

**Pembroke Planning Board
Meeting Minutes
February 14, 2023
(Approved on February 28, 2023)**

MEMBERS PRESENT: Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Rick Frederickson, Selectmen's Rep; Kathy Cruson, Brent Edmonds, Kevin Foss, Clint Hanson

ALTERNATES PRESENT: Bryan Christiansen

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

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

Applications

**1. Comments to Board of Selectmen on RSA 674:41 Application
a. 119-145 7th Range Road, Map 868, Lot 29**

Planner Cronin explained that Jerica-Lee Bell purchased property on 7th Range Road in March or April of 2022 and applied for a building permit in October 2022. The Planning Department explained the process for a building permit on a Class VI road. In September of 2022, the ZBA ruled that the lot was a lot of record after reviewing a chain of deeds that predate Pembroke zoning. In January 2023, the applicant put forward a request to the Board of Selectmen hoping to build on a Class VI road. A picture of the tax map for Map 868, Lot 29 shows that the distance is approximately 890 feet from the intersection to the edge of the property. When the applicant purchased her property the 200 foot rule and range road policy was not yet in place. The applicant did want to proceed with a Board of Selectmen application for a building permit. Planner Cronin clarified that no votes would be taken tonight. The Planning Board's role is to make comments to the Board of Selectmen on RSA 674:41 applications.

Jerica-Lee Bell stated that she walked that entire length of her 7th Range Road property. She worked with the snowmobile club to use her property, after receiving permission to use 7th Range Road as a staging ground. The road is in good condition. The snowmobile club put in reclaimed asphalt to fill in some rut areas. Jerica-Lee Bell explained that there are two cut-ins on the property like a driveway. Improvements were extended to the staging area and trees were trimmed. A small section of the road in the shade is icy. Chairman Seaworth noted that there is restricted use of the range roads in mud season. It is the owner's responsibility to ensure that the road is passable year round. Jerica-Lee Bell spoke to some folks on 3rd Range Road who explained that mail is delivered and garbage is picked up at the end of the Class VI road. Member Edmonds asked if the applicant plans to bring utilities to this lot. Applicant responded she would bring utilities to the lot eventually but not now. There are some good off the grid alternatives. Member Edmonds asked if lots 30 and 28-3 through 28-4 have houses on them. Member Foss stated I believe there are houses. Jerica-Lee Bell stated on the corner of 7th Range Road, there are two houses built across from each other. Member Cruson asked what happens when there is resale of the property? Does the new buyer assume the same risks of the signed town liability waiver to provide emergency services? Selectmen's Rep Frederickson asked if Jerica-Lee Bell was given a copy of the new policy. Jerica-Lee Bell stated yes,

she received a copy of the policy. Her purchase of the lot was prior to new requirements, and she should be able to build as long as the lot is not subdivided. Alternate Member Christiansen stated that the question of whether a property purchased prior to the new code is subject to the new requirements should be researched as to legal status. Chairman Seaworth stated the role of the board is to comment on building a house from the Planning Board perspective.

Selectmen's Rep Frederickson stated that a discussion of this application is scheduled for March 1, 2023 and he asked that Jerica-Lee Bell please attend that Board of Selectmen meeting prepared to talk about the ramifications of the new policy. Jerica-Lee Bell stated that two GPS devices clocked the distance from the intersection to the edge of the lot at either 0.15 or 0.2 of a mile. Member Edmonds asked for and received clarification that this discussion is not a public hearing. Vice Chairman Bourque asked if applicant is planning to live at the property year round. Jerica-Lee Bell stated she is in a graduate program and her husband is in a doctorate program. It is likely to be four years before they live at the property year round. Vice Chairman Bourque asked about heat and water. Jerica-Lee Bell stated she is putting in a well. Vice Chairman Bourque stated that electricity would be needed for the system to pump water for fire suppression, as the waiver requires firefighting water available. Chairman Seaworth stated that how well the property and the lives of people living there are safeguarded is a factor in granting a building permit. Member Cruson stated Planning Board has requested sprinkler systems installed at times. Alternate Member Christiansen asked applicant to restate her vision of the development. Jerica-Lee Bell stated that she was a member of the Maine Snowmobile Association. She envisions a garage to store snowmobiles with living quarters located above. Selectmen's Rep Frederickson asked how protected is the town with waivers? The attorney gave an example of a town denying a building permit. The town had a policy with a goal of keeping sporadic building in check. I would like the homeowners on considerations and mitigation strategies to address the policy, like building a retention pond. Chairman Seaworth asked does a waiver protect the town? Does a waiver work as intended? Selectmen's Rep Frederickson stated there are no examples either way. Selectmen's Rep Frederickson asked what if the snowmobile owner's friend stays over and something happens that requires emergency services? Chairman Seaworth stated it is a State RSA to sign a waiver. Pembroke is not the only NH town to receive a building permit request on an unmaintained road. Member Hanson stated the only issue is when there is an issue.

Chairman Seaworth asked if other board members had comments they would like Planner Cronin to summarize in a memo to the Board of Selectmen. Jerica-Lee Bell asked if the homeowner can get a copy or access to the written memo. Vice Chairman Bourque stated he is not against building as long as 7th Range Road is passable for reasonable traffic in case of emergency. Vice Chairman Bourque stated that it came up at Technical Review Committee what happens if the road is closed for mud season? Chairman Seaworth stated certain owner access is still allowed. Member Foss stated landowners can use the road for access to their property. Member Cruson stated that weight restrictions can be set. Vice Chairman Bourque stated I have seen towns set weight limits on paved town roads. Chairman Seaworth stated that Pembroke does not close roads with occupied property. Member Cruson asked about a person on 7th Range Road that improved the road so his daughter could build a house. Planner Cronin stated that would be a subdivision.

Chairman Seaworth stated that the first request was to open the road up as a town maintained road. Per the range road policy, in order to develop the owner needs access on a Class V road. The Board of Selectmen can permit someone to build on an unmaintained way. Instead of asking for a building permit on a Class VI road, applicants can ask to improve the frontage of their lot. It is the owner's choice. At town meeting, someone is asking to open a Class VI road. Permission was granted at a Board of Selectmen meeting for an unoccupied storage building. Member Foss stated that he does not care how many feet are determined to ensure the town is adequately able to respond to an emergency as long as due diligence of the town is taken. Alternate Member Christiansen agreed. Member Hanson stated that the policy is strong enough that the landowner should be able to do what they want on their property. I agree with Member Foss and Alternate Member Christiansen. Vice Chairman Bourque stated the road has to be usable to get emergency equipment into the lot. Member Foss stated that in a lot of towns, people live in the middle of the woods. Selectmen's Rep Frederickson stated that homeowner insurance would consider the impact of lack of a fire hydrant and the signed property owner waiver. Jerica-Lee Bell asked what happens on resale of the property. Is adhering to the policy required in perpetuity because the waiver is recorded at Registry of Deeds? Member Hanson stated that any policy cannot cover any liability fully.

Planner Cronin summarized her notes. The Planning Board recommends development be allowed if the road is passable for emergency equipment year round. The distance to the lot on 7th Range Road is greater than 200 feet, but another consideration is that the property abuts already developed property. Department of Public Works (DPW) guides road maintenance on a case by case basis. If the applicant decides to do road maintenance, why do they have to go to DPW to advise their intent? Vice Chairman Bourque asked if the property owner is responsible for road maintenance, why do they have to go back to the Board of Selectmen annually? Selectmen's Rep Frederickson stated I do not know the frequency of road updates, but the snowmobile club comes in annually. If the property owner plans to bring in a load of gravel, and there is no scheduled inspection of gravel roads by DPW why must DPW be notified? Chairman Seaworth stated the town is prohibited from spending money on Class VI roads. Selectmen's Rep Frederickson stated that is a good question. Perhaps snowmobile club members come in to ask the Board of Selectmen permission because they are not the homeowners.

Member Edmonds stated that the State of NH Division of Forest & Lands maintain hundreds of forest fire access roads, many of which lead to camps. They have established a portfolio of best land practices that are publicly available. Forests & Lands does have forest ranger staff who keep an eye on these lands. Vice Chairman Bourque stated that some kind of agreement has to be made to maintain the roads as they need to be maintained. A temporary driveway permit is funneled to DPW Director, as is any significant change to the road. The threshold of when this notification to DPW takes place is unknown. How does the Board of Selectmen manage owner conducted maintenance to make sure the road is passable? Selectmen's Rep Frederickson asked where is the description of what the road should be? Member Hanson stated that follow up to road maintenance is enforcement. Selectmen's Rep Frederickson stated that to the property owner's benefit, the Fire Chief will put in best effort to save lives and home. Vice Chairman Bourque asked at what point does Board of Selectmen work with property owner

and DPW to perform routine maintenance if necessary. Jerica-Lee Bell stated I agree I want to be able to get in and out of my property. I understand the considerations and risk. We all want responsibly developed property.

2. Range Road Planning Discussion with Craig Tufts, CNHRPC

Planner Cronin noted that the Town of Pembroke has been receiving a lot of requests to build on range roads. The town engaged Central NH Regional Planning Commission (CNHRPC) to do a range road study to feed into policies. The study is in the data collection and buildout scenario. The Transportation chapter of the Master Plan prefers to develop an alternative to Route 3 traffic on either 3rd or 4th Range Roads. The Planning Board discussed seeing 6th Range Road included in the development scenarios at maximum buildout under current zoning regulations and environmental situation.

Craig Tufts, CNHRPC, explained the first buildout scenario on 4th Range Road would be 24 lots along the frontage without lot line adjustments under current ownership and conditions. Scenario 2 under current ownership and zoning regulations takes into account the shape of lots and location of wetlands. Scenario 3 assumes property ownership changes hands and four lot areas are combined. This would establish a 52 lot development. However the roads would have no connectivity to existing range roads. Craig Tufts stated that the question for the Planning Board is do we like these scenarios, want these scenarios, are there better proposals than have been seen along the way. Variable are sale of land and shape of land. Under scenario 2, the Town of Pembroke has an easement for future expansion of the road.

Member Cruson stated that it is possible for 4th Range Road to connect to Buck Street/Route 28. Craig agreed that there would be connectivity. Planner Cronin asked if the board sees these scenarios put forward as realistic applications. The next step is to do cost analysis based on length of road, and decisions on whether it is financially feasible to improve the road. Member Cruson noted that 3rd Range Road has R1 zoning for a number of feet and R3 zoning for the remainder of the road. Planner Cronin explained that the scenario was done with R3 zoning requirements. Craig Tufts noted there was not enough undeveloped land to apply the R1 zoning requirements. Member Cruson noted that R3 housing frontage is 200 feet. Chairman Seaworth noted frontage would be less in the R1 zoning district. Selectmen's Rep Frederickson noted that the Hills are planning to subdivide over an acre lot with no water or sewer so a family member can build a home. Planner Cronin stated this is a slow time for real estate postings. There are no listings for range road lots for sale currently. Chairman Seaworth stated the study looks at ownership of property to fund infrastructure. Is there a way for multiple owners to bring the road to town specifications as a group? Craig Tufts suggested that the Planning Board work backwards to what they want to see. Chairman Seaworth suggested assuming all the R1 lots are already developed on 3rd Range Road. Twenty four lots might make sense and support construction of the road. Is there innovative zoning to allow a group of owners to share the cost of improving the road and share the benefits? Planner Cronin stated that a TIF district might be created or using Federal funds. With no water and sewer, R1 and R3 area requirements are the same, 80,000 square feet for one unit and additional 60,000 square feet for a second unit.

Vice Chairman Bourque stated that scenario 1 connects to Church Road. Twenty four lots is the better of the three scenarios. The 27 lot proposal has wetlands and 52 lots is troublesome. Chairman Seaworth reminded the board that we are looking at possibilities. Vice Chairman Bourque asked with 24 lots, how much would it cost to upgrade the road? Planner Cronin stated that CNHRPC would need accurate information on the condition of the road to projects costs. Chairman Seaworth suggested the board look at whether the process is reasonable for the different options. The next step would be looking at road condition details. Vice Chairman Bourque asked is the goal to continue 4th Range Road? Chairman Seaworth noted that 4th Range Road has been discussed for twenty years and not done. Member Hanson noted that more house lots may be more effective for a developer to upgrade the road. Craig Tufts asked if the board wants to see workforce housing on a smaller area. Selectmen's Rep Frederickson asked if improving the road is from the perspective of the town building the road, or a developer upgrading the road. Member Hanson stated that a developer could offer to purchase multiple properties. Selectmen's Rep Frederickson asked is the question whether the town should build the road, or wait until someone else builds the road? Member Hanson said the benefit of 3rd Range Road is an alternative to traffic on Route 3. Craig Tufts asked how do we achieve the goals in the Master Plan? Member Cruson noted there are currently several duplexes on 4th Range Road. Duplexes require more frontage. Planner Cronin stated all options could have a single family home with accessory dwelling unit, with a Special Exception. Selectmen's Rep Frederickson asked if the town paves 4th Range Road, do we not get all the side roads? Member Foss asked where does the Planning Board ideally want to see the road? Chairman Seaworth noted the town does not own the land, and cannot control what the property owners decide to do with their lot. Perhaps a lot must be subdivided to get back the money put in to upgrade the road. In the past, the board told a developer 'no' to paving the road and to build an open space development. Vice Chairman Bourque stated it has only been five months since we got word of building requests on range roads. Chairman Seaworth stated a contractor may come in to petition the Board of Selectmen to open a range road. Each request goes to the Board of Selectmen on a case by case basis. Vice Chairman Bourque stated a developer can buy land and wait for activity on the road. Member Cruson stated some long term residents are currently holding onto large lots, hoping something opens with range roads. What could we request of developers that would be beneficial to the town for recreation, town facilities or soccer fields? Selectmen's Rep Frederickson note that it is a request.

Member Cruson stated some long term residents do want to give back to the town. Chairman Seaworth stated there is room to incentivize public development, if the town has a goal of a percent of land. Member Cruson stated some residents in their 90's would like to donate conservation land to a trust or learn about programs. In an organized way, the town could help them look at options. Chairman Seaworth noted that if the Planning Board puts something in plans as they come in, the developer is later bound by that decision. Member Hanson stated it is worth costing out both 3rd and 4th Range Roads as through streets connecting to cross roads in the future. Planner Cronin stated cost analysis is the next step. We need to obtain information to have the conversation. 3rd Range and 4th Range Road are in the Master Plan. Member Foss would add 6th Range Road for connectivity. It would allow the ability to get to the other side of Pembroke. Planner Cronin noted Pembroke Police and Fire would love more connectivity in town.

Craig Tufts will work with Planner Cronin and Matt Monahan on next steps. For the added roads, we could work out a generic cost, for example, for a ten acre lot road. Custom conditions of 3rd and 4th Range Roads will be considered. Traffic counts will be taken. Planner Cronin agreed tonight's discussion was a good exercise. Craig Tufts reminded Planning Board members that the "do nothing" approach is risky. Member Cruson asked if topography is considered. Craig Tufts said topography was included in the draft. Topography will be needed on 6th Range Road. The calculations will use simple frontage and rough estimate of wetlands. 6th Range Road is not the best area of town for development. Selectmen's Rep Frederickson stated we cannot study all the range roads. We must pick the most likely route. Craig Tufts stated that in public outreach sessions, we will show realistic choices. Craig Tufts stated that Planner Cronin has been great to work with. The Planning Board thanked Craig Tufts for his fantastic work and tonight's presentation.

Minutes & Finding of Facts

- January 24, 2023 Finding of Facts- Board consensus to accept as written.
- January 24, 2023

MOTION: Member Foss moved to approve the January 24, 2023 minutes as amended (page 7, change BMST to DBST). Vice Chairman Bourque seconded.

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

MOTION TO APPROVE JANUARY 24, 2023 MINUTES AS AMENDED PASSED ON A 6-0-1 ABSTAIN VOTE.

Miscellaneous

1. Correspondence – Planner Cronin noted that correspondence included a comprehensive packet from Concord Planning Board, with staff comments and proposal for a multi-phase project for Gaming hall/hotel/restaurant site plan. Site would include 634 gaming stations, 367 parking spaces, an 8,511 square foot restaurant, with total area of 43,938 square feet. A comment letter from Central NH Regional Planning Commission was received.

A. DRI – 7 Break O'Day Drive, Concord: Gaming hall/hotel/restaurant Site Plan – Planner Cronin noted that the next public hearing for this project is February 15, 2023. Planner Cronin highlighted the recommendations from CNHRPC. The traffic study completed listed 5,078 weekday trips and 6,689 trips on weekend days. This study limited the pool of customers to those traveling from the south. The traffic study should be enhanced to include those traveling from Maine on Routes 202/9/106. Once all comments are discussed, Planner Cronin will draft a letter summarizing Pembroke Planning Board comments on the Development of Regional Impact and deliver it to the Concord Planning Board. The site will have municipal water. The Planning Board requested that Planner Cronin contact

Pembroke Water Works to see if they had reviewed the proposal and whether they had any specific comments.

Alternate Member Christiansen stated that lighting pollution could be an issue to properties overlooking the site. Town of Pembroke Public Safety department impacts could include requests to assist with incidents at the site in Concord, or

traffic incidents occurring in Pembroke after guests leave the gaming site. Stormwater may also be an issue. The consensus of the Planning Board is that Central NH Regional Planning Commission did an excellent job summarizing regional concerns. The Planning Board affirms the Regional Planning recommendations, with an enhanced traffic study done to consider traffic traveling south on 106 to Pembroke and visitors from outside the area using GPS to find directions.

B. Abutter Notice – Bow: Eversource tower replacement. Planner Cronin reported that detail on the project at the hydro plant was provided to Town of Pembroke as an abutter.

2. **Committee Reports –** Member Foss noted that when the Planning Board revisits committee assignments in April, he would welcome any board member to take over Conservation Commission due to his work schedule conflicts. Conservation Commission meets the second Monday of the month at 7 pm at Town Hall. Chairman Seaworth stated that request would apply to all committee assignments. Please let him or Planner Cronin know if anyone would like to serve on a particular committee this year.

Roads Committee – Chairman Seaworth stated that Roads Committee met last week to finalize bid specifications for upcoming road projects. They discussed the possibility of allowing development on town owned, unpaved, roads and were in general not in support of this. When the Planning Board discusses this topic again, they should invite a Roads Committee representative to attend.

Board of Selectmen – Selectmen's Rep Frederickson reported that the Board of Selectmen met on February 1, 2023 and had a public hearing on a request for a building permit on 3rd Range Road. Input was provided from Police, Fire and Department of Public Works. The property owner wants to provide one lot for their son to build a home. The Board of Selectmen explained the petition at town meeting route. Applicant withdrew the request for building permit on Class VI road to take their request to town meeting. If the item fails at town meeting the property owner may reapply to the Board of Selectmen. The Board declined a proposal to lock in 2022 prices and stay with the process of accepting new bids each year.

Technical Review Committee – Vice Chairman Bourque reported that TRC met this morning. Stantec Consulting provided information on the Eversource pole replacement project in Pembroke. This item is on the February 28, 2023 agenda. An attorney came in to discuss two homes at 162 Tina Drive and 163 Tina Drive that want to convert to a condominium form of ownership. A conceptual plan for mixed use development in the C1 zoning district was presented by the former Pembroke 600 group. Twenty five percent of the proposal is commercial, and seventy five percent is residential. TRC suggested that the property owner apply for Planning Board Design Review before a formal plan is submitted. Items for discussion include requirements for residential in that zone, and whether/when sewer capacity would be available. Sewer Commission is reported to be close to an agreement for 150,000 gallons of capacity with certain upgrades to the pump station.

3. Other Business

Bond Estimate – Greens at Pembroke Pines Phase II Site Bond

MOTION: Member Hanson moved to approve the bond estimate for Greens at Pembroke Pines Phase II in the amount calculated by the Town Engineer. Member Foss seconded.

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

MOTION TO APPROVE BOND ESTIMATE IN THE AMOUNT CALCULATED BY TOWN ENGINEER PASSED ON 7-0 VOTE.

- 4. Planner Items - none
- 5. Board Member Items - none
- 6. Audience Items - none

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

Without objection the meeting was adjourned at 9:04 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary