

**Pembroke Planning Board
Meeting Minutes
(Approved October 26, 2021)
October 12, 2021**

MEMBERS PRESENT: Brian Seaworth, Chairman; Robert Bourque, Vice Chairman; Kathy Cruson, Brent Edmonds, Clint Hanson

ALTERNATES PRESENT:

MEMBERS EXCUSED: Kevin Foss; Ann Bond, Selectman's Rep.

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

Chairman Seaworth called the meeting to order at 6:30 pm. Five members were present.

Old Business

1. Subdivision Regulations Update

Planner Cronin reported that she was hoping to have legal counsel's second review of the proposed Subdivision Regulations amendments before tonight, but it is not completed yet. The review is anticipated to be complete before the end of this week.

2. Proposed Zoning Changes for 2022

Planner Cronin reported that she received comments on the unsafe structure proposal from both Fire Chief Paul Gagnon and Building Inspector Paul Bacon. The draft was original language from a past CEO. Inspector Paul supports having written guidance to the public and the town on the process to manage unsafe buildings. He explained that a permit is needed for work on a damaged building or demolition of a building. Work must commence within six months and be completed within one year. If needed, owners can request an extension on the permit. Fire Chief Paul described his authority. He can condemn property immediately based on life safety code. Condemned property must be boarded up, marked with caution tape, and secured as soon as possible. The Fire Chief has nothing to do with unsightly buildings.

Vice Chairman Bourque suggested that if a property is condemned, in some instances the owner should be required to put a fence around the building instead of boarding it up. Member Hanson noted that ongoing investigation access is needed for insurance adjusters and the State Fire Marshall's office if suspicious activity is suspected. Putting up a chain link fence could be an alternative to boarding up the building. Member Cruson noted a chain link fence is expensive. Would the town step in and put up the fence and charge the owner if the owner declines to do so? Member Hanson agrees a chain link fence could be put up within a week. Chairman Seaworth noted that whether a fence is needed or not would be under Fire Chief authority. He recommends that the Planning Board circle back to the Fire Chief with this recommendation. Vice Chairman Bourque stated that a condemned building needs to be secured to keep people out, and animals as well if possible. Member Edmonds noted that construction sites routinely rent fencing for the perimeter of the project. Fencing can go up in one day if necessary. Chairman Seaworth noted it was good to hear about the permit process, time frames and the ability to request

an extension of the permit. Member Hanson noted that the building inspector or fire chief may request action sooner than one year. Planner Cronin will work with the language and present updates to discuss at a future meeting.

Planner Cronin received clarification from legal counsel on severability of the sign ordinance. Any part of the sign ordinance that is not compliant is not enforceable. The rest of the ordinance remains enforceable. Vice Chairman Bourque asked if there were plans to have an agenda item to remove the sign ordinance at the March 2022 town meeting. Chairman Seaworth stated that the intent is to work on it during the year and put forward a revised sign ordinance in 2023.

Planner Cronin noted that the sign ordinance is compliant on permanent signs. Temporary signs are the problem. Our temporary signs are regulated based on their content. This is in conflict with the Supreme Court ruling. For example, a town cannot treat temporary signs for churches differently than “for sale” and yard sale signs. Planner Cronin stated all temporary signs must be treated the same. The town can dictate timing, location, and size of sign but not the content. Member Hanson agreed that no guidance can be given on content.

Vice Chairman Bourque asked about anti-institutional, swear words or pornography on signs. Chairman Seaworth noted pornography is its own Supreme Court challenge. Anti-institution is the definition of free speech. Vice Chairman Bourque asked if permit fees are required. Planner Cronin believes permits are required only for permanent signs. Vice Chairman Bourque asked if a permit could be instituted for temporary signs. Planner Cronin will research this question.

Chairman Seaworth noted we cannot depend on what is written if the town issues a sign permit. Wavy ‘open’ or ‘we are hiring’ signs are considered temporary and do not require permit. They are enforced by the Code Enforcement Officer. Sometimes permits are required for banners. The town has not been enforcing temporary signs due to the non-compliance in the ordinance. If a sign is affixed to a building or fence, it becomes a permanent sign. Vice Chairman Bourque stated he observed a message put up on a bed sheet. Chairman Seaworth noted this Zoning Ordinance item will continue to be a work in progress over many months.

Vice Chairman Bourque asked if the Planning Board consensus is to consider any innovative land use ordinance in the future. Chairman Seaworth said we want to think about it, but not for town meeting in 2022. Member Cruson asked what trouble innovative land use gets the Planning Board into. Chairman Seaworth noted that comments made in the recent survey of town residents on innovative land use were 50/50 for and against. The Planning Board should schedule a joint meeting with Conservation Commission to discuss their specific comments further.

Member Cruson noted that there is a difference in what the innovative land use language sounds like and instituting that language. Vice Chairman Bourque asked Member Cruson to inquire at the next Regional Planning Commission meeting whether other towns have an innovative use ordinance, and have they encountered any trouble with using it. Chairman

Seaworth noted that innovative land use ordinance is supposed to be a way for the Planning Board to incentivize certain practices like use of solar panels. The town puts out suggestions, but the applicant can choose a conventional subdivision. Planner Cronin will research the ordinance language Chichester has for innovative land use.

Vice Chairman Bourque stated we know the pitfalls as we learned the hard way. The Planning Board wants to work with applicants. Planner Cronin said the innovative land use ordinance was more abstract. The applicant wants reassurance that their proposal meets requirements and not be left open to interpretation. Chairman Seaworth said innovative land use was a request to make rural development better. Member Hanson said Chichester's current ordinance may be more black and white than Pembroke's prior ordinance. Member Cruson said Chichester ordinance requires more land for development and is more regulatory. Member Hanson noted that people from Massachusetts come to NH looking to put in villages by design. Planner Cronin noted innovative land use goes by other names - open space and cluster development among them. Planner Cronin will obtain a copy of Chichester's ordinance and send it to board members.

Vice Chairman Bourque asked if town action is planned to increase minimum lot size for development in the R3 zone from two acres to four or five acres. Chairman Seaworth noted this is a way to direct development and is all part of the same conversation. The town could do both things, have an innovative ordinance, and change minimum lot size. Member Cruson stated that the public does not understand labels but does understand number of acres. Vice Chairman Bourque noted we would reduce buildable area in R3 zone proportionately. A project to create an open space ordinance will take a long time. Changes to contiguous buildable area would solve the problem for now.

Member Cruson stated that the ideas of a consultant who spoke to us in the past about innovative land use were interesting, but not productive. Member Edmonds stated that simple language has broad appeal. Chairman Seaworth noted that change of lot size was not initially discussed as a proposed zoning change for March 2022. Is there interest in adding this? Member Hanson noted that whenever a change occurs there will be pushback. A proposed change will not meet with universal acceptance. Residents will interpret it as a change in the value of their property. Pembroke is next in line for increased development coming north. Vice Chairman Bourque asked what the lot sizes are north of Fourth Range Road. Member Cruson said topography in that area is not suitable for buildable area. Member Hanson said buildable area is most important.

Planner Cronin noted that lot size change would be a huge change to put together in just two months. It would affect so many components all throughout zoning. Member Cruson suggested that the Planning Board start to look at this topic. Planner Cronin stated that when the town increased the wetland buffers, education of the public was needed. Member Hanson agrees that the Planning Board needs to start the conversation. Member Hanson stated that New Hampshire is number one in the US for reliance on property tax. Chairman Seaworth noted that even the simplest of changes have bigger implications than we can imagine. Vice Chairman Bourque stated lot size is another way to tackle land use.

Chairman Seaworth said this topic is for future work. Planner Cronin will add “R3 lot size increase/Open space development” as an agenda item for future workshops.

Regarding hiring someone to look at zoning in its entirety for inconsistencies, formatting changes etc., Planner Cronin reported that Central NH Regional Planning Commission was awarded that contract. Work will begin early next year with plans to put revised zoning ordinance on March 2023 town meeting agenda.

Chairman Seaworth noted that the Board of Selectmen discussed the Main Street reconstruction project, along with an aerial shot of how the area looks now and proposed new sidewalks. Comments were taken at the meeting, and they are turning the project back to the town engineer.

Planner Cronin said that about five people watch recorded Planning Board meetings at home. In the past when the Planning Board meeting met on zoom during the pandemic, there was great viewership. The difference may be that there is no ability to interact with recorded meetings.

Planner Cronin reported that Pembroke Water Works does not have a contract with a hydrologist. They send work to Emery and Garrett as needed, on a project-by-project basis. A lot of hydrologists are so busy, they do not have time to respond to RFPs and do not take retainer fees. Chairman Seaworth noted that the town regulations must have a dollar limit, over which work must go out to bid. Member Edmonds said at the State of NH there is a process required to hire consultants. Member Hanson said that at the federal level, per RSA 676 4-B, there is a list of vetted referrals an applicant may choose a third-party consultant from. Vice Chairman Bourque asked if the Planning Board can get the list down to one preferred provider to save time. Member Hanson said that RFPs have timeframes, the developer makes the choice from the list, and we get a report back from the vendor selected. Chairman Seaworth said we try to have three bids but sometimes there is only one respondent. Chairman Seaworth requested that Planner Cronin check on the town level purchasing procedure, and whether there is a dollar limit where the town must go out for bid. This may not apply if the applicant is paying the cost of the consultant.

Minutes

September 14, 2021

MOTION: Member Hanson moved to approve the minutes of September 14, 2021, as presented. Vice Chairman Bourque seconded.

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

**MOTION TO APPROVE MINUTES OF SEPTEMBER 14, 2021, AS PRESENTED
PASSED ON A 5-0 VOTE.**

Miscellaneous

1. Correspondence – Planner Cronin reported that three NHDOT driveway permits were received – a single family home on Broadway, a new home on Buck Street, and the Hillcrest Road approach. Chairman Seaworth explained that part of the holdup on

Hillcrest Road was that the project covered a portion of Broadway and needed permits from the State.

2. Committee Reports

Roads Committee – Chairman Seaworth reported that Roads met last week. San Ken had submitted a reduced version of the plan because they were starting road construction. Some members of Roads had not followed the change in plans submitted by San Ken. Roads Committee wants to address development with single entrance and exits. There was discussion of unintended consequences because the Range Roads are not open.

Technical Review Committee – Vice Chairman Bourque noted that October TRC was held today for the golf course plan. Mr. MacCormack was present and asked for a design review instead of a conceptual. A design review is also non-binding. Paulette Malo indicated that the Sewer Commission should have sewer capacity available in February 2022. After an EPA document is finalized in Boston, negotiations can begin between Allenstown and Pembroke. Member Cruson asked if the public comes to a design review. Planner Cronin explained that a design review is a formal process specified by RSA that is more involved than a conceptual discussion. A butters are notified by certified mail. A notice is placed in the newspaper. Comments are given, but no vote is taken. There can be opportunity for the public to speak at the pleasure of the Planning Board. Vice Chairman Bourque stated that when the applicant submits an official plan to the Planning Board it is likely to be declared a Development of Regional Impact. Planner Cronin agreed that the number of units triggers a DRI and the submitted plan will require an extra month of review time. When the applicant submits for design review, they pay engineering escrow and application fees at 50% of the cost of a real application. There is a timeframe for the applicant to apply for just the cost of the remaining 50%. Planner Cronin noted this design review is the only item on the October 26, 2021 Planning Board agenda.

3. Other Business - none

4. **Planner Items** – Planner Cronin reported that the town is starting to wrap up its Hazard Mitigation plan. The completed plan will be posted for public hearing at a future Board of Selectmen meeting. The town is seeking photographs of natural disasters in Pembroke from any date and location to feature in the plan. The report covers the last five years, but photos can be sent to Planner Cronin from any time. Examples are trees down, wires down, flooding, and other natural disasters. Vice Chairman Bourque suggested that Planner Cronin check photo archives of the Concord Monitor.

5. **Board Member Items** – Member Edmonds asked for an update on the North Pembroke bridge. Planner Cronin reported that the contractor put a crane on site and is actively working with metal beams. It should be completed in November.

Vice Chairman Bourque suggested that it would be helpful if the town posted closings on its website.

Member Hanson reported that the PACE building is actively for sale. The principal mortgager has given PACE from December 1 – December 31, 2021 to close a Purchase and Sale agreement. If the building is not sold, it will sell at auction for \$1.2 million. This amount would satisfy creditors but leave no residual assets for the school district.

6. Audience Items – none

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

Without objection the meeting was adjourned at 8:14 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary