

**APPROVED  
TOWN OF PELHAM PLANNING BOARD  
MEETING MINUTES  
September 25<sup>th</sup>, 2023**

Chairman Tim Doherty called the meeting to order at 7:01 PM.

Secretary Danielle Masse-Quinn called roll:

**PRESENT ROLL CALL:** Tim Doherty – present  
James Bergeron – present  
Roger Montbleau - present  
Danielle Masse-Quinn – present  
Joe Passamonte – present  
Bruce Bilapka – present  
Selectmen’s Representative Charlene Takesian – present  
Alternate Paddy Culbert – present  
Alternate Hal Lynde – present  
Alternate Scott Sawtelle - present  
Alternate John Spottiswood – present  
Planning Director/Zoning Administrator Jennifer Beauregard - present  
Recording Secretary Heidi Zagorski - present

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

**PLEDGE OF ALLEGIANCE**

**MEETING MINUTES**

The Board members had no changes or revisions to the September 11<sup>th</sup>, 2023 meeting minutes.

**MOTION:** (Montbleau/Passamonte) To approve the September 11<sup>th</sup>, 2023 meeting minutes as written.

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

**PUBLIC HEARING**

Mr. Tim Doherty stated that the public hearing would begin at 7:05 PM.

Pursuant to RSA 676:1, the Planning Board is to consider amending the current Planning Board Rules of Procedure to designate the Planning Board Chair to sign Voluntary Lot Mergers and to keep the Board informed of said mergers when submitted for signature.

Mr. Doherty stated that this public hearing shall take place on September 25<sup>th</sup>, 2023 at 7:05 PM at the Pelham Town Hall located at 6 Village Green in Pelham, NH. Mr. Doherty said this was posted on September 14<sup>th</sup>, 2023.

Mr. Doherty said they will be discussing adding some language to the rules and procedures. He said it is under

Article 3 – Officers, Roles, Responsibilities; Minutes & Records.

Ms. Danielle Masse-Quinn read the update under 3.1 CHAIRMAN -

“The Chairman shall sign approved plans and act as the Planning Board designee to sign Voluntary Lot Merger forms.”

Mr. Doherty said right now, as Chair, he signs all the approved plans as well as the secretary. He said on Voluntary Lot Mergers, he will also be the person who signs these.

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

Mr. James Bergeron said he had a previous discussion with Ms. Charlene Takesian to suggest adding “with Planning Board authorization” to the updated language. Mr. Bergeron suggested protecting the Planning Board by adding the vocabulary “with Planning Board authorization” to update the statement to read “The Chairman with Planning Board authorization shall sign approved plans and act as a Planning Board designee to sign Voluntary Lot Merger forms.”

Ms. Jennifer Beauregard said that all Voluntary Lot Merger forms are first signed by the Assessor’s Department. Ms. Beauregard said a Voluntary Lot Merger form has to also go through an attorney to certify that both of those lots are owned by the same person and that there is not a lein on either parcel. Ms. Beauregard said then the Planning Board Chair signs it and it can be recorded at the Registry of Deeds. Mr. Bergeron asked if the Planning Board had a list of chronological order of signees.

Mr. Roger Montbleau asked Ms. Beauregard to read the language suggestion. Ms. Beauregard read “and act as the Planning Board designee to sign Voluntary Lot Merger forms.” Mr. Montbleau said isn’t the safeguard all the signatures prior to going to the Chairman. Mr. Bergeron agreed with this. Ms. Beauregard asked if they would like to add language after forms, “once all applicable signatures have been obtained”. Mr. Montbleau said the language could read, “subject to all authorized signatures being obtained prior to the Planning Board signature.”

**MOTION:** (Montbleau/Passamonte) To amend the bylaws with the language as written.

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

**OLD BUSINESS**

**PL2023-00020**

**Map 41 Lot 10-246**

SMOKE & FLAME HOOKAH LOUNGE, KALTSAS, Stephen (applicant) – MZL REALTY LLC (Owner) – 10 Bridge Street - Seeking Site Plan review to allow ‘Steve’s Street Meats’ food truck to be parked in the front left corner of the parking lot, or on the grass, in front of Smoke & Flame Hookah Lounge, for an extended period of time.

Mr. Stephen Kaltsas said since he was there last, he attended a meeting with the Conservation Commission. Mr. Kaltsas said the Conservation Commission would not be opposed to the food truck if it were to be parked at the opposite end of the parking lot with a 6-0 vote in favor of the food truck being parked there.

Mr. Montbleau asked if the food truck would then occupy parking spots. Mr. Kaltsas said it would occupy one parking spot outside of the WCD (Wetland Conservation District). Mr. Montbleau said you would now be eliminating the parking spot permanently. Mr. Kaltsas responded that it would be mobile, not permanent.

Ms. Masse-Quinn read the following letter submitted by the Conservation Commission:



**TOWN OF PELHAM  
CONSERVATION  
COMMISSION**

6 Village Green  
Pelham, New Hampshire 03076-3723  
603-635-7811

September 20, 2023

Planning Board  
6 Village Green  
Pelham, NH 03076

Re: Tax Map 41 Lot 10-246  
10 Bridge Street

Dear Board Members,

The Conservation Commission reviewed this case on Wednesday, September 13, 2023. At this meeting, the applicant proposed a food truck be added to the north-west corner of the property within the WCD and adjacent to the road. The applicant has the permission of the property owner to locate the truck on the parcel. The food truck will serve burgers, fries, tacos, etc.

Commission members had concerns about the truck within the WCD. The applicant suggested he could park the truck at an alternate location on the site, either in the southern section of the parking lot, along Bridge Street or along, but outside, the WCD in the far southern parking spots. Members thought along Bridge Street would be the best location within the site as it is farthest from the WCD. Members asked questions about the disposal of cooking oils, waste water and trash. The applicant said he has or will arrange services for the disposal/pick-up of these items. None of these materials will enter the wetland. Members raised concerns about the size of the building and number of businesses already on this parcel. This building is large and already within the WCD. Conservation members felt adding another business to the lot may be stretching the limits of the site.

The Commission recommended the applicant move the truck out of the WCD. The Commission voted 6-0-0 in favor that if the truck was moved out of the WCD, than from a Conservation Commission perspective, the truck becomes a non-concern/non-issue.

Thank you for your consideration of this matter.

Regards,

Karen Mackay, Secretary  
Pelham Conservation Commission

Ms. Takesian clarified that WCD in the Conservation Commission letter is referring to the Wetland Conservation District. Ms. Takesian said that the Conservation Commission only has jurisdiction over things in the Wetland Conservation District. She said they do not take into consideration the use of what is already on the lot, the overbuilding that is already on the lot, and the lack of parking spaces that is already on the lot. Ms. Takesian said although it appears the Conservation Commission is saying it is okay as long as it is not in the WCD, this Board has a different perspective. Mr. Kaltsas said during the last Planning Board meeting, the Planning Board said they wanted to hear from the Conservation Commission before deciding.

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

Ms. Masse-Quinn said when she looked at the original site plan approval, dated December 3<sup>rd</sup>, 2017, this was agreed

upon as a conditional approval.

Ms. Masse-Quinn read, to approve the plan condition:

#1 all three properties be combined

#2 all employees park on the Mobile property

#3 no outdoor storage or product of chemicals takes place

#4 no outside sales events to be conducted

Ms. Masse-Quinn said according to this it looks as though it is already at its max for businesses.

Mr. Kaltsas said the outdoor sales event sounds more like a flea market type of event. Ms. Masse-Quinn said she thinks it is more in reference to the three parking spaces they gave to propane storage. Ms. Masse-Quinn said they do not have parking spots for any new type of business.

Mr. Kaltsas said at any given time, there are parking spots available and does not believe the parking lot would be overburdened with parking.

Mr. Kaltsas asked if this was referring to having the truck on-site daily or overnight. Ms. Masse-Quinn said she was referring to not having a food truck on the property at all. Mr. Kaltsas said there was a Shaved Ice truck previously parked on the property. Ms. Beauregard confirmed that the Shaved Ice truck was operating with a Hawker and Peddler's License. Mr. Doherty said that the Planning Board does not regulate Hawker and Peddler's licenses. Mr. Doherty said the applicant is here to have an outdoor business on this property. Mr. Doherty said the Planning Board has been looking at this property because they know it is overused.

Mr. Bergeron said he wanted to give some historical perspective. Mr. Bergeron said when you look back at this property, this had to get a zoning variance for the Wetland Conservation District setback requirements. Mr. Bergeron said the owner had to get some special permits granted and the site received some special permits. Mr. Bergeron said the site also had to have some special parking requirement waivers. He said in addition, the site got eight more waivers. Mr. Bergeron said secondly, they came back in and got a propane station added. Mr. Bergeron said the person representing the person who put in the propane station stated, "The three spaces would be removed, and a 1,000-gallon propane fill station would be installed." but in reality, five possibly six spaces are being covered by the propane station and the station is 100% bigger than they said it was told to be to this Board back in 2014. Mr. Bergeron said it is a 2,000-gallon station and occupies at least 2 more spaces than they said they were going to occupy. Mr. Bergeron said this propane station is also hanging on the edge of the detention pond. Mr. Bergeron said it sits on and is adjacent to the entry and exit lane. He said no allotment was made for additional parking that would be necessary for the propane station for campers, RVs, and trailers. He said when that happens you cannot park on the side or back out of a parking space. Mr. Bergeron said this site is maxed out and has gotten treatment that he has never seen. He said it has gotten variances, special permits, and eight waivers.

Mr. Bergeron said there was a total of five dumpsters. He said the two on the southside are literally in the treatment soil. He said whatever is in those dumpsters is getting into and polluting the treatment soil. He said on the northside part of the parking lot there are three dumpsters also located in the Wetland Conservation District. Mr. Bergeron said the dumpsters are not outlined on the site plan.

Mr. Bergeron said he knows that anything that is proposed to be near a propane filling station has an open source of ignition setback requirement.

Ms. Takesian said the issue is with the owner of the property and not with the applicant. Ms. Takesian said the owner of the property is the one responsible for the expansion of the business use. Mr. Doherty said the owner should not allow an additional outside business when it is not allowed in the site plan. Mr. Doherty explained that the owner should not have put the applicant in this position.

Mr. Paddy Culbert asked why the applicant did not look into Dracut. Mr. Kaltsas said that is irrelevant. Mr. Culbert said he would deny this plan because it is overburden for parking. Mr. Culbert asked how big the truck was. Mr. Kaltsas said 20' long and approximately the width size of a bread truck.

Mr. Kaltsas asked the Planning Board if he were to obtain a Haw Hawker and Peddler's License, would the Planning Board be opposed to him setting up for the day and leaving at night? Mr. Doherty said the Planning Board could not approve or deny this because it is not in the purview of this Board. Mr. Doherty said that would be up to the Board of Selectmen and the Chair of the Selectmen.

Mr. Culbert asked the applicant if BYOB would be allowed at the food truck. Mr. Kaltsas responded no. Mr. Kaltsas said if someone is over the age of 21 and chooses to have a beer in their car, then that is their business and has nothing to do with this business.

Mr. Bergeron said that this applicant is in front of the Planning Board because the Selectmen felt that the truck staying on the property for an extended period would require a site plan review. Mr. Bergeron said a Hawker and Peddler's License should not be allowed to set up on the site because no outside sales are allowed due to the fact the site is overloaded to start with.

Ms. Takesian asked Ms. Beauregard if a Hawker and Peddler's License was site-specific. Ms. Beauregard said she does not believe it is site-specific.

**MOTION:** (Masse-Quinn/Montbleau) To deny the expansion of the site plan.

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

## **NEW BUSINESS**

### **PL2023-00027**

#### **Map 34 Lot 2-14-1**

BOYDEN, Charlie – 132 Mash Road - Seeking minor Site Plan Review to allow a 3-sided storage shed, built on existing concrete blocks that were formerly used to store sand, mulch, dirt, etc., to remain.

Ms. Beauregard read the list of abutters.

Mr. Charlie Boyden introduced himself from 136 and 132 Marsh Road and introduced his son Michael Boyden. Mr. Michael Boyden said they are looking for approval for a three-sided structure for dry storage on-site. Mr. Doherty asked the applicants what they would be using the shed for. Mr. Boyden said it would be used for dry storage of soil and potentially equipment to keep it out of the weather. He said it would be used to store mulch, loam, and sand. Ms. Beauregard said the structure does meet all current setback requirements. Mr. Doherty said the footprint is there already. The applicant confirmed yes.

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

Mr. Bergeron read the background information provided to the Planning Board. He read "The Planning Department recently became aware that Mr. Boyden's landscaping business has never been granted the required special exception which is required under our zoning. In my opinion, a special exception for a general home occupation is required

along with limited site plan review and approval from the Planning Board in order for the business use within the residential district to be in compliance with our zoning. It is my administrative opinion as Zoning Administrator that the applicant's use of the abutting parcel for the storage of bark mulch compiles with zoning since that lot has a grandfathered agricultural/farming status with similar uses predating Pelham zoning. In my opinion portion of the business is outside of the general home occupation status sought by the applicant and shall not be part of the special exception consideration."

Ms. Beauregard stated that the information read by Mr. Bergeron was from the previous Zoning Administrator Jeff Gowan from 2008. Ms. Beauregard said the applicant is here due to a complaint due to a structure being put up without a permit or site plan. Ms. Beauregard explained that because the property is being used commercially and the applicant has now added a roof and some sides to the structure, the applicant is here for a minor site plan review.

Mr. Doherty asked Ms. Beauregard if she knew if the applicant was ever issued a special exception for a general home occupation. Ms. Beauregard said this particular property was not, because Mr. Gowan's interpretation was it preexisted zoning and did not require a special exception or a variance. Ms. Beauregard said the abutting property, which is also owned by Mr. Boyden, did receive a special exception for a general home occupation.

Mr. Montbleau said after reviewing all of the information, watching the Boyden's operate from that location, and understanding the administrative decision dating back to 2008, he submits to the Board that this is a hostile competitor that is in this business that is trying to put a burden on the Boyden's adding that he thinks it is a frivolous complaint made out of spite. Mr. Montbleau said the structure meets all the setbacks, and there are no issues. He said they are hearing this due to a complaint.

Mr. Culbert said that he agreed with Mr. Montbleau and that the applicant had not violated anything.

**MOTION:** (Masse-Quinn/Montbleau) To approve the site plan review.

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

## **DISCUSSION**

Mr. Doherty said the Board would discuss the Floodplain Development ordinance. Ms. Beauregard said the Floodplain Development regulations were reviewed by the New Hampshire Office of Planning and Development. She said they were asked to do this by FEMA (Federal Emergency Management Agency). She said they have to stay in compliance with FEMA's regulations to participate in the Flood Insurance Map Program. Ms. Beauregard said in their review of the Floodplain Ordinance, they show what their recommended changes are. She said the added language is highlighted in yellow and the language they recommend taking out is stricken out in red. She said they recommend that it gets reviewed and gets on the ballot in March 2024. Mr. Doherty asked if the Board feels this should be sent to legal counsel or NRPC (Nashua Regional Planning Commission). Mr. Bergeron said he would like NRPC to review. Ms. Passamonte asked if this would be for all new development or if it would go back to old development as well. Ms. Beauregard said this is a zoning change that would apply to anything from that date forward. Mr. Bergeron suggested a copy be sent to the Conservation Commission as well.

Mr. Doherty said that Mr. Steve Keach of Keach-Nordstrom Associates sent information to Ms. Beauregard regarding Senate Bill 78. Ms. Beauregard said that it became Law on August 4<sup>th</sup>, 2023. In Mr. Keach's writing, he said "Of specific interest and importance is an amendment of RSA 674:36, III, IV & V regarding performance guarantee/surety requirements for subdivisions." Ms. Beauregard said that Mr. Keach was going to review it further against their regulations and see how it affects them.

Ms. Beauregard said one part stated that you may not require some subdivisions to have surety until they start building. Mr. Bergeron said it is under Section IV. Mr. Bergeron read “A Planning Board shall allow road and utility construction to start without a bond” Mr. Passamonte said it goes on to say, “A bond must be in place once the first parcel is sold”. Ms. Beauregard said it goes on to say, “However a bond for the infrastructure, roads, and utilities must be in place prior to the sale of any parcel of land within the subdivision or a request for a building permit.” Ms. Beauregard said right now they are allowed to build up to a certain point with a restoration bond. She said prior to Building permits and in some cases prior to a Certificate of Occupancy they have to put a full bond in place.

Ms. Takesian said this has already passed and is effective on October 3<sup>rd</sup>, 2023.

Mr. Bilapka said it does not designate a timeframe for when you have to put up the bond. Ms. Beauregard said just prior to the sale of your first property.

Mr. Bergeron mentioned another section about the Fire Protection section. Mr. Bergeron said it is under Section VI. Mr. Bergeron said it says that you cannot make anyone in a single-family home or duplex put in a sprinkler system. He said it does say you can ask for cisterns, fire ponds, or some other means. Mr. Bergeron said they are trying to create affordable homes, and this is making them less affordable. Ms. Takesian said, however, that insurance would be higher if you do not have those in your homes.

Mr. Passamonte asked if the cistern was for the neighborhood or each individual home. Ms. Beauregard said it would have to be for the neighborhood.

The Board members continued to discuss options to amend and/or express their opinion on this.

Ms. Beauregard said the New Hampshire Municipal Association’s legal staff and Office of Planning and Development staff are available to answer any questions about these laws.

Mr. Bilapka asked to discuss the propane storage on the site referencing the conversation during the food truck case. Mr. Bergeron said he was trying to demonstrate to this Board that there had been tremendous relief granted to this project. Mr. Bilapka asked if it is a 2,000-gallon tank should the property owner come back before the Board. Ms. Beauregard said it was the same owner.

Mr. Montbleau asked if there was any reason why when the Board receives a site plan change of use or site plan review, they can’t require that if it is a renter or leaser that comes in, the owner accompanies the applicant.

Ms. Beauregard said she doesn’t see why you can’t require it. Ms. Beauregard said right now, often the owner will sign an authorization form for the applicant to come in and represent themselves.

Mr. Bergeron said Ms. Beauregard referenced that the owner was potentially in violation. Ms. Beauregard said the dumpsters are clearly in violation in the Wetland Conservation District. Ms. Beauregard said the Code Enforcer has been in contact with them and they can look into the size of the propane station as well.

Ms. Beauregard said the outside sales were specific to ASAP moving there but it is still relevant because it says no outside sales. Ms. Beauregard said it considers any business that is there would fall under that as well. She said it was specific to ASAP and it wasn’t a full set of minutes on that one because it was about a change of use on one of the three lots. Ms. Bergeron said he disclosed that there were five dumpsters in the Wetland Conservation District to one of the Conservation Commission members.

Mr. Passamonte suggested once the unit has multiple renters, the owner would need to be held accountable. Mr. Bergeron asked Ms. Beauregard to update the permit application for renters to include that the owner is requested to be present.

**NON-PUBLIC SESSION MOTION:**

**MOTION:** (Masse-Quinn/Bilapka) To request a non-public session per RSA 91-A:3, II (I) Consideration of Legal Advice

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

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. Mr. Bergeron asked to invite Planning Director Ms. Beauregard to the non-public session. The Planning Board entered a non-public session at approximately 8:48 PM.

The Planning Board returned from the non-public session at 9:25 PM.

**MOTION:** (Takesian/Bilapka) To seal the minutes of the non-public session indefinitely.

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

**ADJOURNMENT**

**MOTION:** (Montbleau/Passamonte) To adjourn the meeting at approximately 9:25 PM.

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

Respectfully submitted,  
 Heidi Zagorski, Recording Secretary