

**Pembroke Planning Board
Minutes of Meeting
(ADOPTED)
April 12, 2016**

MEMBERS PRESENT: Alan Topliff, Chairman; Brian Seaworth, Vice Chairman; Larry Young, Sr.; Fred Kline, Selectmen's Rep.

ALTERNATES PRESENT: Brent Edmonds

EXCUSED: Kathy Cruson; Robert Bourque

STAFF PRESENT: Stephanie Verdile, Town Planner; David Jodoin, Town Administrator; Jocelyn Carlucci, Recording Secretary

Guest: Carol Ogilvie, Central NH Regional Planning Commission.

Chairman Topliff called the meeting to order at 7:00 p.m.

New Business –

Worksession Excavation Regulations.

Ms. Ogilvie said she began by organizing the draft regulations for clarification purposes. She made no significant changes to the substance of the document. Her focus was to adjust the flow of the document. She addressed most of the points made at the last meeting along with the information provided by Ms. Verdile.

She placed all waivers and exceptions after the operational and reclamation standards. Ms. Ogilvie also noted the standards for operation and reclamation are very detailed and she did not alter them. The process associated with those seemed also fine.

Ms. Ogilvie reviewed comments made by Mary Pinkham-Langer, the Sand and Gravel Appraiser for the Department of Revenue Administration. Aside from "tweeking" a few definitions, Ms. Ogilvie felt the contents and substance did not require changes.

To clarify the notations made on the work copy of the regulations, Ms. Ogilvie said the underlined portions (as illustrated in §197.3) are Ms. Pinkham- Langer's comments. Ms. Ogilvie's comments are in bold, underlined, and initialed.

Ms. Verdile said that it is easier to reference the State RSA rather than to update the Town regulations when State changes are made.

Ms. Ogilvie said that the suggested changes for the definition of Commercial Excavation was an attempt to clarify what it is and make it consistent with the definition of "commercially useful".

Ms. Ogilvie said that the bold, underlined, and italics words on Page 5 of 53 are the Town's present regulations.

She suggested deleting “Commercial Useful Volume” and fold it into the new definition of “Commercially Useful”.

She also suggested merging the definitions of “Excavating” and “Excavation” into one definition.

Vice Chairman Seaworth noted that “Commercially Useful” is an adjective and the “Commercial Useful Volume” is a noun. He felt that it may cause problems when substituting the definition into the regulations.

He also said that “1,000 cubic yards” is noted in the old definition and “1,000 cubic yards per year” is in the new general definition. He thought using “per year” in the general definition could, in some circumstances, cause a conflict.

Vice Chairman Seaworth also noted that “Excavating” is a verb and “Excavation” is a noun. He said that “Excavating” is a general term for the action of digging a hole. “Excavation” specifically refers to commercial excavation of a significant size to be regulated. He thought that merging the two definitions into one may be problematic since one term is a regulated activity and the other for a description of digging. He suggested keeping the two definitions.

Ms. Ogilvie said that she would keep that in mind and try to fix it.

Ms. Ogilvie said that if there was a definition for Express Standard then there should be one for Minimum Standards. She created a definition for “Standards, Express and Minimum” that the Board may feel is unnecessary.

Vice Chairman Seaworth said he would like to see the definitions explicitly referenced by the specific Article or Section.

Ms. Ogilvie said Ms. Pinkham-Langer’s suggested “Operational Equipment” should cover other things besides what was already in the old definition therefore, Ms. Ogilvie created a new definition.

Vice Chairman Seaworth suggested the last word be changed from “Regulator” to the “Planning Board” in order to be consistent with the remainder of the document. Ms. Ogilvie will review the document in order to make that consistent.

Chairman Topliff asked if it was clear in the regulations that there is a difference between someone who has purchased a lot, not for the sole purpose of removing material to sell, but rather to build homes. Ms. Ogilvie said yes as long as it is stated in the exceptions and documented in their application.

Ms. Ogilvie said Ms. Pinkham-Langer wanted a distinction between “reclamation” and “restoring” and that she tried to do that.

In answer to Chairman Topliff's question, Ms. Ogilvie said the biggest issue with taking the approach of merely adopting 155-E rather than writing additional regulations is that the Town would not have a regulation in place for processing applications. The Town would be authorized to enforce 155-E but if someone came in with an application, the Town would not have much ability to do anything about it. She suggested pairing down the regulations and making some references to 155-E. Much of what is presently in the regulations comes straight out of that law.

Ms. Ogilvie said 155-E only deals with the express standards for operating and reclaiming. If the Board thought there were pieces in the present regulations they wanted to have in place as minimums, they would not have them unless they drafted additional regulations to 155-E.

She said pairing down the excavation regulations was possible. The Town of Loudon just did. She explained since much of the land in Loudon, suitable for gravel operations, is pre-existing or completed operations, there is not much area left suitable for new operations. The Board agreed that Pembroke is in a similar situation as Loudon.

Member Young said the Town needs Excavation Regulations that are readable and understandable.

Ms. Verdile said the present regulations were difficult for the Applicant and for the Board to work with.

Ms. Verdile said perhaps when considering pairing down the regulations, the Board could consider regulations pertaining to issues specific to the town like road repairs.

Mr. Jodoin said with regard to road damage, Ms. Pinkham-Langer said the Town cannot require people to post a bond on a road for hauling out trees from a site because it is considered agricultural and is no different from somebody excavating or delivering furniture.

Ms. Verdile said Tim Bernier brought to the Board's attention at a previous Worksession when discussing the Excavation Regulations, that replanting trees for slope stabilization may not be the best solution as the current regulations call for because the trees would not grow as quickly as the Town's would want. Trees may be useful for replanting for screening purposes along property lines but not for slope stabilization. She discussed having the regulations become up to date with current replanting standards.

Chairman Topliff suggested Ms. Verdile and Ms. Ogilvie work together to create a user-friendly regulation by highlighting portions of the regulations that they feel are important and should be kept.

Public Hearing Amendments to Subdivision Regulations

Ms. Verdile said this is the first public hearing for the 2015 zoning amendments that were created to update the subdivision regulations.

No changes were made to proposed Amendment #1 and #2.

After a short discussion and review of §205-37, the Board revised Proposed Amendment #3 as follows:

Section 205-38

A Lot Line Adjustment that does not create any new lots is not a minor subdivision, unless the Planner upon review feels that it warrants the Planning Board to review as a Minor Subdivision.

All applications which include a lot line adjustment shall conform to the following requirements:

- A. No new lots, nonconforming lots, or greater nonconforming lots shall be created;
- B. The application and plats shall be signed by the owner(s) of both lots affected by the change;
- C. The plat shall show both the old property line(s) and new lines. The plat shall have the old lines as dashed lines and the new lines as solid lines; and
- D. The Planning Board may waive any requirements of the subdivision regulations, which they feel are not required.

Chairman Topliff said the Amendment #3 will be renoticed for a public hearing.

2016 Nomination of Regular Member(s), Officers, and Board elections

Chairman Topliff asked if Alternate Member Edmonds would like to become a regular Planning Board member in place of former Member Krebs. Alternate Member Edmonds said yes.

MOTION: MEMBER YOUNG MOVED TO APPOINT ALTERNATE MEMBER EDMONDS AS A REGULAR MEMBER OF THE PLANNING BOARD. SECONDED BY VICE CHAIRMAN SEAWORTH. UNANIMOUSLY APPROVED.

Ms. Verdile explained Member Edmonds would finish out former Member Krebs' term of one year and then could ask to remain on the Board for a regular three-year term.

Mr. Jodoin said he may have an alternate for the Planning Board -- Richard Bean. Mr. Bean was a former Bow Selectmen and a part-time police and fireman in Bow. He is a friend of Selectman Greco.

MOTION: MEMBER YOUNG MOVED TO APPOINT CHAIRMAN TOPLIFF AS THE CHAIRMAN FOR THE UPCOMING YEAR. SECONDED BY MEMBER EDMONDS. UNANIMOUSLY APPROVED.

MOTION: MEMBER YOUNG MOVED TO APPOINT VICE CHAIRMAN SEAWORTH AS VICE CHAIRMAN FOR THE UPCOMING YEAR. SECONDED BY CHAIRMAN TOPLIFF. UNANIMOUSLY APPROVED.

Committee Assignments:

Vice Chairman Seaworth will remain on the Roads Committee.
Member Young will remain on the CIP and TRC Committees.
Member Edmonds will join the Conservation Commission.
Member Cruson will remain on the NH Regional Planning Commission.

Minutes- February 23, 2016, March 22, 2016 Site Walk, and March 22, 2016 Business Meeting

MOTION: MEMBER YOUNG MOVED TO APPROVE THE FEBRUARY 23, 2016 MINUTES OF MEETING AS AMENDED. SECONDED BY CHAIRMAN TOPLIFF. UNANIMOUSLY APPROVED.

MOTION: VICE CHAIRMAN SEAWORTH MOVED TO APPROVE THE MARCH 22, 2016 SITE WALK MINUTES OF MEETING AS PRESENTED. SECONDED BY CHAIRMAN TOPLIFF. APPROVED WITH ONE ABSTENTION – MEMBER YOUNG.

MOTION: MEMBER YOUNG MOVED TO APPROVE THE MARCH 22, 2016 MINUTES OF MEETING AS AMENDED. SECONDED BY VICE CHAIRMAN SEAWORTH. UNANIMOUSLY APPROVED.

Miscellaneous

1. Correspondence-

Ms. Verdile received Business NH magazine and Planning magazine.

2. Committee Reports-

Roads Committee: Vice Chairman Seaworth explained for a few years, the Roads Committee split the budget with approximately half going toward paying the bonds on the multi-year projects and the remainder going toward annual maintenance. This year the Committee had a few issues.

First, the Committee did not pay one of last year's principal payments out of the Road's budget. This resulted in more remaining budget money than anticipated. The Committee encumbered the money to do the planned paving projects. The contracts were signed in 2015.

Secondly, the bridge on North Pembroke Road came to the surface of the State's projects. The Town had to decide whether to: (1) Only perform the minimum repairs on the bridge which would leave an inadequate bridge for the amount of traffic and type of traffic that uses it; or (2) Widen and improve the bridge.

The State would pay for 80% of the project. Concord and Pembroke would split the remaining 20%. Concord wanted to spend as little as possible. They agreed to split the lowest cost project 50/50. If Pembroke chose to do the larger project, Concord would only pay the original 50% of the smaller project. They would also use their staff and engineers to oversee the project and do the paperwork which would count toward their portion. Therefore, Pembroke agreed to pay the lion's share of what the State is not paying in order to have a better bridge.

The result was that Pembroke needed \$335,000. The State would not put up their money until they saw that the Town had the money in their budget to cover their portion. The project was driving the tax rate up because it was a large one-time expense and the Committee, at the same time, had the offset of the existing roads budget. Vice Chairman Seaworth suggested to the Board of Selectmen that rather than taking money to put into CIP, perhaps take the Roads Budget to pay for the bridge which would make the bridge repair part of the 2016 Roads Budget. The Board of Selectmen recommended that idea to the Budget Committee and it passed.

Vice Chairman Seaworth said the first Roads Committee meeting began with a heated discussion because they were concerned that they would never be allowed to have a budget again if the money was used for one project. Selectmen's Rep. Kline assured the Roads Committee that that would not be the case.

Mr. Jodoin said Mr. Boisvert, the Public Works Superintendent, did not prepare a 10-year plan which the Committee anticipated.

Vice Chairman Seaworth said some of the Roads Committee members wanted to use the budget money on the paving projects that had not been completed rather than use it all on the bridge project.

Vice Chairman Seaworth said the Roads Committee now has a spreadsheet of all the roads and will be rated based on their condition and the last time that they were repaved, sealed, etc. This will be their ten-year plan.

Jay Menard said he would drive all the roads in town and rate the road listed spreadsheet.

Vice Chairman Seaworth said the Committee also discussed the Pembroke Hill project that still has the Safe Routes to School portion along with the sidewalks that have not been completed. He said from the Town's standpoint, the project is incomplete and if the sidewalks are built, the Town will have to finish the roads next to the sidewalk. There is a

deadline for completion on the Town's portion of the roads. He said there is some concern because money is being held up with a very expensive sign.

Mr. Jodoin said the project was rebid and came in at approximately \$220,000 so the Board of Selectmen held off on the project. This year, the Town is still \$8,000 short for the sidewalk project and \$12,000 short on the notification sign project. Mr. Jodoin said a letter was written to the person at the State that is coordinating the Safe Routes to School funds asking him to come up with the \$20,000. The State person replied that Pembroke should ask for everything (approximately \$40,000) which would include the sidewalks from Three Rivers School. The State has submitted the paperwork to the Federal Government and the Board of Selectmen is waiting for their answer.

Vice Chairman Seaworth said the concern of the Roads Committee was if the Town waits long enough, the project for the roads will be terminated and the Town will have the unfinished portion next to the unfinished sidewalk.

Another project that will not be completed in one year is the upper portion of Beacon Hill Road and East View Drive. The total is approximately \$1.2 million. The Roads Committee's thought is to bid it out as a single project, bond it, and pay for it out of the Roads Budget over a number of years.

The Roads Committee approved the traffic counts and Ms. Verdile will check with NH Regional Planning Commission to see if the traffic count was sent to them.

Technical Review Committee: Member Young said they met with Pembroke Pines and reviewed their lot line adjustment request. They want to take two course links and move them to another location.

3. Planner Items- There will be a Business Meeting on 4/26/16

Ms. Verdile said Next Level Church has an issue with the Planning Board Notice of Decision. Condition No. 2 says that "if necessary a revised driveway permit or letter from NH DOT approving the access for the change of use for the site is required. A permit or letter of the new use shall be submitted to the Planning Department prior to the Planning Board signature on the final plans."

She said this condition has been in her staff report to prepare for the January 26, 2016 meeting as a Condition of Approval. Pastor Daniel, on April 4th said that (1) they cannot get a letter from DOT until they own the property; (2) they cannot close on the property until they get final Planning Board approval; and (3) they cannot get final Planning Board approval until the Board signs the plans.

The Church would like Ms. Verdile to change the Notice of Decision. Ms. Verdile told them the only way a Notice of Decision can be modified is to put their request in writing and the Planning Board would consider a request to modify the Notice of Decision just as they would do with a plan revocation or an approval extension request. The abutters and the public would have to be noticed for a public hearing.

Pastor Daniel was suppose to come into the office on April 4 to submit his plans and discuss this request. He did not come in. On April 11th, she received an email from Pastor Daniel stating the same request to change the Notice of Decision. He also said the Church provided everything necessary and would appreciate if I would allow the plans to be signed with the condition that the Church would provide the letter from NH DOT prior to the Certificate of Occupancy being issued "as stated, on record, at the public hearing."

Ms. Verdile said she responded saying again she was unable to modify the Conditions of Approval issued by the Planning Board. She asked them to make their request in writing, and get something from NHDOT in writing and she would approach the Board on April 12 and ask the Board's opinion on the Church's request. She also said that she offered to send the Notice of Decision to the NHDOT and have them contact her. She received no answer from Pastor Daniel.

The Board agreed that the ball was in the Church's court.

With regard to the Wilkins Avenue subdivision, Ms. Verdile said they had conditional approval for a two-lot subdivision in Sept. 2013. The Mylar was recorded. The Town has approximately \$12,000 in escrow for improvements to be made to Wilkins Ave. She asked the Board for clarification on their interpretation of when the approval would expire.

It was the consensus of the Board that since the applicant had met all the conditions of approval, and they have recorded the new lots at the Registry of Deeds, the application would not expire.

Ms. Verdile said Frank Merrill would like to tear down the house on Sand Road this summer and bring the lot down to the level of the Liquor Store. The Board agreed he would need a Special Use Permit in the Aquifer Conservation District. Ms. Verdile asked the Board if he would need approval through the Excavation Regulations.

Chairman Topliff said if the applicant is clearing the lot for the purpose of putting a business on it, it is not a gravel pit and does not fall under the excavation regulations. He said the simplest thing for Mr. Merrill to do would be to come in for a Minor Site Plan and explain that he is taking down the house and removing the material and what he will be doing with it. That way he would have Planning Board approval.

Chairman Topliff said if the only reason that Mr. Merrill was taking down the house was to sell the sand, he would need an Excavation Permit. If he is creating a commercial lot, then it's a minor site plan.

Chairman Topliff asked Ms. Verdile to research whether Sand Road was owned by the Town and who plows and maintains it.

Ms. Verdile said on April 26, 2016, Pembroke Pines Country Club will be coming in for a Lot Line Adjustment, Special Use Permit, and Major Site Plan applications. She said she

has had many inquiries from abutters. She asked if the Board felt the meeting should be at a larger facility in anticipation of a number of residents attending.

Mr. Jodoin will arrange for the meeting to be at the Pembroke Academy and will make arrangements for the police to be there.

4. Board Member Items-

Chairman Topliff said he would write a Letter to the Editor in the Concord Monitor indicating that there are openings on the Planning Board in hopes of getting new members. He will have the article approved by Mr. Jodoin before it is published.

MOTION: Vice Chairman Seaworth moved to adjourn the meeting. Seconded Member Edmonds. Unanimously approved.

The meeting was adjourned at 9:23 p.m.

Respectfully submitted,
Jocelyn Carlucci, Recording Secretary