

**Pembroke Planning Board  
Meeting Minutes  
(Approved October 12, 2021)  
September 14, 2021**

**MEMBERS PRESENT:** Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Kathy Cruson, Brent Edmonds, Kevin Foss, Ann Bond, Selectman's Rep.; Clint Hanson

**ALTERNATES PRESENT:**

**MEMBERS EXCUSED:**

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

Chairman Seaworth called the meeting to order at 6:30 pm. Seven members were present.

**Presentation**

**1. Development of Regional Impact, Joseph Vanaria, Applicant on behalf of Manchester Sand, Gravel & Cement Co., Inc., owner of 200 Sheep Davis Road, Concord.**

The Applicant proposes to run a compost production operation on the site, in which residential yard waste generated by Applicant's landscaping business will be transported to produce compost.

Chairman Seaworth noted that a continuation of a presentation heard at the August workshop meeting was on the agenda. Planner Cronin noted that we have not heard from applicant. The comments on this plan from Pembroke Water Works are being reviewed by a hydrologist. Pembroke Planning Board comments have not been sent to Concord Planning Board. Vice Chairman Bourque stated that 1) if the plan is to use solar panels, they must contain the battery pack to avoid leaking battery acid if a flood occurs. 2) if the plan is to use a transformer, there must be containment as well. Chairman Seaworth noted that as part of the chemical monitoring the board would like to add invasive species (insects and plant life) monitoring to the inspection schedule.

Planner Cronin stated Pembroke was notified when the applicant applied to Concord Planning Board that it was likely to be a Development of Regional Impact. At that time, Pembroke was invited to send comments. Planner Cronin will send the letter.

**MOTION:** Vice Chairman Bourque moved to continue the presentation to the October 12, 2021 work session. Member Foss seconded.

<b>VOTE:</b>	B. Seaworth – Y	A. Bond - Y	C. Hanson- Y
	B. Edmonds - Y	R. Bourque – Y	K. Foss-Y
	K. Cruson - Y		

**MOTION TO CONTINUE PRESENTATION TO OCTOBER 12, 2021 PASSED ON A 7-0 VOTE.**

**Old Business**

2. Subdivision Regulations Update – Planner Cronin reported that the proposed revisions to subdivision regulations were reviewed by legal and comments were received. The last time the board discussed these regulations was July 2021. Vice Chairman Bourque noted that 205:14 B is the wrong reference. On page 12, 205:12 was revised to ensure there is no conflict on instances where the Board of Selectmen need to vote to open a road layout over a Class VI Road. A private road

is a different process. Every road the Board of Selectmen accepts, or not, must be built to Department of Public Works standards. Selectmen's Rep Bond stated that in the past the board has accepted roads that do not meet the Class V Road criteria. The Board of Selectmen has no authority on private roads. Chairman Seaworth noted that our intention is in the special instance where an application is dependent upon opening a Class VI Road. He asked that Planner Cronin close the loop with legal and use the actual name of the process (opening petition process) on this section. Member Edmonds asked if someone approaches the Board of Selectmen to accept a private road, does that extend to utilities on the road, and water and sewer lines? Selectmen's Rep Bond stated that drainage and culverts become town responsibility, but sewer and water have their own authority. Water and sewer lines from the street to the house is the owner's responsibility. The Board of Selectmen may accept the road, but water or sewer may not.

Page 16, extensions for conditional approval are granted up to one year in length. Is that only for one year, or in one-year increments? Chairman Seaworth noted that the intention was one-year extensions, with limited extensions until the board felt the request exceeded expectations. Vice Chairman Bourque noted that we did not say one year increment to allow the applicant to come back to the Planning Board and justify a request for further extension. Member Cruson prefers black and white language. Selectmen's Rep Bond said if not applied uniformly the town can get in trouble. Chairman Seaworth stated we meant to leave it this way. The applicant needs to prove their case every time an extension is needed. Selectmen's Rep Bond observed that the extension process saves the applicant fees and keeps their conditional approval the same. Member Hanson noted that the Allenstown sewer capacity issue may be decades long. If there are too many changes in other conditions, the board could deny the application and the applicant can reapply when appropriate. Planner Cronin noted that the Planning Board has denied applications based on circumstances that have changed. Member Foss asked if "up to" one year should be added.

Page 21, Planner Cronin noted that the multiple pages with same number error is because comments in tracking mode would fit on the page noted. Planner Cronin noted frontage is not defined in subdivision regulations. Should the zoning definition of frontage be added? Chairman Seaworth stated there are three different definitions of frontage in zoning – Lot Frontage, Contiguous Lot Frontage, and Lot Reverse Frontage when the road used for frontage requirement is not in the front. There is no issue with the driveway being located on the Lot Reverse. The problem is developers who say the driveway will exit on another property owner's lot with an easement. Actually, a fourth definition is Lot Line Front. Vice Chairman Bourque asked if language that states driveway must be on the same lot that one owns should be added. Chairman Seaworth agreed the driveway needs to be on the same lot as the house. An owner can move a driveway to a better spot later. We do not want to create easements when the original subdivision is created. Vice Chairman Bourque said you could have frontage on three sides to a Class V Road, but ingress and egress must be on your own lot. Selectmen's Rep Bond noted this may be taken care of in the DPW driveway permit requirements. She also noted

that 205-40 requires on, and access to, an existing street. Member Cruson said the language should be clear cut and not in conflict with any other requirements. Vice Chairman Bourque suggested adding a word – from the “individual” lot frontage. Planner Cronin will touch base with legal and ask about a simple definition of “frontage”.

Page 27, clarify local street laid out in harmony with “proposed roads”. Streets need to be in harmony with both proposed and existing rights of way. Member Foss noted an example is a lot on Church Road with frontage on another must realign the intersection as already proposed. Chairman Seaworth said lot owners must leave access for back of the lot development. Regulations allow the Planning Board to ask for road improvements that are necessary. Selectmen’s Rep Bond said we do not want a road to nowhere. Chairman Seaworth stated that every road proposal must be considered in the design. Member Hanson said that if two developers have proposals on adjacent lots, the second applicant must meet the conditions of the first approval as far as “future proposed connection”. Vice Chairman Bourque said that large tracts of land need their proposed roads to meet another road. Selectmen’s Rep Bond noted that currently all neighborhoods dump out on a main road. Planner Cronin suggested that the town Master Plan contains recommendations for road improvements. Selectmen’s Rep Bond asked why Laura could not attend a Planning Board meeting to address questions from the board. This format puts the burden on Planner Cronin to go back to legal and discuss comments further. Chairman Seaworth noted that he did not anticipate this much discussion on the legal comments. Should we take a break at this point, send our comments back to Laura and continue after clarification. Board consensus was to continue.

Member Cruson noted that Pembroke has precious few sidewalks that connect. Most do not go anywhere or match the profile in our regulations. Selectmen’s Rep Bond stated if any piece of the property is within a mile of a school, sidewalks are needed in the entire development. The town may need more machines to care for sidewalks. Vice Chairman Bourque stated the intention is if any part of lot is one mile from the closet edge of school property, sidewalks are needed throughout the development. Chairman Seaworth agreed that our intent is that if any portion of the lot, measured as a line not a circle or circumference, sidewalks are needed on the entire development. Planner Cronin will incorporate tonight’s comments into a new draft to take to legal.

Page 51, waivers, and Cul De Sac. It was discussed that Laura is quoting a zoning RSA. Laura recommends sticking with statutory language. Vice Chairman Bourque stated that the Planning Board needs to review the statutory language references. Chairman Seaworth said we need the applicant to present reasons for needing a waiver and convince the Planning Board.

Planner Cronin will discuss comments with legal. If further dialogue is needed, we will invite legal to attend a Planning Board meeting.

### **New Business**

3. Proposed Zoning Changes for 2022 – Planner Cronin noted that Vice Chairman Bourque proposed a limit on recreational vehicle occupancy as to how long owner can live in RV tied to construction. He noted that visitors can park an RV on a property for up to 60 days. A recent case occurred where an owner was renovating after a fire at the property and passed away. A relative from Maine came to stay at the property and requested an extension of the 60-day limit. The ZBA was reluctant to grant a variance, as that would stay with the property. Vice Chairman Bourque said there should be a provision for the Code Enforcement Officer to extend a continuation of the permit for extenuating circumstances. Selectmen's Rep noted 60-day limit is for nonpaying guest. What if the property owner charged rent? That situation would be treated as a business. Chairman Seaworth noted no payment was taken in this situation. Vice Chairman Bourque asked if someone could live in a trailer for two years while a house is being rebuilt. Planner Cronin noted that in the case of unsafe structures there is a time limit to start work but no concrete end date. Vice Chairman Bourque asked who has authority to condemn a property – Fire Chief, Health Officer, Code Enforcement Officer as backup? Chairman Seaworth said insurance issues can take time. At some point the owner will tear the structure down. Member Cruson asked if we need more information to consider this. Chairman Seaworth asked if issue is appropriate to tackle in the spring. Member Hanson said this is a contemporary issue. Selectmen's Rep Bond agreed. Vice Chairman Bourque asked Planner Cronin to check with other towns. Planner Cronin said the current language is from Gilford. The building must be made safe. State RSA allows the Board of Selectmen to address hazardous buildings through zoning or court. Selectmen's Rep Bond will bring issue to Board of Selectmen and Fire Chief. Chairman Seaworth would prefer to leave issue to Code Enforcement most of the time. Member Cruson asked who would report an unsafe building? Vice Chairman Bourque stated that if a building is unrepairable, insurance company will order it taken down. Member Edmonds noted that an ongoing arson investigation would take the matter out of our hands. Chairman Seaworth would like to take this proposed zoning change forward. The Supreme Court is hearing relevant cases and we want the language to be compliant. Vice Chairman Bourque will send a copy of the ZBA sign case court ruling. Planner Cronin noted that there is always the severability clause that maintains ordinance that is not affected by a court ruling. Member Cruson added this is too much to understand at one reading at the polls. Selectmen's Rep Bonds suggested a video explanation be made, with a link on the town website. Vice Chairman Bourque asked Planner Cronin how many hits the Planning Board recorded meetings receive on the website. Chairman Seaworth said the consensus is that we should get more information. He also noted that the DRI requirements have changed, and we reference the time limits as specified in State law. We need to make housekeeping changes on Development of Regional Impact in both subdivision regulations and site plan regulations.

### **Minutes**

August 24, 2021

**MOTION:** Vice Chairman Bourque moved to approve the minutes of August 24, 2021, as presented. Member Foss seconded.

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

**MOTION TO APPROVE MINUTES OF AUGUST 24, 2021, AS PRESENTED PASSED ON A 5-0-2 ABSTAIN VOTE.**

### **Miscellaneous**

1. Correspondence – Planner Cronin reported that the National Guard is moving along on its fields. Matt at Pembroke Water Works described what is included in a review of a site for potential contamination. The reviewer looks at chemical and hazardous storage, use and disposal. The minimum requirement for review is five gallons and maximum is 550 gallons. Above 550 gallons, NH DES provides oversight. Floor drains must be permitted and connected. Any cracks in the floor must be repaired.

**NHMA Virtual Land Use seminar Saturday September 18, 2021.** Planner Cronin asked any member interested to let her know so she can register by Thursday. The contents of the seminar do not have to be viewed on Saturday. The material will be available for six months.

2. Committee Reports – Conservation Commission – Member Foss reported Conservation Commission met last night. At Buck Street and Mass Ave, the owner wants to carve out real property to create conservation land along river frontage. Mobile homes and cape cod homes will be built. Conservation Commission is cleaning up deeds on existing conservation land.

Roads Commission – Chairman Seaworth reported that Roads met last week. The last of this year's projects is Hillcrest off Broadway. The delay was that it infringed on State ownership. Selectmen's Rep asked if a 10-year Pembroke Road plan had been compiled. Chairman Seaworth noted the DPW receives the data from NHTI and would be the department that creates this plan. The CIP is favorable toward increasing the road budget in 2022. Member Cruson asked about use of the federal broadband funds. Selectmen's Rep Bond can provide a list. Chairman Seaworth noted a lot of federal funding is funneled through the counties. There is information on the Merrimack County webpage.

Technical Review Committee – Vice Chairman Bourque noted that September TRC was cancelled due to no new applications.

3. Other Business - none
4. Planner Items – Planner Cronin reported this is the second month with no new Planning Board applications. There are many applications in the zoning process currently. Planner Cronin will monitor activity and decide whether a September 28, 2021 Planning Board meeting is needed.
5. Board Member Items – Member Hanson noted that PACE still exists. The board was unable to obtain a quorum to address Board of Education issues. One more board meeting is scheduled to vote to put the building on the market and use the funds to settle debts with creditors. Per the grants of 2011, residual assets will go to the Pembroke School Board. Eastern Bank owns the mortgage. A warrant article is needed in March 2022 for the Board to dissolve PACE. Passing the article would put the building back on the tax rolls. There are no students and no staff. If action is not taken, foreclosure is possible. If foreclosure occurs, no funding will be sent to the Pembroke School Board. Either way this is the last PACE board meeting.

6. Audience Items – none

**MOTION:** Vice Chairman Bourque moved to adjourn the meeting. Seconded by Member Foss.

Without objection the meeting was adjourned at 8:46 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary