

**APPROVED
TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
July 17th, 2023**

Vice Chairman James Bergeron called the meeting to order at 7:02 PM.

Secretary Danielle Masse-Quinn called roll:

PRESENT ROLL CALL: Tim Doherty - *not present at roll call; arrived at approximately 7:05 PM*
James Bergeron – present
Danielle Masse-Quinn – present
Roger Montbleau - present
Joe Passamonte – present
Bruce Bilapka – present
Selectmen’s Representative Charlene Takesian – present
Alternate Hal Lynde – present
Alternate John Spottiswood - present
Alternate Scott Sawtelle – present
Planning Director/Zoning Administrator Jennifer Beauregard – present
Recording Secretary Heidi Zagorski - present

NOT PARTICIPATING: Selectmen’s Alternate Representative Jaie Bergeron
Alternate Paddy Culbert
Alternate Samuel Thomas

PLEDGE OF ALLEGIANCE

NEW BUSINESS

CASE #PL2023-00022

Map 42 Lot 10-210-2

BROOKS, Kevin & Celeste – 19 Brunswick Circle - Seeking approval of a Waiver to Article XV Residential Conservation Subdivisions, Section 307-106(B)(3)(a) of the 2013 Zoning Ordinance (which was in effect at the time the subdivision was approved) to allow a 33’ x 18’ above ground pool with an attached 10’ x 22’ deck to be 15’ from the left side lot line where 25’ is required, and also a 12’ x 16’ shed to be 15’ to the same lot line where 25’ is required.

Ms. Danielle Masse-Quinn read the list of abutters.

Mr. Kevin Brooks and Ms. Celeste Brooks introduced themselves from 19 Brunswick Circle. Mr. Brooks explained that they are seeking a waiver for the 25’ setback along the northeast corner of their property. Mr. Brooks said they are building a pool and would also like to build a deck and shed alongside the pool. He said they are seeking a 15’ setback instead of the 25’ setback.

Mr. Brooks stated the pool does meet the 25’ setback. He said it would be the deck and shed that does not meet the 25’ setback.

Chairman Doherty opened the discussion to the public. As no one from the public came forward Mr. Doherty closed the discussion to the public.

Mr. Doherty asked the applicant where the septic system is on the lot. Mr. Brooks answered it is in the front yard. Mr. Doherty asked if it is a community well or an individual well on the lot. Mr. Brooks said it is an individual well in the rear yard approximately 40'-50' from the closest edge of the proposed pool.

Mr. Doherty asked if the applicants intend to keep the Spruce trees behind the deck and between the neighbor in place. Mr. Brooks said yes. Mr. Roger Montbleau confirmed with the applicant that they would not be removing any of the buffers between themselves and the neighbor. Mr. Brooks explained the deck layout is to allow them to look into their backyard and not into the neighboring yard.

Ms. Charlene Takesian stated that she has a problem waiving setback requirements in a conservation subdivision. She explained the zoning has only been in for a few years and that the setbacks are for a reason. She explained the houses are close together and said she does not think they should be waiving zoning restrictions that were placed within the last few years. Ms. Takesian discussed other possible options with the applicant for placement of the pool. Mr. Brooks explained the pool location maximizes the sun in the backyard reducing the heating costs. He said it also reduces the impact on the topsoil because it requires the least amount of leveling in the yard. He said it is the greatest distance from the wetlands buffer zone as well as the greatest distance from their well and maximizes the distance from their house. Ms. Brooks further explained that the deck positioning allows privacy from the neighboring home.

Ms. Masse-Quinn asked the applicant what the size of the pool is. Ms. Brooks said it is an 18' x 33' oval above-ground pool.

Mr. Doherty explained the constrictions the applicant is bound to because of the conservation subdivision ordinance. Mr. Doherty said it is up to the Board to decide if the 10' x 22' deck of a pool and part of the shed would be all right to use regular standards of a 15' setback. He said if the property had another conservation lot next to it, which it does not, then the applicant would be able to place the deck and shed with the 15' setback requirement. He said this is in place to protect any neighbor with an adequate buffer. Mr. Doherty discussed the lot and explained it seems to have an adequate buffer that will remain.

Mr. James Bergeron asked what was included in the setbacks. Ms. Beauregard read from the 2013 Zoning Ordinance under General Requirements Section 307-16 (B)(3)(A) "The following minimum setbacks shall apply to all residential structures within the development excluding existing historical buildings: 25' from exterior property lines of the initial conservation subdivision parcel." Ms. Beauregard said because the applicant is part of the exterior lines of the subdivision as a whole, they are bound by 25'.

Mr. Bergeron said the pool looks like it is west of the property. Mr. Brooks replied it is to the northwest of the property.

Mr. Doherty and Mr. Bergeron discussed the property neighboring the applicant. They discussed that the neighbor is not part of the conservation subdivision. Mr. Bergeron explained to the Board that this is under Innovative Land Use. He explained that the Board can make waivers on certain regulations according to the particularities of the case. Mr. Bergeron explained what Mr. Doherty was stating regarding the small lot on the corner that was sold to the town is not bound to the same setbacks as the applicant. Mr. Bergeron said it does not seem to be equitable and because of this, he does not have an issue with the application. Ms. Takesian said the reason the applicant is bound to this requirement is that he is in the conservation subdivision and the conservation subdivision is a group of houses that are close together so that they don't encroach on other people beside them. She explained the exterior lots have to meet the 25' setback. She said she does not understand what zoning is for if it is going to be waived. Mr. Bergeron

said it is not zoning, it is Innovative Land Use and there is a huge difference. Mr. Bergeron said the Board can set aside a regulation that was in the conservation subdivision at the time based on each particular case. He explained that the Board can decide a 15' setback is ok in this particular case because it is not affecting someone else within the conservation subdivision.

MOTION: (Passamonte/Bilapka) To accept the plan for consideration.

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

Mr. John Spottiswood asked how tall the shed is. Mr. Brooks stated he was not exactly sure, but he would estimate about 12 feet tall. Mr. Bergeron calculated the shed was about 13.5 feet tall.

MOTION: (Masse-Quinn/Passamonte) To approve the waiver with the conditions that the hedge line remains where it is.

VOTE: (6-1-0) The motion carried.

MEETING MINUTES

The Board members had no changes or revisions to the July 3rd, 2023 meeting minutes.

MOTION: (Passamonte/Masse-Quinn) To approve the July 3rd, 2023 meeting minutes as written.

VOTE: (6-0-1) The motion carried.

DISCUSSION

Ms. Beauregard explained to the Board that Underwood Engineers sent in some questions in response to the RFQ for the Planning Board review and construction monitoring services that the town is soliciting. Underwood Engineers is looking for some answers from the Board in response to their questions.

Mr. Doherty read the following from Underwood Engineers: "Please confirm the intent and the names of the consultants to be retained. Can the Planning Board offer clarification as to how many firms the town may be looking to hire for this effort and how the work would be parceled out to the contracted firms once selections are complete? Please provide the total contract value of these services that the Planning Board has issued to their consultants of record over the past five years. Underwood requests the response to these two questions as well as any and all questions and responses posed by other firms to this RFQ."

Ms. Beauregard said as of right now, she has not received any other questions regarding this RFQ. She said this is the first one she received this afternoon. Mr. Doherty said this is not something that can be answered verbally without some thought and talk as a Board.

Mr. Bergeron said that he would be asking for a non-public session to discuss a continuation of legal matters from a previous session. He said perhaps this discussion might better be served in non-public. Ms. Beauregard said the RFQ stated that this Board would take up any questions publicly which is normal for this process.

Ms. Takesian stated she believed that the idea was to get engineering firms with particular expertise in an area so she

is not sure if they knew how many they would need. Mr. Bergeron said if this firm could provide the whole gamut of services, it may only be this firm. He said if this firm would come up short, and didn't have specific scientists and field engineering capabilities, the firm would have to understand they could not fill the request. Ms. Takesian explained for example if they needed a firm with wetland expertise and this firm did not have that, then they would be hiring a firm with the expertise needed.

Mr. Bergeron asked can one firm provide the Board with all the services. Mr. Doherty said that one firm may be way overpriced and put a burden on the applicants coming before the Board. He said a really large firm may charge an exorbitant amount of money. Mr. Doherty said if they could find a couple of small firms that vary in what they do, they may be better serving the applicants that come in front of the Board.

Mr. Bilapka said it would be nice to have it all under one roof. He said if an engineering firm did not have all of the entities needed, it could be on a subcontract basis because they may not need that entity on every case.

Mr. Bergeron said in part the way it was phrased was so these firms understood that if they had a conflict at any point, they wouldn't be able to use them. They would have to go to someone else. Mr. Bergeron said they cannot be solely dependent on one firm. He also expressed that more than one firm could be needed at times to cover specific areas.

Ms. Takesian said suppose you have two engineering firms that both have wetland scientists. How would you choose which firm you would use?

Mr. Bergeron read the following from the Underwood Engineer's response: "As written the RFQ strongly implies that the Planning Board intends to retain its current consultant(s) following this process and seeks to add consultant(s) to their employ". Ms. Beauregard said they would feel this way because they did notify their current consultant that they were adding an additional firm. She said this is the way they are advertising it and that the Board would potentially have a pool of engineering firms to choose from with the expertise that was needed. Ms. Masse-Quinn said the Board was seeking options. Mr. Bergeron said as far as parceling out the work, the Board would parcel out the work to the best-qualified firm to do the work. He said if there is a difficult subdivision it is a complex task, and some firms could be a 3-person firm, and some could be a 30–50-person firm.

Mr. Roger Montbleau asked if Underwood Engineers said what they could supply. Ms. Beauregard said they have not at this point. Mr. Montbleau said the firm could be seeking to find out how much time and resources they would need to provide. Mr. Montbleau suggested asking for a list of services that they can provide to decide if they are a fit.

Mr. Bergeron said contracting with the town is going to eliminate them from doing work in that town. He said he understands what they are asking and feels strongly that they need to know what services they offer. Mr. Montbleau asked if you have an engineering firm that supplies way more than they currently subdivide out, how would that work for them to have all of those things under one roof? He asked if they would try and mask their deficiencies by having control over everything.

Ms. Beauregard said that this Board does not always take advantage that they can hire outside firms for specialty areas. She said they could get additional estimates for escrow from particular firms with this expertise.

Mr. Bergeron said in response to another question from Underwood Engineers to obtain the amount of money the town has spent over the last 5 years on these services. Ms. Beauregard said she can obtain this information.

Mr. Bergeron said Underwood Engineers is looking for 5 years of contracted services that the town has paid out to consultants. He suggested getting this information to the firm as a starting point. He discussed that Underwood

Engineers is asking for questions and answers from all other firms as well. Ms. Beauregard said this is typical for the answers from the Board to all firms to be public.

Ms. Takesian said on the website of Underwood Engineers that nearly 100% of their projects are of State and municipal governments. Mr. Bergeron said this could be a good thing because if they are not private then they could be faithful to the town and look for their best interest if they do not contract out to developers. Mr. Montbleau said the next important thing is to see a list of their services. Ms. Beauregard said she would draft up answers to respond and send to the Chairman for review.

NON-PUBLIC SESSION

MOTION: (Bergeron/Montbleau) To request a non-public session per RSA 91-A:3, II (l) Consideration of Legal Advice

ROLL CALL VOTE: Mr. Montbleau - Yes
 Mr. Passamonte- Yes
 Ms. Masse-Quinn - Yes
 Mr. Bergeron – Yes
 Ms. Takesian - Yes
 Mr. Bilapka - Yes
 Mr. Doherty – Yes

Ms. Masse-Quinn welcomed the Planning Director Ms. Jennifer Beauregard into the non-public meeting.

Mr. Doherty noted that when the Board returned, after the non-public session, the Board would not take any other action publicly, except to seal the minutes of the non-public session and to adjourn the meeting. The Board entered a non-public session at approximately 8:09 PM.

MOTION: (Montbleau/Bilapka) To seal the minutes of the non-public session indefinitely.
VOTE: (7-0-0) The motion carried

ADJOURNMENT

MOTION: (Montbleau/Masse-Quinn) To adjourn the meeting at approximately 9:39 PM.
VOTE: (7-0-0) The motion carried.

Respectfully submitted,
 Heidi Zagorski, Recording Secretary