

APPROVED

**TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
July 8, 2021**

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

Secretary Danielle Masse-Quinn called roll:

PRESENT ROLL CALL: Tim Doherty – present
 James Bergeron – present
 Roger Montbleau - present
 Danielle Masse-Quinn – present
 Kevin Cote - present
 Alternate Bruce Bilapka – present
 Acting Planning Director Jennifer Beauregard – present

ABSENT/
NOT PARTICIPATING: Paul Dadak
 Cindy Kirkpatrick
 Hal Lynde
 Alternate Paddy Culbert
 Alternate Samuel Thomas
 Alternate Richard Olsen

Mr. Bilapka was appointed to vote for this meeting.

PLEDGE OF ALLEGIANCE

MEETING MINUTES

June 7, 2021

MOTION: (Cote/Montbleau) To accept the June 7, 2021 meeting minutes as written

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

OLD BUSINESS

Case #2021-00014

Maps 10 & 11 Lots 13-2-1 & 13-3

MAGIERA, Donald and James W. Petersen Built Homes, LLC – Bridge Street (Rt. 38) - Seeking to subdivide 2 duplex lots from the parcel’s existing frontage along Rt. 38 and to submit a Conventional Subdivision yield plan & preliminary Open Space Subdivision plan for Special Permit approval. If a Special Permit is approved, the applicant will submit a fully engineered Open Space Subdivision plan to be considered by the Planning Board which shall be a new application subject to abutter notification

Mr. Montbleau recused himself from the case.

Mr. Maynard from Benchmark Engineering is representing Mr. Peterson on this project. They were before the board a month ago and subsequent to that meeting walked the property and met with the Conservation Commission to talk about making this an open space development. The Conservation Commission had some concern since the open space did not connect to any other open space, therefore they were not overly supportive of the open space layout that was proposed. After that meeting, the client decided to go with a conventional subdivision. Mr. Maynard wanted to still come before the board to get any last input so that he can clean up the design before going to any formal engineering on this property. They spent quite a bit of time on the yield plan working it out. He spent a little more time working on the front section trying to reconfigure areas to make lot 1 more uniform. There are five spots that he highlighted on the plan that he handed out to the board showing the waivers that would be required. He explained they were looking at a little over 2,000 feet of road with this project. About 17 lots would be off the proposed road. He said under town ordinance it would fall under the Local Street 1 which is intended to accommodate about 200 vehicle trips per day. Based upon a 17-lot subdivision, they are anticipating about 170 trips per day/10 per house. He wants to make sure that the board was okay with a 22-foot-wide road on this property. If the board wanted, he could probably stretch the road by another 100-200 feet. He is looking for input at the point so that he can move forward with the design.

Mr. Doherty thought that he should read the letter from the Conservation Commission following the walk through. “Dear Chairman Doherty and Planning Board members the above noted case was presented by Joseph Maynard of Benchmark Engineering who came before the Conservation Commission on Wednesday June 9, 2021. We held a site walk on Monday June 14, 2021. The applicant proposed to construct 2 duplex homes and 17 single family homes on 37.5 acres. This is the first open space subdivision to be submitted under the new open space subdivision regulations. Under this proposal 16.6 acres or approximately 50% of the parcel will be preserved as open space. Approximately 70% of the open space is uplands with 30% wetlands. The applicant began by presenting a yield plan containing 2 duplexes and 17 residential homes on a 2,000-foot road ending in a cul-de-sac. In this conventional design all land is privately owned with no open space protected. The applicant then presented an open space subdivision proposal containing the same 2 duplexes and 17 residential homes except this design required only a 1,500-foot road ending in a cul-de-sac. In the open space proposal 16.6 acres are preserved as open space. Our initial discussion centered around the 2 duplexes and lots, 2, 3, 13 & 14 which in the open space design contain limited uplands but considerable wetlands and wetland conservation district of WCD. Duplexes are not allowed in an open space subdivision and in this proposal, they consume much of the frontage which an open space subdivision aims to protect in order to buffer the subdivision from the road. Lots 2, 3, 13 & 14 are only 75-100 feet deep before encountering the WCD. Shallow lots such as these will almost certainly lead to WCD violations as residents install pools, sheds, lawns behind their homes. In fact, 10 of the 17 open space lots contain WCD or wetlands or both. Further none of the wetlands adjacent to Bridge Street is protected as part of the open space plan. The entire wetland as proposed will be privately owned. One of the major benefits of an open spaced subdivision is keeping the wetlands and buffers from being privately owned to minimize wetland and WCD violation. This is the first application under the new open space subdivision regulations and as such will receive considerable scrutiny. Unfortunately, this parcel does not have the potential to be an outstanding example of an open space subdivision as the open space will be surrounded by homes and can be never enlarged. But we believe the parcel could be acceptable open space subdivision with some changes to be made. Acceptable meaning most of the frontage and most of the wetlands in WCD could be protected and a shorter road could be constructed. Suggested changes include the following: the wetland on Bridge Street could be largely protected if the changes were made. First if one duplex were constructed that being the one off of Youngs Crossing, the 2.3-acre lot currently used by the second duplex could become open space. The second one could be reduced in size such that the WCD Zone lock became part of the open space. Third lots 2 and 3 could be combined into one lot such that the wetlands on those lots became part of the open space. These 3 steps protect the wetlands along Bridge

Street and most of the associated WCD. Lots 13 & 14 might also be combined to reduce the changes of WCD encroachment. To offset the losses 2 more lots could be added to the uplands in the east of the cul-de-sac thereby maintaining a total of 17 residential lots. No doubt there are other options, but these are a few discussed at our meeting. The Conservation Commission did not make any motions to take any votes but would encourage the applicant to rethink the open space in an attempt to increase the amount of frontage on Bridge Street that would be protected and to reduce the number of lots which contain wetlands in WCD. Thanks in advance for your support in this matter. If you have any questions, please contact me, Paul Gagnon, Pelham Conservation Commission.” Mr. Doherty noted that this was taken off the table and that there are a total of 19 lots.

Mr. Bergeron noted to Mr. Maynard that he realized that this is a very rough draft of the new proposal and that he did not go into full detail, but he had a few questions about some of the details. He wanted to start with the shape of some of the lots. Lot 7 goes to a very narrow point; he thinks that this is a very confusing lot line between lots 7 and 8 that would not meet the criteria of the land use regulations for regularly shaped lots. The second thing that he wanted to ask about was regarding access to Route 38 for lots 1 and 2. There is a frontage duplex lot calling it 2 acres, lot 1, where is the driveway planned? Mr. Maynard replied that the driveway would be on Youngs Crossing. Mr. Bergeron feels that the driveway on Youngs Crossing is a nonstarter for him. Youngs Crossing qualifies as a high-volume traffic road and the angle of the road intersecting 38 will cause a lot of problems. There have been a lot of accidents at that location and stacking at certain times of day which would make it virtually impossible to access this driveway at those times. Mr. Bergeron will ask for a traffic study for this project based on this.

Mr. Doherty commented on how difficult it is coming up Youngs Crossing and trying to take a left to go south on 38. The southerly traffic coming from Salem will not slow down to let someone out. They just blow by onto Youngs Crossing without slowing down. It is the most inconsiderate road that he drives on every day.

Mr. Bergeron asked Mr. Maynard if he could incorporate some sort of redesign so that the lot 2 driveway could incorporate with the lot 1 driveway although this would require a zoning variance.

Mr. Cote would like to add lot 9, 7, and 8 regarding lot shapes. He asked where the frontage was for lot 12. Mr. Maynard answered it is along the stonewall in that section. There is still 200 feet of frontage on the other side. Mr. Cote asked him if he could straighten the lot line between 16 and 17. The reply was that he could and then ask for a lot line not being radial to the street. Mr. Cote asked if he could do away with lot 5 and utilize a shared driveway for lots 1 and 2. Mr. Maynard replied that in the zoning rules it says that wherever a lot has its frontage is where the driveway must come in from. Theoretically he could do it but would need a variance to come in from the other side. Mr. Cote asked about extending lot 1 to the new road. His thought process was that the only access to 38 would be the new road. Mr. Cote realizes that he is asking Mr. Maynard to remove lot 5, but he was wondering if he could maneuver his lot line between lots 14 and 13 and split 14 into 2 lots. Mr. Maynard said this is still conceptual and as he straightens out his lot lines and hears the board's comments, he can try to do something. Mr. Cote reiterated that in his opinion if they could make it only one access to the entire subdivision, he would be willing to work with a lot of other things.

