

**Pembroke Planning Board
Meeting Minutes
(Approved 12-8-2020)
November 10, 2020**

MEMBERS PRESENT: Brian Seaworth, Chairman; Dan Crean; Brent Edmonds; VIA ZOOM Platform: Ann Bond, Selectmen's Rep. (arrived 6:45 p.m.); Kathy Cruson, Holli Germain

ALTERNATES PRESENT: Kevin Foss

EXCUSED: Robert Bourque, Vice Chairman

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

The meeting was held in person at Town Hall with social distancing and masks. Central NH Regional Planning Commission provided ZOOM technology so that residents and Board members could participate on that platform if they wished. Chairman Seaworth called the meeting to order at 6:30 pm. Kevin Foss was designated to vote for Robert Bourque.

Public Hearing

1. Amendments to Site Plan Review Regulations and Subdivision Review Regulations for compliance with federal EPA MS4 requirements

Mike Topliff from Central NH Regional Planning Commission provided the technical aspects so that residents may observe and participate in the public hearing on the EPA MS4 requirements. Planner Cronin provided an overview of the amendments to the Site Plan Review Regulations. There are fairly simple changes on three pages of the document 1) providing that all construction material is properly discarded, 2) encourage low impact and green design when opportunities exist and 3) during construction, sanitary facilities such as porta potties will be provided for construction crew.

Planner Cronin noted that there are three changes to the Subdivision Regulations on page four to ensure water quality is not impacted by construction. They are the same three changes as the Site Plan Regulations. 1) providing that all construction material is properly discarded, 2) encourage low impact and green design when opportunities exist and 3) during construction, sanitary facilities such as porta potties will be provided for construction crew.

At 6:39 p.m. Chairman Seaworth opened the public hearing on site plan and subdivision regulations.

Member Crean asked if members of the public are able to get into zoom. Yes, they are. There are no members of the public present at Town Hall or on Zoom. Chairman Seaworth noted that with fully remote meetings, the Planning Board has had substantial participation. The Board is more than happy to schedule an additional public hearing before adopting the changes if it is needed.

At 6:41 p.m. Chairman Seaworth closed the public hearing.

Member Crean noted that “i.e.” should be changed to “e.g.” Board members agreed that is not a substantial change.

MOTION: Member Crean moved to adopt the Amendments to Site Plan Review Regulations and Subdivision Review Regulations for compliance with federal EPA MS4 requirements as amended. Member Edmonds seconded.

VOTE: B. Seaworth – YES H. Germain – YES K. Cruson - YES
D. Crean – YES B. Edmonds - YES K. Foss – YES

MOTION TO ADOPT THE AMENDMENTS TO SITE PLAN REVIEW REGULATIONS AND SUBDIVISION REVIEW REGULATIONS FOR COMPLIANCE WITH FEDERAL EPA MS4 REQUIREMENTS AS AMENDED PASSED ON A 6-0 VOTE.

Old Business

2. Proposed Zoning Changes for 2021

Planner Cronin made the changes the Board recommended at the last workshop and sent them to legal counsel for review. Legal comments are on the right hand side of the document. Regarding the repeal of the open space development ordinance, Town Counsel noted that per NH RSA 676:12, once legal notice has been posted, the proposed change becomes the official version.

The next item is shared driveways. The proposal is to add Special Use Permit criteria to shared driveway requests. Some submittal requirements were proposed. Procedural items added are to obtain Fire Department and DPW comments, and follow 911 street numbering protocol. The Planning Board may request additional information in order to provide safe ingress and egress. Legal comments were that a Special Use Permit is like a Special Exception. If the applicant meets the criteria, their request is granted.

Chairman Seaworth stated I have concerns over legal counsel comments because it does not recognize we as a Board do not particularly like to approve shared driveways. This implies if you submit the required documentation, you will get a shared driveway permit. One way to limit applications is to have an explicit list of requirements. Another way is to put shared driveway into zoning so that it goes to ZBA for a variance. The applicant would need to demonstrate hardship and justify that a shared driveway is necessary for you as a homeowner or developer. The language says Planning Board “may” grant a Special Use Permit for a shared driveway. Member Germain said that means a shared driveway permit is discretionary on the part of the Planning Board, not mandatory.

Chairman Seaworth agreed that permits should be granted at Board discretion. Member Crean noted that if the Planning Board denies the request, it shall state reasons why the shared driveway permit was denied. Member Cruson said I have a

problem with hardship. A developer not able to receive maximum gain on a proposed development is not a hardship. The original owners may agree on maintenance and right of way, but when future owners come in down the road, they may not agree. Member Crean noted that when/if the Planning Board approves easement language, we need to carefully review the language to ensure it is enforceable. Chairman Seaworth noted that neighbors who do not get along and have a shared driveway is not an optimal situation. Member Crean stated then we should remove shared driveways in the future.

Chairman Seaworth stated that other members felt that shared driveways may be best in some circumstances. I would tend to interpret the language as “the Planning Board may approve” a shared driveway. Member Cruson favors deleting shared driveways. Planner Cronin clarified that the Planning Board can require additional information if there is an issue. Chairman Seaworth stated that anyone can provide all the information the Planning Board asks for and still have a poor plan. Sometimes, in the case of wetland crossings, a shared portion of the driveway makes sense. In Pembroke Pines, where private roads do not have status, three or more houses on a private road is a shared driveway. Chairman Seaworth noted that if the Planning Board can retain discretion, he favors having the occasional authorization for shared driveways.

Selectmen’s Rep Bond stated she has been involved with residents disputing a shared driveway, where one extended his deck so an SUV could not pass on the shared driveway. Member Cruson is opposed to shared driveways as they encourage problems between neighbors, unless they are part of a condo with fees to cover expenses in the future. Member Edmonds stated that in his previous experience with Conservation Commission, members discussed shared driveways as an environmental benefit. He feels the small benefit to wetlands is not a match for operational issues. He is not a fan of shared driveways and would not include them as an option.

Chairman Seaworth stated it would also require a zoning ordinance amendment to remove SUP for shared driveways. Planner Cronin said an applicant could apply for a variance. Member Crean would like shared driveways not permitted. Chairman Seaworth noted if we simply removed the language, and neighbors agreed on a shared driveway, they could go to the ZBA. Member Crean is not opposed to the concept of shared driveways, but language should say shared driveways shall not be permitted “except” and remove the authorization for shared driveways. Hearing no other discussion, Chairman Seaworth suggested that Planner Cronin draft new language that shared driveways are not permitted in the Town of Pembroke. The town residents will let us know their opinion at town meeting.

The next item is wetlands. This is a housekeeping item to include impacts to the wetlands buffer to impacts to the wetlands under the Special Use Permit. Town legal has no issue with this.

The last item is a brand new ordinance of post construction standards, written by CNHRPC. Legal counsel summarized a concise statement for Amendment #4 to make

the intent clear to voters. Member Crean stated that the town should not be repairing improperly installed stormwater systems. Chairman Seaworth noted the language being questioned is in the summary. What does the ordinance actually say? Maybe it is repair and bill under limited conditions. Chairman Seaworth stated the board needs to fix the language of the ordinance, not the legal summary written for voters.

Member Foss said maybe language refers to an emergency situation. Chairman Seaworth said we need to refer to the original ordinance. Selectmen's Rep Bond stated the ordinance also permits staff to inspect post construction infrastructure during a routine inspection at a time agreed upon.

The proposed ordinance states, "The municipality retains the right, though accepts no responsibility, to repair or maintain stormwater infrastructure if: a property is abandoned or becomes vacant; and in the event a property owner refuses to repair infrastructure that is damaged or is not functioning properly. In the event the municipality acts to maintain or repair infrastructure, it may seek compensation and/or reimbursement for such actions from the property owner in a manner consistent with applicable state law." Chairman Seaworth said we need to make sure the language accurately describes the process. Member Crean suggested adding "at the landowner's expense". Member Cruson said I like that wording.

Planner Cronin said the first public hearing on proposed zoning amendments would be the second week of January 2021.

New Business

3. 2021 Meeting Schedule Review – Planner Cronin provided a proposed 2021 Planning Board meeting schedule that includes TRC dates for applicant's benefit. As usual, the March workshop conflicts with town meeting voting and only one meeting is held the second week of December.

Minutes

October 27, 2020

MOTION: Member Edmonds moved to approve the minutes of October 27, 2020, as presented. Member Foss seconded.

VOTE: B. Seaworth – YES H. Germain – Abstain A. Bond - YES
K. Cruson - Abstain D. Crean – Abstain K. Foss – YES
B. Edmonds - YES

**MOTION TO APPROVE THE MINUTES OF OCTOBER, 2020 AS PRESENTED
PASSED ON A 4-0-3 ABSTAIN VOTE.**

Miscellaneous

1. Correspondence – None.

2. Committee Reports – Holli Germain reported that Conservation Commission reviewed the Pembroke Pines golf clubhouse plan, a garage, and a storage building. There is a site walk at the lower end of Beacon Hill Road to look at use of conservation land in a proposed housing development.

Kathy Cruson reported that CNHRPC meeting went well. They have postponed some major road projects on the 10-year plan due to insufficient budget. They had a speaker regarding recycling. The highest rate of reuse is plastic milk containers.

Selectmen's Rep Bond reported the Board of Selectmen met November 2, 2020. They discussed the 2-hour parking issue. The Police Department has no way to enforce it. The parking ban stays in place January 1 to March 31 midnight to 6 am, and the town can call a snow emergency if needed. The Little League has been repairing the Memorial Field. Budget meeting is next week. Ayn and Ammy are going on the site walk on Saturday. The proposal is for 1-3 buildings for elderly housing. The concern is that NH Housing can trump the town. Next BOS meeting is November 16, 2020. Kathy Cruson asked about the location of the site walk. Selectmen's Rep Bond said it was at the bottom of upper Beacon, no cross road at the Class VI road. There is a notification issue of the change from Class V to Class VI road.

Chairman Seaworth clarified the proposal is to open the dirt section connecting the two developed portions of the road. There is a public hearing to change a road to Class VI.

3. Other Business – Planner Cronin reported that TRC was held this morning. There were four applications – Pembroke Pines Clubhouse, pool company lease of a building for temporary storage, a funeral home garage for a hearse, and San-Ken Homes will be discussing sidewalk plans, condo documents, and easement language.
4. Planner Items – Planner Cronin reported that with the recent rise in new COVID cases, the Planning Board will be going back to the online Go To Meeting platform. Agenda packets will be mailed Wednesday or Thursday. Please contact Planner Cronin if you have not received the packet by Friday. The town hall lobby is open to pick up packets if desired.
5. Board Member Items – Chairman Seaworth reported that he is working with Matt Monahan, CNHRPC, on Development of Regional Impact. By the time the DRI process is implemented, it is time to vote on an extension of time to consider the plan. Kathy Cruson noted that the sound volume varies on the platform being used tonight. Holli Germain asked if board members should not use cameras on Go To Meeting. That is correct; using cameras bogs down the internet connection.

6. Audience Items

MOTION: Dan Crean moved to adjourn the meeting. Seconded by Kevin Foss. Without objection the meeting was adjourned at 7:40 p.m.

Respectfully submitted,
Susan Gifford, Recording Secretary