

**APPROVED**

**TOWN OF PELHAM  
PLANNING BOARD WORK SESSION MINUTES  
November 5, 2018**

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

Secretary Paul Dadak called the roll:

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

**ABSENT:** Alternate Derek Steele, Alternate Richard Olsen, Alternate Bruce Bilapka

**MEETING MINUTES**

**October 15, 2018**

**MOTION:** (Montbleau/Doherty) To approve the October 15, 2018 meeting minutes as amended.

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

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**October 20, 2018**

**MOTION:** (Montbleau/Dadak) To approve the October 20, 2018 site walk minutes as written.

**VOTE:** (5-0-2) The motion carried. Mr. McNamara and Mr. Lynde abstained.

**OLD BUSINESS**

**Case #PL2018-00028**

**Map 15 Lot 8-216**

**JAMES PETERSEN BUILT HOMES, LLC - Windham Road – Site Plan Review for Proposed 42 Unit Elderly Housing Community Development and a Special Permit for Wetland & WCD Crossing for Access to Residential Units. (Continued from September 17<sup>th</sup> Agenda)**

Mr. McNamara informed that the applicant's engineer had requested the case be date specified to a later meeting to allow them time to respond to Keach Nordstrom's (Board's engineering review firm) letter/comments.

Mr. Gown noted that the applicant had already been continued and suggested if they request an additional continuance (after tonight's meeting) the Board should consider asking them to file a new application. There was a brief discussion regarding when the case would be date specified.

The case was date specified to December 3, 2018. It was announced that abutters would not receive additional notification.

**Case #PL2018-00023**

**Map 7 Lot 4-182**

**Yellow Wood Land Holding, LLC Attn: Blake Clark, Manager – Yellow Wood Drive – Pre-Design Review for Proposed Conservation Subdivision**

Mr. Clark recused himself. Mr. McNamara appointed Mr. Thomas to vote.

The applicant Mr. Blake Clark came forward. Mr. McNamara stated the case had been continued from a previous meeting to give the applicant an opportunity to review the legal opinion received by the Board (from Town Counsel). He asked for a motion for the Board to enter non-public session.

### **REQUEST FOR NON-PUBLIC SESSION**

**MOTION:** (Lynde/Doherty) Request for a non-public session per RSA 91-A:3, II, L – Consideration of legal advice.

**ROLL CALL:** Peter McNamara-Yes; Roger Montbleau-Yes; Paul Dadak-Yes; Tim Doherty-Yes; Jim Bergeron-Yes; Selectmen Representative Hal Lynde-Yes; Alternate Samuel Thomas-Yes.

Although Mr. Culbert's name was not read aloud, he joined the Board in non-public session.

The Board entered non-public session at approximately 7:16pm (recording time stamp 00:08:29)

The Board returned to public session at approximately 7:37pm (recording time stamp 00:29:32)

**MOTION:** (Lynde/Bergeron) To (indefinitely) seal the meeting minutes of the non-public session.

**ROLL CALL:** Peter McNamara-Yes; Roger Montbleau-Yes; Paul Dadak-Yes; Tim Doherty-Yes; Jim Bergeron-Yes; Selectmen Representative Hal Lynde-Yes; Alternate Samuel Thomas-Yes.

Based on advice from Town Counsel, Mr. McNamara stated the applicant will be able to go forward with the variance and asked that a new yield plan and application be submitted.

Mr. Clark asked if it would be appropriate for him to continue where he left off with the pre-design review. Mr. McNamara felt the applicant would be best off filing an application.

Mr. Doherty understood the variance was for the land but noted it didn't exclude the applicant from the part of current zoning that requires a conceptual as part of a yield plan. Mr. McNamara asked if the plan had originally come in as a conceptual. Mr. Clark spoke about the submission process they followed, which was submitting an application with the first step being a yield plan, which he felt in essence allowed him to proceed with a conservation subdivision. He asked the Board to clarify if he was allowed to proceed with a conservation subdivision or if he should back the process to the yield plan. Mr. McNamara reiterated that a new yield plan and application should be filed. Mr. Clark understood.

Mr. Gowan stated a yield plan is a conceptual plan because it showed how many lots there could be. Mr. Clark stated nothing had changed, but understood the Board wanted him to start again with a yield plan. Mr. McNamara replied it was up to the applicant to decide whether to use the same yield plan or do another one. Mr. Doherty referenced Section 307-95 that indicated all applicants must submit a conceptual plan to the Planning Board as part of their yield plan proposal. Mr. McNamara noted the reason for the conceptual was for the applicant to receive feedback whether a conservation subdivision is feasible. Mr. Clark asked if that was a publicly notified meeting. Mr. McNamara answered yes. Mr. Clark asked if there was a second public notified meeting after that process. Mr. McNamara replied he didn't want to give procedural advice and suggested he consult his attorney. He reiterated that a new yield plan and application would need to be submitted both based on the variance that is considered valid.

Mr. Lynde asked for clarification of the procedure for a non-compliant plan. Mr. McNamara replied if someone submitted a plan to the Planning Department that was obviously not compliant with zoning; upon review the applicant would be told that the plan needed a variance. He said they could also apply for a variance if they brought in a plan that was flawed. Mr. Lynde questioned if the Planning Board should be made aware of those plans. Mr. Gowan replied public notification and newspaper advertisements were done when someone is going to the Zoning Board. He said the Planning Department could give the Board notification and added that the Zoning Board was a separate 'body'.

Mr. McNamara thought through (non-public) discussion the Board had agreed to discuss the subject at a later date. Mr. Doherty pointed out that there were RSAs that spoke to the subject. He said there were rules and procedures (contained in the RSA) that the Board hadn't adopted. He gave a brief summary of the outlined procedure.

Mr. Montbleau stepped out of the room.

Mr. Gowan spoke about the current procedure. He felt it would be problematic for a Planning Board member to go to the Zoning Board and argue against a variance and then sit on the Planning Board in judgement of a plan. Mr. Doherty said that wasn't the case if it was submitted under the Innovative Land Use. Mr. McNamara stopped the discussion as it wasn't on the agenda. He said he told the Board during non-public they could have discussion at a subsequent meeting.

**DATE SPECIFIED PLAN – December 3, 2018**

Case #PL2018-00028 - Map 15 Lot 8-216 - JAMES PETERSEN BUILT HOMES, LLC - Windham Road

**ADJOURNMENT**

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

**VOTE:** (6-0-0) The motion carried. (Mr. Montbleau had stepped out of the room)

The meeting was adjourned at approximately 7:48pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary