

APPROVED
TOWN OF PELHAM
PLANNING BOARD MEETING
October 20, 2014

The Chairman Peter McNamara called the meeting to order at approximately 7:00pm.

The Secretary Paul Dadak called roll:

PRESENT: Peter McNamara, Roger Montbleau, Paul Dadak, Tim Doherty, Jason Croteau, Paddy Culbert, Alternate Mike Sherman, Alternate Joseph Passamonte, Selectmen Representative Robert Haverty, Planning Director Jeff Gowan

ABSENT: None.

Mr. McNamara informed that Sherburne Hall wouldn't be available on Monday, December 1, 2014. Therefore the Board will not hold a meeting December 1st and will conduct one meeting for that month on Monday, December 15, 2014.

Mr. McNamara then reviewed the agenda for the present meeting and announced the date specified cases.

Mr. Montbleau and Mr. Croteau arrived.

OLD BUSINESS

PB Case #PL2014-00030

Map 28 Lot 2-7

COLE CIRCLE, LLC – PETERSON, Robert – 24 Burns Road – Special Permit Application to approve the Yield Plan for a proposed Conservation Subdivision of the above referenced lots. (*Full application for conservation subdivision will follow once Special Permit and density is established*)

Mr. Karl Dubay of the Dubay Group along with the applicant Robert Peterson came forward to discuss the proposed plan.

Mr. McNamara understood there were only four Board members present for the last meeting (October 6, 2014). During that meeting the case was heard, evidence was taken and the matter was opened to public input. At that time the Board formed a consensus that the density request was appropriate, however no vote was taken because by law the Board needs five seated members to do so. Mr. McNamara stated the matter wouldn't be opened to the public during the present meeting because there was no new information being presented. He explained that the Board would formalize the vote of the consensus reached during the previous meeting. After which, engineering would

proceed and more information will come forward. The public will then have the opportunity to ask questions and make comment.

Mr. Gowan spoke to the Planning Board By-Laws, which specifically state the need to have five Board members for any vote to approve/disapprove a plan. During the previous meeting (Oct. 6th) a consensus was reached in agreement with the opinions of Keach Nordstrom (Board's engineering review firm) and Mr. Gowan that the yield plan was appropriate. Therefore, the official permission from the Board would be to proceed with the conservation subdivision. The yield plan vote in the affirmative would essentially approve the special permit to continue with the conservation subdivision.

Mr. McNamara gave the Board members who were not present for the previous meeting an opportunity to ask questions of the members who were at that meeting. Board members had no additional questions/comments.

MOTION: (Culbert/Dadak) To approve the yield plan as presented at the Planning Board meeting of October 6, 2014.

VOTE: (7-0-0) The motion carried.

Mr. Dubay requested date specification to the Board's December meeting.

The case was date specified to December 15, 2014.

PB Case #PL2014-00027

Map 16 Lot 13-84 - NEW ENGLAND PENTECOSTAL MINISTRIES – 955 Bridge Street - Site plan review for construction of a proposed shed.

Mr. Othniel Archer, representing Pentecostal Ministries, came forward to discuss the site plan

Similar to the previous case, Mr. McNamara understood the matter was heard at the previous meeting (October 6, 2014) with only four members seated, therefore a decision could not be made. He further understood from reviewing the meeting minutes and discussing the case with Mr. Gowan that everyone was fairly content with the plan as presented.

Mr. Gowan stated a consensus was reached at the previous meeting. He explained that the applicant was looking to build a (35ftx45ft) shed and made a presentation to the Board. Testimony was that the shed would be used for storage and items related to the church. The applicant and Mr. Gowan have spoken about the location of the shed being toward the rear of the church site. Mr. Archer indicated he measured two areas, both of which will meet setback requirements.

Mr. McNamara asked if any Board members had questions/concerns.

MOTION: (Montbleau/Croteau) To approve the site plan.

VOTE: (7-0-0) The motion carried.

PB Case #PL2014-00025

Map 16 Lots 8-41 & 8-41-1

ROBERT EDWARDS, SR. TRUSTEE - 703, 713 & 715 Bridge Street – Proposed Lot Line Adjustment

Mr. McNamara stated the case would be continued to November. When the applicant recently met with the Zoning Board they withdrew their application and had intentions to submit a new application with that board.

The Planning Board case was date specified to the November 17, 2014 meeting.

PB Case #PL2014-00029

Map 38 Lot 1-118

JAMES W. PETERSEN, LLC - Sherburne Road – Proposed Lot Line Adjustment, Special Permit for Wetland Conservation District Crossing and 67 Unit Senior Housing Development

Mr. McNamara informed the case would be continued to allow for additional time to complete engineering review work. He also understood that the Conservation Commission had requested a joint site walk with the Planning Board.

Site walk scheduled for November 8, 2014 beginning at 9am. Members of the public are invited to attend.

The case was date specified to the November 17, 2014 meeting.

PB Case #PL2014-00026

Map 35 Lot 10-193 & Map 36 Lot 10-191-1

GREEN, Richard; GREEN & COMPANY – 1-5 Garland Lane – Proposed 46-Lot Conservation Subdivision (*Special Permit for Yield Plan and 20% Density Offset of 7 lots was granted on July 7, 2014*)

Mr. McNamara informed that the applicant had just received a lengthy review letter from Keach Nordstrom (Board's engineering review firm) and will need time to respond. The applicant's engineer requested that the case be date specified to November 3, 2014.

The case was date specified to November 3, 2014.

PB Case #PL2014-00019

Map 32 Lot 1-16-24 - SKYVIEW ESTATES, LLC – Skyview Estates Phase II - Majestic Avenue – Proposed Conservation Subdivision (19 Residential Lots & 2 Open Space Lots) (*NOTE: Applicant requests date specification to 10/20 and will not be heard at this meeting*)

Mr. Gowan stated the applicant had requested date specification based upon the length of the Board's agenda. The applicant felt they may not be heard. Mr. McNamara noted that the Board was still awaiting review of the independent blasting report; as the Board requested to be paid for by the

applicant. Mr. Gowan believed it should be nearly completed. Mr. McNamara believed the Board should be in receipt of that report by the November 3rd meeting.

The case was date specified to the November 3, 2014 meeting.

NEW BUSINESS

PB Case#PL2014-00032

Map 28 Lot 2-12-2 - MAMMOTH FIRE ALARMS REALTY TRUST - 112 Marsh Road - Applicant is seeking to make a change to a plan that was approved July 21, 1997 (Recorded Plan #28882). The plan shows the Wetland Conservation District buffer increased from 50ft. to 75ft. The applicant requests that the setback be changed back to 50ft. to enable the owners to construct an addition on an existing garage.

Mr. Dadak read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Shayne Gendron of Herbert Associates, representing the applicant, came forward to discuss the proposed plan change. He provided the Board with a brief history. In 1997 a frontage subdivision was done for Mr. & Mrs. Glance from which lots were created along Marsh Road. During the planning process a 75ft. buffer as recommended for the property. Since that time Mammoth Fire Alarms Realty Trust (Charles Beaulieu) purchased the property, built a home and garage that houses a collection of antique cars. The owner is looking to expand their antique car collection and put an addition onto the existing garage. The proposed addition would be sized at 30ft. x30ft. and maintain approximately 58ft-59ft off the edge of wetland. Mr. Gendron stated the edge of wet was reflagged in July, 2014 and re-established the 50ft. and 75ft. Wetland Conservation District ('WCD') on the property in the area where the proposed addition would go. With the proposed shed being more than 50ft. from the edge of wet, the request wasn't a zoning issue; however, Mr. Gendron felt it was an odd situation that should go in front of the Planning Board.

Mr. McNamara asked Mr. Gowan if the application was complete, in terms of accepting it for consideration. Mr. Gowan answered yes. He noted it was an unusual situation and encouraged the Board to refer to the meeting minutes of the July 21, 1997 Planning Board meeting. He informed the Board that the 75ft. buffer was self-imposed because it was studied to be a prime wetland. Later the State required a 100ft. setback, which they've now reverted back to a 50ft. setback under the Statutes. Since it was the Planning Board that originally approved the setback, only the Planning Board could change it.

MOTION: (Haverty/Dadak) To accept the plan for consideration.

VOTE: (7-0-0) The motion carried.

Mr. Sherman wanted to know from what year's FEMA map the base flood elevation was taken from. Mr. Gendron didn't have the information in front of him. He stated that their surveyor stamped the plan and believed he established the flood elevation. He hoped it was the most current map, which he believed was from 2008. He stated he would verify the information.

Mr. Dadak questioned if there would be any cutting/clearing to allow construction. Mr. Gendron believed the area was all open and no cutting/clearing would be necessary. A 50ft. buffer would be maintained. He reiterated the applicant was simply seeking to construct an addition. They were lo

Mr. Sherman recalled the back area of the garage was asphalt to allow for access into the garage. He inquired if with the addition that pavement would be extended further back to allow for the same access. Mr. Gendron referred to the applicant (seated in the public) and told the Board there was no proposal to do so.

PUBLIC INPUT

Mr. Robert Cavanaugh, 114 Marsh Road came forward and told the Board he and his wife had concerns and were opposed to any changes to the WCD setback. He walked the property line when they received notice of the meeting and made certain observations and reviewed the Town's usage for the WCD. He understood that disturbing soils and removing trees and natural vegetation wasn't allowed. He told the Board there was a large area of graded crushed stone that went from the existing asphalt to the edge of the water (high water mark), which he believed already compromised the 50ft. buffer. He learned there is a restriction for storing vehicles and equipment in the WCD area and told the Board he observed a ski boat (large motor boat) on a trailer, several tractors and containers he believed were fuel (gasoline or diesel). Mr. Cavanaugh was concerned about refueling vehicles in that area. He understood pool sheds and other structures weren't allowed in the WCD area. Until recently, he stated there was a metal framed storage facility up against the water boundary. He added there was a dock and granite stairs at the water's edge. He spoke of water runoff and his concerns about that runoff being a possible contaminant to well water and/or the pond if there was maintenance of the vehicles occurring. Mr. Cavanaugh stated his concern about the addition to the existing garage, which was disproportionately large considering the size of the lot. He felt this fact would have a negative impact on his property value.

For the record, Mr. Cavanaugh provided the Board with photographs (taken from his lot) of the area that he took after receiving notice of the hearing. He asked that the Board conduct a site walk. In 2003 he purchased his property was informed by the surveyor and real estate agent they couldn't do any construction or improvements on the rear of the property because of the WCD. He noted they had kept the area pristine; it was like night and day when the property line was crossed.

Mr. Doherty wasn't aware of any Town rules/laws that prohibit its residents from using bodies of water and having stairs and docks. He added that his neighborhood was full of them. Mr. Gowan informed that docks on any jurisdictional wetlands were controlled exclusively by the State. He commented some of the alleged information described could rise to the point of being a violation (disturbance of the soil). He stated a former zoning administrators/interim planning director (believed to be Clay Mitchell, who was also a land use attorney) had the opinion that the canvas/tarp covered structures (with no foundation) were not considered structures. He disagrees with this opinion, but has not overturned Mr. Mitchell's decisions in that matter. He didn't know if that decision was made in this case. Mr. Gowan said he had been on site to view the cars, but had never been in the rear of the property.

Mr. Gendron told the Board he couldn't speak to the information provided by Mr. Cavanaugh because he hadn't been to the site. In his knowledge the applicant was seeking to construct an addition to the existing garage that would conform with the present day WCD.

Mr. Dadak referred to the 1997 meeting minutes in which the Chairman (at the time was Clark Harris) explained that the WCD had a 50ft. buffer requirement and noted there was a prime wetland located behind the proposed subdivision. Mr. Harris went on to say that the board had been discussing increasing the WCD buffer to 100ft. as recommended by the State. Mr. Harris then asked Mr. Gove (of Gove Environmental) if he requested a no-cut zone or increase to the buffer setback; the applicant's engineer (Peter Zohdi of Herbert Associates) stated he would work with the applicant to do the best they could to satisfy the board relative to the issue. Mr. Dadak said based on the photographs submitted it appeared there had been cutting and operation within the setback.

Mr. McNamara stated the Board would conduct a site walk November 8, 2014.

Prior to the site walk, Mr. Sherman wanted the Board to be informed as to whether the wetland was voted by the Town to be a prime wetland. Mr. Gowan replied he would research. He noted even if it had been determined, the setback was 50ft.

Mr. Doherty wanted to know what specifically the Board would review when conducting the site walk to help make a decision in the matter. Mr. McNamara felt because the 75ft. setback was self-imposed by the applicant, there have been questions raised as to whether there have been changes made that weren't on the initial Planning Board review. He wanted to see the area in person.

Mr. Passamonte wanted to know the size of the proposed addition. Mr. Gendron replied the dimensions were on the plan, which he believed was 30ft.x30ft.

The Board decided to conduct a site walk Saturday, November 8, 2014 at 10am.

The case was date specified to November 17, 2014.

DISCUSSION

Discussion on the status of Skyview Estates, Phase I Alteration of Terrain Permit which is set to expire – The Planning Board to decide whether this phase is substantially complete & provide written opinion to Department of Environmental Services.

Mr. Montbleau stepped down.

Mr. McNamara believed this matter was a statutory requirement. Mr. Gowan commented the matter was on the October 6, 2014 agenda. He discussed the fact that Skyview Estates was a project that had been around for a while and previously received an Alteration of Terrain permit and also received an extension as the project evolved. It is time for the Department of Environmental Services to extend that permit again. In order for that to happen they need assurance from the Planning Board that the project is substantially complete, which was the opinion of Mr. Gowan and Steve Keach of Keach and Nordstrom (Board's engineering review firm). They had that opinion because nearly all the roads and utilities were in place and building foundations were being done. Disruption to the

terrain had already occurred. Mr. Gowan noted there was a phase II portion of the project that the Board had not yet approved.

MOTION: (Culbert/Croteau) The Planning Board has decided that phase I is substantially complete and to direct Planning Director Jeff Gowan to provide written opinion to the Department of Environmental Services regarding their decision.

VOTE: (6-0-0) The motion carried.

Mr. Montbleau returned to the Board.

ADMINISTRATIVE

Map 1 Lot 5-104 - Recommendation by Keach-Nordstrom Assoc., Inc. regarding Lawrence Corner Road being ready for acceptance.

Mr. Gowan provided a brief history of the project, which was substantially built over the past few years. There was a punch list of completion items determined at the pre-acceptance site walk. He noted that the road had held up well and already 'wintered over'. He stated it was Steve Keach's opinion, after completion of the punch list the road was ready for acceptance. If the Board concurs, Mr. Gowan will write a letter to the Board of Selectmen who have the authority to accept the road. He felt it seemed reasonable to do so before winter.

Mr. McNamara asked for concurrence that Lawrence Corner Road was ready for acceptance and to direct Mr. Gowan to write a letter to the Board of Selectmen to that effect. There was no objection; the Board was in concurrence.

DISCUSSION

Mr. Gowan told the Board he hoped to have the new proposed By-Laws for review at the next meeting. Mr. Doherty asked the Board to consider allowing a four-member board to make decisions; as the State allows. Mr. Culbert was against having a four-member board making decision in the event of a tie vote. The Board will discuss the topic when reviewing the By-Laws.

SITE WALK - November 8, 2014 beginning at 9am

PB Case #PL2014-00029 - Map 38 Lot 1-118 - JAMES W. PETERSEN, LLC - Sherburne Road

PB Case#PL2014-00032 - Map 28 Lot 2-12-2 - MAMMOTH FIRE ALARMS REALTY TRUST - 112 Marsh Road

DATE SPECIFIED PLAN(S) -

November 3, 2014:

PB Case #PL2014-00026 - Map 35 Lot 10-193 & Map 36 Lot 10-191-1 - GREEN, Richard; GREEN & COMPANY – 1-5 Garland Lane

PB Case #PL2014-00019 - Map 32 Lot 1-16-24 - SKYVIEW ESTATES, LLC – Skyview Estates Phase II - Majestic Avenue

November 17, 2014

PB Case #PL2014-00025 - Map 16 Lots 8-41 & 8-41-1 - ROBERT EDWARDS, SR. TRUSTEE - 703, 713 & 715 Bridge Street

PB Case #PL2014-00029 - Map 38 Lot 1-118 - JAMES W. PETERSEN, LLC - Sherburne Road

PB Case #PL2014-00032 - Map 28 Lot 2-12-2 - MAMMOTH FIRE ALARMS REALTY TRUST - 112 Marsh Road

December 15, 2014

PB Case #PL2014-00030 - Map 28 Lot 2-7 - COLE CIRCLE, LLC – PETERSON, Robert – 24 Burns Road

MINUTES REVIEW

October 6, 2014

MOTION: (Montbleau/Croteau) To approve the October 6, 2014 meeting minutes as amended.

VOTE: (5-0-2) The motion carried. Mr. Culbert and Mr. Haverty abstained (*They weren't present for the meeting being reviewed*)

ADJOURNMENT

MOTION: (Croteau/Haverty) To adjourn the meeting.

VOTE: (7-0-0) The motion carried.

The meeting was adjourned at approximately 7:43pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary