

**PEMBROKE PLANNING BOARD**  
**(ADOPTED)**  
**Minutes of Meeting**  
**November 14, 2017**

**MEMBERS PRESENT:** Alan Topliff, Chairman; Brian Seaworth, Vice Chairman; Brent Edmonds; Selectman's Rep Sandy Goulet

**ALTERNATES PRESENT:**

**EXCUSED:** Richard Bean; Kathy Cruson; Larry Young, Sr.; Alternate Members Robert Bourque and Kellie Dyjak

**STAFF PRESENT:** Everett Hodge, Code Enforcement Officer; Paulette Malo, Pembroke Sewer Commission; Stephanie Verdile, Town Planner; Jocelyn Carlucci, Recording Secretary

Chairman Topliff called the meeting to order at 7:07 pm.

**New Business** – Public Hearing #1 for 2018 Zoning Amendments

Ms. Verdile said that this was the first public hearing for the proposed amendments. If there are no changes to the amendments as proposed, this will be the only public hearing and the amendments will move forward to Town Meeting. If there are any changes, the second public hearing will be held on November 28, 2017.

Copies of the proposed amendments were distributed to the audience.

Chairman Topliff opened the public hearing at 7:10 pm for all the zoning amendments.

**Zoning Amendment #1: §143-18.1 Accessory Dwelling Unit**

Dana Carlucci, 8 Prospect Street, said that he reviewed the amendment and said that people seem to be consuming the Town's roads by using them for parking. To relieve road congestion and complications associated with on-street parking, he suggested that the ZBA be given the opportunity to require an ADU to have more than one parking space if they felt that the property allowed it. He said that the RSA supports his request and reads: "The municipality may require adequate parking to accommodate an accessory dwelling unit." Considering the size of the dwelling unit (25' x 30' or 750 sq. ft.), and limiting the ADU to one off-street parking space, as written in the ordinance, he would like the ZBA to have the opportunity to require 2 off-street parking spaces if they felt that the property would accommodate it. He suggested revising §143-18.1 E as follows: "E. At least one off-street parking space shall be provided for an accessory dwelling unit, however, . . ."

Mr. Hodge said that if the ZBA felt that more space was needed, he saw no reason not to allow them to make it a condition of approval.

Ms. Verdile agreed that it would be helpful to have flexibility for the ZBA to make conditions and review each ADU on a case-by-case basis.

Vice Chairman Seaworth also agreed with Mr. Carlucci. He would not want to limit the ADU to one parking space. Adding Mr. Carlucci's language would make it clear that the ZBA has the opportunity to add the parking condition if it sees fit to do so.

John Giardiello, 230D Liberty Drive, suggested that the language read: "A minimum of one off-street parking space . . ." shall be required.

After a short discussion, the consensus of the Board was to change E to read as follows:

- E. A minimum of one off street parking space shall be provided for an accessory dwelling unit, however, no new curb cut . . . single-family dwelling."**

Mr. Giardiello asked if the law required the principal unit to be owner-occupied or if both units could be rented.

Ms. Verdile said that it has to be owner-occupied but it cannot indicate which unit is owner-occupied.

Mr. Carlucci said it is not stipulated in RSA 674:71.

Chairman Topliff read aloud Paragraph 6: "A municipality may require owner-occupancy in one of the dwelling units but it shall not specify which unit the owner must occupy. The municipality may require that the owner demonstrate that one of the units is his or her principal place of residence and a municipality may establish reasonable regulations to enforce such a requirement."

Mr. Giardiello said when an ADU is allowed, people may buy a property and create the ADU then rent both units out.

Mr. Hodge said that once a property is purchased and the prior owner moves out, both units would be available. It technically becomes a duplex.

Mr. Giardiello said that enforcing the owner-occupied ADU requirement may be difficult to enforce. He also said that if the owner lives there, they will be more concerned about the upkeep of the property.

Mr. Carlucci asked if this was something that the Planning Board would consider addressing in order to give the ordinance "more teeth." He suggested saying that the "owner shall" rather than "owner may" occupy one of the units.

Mr. Giardiello suggested that a way to enforce "owner occupancy" is to require that the owner file a covenant stipulating that the owner will occupy the premises. This would create a deed restriction on the property.

Ms. Verdile said having a deed restriction would force the Town to enforce deed restrictions and, in her opinion, the Town should not enforce civil documents.

Mr. Giardiello suggested when an owner files for an ADU, he would fill out a form which would be filed with the deed and show that there is a restriction on the property that requires the owner to occupy the property. The requirements would then carry over to the next owner. The new owner would file another covenant and be allowed to continue the dwelling unit.

Chairman Topliff said the statement could be something as simple as a notarized statement that states that the owner will live on the property. The RSA says the Town can establish reasonable regulations to enforce the requirement.

Chairman Topliff then asked Ms. Verdile to speak with the Town Attorney to create a specific regulation. She agreed to email Town Counsel.

The Board agreed to add the following language:

**I. The owner shall occupy one of the dwelling units and the Town of Pembroke shall require proof of owner occupancy.**

Chairman Topliff said that Zoning Amendment #1 would not be ready to be noticed as a public hearing until they have heard from Town Counsel.

## **Zoning Amendment #2: §143-68 Aquifer Conservation (AC) District**

Chairman Topliff asked Mr. Hodge to give a little background as to why the Board is changing this ordinance.

Mr. Hodge said that anyone placing an ADU over the aquifer, was required to go for a Special Exception so that the Board could receive opinions from the Conservation Commission and Engineering. He said that he felt that this was more of a burden to the home owner, therefore, he is proposing making ADU residential uses an exception.

Chairman Topliff read aloud §143-68 F. (1) and pointed out that the language may have been passed before the Town had Special Use Permits over the aquifer, but the Planning Board was very hesitant to strike the section entirely as previously suggested. They felt that the language was in the ordinance for a reason and did not want future issues to become problematic because the language was eliminated.

Mr. Hodge gave an example of a single family resident on Buck Street who had to go through the aquifer process to put in a single family home because they were near the Suncook River. The general consensus was that, as long as they had Town Sewer or a State approved septic system, it was onerous to ask a single family homeowner to go through the process because it can be very timely and costly. Mr. Hodge continued to say that the language, as it presently stands, requires input from the Planning Board which the

Board felt was a burden for someone building a single family home. The Board proposed that the ZBA get input from the Planning Department rather than to require that the applicant go through the expensive process. The ordinance change is for one or two-family residential and Accessory Dwelling Units.

Mr. Hodge also said that, because the Conservation Commission and the Planning Board meets on a monthly basis, it delayed the homeowner almost 3 months for an ADU.

### **Zoning Amendment #3: §143-42 Commercial Kennels:**

Chairman Topliff said that this Amendment makes reference to the signs consistent with the new sign ordinance.

Mr. Carlucci said he reviewed the ordinance distances and also noticed that commercial kennels are allowed in the C1 and LO Districts and by Special Exception in the R3 District. He said that he could not find RSA 437:2 but had a question about noise. He asked if (1) the ordinance conforms to local and State noise ordinances in order to ensure that businesses and residences are not interrupted and (2) if there are regulations for hours and duration of times as it relates to noise.

Chairman Topliff said he did not think that there was a state noise ordinance.

Mr. Hodge also did not know of one.

Mr. Carlucci said he spoke with Chief Gilman who said the Police Department follows the State Noise Ordinance. It relates to times and duration of a noise issue.

Chairman Topliff said that Pembroke has a Town noise ordinance.

Ms. Malo said the Town noise ordinance does not cover dogs. Mr. Hodge agreed.

Mr. Giardiello said that it was a nuisance law.

Chairman Topliff gave a copy of the Town's noise ordinance to Mr. Carlucci and said that it would apply to a commercial kennel.

Chairman Topliff said that the last time that a kennel came before the Board, they struggled with how much of a nuisance it would create for abutters in the general neighborhood. He said that the Board could not come up with any language that ensured protection but the consensus of the Board was that when each case comes before them, they would take it in the flavor of the neighborhood – whether it was primarily commercial or residential or if the area had a lot of other activity going on or if it is a quiet area - and they would put conditions of approval to try to protect abutters.

### **Zoning Amendment #4: 143-30.1 Office Conversions**

Chairman Topliff said that the Amendment brings this into compliance with the sign ordinance.

There being no further questions or comments from the Board or the public, Chairman Topliff closed the public hearing at 7:37 p.m.

**MOTION:** Selectman's Rep. Goulet moved to accept the proposed language and send Zoning Amendments Nos. 2, 3, and 4 as presented to Town Meeting to be voted upon on March 13, 2018 Town Meeting. Seconded by Vice Chairman Seaworth. Unanimously approved.

**VOTE:**            B. Seaworth – Y                      A. Topliff – Y  
                         S. Goulet – Y                      B. Edmonds – Y

**THE MOTION TO ACCEPT THE PROPOSED LANGUAGE AND SEND ZONING AMENDMENTS NOS. 2, 3, AND 4 AS PRESENTED TO TOWN MEETING TO BE VOTED UPON ON MARCH 13, 2018 TOWN MEETING PASSED ON A 4-0 VOTE.**

Ms. Verdile said that Zoning Amendment #1 will be reheard on December 12, 2017.

**Changes to the Notes from Table 143-21 -**

Mr. Hodge said that he added Note #5 back in with NO changes.

- 5) In addition to the parking requirements specifically mentioned in table §143-46, additional spaces may be required by the Planning Board for visitor, employee, staff parking and any other Parking requirements.

The Board also agreed with Note #2:

- 2) Where the computation of parking spaces results in a fractional number, the fraction shall be counted as one parking space.

**MOTION:** Selectmen's Rep. Goulet moved to bring Note #5 regarding the parking changes to a public hearing with the Planning Board on November 28, 2017. Seconded by Vice Chairman Seaworth. Unanimously approved.

Vice Chairman Seaworth discussed the proposed ADU definition. He said that it could be seen to imply that the Town's definition is what the State regulations say. After a short discussion, the Board agreed to change the following language:

**Accessory Dwelling Unit (ADU) – A residential living unit no larger than 750 square feet that is within or attached to a single family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies (refer to §143-18.1).**

**MOTION:** Selectmen's Rep. Goulet moved to bring Zoning Amendment #5 – Accessory Dwelling Unit as amended to public hearing on November 28, 2017. Seconded by Vice Chairman Seaworth. Unanimously approved.

**Minutes-** October 24, 2017 Meeting

**MOTION:** Vice Chairman Seaworth moved to accept the Meeting Minutes of October 24, 2017 as amended. Seconded by Selectmen's Rep. Goulet. Unanimously approved.

**Miscellaneous**

**1. Correspondence-**

Ms. Verdile received Business NH Magazine and the Planning Magazine.

**2. Committee Reports-**

Conservation Commission: Member Edmonds said that the commission had a presentation about Pembroke Pines. They did not offer an endorsement of the proposal. The Board seemed to be quite favorably moved with the effort made towards the conservation and natural resource preservation effort on the project. Member Edmonds said that the owner seems to have gone full board to mitigate some of the concerns of the neighborhood. Member Edmonds encouraged Commission Chairman Heiser to forward to the Planning Board language for their use in preparation for when the project comes before the Board.

Board of Selectmen: Selectmen's Rep. Goulet said that the Selectmen had a lot of closed sessions. They are also still involved with the budget process.

Roads Committee: Vice Chairman Seaworth said that the Committee discussed the Union Street work which was originally scheduled to be accomplished on this year's budget. It will be postponed until next spring and the money will be encumbered.

He said that the Committee also talked briefly about the anticipated Roads Condition Report from CNHRPC. There was a software issue and, therefore, the results of the data will be delayed.

The Committee was concerned because the Main Street engineering project was out of sync with the Town's budget timing. They also discussed the larger projects of Upper Beacon Street and East View Drive which seem to be too large to fit into a single year's Roads budget. The Committee's plans is, as the Pembroke Hill Road bond is paid, they would get a new bond for the other projects. No one has seen the plans but it seems that the two projects have gone out to bit. The Committee is not sure what is going on but hope that they will have a conference about it soon. The Selectmen's Rep. Greco also did not remember seeing the plans.

Master Plan Steering Committee: Chairman Topliff said that the next step for the Master Plan Steering Committee is to set up subcommittees for the specific chapters. The

Committee asked CNHRPC to steer the process and send emails to let everyone know what is involved.

He asked Vice Chairman Seaworth if he would be interested in participating in the chapter process.

He also said that there were bulleted notes of the visioning forum that were prepared by Ms. Alexander. She would like to place them on the Town's website but after a quick review, it was found that they were very cryptic. The notes will be reviewed and revised to clarify the bullet points. Ms. Alexander will send Vice Chairman Seaworth notes from the session that he led for review and corrections.

### **3. Planner Items- approve 2018 Planning Board meeting schedule.**

Ms. Verdile did not prepare the 2018 meeting schedule but will do it as soon as possible.

She stated that the Agenda for November 28, 2017 will include Pembroke Pines DRI. She said that Pembroke Meadows is expected to be continued until May, 2018.

Pembroke Meadows is still negotiating the sale of the multi-family house. They also have to do the survey and engineering for the realignment of the intersection of Pembroke St. and Academy Rd.

Chairman Topliff asked Ms. Verdile to approach the Pembroke Meadows landowner and have a conversation about the potential rezoning of their property for some form of commercial use.

### **Construction Escrow-Serendipity and the Liquor Store.**

Ms. Verdile said that the landscaping of the liquor store has been completed.

**MOTION:** Vice Chairman Seaworth moved to release the Liquor Store's escrow. Seconded by Selectmen's Rep. Goulet. Unanimously approved.

Ms. Verdile said that Serendipity Day Spa is complete. The Town Engineer found all work completed and the site fully stabilized.

**MOTION:** Selectmen's Rep. Goulet moved to release Serendipity's Construction escrow. Seconded by Vice Chairman Seaworth. Unanimously approved.

### **Board Member Items-**

Member Edmonds asked when Kline Way was going to be open.

Ms. Verdile said that the final walk-through will occur on Friday, November 17, 2017 at 9:00 a.m.

## **Audience Items-**

Gene Gauss, Fourth Range Road, expressed concern over the Pembroke Meadow's 110 unit housing development in light of the Town's most recent tax bills. He was concerned that the development would affect the school sizes.

Selectmen's Rep. Goulet said the School works independently and that they are discussing closing the Village School and moving all the students to the Hill School whether or not Pembroke Meadows or Pembroke Pines comes to fruition.

Mr. Gauss said he would like to see a moratorium on residential housing in order to allow time for the town to address the school's shortfall which has raised taxes. He also proposed enlarging the building lots in order to limit housing.

Chairman Topliff said the Planning Board shares his concerns. The challenge that the Board faces, in terms of the Town infrastructure and capacity in the schools, is that State law dictates what the Board can and cannot do. There is a provision for a moratorium on new residential construction but it has to be based on some shortage of the Town's ability to provide for those potential incoming students or citizens such as a lack of fire or police protection, school overcrowding, or sewer system capacity. If one of those things are identified, which the Board does not foresee any of those things being an issue, the Town must find a solution for the problem and the Town has to pay to make those improvements. If the school was at maximum capacity, the Town would have to make accommodations to add an addition to the school.

Chairman Topliff also said that, with regard to Pembroke Meadows, if the Town were to change the lot sizes, it would not apply to that project since they already submitted their application and it was accepted.

Mr. Gauss suggested that the Town bring in more businesses.

Vice Chairman Seaworth said that State law says that the owner can develop and enjoy their property. The Board cannot tell a developer that he cannot do his project because it is expected to drive the taxes up.

Selectmen's Rep. Goulet said that the best thing to do would be to encourage businesses to come to Pembroke.

Ms. Verdile said that growth is inevitable and the Town has to direct it as best they can. She mentioned that the town is in the process of redoing the Master Plan and part of that is to expand the commercial zone.

She also said that a developer could only build 25 houses a year. The project will be completed in phases.

Chairman Topliff pointed out that when Pembroke Pines came before the Board for a Conceptual Consultation, it was suggested that some units be for 55+ residents in order to

lessen the impact on the schools. He also said that at the Visioning Forum there was a great deal of support behind the Town hiring an Economic Development person.

Selectmen's Rep. Goulet suggested that Mr. Gauss call the NH Department of Education and find out where the school budget money is going and why the school is getting less money from the State.

**MOTION:** Selectmen's Rep. Goulet moved to adjourn the meeting. Seconded by Vice Chairman Seaworth. Unanimously approved.

The meeting adjourned at 8:43 p.m.

Respectfully submitted,  
Jocelyn Carlucci, Recording Secretary