

**APPROVED**  
**TOWN OF PELHAM**  
**PLANNING BOARD MEETING**  
**October 2, 2017**

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, Joseph Passamonte, Tim Doherty, Jim Bergeron, Selectmen Representative Hal Lynde, Alternate Paddy Culbert, Alternate Derek Steele, Alternate Richard Olsen, Alternate Bruce Bilapka, Planning Director Jeff Gowan

**ABSENT:** Alternate Samuel Thomas

**PLEDGE OF ALLEGIANCE**

**MINUTES REVIEW**

**September 18, 2017**

**MOTION:** (Montbleau/Lynde) To approve the September 18, 2017 meeting minutes as amended.

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

**OLD BUSINESS**

**PB Case#PL2017-00012**

**Map 7 Lots 9-135 & 9-135-1**

**MENDES, David – Katie Lane & Simpson Road – Review of Yield Plan and possible vote for Special Permit to proceed with formal Conservation Subdivision application of the above referenced lots. Full application for subdivision will follow once Special Permit has been approved and density is established.**

Mr. Lynde recalled the applicant asking the Board to vote regarding the proposal at the previous meeting. Mr. McNamara replied the Board had voted, and the applicant had come back in with a new yield plan.

The applicant, Mr. David Mendes came forward with his representatives, Mr. Peter Zohdi and Mr. Shayne Gendron of Herbert Associates. Mr. Zohdi understood during the last meeting the Board wanted to see if there could be road connectivity within a conventional subdivision, versus having two cul-de-sacs. Subsequently he submitted a conventional subdivision plan showing road connectivity. He said there had been something wrong in the initial presentation, and he should have taken the two conventional lots out and was willing to do so. Mr. McNamara questioned if the yield plan contained the same number of lots as previously submitted. Mr. Zohdi replied the current yield plan showed fourteen (14) lots; they gained a lot by having road connectivity. Mr. McNamara inquired if Keach Nordstrom (Board's engineering firm) had an opportunity to review the plan. Mr. Zohdi answered no. Mr. McNamara asked if there were any other notable changes to the plan. Mr. Zohdi stated in the previous plan they requested two lots and waiver for the 15K area to not be 100x150. He noted they've requested similar lots in the past, because within that section of the Regulations, the rules admit that a plan might

not comply with everything. He said to have two lots, within a fourteen lot subdivision, not be 100x150 is minor. They weren't requesting any additional waivers. Mr. Zohdi noted if they developed the plan with road connectivity, they would have another 547SF of dredge and fill in the second area of impact.

Mr. Lynde questioned if the two lots with frontage on Simpson Road were included in the yield plan process. Mr. Zohdi replied he had to show the Board how many lots he could achieve. The yield plan showed fourteen (14) lots. He stated when doing a conservation subdivision, they couldn't do full drainage and engineering for two different subdivisions when they weren't using one of them. He said the Board wanted to see road connectivity, so that's what they submitted. He noted that because there was limited time to work on the plan it had not yet been reviewed by the Planning Director or Keach Nordstrom. He told the Board he would be happy to have them conduct their review if there was a chance of doing a conservation subdivision; however, if there wasn't, he would like to do a conventional subdivision one parcel at a time.

Mr. Doherty questioned if the applicant was still seeking two (2) conventional lots along Simpson Road as part of the development. Mr. Zohdi replied he was showing three (3) conventional lots because they eliminated the open space. Mr. Doherty clarified his question, and wanted to know in regard to the conservation subdivision, if the two lots along Simpson Road were included in the plan as conventional lots. Mr. Zohdi answered yes. Mr. Doherty said if those two lots were included, they couldn't use that land in the yield plan. He commented that the 'hybrid' system of conventional/conservation shouldn't be in front of the Board. He said the plan was the same, except there was road connectivity. Mr. Zohdi stated he wanted to have two non-conservation lots within parcel 35-1. He said at the beginning of his presentation he admitted to doing something wrong; and should have taken those two lots out and then come in with a conservation subdivision. He told the Board he was willing to do so. Mr. Doherty felt he should; the lots shouldn't be part of the yield plan for the conventional subdivision. Mr. Zohdi reiterated he was willing to do so and wanted to know from the Board if they wanted an open space subdivision, or conventional. Mr. Doherty stated he wanted to see a realistic yield plan using just the part that would be a conservation subdivision. He said the yield plan shouldn't show parts of the conventional lots. Mr. Zohdi wanted to know why the Board couldn't accept the yield plan. Mr. Doherty replied the plan wasn't realistic because it mixed two different types of developments. Mr. Zohdi replied there was no rule in the regulation that said they couldn't do a development containing a conventional and conservation section. Mr. Doherty referenced Section 307-97, which indicated all covenants and easements shall apply to all units. He said when a conservation subdivision was being done, the covenants needed to apply to the entire subdivision. Mr. Zohdi indicated that section was for all the units that were in the conservation subdivision. He said at the beginning of the presentation he told the Board he made a mistake and should have taken the two (conventional) lots out and then do the plan.

Mr. Bergeron believed Mr. Zohdi wanted the Board to take the (conventional) yield plan (with road connectivity) and decide if it was better than the proposed conservation subdivision. His issue with the process (not the applicant) was it shouldn't be a foregone conclusion that the conservation subdivision would be approved if the Board would rather see it, than a conventional plan. He spoke about the plans in front of the Board. He said they had a yield plan and connectivity, and needed to decide whether to go forward with either the conventional or conservation subdivision.

Mr. Culbert noted that the Board, in theory, had always chosen either a conventional or conservation development. Mr. Bergeron wanted to know if a conservation subdivision could change from a plan initially submitted. He didn't want to 'cancel' out a conventional subdivision if through the process he couldn't support a conservation development. Mr. Gowan's interpretation of the regulations was, when the Board was satisfied with a yield plan, and the Board's consultant was also satisfied, if the Board preferred what they've seen of the conservation subdivision they can take a vote to approve the Special Permit for the applicant to move ahead with a conservation subdivision. He said it didn't obligate them to approve the conservation subdivision, if the Board wasn't satisfied with it. He noted the Board could ultimately deny the conservation subdivision and relook at a conventional plan. Mr. Bergeron understood, and commented he wasn't trying to create financial difficulty for the applicant or the engineers, but felt the Board needed more engineering up front. He wanted to hear from

Keach Nordstrom and know if the conventional plan would work, and if it did, he would be willing to support the conservation subdivision, provided it would remain open for discussion/change. Mr. McNamara noted that the applicant originally came in front of the Board with the preference to build a conservation subdivision. He said the applicant was now asking which type of plan the Board preferred and was open to having Keach Nordstrom review to determine if the plan was a true yield plan.

Mr. Steve Keach of Keach Nordstrom came forward to provide general comments, because he just received a copy of the plan to review. He commented that a yield plan was an instrument to determine density (based on Zoning and Subdivision Regulations), and not a subdivision in and of itself. He said at the scale and given the short time he had to review the plan, it appears as if it likely does (comply with Town regulations). Assuming it does, there would be fourteen (conventional) lots. In response to Mr. Doherty's comment about taking lots out, Mr. Keach said he was right in the larger view. He said if there was a yield plan that showed fourteen (14) lots, and they wanted to take two (2) out as conventional lots, it would be a problem if the geometry of the two lots weren't identical as they were shown on the yield plan. He didn't know what the corresponding conservation subdivision plat with one, or more out parcels in a conventional nature might be because it wasn't in front of him. He said if they are identical, and the yield plan showed fourteen (14) compliant conventional lots, it's the applicant's choice to take two of the fourteen out as conventional lots. He agreed with Mr. Doherty that it would have to be done as a separate action/separate plan; however, in terms of numbers if the two lots were the same, they would have twelve (12) instead of fourteen (14) yield plan lots to justify the density for the conservation subdivision before the applicant commences conversation about potentially earning density offsets. Mr. Keach felt the two northerly lots would be dependent upon waiver of the 15KSF area. He said if the applicant wanted to take out two (2) (conventional) lots they would have a yield plan, not of fourteen (14) lots, but rather it would be of twelve (12) lots. He agreed with Mr. Doherty's citing of the Ordinance, which was clear regarding the covenants.

Mr. Lynde referenced Section 11:14, H, which speaks to having a minimum of 15% total land devoted to recreational purposes. Mr. Keach replied that was one of the purposes of a conservation subdivision. He said there were two parts to the conservation subdivision regulations; one being in Zoning, which creates the foundation of a development and the cross-reference in the regulations that is used as the companion to Zoning. Presumably, part of the open space would be available for use by the residents for recreation. Mr. Lynde understood there was a requirement for 15% open space within a regular (conventional) subdivision. Mr. Keach replied the regulations include it, but suggested prior to enforcing it the Board should consult with Town Counsel because it was a 'taking'. He said in the eight (8) years working with the Town, he had yet to see the Board ever do it. Mr. Lynde questioned why. Mr. Keach believed it was unlawful, other than in an innovative subdivision control. He said in innovative zoning, as adopted pursuant to RSA 674:41, they could do inducements to that nature to persuade applicants to do what the Town's Master Plan, Land Use Regulations and Zoning Ordinance would have them do, but that would be considered an exaction under today's land use law in the State. He believed they may have had that conversation in the past. Mr. Lynde replied he would have that conversation with counsel and give Mr. Keach the end results.

Mr. Zohdi recalled during the last meeting Mr. Lynde spoke about the Surrey Lane development, cul-de-sac and connectivity. He stated in that subdivision, the Town took over ten (10) acres for recreation. The owner went to court and the Town had to give the owner the land back. He stated land taking was illegal.

In reference to the yield plan, Mr. Doherty pointed to three lots, which were shown as one lot within the conservation subdivision. He then showed a group of other lots on the yield plan that were also shown as one big lot on the conservation plan. Because of this lot configuration, he didn't feel it was a realistic yield plan. Mr. Keach didn't have the plan in front him that Mr. Doherty was referencing, and hadn't received a copy of such. He added if the lots weren't identical, it would be a problem.

Based on the Board's comments, Mr. Zohdi agreed with Mr. Doherty. He said he would separate the lots and maintain frontage. He wanted to know if the Board was in favor of a conservation or conventional subdivision.

Mr. Bergeron asked Mr. Keach if the land was capable of bearing density reduction, well radii and septic. Mr. Keach replied he hadn't come to speak to those points.

Mr. McNamara polled the Board members to see 'in general' (not binding) which type of development they preferred. Those in favor of a conservation subdivision were: Mr. Montbleau, Mr. Bergeron, Mr. Doherty, and Mr. McNamara. Those in favor of a conventional plan were: Mr. Lynde, Mr. Passamonte, and Mr. Dadak.

Mr. McNamara stated that the Board would have Mr. Keach review the matter and submit his opinion. Mr. Zohdi asked that they date specify the plan in thirty (30) days.

Mr. Passamonte asked if the conservation plan could have road connectivity. Mr. Lynde replied the conservation plan had a cul-de-sac. Mr. Zohdi pointed out the area of the parcel that would be developed within the conservation plan.

Mr. Doherty questioned if the discussion had been opened to the public. Mr. McNamara replied he hadn't because at this point it was more of a matter for the Board. He asked if there were any members of the public present with regard to the subdivision. No one responded.

The plan was date specified to the November 6, 2017 meeting.

**PB Case#PL2017-00017**

**Map 28 Lots 2-12 & 2-12-19**

**LEMARRE, Richard & RIESLAND, Steve & Debra - 434 Mammoth Road & 9A Burns Road -  
Proposed Lot Line Adjustment between lots 28/2-12 & 2-12-19**

Mr. Doherty noted that the abutter's list had been read at the previous meeting.

Mr. Steve Riesland came forward to discuss the proposed lot line adjustment. He told the Board he was giving the presentation because he was a civil engineer. He explained that Mr. LeMarre approached him to purchase a piece of property he currently owned. He told the Board that the previous owner had approached him every couple years to ask if a beaver dam could be cleaned out that flooded the property. Mr. LeMarre made the request to purchase that parcel of land.

Mr. Riesland stated he would like to take 3.1 acres (of his current 9.76 acres) and consolidate it with Mr. LeMarre's property (currently approximately 107 acres). Mr. LeMarre's property would increase to approximately 110 acres and Mr. Riesland's property would decrease to approximately 6.6 acres. He noted that the property being conveyed was 95% (or more) wetlands; it was virtually non-buildable. The adjustment wouldn't effect Mr. Riesland's building area, road frontage, septic or well.

Mr. Bergeron asked that the proposed plan be displayed to show the public. Mr. Riesland displayed the proposal. Mr. Bergeron questioned who would end up with the beaver dam. Mr. Riesland replied Mr. LeMarre would own that portion of the parcel and would take care of it.

Mr. Doherty made a motion to accept the plan for consideration. Mr. Bergeron seconded.

**MOTION:** (Doherty/Bergeron) To accept the plan for consideration.

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

Mr. McNamara read aloud the Planning Director's comment, which questioned why frontage would be created for lot 28/2-12, when that frontage was all wetland that would be unlikely to accommodate a future road. He believed the applicant stated the area was all wetland.

#### PUBLIC INPUT

Robert Cavanaugh, 114 Marsh Road (and wife Rhonda seated in the public) were concerned about the wetland that directly abutted their property. He told the Board in May, 2017 they observed Mr. LeMarre completely removing the beaver dam. He noted that the beaver dam had pipes installed to maintain the wetland at a pre-determined level; there had never been a problem with flooding, not even during the 2006 Mother's Day storm event. Knowing Mr. LeMarre didn't own the property, they contacted Fish and Game. He said there were State laws concerning beaver dams, but he was advised by the Conservation Officer that the issue was considered as 'local'. The Pelham Police were contacted, and an officer observed Mr. LeMarre exiting the area of the beaver dam. He said Mr. LeMarre told the officer that he owned the property, which was not the case. Notwithstanding that situation, Mr. Cavanaugh commented that there had been a drastic change to the wetland and stated he had photographs (with dates over a couple years period) to provide the Board showing the area before and after removal of the dam. He spoke about the wildlife that previously inhabited the area, noting that the habitat had totally changed. The photographs were submitted to the Board. He reiterated that the wetland was previously a pond, and it was now basically a puddle of mud with a couple inches of water, frogs and turtles. He believed the transformation was due to the removal of the beaver dam.

Mr. Riesland told the Board in the last ten years he had only been to that area of the property twice. He reiterated his testimony that the previous owner had approached him every couple years to clean out the beaver dam because the water backed up onto his (previous owner) property causing problems.

Mr. Cavanaugh commented that Mr. Riesland applied for Current Use in March, 2007. He obtained a copy from the Deeds office. The document states that for 7.76 acres of Mr. Riesland's property to be eligible for recreation adjustment, it must be open for skiing, snowshoeing, fishing, hunting, hiking, and nature observation with further information contained in RSA 79-A:4. He noted that would need to change with Mr. Riesland selling approximately three acres of the 7.76 acre parcel to Mr. LeMarre. Mr. McNamara questioned how the happenings in the past affected the applicant's proposed land transfer. Mr. Cavanaugh replied that the Conservation Officer said it was a local issue and where the wetland had drastically changed, and there were several instances within the Town's Master Plan that state if there is a conflict of regulations, the more stringent regulation will apply. He pointed out that the area was a wetland conservation district and wanted to know the Town's position and what they aimed to do to protect the area in the future. Mr. McNamara replied the section being referred to would be in regard to a subdivision development or site plan review. He stated that the matter in front of the Board was a simple lot line adjustment. He said Board didn't have enforcement capabilities/authority.

Mr. Doherty wanted to know the location of the dam from Mr. Cavanaugh's property. Mr. Cavanaugh replied from the rear of his property, facing west, the dam would be to the right, which was approximately 200 yards. Mr. Doherty recalled the Planning Board and the Zoning Board conducting a site walk in Mr. Cavanaugh's neighbor's yard and seeing a dock from their land to the wetland. He believed several members of the Board were on the site walk and saw the wetland.

Having been a Board of Director member of Pelham Fish and Game for quite a while, Mr. Bergeron stated they occasionally removed beaver dams that had created substantially large ponds. He said the reason for removal was the back land flooding, but understood the sadness from losing certain wildlife. He stated beaver dams were the domain of the property owner and the Board didn't have jurisdiction over it.

Mr. Lynde asked if the Board should have the Conservation Commission weigh in on the matter. Mr. McNamara replied the matter in front of the Board was a lot line adjustment.

**MOTION:** (Doherty/Lynde) To approve the (lot line adjustment) plan as proposed.

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

### **NEW BUSINESS**

#### **PB Case #PL2017-00018**

#### **Map 35 & 41 Lots 10-351 & 10-312**

**FINEMAN, Neil - 48 Currier Road & 56 Bridge Street - In accordance with Section 8.02 of the Pelham Subdivision Regulations, applicant is seeking Pre-Design Review of Proposed Open Space project**

Mr. Dadak read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. McNamara explained the review process that the Board would follow. He stated it was not a formal application for a subdivision; it was a pre-design review as specifically allowed by NH law and incorporated into the Town's Subdivision Regulations. As per the NH Planning Board document, design review gives the applicant and Planning Board the opportunity to discuss a proposal in much greater detail than is allowed in the conceptual consultation stage. The objective of design review is to provide the Planning Board with an opportunity to understand what is being proposed and the concerns of board members, abutters and the public. Design review is intended to assure that the essential characteristics of the site and specific requirements of local regulations are thoroughly reviewed and understood before the final design is prepared. Mr. McNamara stated nothing the Board discussed would be binding and there would be no final votes for any aspect of the plan. He said after the applicant's presentation, they would discuss the Board's concerns.

Mr. Joseph Coronati of Jones & Beach Engineering, Inc., and Attorney John Cronin came forward to represent their client, DHB Homes, LLC. (Mr. Bob Meissener)

Mr. Doherty wanted to let Mr. Coronati know about the Zoning change that had occurred since the last time he came in front of the Board. He said Zoning now required that a conceptual plan be submitted to the Board. Mr. Coronati questioned if the present hearing counted as a 'conceptual' hearing. Mr. McNamara replied it was a 'Pre-design Review', under Section 8.02 of the Subdivision Regulations. Mr. Doherty added that a plan couldn't go from pre-design into a full design; a conceptual plan was also required. Mr. Coronati replied doing so wouldn't be a problem and they would certainly do so.

Mr. Coronati submitted three plans that showed the property. He stated that the property had two right-of-ways on Currier Road, frontage on Peabody Lane, as well as a right-of-way on Route 38. He referenced a plan being displayed that showed the entire property boundary and wetland boundary. He noted that the property contained both a commercial segment and residential segment; his client was under agreement for the residential portion. The owner would be subdividing off the commercial property and retaining the rights and ownership of such. He understood all the abutters were notified around the entire property; however the proposal would only center on the residential property.

Mr. Lynde questioned if the intent was to draw the property line at the zone line. Mr. Coronati replied it would be approximately 10ft. off the zone line, which would allow the remaining commercial property area to be connected as one property.

Mr. Coronati told the Board that the entire property itself was approximately 134 acres, of which approximately 70-75 acres were in the residential zone. The numbers will be more refined once a full survey is done. He stated the second plan showed a rough yield plan of what they believed could be done with the property, which was

possibly forty (40) one-acre lots with a road network. He added it was not their intention to build the yield plan, it was to being used to provide the density. They would like to do a conservation subdivision with an open space design. The yield plan used both right-of-ways on Currier Road and had an access way onto Peabody Lane with interconnected roadways.

Mr. Coronati stated they would like to discuss the third plan for the conservation open space development containing approximately 40-41 lots. The displayed plan showed open space colored in green. There was an existing gas line buried beneath the property and shown as a dashed line. Existing trails were built throughout the property and they would work with the Town to connect to other trails in the area. The goal with the open space was to provide as much as they could to the Town and buffers for the residents. The open space on the lower part of the property would connect to existing Town owned property. Mr. Coronati said the purpose of the meeting was to show the Board their layout and hear concerns. The proposed entrance from Currier Road was a dedicated right-of-way when the frontage subdivision was done. Some of the drainage infrastructure was pre-thought out including catch basins. The right-of-way was somewhat 'roughed in'. They didn't foresee the Peabody Lane entrance as being the main access point; however, they would review further. Mr. Coronati wanted to hear the thoughts of the Board and public regarding access, layout of open space, trails and/or any other items.

Mr. McNamara inquired if there were other aspects of the property that made a conservation subdivision preferable to a conventional development. Mr. Coronati believed there were. Although he didn't have all the items at the present meeting, he said they would go through the checklist of requirements and go more into detail when doing the yield plan.

Mr. Doherty pointed out to the Board that the footprint of the yield plan and proposed conservation plan were identical in shape. He said it was realistic plan of the parcel and the area that could be developed. He stated he had been in touch with members of the Conservation Commission and the Forestry Committee regarding the plan. He would like to see the applicant meet with members of the 'trails committee' so they could look at the proposed open space in relation to the Town owned land and trails system for connectivity. Mr. Doherty felt the conservation plan had potential. He wanted to know in what area the commercial land abutted Route 38. Mr. Dadak believed it was in the area of the new R&B Superette. Mr. Doherty suggested when the applicant was speaking to the Conservation Commission, they may want to discuss a possible future easement to the land abutting Route 38, which could act as additional connectivity.

Mr. Dadak wanted to know what type of vegetation was in the green/open space areas. Mr. Coronati pointed to the portion of the parcel (at the Currier Road entrance), which was currently open and had been cut over the years. He described the other areas of green space, which was thicker and contained mature trees.

Mr. Culbert wanted Mr. Coronati to be aware that there were limits on cul-de-sac length. Using the third sheet of the plan set (conservation development proposal), Mr. Gowan described where the cul-de-sac length would be measured.

Mr. Lynde inquired about the slopes for some of the conventional lots (contained in the yield plan). Mr. Coronati replied the lots weren't as steep as they may appear on the plan and were actually in the 10%-15% range. There were steeper sections on the property; however they were buildable. In reference to the conservation subdivision, Mr. Lynde said he would like to see the cul-de-sac removed, and the road extend to exit out the second right-of-way on Currier Road to create a 'through' street. He said doing so would be more convenient for the Town and it would be safer. He also felt that change would give residents of the development better access to the open space. Mr. Coronati questioned if the Town's property provided public access (i.e. parking). Mr. Lynde said the Town was in the process of providing public access to the Wolven property. Mr. Coronati replied they would be willing to work with the Town to provide public access to the open space. As a Selectman, Mr. Lynde stated he was concerned about the Town and the costs of road maintenance. He noted a through road was easier to

plow than a cul-de-sac. From a safety standpoint, he felt consideration should be given to having a second egress in the event of an emergency.

Mr. Doherty believed the cul-de-sac (from the point of the intersection) would only be approximately 1000ft-1200ft. Through his conversation with members of the Conservation Commission and Forestry Committee, he believed they preferred to have ownership of the open space. He pointed out that almost every lot would abut the proposed open space and also included buffers to all the abutters.

Mr. Gowan inquired if there would be a community well system, or individual wells. Mr. Coronati replied when speaking with his client, they preferred to do individual wells. Mr. Gowan spoke about another project that included drainage structures and well radiuses within the open space. He wanted the Board to think about those things while the project was being discussed. He then asked if natural gas was being contemplated. Mr. Coronati replied the gas line on the property was one of the transmission lines and didn't believe they could tap off of it. Mr. Gowan said with the property being relatively close to Route 38 and where the new line was running, it shouldn't be a big issue for the development to get natural gas.

Hearing Mr. Gowan speak about the way the lots would be supported relative to water and waste water, Mr. Bergeron was very concerned about the effects and increased load that conservation subdivisions had on the land. He recently attended an engineering conference dealing with the new water well rules; the State strongly recommends that no well radii overlap or leave a lot. He was concerned with that aspect of the development. He said it would be easier for him to go along with a conservation subdivision if the applicant would consider a different source for water. He understood it was a theoretical plan, and the underlying soils were not yet tested, but he was very concerned with putting forty homes on half the area a regular development would be done.

#### PUBLIC INPUT

Mr. McNamara reiterated that the plan was very preliminary in nature, but they wanted to hear from abutters.

Mr. Bruce Jewett, 4 Peabody Lane understood the plan was preliminary, but wanted to know why the access to the development was in front of his house and if it could be moved. Mr. Coronati replied there was flexibility regarding the access location on Peabody Lane. He noted there were a couple constraints, such as the gas line. He believed they could shift the road so it wasn't in front of Mr. Jewett's house. Mr. Jewett commented that Peabody was not a normal road and would need improvement. He also agreed with the Board's concern about the water and sewer.

Mr. Paul Diamantopoulos, speaking for the Diamantopoulos Family Trust, 11 Peabody Lane explained to the Board at the time he built his home (20+ years ago) he raised the lot because it was a little wet. He hasn't had any problems with his home with regard to water. However, in the spring when he walks into his backyard (beyond the raised portion), he sinks ankle deep. He was concerned there would be drainage issues with the number of homes being proposed. He didn't feel having a 10ft. buffer off the gas line would do much, because the gas company comes through every couple years to clear their right-of-way. That area won't have a green space. Mr. Diamantopoulos believed the development side of Peabody Lane would suffer with wetness. He said his other issue was the well water and septic. Earlier in the year he had his well checked for quantity and was concerned about such. He wanted to be assured any issues would be addressed. Mr. McNamara stated the best thing a resident could do was take concrete measurements of their well draw and to take photographs of their foundation, so if there are any discernable change they could have recourse. Mr. Diamantopoulos questioned if there could be a greater portion of conservation on the development side. Mr. McNamara replied when the plan was formally submitted the Board's engineering review firm would do a comprehensive study. He urged him to stay involved with the process. Mr. Diamantopoulos heard mention of natural gas and wanted to know if it would service the new development. Mr. Gowan believed the developer might be interested in having gas service. He noted a gas main was currently being installed down Route 38, so any gas that could service the development would come off Bridge Street (Route 38). Mr. Diamantopoulos questioned if he would



be able to have access to the gas service. Mr. Gowan explained that the gas line running down Route 38 was part of phase I of the Liberty Utility expansion. He believed there would be future phases during which Liberty reached out to the public.

Ms. Denise Snelders, 24 Loretta Avenue wanted to know if the proposed road to the development would go through to Loretta Avenue. Mr. Coronati replied they would be connecting to Peabody Lane, not into Loretta Avenue. Ms. Snelders asked about the status of the commercial portion. Mr. Coronati stated they weren't proposing any development on the commercial property; the owner was retaining the land.

Mr. Andrew Player, 97 Currier Road told the Board he was concerned with the trail systems. He said if the cul-de-sac was taken out and replaced with a through road, it would guarantee that the trail would have to cross over the road. He noted there were troubles in the past year with people putting barbed wire across the trail in the Garland property. Mr. Player said if the cul-de-sac remained, the trail could be routed around all the houses. Mr. McNamara believed during the process the applicants would get together with members of the Conservation Commission and the Forestry Committee so when the plan came back to the Board they would know where the trails could be accessed. Mr. Player noted that one of the trails went out to Route 38 near the gas station. Mr. McNamara suggested he stay involved in the process.

Ms. Kim Jewett, 4 Peabody Lane spoke about drainage and explained in the spring (during the thaw) there was a river that ran down Peabody Lane to Currier Road. She understood when the houses were built along Currier Road that trees were planted to absorb some of the moisture. She said they also put a trench down the side of Peabody Lane; however, it didn't work, and water still ran across the road. Ms. Jewett was concerned that building the development would change the drainage and have it flow into her yard. Mr. McNamara replied the Board's expert would do a thorough job (with review). He explained if/when the application was formally submitted, the applicant's obligation in terms of water was to have no worse condition as presently exists. Mr. Gowan noted if the design continued to have an access from Peabody, the area from Currier Road up through Peabody would have to be dramatically improved. He said there was an opportunity at that juncture to also improve the existing drainage. Ms. Jewett thought it was great to have the trail system, but wanted the Board to consider a parking area so vehicles didn't park along Peabody Lane. She ended by reiterating the concern discussed by her husband about the Peabody Lane entrance being across from her home. Mr. McNamara understood the concern and noted one of the Board's job was to minimize impacts to existing homes.

Mr. Robert Montbleau, Peabody Lane questioned who would own the proposed open space area. Mr. McNamara believed the Town would own it. Mr. Coronati stated it may make sense to have the Town own the large contiguous open space area adjacent to the existing Town owned land. He didn't think the Town would want the smaller pieces of open space because there would potentially be drainage and well radiuses extended into those areas. He said a homeowner's association may own those smaller areas. Mr. R. Montbleau wanted it on the record that the drainage in the area was horrible (as also discussed by other abutters). He commented that his land was lower than the Diamantopoulos property and saw drainage as only getting worse. He wanted additional information regarding natural gas being brought up from Bridge Street to the area. He questioned if abutters to the development would have the opportunity to tie into the gas. Mr. Gowan replied it was a possibility that depended upon the distance from the gas main. Only Liberty Utilities could answer the question. Mr. R. Montbleau wanted to know what the next steps were in the process. Mr. McNamara explained that the applicant would take the concerns and come back to the Board for additional discussion; after which, they will file a more formal application with notice to abutters. The submission of the formal application starts the process and will be reviewed by the Board's engineer.

Mr. Joe Norkiewicz, Island Pond Road told the Board he currently had a swale because of the water runoff. He heard that the drainage would be taken care of and wanted to know how it would be done. Mr. McNamara replied that was a question for the engineers. He said the applicant was listening to testimony so they could try to address the concerns. Mr. Gowan, who was on the Board at the time of the development in the area, noted

the developer had spent \$80,000 in trees. He also noted that post-development he had the developer resolve the drainage issue for Mr. Norkiewicz. He will make the Board's engineer very aware of how they had done so.

Mr. Bergeron wanted it known that aside from his concerns regarding density, soil loadings, clean water, he also had an issue with connectivity. He asked the applicant about the status of Meadow Knoll, and questioned if it was a privately owned right-of-way. He questioned if it could be included in some arrangement for connectivity, which may alleviate vehicle traffic at the other accesses. Mr. Coronati believed Meadow Knoll was a private driveway to an existing house. Mr. Gowan stated it was a named private driveway.

Mr. Coronati told the Board that they had not approached owner about running natural gas from Bridge Street through the commercial land into the development. He said when the question came up he believed the discussion was in regard to the gas line running through the property. He said they could look into doing so, but would need the owner of the land to allow a right-of-way.

Mr. Bergeron said after engineering and soil typing, his concerns regarding loading and well yields would remain. He wanted to know if there could be accesses for potential future connections to gas, etc. He stated that he had trouble with the conservation subdivision because it speaks about a 20% bonus, but felt they were really looking at a 50% density change because the houses were being located in a small area.

Referencing the Google Earth photo, Mr. Doherty spoke about the location of the gas line on Bridge Street. He believed the 50ft. right-of-way was near Charlie's Auto Village and Pelham Storage. He said if they were to bring the gas line through that location it would cut the commercial property in half just to get to the proposed development. Mr. Coronati replied without knowing the future plans of the commercial property it would be hard to put a gas line through it.

Mr. Dadak inquired if consideration was given to installing a community well, versus having individual wells. Mr. Coronati replied that the applicant had done many developments with both community, and individual wells. The applicant found that the best luck with communities and home owner associations was with individual wells.

Mr. McNamara thanked Mr. Coronati for discussing the proposal and hearing the concerns of the Board and abutters.

**PB Case #PL2017-000149**

**Map 1 Lot 1-124**

**HERBERT, Christopher - Mammoth Road - In accordance with Section 8.02 of the Pelham Subdivision Regulations, applicant is seeking Public Discussion on a proposed 29 Unit Elderly Housing Community**

Mr. Dadak read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Representing the applicant was Mr. Peter Zohdi and Mr. Shayne Gendron of Herbert Associates. Mr. Zohdi told the Board that the proposed site plan was for elderly (62+) housing located two lots from the Windham, NH town line. The total area of the parcel is approximately 12+ acres containing 10.08 acres of usable land. The soils were reviewed by Gove Environmental. Mr. Zohdi stated they previously submitted a plan for 55+ housing under different rules/regulations. The site has been redesigned for a 62+ development. He said prior to submitting a formal plan he wanted to discuss the proposal with the Board. There will be twenty-nine (29) units with a club house (currently existing house on site). A portion of the parcel is within the 100-year flood plain, elevation 167. Mr. Zohdi stated at this time he was seeking feedback from the Board.

Mr. Bergeron wanted to know how the development would be serviced with utilities, specifically water. Mr. Zohdi replied Pennichuck Water was located on the abutting property and they were proposing to extend that

water to the site. Mr. Bergeron understood that septic disposal would be on site, as per design. Mr. Zohdi stated that was correct.

Mr. Lynde had reservations about putting any elderly housing in that area, given the limited sight distance and being a very busy road. He felt the Board should look at the area before considering putting elderly housing there. Mr. McNamara questioned if sight distance had been reviewed. Mr. Zohdi replied they would provide the sight distance profile as they would with any subdivision. He noted there was a 197 unit (minus 54) elderly development in close proximity within Windham, NH. Mr. Doherty asked for a description of what was on the other side of the brook in Windham. Mr. Zohdi replied there was a development containing approximately 140 (55+) units and 57 units of regular condominium. Mr. Doherty questioned if they had any issues at that development. Mr. Zohdi replied that development was done in 2001 and he hadn't heard of any problems. He said water was brought to the development (in Windham) through the industrial park under Beaver Brook.

In looking at the property using the tax map, Mr. Bergeron said there appeared to be a right-of-way at the end of Industrial Drive. Mr. Zohdi replied there was a gas line going through a parcel that to the best of his knowledge was conveyed to the (Tennessee Gas) company. Mr. Gowan stated that was the driveway to access the gas pumping station.

Mr. McNamara opened the discussion to public input. No one came forward.

Mr. Gowan recalled when the plan previously came in front of the Board before any Ordinance change, he had asked whether or not there was any opportunity for a second means of ingress/egress to the parcel. He said once a plan is formally submitted for consideration, he will meet with the Highway Safety Committee but encouraged Mr. Zohdi to have an earlier meeting with the Fire Chief directly.

Understanding the proposal was preliminary, Mr. McNamara asked Mr. Zohdi if he wanted the plan to be submitted to Keach Nordstrom (Board's engineering review firm). Mr. Zohdi replied he had a detailed plan submitted to Mr. Gowan that could be sent to Keach Nordstrom. Mr. Gowan noted they typically didn't send plans for review until they are accepted for consideration by the Board. He said they could submit the plan as long as the applicant understood there was another step once the plan was submitted to the Board. Mr. Zohdi understood they were taking their own chances and had to pay the (review) fees.

Mr. McNamara asked Mr. Zohdi if he wanted to continue the case. Mr. Zohdi felt this was the first public discussion, and believed the next step was to officially submit the plan to the Board and be placed on an agenda. He would continue to work with Mr. Gowan and Keach Nordstrom. He noted he would take Mr. Gowan's advice and meet with the Fire Chief.

In reference to Mr. Lynde's concerns, Mr. Bergeron said he would welcome a look at a topographical map and questioned the process to do so. Mr. McNamara said if/when the applicant formally submitted a plan the Board could schedule a site walk. In terms of specifics for sight distances, the applicant will submit the calculations to Keach Nordstrom for confirmation. On behalf of the owner, Mr. Zohdi gave Mr. Bergeron the authority to look at the sight distance. Mr. McNamara said the preferable thing was to conduct a site walk with the entire Board so everyone was looking at the same things. Mr. Gowan asked if any Board members went to the site that they do so as individuals, and not with other members.

Mr. Steve Keach of Keach Nordstrom came forward to speak to the comments regarding site distance. He told the Board that Mammoth Road was in the Department of Transportation ('DOT') jurisdiction and their sight distance requirements, rather than the Town's, have applicability. He noted the DOT would require not less than 400ft. of all season safe sight distance (both north and south) along Mammoth Road. In the package of drawings submitted to the Board was the beginnings to a sight distance profile. Looking to the north, Mr. Keach said there was a place where the line of sight passes outside of the right-of-way that he and the DOT will pay particular interest to. He said it wasn't unusual for roadside clearing to be done so the sight could be assured.

Mr. Lynde inquired if reaction time was taken into account when discussing sight distance. Mr. Keach said reaction, braking and recognition times were all factored into the derivation of sight distance based on operating or design speed. He spoke about the difference between the calculations used by the DOT and the Town.

Mr. Passamonte wanted to know why the proposed club house wasn't located closer to the center of the plan. Mr. Zohdi replied they were salvaging an existing house to be used as the club house. Mr. Passamonte questioned where club house parking would be located. Mr. Zohdi stated he was working on the parking design. Mr. Passamonte recalled the access road going all the way around the building and said the Board could look at it. Mr. Zohdi noted that the previous plan was at the Town Hall. Mr. Doherty believed the old plan contained 'hammer heads' and he previously told the applicant he had a problem with the road not going around. He wanted to know if the knolls would be taken out to flatten the property. Mr. Zohdi answered yes.

Mr. Bergeron saw the proposed individual units and water system, which looked attractive to him.

Mr. Gowan saw that the area had some extensive trails and confirmed the applicant would maintain connectivity to such. Mr. Zohdi replied some were within the 100ft. setback and would be left alone. He said he would work with Mr. Gowan regarding the trails.

Mr. Bergeron understood that the proposed development was not a conservation subdivision, or innovative land use. Mr. Gowan agreed. Mr. Bergeron wanted to know how the Board had the authority to ask for trail system connectivity. Mr. Gowan replied they could ask for anything, but they couldn't demand. Mr. Bergeron didn't want the trail system to affect the quality of the development. Mr. Gowan didn't disagree with Mr. Bergeron. He noted that the Regulations referenced trying to maintain trail connectivity.

Mr. McNamara thanked Mr. Zohdi and Mr. Gendron for meeting with them to discuss the conceptual plan.

### **ADMINISTRATIVE**

#### **Bond Reduction for Sweet Birch / Rolling Ridge Lane**

Mr. McNamara read aloud the letter dated August 21, 2017 from Jeff Quirk, Senior Project Engineer, Keach Nordstrom. Recommendation to reduce the bond by \$57,787.50 and retaining \$74,537.25 to support the completion of the remaining improvements.

**MOTION:** (Bergeron/Montbleau) To reduce the current bond of \$132,324.75, based on the Town engineer recommendation of \$57,787.50, thus retaining as bond \$74,537.25.

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

#### **Empire Road – Acceptance as Town road**

Mr. Gowan told the Board that in a letter dated September 25, 2017 from Steve Keach of Keach Nordstrom, he recommended the acceptance of Empire Road as a Town road. He discussed the history of the road. Mr. McNamara read aloud Mr. Keach's letter.

**MOTION:** (Doherty/Bergeron) To recommend acceptance of Empire Road to the Board of Selectmen, and ask the Selectmen establish a public hearing for that purpose.

**VOTE:** (6-0-1) The motion carried. Mr. Lynde abstained.

#### **Discussion of Planning Director reading abutter's lists at the beginning of each hearing**

Mr. McNamara asked for Secretary Dadak's opinion on the matter. Mr. Dadak had no objection. Mr. Gowan had no objection, but stated he could not fulfill the other responsibilities of the Board's Secretary. Having been acting Secretary, Mr. Doherty discussed the difficulties of the position. He felt it should be the Town staff's responsibility to know where the waivers were located in the files and read them into the record. He said it shouldn't have to be the distraction of a Planning Board member to do it. Mr. McNamara had no objection to Mr. Gowan reading the abutter list, but felt the Board's Secretary had certain responsibilities to do.

Mr. Dadak asked if the Bylaws indicate who is responsible for the role of Secretary if the appointed Secretary isn't present. Mr. Gowan didn't believe there was. Mr. McNamara said they could vote on a slight change to the Bylaws.

Mr. Doherty brought up other aspects of the Secretary's role that he found difficult when plans were being presented/discussed during a meeting. Mr. McNamara stated Mr. Dadak was willing and sufficient to conduct the Secretarial duties. He reiterated he had no objection to Mr. Gowan reading the abutter's list aloud.

Mr. Bergeron stated the Secretary was a statutory authorized seat. He said the intent was to streamline the meetings and make them more efficient for individual members.

There was no objection by the Board to have Mr. Gowan read abutter lists aloud.

**DATE SPECIFIED CASE(S) – November 6, 2017:**

PB Case#PL2017-00012 - Map 7 Lots 9-135 & 9-135-1 - MENDES, David – Katie Lane & Simpson Road

**ADJOURNMENT**

**MOTION:** (Montbleau/Passamonte) To adjourn the meeting.

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

The meeting was adjourned at approximately 9:42pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary