

APPROVED

**TOWN OF PELHAM
PLANNING BOARD MEETING
June 15, 2009**

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

The Secretary, Paul Dadak called roll:

PRESENT: Peter McNamara, Paddy Culbert, Paul Dadak, Roger Montbleau, Tim Doherty, Jason Croteau, Selectmen Representative Robert Haverty, Alternate Joseph Passamonte, Alternate Edward McGlynn, Alternate James McManus, Planning Director Jeff Gowan

ABSENT: None.

ADMINISTRATIVE

Map 8 Lot 9-64 TIMOTHY A. IVERS TRUST - Nancy A. Ivers, Priscilla C. Currier & Kathleen Zsolway Trustees – Ivers Grove Lane – Request for Full Bond Release

Mr. Gowan stated that the road had been accepted by the voters at the last Town Meeting. He said the only outstanding item on the checklist was the deed, which was not accepted until the road was approved. He stated that it would be appropriate to release the remaining bond.

The original bond was \$168,773.11; the current remaining bond was \$16,877.31. The Board received a recommendation for a full bond release.

MOTION: (Doherty/Culbert) To release the entire amount of the current bond \$16,877.31.

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

OLD BUSINESS

Map 8 Lot 9-64 TIMOTHY A. IVERS TRUST – Nancy A. Ivers, Priscilla C. Currier & Kathleen Zsolway Trustees – Windham Road – Proposed 2-Lot Subdivision and Seeking a Special Permit for Roadway Crossing

Conservation Chairman Paul Gagnon came forward to discuss the proposed subdivision. He said the parcel was twenty-five acres and contained one residence a small pond and a dam. The Conservation Commission had an interest in acquiring twenty-two acres which was largely upland and abutted Kirby Town Forest. Currently, Kirby Town Forest was virtually inaccessible; the parcel would provide access to the land and a parking area from Route 111A (Windham Road). Mr. Gagnon stated in order to have the access, they would have to separate the residence, pond and dam from the upland acres. He noted that the meeting agenda contained an error. They were not requesting a Special Permit for a roadway crossing.

Mr. Shane Gendron of Herbert Associates stated that they were in front of the Board for a two lot subdivision; one lot having non-conforming frontage. At the previous meeting the Board had asked Mr. Gendron to work with the abutters regarding the boundary issue. Mr. Gendron stated that they met with Ms. Nancy Andrews (98 Windham Road) in the field to discuss the boundaries. He said Ms. Andrews seemed happy that they were abiding by the proper boundary markers, which were checked by their surveyor. Mr. Gendron stated that they had located the well and added a note on the plan for the existing well to be capped. A note was also added to the plan indicating that the large conservation parcel would be deeded to Conservation with no future development.

There was no public input.

The Board then reviewed Special Permit request (allowing a proposed well in the Wetland Conservation District) as well as the waiver requests as follows:

MOTION: (Culbert/Dadak) To approve the Special Permit request.

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

MOTION: (Doherty/Culbert) To approve the waiver to Section 10.04,a – scale - 1"= 100ft. versus the required 1"=50ft.

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

MOTION: (Dadak/Doherty) To approve the waiver to Section 10.03,f – to not show the location of existing structures, wells and septic systems within 75ft. of the site.

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

MOTION: (Montbleau/Doherty) To approve the waiver to Section 11.04,c,1 – 35,000SF building envelope on lot 9-64-6 not being in the required dimension of the required 100ft.x150ft.

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

MOTION: (Culbert/Doherty) To approve the waiver to Section 11.11,b,2 – to allow the well radius of lot 9-64-6 to be located within the 30ft. building setback.

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

Mr. Gowan indicated that all the issues had been addressed. There were no approval conditions.

MOTION: (Doherty/Dadak) To approve the subdivision.

VOTE: (6-1-0) The motion carried. Mr. McNamara voted no.

Mr. McNamara opposed the subdivision, not on the merits of the plan, but rather because zoning did not allow the Planning Board to approve a subdivision which contains a non-conforming lot.

Mr. McManus, who did not vote regarding the plan, was opposed to the subdivision.

NEW BUSINESS

Map 41 Lot 6-131 – RED DOG REALTY – 31B Pulpit Rock Road – Limited Site Plan Review for a Change of Use to operate an Athletic Center that will offer gymnastics and cheerleading classes to children

Mr. Dadak read the list of abutters aloud. There were no persons present who did not have their name read, or who had a problem with notification.

Mr. Michael Metropolis, owner, came forward to discuss the requested Change of Use. He stated that he would like to change half the building from a heavy industrial use to a lighter use bringing a new business

into Pelham. The business would be a gymnastics and cheerleading teaching facility to teach children. Mr. Metropolis described the building and how it would be transformed into a gym.

Ms. Paula Chausse, owner A2GC discussed the types of programs that would be offered. Mr. McNamara asked if the business was in existence, or if it was new. Ms. Chausse stated it was a new business. Mr. McNamara asked how many children would be at the gym during any given time. Ms. Chausse said the ratio per student for day classes was 6:1 and at most they would run two classes at a time. The afternoon/early evening ratio was 8:1. After 6pm larger groups may come in and the number of instructors will increase; they would keep the numbers under thirty. Hours of operation would be 9am-9pm Monday-Friday; 9am-7pm weekends.

Mr. McNamara asked if there was adequate parking available. Mr. Metropolis stated that they counted forty parking spaces (on a full-time basis) for unit 31A. He noted that he was the tenant of unit 31B and if there was an overflow of parking, the gym could utilize the entire parking lot (total of 60 parking spaces).

Mr. McManus asked if the building would be properly lit in the evening. Mr. Metropolis stated that they currently had full exterior lighting around the whole building as well as security cameras. The walkways and exits were very well lit. Mr. McManus asked if the building was handicap accessible. Mr. Metropolis stated that his side was handicap accessible. The front door was handicap accessible; they would not make any structural changes. The bathroom was wide enough and a bar would be added. Mr. Metropolis stated that the unit was inspected in October, 2008 without any issues. He noted further that the building had been inspected by everyone (i.e. Fire, Building, electrical) and no changes had been made.

Mr. Gowan stated he discussed the proposal with Highway Safety Committee members; there were no immediate concerns about the change of use. He noted that the inspection process would occur again. The Police would review the on-site traffic for any issues. Mr. Metropolis noted that he basically child-proofed the gym side of the building and explained what work had been done to make the unit safe. He said any if there were any issues brought forward by the inspectors would be addressed immediately.

Mr. McNamara asked how the septic was working. Mr. Metropolis stated that the septic had been inspected on Friday and was working well. Mr. Gowan believed the septic had been sized in excess of the current number of employees. Mr. Metropolis said there were two 3000 gallon tanks. Mr. McNamara asked if the gym fell under state inspection requirements in terms of provision of insurance, or safety of facilities. Ms. Chausse stated that she had already obtained insurance (beginning July 1, 2009) and explained that they were governed under the United States Gymnastics Association which only covered clubs that were members. She noted that her club carried twice the minimum insurance. She discussed the certification that the instructors would have to pass prior to working with any children. All staff would have First Aid and CPR certification.

Mr. Gowan asked Ms. Chausse to discuss her association with the schools. Ms. Chausse told the Board about her experience and possible plans to work with the Town's school.

Mr. McNamara asked if there would be a sound system at the gym. Ms. Chausse stated that they had put up four Bose speakers; nothing overly loud.

Mr. Haverty asked if there would be locker room facilities. Ms. Chausse said they were looking to have a dressing room, but did not have a need for a shower facility. Mr. Haverty asked the total number of people for birthday parties. Ms. Chausse said birthday parties had to be capped at twenty-five children, which she felt was a high number. She said the ration of instructor to children would remain at 8:1. Mr. Haverty asked if there would be directional controls in the parking lot. Mr. Metropolis said he currently didn't have any and noted that there was clearly one way in and out of the parking lot. Ms. Chausse said they were looking to stagger the classes to have window for traffic flow. She was also reviewing the inside traffic flow and was looking at different options. She said literature would be given to parents about being diligent in watching their children in the parking lot.

Mr. Culbert asked if any state permits were required for the school. Ms. Chausse was not aware of any requirements. Mr. Gowan believed day care and child care required specific state licensing guidelines and asked Ms. Chausse to verify if there were any requirements.

PUBLIC INPUT

Mr. Edward Lynch, who ran the townhouse apartments next door to the proposed gym, stated he wasn't against the proposal, but was concerned about noise being in close proximity to people's homes. He hoped that there would be some sort of relief mechanism in the event of tenant complaints. Mr. McNamara asked how far away the apartments were from the building. Mr. Metropolis stated that the side of the building closest to the townhouses was his side of the building, which was approximately 80ft-150ft away. The gym side of the building was approximately 200ft + away from the townhouses. Mr. Lynch reiterated that he wasn't opposed to the proposal, but was concerned about noise problems. He said the townhouses were people's homes and they should be respected. Mr. McNamara said the Board tried to have respect. He said it was an industrial zone and in term of the intensity of the use, there could be worse things located there. He noted that the Town didn't have a noise ordinance. He said the solution for any persistent problems would be to speak to the owner, or to submit a complaint to the Town. Mr. Metropolis said he would be happy to work with Mr. Lynch if there was ever a complaint.

The Board had no further comments.

MOTION: (Culbert/Montbleau) To approve the Limited Site Plan review (for a change of use).

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

Mr. Gowan noted for the record that the plan was technically a change of use. Mr. McNamara agreed that it was a Limited Site Plan Review for a Change of Use.

Map 20 Lot 3-133 COLEMAN, William & SCIRE, Connie – Mammoth Road – Discussion of Proposed 4-Lot Subdivision (This case is currently pending before the Board of Adjustment)

Mr. Dadak read the list of abutters aloud. There were no persons present who did not have their name read, or who had a problem with notification.

Mr. McNamara told the Board that the application was currently in front of the Zoning Board of Adjustment ('ZBA') (Case #2420). The applicant was requesting a variance to the 200ft. frontage requirement. The ZBA heard the matter and had some reservations/questions about the application and lot layout. They didn't want to act on the plan and 'tie' the Planning Board's hands. There was a consensus of the ZBA to send the matter to the Planning Board for guidance.

Attorney Bill Mason, representing the applicant, along with Shane Gendron of Herbert Associates came forward to review the proposed subdivision. Attorney Mason stated they had gone before the ZBA. There were four lots, with two of which having access from the Bear Hill Road Extension. This access from Bear Hill would divide the 50ft. extension providing each lot with approximately 25ft. access. Attorney Mason stated that the ZBA wanted guidance from the Planning Board so they have now come to the Board for a discussion. The Board was provided with two plans; one depicting the subdivision if the variance was granted, the second plan depicts what the subdivision would look like if a cul-de-sac was extended from the existing cul-de-sac. The purpose of the meeting was to have the Planning Board provide guidance to the applicant of how to proceed as well as to provide a consensus for the ZBA to take into consideration.

Mr. Culbert questioned the location of the 4K area for lot 3-133-2 and the distance from the house. Mr. Gendron stated that they could propose the 4K area a distance from the house and pump the system up the hill. Mr. Culbert asked why it wasn't closer to the house. Mr. Gendron said given the setbacks they needed to provide ample room. He said it was likely that the system would be built closer to the house, but

to gain approval from the state, they had to show a 4K area with ample room as well as show the proper well radiuses.

Mr. McManus asked what the road frontage was for the lots on Mammoth Road. Attorney Mason said the road frontage on Mammoth Road was compliant with the current Subdivision Regulations. Mr. McManus questioned why three lots couldn't be accessed from Mammoth, with a single lot being accessed from the cul-de-sac. He didn't like the configuration of the lots. Attorney Mason said the applicant would like the lots configured as shown. He was told if a second cul-de-sac was built (off the current cul-de-sac) the lot would be compliant with the current Subdivision Regulations.

Mr. Doherty asked if the plan was being reviewed as a conceptual plan. Mr. McNamara stated the plan had come before the Board as a conceptual plan in order for the Board to provide comment back to the ZBA. Mr. Gowan said assuming the applicant was able to receive relief from ZBA (based on the Board's comments), the applicant would have to come back to the Planning Board for the subdivision. Mr. McNamara discussed the ZBA's concerns, one of which was the 50ft. right-of-way being separated into two 25ft. frontages and another concern expressed was adding two driveways onto the steep side of Mammoth Road.

Mr. Montbleau reviewed lot 3-133-2 and questioned if the pump in the 4K area would be able to pump up to the proposed house given the distance and approximately 100ft. elevation change. Mr. Gendron said they showed the area to be in compliance with the state regulations. He noted that because the slopes were steep they would only have two driveways off Mammoth Road; the other two lots would be accessed from Bear Hill. Mr. Montbleau reiterated his question of if the septic would be able to pump up to the proposed location given the distance and elevation. Mr. Gendron said that they hadn't done a lot of them at that distance, but they had done systems near the pond where they pumped approximately 50ft.-60ft. in elevation and 300ft. – 400ft. in horizontal distance. He said they would probably be able to comply with a septic design that would be closer to the house.

Mr. Dadak questioned why there couldn't be three lots off Mammoth Road and one lot off Bear Hill. Attorney Mason stated that the plan was designed to be the most feasible way to develop the property. Mr. Dadak said the topography lines appeared to be uniformly steep across the parcel from Mammoth Road and the area from Bear Hill seemed a little more flat. Attorney Mason reviewed the plan and stated that it may be slightly difficult for the installation of a cul-de-sac off an existing cul-de-sac to create the requisite frontage, but he was told that type of a design would be compliant with the Subdivision Regulations. Mr. McNamara noted that the only plan provided to the ZBA was the plan showing the break up of the right-of-way; they didn't see the other plan.

Mr. Doherty questioned what the applicant submitted for hardship on the lot. Attorney Mason stated the hardship dealt with the reasonable use of the land and whether putting a cul-de-sac off the end of a cul-de-sac for the sheer purpose of creating road frontage represented a reasonable way to provide access to the property. He then reviewed the variance criteria provided to the ZBA. *“Given the existing structures presently located on the property, the elimination of the present cul-de-sac and the extension of the road into an area of relatively steep terrain does not represent a reasonable planning alternative. : It would not be cost effective nor beneficial to the Town to extend Bear Hill Road to create another cul-de-sac to be maintained by the Town when the access and spacing of the buildings can be achieved with this requested variance.”*

Mr. Gowan said the question was raised as to what the frontage was along Mammoth Road, he came up with 526.35ft. which fell short of the required 600ft. needed for three lots.

Mr. McGlynn felt the plan looked ludicrous. He went on to discuss the difficulties of the plan and didn't see how four houses would fit the parcel. Mr. Doherty reviewed the plan and believed having four lots was conceivable with access being from Bear Hill.

Mr. Haverty asked if the extended cul-de-sac would be part of a Town road. Attorney Mason said it would. Mr. Haverty said the cul-de-sac appeared to have green space in the middle and noted that the Board of Selectmen would prefer to have something that didn't require maintenance.

Mr. Culbert said he wouldn't have a problem with the 25ft. split right-of-way. Mr. McNamara noted that the lot shapes were unconventional. Mr. Gendron said reviewed the two options and commented that coming off the existing cul-de-sac with a driveway would be a lot less intensive in cutting and filling the property.

Mr. Doherty stated if the applicant was requesting a variance, they may want to consider designing a Conservation Subdivision. He said the access could come off the cul-de-sac rather than Mammoth Road and cluster the proposed homes to lessen the impacts to the land. Attorney Mason didn't know if the engineers had done a conceptual. He asked the Board's opinion about altering the plan to have one (50ft) single driveway access the existing house (off Bear Hill Road) and keep the other two lots having access from Mammoth Road. Lot 3-133-1 would become part of lot 3-133 with 50ft. of frontage off Bear Hill Road Extension thereby eliminating the need for a cul-de-sac extending off of a cul-de-sac. Mr. Gowan didn't like the 'horseshoe' shaped lot and felt Attorney Mason's recommendation solved the problem. He questioned if the proposed driveways would meet the regulations. Attorney Mason stated the existing home had an existing driveway from Mammoth Road. As a matter of convenience, the owner used access from Bear Hill Road. Mr. Gowan reminded the Board that the ability to waive the driveway requirements fell under the restriction of NFPA and the Fire Chief; he expected the Chief to be stickler about his ability to get equipment up the driveways.

Mr. McManus discussed the proposed layout of the lots and questioned if the 4K area could be moved to the bottom of the hill. The plan was proposed as it was per state regulations to show the 4K areas.

There was no public input.

The Board discussed the proposal further and their feelings regarding the layout of the lots. There was a general consensus to have three lots versus four lots; the Board was uncomfortable with the 'horseshoe' lot. In summary it's preferred to use the 50ft. right-of-way off Bear Hill Road as 50ft. of frontage and have two other lots accessed by Mammoth Road would be preferable to the proposal before the Board. Mr. Peter Zohdi of Herbert Associates, who had just arrived at the meeting understood that the Board preferred three lots. Mr. McNamara said having three lots would reduce the 'horseshoe' shaped lot problem, but it did not address the steepness of the slopes or the myriad of items that would come back to the Planning Board in terms of waiver requests. He said for purposes of the present meeting, the Board had provided enough input. Mr. Zohdi asked if the Board could send a recommendation to ZBA that the Board didn't have a problem with one lot having 50ft. frontage and the other two with proper frontage. Mr. McNamara said he would word a letter indicating that the Board felt the 50ft. right-of-way and other lots were preferable to the plan brought before them. Mr. Zohdi understood the Board's direction. Mr. McNamara said he would draft a letter in the appropriate terms to be forwarded to the ZBA. He urged Mr. Zohdi to look at the possibility of doing a conservation subdivision as suggested by Mr. Doherty.

Map 1 Lot 5-107-2 DICK TRACY REALTY TRUST – Pelham Plastics – 42 Dick Tracy Drive – Site Plan Review of Proposed 9688SF Addition with 7655SF Second Floor

Mr. Dadak read the list of abutters aloud. There were no persons present who did not have their name read, or who had a problem with notification.

Mr. Jeff Merritt of Keach-Nordstrom, representing the applicant, came forward to discuss the proposed site plan review. He began by reviewing the property as it currently existed. The parcel is approximately 4.2 acres situated entirely within the Industrial Zoning District. There is currently a two-story manufacturing building roughly 9700SF with an additional top floor used as a storage/office area. The property is serviced by municipal water. There is a small private on-site septic system located south of the building. Parking is on site for at least thirty-three vehicles. There are approximately forty-six employees; forty

employees during the day shift and six employees during the evening shift. Mr. Merritt then reviewed the site plan proposal. They were looking to expand the current facility with a 9688SF building addition to be located west of the existing building. The addition would have the option of installing a second floor totaling 7655SF. The total proposed addition would be 17,334SF. To accommodate the new addition and expected increase in employees, the on-site parking would be increased to ninety-four spaces; the estimated employees would be sixty during the morning shift and ten in the evening shift. The water, electric, telephone and cable services would be pulled from the existing facility. Because of the anticipated increase in employees (over the years), the septic system would need to be removed, replaced and expanded; the plan set showed a proposal for a concrete chamber (leach field) system. Mr. Merritt then addressed the proposed drainage, grading and utility plan. Everything drained to the south; there would be a detention basin with an outlet into a treatment swale running parallel with Dick Tracy Drive and into the Town's closed drainage system as it currently flowed.

Mr. Merritt stated there were three waivers being requested. Mr. McNamara suggested that the Board go through the waivers. He acknowledged that a written copy had been provided outlining the justification for the requests.

Mr. Gowan told the Board that the plan was complete and ready for acceptance.

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

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

MOTION: (Montbleau/Doherty) To accept, for consideration, the waiver request to Article III, Section 248:22,L – plan scale required 1"=20ft.; requesting 1"=30ft.

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

MOTION: (Montbleau/Doherty) To accept, for consideration, the waiver request to Article IV, Section 248:32,D – prohibits parking within 25ft. from any leach field.

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

MOTION: (Montbleau/Doherty) To accept, for consideration, the waiver request to Article IV, Section 248:41,E,2 – prohibits the installation of a leach field under or within 25ft. of concrete or bituminous concrete surfaces – proposed leach field is to be concrete chambers specifically designed to receive H2O loads.

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

Mr. McNamara stated with the plan and waivers being accepted for consideration, it would now be sent to Stantec for engineering review. He asked if there were any outstanding items or input that the applicant needed from the Board. Mr. Merritt stated he had a conversation with Pelham's Deputy Health Officer Paul Zarnowski who believed that the intent of the regulations (in connection with the last two waivers) was to prohibit parking on stone and pipe systems. He said Mr. Zarnowski indicated his belief that the applicant didn't need the waivers because the proposed chamber leach system was an aeration system. He said he still wanted to request the waivers.

Mr. Doherty felt that the Subdivision Regulations should be changed to allow the chamber system. He felt commercial building coming to the Board would have chamber systems under their parking lots.

Mr. Gowan stated that he met with the engineering team and felt the proposal was a well reasoned plan. He believed the engineering review would show the quality of engineering in place. He felt it was wonderful to see a Pelham business expand.

There was no public input.

The plan was date specified to the July 20, 2009 meeting.

OLD BUSINESS CON'T...

Map 39 Lot 1-61 &62 DRACO HOMES, INC. / LUSSIER – Dracut Line / Mammoth Road – Proposed 8-Lot Subdivision and Seeking a Special Permit for Roadway Crossing

Mr. Doherty stepped down. Mr. McNamara appointed Mr. McGlynn to vote in place of Mr. Doherty. Mr. Culbert asked the applicant if they would like him to recuse himself because he had taken a stand with the American Legion. The applicant's attorney Jeff Zall consulted the applicant and stated they would like Mr. Culbert to recuse himself. Mr. Culbert stepped down. Mr. McNamara appointed Mr. McManus to vote in Mr. Culbert's absence.

Attorney Jeffrey Zall and Mr. Matt Hamor of Polaris-Hancock Engineering came forward to discuss the proposed subdivision. Mr. Hamor said they had been continuing to resolve some outstanding engineering comments from the last meeting with the Board. He stated that they held an informal meeting with the Veterans of Foreign Wars ('VFW') and had numerous discussions with the Planning Department. He said they had some progress with the Shore Line Protection Bureau and were informed that they didn't need a permit relating to the frontage issue along Long Pond. He indicated that a review letter had been received from Stantec outlining some additional matters that the Board may want to consider before closing the public hearing.

Mr. McNamara stated that the Board was in receipt of a letter dated June 11, 2009 from Stantec in response to further information that had been sent by Polaris-Hancock.

Mr. Dick Hertrich of Stantec came forward to outline Stantec's review letter (dated June 11, 2009). He said after reviewing sheets 4 and 5 of the plan as well as the Storm Water Drainage report. From that submittal they were able to determine that all the technical questions had been addressed satisfactorily. Mr. Hertrich said the remaining issues were those that the Board would have to address, such as the waivers and special permit. He stated they were in agreement with Mr. Hamor that the proposal didn't fall under the Shore Land Protection Act; but believed when the lots were developed they may have to comply with some portions. He said the main issue for the Board to discuss was the water main and the extension of the road to Pelham Veteran's Memorial Park ('PVMP').

Mr. McNamara noted that the current plans had undergone a series of revisions and now reflected that the road would be extended into PVMP and the water line would be extended within 50ft. of the building. Mr. Hertrich said the latest submittal didn't include anything on the road, but the previous plan spoke about extending the water main to the building. Mr. McNamara stated that the extension would have to go to Selectmen and then to a public vote. Mr. Gowan stated assuming the Board approved the plan, it would be subject to the Board of Selectmen placing it on the ballot. He said he had consulted with Attorney Zall and Town Counsel (Attorney John Ratigan) about how it would unfold; there was a recommendation to have a two-year attempt process. If it failed voter approval (a second time), the value of the improvement may be possibly be used somewhere else in the park (or something of that nature).

Attorney Zall recommended that the Board conditionally approve the plan based upon the acceptance of the improvements at a town meeting and at the same time, the applicant be required to furnish a bond or cash escrow for the cost of bringing the road and water lines down (to PVMP). Mr. McNamara stated that the difficulty would come with the contingencies later on in the event town meeting didn't approve the improvements. Attorney Zall stated that they would go back to the Zoning Board of Adjustment ('ZBA')

immediately following conditional approval by the Planning Board and ask them to revisit their approval. Mr. Gowan said in addition to the escrow being established for the value of the improvements, there would have to be some money for detailed design and review.

Mr. McNamara said the Board should address the Veteran's feelings about the park not being disturbed and what, if any legal affect it would have for the Board moving forward. Attorney Zall believed it would fit in with the conditional approval. Mr. Haverty asked if the land was Town property. Mr. McNamara said it was. Mr. Haverty stated he would question what legal footing anyone besides the Town would have to mount any significant argument against the plan. Attorney Zall stated it was a grey area and rather than being involved in that area, they propose to either build it now (if accepted) or escrow the funds so they funds were there for the Town to build the improvement. He said there would be water brought to the property line so the Town could tie into it. Mr. McNamara said the Board was looking for a letter from the appropriate Dracut authority agreeing to supply water. Attorney Zall said that would be another conditional approval item because Dracut wanted the plan conditionally approved. He suggested that the Board consider conditionally approving the plan upon the Town of Dracut Water Commission providing confirmation that they would supply water and will own and maintain the water transmission pipes within Hawk Ridge Road to the property line.

Mr. Gowan stated that it was his and Town Counsel's belief that the Town would have to receive from Pennichuck a letter indicating that they could provide water. Mr. McNamara asked hypothetically what would happen if Pennichuck couldn't provide water; if that would obligate Dracut to provide it. Mr. Gowan said the assurance he received from a gentleman at Pennichuck was that they would be very likely to write a letter in support since they didn't have the infrastructure to support it.

Mr. Haverty understood if Pennichuck couldn't provide water, they couldn't prevent someone else, who could provide infrastructure, from providing water.

There was further discussion regarding the water being brought in. Mr. McNamara stated that the Planning Board's and ZBA's concern is that there be water extending in and a road connecting it. He confirmed that the road would be gated in two places based on the recommendation of the Highway Safety Committee. Mr. Hamor and Attorney Zall said that was correct.

PUBLIC INPUT

Mr. Paddy Culbert, speaking as a member of the public, stated that a Town vote would be needed no matter what the Selectmen did. Mr. Haverty agreed that a Town vote would be needed before the property could be modified. Mr. Culbert said the plan seemed to have contingency upon contingency and recommended that the Board deny the plan without prejudice so the applicant could come back when it went to Town vote. Mr. McNamara said he shared a lot of concerns, but commented that the applicant had tried that route previously; the Selectmen sent the applicant to the Planning Board. The ZBA had also commented that there were a number of items to be addressed as well. He said the applicant tried to reach solutions and he questioned if denying the plan now would be unreasonable. Mr. Culbert said he spoke for the Veterans, who would attack the plan with vigor if it were approved. Mr. McNamara didn't understand why they would attack because the plan was a benefit to the Town and had a minimum incursion on the park. Mr. Culbert said there was opposition to the plan.

Mr. McNamara read aloud a letter submitted by the Fire Department dated June 12, 2009 which indicated all the items of concern had been addressed on the plans reviewed June 12, 2009. The Fire Department was satisfied with the site plans as they were submitted.

The Board addressed the waiver requests as follows:

MOTION: (McGlynn/Montbleau) To approve the waiver request to Section 11.04, C,1 – lots 1 and 4 cannot contain a rectangle with sides measuring 100ft.x150ft. contained within the proposed building envelopes.

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

Mr. Hertrich stated that they put a template on the cul-de-sac and an emergency vehicle would be able to get around it. He said they didn't have a problem with the width.

MOTION: (Dadak/Montbleau) To approve the waiver request from Appendix I, BB,2 – roadway width being 20ft. for the roadway approaching the cul-de-sac and 22ft. at the cul-de-sac.

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

Mr. McNamara was hesitant for the Board to move forward with an approval with the multiple conditions that they had. He suggested scheduling the plan for the next meeting. Mr. Hamor said that would be fine. He reminded the Board that there was a Special Permit that would also need to be addressed. Attorney Zall said at the next meeting he would suggest that the Board to conditionally approve the plan based on the water and the acceptance of the improvements. Mr. McNamara said he had other conditions that would be included.

The plan was date specified to the July 20, 2009 meeting.

Mr. Culbert and Mr. Doherty returned to the Board.

ENGINEERING CONSULTING FIRM INTERVIEWS

The Board conducted interviews with the following engineering/consulting firms based on information that had been submitted and previously reviewed (during non-public session) by Board members.

The firms that provided a presentation were:
Keach-Nordstrom Associates, Inc. – Bedford, NH;
Beals Associates, PLLC – Exeter, NH
Stantec Consulting Services, Inc. – Auburn, NH

MINUTES REVIEW

June 1, 2009

MOTION: (Montbleau/Dadak) To approve the Planning Board meeting minutes of June 1, 2009 as written.

VOTE: (5-0-2) The motion carried. Mr. Culbert and Mr. Haverty abstained.

DATE SPECIFIED ITEM(S) – July 20, 2009

Map 1 Lot 5-107-2 DICK TRACY REALTY TRUST – Pelham Plastics – 42 Dick Tracy Drive – Site Plan Review of Proposed 9688SF Addition with 7655SF Second Floor

Map 39 Lot 1-61 &62 DRACO HOMES, INC. / LUSSIER – Dracut Line / Mammoth Road – Proposed 8-Lot Subdivision and Seeking a Special Permit for Roadway Crossing

REQUEST FOR NON-PUBLIC SESSION

MOTION: (Montbleau/Doherty) Request for a non-public session per RSA 91-A:3,II,c - Matters which, if discussed publicly, would affect adversely the reputation of any person.

ROLL CALL: Peter McNamara-Yes, Paddy Culbert-Yes, Paul Dadak-Yes, Roger Montbleau-Yes, Tim Doherty-Yes, Jason Croteau-Yes, Selectmen Representative Robert Haverty-Yes

Mr. McNamara noted after the non-public session was recessed the Board would not take any other action publicly. During non-public session Board would vote to possibly seal the minutes of the non-public session and adjourn the meeting.

The Board then entered into a non-public session at approximately 10:30 pm. Also present were alternate members and Planning Director Jeff Gowan.

Respectfully submitted,
Charity A. L. Willis
Recording Secretary