

**Pembroke Planning Board
Meeting Minutes
(Approved May 25, 2021)
May 11, 2021**

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

ALTERNATES PRESENT:

MEMBERS EXCUSED:

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. Seven members were present.

Old Business

1. Subdivision Regulations Update (Refresher and Next Steps)

Chairman Seaworth noted that Planner Cronin provided a memo to members summarizing where we left off in our review of Subdivision Regulations last year. As zoning changes approached, we decided to do easy changes. As a reminder, Subdivision Regulation changes do not require Town Meeting approval. Planner Cronin provided the most current version of the regulations. Our task is to decide how to proceed. We have spent long nights in discussions over minor details. Do we want to review the regulations in one chunk and hold a single public hearing, or do we take up the regulations in pieces and hold multiple public hearings over the summer.

Planner Cronin explained that she marked up the updated Subdivision Regulations adopted November 2020 with the MS4 added and put comment bubbles on the relevant pages. Only six pages have comment bubbles. Planner Cronin flagged items that are still outstanding to assist new members of the board. Planner Cronin went through the bubble comment pages to give board members things to think about as we go forward. Vice Chairman Bourque state it is prudent to go over what we have already agreed to and get comments from new members. Member Cruson stated I would like to go over cul de sacs again and see if we are still comfortable with it. Chairman Seaworth stated we should set some parameters and see where we are at 7:30 p.m. Planner Cronin will review the bubble items and redlined items. We will stop for any questions.

Planner Cronin noted that to start, we had a procedural cleanup of items the board is already doing that needed to be codified. On page 205-12, we consulted with legal to obtain verbiage that clarified subdivision plans that depend on a road opening. We added a provision that approval from the Board of Selectmen is required before filing plans with the Planning Board. Administrative changes on page 16 relate to granting extensions of conditional approval. It requires the applicant to file in writing with justification of a request for extension up to one year in length every year that it occurs. Member Cruson noted that for the sewer connection issue, what would happen after the second extension? In 3-5 years there could be significant changes in the regulations or state law. Changes could

put the plan out of compliance. If external forces or extenuating circumstances exist, would the Board have the option of denial of extension after several years?

Chairman Seaworth stated in terms of how the section is written, it leaves the decision to the discretion of the board. We will want to be careful to grant extensions in circumstances that warrant it. When we deny an extension, we will state the reasons why, for example, if the law has changed and the plan is non-compliant. We will warn the applicant at the last extension that there is a point where another extension may not be approved. Member Cruson said due to the current climate I would like to see a maximum of three extensions stated in black and white. Chairman Seaworth stated I appreciate that but I worry about having hard limits. Member Cruson asked could we ask the applicant to reapply with some or all of the fees waived if the situation is not resolved in three years? Planner Cronin said this question came up in earlier discussion. Legal counsel has advised us to not limit the number of extensions granted, and therefore review them on a case by case basis. An applicant may have to meet current regulations or a revised fee schedule. The language provides more flexibility to the board. Vice Chairman Bourque said I agree with Member Cruson that there should be a limit that is absolute. For example, beyond five years if an applicant has not been able to comply with the conditions of approval, they must reapply.

Member Hanson would like to add a caveat that provided there are no changes in law or the regulations, an extension of approval may be requested. Chairman Seaworth said that other things about the town may have changed, in addition to changes in law. Planner Cronin stated that the applicant must state the extenuating circumstances and justify each request for extension. The board must weigh each scenario and look at the facts of the case, similar to the process for reviewing a variance request. Chairman Seaworth stated the board must articulate reasons to accept or reject the request for extension, after considering why the extension was requested. If there is a change in law the next day, the extension is still valid. Member Hanson would like to see an appeals process. Chairman Seaworth said we will work on this section at a future meeting. Selectmen's Rep Bond said I agree with Member Cruson. Think about board member turnover. We need something in writing concerning limits. Chairman Seaworth asked members to send suggested language to Planner Cronin. Planner Cronin will look up the legal advice not to limit the number of extensions. She added that she had never seen a maximum limit on extensions in any other town's regulations. Selectmen's Rep Bond asked that Planner Cronin have a discussion with NH Municipal Association on this topic. Chairman Seaworth asked Planner Cronin to email that exchange in the next board member packet.

Planner Cronin continued to page 21, Lot Requirements. This is about accessing your lot from its frontage. We have had some interesting driveway requests, including easements to share with another lot. Some zoning ordinance say that access must be from the frontage of the lot. In the subdivision regulations, this would apply to new development. Per vote at Town Meeting 2021 shared driveways are no longer allowed. Chairman Seaworth suggested striking the sentence about zoning and leave the rest as is. Member Cruson said restricting the driveway to frontage of lot avoids a situation where a driveway exits in another town.

Planner Cronin continued to page 27. There are substantial changes in the layout of road section and dead ends. The prior language came from the 1960s era and did not fit the

needs of the town. Roadway design must conform as much as possible to original topography. Dead end streets and cul de sacs are discouraged. Proposed streets that have two exits are strongly recommended. Selectmen's Rep Bond noted that town departments always request two emergency access points. Can we make two entrances mandatory? Chairman Seaworth had reservations about making two entrances mandatory because every property owner has the right to develop their lot. Not every lot can connect to another road. Chairman Seaworth noted this goes part way to solve that issue, but nowhere in the regulations is it stated we want two entrances. Selectmen's Rep Bond said fire, police and ambulance always want two entrances in their Technical Review Committee comments. Vice Chairman Bourque said I agree with Selectmen's Rep Bond that if it is possible to tie in, the applicant must connect to a Class V road in two places. Member Cruson asked if the connection can come back to the same road. Chairman Seaworth stated I would rather see a connection to a through road unless it seems unreasonable to find access across other's property. The applicant can ask for a waiver. Planner Cronin stated that if we say two entrances are mandatory, and the town is prohibiting all loop roads and cul de sac roads, there should be a waiver option. Chairman Seaworth likes the suggestion to move on for now, and evaluate the big picture. Member Cruson referred to page 27, Section B Pedestrians. If the town is taking into account safety of pedestrians, we must look at sidewalks. Chairman Seaworth agreed that is an important question to get into the context of this discussion.

Planner Cronin moved onto page 28. Temporary dead end roads are only permitted for one year, or the applicant can request an extension. Temporary dead end roads are anticipated in a phased development. Vice Chairman Bourque said if a road is going to be a permanent dead end, the board needs to see the final layout design. Chairman Seaworth noted there are two different issues. One is where there is no opportunity to end a road, will there be requirements on terminus. If the dead end is to remain, we want to put requirements on the final hammerhead turnaround. Vice Chairman Bourque said I have lived on a dead end road for 43 years and it was never improved. Chairman Seaworth said #3 states permanent dead end road shall have a cul de sac turnaround.

Planner Cronin moved on to page 30, cul de sac center. If a street ends in a cul de sac the center may be 1) flat and paved or 2) landscaped if the Home Owner Association or nearest residential lot is responsible for its maintenance. Selectmen's Rep Bond asked where the liability of a cul de sac is. Chairman Seaworth stated it would not be different than a piece of grass in a right of way. Selectmen's Rep Bond and Chairman Seaworth would like an inquiry. Planner Cronin will ask the question. Vice Chairman Bourque asked if there is landscaping on an island, would it be taxed property? Chairman Seaworth stated it would be tax property to the lot or homeowner association. Member Hanson noted that some homeowner associations do not function well. Chairman Seaworth noted that part of the board wanted all islands paved. If the developer wants to make the best neighborhood with a landscaped island, they must convince the Planning Board it will not be a burden to the town.

Planner Cronin moved on to page 33, Sidewalks and Curbing. She noted that currently sidewalks are not required in the R3 zone unless it is within one mile of a school. We need to clarify whether the requirement is throughout the development, or just within one mile of a school. The comment in the bubble also asks what the measure of one mile is. The

question is how we interpret the regulations as to expectation of sidewalks. Chairman Seaworth noted it had not been an issue before this year. Vice Chairman Bourque noted that if we require sidewalks within a mile of a school, I believe the entire development should have sidewalks. Also, a development of a certain size should have sidewalks. Chairman Seaworth stated I agree a clarification is needed. Are we putting sidewalks where appropriate? In the R3 zone do five acre lots require sidewalks? Should we be trying to extend sidewalks into the rural area even within a mile of school or in a dense development? Selectmen's Rep Bond said I agree with Vice Chairman Bourque that the measurement of a mile should be anywhere on the development, whether driven, as the crow flies, as an ant walks, and even if the measurement point goes only four feet in, the whole development requires sidewalks. Chairman Seaworth stated the measure of a mile from the edge of school property triggers the need for sidewalks in the entire development. Vice Chairman Bourque stated it would be a radius from the school property line. Member Cruson suggested requiring sidewalks on a subdivision greater than four lots, or a certain number of lots.

Chairman Seaworth agreed one factor for need of sidewalks is minimum lots and another is density. Selectmen's Rep Bond asked if the applicant could request a waiver. Chairman Seaworth asked do we try to set some limit and err on the side of being too restrictive. It is now 8:00 p.m. I suggest we take this discussion up at our next workshop meeting. In terms of the process to review, please let Carolyn know your thoughts.

Minutes

- April 27, 2021

MOTION: Vice Chairman Bourque moved to approve the minutes of April 27, 2021 as amended page 7, "there will be four electric panels". Member Hanson seconded.

VOTE:

B. Seaworth – Y	C. Hanson – Y	K. Foss - Y
B. Edmonds - Y	R. Bourque – Y	K. Cruson-Y
A. Bond - Y		

MOTION TO APPROVE MINUTES OF APRIL 27, 2021 AS AMENDED PASSED ON A 7-0 VOTE.

Miscellaneous

1. Correspondence – Planner Cronin reported that the Department of Transportation data collection program is requesting suggested locations for traffic counts to be conducted this year. Planner Cronin read the list of locations suggested by Public Works and the Roads Committee.
- Borough Road east of Route 106. Chairman Seaworth noted that the bridge construction schedule is uncertain. The bid is higher than the City of Concord share. The hope is for construction to occur over the winter.
- Church Road east of Route 3.
- Riverwood Drive east of Route 3 – new changes on road since last count
- Cross Country south of North Pembroke Road. Chairman Seaworth noted the last count was before paving and the impact of additional commuting from Chichester has not been evaluated.
- Whittemore Road west of Route 3 due to new construction but not including restaurant expansion, as that is incomplete

Selectmen's Rep Bond would like to see a count on Bow Lane when Nadine is opened. Chairman Seaworth noted that all counts were down in 2020 due to the effects of COVID and may need to be reassessed in the future.

MOTION: Member Hanson moved to forward the list of locations for 2021 traffic counts to CNHRPC as presented. Member Foss seconded.

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

MOTION TO FORWARD LIST OF LOCATIONS FOR 2021 TRAFFIC COUNTS AS PRESENTED PASSED ON A 7-0 VOTE.

2. Committee Reports

Technical Review Committee – Vice Chairman Bourque reported that three applications were discussed at today's TRC. Two of these were from New England Flower Farm and one minor site plan application on Cooperative Way.

Board of Selectmen – Selectmen's Rep Bond reported that the Board of Selectmen discussed CNHRPC, Memorial Field drainage, June 2, 2021 presentation from State on Route 28 bridge project, approval of Pembroke Little League request for waiver of fees in exchange for maintenance of field, Pembroke Library's "Little Free Library" at park, and request for display from Rolling Thunder.

3. Other Business

Five Alternate Member seats – Planner Cronin noted that NONE of the Alternate Planning Board member seats are filled.

4. Planner Items – Planner Cronin reported that there will be three new applications and the continuation of the Village School application on the agenda of the May 25, 2021 Planning Board meeting.

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 8:20 p.m.

Respectfully submitted,
Susan Gifford, Recording Secretary