

**APPROVED
TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
February 22nd, 2024**

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

Secretary Danielle Masse-Quinn called roll:

PRESENT ROLL CALL: Tim Doherty – present
Danielle Masse-Quinn – present
Joe Passamonte – present
James Bergeron – present
Bruce Bilapka – present
Roger Montbleau – present
Selectmen’s Representative Charlene Takesian – present
Alternate Hal Lynde – present
Alternate Paddy Culbert – 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 Samuel Thomas
Alternate John Spottiswood

PLEDGE OF ALLEGIANCE

NEW BUSINESS

Case #PL2024-00009

Map 41 Lot 10-246

MZL Realty – 10 Bridge Street - Applicant requesting Site Plan Review to approve the location of dumpsters not shown on the original Site Plan. The applicant has requested a continuance to the next meeting.

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

MOTION: (Passamonte/Bilapka) To date specify Case #PL2024-00009 to the March 4, 2024, Planning Board meeting.

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

Case #PL2024-00008

Map 10 Lot 13-167-6

PACHASACA ZARUMA, Manuel E. – 1197 Bridge Street - Applicant requesting a Site Plan Review for the construction of a 3-bay garage to be used for storage of his construction vehicles and equipment, for the operation of a General Home Occupation. Zoning Board Case #ZO2023-00012 was approved on July 10, 2023.

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

Mr. David Groff introduced himself as representing the applicant, Manuel Pachasaca Zaruma, and stated that his office is located at 79 Bridge Street. Mr. Groff said they had a meeting before the Zoning Board of Adjustment (ZBA) for a

special exception for Home Occupation. Mr. Groff said the reason for this was that the applicant has a small roofing and siding business. Mr. Groff said most of the applicant's equipment is stored and kept at an additional location in Lowell, MA., but they do have a truck, a van, and a trailer that they keep at 1197 Bridge Street in Pelham. Mr. Groff stated that the ordinance allows for two vehicles under a General Home Occupation, and this exception was to allow three vehicles to be on the property. Mr. Groff stated that the ZBA did grant this special exception with certain conditions.

Mr. Groff provided the Planning Board with a site plan of the proposed garage and explained that the dimensions of the garage met the ordinance and that it is within the restrictions set forth by the ZBA.

Mr. Paddy Culbert asked if the applicants would be working on any equipment at this property. Mr. Groff explained this is the applicants' home where they live and they would be driving the vehicles home, adding that no maintenance work would be done at the property.

Mr. Doherty confirmed with Mr. Groff that no customers would be visiting the property. Mr. Groff explained that because there are three vehicles instead of two, to shield those vehicles they are proposing a plan to build a garage on the property.

Mr. Jim Bergeron asked Mr. Groff what the reasoning was for the single shared driveway. Mr. Groff said the developer had to receive curb-cut approval from the State. Mr. Jim Bergeron asked if there was an agreement on the driveway usage. Mr. Groff said there is no easement in either deed. Ms. Beauregard said the condition from the ZBA is specific to the shared portion of the driveway, adding that no portion of the shared driveway shall be blocked by vehicles at any time. Ms. Beauregard said this applies to this applicant only; the condition does not apply to the abutter.

Ms. Charlene Takesian asked how close the garage would be to the abutter. Mr. Groff confirmed that the garage would be 30' from the lot line.

Mr. Doherty opened the discussion to the public.

Attorney Bernard Campbell introduced himself from the office of Beaumont & Campbell. Mr. Campbell stated he was representing the abutter Mr. Daniel Demers. Mr. Campbell asked if there were any waiver requests made as part of the site plan application. Mr. Doherty said he does not have any waiver requests, adding that the plan meets the setback requirements. Mr. Campbell stated that this business as proposed is significantly out of character with the area and is not within site plan regulations. Mr. Campbell stated the property line between his client and the applicant was heavily wooded and buffered. Mr. Campbell stated that the applicant clear-cut the entire lot to the lot line. Mr. Campbell said that given where they are now proceeding, it would appear to be in violation of Section 300-4D, which indicates they should not have started to clear the trees before getting site plan approval from the Planning Board. Mr. Campbell said they would like to request some remediation from that condition from this Board per the site plan regulations. Mr. Campbell said they would like to request the Planning Board conduct a site walk of the property because they believe there are wetlands on the property. Mr. Campbell asked Ms. Beauregard for the computations of the proposed garage. Ms. Beauregard stated that the Building Inspector has confirmed that the total garage area is 1,734 sq. ft., and the total living area of the home is 2,237 sq. ft. Ms. Beauregard said the Building Inspector stated the first floor of the garage is 949 sq. ft. and the second floor of the garage is 785 sq. ft. Ms. Beauregard said the total area of both structures combined is 3,971 sq. ft. Ms. Beauregard read that the allowed area for the business use is not to exceed 49% or 1,945 sq. ft. Ms. Beauregard said the Building Inspector also stated the building height is not to exceed 30' and the plan shows the height at 26.3'. Mr. Campbell stated that as part of the site plan, it requires a prepared structure plan by a licensed professional or engineer. Mr. Campbell said that he did not see this. Mr. Campbell stated that the application fails to conform to the filing requirements. Mr. Campbell said Section 302-3E(b) states "Site Plan drawings, sealed by a Professional Engineer licensed in the State of New Hampshire and/or other qualified New Hampshire licensed design professionals as applicable, which fully depict the extent of the proposed site improvements to include the following...". Mr. Campbell referenced No. 25 under this section which states "Detailed architectural elevation drawings of all proposed or renovated buildings and structures." Mr. Campbell said he does not believe the plans submitted comply with the site plan regulations since they were not prepared and sealed by an engineer.

Mr. Doherty confirmed with Mr. Campbell that the property is in a residential zone. Mr. Doherty said the applicant is

only in front of the Planning Board because they have been given a variance by the ZBA and are now before the Planning Board for a site plan review of the business part of this operation. Mr. Doherty added that he does not believe the content Mr. Campbell presented is relevant.

Mr. Campbell said the special exception that they propose to operate under requires site plan approval, and in addition, the ZBA made a condition of the special exception that they must get site plan approval.

Mr. Campbell introduced his client, Mr. Demers. Mr. Demers showed multiple photos showing the fence and trees that existed before the applicant cut and cleared the trees where the proposed garage would be located. Mr. Campbell stated that there was an issue with screening and an issue that tree work was done before anyone applied for approval from the Planning Board.

Mr. Campbell stated that his client, Mr. Demers, does have a permit for a Home Occupation and takes log deliveries four times a year for his part-time business. Mr. Campbell said that Mr. Demers had issues with his driveway being blocked and provided various photos to the Planning Board. Mr. Campbell requested the Planning Board to require the applicant to widen the throat of the driveway and if necessary, apply for an amended driveway permit. Mr. Campbell said the conditions have now changed because the applicant would be using the driveway for a business.

Mr. Campbell asked the Planning Board to request a significant upgrade to the landscaping plan to detail the height and density.

Mr. Campbell asked why the applicant needed six parking spaces if they were only allowed two off-site employees. He added that perhaps some of the parking is for private vehicles. Mr. Demers showed numerous photos of parked vehicles to show the lack of screening and the number of vehicles on the property.

Mr. Campbell stated that he did not believe the application was complete and therefore not ready for action. Mr. Campbell said the application does not contain the items that the regulations require. He said they would like the opportunity to see the landscape plan, and the design elevations, and would also request that the Planning Board complete a site walk of the property to see the conditions of the property where it appears to be wetlands.

Mr. Bergeron said he did not see wetlands delineated on the property on the tax map.

Mr. Bergeron referenced Section 302 Application Procedures. Mr. Bergeron said this Section does not seem to have anything to do with the matter at hand. Mr. Bergeron cited Section 302-1 “General Provisions and Requirements A. Residents and business owners, who may from time to time seek to change or amend the use of, or minimally alter or expand existing non-residential or multi-family buildings or sites, may apply for site plan determination.”

Mr. Bergeron said they do not have any regulations regarding the removal of trees.

Mr. Bergeron questioned if the fence runs to the Department of Transportation (DOT) right-of-way. Mr. Bergeron said he would need to see a more detailed plan to determine this.

Mr. Bergeron said the employees refer to onsite and, in this case, they have a business off the property but have vehicles coming back to the property.

Mr. Bergeron said there are proposed shrubberies on the site plan, and there may not be enough, but they are there.

Mr. Campbell stated that the letter provided by the DOT stated that there was no change in circumstance. Mr. Campbell said this could certainly be a change of circumstance and the Planning Board could ask the applicant to contact the DOT. Ms. Beauregard said her understanding is that the applicant had contacted DOT to request a change of use for the existing driveway permit that was issued on July 1, 1993. Ms. Beauregard said the driveway permit had been renewed although the permit stated “renewed/revised from one year from this date”. Ms. Beauregard said Planning Assistant, Kerry Karalekas, reached out to Ryan Worsman of DOT for clarification. Mr. Worsman explained to Ms. Karalekas that this is typical wording they use in situations of new construction or change in layout, installation of a culvert, etc. Mr.

Worsman explained that they give applicants one year to complete their project and if they don't, they have to reapply as conditions have changed. Mr. Worsman stated, however, that in this case, it was irrelevant as this approval is good indefinitely.

Ms. Beaugard said she believed this Board has the ability to make a site plan determination under Section 302-1. Ms. Beaugard said it states, "in other minor site plan proposal which the Planning Board may elect to consider". Ms. Beaugard said she didn't think it was ever the intent of Home Occupations to go through a whole Site Plan review with engineered plans. Ms. Beaugard said her opinion would be that this Board can make a determination that this is Minor and wouldn't need a full Site Plan. Ms. Beaugard added that this is a residential site and not a commercial site. Mr. Campbell said this could not be a Site Plan determination, it must be a Site Plan approval, and therefore, all the applicable requirements must be followed because it is a Site Plan application.

Mr. Doherty explained that the Planning Board had to determine if this was Minor or not. Mr. Doherty said it is not a major commercial Site Plan review.

Ms. Beaugard explained that during the Zoning Board approval, it was discussed that it may be encroaching on the WCD. Ms. Beaugard said that the Code Enforcer, Mr. John Lozowski, did visit the property and determined that the applicant was not encroaching on wetlands. Mr. Doherty asked if there was a no-cut zone on the original subdivision plan. Ms. Beaugard said she did not see anything on this plan, but she had not looked at the original subdivision plan. Ms. Beaugard said that Mr. Lozowski could not find anything that showed wetlands on this property.

Mr. Campbell said that on the driveway permit, it stated "This permit is for a subdivision (residential). Any change in use or further development shall require a new permit." Mr. Campbell said that they believe this case should be continued until the proper paperwork is submitted and then they would be looking for substantial buffering, relief on the driveway, and would suggest superimposing the garage structure to accurately depict the size of the building on the site. Mr. Campbell said they would argue against approval for this plan and would still like to also see a site walk done.

Mr. Doherty asked Mr. Campbell if they had any suggestions for the amount or type of buffering. Mr. Campbell said they would suggest 15 feet of landscaping with trees that could grow 10-12' in height.

Hearing and seeing no further response, Mr. Doherty closed the discussion to the public.

Mr. Groff said they did have a site walk with Mr. Demers and Zoning Board members. Mr. Groff said the purpose of the garage is to screen the vehicles from the abutter's view. Mr. Groff said there was a complaint of a possible wetlands violation, however, according to Mr. Lozowski's report, there was no evidence of wetlands. Mr. Groff said the applicant is allowed to cut down whatever he wants on his property without restriction.

Mr. Doherty asked Mr. Groff if the applicant owned a dumpster. Mr. Groff said this dumpster is stored in the Lowell, MA location. Mr. Groff said the applicant will not violate the restriction of two business vehicles in view.

Ms. Beaugard asked Mr. Groff if the driveway permit had been amended. Mr. Groff said they had applied and asked for an amendment but hadn't heard back yet.

Mr. Doherty discussed adequate buffer needs with Mr. Groff. Mr. Groff said most of the screening would be the fact that the garage would be there so the business vehicles would be in the garage.

Mr. Bergeron said the garage has been turned away from the street to make it more residential and less visible. Mr. Bergeron asked if the proposed garage was turned to the West approximately 90 degrees, would it allow the vehicles to pull into the garage without the abutter seeing the vehicles? Mr. Groff said yes, the applicant could turn the garage to face Southwest, away from the fence.

The Board members discussed the variety and number of trees that would provide a buffer for screening. The Board members discussed that the white fencing and garage itself would also provide screening.

Ms. Masse-Quinn questioned the request for the applicant to increase the plantings to provide screening when the applicant would be providing screening by turning the garage and by the fence that is already in place. Ms. Charlene Takesian agreed with Ms. Masse-Quinn, adding that both parties took trees down. Mr. Montbleau agreed as well but suggested increasing the plantings on the plan from six to ten. Mr. Passamonte suggested that the applicant only replace what was taken down along the fence line. Mr. Passamonte showed a Google Earth photo of the property to show the stretch of fence where the trees were cut.

Mr. Doherty stated the Planning Board would like to see a revised plan showing the 90-degree turn of the garage and a landscape plan to include 12 plantings that are approximately 7'-9' at the time of planting to provide a buffer.

Mr. Doherty opened the discussion back to the public by request.

Mr. Campbell said he believed his client should be able to see the revised plan and requested the Board to continue the case to allow himself and Mr. Demers the opportunity to review the changes.

Ms. Masse-Quinn questioned if the abutter has the right to request to review the plans before the Planning Board makes their determination.

MOTION: (Montbleau/Bilapka) To date specify Case #PL2024-00008 to April 1, 2024, to allow the changes to be made to the plan which will include rotating the garage approximately 90 degrees and updating the landscape plan to provide a buffer along the fence line. The abutter will have the opportunity to review the plans.

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

Mr. Doherty announced a ten-minute recess. The Planning Board returned from recess at 9:14 pm.

CONTINUED

Case #PL2023-00036

Map 32 Lots 1-139, 1-140, 1-142

ROGER MONTBLEAU 2021 REVOCABLE TRUST – Spaulding Hill Road - Seeking approval of a Lot Consolidation and Subdivision Plan for a 24-lot, single-family Conservation Subdivision (Montcalm Estates). The subdivision will have individual septic systems and a community water supply system.

Mr. Roger Montbleau recused himself from Case #PL2023-00036. Mr. Doherty assigned Mr. Paddy Culbert to take the place of Mr. Montbleau.

Mr. Shayne Gendron from Edward N. Herbert Associates introduced himself representing Roger Montbleau Revocable Trust. Mr. Gendron explained that since the last time they were before the Planning Board, they have been before the Conservation Commission and also submitted a remission to the Town's Review Engineer. Mr. Gendron said they were before the Conservation Commission on January 10, 2024, had a site walk of the property on February 3, 2024, and were back before the Conservation Commission on February 14, 2024. Mr. Gendron said the Conservation Commission had asked them to move the well pump house. Mr. Gendron said they adjusted this to the plan. Mr. Gendron said the letter on file stated that the Conservation Commission had approved this. Mr. Gendron said once they heard back from the Conservation Commission, they submitted the plans to Engineer, Mr. Steve Keach. He added that Mr. Keach has only had the plans for about a week and a half and therefore may not have a full review at this time.

Mr. Gendron stated that there are three wells on this property. Mr. Gendron said a well company performed 4-hour pump tests on each well. Mr. Gendron said out of the three wells, one produced 5 gallons per minute (GPM) and two wells produced 10 GPM. Mr. Gendron said since then, they have been working with Bruce Lewis of Lewis Engineering. Mr. Gendron said at this time they are at a well-siting approval stage. Mr. Gendron said once the concept plan is approved, they can move forward with 72-hour pump tests.

Mr. Gendron said there is a special permit in the permit application. Mr. Gendron said there are five impact areas for grading for the roadway, drainage areas, or access to the wells. Mr. Gendron said they did work with the Conservation Commission and believed they were satisfied with the changes that they made.

Mr. Doherty asked where the third well was found. Mr. Gendron said all three wells are in the same vicinity. Mr. Gendron said there was no influence from one well to another well.

Ms. Masse-Quinn asked if he had the testing in writing for the wells. Mr. Gendron said they did not have it in writing as they just had the tests done. He explained that moving forward the process would be to get the siting approval and the concept approval so they can move forward with the full testing.

Mr. Jim Petersen introduced himself as the developer. Mr. Petersen said he did the testing to prove the water was sufficient and could provide the billing sheet that stated the tests that were completed. Mr. Doherty asked how deep the wells were. Mr. Petersen said two wells are 1000’ deep and the other is 1900’ deep. Mr. Petersen said the static level is about 10-12’ on all three wells. Mr. Passamonte asked when the testing was done. Mr. Petersen said under 2 months ago. Mr. Bergeron asked about the maintenance of the system after the development is complete. Mr. Petersen said he would be using Hampstead Waterworks.

Mr. Steve Keach introduced himself from Keach-Nordstrom Associates. Mr. Keach said plans were sent to him relatively recently and explained he would produce a full report over the next week.

Mr. Doherty opened the discussion to the public. Hearing and seeing no response, Mr. Doherty closed the discussion to the public.

Ms. Masse-Quinn read a letter from the Conservation Commission dated February 19, 2024, into the record.



TOWN OF PELHAM
CONSERVATION COMMISSION
 6 Village Green
 Pelham, New Hampshire 03076-3723
 603-635-7811

February 19, 2024

Pelham Zoning Board of Adjustment and Planning Board
 6 Village Green
 Pelham, NH 03076

Re: Spaulding Hill Road Open Space Subdivision
 Map 32 Lots 1-139, 1-140, & 1-142

Dear Zoning and Planning Board Members,

We initially reviewed this case at the pre-design stage on March 8, 2023. The fully designed plans were presented to us on January 10, 2024, and again on February 14, 2024. In addition, the Commission conducted a site walk on February 3, 2024. The proposal is for an open space subdivision with 22 new proposed lots and one existing lot with an existing house. The parent lots are approximately 35 acres in size. Twenty-two acres will be conserved as open space.

The applicant has reduced wetland conservation district (WCD) impacts from approximately 33,000 square feet (sf) on the plan presented in January, to 25,390 sf on the revised plan. This reduction was possible because the applicant moved the proposed location of the well pump house to the east side of the detention area rather than have the pump house to the west of the detention area near the wells. The road to the pump house and down to the wells will be gravel. The pump house will have regular access for maintenance.

A main issue of concern for Conservation members as well as residents on the site walk, is the availability of water for drinking and household use. The 3 wells have been pump tested and have been shown to pump 25 gallons per minute. The subdivision will have a reserve holding tank of 15,000 gallons. Mr. Gendron said the average 4-bedroom single family home uses 600 gallons per day of water. Conservation members understand the water system will go through review by Planning and the state, but members are still concerned given the trouble with the lack of water, for residents of subdivisions off Sherburne Road.

Commission members voted 4 in favor and 0 opposed to recommend the revised plan for this project contingent on all necessary approvals for the community well system.

Thank you for your consideration of this recommendation.

Sincerely,

Karen Mackay
 Conservation Commission Secretary

MOTION: (Masse-Quinn/Bilapka) To date specify Case #PL2023-00036 to the April 1, 2024 Planning Board meeting.
VOTE: (7-0-0) The motion carried.

MEETING MINUTES

MOTION: (Montbleau/Masse-Quinn) To approve the February 5, 2024 meeting minutes as written.
VOTE: (6-0-1) The motion carried.

Case #PL2024-00005

Map 23 Lots 12-98, 12-99-4, 12-99-5

Triple Crown Homes, LLC – Kinnal Avenue - Seeking approval to Consolidate 3 lots and Re-Subdivide into 10 lots.

Mr. Doug MacGuire introduced himself from the Dubay Group representing the applicant Triple Crown Homes, LLC. Mr. MacGuire said they were initially before the Planning Board in January of 2024. Mr. MacGuire said they had requested a continuance to allow Mr. Steve Keach to review the plans. Mr. MacGuire said they received Mr. Keach's review at the beginning of the week and had provided updated plans reflective of comments provided on Mr. Keach's report.

Mr. Steve Keach introduced himself from Keach-Nordstrom Associates. Mr. Keach stated that the Planning Board had a copy of his technical review dated February 19, 2024, and began a summary of the review.

Mr. Keach said he reviewed this proposal against the Pelham Zoning Ordinance. He said this conventional subdivision satisfies all applicable requirements of the Pelham Zoning Ordinance.

Mr. Keach referenced comment No.8 in his review under Planning/Design Matters. "As shown on Sheets 2 and 4 a small portion of existing Lot 12-99-4, situated immediately southeast of the intersection of Kinnal Avenue and Webster Avenue, is identified as "portion of Map 23-Lot 12-99-4 found within right-of-way per plan references #3 & #8." To remedy any potential title defect we recommend the owner/applicant execute and record a quit claim deed dedicating land within this "overlap" to the Town of Pelham as supplemental public right-of-way. We further recommend the installation of street bounds at the northerly and southerly ends of the easterly line of this segment of supplemental public right-of-way."

Mr. Keach next brought attention to bullet 5 under comment No.9 in his review. "The drawing specifies a "50' natural buffer" around the outer perimeter of the subject tract bordering adjoining residential properties. We presume this natural buffer takes the form of a proposed covenant or deed restriction voluntarily proposed by the owner/applicant for the benefit of abutting landowners. If so, we recommend the addition of a note to the final drawing specifying that intent." Mr. Keach said the reason for this comment is that the natural 50' buffer shown is not a Zoning requirement; it is voluntary. Ms. Beauregard asked Mr. MacGuire if they chose to place a 50' buffer voluntarily. Mr. MacGuire said at the time of the proposal there was discussion that the 50' buffer was being worked into the ordinance and at the time they had done it voluntarily.

Mr. Keach said comments No.15 and No.16 of his review are technical comments that deal with minor additions and modifications. Mr. Keach said for constructability in some instances he is requesting strict compliance with Section 202-6.E of the road specifications to help the contractor build it correctly. Mr. Keach referenced a bullet point under comment No.16. "Consistent with Section 202-6.E (3)(c)(18) of the LUR's test pit data submitted with the application included the results of a series of test excavations complete along both the centerline of Canterbury Road and within the vicinity of stormwater management practices. We recommend expansion of Sheets 6 through 8 to depict the location and reported depths to seasonal groundwater and refusal encountered at this series of test pits." Mr. Keach said the

design engineers did test excavations at every 100-foot station along the road. Mr. Keach said this was not plotted on the drawing. Mr. Keach said having this data on the plan will dictate where underdrain would need to go.

Mr. Bergeron asked Mr. Keach if on Sheet 7 he would recommend a condition that the tank be a plastic tank rather than a chamber tank where there is a potential for leakage. Mr. Keach said he did not believe it needed to be done at the subdivision plan level but rather at the septic design plan level. Mr. Keach said there would be a detailed septic design plan done and that would be the place to capture that. Mr. MacGuire said that he could pull the tank out to eliminate the question.

Ms. Masse-Quinn asked how close this development was to the watershed for Little Island Pond. Mr. MacGuire said that the development is fairly far away, adding that the discharge point of their detention system is 350’ long in itself through a wooded area. Mr. Keach said it would be approximately 1600’ to 1800’ from the shore. Mr. Keach said the majority of this property is actually in the Little Island Pond watershed.

Mr. Doherty opened the discussion to the public. Hearing and seeing no response, Mr. Doherty closed the discussion to the public.

Mr. Doherty date specified Case #PL2024-00005 to the March 4, 2024, Planning Board meeting.

BOARD MEMBERS / PLANNING DIRECTOR UPDATES

Ms. Masse-Quinn read an invitation to attend a Public Hearing for the presentation and adoption of the Master Plan. Ms. Masse-Quinn said the event will take place on March 18, 2024, at 7 pm in Sherburne Hall. Ms. Masse-Quinn explained the Planning Department will vote on adopting the Master Plan during this Public Hearing.

ADJOURNMENT

MOTION: (Montbleau/Passamonte) To adjourn the meeting at 10:35 PM.
VOTE: (7-0-0) The motion carried.

Respectfully submitted,
 Heidi Zagorski, Recording Secretary