

APPROVED

**TOWN OF PELHAM
PLANNING BOARD MEETING MINUTES
May 20, 2019**

Chairman Roger Montbleau called the meeting to order at approximately 7:00pm.

PLEDGE OF ALLEGIANCE

Secretary Cindy Kirkpatrick called the roll:

PRESENT: Roger Montbleau, Blake Clark, Cindy Kirkpatrick, Tim Doherty (arrived after the meeting commenced), Paul Dadak, Jim Bergeron, Selectmen Representative Hal Lynde, Alternate Derek Steele, Alternate Richard Olsen, Alternate Samuel Thomas, Alternate Bruce Bilapka

ABSENT: Alternate Paddy Culbert, Planning Director Jeff Gowan

MEETING MINUTES

May 6, 2019

MOTION: (Lynde/Clark) To approve the May 6, 2019 meeting minutes as written.

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

NEW BUSINESS

PB Case #PL2019-00011

Map 17 Lot 12-182

C & E PROPERTIES - 988 Bridge Street - Proposed 2-Lot Subdivision and Special Permit for driveway within the Wetlands Conservation District

Mr. Montbleau appointed Mr. Steele to vote. Mr. Doherty arrived after discussion commenced therefore, Mr. Steele remained appointed to vote until conclusion of the discussion.

Ms. Kirkpatrick 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. Bergeron stated one of the names read aloud was Bergeron Bedard, which is a property holding company that he was partners with. The property is located across the street to the north and is within the statutory bounds. He stated he had no ties to the property (financial or otherwise). He told the Board he would leave the decision to the Board if they felt he should recuse himself from the discussion. There was no objection voiced by the Board, applicant or public for Mr. Bergeron remaining seated as a voting member.

Representing the applicant was Mr. Joseph Maynard of Benchmark Engineering. He told the Board the lot was residential in nature containing approximately 5.5 acres. There is an existing single-family home that was constructed some time around 1946. The applicant previously had gone in front of the Zoning Board; first application was for three lots, one with reduced frontage, this was withdrawn without prejudice, the second application was submitted as a two-lot subdivision with a shared driveway and granted Variance relief. Mr. Maynard explained the reason for proposing a shared driveway. He said although the lot had a substantial amount of frontage along Bridge Street there was only one spot that met the Department of Transportations

(‘DOT’) requirements for 400ft. of all-season safe sight distance. He noted the existing driveway doesn’t meet DOT’s standards; it fails on the ‘all season’ aspect and the State doesn’t waive their sight lines. The only place that legally meets the requirement is the location shown on the plan. The location of the proposed driveway met the DOT requirements; however, it fell within a Wetland Conservation District (‘WCD’) buffer that leads to a culvert running under Route 38.

Mr. Maynard told the Board he met with the Conservation Commission. He said they walked the site and asked that he pull the driveway out of the WCD buffer as much as possible. He was able to adjust and decrease approximately 200SF of impact. The Commission had a concern with the use of salt; a note has been added to the plan indicating no salt should be used on the driveway or in the WCD buffer. WCD signs will be placed at the south edge of the driveway easement and wherever it falls within the buffer. The Commission also requested facultative (wetland) plantings and came to an agreement with the applicant regarding the size and location for plantings. A note regarding the plantings has been added to the plan.

Mr. Maynard indicated he updated the waiver request, at Mr. Gowan’s suggestion, to amend the referenced section numbers (of the Regulations) that had been changed in the latest rendition of the Subdivision Regulations. He reviewed the waiver requests and explained the purpose of each: 1) site specific soils mapping, 2) underground utilities, 3) driveways, 4) well requirements and 5) common driveway.

Mr. Lynde questioned why a waiver was needed for the driveway. Mr. Maynard explained the language (Section 205-6,C) wasn’t 100% clear so he requested a waiver. Mr. Lynde noted the language indicates ‘common driveway serving more than two dwellings’. Mr. Maynard replied they only had two dwellings. He felt safer asking for the waiver and added he could withdraw it if the Board felt it wasn’t necessary.

Mr. Bergeron asked Mr. Maynard if he was working with the Town’s new Regulations that were recently adopted. Mr. Maynard replied he was using the most recent version that was online. He went through each waiver and added the subsections to ensure they were correct.

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

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

Mr. Clark asked for information regarding the sight distance issues. Maynard said there were two issues, the first being the grade of Bridge Street itself; eyesight is impeded by the ‘hump’ in the road. The second issue is ‘all season sight distance’, which is anything that is off-pavement (i.e. snowbank). Sight must be visible above 18inches. Visibility is lost because of the steep slopes toward Old Gage Hill Road. Mr. Clark questioned if there was any terrain that could be altered by the property owner to solve the problems. Mr. Maynard answered no; primarily the road grade of Route 38 would need to be changed to fix the problem. He originally looked at trying to alter the slopes along the side of the road to meet sight distance. He said it still brought him to the point being proposed. If the location was moved closer to the existing driveway the sight line is lost because of the curve in the hill.

Mr. Doherty arrived.

Mr. Clark questioned if a DOT permit was needed to move the driveway. Mr. Maynard stated he applied for it on May 1st. Any approval would be subject to receiving State driveway permit.

Mr. Bergeron reviewed the language in Section 205-6 (C) – common driveways and didn’t feel a waiver was necessary. Mr. Montbleau agreed. There was no disagreement by other members. Mr. Bergeron spoke about the area and road elevation. He believed moving the driveway would be good for the area and provide safer access to Route 38. He then discussed the plan by DOT to install a traffic warning light for vehicles traveling north prior to reaching the crest in the hill and intersection at Old Gage Hill Road.

Mr. Montbleau entertained a motion for the waivers.

MOTION: (Clark/Dadak) To accept the submitted waivers #1-#4 for consideration.

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

Mr. Montbleau opened the discussion to public input. No one came forward. He asked the Board how they wanted to proceed. They moved forward with waiver approval. It was noted that the initial letter submitted for waiver requests was revised and submitted with correct Regulation section (and subsection) reference numbers. Mr. Maynard told the Board he would meet with Mr. Gowan to make sure that the correct section numbers were labeled on the plan.

MOTION: (Clark/Dadak) To approve the waiver to Section 202-3(b)4 – Site Specific Soil Mapping.

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

MOTION: (Lynde/Dadak) To approve the waiver to Section 203-7(A) – Underground Utilities.

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

MOTION: (Dadak/Clark) To approve the waiver to Section 203-1(F) – Driveways.

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

MOTION: (Bergeron/Lynde) To approve the waiver to Section 203-1(B)4 – Well Requirements.

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

The Board then voted to approve the plan.

MOTION: (Clark/Dadak) To approve the subdivision plan.

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

PB Case #PL2019-00012

Map 27 Lot 5-52

BOISSONEAULT, Rene & Abigail - 339-355 Mammoth Road - Proposed 4-Lot Subdivision

Ms. Kirkpatrick 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 Joseph Maynard of Benchmark Engineering. He stated the property was zoned residential and contained approximately 5.89 acres. There are four existing single-family homes and several out-buildings. He noted there is a pre-existing non-conforming business (known as Mammoth Road Lumber) on the property which will remain on one of the lots after the subdivision. The Planning Department advised that the use could remain as long as it was on a lot containing at least 1.5 acres. Gumpas Brook flows along the rear lot line of the property and there are wetlands on the north and south sides of the lot. Mr. Maynard stated

he had started on the project several years ago for family members. Subsequently, the applicant 'bought out' his siblings and was trying to clarify the lots.

The applicant went in front of the Zoning Board and received several Variances (Case #ZO2018-00023) in order to place each of the homes on their own platted lot and bring a plan to the Board. Mr. Maynard stated there would be four new lots when they were done subdividing. The lot at the north end meets the acreage requirement but has a Variance dealing with usable area outside of wetlands. That house and two of the other homes have the required 200ft. of frontage; one lot will contain 77ft. of frontage. Each lot will ultimately have its own septic system; three of the four systems pre-date any requirements. The lot to the rear has a State approved septic system. The property on the north-end has a drilled well. One property has a dug well and the remaining two share a (dug) well.

Mr. Maynard summarized the waivers being requested: 1) Site specific soil mapping, 2) Underground utilities, 3) Contiguous building area, 4) Building envelope, 5) Well requirements and 6) Driveways.

Mr. Clark questioned if a waiver request would be submitted for lot shape. Mr. Maynard commented it was a unique property. He stated the Zoning Board had the same comment, but ultimately when they visited the site (with the Conservation Commission) they understood the applicant was trying to achieve zoning to the best extent possible for lot lines and setbacks. They understood there would be unique lot lines associated with the design in order to plat each lot. Mr. Maynard said if the Board felt it needed a waiver, he would add one. Mr. Clark believed it would because there was a Regulation that spoke to 'regularly shaped geometric lots'. He said it looked like the lines were drawn to try and keep approximately 1.5 acres with the existing business. Mr. Maynard pointed out there was a number of structures associated with the lot at the rear of the property. He said the setback relief they requested from the Zoning Board dealt with trying to work the lot line around those improvements. He further explained that the family members each had certain yard areas associated with their homes. Mr. Clark understood that they were trying to improve the site. Mr. Maynard noted the lot was a pre-existing non-conforming property. Mr. Clark questioned when the properties were built. Mr. Maynard replied prior to the Town's zoning in the 1950s; the family owned the land since the 1940s. Mr. Clark asked if all the houses predated Zoning. Mr. Maynard answered yes. Mr. Lynde and Mr. Clark didn't think they did. It was Mr. Maynard's understanding that there were additional houses on the lot that had been razed over time.

Mr. Montbleau asked if the family members were selling the property. Mr. Maynard answered no. He explained that the applicant had purchased his brothers out and now owned all the property at this time; however, they were unable to get a mortgage from the standpoint that banks didn't want to loan money to four houses on five acres of land. The bank informed the applicant to resolve the issue to have the houses on their own lots. Mr. Maynard reiterated they started the Zoning Board process last summer. Mr. Montbleau understood it was the applicant's intention to own the whole property and to get a mortgage they had to establish lots. Mr. Maynard answered yes. He added that the applicant's children had moved into the other homes when they were purchased from the family members.

Mr. Lynde believed the Town was complicit in what the parcel was and felt they were obligated to recognize it and make the best of what they had. He didn't think some of the houses were there in the 1950s, but that was immaterial. He understood there were currently structures within the WCD and wanted to know if they would remain. Mr. Maynard stated the Conservation Commission attended the Zoning Board's site walk and made a recommendation which the Zoning Board included with their Variance approval:

To take Ms. MacKay's suggestion during the site walk:

- 1) any vehicles whether operational or not to be removed from the WCD, and*
- 2) as buildings and structures in the WCD deteriorate and/or are taken down, any replacement is to be built outside of WCD, if needed.*

Mr. Bergeron inquired if it would have been possible for the applicant to have asked the Zoning Board to allow a Variance to the requirement of having one home on one lot. Mr. Maynard understood for a mortgage there were two options: 1) condominium ownership or 2) subdivide and make platted lots for each of the existing buildings. Mr. Bergeron noted the section regarding lot shape was 203-1(A). Mr. Maynard said he would handwrite a waiver request.

MOTION: (Lynde/Clark) To accept the plan for consideration.

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

Mr. Doherty said if the Board was going to move forward to allow the irregular lot shapes the applicant should be required to install all pins/bounds. Mr. Maynard told the Board he was not asking for a waiver and understood they are required to ‘pin’ every corner before the plan is signed.

Mr. Montbleau read the waiver requests aloud.

MOTION: (Lynde/Dadak) To accept for consideration #1 waiver request to Subdivision Regulation Section 202-3(b)4 – Site Specific Soils Mapping.

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

MOTION: (Lynde/Clark) To accept for consideration #2 waiver request to Subdivision Regulation Section 203-7(A) – Underground Utility Requirements.

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

MOTION: (Clark/Doherty) To accept for consideration #3a waiver request to Subdivision Regulation Section 203-1 (A) Lot Shape.

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

MOTION: (Clark/Dadak) To accept for consideration #3b waiver request to Subdivision Regulation Section 203-1(B) – Minimum Contiguous Building Area

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

MOTION: (Lynde/Clark) To accept for consideration #4 waiver request to Subdivision Regulation Section 203-1 (B)4 – Building Envelope.

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

MOTION: (Lynde/Dadak) To accept for consideration #5 waiver request to Subdivision Regulation Section 203-1 (B) 4 – Well Requirements.

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

MOTION: (Clark/Dadak) To accept for consideration #6 waiver request to Subdivision Regulation Section 203-1 (F) – Driveways.

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

Mr. Clark noted the proposal was a four-lot subdivision and per Regulation considered a 'major' subdivision. He questioned if engineering review was needed. Mr. Doherty said doing so would create an extreme hardship for the applicant and Board. He believed they were trying to clean up a situation that had been a problem in the Town for years. Mr. Clark believed there should be a waiver to waive engineering review. Mr. Montbleau asked Mr. Maynard to submit the additional waiver for consideration. He commented that the other Town boards had reviewed, and the Planning Board had received a plan in the best configuration possible to clear up the situation.

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

Mr. Lynde felt when the Board was done, the four lots should be able to stand on their own. He understood there was a shared well and questioned if there was an agreement for such. Mr. Maynard explained he began his review by determining what standards the lots could each meet under the State Subdivision guidelines. Because of the shared well the State has asked for review of the easements to share the well or have the radius go over the lot line. He commented that test pits had been done and reviewed by the (Assistant) Town Health Officer (Gary Webster) to ensure there was suitable areas for replacement septic systems (if needed). He believed the State would approve the plan once they received a copy of the easements. Mr. Lynde questioned if the test pit data was reflected on the plans. Mr. Maynard answered yes.

Mr. Bergeron noted the section regarding major subdivision (as brought up by Mr. Clark) was Section 202-6. He suggested the applicant request a waiver to the entire section.

MOTION: (Bergeron/Doherty) To accept for consideration #7 waiver request to Subdivision Regulation Section 202-6 – Major Subdivision.

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

In reviewing the plan, Mr. Clark saw the well radiuses for the existing wells. He asked if the geometry had been done to see if every lot could support its own well within the setbacks. Mr. Maynard replied three of the lots could meet it. He said the northerly lot with the drilled well couldn't, but it was an existing situation. The other lots have good usable areas that the radius could fit. Mr. Clark said he would like to see that exercise done to show that the lots could meet the radius requirements in the event that the existing wells were abandoned. Mr. Doherty wanted to know how the wells were currently producing. Mr. Maynard understood they produce plenty of water and never had an issue. Mr. Doherty commented if the proposal was a parcel of land getting subdivided for lots to be sold (for house construction) he could see having the engineer do further work to show future locations; however, the plan in front of them cleans up a mess. He noted that the existing wells were working and there were areas to put three drilled wells. He didn't think it was necessary to have the applicant draw three future well radiuses because the plan showed there was plenty of area to do so.

Mr. Lynde asked if all the lots met the setback requirements for the wells and septic. He wanted to know if there was a separation between the wells and septic. Mr. Maynard answered yes. He said the existing wells met the 75ft. setback to the existing septic areas. There was ample room to put replacement systems on any of the lots. He added that the test pits were reasonable for the land; the soil was sandy leading to Gumpas Brook. Mr. Clark saw that the northern lot had a non-conforming well and an approximate area for the effluent discharge area and didn't feel that lot had a lot of room for anything. Mr. Maynard replied based on the test pit for the lot he could place the largest type of system (pipe and stone) and not encroach on the WCD buffer.

Mr. Clark understood the proposal was trying to clean the lot up and wanted to know why some of the lot lines existed. He would like the plan a lot better if it had straighter lines where possible. Mr. Montbleau commented that the Zoning Board and Conservation Commission had been to the site. The plan was brought to the Board with the work done by Mr. Maynard to clean up the convoluted location. He believed the submission was the best of the best that they could expect. He didn't know what they could do that would change anything.

Mr. Doherty inquired if the gravel storage area would continue to be used. Mr. Maynard understood the area was used for drying lumber. He said it wasn't a maintained gravel area and there were a lot of weeds growing up through. Mr. Doherty asked if the owner was stockpiling anything in that area. Mr. Maynard answered no. He reiterated the Variance conditions to remove vehicles from the WCD and as existing buildings need replacement, they are to be moved out of the WCD. Mr. Clark wanted to know if the owner was currently in compliance with those requirements. Mr. Maynard replied there were no vehicles there when he did the test pits. He said there were structures, but they hadn't deteriorated. Mr. Doherty questioned how they accessed the gravel area. Mr. Maynard replied there was a covered bridge across Gumpas Brook that provided access.

MOTION: (Doherty/Dadak) To approve waiver request #1 to Subdivision Regulation Section 202-3(b)4 – Site Specific Soils Mapping.

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

MOTION: (Doherty/Dadak) To approve waiver request #2 to Subdivision Regulation Section 203-7(A) – Underground Utility Requirements.

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

MOTION: (Doherty/Kirkpatrick) To approve waiver request #3a to Subdivision Regulation Section 203-1 (A) Lot Shape.

VOTE: (6-1-0) The motion carried. Mr. Clark voted in opposition.

MOTION: (Doherty/Dadak) To approve waiver request #3b to Subdivision Regulation Section 203-1(B) – Minimum Contiguous Building Area

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

MOTION: (Doherty/Dadak) To approve waiver request #4 to Subdivision Regulation Section 203-1 (B)4 – Building Envelope.

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

MOTION: (Doherty/Dadak) To approve waiver request #5 to Subdivision Regulation Section 203-1 (B) 4 – Well Requirements.

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

MOTION: (Doherty/Lynde) To approve waiver request #6 to Subdivision Regulation Section 203-1 (F) – Driveways.

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

MOTION: (Doherty/Dadak) To approve waiver request #7 to Subdivision Regulation Section 202-6 – Major Subdivision.

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

Mr. Lynde confirmed the woodshed building shown on lot 3 would be removed. Mr. Maynard understood it would be. Mr. Lynde asked if that information would be shown on an approved plan. Mr. Maynard answered

yes, it was on the current plan, which would come back for signature. Mr. Lynde asked if there were any other waivers for that lot. Mr. Maynard wasn't aware of any additional waivers. Mr. Lynde questioned if anything would be removed from lot 2. Mr. Maynard answered no. Mr. Lynde spoke to lot 1 and only saw the sheds in the rear. He understood they wouldn't be expanded and if they deteriorated, they would be gone. Mr. Maynard said that was correct. Mr. Lynde confirmed no vehicles were allowed in that area. Mr. Maynard said that was correct. He noted the Zoning Variance (and associated conditions) was listed on the plan. Mr. Lynde questioned if there were any issues with the parent parcel. Mr. Maynard replied there was a shed located within the WCD setback which fell under the criteria and condition for Variance. He noted some of the septic system was located within the primary setback, but any replacement septic system would have to go on the other side of the lot and meet State and Town guidelines.

Mr. Doherty let Mr. Maynard know he would have voted against the plan if it wasn't to clean up existing conditions. Mr. Maynard understood.

MOTION: (Doherty/Bergeron) To approve the plan.

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

NON-PUBLIC SESSION - If requested in accordance with RSA 91:A:3

Not requested.

ADJOURNMENT

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

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

The meeting was adjourned at approximately 8:50pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary