

APPROVED

**TOWN OF PELHAM
PLANNING BOARD MEETING
May 1, 2017**

The Chairman Peter McNamara called the meeting to order at approximately 7:00pm.

The Secretary Paul Dadak called roll:

PRESENT: Peter McNamara, Roger Montbleau, Paul Dadak, Tim Doherty, Joseph Passamonte, Jim Bergeron, Selectmen Representative Hal Lynde, Alternate Paddy Culbert, Alternate Mike Sherman, Alternate Richard Olsen, Planning Director Jeff Gowan

ABSENT: None.

BY LAWS

The Board will consider changes to the By Laws to take ‘review of minutes’ as the first order of business rather than the last, as discussed at the April 17, 2017 meeting.

The Board members were provided copies of the By Laws for review. Order of Proceedings is Section II, A. The Board considered Section II,A,6 - ‘Approval of minutes from last meeting’. They decided to move meeting minutes review to the first order of business, Section II,A,1 and rename to: ‘Approval of minutes’.

MOTION: (Dadak/Passamonte) To designate ‘Approval of Minutes’ in the By Laws under Order of Proceedings – as Section II,A,1.

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

MINUTES REVIEW

April 17, 2017

MOTION: (Lynde/Passamonte) To approve the April 17, 2017 meeting minutes as amended.

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

ADMINISTRATIVE

Discussion of Board of Selectmen letter regarding potential Special Town Meeting for Zoning Article(s).

Mr. McNamara read aloud a letter from the Board of Selectmen dated April 26, 2017 that spoke to Article 4, elimination of the Zoning Provision providing for ‘over (age) fifty-five housing developments’. (*See Attached*).

Mr. Lynde made a motion for the Planning Board to move forward with resubmitting Warrant Article #4 to the voters at a Special Town Meeting and to hold all necessary hearings and make sure all notifications are done as required by Statute. Mr. Montbleau seconded for discussion.

Mr. Passamonte wanted to know what harm there would be in waiting to revisit the Article to get the corrections they wanted to begin with. Mr. Lynde believed the Selectmen's letter stated the concerns. He said the voters voted on the article and if they give them something different to vote on, he felt they (the Board) would be going against their trust. He felt they ran the risk of confusing or alienating the voters. He realized there were changes that should probably be made, and those could be approached in the future. Mr. Passamonte noted they had (previously) made changes and questioned why they shouldn't put those changes in the document before having it go back to the voters. With regard to the +55 housing, Mr. Lynde noted there were no substantive changes eliminated from the Ordinance. He believed Mr. Passamonte was referring to other changes to other parts of the Zoning, that were the wishes of some of the Board members, that were voted on to be included. Mr. Passamonte felt they were making a rash decision just to get something out that they didn't want before. With due respect, Mr. McNamara pointed out that the article was reviewed last year and people voted and overwhelmingly approved. He said now the Board of Selectmen felt it was important enough to put forward the effort and expense for a Special Town Meeting and has asked the Planning Board to proceed on.

Selectman William McDevitt came forward. He understood where Mr. Passamonte was coming from and felt he made a good point. He wanted the Board to know that someone (a voter) had called Town Hall and was absolutely outraged that they had voted along with other people to approve the article and the Town had to ignore it. He felt the reason why they didn't want to wait was because the Planning Board and Selectmen credibility was at stake. Mr. McDevitt stated there were builders who have either invested, or were about to invest money to build +55 developments, and the longer they waited would be a disservice to them. He said the Board could wait and put it through a zoning committee; however, he pointed out that elected officials work for the voters. He reiterated that 71% of the voters wanted the Board to get to work on it.

Mr. Doherty explained that the Zoning amendment process was about finding out what the public had to say at meetings so the Board could decide at the meetings that what the subcommittee was creating was what the public would like to see go on the ballot. He said the Board wouldn't be 'hamstrung' by any vote they took at the present meeting; the public would have notification and have a say. He hoped the public would speak at the meetings and provide input. He said if someone came forward with something substantially different than what the Board thought of they could have a discussion regarding such.

Mr. Dadak agreed with Mr. McDevitt that the public had spoken in a majority for the change that was on the ballot. He didn't feel they had voted for the Board to study it more. He understood that (or the?) Zoning changes, but believed the voters indicated that now was the time to make a decision, and not wait. If the voters wanted to wait they wouldn't have a majority vote in favor. He said now they were unhappy that it couldn't be enforced.

Mr. Montbleau agreed with Mr. Dadak and felt Mr. McDevitt brought up valid points. He was concerned about the issues of the Board's credibility. He felt the Board should proceed.

MOTION: (Lynde/Montbleau) For the Planning Board to move forward with resubmitting Warrant Article #4 to the voters at a Special Town Meeting and to hold all necessary hearings and make sure all notifications are done as required by Statute.

SHOW OF HAND VOTE: (4-3-0) The motion carried. Voting in favor were: Mr. McNamara, Mr. Dadak, Mr. Montbleau and Mr. Lynde. Voting in opposition were Mr. Passamonte, Mr. Doherty and Mr. Bergeron.

Announcement of open Alternate position – applications submitted to the Planning Department to be forwarded to the Planning Board.

Mr. McNamara announced that the Board had open positions. An advertisement had been posted. Mr. Gowan stated two applications had been received, and there was possibly a third. He suggested the Board might consider

interviewing candidates at their next meeting. He noted by Statute, the Board was allowed five alternates; currently there were three. There was no objection to interview candidates at the next meeting.

NEW BUSINESS

No New Cases.

ADJOURNMENT

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

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

The meeting was adjourned at approximately 7:36pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary



TOWN OF PELHAM

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April 26, 2017

Dear Planning Board Members,

You are all aware that Article 4, eliminating the zoning provision providing for so called over 55 housing developments passed overwhelmingly (71% Yes) at Town Meeting. There is no reason for most voters to assume that the result will be other than they voted. As we know, a fatal flaw in the process (and acknowledgment of that flaw by the Selectmen) rendered the voter's directive unenforceable; thus contrary to the wishes of a large majority of the voters, nothing has changed.

The Selectmen are greatly concerned that the voters will be more than confused and disturbed by the fact that the Planning Board, acting properly, will continue to review and possibly approve these developments. While most of us more intimately involved in such matters know that Article 4 is unenforceable, most residents likely do not. Public cynicism regarding Planning Boards goes with the territory but in this case cynicism may reach new heights, all through no fault of the Board.

The Selectmen and Planning Board, both being elected positions, are, if nothing else, subject to the direction and instructions of the voters at Town Meeting. In this case, again, 71% gave their approval to Article 4 and, as a consequence, directed both Boards to carry out their wishes. So, given the presence of the invalidating administrative error, how can this be done?

The Board of Selectmen have discussed this at their past two meetings and come to one conclusion. The Board of Selectmen will call a special Town Meeting to allow the voters to vote again on Article 4 providing the Planning Board sends said article forward, this time with all administrative requirements fulfilled. The Planning Board should note that all posting and hearing rules for March Town Meeting articles still apply. The Planning Board may wish to review all requirements with counsel.

While it may be tempting to do so, we urge the Planning Board and, for that matter, Town departments, not to "pile on" and seek additions and corrections to other matters which

passed and are enforceable as they stand. A Pandora's box of additional articles may serve to confuse the voters as to exactly why the Selectman have called a special Town meeting.

Therefore, please consider this as a formal request from the Board of Selectmen to the Planning Board to resubmit Warrant Article 4 to the voters. Ideally, the special town meeting should be scheduled before the summer school break to allow for maximum citizen participation.

Pelham Board of Selectmen