

Town of Pelham, NH
Pelham Conservation Commission
6 Village Green
Pelham, NH 03076-3723

MEETING OF 12/13/23

APPROVED 01/10/24

Members Present:

Karen Mackay, Al Steward
Ken Stanvick, Mike Gendreau
David Abare, Paul Gagnon
Jesse Vaughan (alt)

Members Absent:

Scott Bowden (alt), Kelvin Webster
Kara Kubit (alt)

Al Steward brought the meeting to order at 7:01. Mr. Steward led the Commission in the Pledge of Allegiance. Mr. Steward appointed Mr. Vaughan as a voting member for this meeting.

OLD BUSINESS:

Map 41 Lot 10-246	10 Bridge Street – Dumpsters are currently located in the WCD. A new location is being proposed. Applicant will be seeking a variance from Zoning Board of Adjustment (ZBA) – Presentation by Dina Zisis of MZL Realty, Inc.
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This case came to light when the food truck was being discussed. Mr. Lozowski, the code enforcement officer, went to inspect the site for the food truck. He noticed dumpsters to have trash falling out into the wetland. Mr. Steward noticed one dumpster on the right side of the building was crushing or threatening to crush one of the drainage structures in the detention pond. These matters brought this case forward.

The proposal regards the dumpsters on the left side of the building. Ms. Zisis has proposed to pour a 15x8 foot concrete slab with a 2-3 inch lip, with fencing on three sides and a gate on the front. Two dumpsters will be set into this space. The concrete pad with lip will keep the dumpsters in a contained location and will keep any leaked fluids from running into the wetland. The fence will keep paper trash from blowing out of the dumpster into the wetland. The gate will be locked and will prevent illegal dumping in the dumpster during hours when the businesses are closed. The concrete pad will be located in the grass area on the north side of the building.

Initially, there was 3 dumpsters on this side of the building and 2 dumpsters on the right side of the building. Ms. Zisis has stated she will be removing one dumpster from each side of the building. The total dumpsters will go from 5 to 3. The schedule for emptying the dumpsters will go from every other week to every week. The dumpster on the right side of the building is for regular trash from the convenience store. No pad is proposed for this dumpster. The removal of the second dumpster from the right side of the building will end the problem of the dumpster in the detention structures. The dumpster on the right side of the building is not a subject of this case.

Mr. Abare was concerned with how leaks from the dumpster would be cleaned up. Ms. Mackay did not want soapy solutions to clean up sugar water from spilled soda. Chemicals used to clean this type of spill would hurt the environment more than if the spill dried up on its own.

Mr. Stanvick was concerned about the pad for the dumpsters increasing impacts within the wetland conservation district (WCD). He would like to see the dumpsters contained within the already paved surface of the parking lot. The property received a lot of variances/waivers when the property was built out. He does not want more building into the WCD. Ms. Zisis said her family purchased the property in 2001, then they built the plaza. She was not sure what the original plans described about dumpsters. Mr. Stanvick liked that she had 2 dumpsters removed, but he wants the construction of the pad, lip, fence, gate to stay within the footprint already approved by the variances from when the lot was built.

Mr. Steward said the WCD is already compromised. There is no way to get the dumpsters out of the WCD. There was discussion back and forth about whether this proposal would impact the WCD more. Mr. Gagnon interjected. He said the word we are looking for is impervious surface. This proposal will increase impervious surface on this lot. The lot is largely impervious and now a little more impervious surface will be added. Mr. Gagnon said Mr. Steward and Mr. Stanvick are both correct in that the WCD is already being used for the dumpsters so no more infringement by the dumpsters will be happening, but the dumpsters are currently on the grass so when the pad is added there will be more impervious surface. Mr. Gagnon agreed with Mr. Stanvick that we should be able to find a way to use one of the parking spaces for the dumpsters so as to not increase the impervious surface on this lot.

Mr. Gagnon appreciated Ms. Zisis removed 2 dumpsters and he thinks the pad, lip, fence, gate is a good plan to contain the waste from the businesses. He does not like the increase in impervious surface. The WCD is supposed to filter water before it gets to the wetland. Asphalt does not filter water. The less grasses/shrubs and the more asphalt the faster rainwater runs off and the less the water is filtered. This development is largely in the WCD and wetland was filled in for the building. The site is already greatly compromised. The original building was too big to account for the required parking so the parking was waived. Now we are being asked to add more impervious to the site. Too much was given away at the beginning of this project and now more is being asked.

Ms. Zisis does not want to lose any parking spaces. The building initially needed approximately 130 spaces for the square footage of the building per town regulations. The waiver brought the spaces down to 60 spaces which is the current number of space. Ms. Zisis is trying to add tenants to the building. She cannot afford to lose spaces. She is afraid other town boards will reject more businesses in the building if spaces are reduced further.

Mr. Abare does not want to see small businesses hurt by not allowing a space for the dumpsters. He feels the proposal is reasonable. Mr. Vaughan feels the cost of increasing impervious surface is worth the benefit of containing this waste and containing possible leached fluids from the dumpsters.

Ms. Mackay reminded the members we do not have to vote all the same even though we often do. Any member is free to vote the way they think is correct. A split vote is an acceptable vote.

Motion: (Stanvick/Gagnon) to use one of the parking spaces for the dumpsters, with the addition of the pad, lip, fence and gate, so as to not have additional impervious surface in the WCD.

Vote: 3 in favor (Stanvick, Gagnon, Mackay), 4 opposed (Abare, Vaughan, Gendreau, Steward).

The motion was defeated.

Motion: (Abare/Vaughan) to accept the plan as described with the pad, lip, fence and gate. A roll call vote was requested.

Vote: 4-3 in favor.

In favor of the motion was Vaughan, Steward, Abare, Gendreau

Opposed to the motion was Mackay, Stanvick, Gagnon.

NEW BUSINESS:

(This case was new business though it was mistakenly described as old business on the agenda)

Map 29 Lot 7-117	135 Bridge Street – Proposed redevelopment of the site with WCD impact. Presentation by Joe Maynard of Benchmark, LLC., Julie Michaud, property owner
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The proposal is to redevelop this property. The property was formerly a gas station. The tanks were removed in 2015. About 20 years ago, the state installed monitoring wells to monitor water quality. There is data that shows the levels are below state standards which means there is no contamination from the gas station into the brook and surrounding area. The property currently has various buildings, paved areas and an old foundation by the brook.

The property is 2.06 acres in size with 200 feet of frontage on Bridge Street. There are multiple easements on the property. The north side of the property has a 35 foot easement given to the bank for access. The south side of the property has a drainage easement. The lot has shoreland protections because it is on Beaver Brook. A portion of the land is within the 100 year flood plain. The lot also has a large WCD that will be infringed on when the property is built out. All these restrictions limit the redevelopment area to about 10,000 square feet (sf). There can be no building in any of the easements.

The lot slopes down from Bridge Street to Beaver Brook with an elevation change of approximately 9 feet. There is a finger of the wetland associated with Beaver Brook that runs behind the proposed building. This wetland carries the WCD protections because it is contiguous to the larger wetland. Mr. Maynard said this was likely an old drainage ditch that resulted when this lot was filled prior to the gas station occupying the lot. Over many years the bottom of the ditch has developed hydric A soils. Construction will be between Bridge Street and the edge of the 100 year flood plain. The building will be approximately 10 feet from the edge of the flood plain, but some trees will need to be taken down up to the edge of the flood plain in order for construction of the building to take place.

The proposal is to raze the old building and build a 4,000 sf new building that will house a 3,000 sf hair salon with possibly a 1,000 sf rental unit. The extra 1,000 sf could also be used to expand the salon. They are asking for the larger building size now as it will be easier to design and build at one time than adding on later. Mr. Gagnon asked if the building could be smaller so there would be less impact to the WCD. He asked about dumpsters. Dumpsters have a designated location outside the WCD. Mr. Maynard said the project has to be financially feasible. The investment in the property will be substantial and must be worthwhile to the owner. A smaller building would not bring in the business determined necessary to make the project worth the effort.

There will be a full basement that will have the utilities and storage. There will be no business conducted in the basement area. A bulkhead will lead into the basement from the outside of the building. Mr. Maynard said he could locate the bulkhead on the north side of the building so it will be outside the WCD. The full basement area is above the 100 year flood plain elevation. There will be no loss of flood storage due to this development. There will be no access behind the building for emergency vehicles. Mr. Maynard does not think this will be a problem as there will be no business conducted from that side of the building or the basement. He will discuss this with the fire department to make sure 'no access' is 'no problem'.

Approximately 50 percent of the building will be within the WCD. The well will be behind the building in the WCD. The septic tank will be within the WCD. This is a fully sealed system and would have no leaking. The septic system meets the well setbacks which are 100 feet given that this will be a commercial building. Members questioned if the septic tank could be moved out of the WCD, perhaps under the parking lot. Mr. Maynard wants the septic drainage from the building to be in a straight line with no elbows in the pipes. He thinks he may be able to move the tank toward the road and leave a few feet in the WCD at the end of the building. The majority of the tank would be outside the WCD. Members thought that would be a good idea if it could be done.

The impervious surface on the lot currently is 9,000 sf. The proposal is to increase impervious by 2,000 sf to 11,000 sf. Currently, there is no drainage system on the site. Rain water sheet flows off the impervious surfaces. Mr. Maynard is proposing to collect the runoff from the roof and parking lot and direct it to an underground drainage system on the north side of the building. This would be an improvement from the current conditions.

This lot will need multiple variances and waivers. Regulations require the building be a distance that is 3x the height of the building away from the road. Mr. Maynard said the building has not been designed yet, but his educated estimate for the peak of the roof will be 28 feet in height. This would mean he would need the building to be set back 84 feet from the road. If he went 84 feet back, the building would be into the wetland ditch and impact more of the WCD. He will ask for a 48 foot front setback. He will ask for relief from the side line setbacks which regulation requires be a distance that is 2x the height of the building. He will request a 38-40 foot setback from the north lot line and a 59 foot setback from the south lot line. He needs a waiver from the setback from the right-of-way (ROW) to the edge of the parking lot. Currently, the paved area is directly adjacent to the ROW with a small sliver of grass between the ROW and the paved area in a small spot. Mr. Maynard is proposing to keep the parking area along the ROW and include the sliver of grass area in his parking area. The new parking lot entrance and exit will be in nearly the same location as the current entrance and exit. The building envelop will be kept close to the road. Mr. Maynard will also need relief for the septic tank and building in the WCD and for the leach field to be closer than 75 feet from hydric A soils. The hydric A soils were located within the finger of wetland behind the building. Building regulations require 14 parking spaces. Mr. Maynard will be requesting 12 spaces.

There is a culvert under the existing entrance and exit driveways for the property. This culvert picks up drainage from Bridge Street and from the subject property. Approximately half of the drainage from the property goes toward Bridge Street and the culvert, and the other half of the drainage goes toward the wetland and Beaver Brook.

Monitoring wells were installed by the state 20+ years ago because of the gas station. The station closed and then the tanks were removed in 2015. The state has monitored these wells for the past 20 years and will continue to monitor for at least a few more years. The wells are monitored quarterly for

groundwater quality. The wells show no contamination from the gas station. Mr. Maynard will send us a link so we can take a look at the data that has been collected.

Motion: (Gagnon/Stanvick) to propose a site walk of the property.

Vote: 7-0-0 in favor.

The site walk will be conducted Saturday, December 16, 2023 at 1 p.m.

DISCUSSION:

Dave Abare will lead our second public discussion of the draft copy of the new Conservation Plan
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Mr. Gagnon thanked Mr. Abare, Ms. Kamal and the people at Nashua Regional Planning Commission (NRPC) for working on this plan. He thought the plan was very good. He especially liked the table describing the conservation properties. He would like some additional properties added to the table. Mr. Gendreau thought the plan was great and easy to navigate. Mr. Vaughan agreed. Mr. Stanvick thought it was a fantastic document. He wanted to know if the Commission would have revision control. Mr. Abare said we would have revision control and the document would be updated frequently. He is working to make sure when changes are made to links in the document, they are automatically updated so residents will get the most up to date information any time they use the document. Ms. Mackay thought it was good, but had noticed some typos still in the document. Fixes can be made to the document even as Mr. Steward wanted a vote of acceptance tonight so the billing for this project could be on this year's budget.

Motion: (Stanvick/Gendreau) to accept the Conservation Plan.

Vote: 7-0-0 in favor.

WALK IN ITEMS:

Mr. Gagnon spoke to the police chief about the town ordinance of what is allowed and not allowed on town land. She said she had some safety concerns and wanted to look into how to approach these concerns. She wanted to get input from the new fire chief. Mr. Gagnon has allowed her to take the lead in pursuing these matters. There may be the need for Police and Fire to have some ordinances that relate to safety. The Commission does not need to be involved in these matters at this time. Mr. Gagnon said he will wait to see how this proceeds. The Chief gave no time frame for completing this project. Mr. Gagnon said to add him to the February agenda to discuss this again. Mr. Stanvick is concerned about signs on town properties. If this will be a short term project, then he thought the signs could remain as they are. If this was to be a long term project, he thought the signs should be changed. He did not think the signs should say something was not allowed on town land, but there was no ordinance to back up the language on the sign. Mr. Abare thought the signs should stay as is for the time being.

Mr. Stanvick met with the code enforcement officer. He had a discussion about what his job entails, what he does and how he does it. He is called to sites if there is a suspected violation. He investigates the possible violation and writes a report that is submitted to the Planning director and the Selectmen. Mr. Stanvick said sometimes we are informed of his decisions and sometimes we are not. His actions should be of interest to the Commission though sometimes we do not know about the actions. He told

Mr. Stanvick, that one example of what he does would be to have found 2 trees cut in a restricted area, that he would tell the land owner he must replace 2 trees. Mr. Stanvick thought this was investigating and assigning a remediation. He questioned whether the Commission should be involved in steps of remediation. He would like to invite the code enforcement officer to speak with us so we can learn about his job. He said he would come in non-public session, but did not want to speak in public session. Mr. Stanvick questioned why public session would be a problem. He will follow up with the Planning director.

Mr. Steward has been working to solve the problem with the tanks discussed at the public hearing last month. He has met with Mr. Vaughan, Mr. Gagnon, Mr. Stanvick, and John Pasquale from DES. They have walked the site and discussed how to proceed. Melinda Bubier is our contact in charge of brownfields. The Commission has filled out an application and the application has been accepted, for brownfields support. Financial support may be necessary for cleanup of this site. The idea is to do a phase 1 environmental site assessment. This entails research into paperwork related to the site and aerial/drone photos to see how the site appears and to assess the probability of contaminants on the site. The goal is the removal of 3, 6 foot diameter by 24 foot long tanks. Possible fluid left over in the tanks is #6 fuel oil, but it has not been tested as of this time. The purchase and sale has been adjusted so we can evaluate and clean up this site.

MINUTES:

Motion: (Gagnon/Stanvick) to approve the minutes of November 8, 2023.

Vote: 7-0-0 in favor.

Motion: (Gagnon/Stanvick) to approve the non-public minutes of November 8, 2023.

Vote: 7-0-0 in favor.

NON-PUBLIC SESSION:

Motion: (Mackay/Steward) to go into non-public session to discuss land acquisitions in accordance with RSA 91A:3, to seal the minutes of non-public, to adjourn after non-public.

Vote: 7-0-0 in favor.

Adjourned at 9:20 p.m.

Respectfully submitted,
Karen Mackay,
Recording Secretary