Mr. Bergeron asked Mr. Maynard if he had any discussions with DOT about the curb cuts and any discussion about northbound deceleration. Mr. Maynard talked to his traffic engineer about any kind of decel lane and he said for the number of homes, it is just not warranted. He did speak with DOT, but it was more about how many curb cuts he was allowed on the property.

Mr. Doherty said it seemed that with the board members that were present if he was able to get a common driveway from the proposed road for lots 1 and 2, there may be some leniency given for some of the waivers

on some of the other items like irregularities and lot shapes in exchange for safety concerns. They would err on the side of safety.

Mr. Bergeron replied that as a crossover member of the boards, if the Planning Board were to instruct him to give positive testimony to the Board of Adjustment for any zoning relief that may be needed for the public safety improvements regarding the access to 38, he would be willing to do that. As far as the shape of the lots, maybe after having a site walk, he may lean in that direction. He would prefer the best of everything.

Mr. Doherty noted how Mr. Bergeron was normally reluctant to sit on the case in both the planning and the zoning side. Mr. Bergeron replied that he could still give testimony as a planning board member, and he would make sure that he had consensus from this board of a majority of members before he would speak. But he would not vote on it at the Board of Adjustment.

The consensus of the board was in favor that if Mr. Maynard resolved the one road access issue, they would want Mr. Bergeron to speak favorably to the Board of Adjustment.

Mr. Doherty opened the discussion up to the Public.

Rachel Shipulski, 20 Koper Lane, Pelham NH came forward. She was at the last meeting and 2 plans were presented. The one presented at this meeting was the conventional subdivision. She asked if the open space was not a possibility at this point. Mr. Doherty replied that was correct. She questioned why that was the case when the town overwhelmingly supports open space and voted on it.

Mr. Doherty replied that the open space subdivision is not a requirement. It is an option that a developer can use on a site if the site is large enough and if it is an adequate site to do an open space subdivision. But there are several things that this developer wants to do that cannot be done on an open space subdivision. It is single family homes only in an open space subdivision. This plan has 2 duplexes. He cannot just subdivide those off and then make the remainder open space.

Ms. Shipulski abuts this land and is concerned about some of the land behind them because she feels there is a lot of it that needs to be preserved. There is a stream running through it and a lot going on back there. She thought that there was a public site walk in July and may have misunderstood. She wanted to know if there would be another.

Mr. Doherty said that the board can request one but currently the plan is just conceptual, and Mr. Maynard was before the board for input before doing major engineering.

Ms. Shipulski would like to see the applicant reconsider and see if he can make an open space subdivision work.

Mr. Doherty stated that as far as wetlands are concerned, the applicant will be required to have a 50-foot buffer with “no cut / no disturb” signs every 50 feet around it.

Ms. Beauregard said that the abutters will be notified when he comes back with a formal application.

Paul Yeaman, 18 Koper Lane, Pelham NH came forward. He is an abutter. He wanted to call attention to lots 10, 11, 12, 13, and 14. These are lots that were part of the open space plan that were designated as conservation area. Those particular lots abut the wetlands. Half of this development is at the bottom of a very steep hill. In 2010 or 2011 this entire lot was clear cut. He stated when vegetation is removed, it creates runoff and areas that were not wetlands became wetlands and areas that had trees outside of this lot

area fell. He lost 25% of the trees in his backlot which is adjacent to lot 12. He thinks that there needs to be a significant vegetative buffer zone on the border of the area where the wetlands are to prevent further erosion and damage to the adjoining properties.

John McCullough, 28 Koper Lane, Pelham, NH came forward. He is an abutter. He asked if the letter from the Conservation Commission was available to abutters. He was given a copy. He wanted to know if the board mandates that the developer get together and meet with the abutters.

Ms. Beauregard responded that this board could not mandate this. Abutters are invited to this meeting where they can ask questions and they are invited on the site walk. A developer could choose to meet with them on their own if they chose.

Mr. McCullough supports the open space subdivision concept for this. He also shares the safety concern that was voiced earlier.

David Shipulski, 20 Koper Lane, Pelham NH came forward to bring up a few points. The first point is about Youngs Crossing; it is very dangerous to put a driveway there. He stated if a snowplow were to plow that driveway, it would get hit by a car. No matter what time of year or what the weather, there was always someone flying up that hill. He personally thinks that putting a driveway there is dangerous for everybody. He is not against building houses; he understands that we need houses. He thinks that it would be better to have open space versus conventional. There is a culvert that comes down about halfway between 20 and 18 Koper Lane, it goes all the way through and into the woods to Salem and goes into Harris Pond. His concern is that if it were to be the conventional plan, people would put things in their backyards and will fool around with the drainage that will cost the town to fix it. If it backs up, the whole street will flood and get into people's houses. Behind his house behind the rock wall, it drops off; in some spots it can be five feet deep. If it has eroded that much over the years, it will do it again. If you go conventional, the water will come up and it will crack everyone's foundation. He stated it is always wet down there to begin with, so this will make it even worse. It is all scalped back there so there are no trees anymore for the wildlife. Some of it is starting to come back. If you went open space with the buffer, there would be an area for the wildlife. You need to have space for the animals, or they will be coming up into the yards. There are chipmunks, deer, fox, etc.

Mr. Doherty asked his age because he is such a great speaker and they have an alternate position on the board; but he is 14.

David reiterated that his main concern is about water. He personally would rather see no houses there at all, but he understands that there will be therefore he feels that open space is the way to go, and they should perform a walk through with the people.

Ann Yeaman, 18 Koper Lane, Pelham NH came forward. She spoke about the buffer zone and how over the years, people tend to cut right up to the buffer. She also wanted to speak about her concern about runoff. She stated that if there was not any extra space there, it may not happen in the next five years but over time, they would be in that situation to where trees are falling in that back area. She is asking that more space be given to protect the areas abutting the project.

Mr. Doherty closed the discussion to the Public.

Mr. Doherty asked Mr. Maynard if the drainage easement was opened or a pipe. Mr. Maynard said that it is an open drainage ditch. There is a pipe at the first section of it, then it goes to an open drainage area by the time it hits the jog. There is a wet finger that comes up the common lot there.

Mr. Doherty asked Mr. Maynard that if he continued with the conventional development would there be any disruption to those lots that would impact the residents in Koper.

Mr. Maynard said no that it would all drain toward the town line. On this property there is a high point around lots 17, 16, and 7. There is a hill at that section, but then it breaks in two directions. It breaks back toward route 38 and it breaks down toward the Salem line. If it were to flood out it would head into lot 18. They are looking at 2 detention ponds on this property. One toward the front of this that would take half the road and the other one would be at the very rear of the lot that would take the other half of the road. So, there would be a split in their drainage design.

NEW BUSINESS

ADMINISTRATIVE

Map 15 Lot 8-216

PETERSEN BUILT HOMES – Landmark Estates Condominiums – Request for Bond Reduction

Ms. Beauregard said that they are requesting a bond reduction. Ms. Beauregard read a letter from Jeff Quirk, Keach-Nordstrom into the record recommending the reduction of the bond by \$296,970.25 for the work completed, leaving a balance of \$277,610.00 to support the completion of the project. This was for a 42-unit elderly housing community that consists of Abacoa Rd., Basswood Rd, and Redwood Rd.

MOTION: (Cote/Bilapka) To reduce the bond by \$296.970.25

VOTE: (5-0-0) The motion carried.

Map 38 Lot 1-118 & 119

PETERSEN BUILT HOMES – Long Pond Woods Condominiums – Request for Full Bond Release

Ms. Beauregard said that this was a 67-unit senior housing development off of Sherburne Rd. It consists of Sagewood Dr., Dragonfly Dr., and Wildflower Dr. which will all remain private roads. Ms. Beauregard read a letter into the record from Jeff Quirk, Keach-Nordstrom confirming that the work has been completed and recommending that the remaining surety of \$17,960.20 be released.

MOTION: (Cote/Masse-Quinn) To release the full bond of \$17,960.20

VOTE: (5-0-0) The motion carried.

DISCUSSION

Land Use Regulations

Mr. Bergeron suggested that under 202-1 A and B the words “*Planning Director*” should be replaced with “*Planning Board*”.

Ms. Beauregard explained that Paragraph A is prior to the application having been submitted and that should be left as Planning Director. Mr. Bergeron concurred.

After discussion with Ms. Beauregard, Mr. Doherty, and Mr. Bergeron about the purpose of Paragraph B, they agreed that the sentence-- “*After an application has been submitted to the Planning Department, the applicant may not supplement, revise or modify the application after notice of public hearing has been*

given without consent of the Planning Director.” should be changed to—“ After an application has been submitted to the Planning Department, the applicant may not supplement, revise or modify the application after notice of public hearing has been given.”

Mr. Bergeron noted that 202-3 C-3 b 6 should be a minimum of two test pits, not one. Under 203-1 B-3 it says two test pits.

Ms. Beauregard agreed that in the past it was always two.

Mr. Doherty said that the state required him to have to test pits on his own lot.

Agreement was to change 202-3 C-3 b 6 from: *“A minimum of one test pit with corresponding 4,000 SF receiving area, meeting applicable NHDES requirements, on each platted lot;”* to *“Two test pits with corresponding 4,000 SF receiving area, meeting applicable NHDES requirements, on each platted lot;”*

Mr. Bergeron proposed changing 203-2 C from *“Iron pins, having a minimum diameter of 1/2-inch and minimum length of 36-inches, may be used all other monumentation points, and shall be installed so as to extend approximately 3-inches above finish grade.”* to *“Iron pins, having a minimum diameter of 1/2-inch and minimum length of 36-inches, may be used only where impervious grounds such as surface or near surface bedrock is present and at all other monumentation points, and shall be installed so as to extend approximately 3-inches above finish grade.”*

Consensus was to change the first sentence under 203-1 A striking out the word *“triangles.”*

Mr. Cote had a question on 307-9 in the Zoning Ordinance and whether it was still valid since we now have detached ADU's.

Mr. Doherty says that it is still valid since we have a section of zoning that overrides it. A mixed-use building in the MUZD, you can have multiple mixed-use buildings on one lot. This section is general if there is no other section in zoning that you are going against, then this would pertain.

By Laws

Ms. Masse-Quinn put a draft together of proposed Policies & Procedures/ By Laws. Her goal was to utilize the RSA 676:1 to offer future board members a detailed resource to go to while serving on the board and to serve as a bridge of communication to other boards. It consists of 15 articles. She utilized the formats of both the towns of Windham and Sandown NH. She briefly summarized the articles. She asked if the members of the board would like to replace the current By Laws with this. As a new member becoming a secretary, she referenced the existing By Laws and it did not provide her much help.

Mr. Doherty asked if there were any members of the board that felt as though they should leave the By Laws as they are or do, they feel they should be replaced. The consensus was that they should be replaced.

Mr. Doherty questioned that there was no language that said specifically who would appoint the committee members. For example, if there were not volunteers and the chair needed to solicit members. Mr. Bergeron felt that 6.6 covered it as it was the board's responsibility, and they could request the chair to appoint members.

Mr. Doherty also discussed that in some change of use situations should it be okay for the Planning Director or Code Enforcement to ask the chair to make a call on a minor change that would not impact the septic load. Every time there is a change of tenant Ms. Beauregard confirmed that they need to get a new

occupancy permit. Mr. Doherty questioned if we should we add something about this situation in this document. Ms. Beauregard agreed that it would be a good point to ask when we have legal look at it. Mr. Bergeron would like to hear how other towns handle this. Ms. Beauregard agreed to ask town counsel how other towns handle it, etc.

Mr. Bergeron talked about Article 2 Membership, Terms of Office, Members, and Vacancies. Mr. Bergeron recommended a slight change to the verbiage. Everyone agreed.

Mr. Cote would like more time to review the document. Mr. Montbleau asked Ms. Beauregard to send a copy to all the members who were not present and ask them to review and comment prior to it going before legal.

There was discussion about 14.4 regarding the process of nominating representatives for appointment and reappointment to NRPC. Moving forward when the three candidates' term is up, the Planning Board either needs to renominate them or nominate others.

These Rules of Procedure will be revised and emailed to the Planning Board and sent to town counsel for review.

DATE SPECIFIED PLANS

ADJOURN

MOTION: (Bilapka/Montbleau) To Adjourn

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

The meeting was adjourned at approximately 10:47 pm.

Respectfully submitted,
Jordyn M. Isabelle
Recording Secretary