move it to Town meeting. Seconded by Member Cruson.

<b>VOTE:</b>	K. Cruson – Y	B. Seaworth – Y	A. Topliff – Y
	A. Bond – Y	R. Bourque – Y	B. Edmonds – Y
	T. Goldthwaite - Y		

**MOTION TO DEFER AMENDMENT #5 FOR FURTHER STUDY AND NOT MOVE IT TO TOWN MEETING PASSED ON A 7-0 VOTE.**

## **Amendment #6**

Are you in favor of the adoption of Amendment #6, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-68 Aquifer Conservation District, Section F. Special Exceptions, to add Pembroke Water Works as an agency that the Zoning Board request input from, to read:

“Prior to rendering a decision on an application for a Special Exception, the Zoning Board of Adjustment shall request input from the Planning Department, the Conservation Commission, **Pembroke Water Works**, and the Health Officer, as to whether the proposed use is consistent with the purpose of this section.”

***The purpose of Amendment #6 is to allow Pembroke Water Works to comment on Special Exception Uses in the aquifer.***

Vice Chairman Seaworth said that the Zoning Board of Adjustment (ZBA) supported the amendment change.

Vice Chairman Seaworth opened the public hearing on Amendment #6 at 7:53 pm.

Selectmen’s Rep. Bond was concerned that she did not see the Sewer Department listed in the Amendment. She said that they had a lot to do with the aquifer, even if it is septic or Town sewer.

Paulette Malo of Pembroke Sewer Department, said that she did not agree with Selectmen’s Rep. Bond. When it comes to the aquifer, Ms. Malo said that the Sewer Department automatically inputs to the ZBA with any recommendations. They do not need to be part of the notification process because she “stays on top of it”. The Pembroke Water Works does not get noticed on applications before the ZBA and are removed from the actions by the ZBA. She continued to say that the Pembroke Water Works has a higher criteria for the aquifer.

Selectmen’s Rep. Bond asked if the Sewer Department was on a notification list.

Ms. Malo said no, that she keeps track, on her own, of what is before the ZBA.

Member Bourque said that the Planning Board presently receives information from the four departments but the Zoning Board does not. For an Aquifer Special Exception, 2 applications are presently required – one for the Planning Board and one for the Zoning Board because they do not confer with the same departments. This Amendment would make sure that both Planning and Zoning Boards receive input from the same departments so that only one special exception would be needed.

Selectmen's Rep. Bond felt that the Sewer Commission should be listed on the Amendment language in case Ms. Malo is no longer with the Sewer Commission.

Vice Chairman Seaworth said that the proposed Amendment is an attempt to make the requirements by the Planning Board and the Zoning Board the same. It still does not totally achieve the goal because of the timing but comes closer.

He said that the ZBA would like to prevent the applicant from not being heard because input was requested by the ZBA but not received. At the present time, neither the Planning Board nor the ZBA have the Sewer Commission as a consultant on Aquifer Conservation District issues. On the Planning Board side, the Sewer Commission is part of the Technical Review Committee (TRC) so the applications are viewed by the Sewer Commission.

Ms. Cronin clarified that the Planning Board regulations say that the Special Use Permit shall be reviewed by the Planning Board, Health Officer, and the Pembroke Water Works. The ZBA regulations stipulate that the ZBA shall request input from the Planning Department, Conservation Commission, and the Health Officer. The Planning Board regulations are more stringent than the Zoning Board regulations. With the proposed Amendment, the ZBA would have the opportunity to receive comments by the Pembroke Water Works, which are some of the most valuable comments that the Town receives regarding the aquifer because they are the ones that enforce the Best Management Practices for storage of hazardous materials. She said that the proposed Amendment would add them to the list of reviewers for the Aquifer Special Exceptions seen by the ZBA.

Vice Chairman Seaworth said that, at times, the Conservation Commission does not respond to the ZBA's input request because they may not meet in time to respond.

Member Bourque said that if the Amendment was accepted, the ZBA would not award a Special Exception in the aquifer without reviewing input from the Health Officer, Planning Board, Conservation Commission and now the Pembroke Water Works.

With regard to whether the Sewer Commission should be added to the Amendment, Member Bourque said that the Sewer Commission has brought information to the ZBA as needed. If the Sewer Commission, while at TRC notices that something will be coming before the ZBA, they contact the ZBA.

Vice Chairman Seaworth reiterated Ms. Cronin's point that the Planning Board needs input from the Pembroke Water Works because they are the ones that can give the Board an expert opinion on the impact of a site's operation and how it may affect the aquifer. He said that, in the future, based on staff changes, it is possible that the notification process may have to be revised, but, at this point, he did not see a need to hold up the minor change.

Member Bourque agreed that the proposed change was fine. He said that if the Planning Board is considering adding the Sewer Commission to the Amendment, then it should be discussed with the ZBA first and another proposal made in the future.

There being no questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #6 at 8:04 pm.

**MOTION: MEMBER BOURQUE MOVED TO ACCEPT PROPOSED AMENDMENT #6 AND MOVE IT TO TOWN MEETING. SECONDED BY ALTERNATE MEMBER GOLDTHWAITE. UNANIMOUSLY APPROVED.**

**Amendment #7**

Are you in favor of the adoption of Amendment #7, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend §143-122 Permit Required, to add a new Section E., to read:

**E. If any structure or a portion of any structure in any zoning district is deemed unsafe due to fire, natural disaster, or other means of ruin, the owner shall within one (1) year commence removal or refilling the same to clear ground level or shall initiate repair of, or replacement of the structure.**

***The purpose of Amendment #7 is to address damaged or condemned structures for the purpose of public safety.***

Vice Chairman Seaworth opened the public hearing on Amendment #7 at 8:06 pm.

Member Cruson said that since this Amendment most likely came from Mr. Pendergast because he was concerned about safety, the proposed language, in her opinion, is not adequate. She said that the point is that the Town does not want someone to “commence removal”, they want someone to finish the removal. It needs to be more direct and more complete in some way – noting that the completion of the removal or refilling should be within a set period of time.

Vice Chairman Seaworth said that this was not the language originally seen by the Planning Board. He recalled that the first edition was stronger. He said that he would be leery of restructuring it because everyone’s circumstances are different. For example, if someone is having a difficult time getting the insurance money to finish the removal.

Member Cruson said that if it is being done for safety reasons, it should be all or nothing. She said that merely removing a beam could be considered having started the removal process. It does not change the safety issue. Although she may not be sure of Mr. Pendergast’s intent, she said that she would think that he would want to make sure that the action taken was an improvement in terms of safety of the unsafe structure.

Ms. Cronin said that she did not know Mr. Pendergast's intent but that the language was taken from another town. Section 143-125, Building Permit Time Limits says: "Any work for which a building permit has been issued by the Code Enforcement Officer shall be actively pursued within 180 days and completed within 1 year of the date of the issuance of the building permit." She was not sure if this applied to the Amendment.

In Member Cruson's opinion, if the Town is looking to improve the safety of a situation, commencing it is not adequate.

Chairman Topliff agreed with Member Cruson. He said that there should be a time limit involved, otherwise someone could do something very simple and say that it constitutes as their commencement of cleanup. Since there is no deadline of when it needs to be completed, it could take forever and legitimately never finish the work.

He suggested that language be added to provide 6 months to a year but with the additional proviso that the Code Enforcement Office would have the ability to extend the deadline based upon circumstances of the project. If the Board says 6 months and the owner says that he cannot complete the project by then because the insurance company has his hands tied, that is a legitimate reason for the code enforcement officer to extend the deadline.

Member Cruson said that the winter could easily interfere with a project timeline.

Member Bourque said that to his knowledge there is no demolition permit available.

Chairman Topliff said that the regulations say that it shall be "unlawful for any person to erect, reconstruct, demolish or alter structures defined by the New Hampshire Building Code as amended without applying and receiving from the Code Enforcement Officer a building permit."

Member Bourque remembered that a barn was torn down on Route 3 and the former Code Enforcement Officer, Everett Hodges, did not know about it until the debris was being hauled away.

He continued to say that his neighbor had an electrical fire in May 2017 and the insurance company has been stalling for the past 2 years. Since the insurance company has given them such a hard time, they purchased a modular home, are planning to demolish the house and put in a new foundation in preparation for the modular home. His point is that it has taken almost 3 years to get things settled. He said that a one-year limit is not enough. A time limit should only be set on a case-by-case basis and based on what the people can prove to the Code Enforcement Officer are the issues that they are running into. In his opinion, people will not receive a settlement from an insurance company within a year.

Vice Chairman Seaworth said that in some cases, the Town ordinance is enough to give Mr. Pendergast the authority to get involved. Without Mr. Pendergast present, the Board cannot confirm his thoughts.

Mr. Bourque also said that there have been buildings that have been abandoned and were never removed until the structure collapsed.

Selectmen's Rep. Bond said that she thought that Mr. Pendergast was concerned with abandoned buildings that could collapse and injure someone.

Marc Dumont, 36 Donna Drive, asked if a structure also includes a deck around an above-ground pool or if the Board is talking about sheds.

Vice Chairman Seaworth said that the definition of structure is all encompassing. The point where it gets called into action is when it is manmade and whether it is anchored into the ground.

Mr. Dumont asked if he would need a permit to have a shed removed by a forklift. Does the shed qualify as a structure? He also asked that if someone had an above-ground pool that was no longer used and it became dilapidated, would the Town require that person to remove the pool. His opinion is that it is the homeowner's liability and not the Town's. He does not want to see the elderly run out of Town because they can no longer take care of their home the way that the Town would like. He said that the Town should respect individual property rights. He asked how far the Board intended to go. The issue, for many, is that they do not have the financial ability to remove a structure.

Vice Chairman Seaworth read aloud the definition of a structure:

**STRUCTURE** - A combination of materials assembled at a fixed location to give support or shelter such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, a reviewing stand, platform, bin, fence, sign, flagpole, or the like. For floodplain management purposes means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

In response to Mr. Dumont's question, Vice Chairman Seaworth said that there is a procedure to condemn a structure, but once that is done, Mr. Pendergast did not feel that he had any way to follow up on it, which is why he proposed this language.

He also said that if the Board decides that the Amendment language needs to be changed, the Board would need to make their new proposal tonight if it is going to be on the Town ballot.

Member Cruson suggested that the Amendment be changed accordingly:

**E. If any structure or a portion of any structure in any zoning district is deemed unsafe due to fire, natural disaster, or other means of ruin, the owner shall within one (1) year commence removal or refilling the same to clear ground level or shall initiate repair of, or replacement of the structure.**

Member Cruson said that, in her opinion, the Board should table the Amendment.

Chairman Topliff suggested the following language: If a Town Official condemns a structure, the Code Enforcement Officer shall work with the property owner to establish a reasonable timeline to commence and complete the work.

Member Edmonds said that most of the language in the Amendment is proper but in the case of a replacement which could take several years, perhaps it would be better to “render the site safe (remove the hazard) within a year’s time” rather than requiring rebuilding within a year. Making the site safe could include adding a security fence around the structure rather than complete replacement.

Member Bourque said that if the Board is considering an extensive change, they should review it with Mr. Pendergast and have another public hearing. He understood that any changes that could not be made tonight would have to be addressed at the 2020 Town meeting.

Marc Dumont, 36 Donna Drive, suggested adding a time limit or have Mr. Pendergast grant an extension.

Chairman Topliff said that this Amendment impacts Mr. Pendergast more than anyone else and to make changes without his input may not be helpful. He agreed to table it until next year.

There being no questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #7 at 8:32 pm.

**MOTION: MEMBER BOURQUE MOVED TO TABLE AMENDMENT #7 FOR FURTHER STUDY AND NOT MOVE IT TO TOWN MEETING. SECONDED BY CHAIRMAN TOPLIFF. UNANIMOUSLY APPROVED.**

#### **Amendment #8**

Are you in favor of the adoption of Amendment #8, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to allow Town staff to review the Zoning Ordinance and make non-substantive changes such as correcting typographical errors, grammatical errors, numbering errors, table of contents, and other similar corrections?

***The purpose of Amendment #8 is to allow staff to make non-substantive corrections without burdening the public to vote on every typo, grammatical error, and numbering error.***

Vice Chairman Seaworth opened the public hearing on Amendment #8 at 8:34 pm.

There being no questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #8 at 8:35 pm.

**MOTION: MEMBER BOURQUE MOVED TO ACCEPT PROPOSED AMENDMENT #8 AND MOVE IT TO TOWN MEETING. SECONDED BY ALTERNATE MEMBER GOLDTHWAITE. UNANIMOUSLY APPROVED.**

➤ Zoning Amendment Proposed by Petition

Vice Chairman Seaworth said that the next Amendment is a zoning amendment proposed by Petition. He said that the Board cannot make changes or decide to table it for another time. He said that the Board could only vote to support or not support Amendment #9.

Vice Chairman Seaworth opened the public hearing on Amendment #9 at 8:39 pm. and asked the Petitioner to introduce the Amendment.

Paulette Malo, Bridge Street, said that the Petition came about because it has been in the Master Plan since 2004. The Town has been through a few Town Planners since the Master Plan went into affect in 2004. There was talk that the Planning Board intended to discuss the topic but, since it had not been done for the past 14 years, she decided to start a petition to rezone an area off of North Pembroke Road and Silver Hills Drive which is now being used as commercial land.

Vice Chairman Seaworth said that he found the map that Geoff Gaeta drew a number of years ago where he attempted to identify the properties that were appropriate for a commercial zone. Vice Chairman Seaworth said that he placed Mr. Gaeta's map next to the proposed map and they were similar. He said that the Petition is a little more conservative. Mr. Gaeta's goal was to try to get in every property that he thought was appropriate for a commercial zone. He included at least 2 properties that currently had residential houses.

He said that Ms. Malo was more conservative. He said that she added more of a buffer where the existing residential units are on Eley Lane. She also included some properties on the other side of North Pembroke Road that Mr. Gaeta did not consider but that, in his opinion, very much fit into the commercial zone.

Ms. Malo said that there are 2 lots on the opposite side of North Pembroke Road that were not included. One is a residential use lot and the other is the City of Concord. Her goal



was to “get the ball rolling”, leave the buffer for Eley Lane because she was aware of the issues with the upgrading of the gravel pits and noise complaints in the area. She said that the area within the zone can always be expanded at a later time.

Chairman Topliff asked if Ms. Malo had explored how she might connect Lot 12 with Lot 46. He noted that there is no direct access to Lot 46.

Ms. Malo said that she did not notice that lot.

Vice Chairman Seaworth said that, before discussing this Petition, Ms. Cronin made an excellent suggestion – because there may be people watching at home, the Board should read out loud the lots that will be impacted.

At this time Ms. Cronin read the following:

**Amendment #9**

Are you in favor of amending the Zoning Map of the Town of Pembroke by rezoning the following parcels from R3 (Rural/Agricultural-Residential) to C1 (Commercial/Light Industrial):

Map 559, Lot 6; Map 559, Lot 12; Map 559, Lot 12-1; Map 559, Lot 12-2; Map 559, Lot 12-3; Map 559, Lot 12-4; Map 559, Lot 14; Map 559, Lot 16-2; and Map 561, Lot 46.

***The purpose of Amendment #9 is to rezone the above-mentioned parcels, generally located in the area of Silver Hills Drive and North Pembroke Road, from R3 to C1.***

Vice Chairman Seaworth said that the proposal that they are discussing was to make a contiguous commercial zone from North Pembroke Road to the existing zone on Route 106. In this Petition, there is Lot 59 that is not zoned commercial that divides the two sections. The existing commercial line passes through Lot 46. On Mr. Gaeta’s original map, it showed the line going all the way down to Route 106. The Petition map also connects down to Route 106, but does not show the lots that are already zoned commercial.

Lot 59 has a right-of-way that extends to Eley Lane for a future road extension.

Ms. Cronin said that Lot 46 is currently split between C1 and R3 zones.

Vice Chairman Seaworth said that Lot 8 is the last lot on the Pembroke side of the river on the North side of North Pembroke Road.

Selectmen’s Rep. Bond asked if any of the residents that are currently buffering these lots signed the petition.

Ms. Malo said no.

Selectmen's Rep. Bond also asked if just the map numbers are going to be on the ballot. She was concerned that residents are not going to know what their map and lot numbers are and that they would automatically vote no.

Chairman Topliff said that the Board could have a tax map on an easel to show the affected area.

Ms. Malo said that she will probably be at voting and has asked for a large map to be provided for informational use.

Vice Chairman Seaworth said that he agreed with Ms. Malo that it is better to get the ball rolling knowing that the Board may refine the borders of this zone in a few years rather than to put it off any longer.

Member Bourque said that the petition will also relieve things that are presently going on with Silver Hills Road.

Selectmen's Rep. Bond asked if the Town was responsible for notifying the residents in this area that may be rezoned.

Ms. Cronin said that the State Statute is that if a rezoning affects fewer than 100 properties, the Town must notify them by mail. She said that all the property owners were notified of this public hearing in accordance with the RSA.

There being no questions or comments from the public or the Board, Vice Chairman Seaworth closed the public hearing on Amendment #9 at 8:50 pm.

**MOTION:** Member Bourque moved for the Planning Board to support the Petition (Amendment #9). Seconded by Chairman Topliff.

<b>VOTE:</b>	K. Cruson – Y	B. Seaworth – Y	A. Topliff – Y
	R. Bourque – Y	B. Edmonds – Y	T. Goldthwaite - Y

**THE MOTION FOR THE PLANNING BOARD TO SUPPORT THE PETITION (AMENDMENT #9) PASSED ON A 6-0 VOTE WITH ONE ABSTENTION – SELECTMEN'S REP. BOND.**

For the record: Members Bourque and Cruson signed the petition as a resident.

Vice Chairman Seaworth said that the next public hearing will be January 22, 2019.

### **New Business**

**Notice of Voluntary Lot Merger per RSA 674:39-a**

Pembroke Golf, LLC, owner of Tax Map 634, Lots 1 & 2 located at 31-39 and 65-89 Whittemore Road.

Ms. Cronin said that the paperwork was withdrawn once we had discussions with the applicant's attorney and discovered that the merger was unnecessary.

She also said that the Board of Selectmen held a public hearing for the conservation piece and that the plan can be recorded for the Pembroke Pines Villages project.

**Minutes:**

December 11, 2018

**MOTION: MEMBER BOURQUE MOVED TO ACCEPT THE DECEMBER 11, 2018 MINUTES AS PRESENTED. SECONDED BY ALTERNATE MEMBER GOLDTHWAITE. UNANIMOUSLY APPROVED.**

**Miscellaneous****1. Correspondence**

Ms. Cronin said that Unitil sent letters to every Town Department and every Town Board for informational purposes about an emergency response and preparedness meeting that they had. For information on the meeting, see Ms. Cronin.

She also said that David Jodoin received a letter of resignation from Richard Bean. She read it aloud:

Dear David

It is with regret that I tender my resignation from the Pembroke Planning Board effective December 31, 2018.

I am grateful for having the Board of Selectmen appoint me and afford me the opportunity to serve on the board for the past number of years

I offer my best wishes to its continued success.

Sincerely,

Richard F Bean

Vice Chairman Seaworth said, with that in mind, the Board has 2 alternates remaining. He suggested that the Board ask the Board of Selectmen to appoint one of the alternates as a regular member. He said that, although Ms. Dyjak has been an alternate longer, she has not been able to attend recent meetings. Mr. Goldthwaite has been attending regularly and participating and brings a lot of knowledge to the Board, therefore, he thought that it would be a good request to appoint Mr. Goldthwaite to the Board.

**MOTION:** Chairman Topliff moved to request that the Board of Selectmen appoint Mr. Goldthwaite to a regular Planning Board position. Seconded by Member Bourque. Approved with one abstention - Selectmen's Rep. Bond.

## 2. Committee Reports

Board of Selectmen: Selectmen's Rep. Bond said that they continue to work on the streetlights. Eversource made some errors because the poles are not numbered. In order to number the poles, they would charge the Town to go out and number the poles. Some lights were erroneously removed because they could not identify the poles. The lights were to remain at all intersections yet some were removed, therefore, Department of Public Works is identifying those intersections without lights. The Energy Committee is looking into solar lights at some intersections.

She also said that the Board of Selectmen accepted the plot of land at Pembroke Pines. In order to access the conservation area, residents would have park at White Sands and walk to it or park at the dirt road past the Country Club. She and the Conservation Commission were concerned because the land is posted as "No Trespassing". The applicant and the Town did not know who posted the "No Trespassing" signs.

Selectmen's Rep. Bond also wondered if a Town sticker would be required in order to park at the end of Whittemore Road and access the land once it becomes part of the White Sands Conservation area.

The Town's budget has been sent to the Budget Committee. The Budget Committee is working on the school budget.

Selectmen's Rep. Bond said that the School Reuse Committee is looking into grants and deciding whether to sell the Village School to the Town or a commercial entity.

Member Cruson said that she does not think that the committee will find that the Hill School is an adequate site for additional classrooms because of the drainage, parking, road problems, and traffic down Pembroke Hill Road. She suggested that people look into adding onto the Three Rivers School which has better traffic flow and access to all major roads, such as Buck Street, Pembroke Street, and Academy Road. Bussing could also be combined with multiple schools.

She said that there was an assessment evaluation done many years ago on the Village School with a focus on its rehabilitation. The study was done by professionals in the industry and might be valuable today. She also thought that if they would rehab the Village School, they should look into moving the students to another location during the remodeling and returning them to the facility once construction was completed.

As townspeople, she felt that we should be leaving our options open. It troubled her to see everyone closing doors on different things when there is so much housing development being built in Town. It is impossible to project what the Town will need in 5-8 years. She said that she would not want to preclude any options without knowing that those options are either too costly, unsafe, or that there are bona fide reasons for discouraging them.

Selectmen's Rep. Bond said that the residents need to understand that either way, if it is on the school budget or the town budget, the residents will be paying for it.

Vice Chairman Seaworth said that it is not the Town making most of the decisions. At the meeting, the School Board Representative was asked if he was getting a lot of push-back from the decisions that have already been made. He said no. According to the Board of Selectmen Chair, Tina Courtemanche, she heard from people who were upset. Vice Chairman Seaworth said that the problem is that the residents are complaining to the wrong entity. The Board of Selectmen are not the ones driving the decisions. Because the School Board is not hearing the complaints, they think that everyone is happy with their decisions.

Member Cruson said that the Town and the School District should do something about improving the communication by holding more public hearings and bringing the information out. Member Cruson said that, in her mind, they were trying to move the decisions through without appropriate public input and awareness.

Member Bourque said that all the information was at the School Board meetings, therefore, it was public.

Selectmen's Rep. Bond said that one of the articles in the paper said that the school was going to close September 18, 2018 and parents were upset in August when they heard that.

Member Cruson said that at that time people came to the meetings at Pembroke Academy but from then on, information was unavailable for a considerable period of time.

Selectmen's Rep. Bond reported that the Town will have a warrant article asking the residents if they want to continue to support the town clock. The next article will be to approve the \$35,000 fee to repair the clock.

Selectmen's Rep. Bond said that some residents are considering moving the clock itself to a different location because the Town does not own any part of the present building where it is located.

Another warrant article will ask what the residents would like to do with 4 Union Street. The article will ask to approve \$150,000 to repair the retaining wall.

Member Bourque said that 3 applications were before the Technical Review Committee. One of them was NE Flowers.

The Village School Reuse Committee: Member Bourque said that the presentation that Chairman, Clint Hanson, made to the Board of Selectmen was that he, Dave Dougherty, and Josh Coughlin met with Matt Monahan from Central NH Regional Planning Commission. Mr. Hanson told the Board of Selectmen that, before anything could be considered to be done with the Village School property, it must be evaluated and assessed for its needs and costs. They are also looking into federal funds for cleanup if necessary.

He said that the previous Village School committee focused on whether or not to close the School and how the students would be disbursed. The School Board decided to close the Village School in June 2019 and move the students to a modular building with 2 classrooms at the Hill School.

Member Bourque said that the present plan is to submit grant paperwork, in June, with the hope of beginning the assessment process of the Village School property in September 2019. He said that the School Board can only do one thing with the property – sell it or use it as a school. If they decide to let the Town do something else with the property, they would deed it over to the Town and the Board of Selectmen would have to decide whether or not, to sell or renovate the entire property. They may even decide to demolish a portion of the property and renovate the remainder.

Member Bourque said that whoever purchases the property will want to know what is in there, so the assessments are required.

Conservation Commission: Member Edmonds said that the Commission is looking for members. They have no alternates.

The Planning Board suggested advertising for volunteers on the Town and school sign boards. Ms. Cronin said that she would put the ad on the Town website and in the Town report.

Other Business

### **3. Planner Items**

The next Planning Board Meeting on January 22, 2019 will meet upstairs at Town Hall.

#### 4. Board Member Items

Vice Chairman Seaworth said that Mr. Bean originally volunteered to represent the Planning Board on the CIP Committee. Since he has resigned, that position is now open. He said if anyone is interested in filling the position, to notify Ms. Cronin or mention it at a future meeting.

Member Bourque asked for an updated members' list with phone numbers and email addresses.

He also said that while at a TRC meeting, he heard that there is a 911 regulation that says if there is more than 2 residents off a shared driveway, it must be considered a private road. One of the applications soon coming before the Board will have that change.

Member Bourque asked if the Board could request to see a wetlands medallion. The Board was shown a Conservation Commission wetlands medallion and wondered if the Town's wetlands medallion is one and the same. He said that since there are projects coming before the Board that will be near wetlands, he wanted to be sure that wetlands medallions are used.

With regard to the streetlights, Selectmen's Rep. Bond said that Member Bourque suggested that the Town adopt a standard street light which would make it easier and less costly to repair than having different street lights designs throughout the Town. Also, the Planning Board could require developers to use the approved street lights in future developments.

#### 5. Audience Items

Marc Dumont, 36 Donna Drive, said that a way to get information out to the public would be to ask for an email address when registering a vehicle so that one email can be sent to the entire contact list asking for volunteers, etc. He also thanked the Board for their patience and for allowing him to speak.

**MOTION:** Member Bourque moved to adjourn the meeting. Seconded by Selectmen's Rep. Bond. Unanimously approved.

The meeting was adjourned at 8:58 p.m.

Respectfully submitted,  
Jocelyn Carlucci, Recording Secretary