

**Pembroke Planning Board
Meeting Minutes
(Approved 1/12/21)
December 8, 2020**

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

ALTERNATES PRESENT: Kevin Foss

MEMBERS EXCUSED: Holli Germain

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

Chairman Seaworth called the meeting to order at 6:30 pm. He read the legal notice required for remote meetings under the Governor's Emergency order. The Planning Board is utilizing Go to Meeting platform. The public has access to listen or participate as stated on the public notice of meeting. Six members were present.

Chairman Seaworth noted that that he had received a resignation letter from Dan Crean. Chairman Seaworth designated Kevin Foss to vote for the vacant position tonight.

Old Business

1. **Major Subdivision Conditions of Approval Compliance Hearing, Subdivision Plan #19-03, Special Use Permit SUP-WP #19-310, and Special Use Permit SUP-OSD #19-311. Jon Rokeh, Rokeh Consulting, LLC, acting as Applicant on behalf of San-Ken Homes, Inc., owner of Tax Map 262, Lots 43 & 45 located at 373 Fourth Range Road in the Rural/Agricultural-Residential (R3) Zone and the Wetlands Protection (WP) District.**

The Applicant requests a compliance hearing on the conditions of approval for a 56-lot Open Space Development, which was conditionally approved on September 22, 2020. Discussion is limited to the conditions of approval on the Subdivision and Special Use Permits, including sidewalks, easements and deeds, and any other conditions that require discussion.

Present: Jon Rokeh, Rokeh Consulting, LLC

Chairman Seaworth noted that Member Cruson is recusing herself for this hearing.

Chairman Seaworth noted that in a compliance hearing, discussion is limited to conditions that need to be met before the approval is signed. In this instance there are more complex conditions. The state requires the Planning Board to hold an additional public hearing if it includes discretionary judgement of the board.

Planner Cronin noted that the applicant submitted revised sidewalk plans and the town engineer provided comments in a letter dated December 2, 2020. The town attorney made several recommendations to the condominium documents. Discussion will be on whether changes to the plan, made subsequent to approval, meet with the conditions of approval.

At 6:40 p.m. Chairman Seaworth opened the public hearing on the compliance hearing requested by the applicant on the conditions of approval for a 56-lot Open Space Development, which was conditionally approved on September 22, 2020. The scope of

the hearing is as Planner Cronin described. If the hearing is not completed tonight, it will be continued to another meeting and will not be renoticed.

Jon Rokeh, Rokeh Consulting LLC, presented on behalf of the applicant San Ken Homes. Jon Rokeh shared plans with a significant amount of sidewalk added per the town overlay map of the radius one mile from a school. The sidewalks will be five feet wide detached with 2 inch paved over 6 inches of gravel. The sidewalks will extend all the way through the one mile radius to the school on the property. Blane Circle will have a minor edit at the intersection based on town engineer comments. The detention pond covers the drainage from all the area with sidewalks. The area with sidewalk has been added to the plan set and meets all ADA regulations. Again, the sidewalk fulfills the one mile radius from the school requirement.

Chairman Seaworth noted that he would want to see the final design before a vote on whether the changes in the plan are compliant with the conditions of approval. The final plan will include the town engineer final comments. During the public hearing we can take a straw poll of board member support of the sidewalk concept. I am wary of taking a final vote without seeing the finalized plans.

Jon Rokeh stated that what we hope to accomplish tonight is to see if the board members feel this proposal meets the sidewalk issues. If so, there is some work to do to check on permits and finalize the plans.

Member Edmonds commented on the typical sketch and Mike Vignale's note that sidewalks require 2% slope. Could you add a slope arrow to the plans to show the direction of the slope? Jon Roken stated the slope is toward the swale. We can add direction arrows. Member Edmonds asked if the stop bar will stay where it is, and how far back will the crosswalk be? After further discussion Member Edmonds stated he will defer to the town engineer.

Vice Chairman Bourque said my concern about the swale is will it fill up with water and overflow onto the sidewalk, causing ice to form on the sidewalk? Jon Rokeh stated the swales are designed to carry all of the 100 year flow to the detention pond. Selectmen's Rep Bond asked for clarification on which lots have sidewalk in front of them. Jon Rokeh stated that sidewalk goes along units 56 to 48 and ends at a limited common area. In the R1 district sidewalks are required on both sides. This is the R3 district where sidewalks are required on one side. Selectmen's Rep Bond asked how the students from the rest of the development will get to the bus stop. Jon Rokeh stated that there are 4-foot gravel shoulders on roads throughout the development for them to walk on. The snow plow will want to wing all the snow off that area. There is plenty of room and width at the side of the roads for snow storage. Selectmen's Rep Bond thanked Mr. Rokeh for his help.

Planner Cronin summarized the condominium document changes proposed by Town Counsel. Language to be added stating that the town may enforce the condominium documents, but is not required to. The updated revision shows that clause and references sidewalk maintenance in the documents. Jon Rokeh noted that in New Hampshire, condominium documents need State Attorney General approval. This includes making sure that condominium documents are in place. By going to private roads and a private

development, the town is not involved. We do not want to see a reference to the town added to the condominium documents, as they are not involved by choice. Chairman Seaworth noted that the intent is that in the possibility there were a homeowner association issue, the town would have legal standing. We will rely on Town Counsel to work that out. Vice Chairman Bourque agreed that the town wants to stay out of any future homeowner association issues, but we would like clarification and input from our Town Counsel that the Attorney General's office would be the place to resolve any issues.

Chairman Seaworth asked any members of the public in the audience to press *6 on the phone or unmute on their computer to make comments. Donald Zeaman, 406 4th Range Road, stated that 17-18 homes will have sidewalks in front of them. That leaves 39 of 56 homes without sidewalks. I believe that this development should have sidewalks throughout for the safety of children and adults.

Kenny Lehtonen, San Ken Homes, stated that regarding condominium documents, if the Town saw something out of place, they would reach out to the Attorney General's office. I agree with Vice Chairman Bourque.

Chairman Seaworth would like to run the question by Legal Counsel, and see the finalized plans approved by the town engineer with the changes we expect to be made in response to engineer comments. Overall, does the concept meet the conditions of approval? Vice Chairman Bourque stated I have no issue with what the applicant presented. Member Edmonds stated I am satisfied with the answers provided by Mr. Rokeh. I have been in the sidewalk maintenance field for years, and all sidewalks are miserable to maintain. I live across from Pembroke Academy, where the sidewalks are more or less cleared, but the streets are clearer. Students walk in the road even when the sidewalks are clear. It takes longer for the sidewalks to be as clear as the street. Selectmen's Rep Bond is concerned that more houses do not have access to sidewalks. With an expected minimum of 75-100 kids in that area, I would like to see sidewalks throughout the development.

Chairman Seaworth stated I agree with Selectmen's Rep Bond in principle. I have felt more sidewalks would be beneficial. The applicant has to put in sidewalks as required by town ordinance. This proposal is what I expected to see and the concept meets our ordinance. The drawing in the back of our manual does not match the text which talks about distance to the street. The proposal meets the spirit of what we asked and meets the letter of the ordinance. Member Foss stated it would be nice to have sidewalks throughout, and I agree that even when the sidewalk is clear, kids walk on the street. The design at the last meeting was more like a bike path. The applicant has placed sidewalks where they need to be in this proposal.

Jon Rokeh stated he will work out the details with the Town Engineer and finalize the plans. He will talk to Town Counsel about the condominium documents.

Chairman Seaworth closed the public hearing on Conditions of Approval Compliance Hearing at 7:15 p.m. If this matter is not completed tonight, it will be continued to a future meeting. Please check with the Planning Department or the town website for future agendas.

MOTION: Vice Chairman Bourque moved to continue the compliance public hearing to the January 26, 2021 meeting. Seconded by Alternate Member Foss.

VOTE: B. Seaworth – Y K. Foss – Y A. Bond – Y
B. Edmonds - Y R. Bourque – Y

MOTION TO CONTINUE COMPLIANCE PUBLIC HEARING TO JANUARY 26, 2021 PASSED ON A 5-0 VOTE.

Chairman Seaworth stated that anyone with concerns on the process could email or call Planner Cronin at the town Planning Office. Thank you very much to the applicant for the presentation.

Member Cruson rejoined the Planning Board.

2. Proposed Zoning Amendments

Final form of Zoning Amendment proposals for 2021 Town Meeting.

Planner Cronin said this meeting is our last chance to finalize language in the proposed zoning amendments. The first public hearing on January 12, 2021 needs to be posted at the end of December. We have been working on four zoning amendments:

1. Repeal the existing open space ordinance
2. Shared driveways – are not permitted
3. Wetlands – include Special Use Permit for impact to wetland buffer, housekeeping change
4. New ordinance to meet federal MS4 post construction stormwater management. No change from last draft from Central NH Regional Planning Commission, as reviewed by EPA. There is a change to the short description to let voters know what this item involves.

Member Cruson asked if the clause “at the land owner’s expense” was added to the MS4 ordinance. Yes, it was already in the text of the ordinance and is now clear in the summary language. Member Edmonds noted that the MS4 applies to projects impacting 10,000 square feet up to needing DES AOT permit. Chairman Seaworth provided background on the MS4. When Matt from CNHRPC presented this draft to us, he noted that some towns had part of the MS4 already implemented. Others, like Pembroke, had nothing so he used the EPA language as a template. Member Edmonds thanked Chairman Seaworth for the background.

Planner Cronin added that the MS4 ordinance would only apply to projects that require Planning Board review, are located in the MS4 area, and have 10,000 square of impact of more, up to the requirement for a state or federal permit. If the project requires an EPA General Permit or a NHDES AOT Permit, then the ordinance does not apply because the state and federal permits are more stringent. There is a special use permit for relief from strict compliance with the ordinance if, for example, someone wanted to implement some kind of green, Low Impact Development stormwater solution that meets the spirit of the ordinance. The Town Engineer will review plans to the ordinance, the Planning Board just has to track it administratively. This language is from a model ordinance developed by the NH Stormwater Coalition that was designed to meet the EPA requirements, so I would be

cautious of any substantive change to the language since it may result in a failure to comply with the EPA requirements.

MOTION: Vice Chairman Bourque moved to send all four proposed zoning amendments to public hearing on January 12, 2021. Seconded by Member Cruson.

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

MOTION TO SEND FOUR ZONING AMENDMENTS TO PUBLIC HEARING ON JANUARY 12, 2021 PASSED ON A 6-0 VOTE.

Planner Cronin noted that tomorrow is the last day to accept petition warrants. None have been received yet.

Minutes

- November 10, 2020
- November 24, 2020

MOTION: Vice Chairman Bourque moved to approve the minutes of November 10, 2020 as presented and the minutes of November 24, 2020 as amended. Member Edmonds seconded.

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

MOTION TO APPROVE MINUTES OF NOVEMBER 10, 2020 AS PRESENTED PASSED ON A 5-0-1 ABSTAIN VOTE.

MOTION: Vice Chairman Bourque moved to approve the minutes of November 24, 2020 as amended. Alternate Member Foss seconded.

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

MOTION TO APPROVE MINUTES OF NOVEMBER 24, 2020 AS AMENDED PASSED ON A 5-0-1 ABSTAIN VOTE.

Miscellaneous

1. Correspondence – None.
2. Committee Reports – Vice Chairman Bourque reported that ZBA met on November 23, 2020 and heard five cases. Three cases regarding construction of one bedroom apartments at the Village School were approved. Construction of a shed in the setback, and a one stall garage were approved. Tri Town meets on 12/9/2020.

Chairman Seaworth reported that Roads Committee met last week. They are trying to finalize projects for next year to send out for request for bids before Town Meeting. This allows us to go directly to award once town meeting approves the budget and allows us to obtain a better priced quote.

Selectmen's Rep Bond reported that Board of Selectmen met 12/7/2020.

The BOS are considering hiring a consultant to assist with cleaning up language and inconsistencies in the zoning ordinance if the budget allows. The BOS request a straw poll of the PB regarding support for this project. Vice Chairman Bourque clarified this is for zoning code review only, not Planning Board regulations. Planner Cronin explained

that this has been discussed over the last several years. David Jodoin asked me to obtain quotes for companies that review zoning code for formatting, user friendliness, easily read and understood, reformat of tables, and also flag substantial contradictions and inconsistencies not in compliance with state or federal laws. The BOS is in the budget process, and if there is funding for the project it will happen in 2021. Quotes range from \$3,500 to \$10,000. Chairman Seaworth noted that proposed changes to zoning ordinance come through the Planning Board. Whether it is affordable is a BOS decision. The Planning Board straw poll was unanimous in support of this effort to update zoning ordinance, with Selectmen's Rep Bond abstaining as she would vote at BOS.

Selectmen's Rep Bond noted there will be a 2 hour Santa Claus parade on December 19, 2020. The parade will start at the Safety Center at 9:00 am. The parade route is on the PALS website.

DPW Curbside pickup for Christmas and New Year holidays will be moved back to the THURSDAY prior to each holiday.

Church Street has been made one way to Central Street. Ambulance and Fire Department are going to budget committee in December, and the school will go in January.

3. Other Business

Chairman Seaworth noted that Dan Crean resigned from both the Planning Board and Budget Committee due to health issues. Planning Board Full Member seat – Chairman Seaworth recommended that Alternate Member Foss move from alternate to full Planning Board member.

MOTION: Vice Chairman Bourque moved to move Alternate Member Kevin Foss to full Planning Board member. Member Edmonds seconded.

VOTE: B. Seaworth – Y K. Foss – ABSTAIN K. Cruson - Y
B. Edmonds – Y R. Bourque – Y A. Bond – ABSTAIN

MOTION TO MOVE ALTERNATE MEMBER FOSS TO FULL PLANNING BOARD MEMBER PASSED ON A 4-0-2 ABSTAIN VOTE.

Planner Cronin will process the paperwork.

Five Alternate Member seats – Chairman Seaworth noted that NONE of the Alternate Planning Board member seats are filled. He asked the public on the meeting to consider joining the Planning Board.

4. Planner Items

Lot Merger

Planner Cronin noted that she received a lot merger request yesterday. The owner of 348 Pembroke Hill Road purchased 342 Pembroke Hill Road and would like to merge the lots. There is a tax lien on 342 Pembroke Hill Road that is not released at the registry. The paperwork will be signed when appropriate. Selectmen's Rep Bond asked about driveways on both lots. If the land owner decides to move the driveway, he will go through DPW driveway permit process.

MOTION: Vice Chairman Bourque moved to authorize Planning Board Chairman to sign the lot merger as proposed. Member Edmonds seconded.

VOTE: B. Seaworth – Y K. Foss – Y A. Bond - Y

B. Edmonds - Abstain R. Bourque – Y K. Cruson-Y

**MOTION TO AUTHORIZE CHAIRMAN TO SIGN LOT MERGER AS PRESENTED
PASSED ON A 6-0 VOTE.**

5. Board Member Items –

Selectmen's Rep Bond asked members to think about applicants to replace the person who takes the minutes. She would like to retire from this position early next year.

Chairman Seaworth noted that the Town is struggling with town meeting date. It is as scheduled at the moment, but health concerns are making town official look at alternatives. The NH Municipal Association advises that there is a way to defer the town meeting date. The Emergency Declaration allows drive by voting. More information can be found on the NH Municipal Association website. The Budget Committee can show up and postpone their meeting to spring so that it can be held outside. If Town Meeting is delayed the Board of Selectmen can vote to readopt the budget of the previous year.

6. Audience Items – None.

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

Without objection the meeting was adjourned at 8:13 p.m.

Respectfully submitted,
Susan Gifford, Recording Secretary