

**APPROVED**

**TOWN OF PELHAM  
PLANNING BOARD MEETING MINUTES  
July 16, 2018**

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

The Secretary Paul Dadak called the roll:

**PRESENT:** Peter McNamara, Roger Montbleau, Paul Dadak, Tim Doherty, Jim Bergeron, Blake Clark, Selectmen Representative Hal Lynde, Alternate Paddy Culbert, Alternate Bruce Bilapka, Alternate Derek Steele, Planning Director Jeff Gowan

**ABSENT:** Alternate Samuel Thomas, Alternate Richard Olsen

**PLEDGE OF ALLEGIANCE**

**MINUTES REVIEW**

**June 18, 2018**

**MOTION:** (Montbleau/Doherty) To approve the June 18, 2018 meeting minutes as amended.

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

**July 2, 2018** – Deferred to next meeting.

**ADMINISTRATIVE**

Nothing was brought forward for discussion.

**OLD BUSINESS**

**PB Case #PL2018-00011**

**Map 6 Lot 4-137-28**

**DREME BUILDERS - 30 Longview Circle – Proposed 2-Lot Subdivision**

Mr. McNamara informed that the applicant’s engineer requested that the case be date specified to the September 17, 2018 meeting.

The case was date specified to September 17, 2018.

**PB Case #PL2018-00018**

**Map 38 Lot 1-155**

**MOPAR CONSTRUCTION, INC - Sherburne Road – Proposed 8-Lot Subdivision**

Representing the applicant was Peter Zohdi of Herbert Associates. He discussed the history and explained that years ago the subdivision was approved but the owner hadn’t done anything. They are asking for the plan to be reapproved. He said at the last meeting with the Board (approximately four weeks ago) the question was asked if the development could have a small community well (with 125ft. well radius). He indicated that

Bruce Lewis (water system design/engineer) had done water quantity and preliminary quality test (a copy was provided to the Board)

Mr. Bruce Lewis, Lewis Engineering came forward to introduce himself and his work to the Board. He spoke about the well for the proposed 8-lot subdivision, which was drilled ten years ago. He noted there had been a number of other test wells on the property that didn't yield significant quantities. The well being discussed had an estimated yield of approximately 25-30 gallons per minute during a one-hour yield test. He then stated that Young Brothers, under the direction of Lewis Engineering, did a well pump test and experienced a yield of 18-gallons per minute for six hours. At the end of that time they obtained water samples that were taken to Granite State Analytical and analyzed. Mr. Lewis told the Board he felt very comfortable the well would very adequately serve the proposed eight homes. He spoke about the quality and noted all information from the testing was provided to the Board. If the plan moves forward, they plan to have a pump house with water treatment.

Mr. Clark wanted to know if there was a limitation on the number of bedrooms that could be built with the well. He was referencing a note in the design package report that indicated 200 gallons per day/per house as the average. He felt that figure seemed low. In his experience, Mr. Lewis stated 200 gallons per day for a three or four-bedroom house (built to today's current standard and plumbing code) was something he felt comfortable with. He didn't anticipate any issues even if there were eight, four-bedroom homes.

Mr. Culbert recalled when the Board previously approved the plan it had adequate water.

Mr. Dadak questioned if the per bedroom measure (in the report) included irrigation. Mr. Lewis replied the 200 gallons per day average didn't include irrigation. He stated there was a responsibility of the people who live there to manage their resource carefully. Mr. Dadak asked if there would be a cistern or house sprinklers for fire protection. Mr. Zohdi replied there would be a cistern.

Mr. Montbleau understood that Pennichuck Water wouldn't want to manage the water system for eight homes. Mr. Lewis replied Pennichuck Water wouldn't be interested in the system because of its small size. He said it would be a private water system with shared costs between the people who live there through an informal association. Often with small systems he recommends retaining someone from a water service company who could be called 24/7 and respond in the event of a situation.

Mr. Gowan couldn't recall seeing a similar small water system in Pelham and inquired if there were companies that would manage it for a fee. Mr. Lewis answered yes.

Mr. Montbleau agreed with Mr. Culbert's recollection that the original plan approval was for a much more intensive use of water.

Mr. Lynde wanted to know the conservative capacity of the water source; how many bedrooms could it conservatively supply. Mr. Lewis spoke about the standards of small community water systems compared to the proposed system which he believed (aside from irrigation) could effectively supply many homes (more than eight). Mr. Lynde during a previous discussion the question was raised if neighboring properties could 'tap' into the proposed well. Mr. Lewis didn't feel it was feasible in this application based on the well itself having a 125ft. radius around it. He noted there would be a level of State review. Mr. Dadak understood that the State had regulations for water systems servicing up to nine homes and above nine homes would require a community well system under a different regulation. Mr. Lewis explained the standards that would need to be met for private systems.

Mr. McNamara invited Mr. Steve Keach of Keach Nordstrom (board's engineering review firm) to come forward and offer comment. Mr. Keach stated he was provided with a copy of the preliminary private water design package report last week. He had no comment on it. He said the Board had asked good questions and received what he considered factual answers; he took no exception to statements made. When reviewing the

numbers in the report he suggested the Board keep in mind they are 'peak' numbers. He spoke about the original plan in comparison to the proposed plan and was certain the new plan met Zoning; there may be small modifications needed. Mr. Gowan said the proposed plan was a bit different and felt it would be good to have Mr. Keach review and comment regarding such. He suggested when/if the plan is approved a condition be added to require a third-party licensed water company manage the system. He said the developer should consider there could be up to sixteen additional units with the accessory dwelling unit law.

Mr. Doherty questioned how the developer would handle the potential of having individual wells drilled on the lots. Mr. Zohdi replied there would be language in the covenants that prohibit individual wells.

Mr. Montbleau inquired if the water system would include metering or a warning in the event the static pressure dropped, or the reserve is lower than the usage. Mr. Lewis answered yes; the design addresses automatic water monitoring. He provided a summary of the measures that could be taken.

Mr. Lynde stepped away. *(see below for his return during Skyview discussion)*

## PUBLIC INPUT

Ms. Brenda Burton, who was a direct abutter, discussed her concerns, such as placement of a replacement septic system if she grants an easement to her property (because of State rules), blasting, water runoff into her back yard, location /noise of pumping station, and buffer for her property to the proposed subdivision. With regard to the septic system, Mr. Zohdi pointed out that the well radius and any replacement system would be within their own property. He spoke about drainage and said the pre- and post-flow had to be equal; the Town's engineer would review the drainage study to ensure there was no impact to abutting properties. He couldn't speak to blasting; however, they had done a lot of test pits on the site and went on to list the findings. He didn't see anything less than four feet to ledge. Ms. Burton was concerned about her well in the event of blasting. Mr. McNamara replied the Town had a strict blasting ordinance that is administered by the Fire Department. Mr. Zohdi stated that the pump station would be within the well radius. Mr. Lewis added that there would be no noise because it was run by an electric pump. Mr. Zohdi spoke to the concern about a buffer. He said the Town's Ordinance didn't require a buffer, but they wouldn't be building in the wetland or wetland conservation district that abuts Ms. Burton. He couldn't answer for what a homeowner may want to clear on their lot but said normally people don't clear cut. Ms. Burton inquired about the need for an easement to her property. Mr. Zohdi replied the current proposed plan would not need an easement.

Mr. Zohdi questioned if the Board would consider an approval subject to Mr. Keach's review and satisfaction.

During the discussion regarding yield potential Mr. Bergeron heard Mr. Lewis say 'set aside irrigation'. He inquired if the Board would have jurisdiction over the home owner's agreements that would be made relevant to the water quality. Mr. McNamara said the homeowner's documents were subject to review by Town Counsel. He believed any approval conditions/restrictions would have to be included in such.

Mr. Montbleau said based on the history of the site he wouldn't have a problem making an approval subject to Mr. Keach's review. He believed there would be an adequate amount of water and added that they could put a condition for a restriction on irrigation in the homeowner's documents.

Mr. Doherty said the Board had been told that the well could put out a tremendous amount of water and pointed out if the water draw down was larger than proposed, the radius would need to be larger. He wanted the homeowner's documents have something in them to prevent the amount of water from going over a certain level.

Mr. Culbert spoke about a polymer product that expands when in contact with water which may help the lawn irrigation. Mr. Doherty said it was a landscaping feature added to soil.

Mr. Gowan asked if there were any waivers submitted with the plan that would have to be revisited. Mr. Zohdi said they were on the previous plan and could be reviewed. Mr. Gowan said he would be more comfortable going back over the waivers. Mr. Zohdi read aloud the waivers listed on the previous plan. Mr. McNamara saw on the original plan there were also several conditions for approval and went on to summarize them. Mr. Gowan then read aloud his list of potential conditions for the proposed plan.

There was a brief discussion how to proceed. Mr. Zohdi asked that the case be date specified.

The case was date specified to the August 20, 2018 meeting.

**PB Case #PL2018-00017**

**Map 32 Lots 1-146, 1-146-2 thru 1-146-68 & 1-149**

**SKYVIEW ESTATES, LLC - Skyview Estates Phases 1 & 2 - The purpose of this plan is to seek revision of plan note #10 regarding restrictions on irrigation from the Community Well System for both Phase I and II plans. A proposed modification to the existing slopes within the Phase II open space may also be discussed.**

Mr. Montbleau stepped down. Mr. Culbert was appointed to vote.

Representing the applicant was Attorney Andrew Prolman of Prunier & Prolman. He came forward to discuss his client's request. He reminded the Board they had come before them May 21<sup>st</sup> and went through submitted materials. He summarized the history of the request and said his client received a non-compliance letter on April 12, 2018 from Mr. Gowan indicating that the deeds didn't contain language as reflected on Note 10 on the plan (phase I & II). He said they disagreed and believed they were in compliance; however, they worked with Mr. Gowan and Town Counsel and decided the best approach would be to modify the plan note to match exactly the Pennichuck requirement. He read aloud the current note and the proposed amended note.

***Note 10 currently states:***

*10. No irrigation from the community well system is allowed and this limitation to be memorialized in each property deed.*

***Proposed modification of Note 10 to match the requirements of Pennichuck East Utility, Inc.:***

*In accordance with the Skyview Estates Protective Covenants and the March 7, 2011 Pennichuck East Utility, Inc. Standard Water Agreement, the installation of in-ground irrigation systems and the installation of water wells on house lots are prohibited, and this prohibition shall be memorialized by deed restrictions.*

Attorney Prolman told the Board they liked the solution of modifying the plan note because it resolves any future misunderstandings. He reviewed the information previously provided to the Board and read aloud excerpts from such. He noted Pennichuck did not have an issue with above-ground irrigation as had been going on for a number of years. He said the detail sheet from Mike Gospodarek, of Hebert Associates, the engineer of the project, that specifically called out for all disturbed areas to be loamed and seeded to establish growth; the growth is critical not only to storm water flows but to erosion control. Without the growth, flows would exceed design values and may have impacts downstream.

Mr. Lynde returned to the Board.

With this, Attorney Prolman said their proposal to the Board was that the design of the system prepared and presented to the Board always contemplated above-ground watering allowed. During the hearing in May he said the Board had additional questions. In response to such they've provided additional information to the Board.

- 1) Petition of Skyview Estates homeowners (34 of 36 homeowners signed the following:  
*"Petition to Pelham Planning Board – We, the homeowners of the Skyview Estate Subdivision,*

*Pelham, New Hampshire, respectfully request that the Pelham Planning Board approve the Skyview Estates, LLC's proposed amendment to Note 10 on the Subdivision Plans with respect to irrigation. Proper irrigation is important to the value and quality of our homes and our neighborhood. We understand and respect the limitations on irrigation required by Pennichuck, and respectfully request the Board act in the best interest of our community. Thank You."*

- 2) June 14, 2018 letter from Peter Zohdi of Herbert Associates that indicates his understanding was and still is that they could not have any underground irrigation systems; however, the owners of the lots may water their lawns manually with a hand-held hose or timed sprinkler attached to their home.
- 3) June 14, 2018 email from Cynthia Klevens of the Department of Environmental Services to Mr. Gowan that included the following paragraphs:
  - a. *The design flow includes domestic plus incidental outdoor uses up to the stated flows. The 'NO IRRIGATION' note refers to uses above and beyond the 150 gpd per bedroom allotment, to clarify that the approved flows do not provide for non-domestic high water uses such as those required for 'in-ground' irrigation systems.*
  - b. *DES reviewed the subject water system uses in October 2017 based on a prior public inquiry. The attached billing records received from the water system owner, Pennichuck East Utilities, were reviewed to confirm that, based on water uses thus far, the projected buildout up to 64 homes will be within the approved 28,800 gpd design flow.*
- 4) July 16, 2018 email from John Boisvert of Pennichuck Water to Mr. Gowan and Cynthia Klevens (DES) that included the following paragraph:
 

*These control measures, as well as intensive well and demand monitoring have maintained water use to below the design flow per house thus far as suggested by Ms. Klevens. Pennichuck will continue to allow outside water use and irrigation by above-ground and hand methods described above as allowed by the NHDES and the NHPUC based on the water use data collected to date by Pennichuck's ability as a regulated water utility to restrict outside water use to the permit limits, or lower as hydrologic conditions may require. In addition, Pennichuck does allow for more frequent irrigation to establish newly constructed lawns.*

Attorney Prolman reiterated they were proposing to clarify the issue and have the note 10 language line-up with Pennichuck's requirements. He pointed out that note 10 was not a condition of approval; it was language provided by Mr. Zohdi of Herbert Associates. They believe now is the time to modify the note to address the concerns of irrigation and allow homeowners to maintain their homes.

Mr. Dadak read aloud a portion of Town Counsel's email (dated May 30, 2018) to Mr. Gowan. He said Town Counsel indicates it's Pennichuck's 'call', not the Town for how water is used.

Mr. Gowan said based on items brought to him by an abutter, if he had (at the time) the email from Ms. Klevens (DES) and Mr. Boisvert (Pennichuck) he probably wouldn't have written his letter to the developer. In his mind the two emails go a long way to resolve the issue. Rather than leaving the issue hanging, he saw value in clarifying the plan note.

Mr. Doherty said the Planning Department is the legal authority given the plan had already been approved by the Planning Board. He discussed the process that would have to be taken to amend the plan. He said if Mr. Gowan was fine with making the decision, he would be fine with him doing so. Mr. Gowan reiterated that there would be value in amending the note for clarity. He explained the difference between conditions of approval and having notes on a plan.

Attorney Prolman believed at the last meeting they opened the application to amend the notes on the subdivision plans, not open up the entire subdivision.

PUBLIC INPUT

Mr. McNamara commented that the letters from the Skyview residents have been put into the record.

Mr. James Fischer, 19 Scenic View Drive read a prepared statement that spoke to the original review and approval of the plan with respect to water usage and his concerns regarding such. He believed the only way for the water data to balance would be to eliminate all exterior water use. Mr. McNamara said the new information in front of the Board was from Department of Environmental Services and Pennichuck. In an email, DES states specifically as the water is currently operating that the project (approved for 64 homes) will be within the 28,800gpd design flow. He noted that Pennichuck also didn't have a problem with the situation. Mr. Fischer replied that standards state 28,800 gpd is for domestic interior use only. Mr. McNamara said they (DES & Pennichuck) say the system is fine and can accommodate the project.

Mr. Steele referenced Ms. Klevens' letter that notes the minimum source capacity requirements include a 2x safety factor over the approved design flow, such that the referenced system has an approved permitted production volume of up to 57,600 gpd from the two onsite well sources. He understood the system was capable of approximately twice the design flow. He wanted to know Mr. Fischer's specific concern. Mr. Fischer stated he wanted to make sure there was enough water for the residents.

Mr. Doherty pointed out that the letter from DES dated November 22, 2010 (attached to Ms. Klevens' email dated June 14, 2018) indicates that the approval supersedes their approval of the former "Spaulding Hill CWS" issued October 23, 2006.

Mr. Bilapka questioned if Pennichuck would still control the amount of water used for watering lawns if the requested change went through. Mr. McNamara said they had control and counsel suggested that they maintain close supervision and believed the water may currently be under restrictions.

Mr. Fischer commented that during the previous meeting Attorney Prolman stated they didn't feel they needed to change the note because they believed they were in compliance. He suggested leaving the note 'as is'. He summarized the information provided by the applicant to the Board and Town Counsel. He referenced the homeowner's document and read a section of page 9 aloud and his recollection of the past hearings.

Mr. Steve Keach, Keach Nordstrom (Board's engineering firm) came forward. He felt it was important to keep comments regarding irrigation in context. To him, irrigation meant something that was underground. He didn't take exception to anything Mr. Fischer spoke about because it was the record.

Mr. Doherty stated he never had a problem with note 10. He felt irrigation meant that the development could run a pipe underground to the spot they were going to farm in the community area. He didn't consider lawn watering with above-ground sprinklers to be irrigation.

Mr. McNamara asked Mr. Fischer to speak his point. Mr. Fischer replied he was trying to protect the residents. He suggested rather than new residents petitioning to change note 10, they should petition the developer to conform with the direct design criteria to ensure sufficient water when irrigation is used. He said the solution allowed everyone to freely irrigate, either in-ground or above-ground. This can be accomplished by reducing the number of bedrooms within phase II of the development and requiring those phase II lots to install private wells and not tie into the community well system. At a minimum the Sky View residents should ask the Town to hire an independent water engineering firm to perform a new well pump test, water data study and certify the two existing wells meet the DES standards and supports 192 bedrooms with the use of unlimited irrigation. Mr. Fischer understood that proper irrigation was important to the proper value and quality of everyone's homes and neighborhood. However, having enough drinking water will always surpass the need for a green lawn and provide greater value. He pointed out this was the last chance to effect change in the water supply in Sky View. He said the Board had the authority to revoke the subdivision's approval and stop further development until compliance is satisfied. He urged all new residents to reconsider their position and not end up like the surrounding neighborhoods. Mr. Fischer said the trouble with locating high producing

wells was widely known in their section of Town, so much so the Town has a web page dedicated to it. He believed the request would set a dangerous precedent if conditions for approval of a plan was modified knowing that the developer failed to comply with the legal obligations. He said it didn't matter if the developer was compliant with the Pennichuck agreement, the homeowner's document or if irrigation was above or below ground. The Board's obligation was to enforce the requirements on the recorded plan. He said the developer's personal wishes do not take precedence over the wording of a plan.

Mr. McNamara stated circumstances and information had changed; both DES and Pennichuck have said that the (water) system is working at present as designed. Mr. Fischer replied the system was not complete and the numbers were from last year. Mr. McNamara said they understood and heard his position. Mr. Fischer questioned why Pennichuck had placed an 'odd/even' water restriction. Mr. McNamara answered for purposes of water conservation. Mr. Fischer informed he spoke with Cynthia Klevens and pointed out that Mr. Boisvert (Pennichuck) states (in his correspondence) that the Sky View aquifer could not support irrigation for outdoor water use. He told the Board he had nothing to gain by coming forward. Mr. McNamara said the Board appreciated the input. Mr. Fischer hoped the residents stood up for their rights because he believed they would end up like Nicholas Lane, Slavin Drive, Scenic View and Marie Avenue.

Attorney Prolman noted Mr. Fischer was not a signatory to the Sky View petition that was submitted. He told the Board he had stated along the way that they are compliant with note 10 and respectfully requested that the Board clarify the ambiguity. He pointed out that Ms. Klevens provided a chart of Pennichuck's water count and found as of September 2015 certain gallon usage was way under capacity for what the system could handle.

Mr. Gowan felt the Board had two options: 1) consider amending the note as the applicant had suggested, and 2) reach consensus on what that note means. He believed either one would clarify the record.

Having seen correspondence from DES and Pennichuck, Mr. Bergeron stated note 10 was not, in and by itself, a restriction on the water use. He didn't see a need for note 10 to change, since it was only a note and not a condition of approval. He understood the system was in compliance with Pennichuck's requirements. Mr. Doherty also didn't feel note 10 needed to change as he never considered above-ground watering as irrigation.

Mr. Dadak read aloud a sentence from Town Counsel's correspondence to Mr. Gowan that indicates presently note 10 prohibits irrigation. Given the new information the Board received, Mr. McNamara believed there was a consensus that the residents were allowed outside above-ground irrigation. There was no objection voiced.

Attorney Prolman appreciated the consensus of the Board but was concerned if they left note 10 as-is that there may be a future discussion on the same subject. He felt they had an opportunity to have the language in note 10 match what Pennichuck requires them to do. Doing so will remove ambiguity and eliminates the issue from coming back to the Board in the future.

Mr. Culbert didn't see a need to change note 10.

**MOTION:** (Clark/Dadak) To approve changing the language in note 10 to the language suggested by Attorney Prolman and Town Counsel.  
*In accordance with the Skyview Estates Protective Covenants and the March 7, 2011 Pennichuck East Utility, Inc. Standard Water Agreement, the installation of in-ground irrigation systems and the installation of water wells on house lots are prohibited, and this prohibition shall be memorialized by deed restrictions.*

**VOTE:** (4-3-0) The motion carried. Mr. McNamara, Mr. Dadak, Mr. Clark and Mr. Lynde voted in the affirmative. Mr. Bergeron, Mr. Doherty and Mr. Culbert voted in opposition.

Mr. Montbleau returned to the Board.

The Board took a brief recess.

**NEW BUSINESS**

**PB Case #PL2018-00021**

**Map 9 Lot 13-146**

**PELHAM FISH & GAME CLUB INC - Simpson Mill Road - Site Plan Review to construct an action range shed**

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.

Pelham Fish & Game Vice President Mike Nastek came forward to discuss the proposed Site Plan to construct a 24'x20' building with 9' in height to ridge with a 12'x20' overhang off the side. An artistic rendition was provided in the member package. Mr. Nastek displayed an aerial view of the parcel and pointed out the location of the proposed building.

In Mr. Gowan's opinion the building was benign; however, he didn't have the authority to approve it. Mr. Lynde asked if the setback requirements were met. Mr. Nastek answered yes.

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

**MOTION:** (Montbleau/Dadak) To accept the plan for consideration.

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

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**MOTION:** (Montbleau/Bergeron) To approve the plan.

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

**PB Case #PL2018-00002**

**Map 22 Lot 7-1**

**DEBORAH ANN TRUST - 9 Atwood Road - Proposed phasing schedule for approved subdivision**

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. Karl Dubay came forward and provided a summary of the approved subdivision. He told the Board they would like to 'phase' the development: Phase I would be to deed the conservation land to the Town and do the frontage lots, existing house and barn; Phase II would be to do the small cul-de-sac and homes.

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

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

Mr. Gowan said he discussed phasing with the applicant and wished they had thought of it during the approval process. He discussed the administrative process for phasing a development.

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

**MOTION:** (Doherty/Montbleau) To approve having a phasing schedule for the approved subdivision.

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

**PB Case #PL2018-00022**

**Map 29 Lot 7-95**

**PELHAM REALTY GROUP, LLC (c/o Rubicon Real Estate, LLC) - 150 Bridge Street – Site Plan review for the relocation of Dunkin Donuts & renovation of A. L. Prime**

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. Brian Jones of Allen & Major Associates and Mr. J.P. Fine of Pelham Realty Group came forward to discuss the proposed Site Plan review for the relocation of Dunkin Donuts and renovations associated with A. L. Prime gas station. Mr. Jones described the relocation of Dunkin Donuts to the northerly side of the Pelham Plaza and what changes would occur to the site. The renovation of A.L. Prime consists primarily with adding a restroom facility and dumpster enclosure. With grading and paving, there would be slight reduction in storm water drainage. Mr. Jones submitted a waiver to Section 302-3. E(3)(a) (23) for site specific soil survey mapping.

Mr. Jones spoke to the review letter of Keach Nordstrom (Board's engineering review firm). They have reviewed the comments and have no problem incorporating a number of the items. They would like to discuss the 'slip lane' to be constructed to connect the drive-thru lane with Livingston Road. The Board was provided with a document explaining why they have a break in the curb to accommodate truck movement. Mr. Jones said they had spoken to Mr. Keach and felt a compromise would be to install a rumble strip to discourage vehicles other than trucks from using it.

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

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

Mr. Steve Keach of Keach Nordstrom came forward to discuss his comments regarding the technical review of the plans and materials submitted to the Planning Department. He spoke to the comments outlined in the letter. He also spoke to the waiver request and said he had recommended the applicant submit such to the Board. With regard to his comment about the 'slip lane' he felt the applicant provided a compelling reason to have it. He discussed truck traffic during periods of deliveries. His concern was that motorists on Livingston would use it to cut into the drive-thru line. He described the proposal and understood the compelling reason to have the slip lane with a rumble strip and 'do not enter' signs. Mr. Jones felt that suggestion would be a good solution.

Mr. McNamara asked if there were any other issues with traffic. Mr. Keach thought it would make it better by having the slip lane. He said the Fire Department would have to be okay with it since it was a fire lane.

Mr. Doherty questioned if the post office was down-sizing or going away. Mr. Fine replied the post office was down-sizing. Mr. Doherty inquired if it was possible to have an outside 'snorkel box' for mail so people didn't have to exit their vehicle. Mr. Fine felt it was a valid request and said he could speak to the post office.

Mr. Gowan said he was very familiar with the intersection and reservations about the slip lane. He discussed traffic patterns and flow. Mr. Lynde wanted to know if the loading docks for the post office would be affected. Mr. Fine replied they would still use at least one of them.

Mr. McNamara opened the discussion to public input. No one came forward. He then read aloud the waiver request dated July 16, 2018 for Section 302-3. E(3)(a) (23) – site specific soil survey mapping.

**MOTION:** (Dadak/Doherty) To accept the waiver to Regulation Section 302-3. E(3)(a) (23) – site specific soil survey mapping.

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

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**MOTION:** (Clark/Dadak) To approve the waiver to Regulation Section 302-3. E(3)(a) (23) – site specific soil survey mapping.

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

When looking at the aerial photograph and visualizing the traffic flow, Mr. Bergeron wanted to know how other Board members felt about the traffic accessing the location and exiting the proposed drive-thru. He questioned if the new traffic pattern would cause ‘T-bone’ accidents to occur. Mr. Jones replied they had provided stop signs (at the exit of the drive-thru) and proposed a cross walk for access to the plaza. He noted with the plaza having 8ft. sidewalks, there was also good sight distance at the drive-thru exit. He said in a parking lot situation there was an expectation that traffic would travel slowly. Mr. Keach agreed and suggested they could enforce ‘no parking’ in the fire lane in front of the post office.

Mr. Montbleau supported Mr. Bergeron’s thought on the traffic issue. He felt the proposal was a really bad idea based on his experiences with Dunkin Donut drive-thrus, both within a building and stand-alone locations. He spoke about the problematic traffic flows. He compared the present location to the proposed and would rather see it remain at the present location versus creating a traffic ‘beehive’. He thought having it at the other end of the plaza was a bad idea.

Mr. Lynde thought the Board should also be aware of traffic contention from people accessing the gas station and trying to exit onto Atwood Road. He said there were no defined lanes and questioned if there could be a traffic study. Mr. Keach replied a quantitative analysis wouldn’t tell them much. He believed the Dunkin Donuts traffic would be offset in comparison to the other businesses in the plaza. He said the Board might have the engineer review the site from a functional standpoint to see if there are enhancements that could be made for safety. The submitted design is current, modern and code compliant. Mr. Fine stated they had spent a lot of time working with Dunkin Donuts on the plans and noted they had refused to extend their lease because of the problems with the drive thru and traffic flow in the current location. The proposed plan was approved by Dunkin Corporate. They are very concerned with serving as many customers as efficiently and safely as possible. He said that’s why cars waiting for coffee are stacked in the drive-thru lane and not in the parking lot. The curbs were extended further into the parking lot for traffic flow and direction. Mr. Fine said in their opinion and Dunkin Donut’s opinion the location was far superior to the present in terms of traffic, safety, customer service and marketability standpoint of other plaza tenants.

Mr. Gowan advised against the plan being approved until it had gone in front of the Highway Safety Committee for review. He encouraged date specification to August 20<sup>th</sup>.

Board members spoke about other concerns such as: 1) head-in parking spots, 2) traffic speed in plaza and on Atwood Road, 3) ingress/egress at Atwood Road, 4) traffic queues at intersections of Bridge Street/Atwood

Road/Pelham Plaza/Rite Aid. Mr. McNamara said the case would be continued to August 20<sup>th</sup> and the Highway Safety Committee will have the opportunity to review.

Mr. Steele inquired if the adjacent tenants at the present location would move. He heard that section of the building (near Altitude) would be torn down. Mr. Fine said the future plans for the plaza only work without the drive thru in the center. The first step to make it work is to move Dunkin.

Mr. Montbleau stated he wasn't anti-business; however, some things just don't work. He felt if they approve the proposed location they would be sorry for a long long time. He said sometimes things don't belong in some locations and it would be a big mistake to approve the proposal.

The case was continued to August 20, 2018.

**PB Case #PL2018-00024**

**Map 22 Lot 7-263-1**

**GEORGE E. KENNEY, JR., TRUSTEE (Livhomes Realty Trust) - 1 Nashua Road – Pre-design Review for proposed 12-unit duplex development**

Mr. Dadak read the list of abutters aloud. There were no persons present who asserted standing in the case. Mr. Paul Staniec came forward and told the Board his name was not read as an abutter. Mr. McNamara asked if he was alright with the Board reviewing the proposal. Mr. Staniec had no objection and stated he wouldn't hold up progress.

Representing the applicant was Mr. Dave Jordon of MHF Design Consultants, who provided the Board with a new plan (revised from original plan in member packet). The present owner purchased the property with the intention of re-developing the property under the Town's Mixed-Use Zoning District ('MUZD') regulation. The original plan showed a number of duplex dwelling units based on a massing study. After meeting with Mr. Gowan and having him press upon the desire of the MUZD to truly be a mixed-use zone and incorporate a commercial component, they revised the plan. He said the new plan kept duplexes on the property and added two commercial buildings along Nashua Road. The second floor of the commercial buildings could support a residential unit. They are striving to make a balance between a return investment and conforming with the MUZD. Mr. Jordan described the proposed plan and layout. Mr. Jordan said there had been some input regarding the existing house that they were currently assessing. He said they failed to appreciate the historical significance of the existing house to the Town and appreciate the input they've received.

Mr. Lynde stated he was aware of the building and the historical significance, which was critical to his decision. He felt the fact that the building and adjacent area was a calming area that he would like to see preserved.

Mr. Montbleau commented that the historical value of the property should be considered before it's eliminated.

Mr. Doherty spoke to 'building appearance' as contained in Regulation Section 307-25, 9 – references change to building exterior and doesn't speak to razing a home. He said the section didn't apply only to new structures.

**PUBLIC INPUT**

Mr. Mike Sherman, Old Bridge Street said the applicant didn't speak to 'development that is traditionally found in neighborhoods within town centers' as written in the MUZD ordinance. He was on the subcommittee that helped design the ordinance and the proposal was not what they promised people would be done in Town. He asked Mr. Doherty (Chair of subcommittee who drafted MUZD) if he saw anything that resembled the proposal when he was showing people what the subcommittee envisioned in the district. Mr. Doherty

answered no. Mr. Gowan stated he had set those meetings up and provided pictures from towns as samples, so they could hear feedback. Mr. Sherman said of all the things they discussed and days they took to design the MUZD, the proposal in front of the Board to tear down a property to crowd it with a bunch of new buildings was something they never wanted to see.

Mr. Jordan displayed a conceptual architectural rendering of the duplexes and commercial buildings.

Mr. Bergeron stated he had spend time on the MUZD subcommittee and the plan being reviewed was not what they had proposed. He said the MUZD was kind of a hybrid of a conservation subdivision and at the Board's discretion how to apply it. He appreciated the applicant changing the plan but didn't think it was ever the subcommittee's intention to have that type of density in the area. He said the Board could relax the standards but didn't know to what extent it would be done. He had a lot of problems with the presented plan, particularly with the spirit and intent of what they told people they would try to do in the Town center. Mr. Bergeron stated there were certain non-conforming lots in the district that should be allowed some sort of mixed use because they historically evolved. But to congest the center more than it is, or to make it less conforming was not in the spirit and intent of the district and not what he envisioned.

Mr. Doherty believed they were overlooking the fact that a plan essentially the same came in front of them in the last year. He said that plan went to the Zoning Board for an appeal and ultimately wasn't allowed. He questioned why the applicant believed their plan would be allowed. Mr. Jordan said it was in his reading of the MUZD that lists single duplex and multi-family under allowed uses. Mr. Doherty said they could have mixed use buildings, but only one residential building. Mr. Jordan didn't read it as being restricted to one single duplex.

Mr. Bilapka saw that the lot size was 2.3 acres with a proposal for approximately 18 bedrooms, which he said was a lot. Mr. Doherty noted density increase is allowed if they could prove the soil type. He reiterated that multiple residential buildings weren't allowed under the regulations.

Mr. McNamara stated the Board would like to know what's going to be done with the existing building. Mr. Jordan understood and appreciated the comments.

It was noted that abutters would receive notification when a formal plan was submitted.

**PB Case #PL2018-00025**

**Map 24 Lot 12-215-3**

**DHB HOMES, LLC - 35 Piper Lane – Seeking a Special Use Permit to allow an existing duplex to be converted to a condominium form of ownership**

Mr. McNamara informed the applicant's representative requested that the case be date specified to August 20, 2018. He asked that it be placed first on the agenda because it seemed to be a simple request.

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. Abutters will not receive additional notification.

The Case was date specified to August 20, 2018.

**NON-PUBLIC SESSION**

Not requested.

**DATE SPECIFIED PLAN(S)**

**August 20, 2018:**

- 1) PB Case #PL2018-00025 - Map 24 Lot 12-215-3 - DHB HOMES, LLC - 35 Piper Lane
- 2) PB Case #PL2018-00018 - Map 38 Lot 1-155 - MOPAR CONSTRUCTION, INC - Sherburne Road

**September 17, 2018:**

PB Case #PL2018-00011 - Map 6 Lot 4-137-28 - DREME BUILDERS - 30 Longview Circle

**ADJOURNMENT**

**MOTION:** (Dadak/Lynde) To adjourn the meeting.

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

The meeting was adjourned at approximately 10:44pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary