

**Pembroke Planning Board  
Meeting Minutes  
June 8, 2021  
(Approved June 22, 2021)**

**MEMBERS PRESENT:** Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Kathy Cruson, Brent Edmonds, Kevin Foss, Clint Hanson

**ALTERNATES PRESENT:**

**MEMBERS EXCUSED:** Ann Bond, Selectman's Rep.

**STAFF PRESENT:** Carolyn Cronin, Town Planner; Susan Gifford Recording Secretary

Chairman Seaworth called the meeting to order at 6:30 pm. He read the legal notice required for remote meetings under the Governor's Emergency order. The Planning Board is utilizing Go to Meeting platform. The public has access to listen or participate as stated on the public notice of meeting. Six members were present.

**Old Business**

**1. Subdivision Regulations Update**

Planner Cronin noted that she sent three emails in the meeting packet. One was from NH Municipal Association regarding limiting the extension of conditional approvals. NHMA advised that the town listen to its legal counsel. Another email was from Vice Chairman Bourque recommending measures to grant or not grant a request for extension of conditional approval, and having guidelines on making a decision to extend. Member Cruson agreed she would like to have a framework. Having been in court regarding school district decisions, if you do not specify why you took a particular stance, there is less for the respondent to argue. Chairman Seaworth said I understand that town counsel did not advise us not to give a reason for approval or denial. Town Counsel advised not to set up a procedural standard. Applicant will provide proof of the reason for requesting an extension. The court will want to see the reasons articulated. Reasons need to be flexible. In each case, the Planning Board looks at the specific circumstances of each case. Planner Cronin said that sounds right. Member Cruson said I find it difficult not to have reasons to deny an extension request. Member Foss said that NH RSA 674:39 provides a five year exemption to approved plans from changes in regulations. That does not seem to apply to extensions. Member Foss is more in favor of not putting time limits on extension requests. The more you spell out the requirements, the more you are obligated to provide the maximum extension.

Vice Chairman Bourque said the intent is to show that the State of NH feels five years is a reasonable time before changes in regulations require approved plans to be subject to changes. Why not set five years as the limit on extension of conditional approval? Member Hanson said it has been my experience that a gray process makes more sense. The Planning Board members make a judgement on the applicant's presentation of circumstances. It is always a subjective decision, and may need to be defended in court. Member Edmonds said I side with Member Foss's point of view. Keep the process open to the largest degree.

Chairman Seaworth noted that the Planning Board has had some limited experience with extension requests. The board has had to revoke site plan approval for plans not

completed, which is a separate issue in the process of enforcement. Changes in ordinance make it easy to justify a denial of an extension. The consensus of the board is to leave the section as it is currently drafted.

The third email was from the Town Administrator on liability implications of cul-de-sac maintenance designated to a homeowner. Chairman Seaworth noted that Selectmen's Rep Bond had asked the liability question, and could talk directly with David Jodoin. Vice Chairman Bourque asked if the center of cul-de-sac design would be discussed. Chairman Seaworth said yes, the issue of updated language for proper cul-de-sac design would be discussed when the review came to that topic. Chairman Seaworth noted that there was a lot of discussion last time, and we may need to take a vote on what to present for consideration at public hearing.

Planner Cronin continued the review of Subdivision Regulations where the board left off last month. We had stopped at sidewalks. Chairman Seaworth reported an update on his discussion with the Roads Committee last week. He felt it would be helpful to request expert opinion. Roads Commission one hundred percent agreed that sidewalks are not required on both sides of the street. Having sidewalks on one side of the street is sufficient. Having the center of a cul-de-sac paved is good for many reasons. However, the Director of Public Works noted that with MS4 requirements for stormwater treatment, a rain garden center may help with meeting MS4 requirements. Chairman Seaworth noted that there are no clear answers on both sides. The diagram in the back of sidewalk section shows the road coming right up to the curb. This can help the plow pass easier, but does not work in every case. Sometimes DPW would rather see green space between the road and sidewalk. Member Cruson noted that green space provides a spot to place trash cans. DPW advised to make sure an area that needs to be accessed by a plow is clear of any obstructions, including mailboxes.

Chairman Seaworth noted that sidewalks are an area more complicated than some other areas. He recommends we continue discussion of sidewalks as a separate change, and bring less complicated changes to the first public hearing. Roads Commission is a good resource, as is DPW which noted that future maintenance of sidewalks is an ongoing expense to the town. It may be prudent to have CIP or BOS weigh in on sidewalk design.

Chairman Seaworth addressed sidewalks to nowhere. The town should have a big picture plan to connect networks of sidewalk provided by new development. Chairman Seaworth noted that the last town sidewalk plan was done in 1999 and it needs to be reviewed and updated. Member Cruson agreed that an overall plan for reasonable connection is especially important in the Donna Drive area. Planner Cronin agreed that a workshop inviting Public Works and Roads Commission would be beneficial. Planner Cronin updated the language to clarify that in the R3 zone within one mile of a school, sidewalks are required on one side of the road and will be installed throughout the development. This is a situation where a big picture town sidewalk plan could make sure the sidewalks are installed on complementary side for future connection. Planner Cronin noted a section of sidewalks refers to open space, which we no longer have. Board consensus was to leave the section in as a placeholder to remind the Planning Board to come back to it if open space development is a topic.

Planner Cronin noted that the curbing language as discussed last year was more general, stating granite curbing as approved by the Planning Board. NH Fish and Game favors sloped curbing for turtles and wildlife. Member Edmonds noted that his experience with NH DOT is that ADA does not like to see sloped curbing adjacent to the street. Sloped curbing presents mobility challenges. Member Hanson noted we had ADA issues where the developer asked for sloped curbing. Chairman Seaworth noted that the tip down at the sidewalk must be ADA compliant. Vice Chairman Bourque stated he sees nothing in the regulations to prevent using a mix of vertical and sloped granite curbing. Chairman Seaworth agreed this is something to consider. We want to see developers telling the Planning Board why the option they present is the best curbing solution. Board consensus is to add clarification that granite curb can be either vertical or sloped as approved by the Planning Board.

Planner Cronin moved to page 40 Well Radius. At the time we were looking at individual lots served by individual wells where the well radii go onto other lots. Verbiage is suggested that well radii must remain on the lot it is serving. Planner Cronin noted it is common for well radii to overlap driveways, roadways, and structures, but not detention ponds and firefighting ponds. Member Cruson said it doesn't make any sense that well radii cannot cross a fire fighting pond. She agrees that a well should definitely be contained on its own property. Vice Chairman Bourque noted that if the well is within its property lines, some other issues go away. Chairman Seaworth said you have a point that the well should be contained on the property it is serving. Member Hanson said we should put in a restriction that a garage not be located over well radii. Changing oil in a garage is a potential well contamination issue. Chairman Seaworth noted that a house can be located within the well radii. Planner Cronin clarified that sheds, structures, and garages can also be located over well radii. When the Planning Board is looking at lots, the plans do not have exact locations of where structures will be located.

Chairman Seaworth noted that most State of NH requirements are in place to keep septic from well areas, which goes to lot size. We don't want to be concerned with health issues where the State does not have that layer. It is clearly a subdivision issue if the proposed well does not fit on the land allocated. Member Edmonds noted that final approval rests with NH DES regulators. Board consensus was to take the well radii change as written up until the word "serving" to public hearing. Member Cruson noted that the board does not have to be in agreement in a work session. I wish to hear all member perspectives. Chairman Seaworth agreed, and said he wanted to come to one version that can be posted for public hearing and further discussion.

Planner Cronin move on to page 41, procedural pre-construction requirements. She wants to codify this section to the process used and add clarification of financial guarantees. Financial guarantees must be in place before any ground work is done or permits issued. Chairman Seaworth said the town has learned a few things over the years. Member Cruson asked if this is typical practice. It is typical practice in most towns to have surety in place prior to a pre-construction meeting and definitely before work begins.

On page 45, Planner Cronin changed Maintenance of Improvements to reflect current town practices. It currently says developer will pay a fee to the town for maintenance. However, the town does not maintain any road until it is accepted as a town road. Until that occurs, the property owner is responsible. Chairman Seaworth likes the way the section is worded, giving responsibility to current owners of the property. Vice Chairman Bourque noted that on private roads, or in developments over a certain number of units, the town does not plow or pick up trash. Is that documented somewhere? Planner Cronin stated that the limits on number of units for trash pickup is a DPW standard. New roads intended to be public, but that are not accepted as town roads yet, do not receive town services. Chairman Seaworth noted that is an interesting question. Vice Chairman Bourque noted that the information needs to be somewhere. A developer considering a private road needs to know this ahead of time. Chairman Seaworth agreed. Member Hanson suggested that information may be subject to disclosure on a purchase. Disclosure would be the responsibility of the seller of an individual property. Member Cruson noted that Third Range Road residents are not served by DPW. Perhaps the Board of Selectmen provide information when asked to open roads. Board consensus is that members are satisfied with rewording.

Planner Cronin moved on to page 51. Wherever a copy and paste occurred, the author left in grammatical errors and misspellings. Planner Cronin has difficulty determining what is incorrect in highlighted section. Chairman Seaworth noted commas help break it up. The sentence is too long. Member Cruson will submit a suggested verbiage. Planner Cronin will make all the changes discussed this evening and at the last work session. She will provide an updated document at the next work session. At that time, a vote can be taken to forward the changes to public hearing.

### **Minutes**

- May 25, 2021

**MOTION:** Member Foss moved to approve the minutes of May 25, 2021 as amended (correct meeting date page one). Member Hanson seconded.

**VOTE:**           B. Seaworth – Y                           C. Hanson – Y                           K. Foss - Y  
                  B. Edmonds - Y                           R. Bourque – Y                           K. Cruson-Y

**MOTION TO APPROVE MINUTES OF MAY 25, 2021 AS AMENDED PASSED ON A 6-0 VOTE.**

### **Miscellaneous**

1. Correspondence – Planner Cronin reported that an email was received from Town counsel confirming that San Ken has dropped the lawsuit against Town of Pembroke regarding road opening denial.

2. Committee Reports

Technical Review Committee – Vice Chairman Bourque reported that no TRC was held.

3. Other Business

**Five Alternate Member seats** – Planner Cronin noted that NONE of the Alternate Planning Board member seats are filled.

4. Planner Items – Planner Cronin reported that no new applications were received for the June 22, 2021 meeting. Two continued old business items are on the agenda.

**Update on Open Space Development Survey** – Planner Cronin noted that the Open Space Development survey is available on the Town website. A town email blast was sent out, and 114 surveys have been completed to date. Planner Cronin will keep the survey up a little longer.

**Update on State of NH State of Emergency** – Planner Cronin noted that the Governor is expected to let the state of emergency expire on Friday, June 11, 2021. Because there are no new applications, Planner Cronin can wait until after June 11 to advise the June 22, 2021 meeting location.

5. Board Member Items – Member Hanson reported that PACE Charter School is probably going to close at the end of the school year because the finances do not work as a private nonprofit. PACE cannot approve a budget with a deficit. The board will likely close out the corporation and not open next Fiscal Year. They will sell off the property, pay creditors and surplus will go to Pembroke School District consistent with bylaws and the charter school 2011 approval. The Attorney General's office is opining on eligible board members. There may not be enough board members to vote in favor of closure. Meetings are being scheduled with NH Department of Education.

6. Audience Items - none

**MOTION:** Member Foss moved to adjourn the meeting. Seconded by Member Cruson. Without objection the meeting was adjourned at 8:10 p.m.

Respectfully submitted,  
Susan Gifford, Recording Secretary