

Pembroke Planning Board
Meeting Minutes
January 9, 2024
(Approved January 23, 2024)

MEMBERS PRESENT: Brian Seaworth, Chairman; Rick Frederickson, Selectmen's Rep; Robert Bourque, Vice Chair; Kathy Cruson, Brent Edmonds, Clint Hanson, Bryan Christiansen

MEMBERS EXCUSED:

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

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

Attendance

Public Hearings

**1. First Public Hearing on Proposed Zoning Amendments for 2024
Town Meeting**

Chairman Seaworth stated that he will read the text of each proposed zoning amendment for Town Meeting 2024. Planner Cronin will give a summary of the amendment. Discussion and vote will be taken one item at a time.

Amendment #1

Are you in favor of the adoption of Amendment #1, as proposed by the Planning Board, for the Pembroke Zoning Ordinance as follows: amend Article VIII, Signs to remove content-based regulations in accordance with the 2014 Supreme Court ruling on content-neutrality as it relates to the first amendment, reformat the Ordinance to be user-friendly, and amend 143-28.G. Minor Home Business, §143-29.G. Major Home Business, §143-30.1.D.(5) Office Conversion, and §143-42.F. Commercial Kennels as they relate to signs and content-neutrality. No substantive changes are proposed to the regulations.

Planner Cronin stated that this amendment is intended to remove content based regulation of signs from the town sign ordinance. After a Supreme Court ruling in Arizona, it was decided that church signs of the same type and location as other signs cannot be regulated differently. Type and location do not change the function of a sign. The proposed amendment updates references and call backs to sections of the sign ordinance that are now broken links. Chairman Seaworth stated that the town has not changed anything relative to enforcing the sign ordinance today. Minimal changes have been made when tables have been moved. Planner Cronin stated that the information on the Dimensional Table of Signs by zoning district has been moved into the text section for the type of sign – temporary, portable, wall sign, etc. This change consolidates all information about a type of sign into one place. Reformatting was made to make the ordinance more user friendly. Chairman Seaworth again thanked Planner Cronin for her excellent rework of the sign ordinance.

MOTION: Member Hanson moved to send proposed zoning amendment #1 to Town Meeting 2024. Vice Chairman Bourque seconded.

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

**MOTION TO SEND PROPOSED ZONING AMENDMENT #1 TO TOWN MEETING
PASSED ON A 7-0 VOTE.**

Amendment #2

Are you in favor of the adoption of Amendment #2, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend Article VIII, Signs to allow off-premise signs in the B1, B2, and LO Districts by special exception of the Zoning Board?

Chairman Seaworth stated that the next two proposed zoning amendments make minor changes to the way the town regulates signs. Planner Cronin stated the ordinance currently allows off premises signs in the C1 zoning district. The board decided to retain off premise signs and expand their use in the B1, B2 and LO zoning districts by Special Exception.

MOTION: Vice Chair Bourque moved to send proposed zoning amendment #2 to Town Meeting 2024. Member Hanson seconded.

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

**MOTION TO SEND PROPOSED ZONING AMENDMENT #2 TO TOWN MEETING
PASSED ON A 7-0 VOTE.**

Amendment #3

Are you in favor of the adoption of Amendment #3, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend Article VIII, Signs to allow signs to cover window sills and architectural molding?

Planner Cronin stated that this proposed zoning amendment pertains to wall signs outside on the facade of a building. The amendment strikes “sills and moldings” from prohibited items to obstruct with a sign. Chairman Seaworth stated that an owner wants the business to present itself in the best possible way.

MOTION: Vice Chair Bourque moved to send proposed zoning amendment #3 to Town Meeting 2024. Member Hanson seconded.

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

**MOTION TO SEND PROPOSED ZONING AMENDMENT #3 TO TOWN MEETING
PASSED ON A 7-0 VOTE.**

Amendment #4

Are you in favor of the adoption of Amendment #4, as proposed by the Planning Board, for the Pembroke Zoning Ordinance as follows: amend §143-8, Definitions and §143-69,

Floodplain Development District as necessary to comply with requirements of the National Flood Insurance Program?

Planner Cronin stated that this year FEMA is doing updates to Floodplain maps and regulations. In conjunction with this, FEMA reviews town ordinance to ensure the town ordinance is following the National Flood Insurance Program. By adopting FEMA's definitions and verbiage, the town ordinance remains compliant with all the requirements of the program. Chairman Seaworth stated that changing terminology and references does not change the way our ordinance works. There is minimal impact to the ordinance. Planner Cronin will include information in the voter guide to explain the town is adopting language given to us by the government agency responsible for oversight of the National Flood Insurance Program. By doing so, the town ordinance remains compliant with all the specific requirements.

MOTION: Vice Chair Bourque moved to send proposed zoning amendment #4 to Town Meeting 2024. Member Hanson seconded.

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

MOTION TO SEND PROPOSED ZONING AMENDMENT #4 TO TOWN MEETING PASSED ON A 7-0 VOTE.

Amendment #5

Are you in favor of the adoption of Amendment #5, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend the provisions regarding Manufactured Housing Parks by inserting proper references to the Table of Dimensional and Density Standards, which was updated last year?

Planner Cronin noted that last year the Town of Pembroke redid our tables, consolidating three separate tables into one comprehensive table. The Manufactured Housing Parks section references a table that is no longer formatted in the way described in the ordinance.

MOTION: Vice Chair Bourque moved to send proposed zoning amendment #5 to Town Meeting 2024. Member Hanson seconded.

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

MOTION TO SEND PROPOSED ZONING AMENDMENT #5 TO TOWN MEETING PASSED ON A 7-0 VOTE.

Amendment #6

Are you in favor of the adoption of Amendment #6, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to remove from the purposes of the Wetlands Protection District the purpose of “encouraging uses that can be appropriately and safely located in wetland areas”?

Planner Cronin stated that in the Wetlands ordinance, the purpose and intent of the ordinance includes a list containing “to encourage uses in the wetlands.” Central NH Regional Planning flagged that item for us in the Master Plan because the town discourages uses in the wetlands and the wetland buffers. Chairman Seaworth stated that this causes confusion. The item should be eliminated from the list to make the section consistent with changes to the increased wetland buffer and ‘no disturbance’ wetland ordinance adopted years ago.

MOTION: Vice Chair Bourque moved to send proposed zoning amendment #6 to Town Meeting 2024. Member Hanson seconded.

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

MOTION TO SEND PROPOSED ZONING AMENDMENT #6 TO TOWN MEETING PASSED ON A 7-0 VOTE.

Amendment #7

Are you in favor of the adoption of Amendment #7, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend Article IXA Soucook River (SR) Development District to add a new section §143-72.23. to allow residential use, not to exceed 50% of total development, by special use permit of the Planning Board?

Planner Cronin noted that this is a new section to allow mixed use in the Soucook River Development District by Special Use Permit (SUP). At the last meeting, the board discussed comments from legal and decided to go forward to first public hearing with the amendment as is. Member Cruson asked which section of the email is comments from legal. Planner Cronin stated that the purple text is from our attorney. Member Christiansen advised to read the email from the bottom up to follow the thread of the conversation. Planner Cronin stated that the main concern was the inclusion of “fiscal impact study” in the list of studies the Planning Board may require. Planner Cronin stated she pulled language from another town’s ordinance. The Planning Board can require any studies relevant to the project. Chairman Seaworth stated the intent was to enumerate some of the studies the Planning Board may require as the sample ordinance did. If the proposal is to have a fiscal benefit to the town, that is one of the things that may impress us. Member Cruson said it is a menu. Chairman Seaworth stated that for example, putting a grocery store in this location would eliminate an eight mile round trip for residents. The Board leaned toward leaving in the examples at the last meeting. The Planning Board has always had the ability to request relevant studies in its review of a proposal. If we use the study as a basis for rejection, that would be a negative. Member Cruson asked why would you request a fiscal impact study if you were not going to use it for criteria? Member Christiansen asked why would a developer include a fiscal impact study? Chairman Seaworth stated that when a proposal is for building houses, new residents assume their roads will be maintained by the town. Vice Chairman Bourque noted that the Planning Board tried to allow flexibility in another ordinance and got bitten by developers using the ordinance in a way not intended.

Chairman Seaworth noted that the way the Mixed Use Special Use Permit ordinance is written, if someone wants to develop in the Soucook River Development District and follow all the rules, then that is fine. If they want exceptions to the rules, they can appeal to the Zoning Board of Adjustment. If they pursue Mixed Use by Special Use Permit, the Planning Board can set aside some of the rules if the proposal integrates into the zone in a harmonious way. Vice Chairman Bourque asked what lot size is used for the zone. Chairman Seaworth stated that the section uses B1 zoning district dimensional requirements. Vice Chairman Bourque asked about Accessory Dwelling Units (ADU) in the Soucook River Development District. Planner Cronin stated that one ADU is allowed to every single-family home by right.

Chairman Seaworth stated the question is whether the Planning Board wants to amend this ordinance and hold a second public hearing. Discussion of item #2 deed restrictions followed. Legal suggested deed restrictions as one way to limit future changes to lots. The site plan is restricted by the Special Use Permit and is easy for future Planning staff to track. If the lot is subdivided, it is integrated into the original plan. A future owner may wish to do a residential subdivision. A deed restriction is a way to cover this possibility. The key is that the Planning Board can waive any of the requirements set forth. They could waive putting in a deed restriction. If the board is worried about future changes in zoning, this ordinance only applies to one lot in the entire town. The Planning Board wants to get the language right. A developer may decide to go with all commercial development and never use this Mixed Use option. Member Christiansen stated it is a complicated situation. I am in favor of a mixed use ordinance. It could result in many benefits, including connection to the City of Concord sewer system. Selectmen's Rep Frederickson asked how are future Planning Boards going to know about deed restrictions on this lot? Where would they look? Chairman Seaworth stated that there is no guarantee that future staff will know to look up this lot as part of a Planning Board Special Use Permit. A site plan will be easy. If residential is included it will all be part of the SUP language. It may be redundant to also put it on the deed. Vice Chairman Bourque asked if it were possible to put a note on the real estate assessing card. Planner Cronin stated we could require the deed to reference the plan and require the property owner to come to the Planning Board to amend a Special Use Permit. Selectmen's Rep Frederickson sees no need to document in two places. Chairman Seaworth stated that items G and H are specific things that would be combined. Planner Cronin suggested striking "by deed" and a reference made to the Special Use Permit. Chairman Seaworth recommends striking "by deed" in both items G and H. The property deed shall notice the SUP.

Planner Cronin stated this is the last meeting to amend the proposed ordinance or remove it from submission to the Town Meeting this year. One option is to put forward what is shown here and amend the ordinance next year. Chairman Seaworth stated we do not want to leave an awkward reference in the ordinance. Planner Cronin stated that notice of public hearing must go to newspapers tomorrow to meet the 2 weeks' notice of hearing requirement. Some renumbering is also needed in the proposed ordinance. Planner Cronin suggested adding "The property deed shall notice the approved Special Use Permit to the owner that restrictions on the SUP apply to the property" to both items G and H. Member Cruson agreed it is better to attach suggested verbiage to both items. Member Christiansen suggested that the board remove the deed restriction language. Member

Cruson stated that the board does not ask enough of developers to help the town based on their proposals. Selectmen's Rep Frederickson stated that an exaction fee in the form of asking developers to put in offsite improvements like traffic lights or other needed improvements are an option. Chairman Seaworth stated that the Pembroke Pines developer is putting in sidewalks at the Pembroke Road intersection. If the board can come to an agreement with the developer to include an improvement as part of their plan, it works best. An example would be fixing a road in need of repair that leads to the site being developed.

Chairman Seaworth stated that impact fees are still on the books. If a development is asked to contribute to a new town expense because of the development, it is a way for the developer to pay a share of a very specific project. The drawback is that funds must be spent for that project by a certain time, or the funds are returned to the payer. Member Cruson said that impact fees were used in the past and do not work well now. Vice Chairman Bourque stated that the workload of the planner increased dramatically when impact fees were used. Chairman Seaworth stated if you knew exactly when a town project was due, impact fees could be beneficial. In Pembroke we have had low and sporadic growth. Vice Chairman Bourque added that town staff was not able to manage the strict accounting requirements of impact fees. Member Cruson stated it would be beneficial to talk to a developer and ask them to add parks or recreation facilities to their plans. The request reminds developers of the relationship they can have with the community. The whole area of North Pembroke would benefit from some kind of recreational facility. Member Christiansen stated the request may be a trigger for us as well. Chairman Seaworth stated he does not want to end up in a situation where the developer checks off all the boxes and the board must approve the plan. Vice Chairman Bourque stated that the board was too easy going with open space development applications. Selectmen's Rep Frederickson stated the board wants to encourage some kind of creativity. Member Christiansen stated he can see both sides of it.

Chairman Seaworth stated that the board needs to decide if we want to make changes and hold a second public hearing on amendment #7. This would be at the end of a very long business meeting on January 23, 2024. There is only one remaining undeveloped property off Kline Way in the Soucook River Development District. Someone wanted to mix commercial and residential uses on the lot. The Planning Board has resources for the big proposals, like the Technical Review Committee, full time staff and the ability to request relevant studies. I support reviewing an entire mixed use proposal at the Planning Board. Vice Chairman Bourque stated I still have a few concerns about the town being taken advantage of. Some contractors are very good to work with. The decision of whether the Planning Board is willing to waive certain items is a gray area. Chairman Seaworth stated the alternate process would be for applicant to appeal to Zoning Board of Adjustment to waive zoning ordinance requirements.

Planner Cronin stated that the remaining undeveloped lot in the Soucook River Development District was purchased in 2023 by Loudon Sand & Gravel. We are not sure what the owner's intentions are at this time. Member Cruson stated the owner could be considering commercial development. Selectmen's Rep Frederickson stated that we could vet the proposed ordinance a little more for proposal next year. Vice Chairman Bourque

stated that 50/50 ratio could be mostly residential if commercial use is not in the market. Chairman Seaworth stated that right now, that lot remains empty. Commercial developers are at the mercy of finding a willing tenant. Member Cruson stated that commercial lots on Sand Road have been developed successfully. Something similar will happen on Kline Way. Chairman Seaworth stated that the board could make developers wait to build residential until the commercial use is built. There is always a risk of economic turndown. We do not want full density residential use on that lot. Chairman Seaworth stated that if we are not happy with the scope of the proposed Mixed Use Special Use Permit ordinance, we can forego sending it to Town Meeting until next year. Chairman Seaworth stated the board was concerned about loading voters up with too many decisions. Some residents may have an issue with the proposal because the town invested funds into making the Soucook River Development District a commercial zone. Board consensus is to put this proposal aside for this year.

MOTION: Vice Chairman Bourque moved NOT to send proposed zoning amendment #7 to Town Meeting 2024. Member Cruson seconded.

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

MOTION NOT TO SEND PROPOSED ZONING AMENDMENT #7 TO TOWN MEETING PASSED ON A 7-0 VOTE.

Minutes & Finding of Facts

The board commended Planner Cronin for the comprehensive Findings of Fact on the last meeting applications. One sentence was modified on page three.

MOTION: Member Christiansen moved to approve the minutes of December 12, 2023 as presented Member Hanson seconded.

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

MOTION TO APPROVE DECEMBER 12, 2023 MINUTES AS AMENDED PASSED ON A 5-0-2 ABSTAIN VOTE.

Miscellaneous

1. Correspondence
 - A. DRI – Granite State Baptist Church expansion, 236 Sheep Davis Rd., Concord

Planner Cronin reported that City of Concord sent a Development of Regional Impact to the Town of Pembroke regarding a proposed expansion of Granite State Baptist Church due to the proximity to Pembroke and the Soucook River. The packet includes site plan, project narrative and City of Concord staff report. The new two-story building would include a gymnasium, classrooms, a kitchen, and associated parking. Vice Chairman Bourque asked where 236 Sheep Davis Road is. It is the next lot past Sam's Club. Member Christiansen has a concern about light pollution and recommended dark sky lighting. Vice Chairman Bourque asked when Next Level Church in Pembroke was sold. Another church recently purchased the building. Member Edmonds stated that the proposal has no significant impact to Pembroke. Chairman Seaworth asked if the lot was

in the wellhead protection area. He asked Planner Cronin to forward the DRI information to Pembroke Water Works. If they have any comments, please forward them to the City of Concord.

2. Committee Reports – Board of Selectmen – Selectmen's Rep Frederickson reported that the Board of Selectmen met on January 3, 2024. The board approved a new crossing for the Trail Dawgs which is located closer to Epsom. It crosses North Pembroke Road perpendicular to a private road, Poor Town Road. There was no damage to the prior crossing the Trail Dawgs had used. The Board of Selectmen approved a new contract with Comcast. The board unanimously approved all its warrant articles for Town Meeting 2024. The board may look at budget revisions. The town hired a new full time probationary police officer. Technical Review Committee (TRC) – Vice Chairman Bourque reported that TRC was held this morning. Peter Holden was present for the Lavallee family lot line adjustment. Robert Azevedo proposed a change of use in the village from retail to food and live music. Paulette Malo, Sewer Dept., reported that no sewer would be available for the food and live music use in the village for three to six months. An increase in capacity of 150,000 gallons is expected per an agreement between Allenstown and Pembroke, which is currently under review at the NH Attorney General's office. Planner Cronin added that if approved, both towns must hold two public hearings each regarding the proposed intermunicipal agreement. The process could take three to six months. Pembroke is in the best position it has been in three and a half years regarding sewer capacity. Vice Chairman Bourque noted that clients are waiting for sewer capacity. Member Cruson asked how far an additional 150,000 gallons would go. Selectmen's Rep Frederickson asked what the duration is for the 150,000 gallons. Planner Cronin stated that the standard sewer capacity measure for restaurants is twenty gallons per day per seat. Residential capacity measure is two hundred gallons per day. So, for the fifty-two patients and three staff proposed at the TD Bank rehab center, fifty-five people would need 7,000 gallons capacity per day. Paulette Malo advised that only a portion of that sewer capacity may be available. Member Edmonds noted that despite the agreement for additional sewer capacity for Pembroke, the shortage will come right back within a certain amount of time. Member Edmonds stated that Pembroke needs to develop our own solutions. A request by Pembroke to have its own sewer plant was denied by Army Corp of Engineers as it would be located too close to the Allenstown plant. Chairman Seaworth stated that City of Concord may be able to expand and develop sewer capacity to sell to other towns. Conservation Commission – Member Edmonds reported that Conservation Commission met last night. The commission discussed the same two applications as the Technical Review Commission meeting. The applications were for a lot of line adjustment and change of use in storefronts downtown. The Conservation Commission took no opposition to either application as they are non-involved to their mission.

3. Other Business - none

4. Planner Items – Planner Cronin stated that the January 23, 2024 meeting will have one old business and two new applications on the agenda. It is also the presidential primary that night. The meeting will begin at Town Hall with non-hearing related business. The public hearings will begin no earlier than 7:00 p.m. so that all residents can vote at the polls. The public hearing can be delayed past 7:00 p.m. if necessary. If attendance at Town Hall exceeds capacity for the space, we have the Pembroke Academy

auditorium reserved to continue the hearing. Planner Cronin noted that the applicant for the lot line adjustment may request to be on the February 2024 meeting. The application for change of use for entertainment in the village could get conditional approval based on future sewer capacity. Member Cruson noted that she is working at the polls and will be arriving after 7:00 p.m. Selectmen's Rep Frederickson is also required to be at the polls. Chairman Seaworth noted that the Town Administrator suggested that the Planning Board have a set of plans for the New England Flower Farm application on a table available for any interested person to see. Because of microphone issues (picking up side conversations) David Jodoin also suggested that each speaker come to the meeting table to speak and step back when done commenting to be closer to the microphone. This arrangement would function as an organizational tool to clearly recognize who is speaking. Vice Chairman Bourque recalled that microphones were set up at the front of Pembroke Academy auditorium for speakers to use when that facility was used for Planning Board business. Planner Cronin will bring a voice recorder to the meeting if it is moved to Pembroke Academy. Selectmen's Rep Frederickson stated that he thinks the applicant's presentation will answer many of the frequently asked questions so speakers will not be addressing the same concerns.

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 8:32 p.m.

Respectfully submitted, Susan Gifford, Recording Secretary