

**Pembroke Planning Board  
Meeting Minutes  
(ADOPTED)  
September 10, 2019**

**MEMBERS PRESENT:** Robert Bourque, Vice Chairman; Kathy Cruson; Clint Hanson; Brent Edmonds; Dan Crean; Ann Bond, Selectman's Rep.

**ALTERNATES PRESENT:**

**EXCUSED:** Brian Seaworth, Chairman

**STAFF PRESENT:** Susan Gifford, Recording Secretary; Dana Pendergast, Code Enforcement Officer; Carolyn Cronin, Planner

Vice Chairman Bourque called the meeting to order at 6:30 pm.

**Appointments**

1. Future Zoning Changes with Dana Pendergast, Code Enforcement Officer  
Planner Cronin referenced the master list of potential future zoning changes that was in the August 13, 2019 work session packet. This list included all items noted over the years. Staff went through the list and prioritized several items for discussion tonight. Dana Pendergast is present at the meeting.

**Fences/Commercial Screening and Buffers**

Dana Pendergast, Code Enforcement Officer, stated that his intent is to keep fence height consistent. However, commercial maximum fence height is 7 feet and residential maximum fence height is 6 feet. A brick or stone wall would be considered a fence. It was the consensus of the Planning Board that maximum fence height for both commercial and residential be set at 7 feet. Planner Cronin will make the revisions necessary to accomplish this.

**Table of uses, agricultural**

Planner Cronin referred to Table of Uses, Pages 37-38. Agricultural uses #4 and #9 both refer to livestock for agricultural use. There are differences in language and type of livestock listed. Chairman Bourque asked if it would be better to combine the two sections. Dana Pendergast confirmed that at least since he was hired, no one has applied for a Special Exception for Commercial use animals.

Planner Cronin suggested striking agricultural use #4 and combining the two items in #9 not including fur animals for commercial use, with a Special Exception required for all commercial use animals. Board members agreed.

**Sign ordinance**

Planner Cronin explained that the sign ordinance does not include a setback for free standing signs. Selectmen's Rep. Bond asked what was in the sign ordinance passed a few years ago. Nothing is specified. When a request to replace a sign came in, a structure setback in C1 zone would be 30-60 feet. Practical guidelines had historically been that signs must be out of the right-of-way. Dana Pendergast stated that legal

consensus was that the sign replacement be located “no closer than any other sign” in the area (Route 106). Member Edmonds asked if NH DOT had any concerns about signs. NH DOT does not want any signs located in their right-of-way. Planner Cronin suggested sign setbacks be set at 10 feet from front and side property lines. Board agreed.

Planner Cronin will finalize the revision to state that any free standing sign (not political signs, a separate section), will be located no closer than 10 feet from the front and side property lines in the B1, B2, C1 and LO districts. Board consensus was 10 feet is a reasonable number.

### **Water Supply Ordinance**

Dana Pendergast, Code Enforcement Officer, stated that he and Fire Chief Paulsen have been working on proposed Water Supply Regulations. He provided draft language to Planning Board members. It is not clear where the ordinance would be placed – Fire Prevention, Subdivision, Site Plan, or Zoning Ordinance. The Select Board adopted a fire prevention code in August 2016 that mandated structures located on roads over 200 feet long will have a sprinkler system installed. NH Legislature in 2010-2011 prohibited towns from enacting a mandated sprinkler requirement.

It is difficult to get water in more remote places. Whenever there is a 3 lot or greater subdivision or a driveway over 300 feet, this proposed ordinance provides options for a property owner to provide firefighting water by:

- Extending the town water main.
- Using a natural body of water, meeting extensive criteria.
- Installing a cistern meeting NFPA with minimum 30,000 gal capacity.

Selectmen’s Rep. Bond asked what the distance is between fire hydrants. Dana Pendergast stated that Water Works requires a hydrant every 500 feet, but recommendation for new hydrants is every 1,000 feet. A cistern is a large concrete tank with fill pipe and draft pipe and a gauge. Member Edmonds asked who would certify and inspect cisterns. Once a cistern is accepted, it would be the Fire Department’s responsibility to maintain it. A bond is required from the property owner for two years, in case any repairs are necessary to a new cistern.

Dana Pendergast stated that the proposed water supply ordinance would not affect any currently submitted or approved development projects. The sprinkler ordinance codified in Fire Chapter 82 could be modified. Selectmen’s Rep. Bond stated that March 2020 is far away for a zoning change. Member Edmonds asked about town liability if a house burns down. Member Edmonds stated he has limited knowledge of inspection work on cisterns but is cautious. Dana Pendergast stated he has 30 years firefighting service in his background, and cisterns have been used for at least 20 years. Liability is low if reasonable actions are taken to protect health and safety.

Selectmen’s Rep. Bond asked if the water department has weighed in on the proposed ordinance. Dana Pendergast stated that the Water Commissioner has said where there is no water main, it is problematic to get enough water to fight fires. Due to elevation, a

sizable diesel driven pump is necessary. Member Crean noted that he was involved in putting in a cistern in Canterbury. Once in the ground, with certified engineering, it remains in the ground similar to a septic system. Annual inspections are required as with fire hydrants.

Vice Chairman Bourque asked if water supply for fire prevention would be submitted as a zoning change. Member Crean stated that voluntary options are not a “mandate” since developers have a choice of methods. Member Hanson stated that it makes more sense as a town ordinance, as a proposed zoning change would have to wait until March of 2020. Member Crean stated the enabling legislation would likely be public safety and health. Selectmen’s Rep. Bond asked for clarification that the ordinance would apply to development of 3 lots or more and driveways over 300 feet long. That is correct. Work will continue on the Water Supply Ordinance.

## **Old Business**

### **2. Discussion of Delayed Zoning Amendments**

#### **a. Corner Clearance**

Planner Cronin referred to new language provided in the last workshop packet (8/13/19). The Board agreed to a distance of 15 feet. New language makes it evident that public safety and sight distance are the intent of the ordinance. For example, overhanging trees, dense hedges, any structure or vegetation 3 feet above curb level or lot line that impedes sight distance may be deemed a safety hazard by the Code Enforcement Officer at his or her discretion.

After a report is made, the Code Enforcement makes a site visit and has a conversation with the property owner(s). If there is a potential safety hazard owners and abutters can often agree on mutual action to mitigate the concern. Dana Pendergast stated that if a resident does not agree, Appeal of an Administrative Decision can be filed with the Zoning Board of Adjustment, or eventually taken to court.

Selectmen’s Rep. Bond asked what happens if a property owner does not have the tools or ability to complete the action required. Member Crean summarized that the Code Enforcement Officer makes a determination based on the ordinance. If the resident does not have the tools or ability, owners have the option to contract out to a professional tree or landscaping company. If there is a safety issue reported, the Code Enforcement Officer will make a site visit. If warranted, he will issue a letter with 30 days to comply, then a 2<sup>nd</sup> and 3<sup>rd</sup> notice, all with an appeal process.

#### **b. Commercial Greenhouse**

Referencing an August 5, 2019 email, Planner Cronin stated that the solution to this dilemma would be to remove “Commercial Greenhouse” and add two different new uses: Garden center – with a retail component

Industrial greenhouse – wholesaler to retailers

Dana Pendergast clarified that “farm stands” are an agricultural retail outlet that have their own existing stipulations.

If a garden center imports more than 35% of the products sold, then they are not considered an agricultural retail outlet per the State RSA. Planner Cronin stated both garden center and industrial greenhouse would be required to go through Planning Board site plan review. Currently the greenhouse use is allowed by right in R3 and by Special Exception in other zones. Member Cruson would like to require a Special Exception for Garden Center or Industrial Greenhouse. The Board found consensus that an Industrial Greenhouse should be a special exception use in the R3.

### 3. Discussion of Dead-end Street Design

Vice Chairman Bourque stated that past discussions focused on setting a limit of homes on a street, perhaps 6, and eliminate hammerheads and have only cul-de-sacs allowed for a turnaround. Roads exceeding a length, perhaps 600 feet, would be required to reconnect to a public road. This topic was discussed at Technical Review Committee 9/4/19. Concerns about road length, width, design and access were discussed. Temporary dead end streets were discussed, how long is “temporary?” Designated stubs or small parcels of land retained by the town for future connectivity were discussed. As time and personnel change, is the intent for these parcels lost? Planner Cronin received feedback from the school bus coordinator that school buses do not travel dead end roads. They require students to wait at the entrance of the cul-de-sac. Buses will travel connecting roads. Member Hanson stated bus access concerns are usually in the winter. Selectmen’s Rep Bond agreed that all departments should be represented at a workshop. If a fire truck can get down a road, an ambulance which is smaller should be able to navigate the road. Selectmen’s Rep. Bond doesn’t want to see multiple cul-de-sac developments, disconnected from each other, coming out on Route 3. Member Crean agreed that connectivity prevents traffic coming out to a main street to get to the next street. In Wisconsin where Member Crean grew up, many shopping strip malls connected their streets so that shoppers could easily travel and shop at multiple locations. It was a huge safety benefit.

Member Hanson asked if a parcel of land is reserved for future connectivity, what prevents that from happening. Member Cruson stated that virtually no planned connectivity has happened as expected. Member Crean stated that with an official map, existing roads and planned roads are mapped. Developers are prohibited from building on planned streets.

In reviewing TRC minutes from 9/4/19 Selectmen’s Rep Bond noted differing views exist among the departments. Selectmen’s Rep Bond agrees that developments should have more than one way in and out. Member Hanson recommends inviting TRC representatives to a work session to get their concerns and ideas. Vice Chairman Bourque stated he has been on the Planning Board for a long time and has seen many dead end developments approved. Member Crean suggested that each department representative be asked to prepare a 3-4 minute concise justification for their proposal. Vice Chairman Bourque suggested that Fire, Police, DPW, Tri Town Ambulance and a school bus coordinator for grades K-8 be invited to attend the October 8, 2019 Planning Board work session and/or provide input.

**Action Item** – Planner Cronin will invite participants to the October 8, 2019 work session as discussed.

## **New Business**

### **Article VIIIA Telecommunications Facility and Antenna Criteria revisions**

Planner Cronin explained that an issue came up due to a collocation request. In 2013, regulations came out that a town cannot put additional restrictions for modifications or collocation requests on existing towers, unless it constitutes a "substantial modification".

Member Cruson asked for the definition of substantial modification.

Member Crean explained that the term comes from federal statutes.

Planner Cronin noted that town counsel has reviewed and proposed minor revisions to this article to comply with the 2013 regulations. Member Crean asked if town counsel reviewed for state law, Federal law (FCC0,) or both?

Member Crean stated that Federal FCC has sold out regulatory interest to cable companies. Towns have very little control on telecommunications.

Planner Cronin stated that town counsel referenced RSA 12K shot clock review, which sets a time limit of 45 calendar days to review a request on an existing tower. Member Crean suggested that until we can verify legal did a thorough analysis under new FCC regulations, we continue discussion to next month. Member Crean suggested language that "Pembroke will comply with applicable time limits" might be better than specifying a number of days. Future changes are likely.

**Action Item** -Planner Cronin will include permit processing time guidance in the ordinance. This item will be on the October 8, 2019 work session agenda.

**Minutes**- August 27, 2019

**MOTION: MEMBER CREAN MOVED TO ACCEPT THE MEETING MINUTES OF AUGUST 27, 2019 AS PRESENTED. SECONDED BY MEMBER HANSON. UNANIMOUSLY APPROVED.**

## **Miscellaneous**

### **1. Correspondence**

- A.** DRI Notice from City of Concord – Planner Cronin received a Development of Regional Impact notice about a proposal from Liberty Utilities to build a 15,000 square foot office/warehouse on Broken Hill Road, Concord NH. Concord Planning Board is meeting Wednesday, September 18, 2019 on this application.

Planner Cronin provided copies of the plan. She noted that the intent is to build office space, a meeting room with up to 30 employees will occasionally be scheduled to take exams, and two storage areas, one for facility materials and supplies, and one for electrical materials and supplies. There will be no more than 88 employees. Plan needs NH DES Alteration of Terrain permit. The property is right next to the river. Vice Chairman Bourque stated it would have been helpful to know the type of materials handled and stored at the site. Member Crean asked if City of Concord sent a copy of the plans to Pembroke Water Works. It is not clear whether Concord sent a copy, but Planner Cronin will forward a copy to Water Works for their review.

**Action Item** – Planner Cronin will send a copy of the DRI notice and plan to Pembroke Water Works and apprise Concord of Planning Board concerns.

Member Edmonds stated that gas utilities have had a presence in that area but the introduction of electrical equipment is new. Vice Chairman Bourque noted that Exeter/Hampton and Concord Electric are now with Liberty Utilities. Vice Chairman Bourque is concerned about seepage into the river affecting the aquifer. Vice Chairman Bourque stated that if all storage occurs indoors, including chemically treated poles, cross arms and oil filled equipment, potential hazardous material seepage is minimized. Member Creaan noted that if the City of Concord requires that Best Management Practices be observed, Pembroke Planning Board concerns are lessened.

**Action Item** – Planner Cronin will summarize the Planning Board concerns and submit them to the Concord Planning Board in time to be considered at the 9/18/19 meeting. Pembroke Water Works may submit concerns along with, or separate from, Pembroke Planning Board.

**Meeting** - Planner Cronin received a reminder from Mike Tardiff, CNHRPC, about a meeting on Thursday, September 12, 2019 at 7:00 pm at the Horseshoe Pond Community Room in Concord. The topic is *Right of Way and Easements*. Selectmen's Rep Bond will attend.

## 2. Committee Reports

**Board of Selectmen** – Member Bond reported that a final (negative) vote was taken regarding opening range roads. The developer was present. **Action Item:** Planner Cronin will provide a copy to Board members.

**Roads Commission** – Chairman Seaworth not present, no report.

**Technical Review Committee (TRC)** – Member Bourque reported that there were no zoning or Tri town meetings. TRC met 9/4/19. TRC representatives will be invited to the October 8, 2019 Planning Board work session to discuss dead end street design.

**Capital Improvement Committee (CIP)** – Member Bourque reported the CIP is complete for this year. Gerry Fleury will present to the Board of Selectmen soon.

**PACE Charter School** – Member Hanson reported PACE Charter School is open with maximum enrollment of 55 students. Twelve students are on a waiting list. Ribbon Cutting will happen on Thursday, September 12 at 4 pm. All are welcome to attend.

**Conservation Commission** – Member Edmonds reported that Conservation met September 9, 2019. Carolyn Cronin presented a very informative session on wetland regulations. The Commission is broadening its view on wetlands. Conservation Commission officially named "Center Hill Conservation Area."

## 3. Other Business

- A. Streetlight Standards – Selectmen's Rep Bond stated the Board of Selectmen is open to changes. Vice Chairman Bourque asked if the Board would consider allowing fiberglass poles rather than wood poles. Fiberglass poles are 1/3 of the cost of wood poles. Member Cruson asked about drawbacks to fiberglass poles. Vice Chairman Bourque stated that fiberglass poles damage more easily. The cost of replacing a wood pole is \$1,000 for the pole plus installation costs

including crew, equipment and trucks. Selectmen's Rep Bond stated the town paid over \$3,000 for a fiberglass pole replacement. She asked what the difference was for metal poles. Vice Chairman Bourque stated a 40-foot aluminum pole alone costs \$3,000.

4. Planner Items – **Budget 2020** -Planner Cronin reported that department budgets were due last Friday. She proposed an increase to the Training line by \$50 to get new Board members trained, and hopefully to train new Planning Board Alternate recruits.  
**Revised Procedures**-Planner Cronin provided a draft of revised Procedures for Changing a Class VI Road to a Class V Road. This document is a suggested checklist to help the applicant, and is not a policy or regulation. It is a resource for the applicant. Will be discussed 10/8/19.
5. Board Member Items – Selectmen's Rep Bond will not be present at the 9/24/19 Planning Board meeting. An alternate will attend in her place.
6. Audience Items –none

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

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,  
Susan Gifford, Recording Secretary