

**APPROVED**

**TOWN OF PELHAM PLANNING BOARD  
MEETING MINUTES  
December 21, 2020**

Chairman Tim Doherty called the meeting to order at approximately 7:00 pm.

The following notice was read aloud “A Checklist to Ensure Meetings are Compliant with the Right-to-Know Law During the State of Emergency” (*regarding access to the meeting*)

Secretary Cindy Kirkpatrick called roll:

PRESENT ROLL CALL: Tim Doherty – present  
James Bergeron – present  
Cindy Kirkpatrick – present  
Danielle Masse-Quinn – present  
Alternate Paddy Culbert  
Alternate Bruce Bilapka  
Planning Director Jeff Gowen

Via Telecommunication:

Roger Montbleau – present via telephone; no one in the room

Paul Dadak – present via Zoom; no one in the room

Alternate Samuel Thomas – present via Zoom; no one in the room

*\*departed the meeting at approximately 8:43 pm*

Alternate Mike Sherman – present via telephone; no one in the room

Selectmen Representative Kevin Cote – present via Zoom; no one in the room

ABSENT/

NOT PARTICIPATING: Alternate Richard Olson  
Alternate Selectmen Representative Hal Lynde

**PLEDGE OF ALLEGIANCE**

**MEETING MINUTES**

**December 7, 2020**

Deferred to January 4, 2021 meeting.

**ADMINISTRATIVE**

**Planning Director Gowan seeks recommendation from the Planning Board to the Board of Selectmen for acceptance of the following roads as Town-owned Class V Public Roads: Drummer Road & Piper Lane**

Mr. Gowan stated that this Board has made recommendations of several other roads to the Selectmen for their January 19, 2021 public hearing. He informed that after speaking with the Keach Inspector and the developer, they realized that two additional roads were ready for acceptance. These roads are associated with Bayberry Woods – Drummer Road and Piper Lane. Drummer Road connects from Stonepost Road to

Poplar Hill near the Pelham-Harris Inn. Piper Lane is a short cul-de-sac road in the project that has held up very well over the past few years. He is seeking that this Board recommends that the Board of Selectmen accept these roads as Town Roads at their January public hearing.

**MOTION:** (Masse-Quinn/Kirkpatrick) To advise the Board of Selectmen to act on the acceptance of these two new roads.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

### **PUBLIC HEARING ON ZONING AMENDMENTS**

**Pelham Planning Board DRAFT zoning change to modify Article V – I MIXED USE ZONING OVERLAY DISTRICT (MUZD).**

Mr. Doherty stated that one of the suggested changes was in the “Allowed Uses” table that makes a clarification that only one single, duplex, or multifamily residential structure is allowed per lot.

Mr. Gowan stated for the public that at the Board’s direction he sent both draft pieces of zoning to the NRPC and Attorney Ratigan. Neither of them had any recommended changes to this draft ordinance. He informed that the only changes the Board had made were to add specific reference that this ordinance was for innovative land use zoning and the change to the Allowed Uses table.

Mr. Doherty stated that it came to his attention that the height restriction in the MUZD is 30 feet high for structures, but in other parts of Town there is the ability to build higher than 40 feet. Ms. Kirkpatrick asked why this restriction is in place in the MUZD. Mr. Gowan replied that part of the reason the restriction is in place is because the Fire Chief recommended it and he believed it could help preserve the character of the center of Town. It is possible that a building of inappropriate size in this district could vastly change the character of the area. Mr. Sherman and Mr. Culbert both agreed that the main reason for the height restriction was from recommendation from the Fire Chief. The Fire Department lacks a ladder on any of the engines, so they did not want to rely on surrounding towns to service the taller buildings in Town.

Mr. Bergeron agreed with the height restriction in the MUZD district. He believed that if there was not a height restriction, it could create an unharmonious look to the center of Town. There could be a towering multi-family home next to the surrounding residents would be inappropriate to what the Board is trying to accomplish in the MUZD district.

### **PUBLIC INPUT**

No one from the public came forward.

Mr. Gowan informed the Board that there is a statutory obligation for the Town that for any district with 100 or fewer properties need first class mail notice of a public hearing if the district boundaries or allowed

uses changed. Since no substantial changes were made to the MUZD wording at this hearing, they do not need to renotify residents. He stated that residents in the MUZD received notice for this public hearing as well as the public hearing on January 4, 2021, so they will not receive another letter of notice. He stated that if there were any questions to please call the Planning Department.

The second public hearing on the changes to the Article V – I MUZD will be on January 4, 2021.

**Pelham Planning Board DRAFT zoning change to add zoning Article XV RESIDENTIAL OPEN SPACE SUBDIVISION by Special Permit.**

*The following section is slightly out of chronological order of the meeting to put discussions of each change with the vote on those changes for clarity.*

Mr. Gowan stated that on the Board’s direction he did send this draft to both Attorney Ratigan and to the NRPC for their review, with both sending in some recommended changes to the language in the ordinance.

Mr. Paul Gagnon, Conservation Commission Chari, joined the Board when Mr. Doherty opened the meeting to the public. Mr. Doherty stated that any time during the discussion that anyone from the public could come forward with comments.

Mr. Gowan stated that Attorney Ratigan suggested a change to one of the sentences in the section 307-93 C of the ordinance. The section previously read: “The Board of Selectmen may vote to accept the open space parcel(s) for the expansion of Town-owned conservation land.” Mr. Ratigan suggested it be changed to read, “The Board of Selectmen can accept non-common land open space parcels for the expansion of Town-owned conservation land.” Mr. Gowan felt that this distinction helped for clarification of the difference between common land and open space.

Mr. Gowan asked if they wanted to accept the language from Attorney Ratigan in this section. Mr. Gagnon stated he did not want to accept the language change from Attorney Ratigan. Mr. Bergeron stated that he agreed and wanted to keep the language as simple as possible.

**MOTION:** (Masse-Quinn/Bergeron) To strike the recommended changes from Attorney Ratigan in section 307-93 C of the ordinance.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Gowan read the proposed changes from the NRPC to section 307-95: Application Procedure to clarify the Conservation Commission’s role. The section currently states, “The Conservation Commission will provide a subsequent written assessment and recommendations to the Planning Board.” The NRPC suggested to add “on potential impacts to natural resources, connectivity of existing and proposed trails, the suitability, extent and location of proposed open space and other related issues”

Mr. Bergeron asked if it was possible to send proposed plans to the Conservation Commission before they were sent to the Board for approval. Mr. Gagnon stated that the Conservation Commission would be delighted to give their input anytime the Board finds it appropriate and agrees that the earlier they see a plan the better. This could help save developers from spending money and resources on the plans for subdivisions that the Conservation Commission could potentially ask them to change. The earlier they ask for the changes, the more money and time you could save developers. Mr. Gowan replied this ordinance outlines sending the plans to the Conservation Commission at the earliest opportunity. He informed the Board that if a plan is not accepted for consideration by the Board, it is not able to be referred out for review and is not eligible to be date specified to a future meeting.

Mr. Bergeron stated that he had an issue with the time limit placed on plans if the plan needed to be sent to the Conservation Commission for review. Mr. Montbleau responded that he understood Mr. Bergeron's concerns, but it has not been a problem. He stated that if an applicant got to the end of the time clock period, and the Board was not satisfied, they had the ability to work with the applicant to extend their time clock if needed. He stated that if the applicant did not want to work with the Board and ran out of time, they could vote to deny the plan. Mr. Gowan reiterated that the Board cannot send a plan out for review or date specify a plan until it has been accepted for consideration by the Planning Board and that it is not wise to be reckless with extensions of the time clock. He also informed the Board that in the past, they have typically been able to work with applicants to give them some extra time if needed.

Mr. Gowan informed the Board that it is possible to have a non-binding discussion of a plan if all of the abutters are notified prior to the meeting. If the abutters are not notified, then the Board cannot give any direction to the applicant. Mr. Sherman asked if there was a proper preliminary meeting, could the Planning Board conduct a joint meeting with the Conservation Commission. Mr. Gowan stated that they are not allowed to do that. The current statute only allows for the Planning Board and Zoning Board to have joint hearings. He stated that it is possible for a member of the Conservation Commission to come to a Planning Board meeting to give their input on a plan, but they are not allowed by statute to have a formal joint hearing with the Conservation Commission.

Mr. Gagnon informed that while this may not be as perfect as what some members would like, it is much better than the previous version of the ordinance, and a huge step forward for the Conservation Commission. Prior to this ordinance, the Conservation Commission never saw the plans for preliminary open space subdivisions or yield plans unless the plans included impacts to wetlands or wetland buffers. He understood that the Board was trying to involve the Conservation Commission as early as possible and believed that this ordinance included them at the earliest stage they could be included at.

**MOTION:** (Dadak/Kirkpatrick) To accept the recommended changes from the NRPC to section 307-95.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
 Mr. Bergeron – Yes  
 Ms. Kirkpatrick – Yes  
 Ms. Masse-Quinn – Yes  
 Mr. Montbleau – Yes  
 Mr. Dadak – Yes  
 Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Gowan informed that Attorney Ratigan suggested that a slight language change should be made to section 307-97: Special Permit Review. Attorney Ratigan suggested that the Board change “Every development” to “The applicant,” as a development is not able to physically do anything, the applicant can.

**MOTION:** (Bergeron/Montbleau) To accept Attorney Ratigan’s suggested edit to section 307-97.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Gowan stated that the changes to the next section, 307-98: Definitions, came from both the NRPC and Attorney Ratigan. NRPC wanted to move this section as some of the terms defined in this section are used before they are defined.

**MOTION:** (Montbleau/Dadak) To accept the NRPC’s suggestion to move section 307-98: Definitions, to before 307-95: Application Procedure.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Attorney Ratigan suggested to change the term “Common Area” to “Common Land” in this section. Mr. Doherty stated that if this change is made, then there will be no definition to common area which is used throughout the ordinance. Ms. Masse-Quinn stated that she wanted to change the language back to the way they had it originally to read “Common Area” as opposed to common land.

**MOTION:** (Masse-Quinn/Bergeron) To strike Attorney Ratigan’s recommendation to change the term “Common Area” to “Common Land” in section 307-98.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Gowan stated that the next change was a very minor one to section 307-100: Parcel Requirements from Attorney Ratigan. He recommended that the Board add “parcel” to the end of the first sentence in the section to read: “Fifteen (15) acres is the minimum size for an Open Space Subdivision development parcel.” Mr. Doherty said that it was not much of a change that effected the ordinance.

**MOTION:** (Cote/Masse-Quinn) To accept Attorney Ratigan’s recommended change to section 307-100.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Gowan stated that the NRPC recommended a few small changes to section 307-104: Subdivision Regulations. They recommended wording for the section should read: “The Planning Board shall adopt sections of the Subdivision Regulations which shall apply to the Open Space Subdivision, including the right to waive such regulations. Where not specifically described within the provisions of this ordinance, the requirement that is more restrictive shall apply.” Mr. Doherty stated that he wanted to change “Open Space Subdivision” to the article title. Mr. Cote suggested changing it instead to “this ordinance.” Mr. Gowan agreed with Mr. Cote’s recommended change, as it would be more confusing to call out the ordinance by its full name in a subsection of the ordinance.

**MOTION:** (Cote/Dadak) To use the language Mr. Cote suggested as well as the recommendations from the NRPC for section 307-104.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Gagnon stated that he had an issue with the proposed changes by Attorney Ratigan to section 307-105 B. Attorney Ratigan suggested to change the language to say, “common land open space” as opposed to just “open space.” He stated that adding this distinction in there would hinder the Town from accepting open space that had stormwater treatment structures on them, as stormwater treatment structures are required to be on common land. He informed that the Town has a history of accepting some open space into the Town that had stormwater treatment structures on it. He stated that if the Town was comfortable with all of the stormwater treatment centers being owned by the Homeowners Association, then they could move forward with the language. He would like to strike the added “common land” from the section.

Mr. Gowan stated that Attorney Ratigan would most likely never advise the Town to accept open space with drainage structures on it. Mr. Doherty stated that he wanted to ensure that they do not have a stormwater drainage structure that gets plugged and starts to overflow onto Town roads. He wanted to make sure that if this language gets approved, that the Town has the right to maintain those structures like they do on conventional subdivisions. Mr. Gowan informed that there is a process now to ensure there is an easement to go in to address drainage with only a few exceptions to private projects. He stated that HOA is required to take care of those exceptions to ensure they are properly maintained.

Mr. Bergeron stated that he did not believe the added changes would change much more than create two words that need additional definitions and further confuses the ordinance. Mr. Gagnon asked why Mr. Ratigan was trying to make a distinction between open land and common land and preferred the language to go back to the way it was previously written. Ms. Masse-Quinn agreed with this. Mr. Doherty informed that common area includes both parcels of land as well as areas of water, so the language of common area is more fitting than common land.

**MOTION:** (Cote/Masse-Quinn) To not accept Attorney Ratigan’s recommended changes to section 307-105 B.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Gowan stated that the NRPC suggested to remove the mention of Planned Urban Development (PUD) from section 307-105 D. He read aloud the definition of PUDs to the Board and stated that they are much more complicated than the Town’s current MUZD. He informed that the inclusion of PUDs could further seriously complicate things.

**MOTION:** (Cote/Kirkpatrick) To accept the recommended NRPC’s change to section 307-105 D.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Ms. Masse-Quinn asked for clarification on Attorney Ratigan’s suggested inclusion of ADUs to section 307-106 A. Mr. Gowan stated that by statute, ADUs would be allowed in residential units, whether the language is physically there or not, the law allows residents to add an ADU to their home, given they follow the appropriate processes outlined in the zoning ordinances. Mr. Bergeron stated that if it is already scripted by law, then there is no need to mention it in this section of the ordinance. Mr. Gowan stated that he believed

Attorney Ratigan included the addition for clarity purposes. Mr. Doherty and Mr. Sherman stated that they believed the addition of this language could signal developers to bring forth ADUs already included in their plans. Mr. Doherty was nervous that a 30-home development could be presented to the Board with an ADU attached to each dwelling and use the language in this ordinance to back them up. Mr. Bergeron stated that he felt they should remove the mention of ADUs from this section of the ordinance.

**MOTION:** (Masse-Quinn/Dadak) To strike Attorney Ratigan’s recommended change to section 307-106 A.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Gowan read aloud Attorney Ratigan’s recommended change to section 307-106 C2 to include additional language. The Board found the recommended added language to be very confusing. Mr. Gowan believed that Attorney Ratigan included the language to make a distinction between common land and open space, though he thinks it would make it clearer to just change the language towards the end of the section to read “lot” instead of “unit.” Mr. Dadak agreed with Mr. Gowan.

**MOTION:** (Cote/Dadak) To strike Attorney Ratigan’s recommended change to section 307-106 C2 and change the last word in the section to “lot” instead of “unit.”

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Ms. Masse-Quinn – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Mr. Cote – Yes

(7-0-0) The motion carried.

The last recommended change to the ordinance came from Attorney Ratigan to section 307-107: Expiration. He recommended to add “which may be extended by the Board upon request for reasonable cause,” to fully read: “Any Special Permit shall expire if there has not been active and substantial development or construction on the site by the owner of the owner’s successor in interest in accordance with the approved plan within twelve (12) months after the date of approval, which may be extended by the Board upon request for reasonable cause.” Mr. Gowan recommended that the Board make this change, as it makes it clear that an applicant is not fully bound by the 12 months.

Mr. Culbert felt like this language left it open-ended, which he did not agree with. Mr. Doherty stated that the language added here does not change anything, only lets people know what the Board already does. Mr. Gowan stated that as it works now, a plan might get approved, then take a few months to get the required signatures, and then needs to wait for the bond approval, which can tie up quite a bit of time. This process



can easily push 12 months or exceed that time. He believed that the added language does not hurt the ordinance, nor make it a stronger ordinance. Mr. Doherty did not agree that the language left it open-ended.

**MOTION:** (Bergeron/Masse-Quinn) To not accept Attorney Ratigan’s recommended change to section 307-107.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
 Mr. Bergeron – Yes  
 Ms. Kirkpatrick – Yes  
 Ms. Masse-Quinn – Yes  
 Mr. Montbleau – Yes  
 Mr. Dadak – Yes  
 Mr. Cote – Yes

(7-0-0) The motion carried.

Mr. Doherty closed the discussion to the public. Mr. Gowan stated that he would make the voted-on changes as discussed. He stated that he would talk with Attorney Ratigan to ensure that the Board does not have the obligation to renotify the public of the second hearing.

The second public hearing on the changes to the Article XV – RESIDENTIAL OPEN SPACE SUBDIVISION will be on January 4, 2021.

## **DISCUSSION**

### **Discussion regarding changes to land use regulations.**

Mr. Bergeron stated that the Board should hold off on this discussion, as it is a 90-page document that possibly needs some revisions to be made. He suggested that we hold off on this discussion until after the two upcoming holidays. Ms. Kirkpatrick agreed with this. Mr. Doherty stated that he would like to get through the two public hearings on zoning changes before this discussion.

### **NON-PUBLIC SESSION** – If requested in accordance with RSA91-A:3

Not requested.

## **ADJOURN**

**MOTION:** (Montbleau/Dadak) To adjourn the meeting.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
 Mr. Bergeron – Yes  
 Ms. Kirkpatrick – Yes  
 Ms. Masse-Quinn – Yes  
 Mr. Montbleau – Yes  
 Mr. Dadak – Yes  
 Mr. Cote – Yes

(7-0-0) The motion carried.

The meeting was adjourned at approximately 9:31 pm.

Respectfully submitted,  
Jordyn M. Isabelle  
Recording Secretary