

**Pembroke Planning Board
Meeting Minutes
(ADOPTED)
November 12, 2019**

MEMBERS PRESENT: Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Clint Hanson; Dan Crean; Ann Bond, Selectman's Rep. (arrived 7:10 pm)

EXCUSED: Kathy Cruson, Brent Edmonds

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

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

Old Business

1. Revisions to "Procedures for Changing Town Administrator a Class VI Road to a Class V Road as Part of a Subdivision or Site Plan Approval"

Planner Cronin reported that this procedure was discussed at the October work session. The Planning Board asked legal if they could require road opening approval as part of application completeness. The opinion received is that, according to RSA 676:4, the Board cannot condition application acceptance on the issuance of permits or approvals from other state and federal governmental bodies; however, it does not say that the Board can't condition acceptance on the issuance of approvals from other municipal bodies. If challenged, a court may find that "state" governmental bodies include municipal bodies, but it may not.

Chairman Seaworth noted that this document was intended to be a joint policy between the Board of Selectmen and Planning Board. It was never intended to be a Planning Board policy. Vice Chairman Bourque noted that a change from Class VI to Class V road is likely a request to open range roads. Member Crean noted that per NH RSA 676, obtaining a building permit requires access by a Class V or better road. A plat can be approved by the Planning Board without Class V access, but historically the Pembroke Planning Board has never done so.

Chairman Seaworth stated that the Pembroke Board of Selectmen policy and practice is that all development occurs on a Class V or better road. A buyer needs to understand that internal roads in a development may be private roads. Chairman Seaworth noted that Planning Board policy is to require sequential approval so this may need clarification in our subdivision instructions and there are more complicated issues.

Vice Chairman Bourque stated that an applicant can do the level of work they want, but they need approval to change the classification of a road before applying for Planning Board review. A submittal is not complete without road approval. Member Hanson agreed that the Planning Board should not accept applications as complete without access on a Class V or better road. Member Crean stated the Planning Board can make appropriate road access part of the application requirements. The applicant can request a waiver if they wish. Chairman Seaworth stated that an applicant can request a waiver of any checklist item with justification for the request. Early on, at application acceptance, we need to make it clear that access from a Class V or better road is necessary. Member Crean noted we need to be cognizant of what we are doing to the public by bringing an

incomplete application to public hearing. All developments with non-town roads need to be willing to set up a mechanism to maintain those roads. Planner Cronin will work on the application checklist. She confirmed that a Planning Board public hearing would be needed to update the regulations.

2. Dead End Streets

Planner Cronin noted that Public Safety and Public Works staff attended the October work session. A 600-foot cul de sac seems to meet their needs for emergency response. The larger issue is that “temporary” dead end streets have no time limit; there is no definition of “temporary”. Vice Chairman Bourque noted that “hammerheads” are an issue. Other types of road design, like loop roads, have the same concern of just one means of entrance and exit.

Vice Chairman Bourque stated I lived on a road with a temporary hammerhead and it has been there 43 years. Chairman Seaworth recalls specifying hammerheads for partial extensions of a road. He is not sure the Planning Board would allow a temporary hammerhead that may be there for decades without connecting to another road. Chairman Seaworth stated we need assurances like bonding or a letter of credit to ensure that a developer finishes roads properly. A company could go bankrupt before finishing all the planned roads. Member Crean stated that the Planning Board needs to 1) define temporary and 2) get security for performance for a given time. The Planning Board cannot approve a 10-year phased plan because if a surety deposit is not used by the end of 6 years, it must be returned. We need to monitor approved projects at five years, and the applicant could reapply to start the surety time period over if necessary. A phase two must start within 5 years.

Vice Chairman Bourque said he thought the original intent of reviewing dead end roads was to set a standard for the number of homes that could be in a subdivision on a dead-end street. If 6 homes were the number approved on a dead-end street, then starting with house number seven and up had to reconnect to a main road. Chairman Seaworth stated that a single entrance/exit is the issue. Vice Chairman Bourque agreed that a loop road has one entrance and no outlet at the end. Chairman Seaworth stated that the Planning Board needs to work on the definition of temporary, and we want to include loop roads with dead end roads. Member Crean suggested that when there is limited access, it is possible to create bump outs to get around an obstacle. Dead end roads can be a marketing issue to the developer as people want to live on dead end roads. The standard for length of a dead-end road would be 600 feet. Vice Chairman Bourque suggested getting technical input from the town engineer. Chairman Seaworth suggested that at the time of a request for exception to standard length, the plan could be sent to the town engineer for review and comment. The applicant would need to own the land for access to a second egress or would need to propose a tradeoff to mitigate the one way in and out issue.

Vice Chairman Bourque asked if the Planning Board can determine what is “temporary”? Member Crean suggested that the Planning Board set a standard for cul de sac length with an option to alter in the public interest. Member Hanson stated there must be a requirement for surety to complete the roads as proposed. Planner Cronin will look at how other towns define temporary and bring more information to a future work session.

New Business

3. Draft of Red-Lined Zoning Amendments for Review

Planner Cronin provided red-lined language for the zoning amendments the Planning Board would like to present at Town Meeting. There are six proposed zoning amendments: 1) inconsistent height of fence, change from 6 feet to 7 feet; 2) conflicting agricultural uses; 3) sign setback for freestanding signs; 4) cell tower ordinance update; 5) corner clearance and 6) greenhouse/garden center definition and use. Planning Board members would like to review the telecommunications ordinance before approving changes. The language on the other five items looks satisfactory but with some members missing tonight, the board would like to review this again at the December 10, 2019 work session/meeting.

Chairman Seaworth asked for and received clarification that in the R3 zone all animals for commercial use need a special exception. Horse boarding is an example of commercial animal use. Planner Cronin stated that the Board took the more restrictive language when they combined the sections. Planner Cronin will email the telecommunications information to members. If the Board approves the language of the proposed zoning amendments, December 10, 2019 is the last date for the Board to accept the amendments as proposed and move to send to town meeting. Chairman Seaworth noted the Board should be ready to finalize the proposed amendments in December.

Planner Cronin presented the changes the Conservation Commission would like to propose to section 143-72 Wetlands Protection (WP) District to tighten up the regulations. Changes include adding a "Certified Wetlands Scientist" and "other professional study" to broaden the engineering study requirements. Other changes specify that the applicant may be required by the Planning Board to install permanent wetland demarcation. Vice Chairman Bourque asked if the Conservation Commission indicated number of feet between medallions. Planner Cronin stated they did not.

Planner Cronin stated the Conservation Commission is updating the definition of Wetlands and will provide that to the Planning Board prior to December 10. Section E designates buffers. The Conservation Commission recommend increasing the 20-foot wetland buffer to 50 feet and adding a 100-foot buffer from any vernal pool. Vernal pools are seasonal, and they are a breeding ground and habitat for certain wildlife. Member Crean would like a statement that the Planning Board retains authority to require and approve any professional study. Member Hanson would like to insert "or any other professional approved by the Planning Board". The Wetlands District falls under Special Use Permit, so it is in the Planning Board's purview.

Vice Chairman Bourque stated that buffers are part of the exclusions when calculating "buildable area" so these proposed increased buffers would impact buildable area. Planner Cronin stated that the Conservation Commission wants to update the definition for wetlands based on United States Army Corps of Engineers terminology, which is recognized as the standard. Conservation Commission will provide more information and justification for the numbers of the proposed buffers. Vice Chairman commended their

excellent update and prudent suggestions. Planner Cronin will pass along Planning Board comments to the Conservation Commission.

4. 2020 Meeting Schedule

Planner Cronin provided a draft 2020 meeting schedule. No work session will be held on the Tuesday of Town Meeting voting. The second date in March should be March 24, 2020.

5. Development of Regional Impact Notification

Chairman Seaworth noted that when a developer knows an application is likely to be a Development of Regional Impact, he may choose to notify Central NH Planning Commission and towns that may possibly be impacted in the initial submittal information. At the Planning Board meeting, we may determine it is a development of regional impact and we may pick fewer towns than were notified as needing notification. Member Crean noted that if the applicant attaches a note that therefore we believe this may be a development of regional impact, but the Pembroke Planning Board has not yet declared it to be so, there is nothing wrong with submitting more information than needed. Only when the Planning Board declares the application a development of regional interest does the towns named have standing at the hearing. Vice Chairman Bourque asked if the Planning Board would review the application at a work session for the business meeting later in the month. Member Crean said no, the information sent would be a formal notice, but not the final notice. The applicant would hope the towns review and comment, thus saving one month once the application is declared a development of regional interest. Towns may not act on the information until it is officially declared a DRI.

Planner Cronin will ask CNHRPC whether sending application information prior to DRI determination would be an option and request their guidance on the procedure to accomplish notification. More information will be provided at a future meeting.

Minutes- October 22, 2019

MOTION: VICE CHAIRMAN BOURQUE MOVED TO ACCEPT THE MEETING MINUTES OF OCTOBER 22, 2019 AS PRESENTED. SECONDED BY MEMBER HANSON. UNANIMOUSLY APPROVED.

Miscellaneous

1. Correspondence –none

2. Committee Reports

Board of Selectmen – Member Bond reported that the Board of Selectmen are updating town parking code. A budget meeting is scheduled for 6:30 p.m. November 14, 2019.

Roads Commission – Chairman Seaworth reported that Roads Commission met last week. Current projects are completed.

3. Other Business- none

4. Planner Items – Planner Cronin reported that the owners of Mills Falls Condominium (6 condos built in 1987 next to the laundromat) would now like to build the other 6 condos approved in the original plan. They are checking on the procedure. If there were no

changes to the approved plan, and they meet current State code, it should not be too involved.

Also, the annual Municipal Conference is being held in Manchester November 13 and 14, 2019. Planner Cronin is attending tomorrow.

5. Board Member Items – none

6. Audience Items – none

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

The meeting was adjourned at 7:53 p.m.

Respectfully submitted,
Susan Gifford, Recording Secretary