

APPROVED
TOWN OF PELHAM
PLANNING BOARD MEETING
October 6, 2014

The Vice Chairman Roger Montbleau called the meeting to order at approximately 7:20pm.

The Secretary Paul Dadak called roll:

PRESENT: Roger Montbleau, Paul Dadak, Tim Doherty, Jason Croteau, Planning Director Jeff Gowan

ABSENT: Peter McNamara, Paddy Culbert, Selectmen Representative Robert Haverty, Alternate Joseph Passamonte, Alternate Mike Sherman

Mr. Montbleau explained that the Board didn't have a quorum and would be unable to vote on the matters before them. He stated that the Board could hear presentations in preparation for the next meeting.

Mr. Gowan said he had heard from the absent members and were aware they would be unable to attend. The Planning Board By-Laws require five board members to be present when voting on matters. When possible, a vote may be cast by a member via telephone as long as they are able to follow and hear the proceedings via television broadcast and are not relying on their telephone for such. He offered to try contacting a board member to follow the meeting remotely. *(Mr. Gowan reached a different opinion later in the meeting. See Below line #181)*

Mr. Montbleau said the Board would attempt to contact a member to follow the proceedings via telephone. If they are unable to reach an absent member, the Board will not vote on the matters before them. He said the Board would conduct business as usual and hear presentations, allow public input etc.; however, they will not vote on the matters due to the lack of quorum.

OLD BUSINESS

PB Case #PL2014-00019

Map 32 Lot 1-16-24 - SKYVIEW ESTATES, LLC – Skyview Estates Phase II - Majestic Avenue – Proposed Conservation Subdivision (19 Residential Lots & 2 Open Space Lots) *(NOTE: Applicant requests date specification to 10/20 and will not be heard at this meeting)*

Plan was rescheduled and date specified to the October 20, 2014 meeting.

PB Case #PL2014-00030

Map 28 Lot 2-7

COLE CIRCLE, LLC – PETERSON, Robert – 24 Burns Road – Special Permit Application to approve the Yield Plan for a proposed Conservation Subdivision of the above referenced lots. (Full application for conservation subdivision will follow once Special Permit and density is established)

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. Karl Dubay of the Dubay Group along with the applicant Robert Peterson came forward to discuss the proposed plan. Mr. Dubay said since the last meeting the Board conducted a site walk and reviewed the items of interest to the Board and the public. Comments have been received from Keach Nordstrom on the yield plan and were open to discussing those items. Mr. Dubay told the Board they had been working on the open space and improving the well radii. He called attention to the displayed plan. They proposed 50% open space. The yield plan showed eight lots; however they are providing nine lots, as one is already in existence. Buffers are also being provided along the edges of the project that will be deeded and delineated. During the site walk, the road sight distance was reviewed. It was agreed there was some vegetation that could be trimmed. They will meet the minimum required sight distance. There has been discussion about improving safety on one of the abutting lots and removing a driveway and associated easement on the applicant's property. The driveway will be reviewed to access the new (proposed) road; this will be done to improve safety and done by easement. Mr. Dubay said the loop trails will be controlled and deeded to the homeowner's association.

In reference to the yield plan, Mr. Dubay understood it was the start of unit density for the project. The plan was put together with quite a bit of detail and wouldn't require any variances. It will however, require waivers they didn't have control over on a few lots. Mr. Dubay explained there were extra pieces of land flanking the entrance to the project that didn't make square lots, but would essentially be open space. The extra land was because they would be doing a 50-foot right-of-way in the middle leaving extra strips on each side. He said Keach Nordstrom pointed this fact out. There are also a few interior lot lines that could be simplified through adjusting radii and setbacks. Mr. Dubay said they would like to move forward with Keach Nordstrom's comments and continue with a conservation subdivision. He asked for a consensus of the Board regarding the additional lot.

Mr. Gowan believed additional discussion regarding the site walk was warranted. He felt the yield plan looked fine, but would like to hear Keach Nordstrom's comments.

For the record, Mr. Doherty submitted the list of site walk attendees and the associated minutes.

Mr. Gowan told the Board he was able to reach two members; one wasn't feeling well, and the other didn't have cable television. He believed that the statute required the Board member to be able to observe the proceedings. He suggested if the Board had choices: 1) if the Board felt it was appropriate (after testimony, and input from Keach Nordstrom and public input) to reach a consensus it could be considered a tentative approval, or 2) although technically in violation of By-Laws, the Board could have an approval; by statute the Board can revisit (verify) any approval within thirty (30) days without the need for an outside party to file an appeal. That 'revisit' (verification) of

approval could occur during the October 20, 2014 meeting or 3) the Board could date specify the case to a future hearing.

Mr. Montbleau preferred to move forward with the business at hand. He felt comfortable taking a vote and bringing those decisions to the rest of the Board to be revisited at the next meeting. He asked for the member's opinion. Mr. Doherty had no objection to Mr. Montbleau's suggestion. He stated any vote would have to be unanimous for the stated scenario to work. Mr. Montbleau agreed that any vote that was not unanimous would not carry. Mr. Gowan added if any vote wasn't unanimous it would be held to the date specified meeting.

Being that the meeting was properly posted, Mr. Montbleau assumed all interested parties were present. He asked to hear from the public if anyone felt there were other interested parties not in attendance. No one came forward to address the Board.

Mr. Steve Keach of Keach Nordstrom came forward to address the items contained in his memo addressed to Mr. Gowan dated October 1, 2014. With regard to the yield plan, he commented it was the first step in any conservation subdivision application to establish a baseline density. In this instance an application has been advanced with a yield plan that depicted eight lots. As stated in his memo, the yield plan conformed to all applicable requirements of the Zoning Ordinance for dimensional requirements that effectively established density. Mr. Keach offered a comment if the yield plan were to be advanced as 'the' plan, rather than an instrument to establish density, he would like it to conform with Section 11.04C, and 11.11 of the Subdivision Regulations that dealt with lot geometry. He stated the two lots closest to Burns Road had 'tails' on them as a matter of necessity (from the geometry), not choice. In some areas the 'tails' became less than 50ft. in width, which was unavoidable; however the Subdivision Regulation states a lot cannot be narrower than 50ft. in any point. Two of the yield plan lots are narrower than 50ft. in width where they run parallel to the roadway. He would recommend granting a waiver for these. Mr. Keach then spoke about Lot 3 (end of cul-de-sac) containing a geometry where it provides the requisite 200ft. of frontage but has an area next to the cul-de-sac of less than 50ft. He was confident Mr. Dubay could satisfy the requirement by adjusting the cul-de-sac back. It was Mr. Keach's belief that there were eight (8) lots of residential density as advertised by the applicant. He believed Mr. Gowan agreed there were eight (8) lots of density in determining the yield for a conservation plan.

Mr. Gowan believed Mr. Keach was pointing out 'residual' pieces of land; the lots weren't undersized. He said the situation could be handled different ways and provided scenarios. He agreed with Mr. Keach's comments.

Mr. Doherty noted that the yield plan was simply to show that the eight lots could be built, not to show how the project would be built. He was in agreement that the yield plan was acceptable for eight lots. Mr. Montbleau said he would like a legitimate plan that reflected the lots it could actually accommodate. Mr. Doherty replied the plan was legitimate and assumed the Board would grant waivers for those narrow areas, which was extra frontage.

PUBLIC INPUT

Ms. Christine Levesque, 28 Burns Road (direct abutter to proposed plan) told the Board she was present during the recent site walk. Her concern was using easements to accomplish sight line issues and how it would impact her home and lot. She was also concerned about the traffic pattern that

would exist within the development. She hasn't yet come to a decision/conclusion (being a direct abutter) as to what the easements would do. Ms. Levesque commented about the concerns with the safety of her driveway and proximity of the proposed road. She asked that great thought and care went into using the easements to 'fix' the area.

Mr. Gowan suggested Mr. Dubay describe the use of the easements. Mr. Peterson reiterated the statements made during the site walk. He said Ms. Levesque was concerned about her driveway coming off Burns Road. He suggested, and believed the Board was amiable, to eliminating Ms. Levesque's current driveway and build a new one coming off the proposed new road. He said he would pave the new driveway up to a mutually agreed area near her garage. They would remove the hot top and plant seed to establish growth. Mr. Peterson told the Board that Mr. Keach felt the new driveway could be achieved through a simple meets/bounds easement.

Mr. Montbleau told Ms. Levesque that Mr. Peterson's proposal was for a permanent easement. Mr. Gowan added that the easement would be shown on the final recorded plan. Ms. Levesque questioned what would happen to the existing easement in front of her home if it was swapped for the new driveway placement. Because of the placement of her home, she wanted to know if swapping easements would limit her ability to install/construct a fence along Burns Road for safety. Mr. Peterson said there had been discussion and concern raised by a Board member (during the site walk) about gaining additional footage to gain more sight distance. He suggested creating an additional easement along Burns Road to increase the area that could be cleared for sight distance. Mr. Gowan discussed the easement. He said once the proposed road met the standards it would be built and eventually become owned by the Town. He said in the short term the developers would maintain the easement; however, the Town would clear the area for sight distance in the future. He told Ms. Levesque that the driveway easement from the new road could be worded so she would be comfortable. He said the matter presently in front of the Board was in regard to density and whether or not the applicant could begin engineering. He informed there was time to have the details sounded out and ultimately resolved to satisfaction.

Mr. Doherty further explained to Ms. Levesque that the discussion points from the site walk weren't included on the plan presently in front of the Board. He said the applicant was seeking permission to do the type of plan proposed before spending money on engineering. He said once they have permission, the applicant will then get together with her to work out the details. He saw there was a bush located partially on Town property just beyond Ms. Levesque's property. He believed if half the bush was removed, the full sight distance could be achieved. Mr. Doherty felt moving Ms. Levesque's driveway onto the proposed road made sense and help everyone.

Mr. Peterson understood the easement would be included on the plan and had no objection to drafting a formal agreement and walking the area to pick mutually agreeable locations.

After further thought about the Board not having a quorum, Mr. Gowan retracted his advice that the Board reach an affirmative vote. He suggested if all were in agreement, they could establish consensus that the plan met the threshold for a yield plan; the applicant could then engage in that work. The Board could date specify a formal approval to the October 20, 2014 meeting. If the four members were present at that meeting, they would carry the vote on October 20th to formally approval and issue the Special Permit to proceed with the conservation subdivision. Mr. Gowan indicated he could write a 'Notice of Consensus' rather than a 'Notice of Decision'. This will allow the applicant to complete a more detailed design work.

A consensus was reached by the four Board members present. Each member stated they were in favor of a conservation subdivision. Mr. Gowan understood that the Board by vote was in favor of date specifying the plan and continuing the discussed aspect of the plan to the October 20, 2014 meeting.

The plan was date specified to October 20, 2014 meeting for formal approval.

NEW BUSINESS

PB Case #PL2014-00027

Map 16 Lot 13-84 - NEW ENGLAND PENTECOSTAL MINISTRIES – 955 Bridge Street - Site plan review for construction of a proposed 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.

Mr. Othniel Archer, representing Pentecostal Ministries, came forward to discuss the site plan. He apologized for missing the previous meeting, which had been an oversight on his part as he wasn't aware he needed to attend the meeting. He said they were looking to site a 35ftx45ft storage shed in the rear of the property. The shed would house various items and equipment for the church.

Mr. Doherty questioned how far off the property line the shed would be located. Mr. Archer replied Mr. Gowan informed that the minimum setbacks were 20ft. from the front property line and 15ft. from the rear property line. He walked the property and believed he would fall well within the setback area, but was unsure of the shed's specific location.

Mr. Gowan said if the Board reached consensus that that expansion was appropriate the applicant could expand upon the uses for the shed. He clarified that the setback to the road was a minimum of 30ft. He offered to visit the site and verify the setbacks were met. He asked Mr. Archer to point out on the plan the potential locations of the shed. Using the displayed plan, Mr. Archer showed the possible locations for the shed. His original intention was to locate the shed closer to St. Margaret's Drive.

Mr. Montbleau asked if a 30ft. setback could be met from St. Margaret's Drive. Mr. Archer believed it could be. If the shed didn't meet the required setback in that location, he had no problem moving the shed to the alternate location. Mr. Montbleau stated an approval could be subject to Planning Director review of the location.

Mr. Dadak noted that the applicant would still need a building permit and final plot plan showing the shed's location and setbacks. Mr. Gowan said he would have the applicant submit a plan showing the proposed footprint of the shed to scale.

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

Mr. Doherty stated he had no issue with the proposed size storage shed based on the size of the facility it was associated with.

Mr. Gowan suggested that the Board reach consensus and date specify the matter to the October 20, 2014 meeting for a formal decision.

Mr. Montbleau questioned when the church would like to construct the shed. Mr. Archer said they originally were looking to construct the shed in the fall. However, they will need to push the timeframe back because they need to pour a concrete slab and now the cold weather is setting in.

A consensus was reached by the four Board members present. All were in agreement to approving the shed subject to the Planning Director's review of a formal plan and verifying the location and setbacks.

The plan was date specified to October 20, 2014 meeting for formal approval.

DISCUSSION

Discussion on the status of Skyview Estates, Phase I Alteration of Terrain Permit which is set to expire – The Planning Board to decide whether this phase is substantially complete & provide written opinion to Department of Environmental Services.

Mr. Gowan explained to the Board that the Skyview Estates subdivision had the benefit of having a Department of Environmental Services ('DES') Alteration of Terrain ('AOT') permit that was valid for five years. He said the DES has extended the permit once and were now reviewing a further extension. He said the Board would need to determine if the project was adequately complete for vesting the work that had been done. Mr. Gowan felt the project easily met the threshold of being adequately complete and stated if the Board reached a consensus he would send a letter to DES conveying that fact for the AOT to be extended.

Mr. Montbleau stated he would need to recuse himself from any discussion/consensus/vote. Mr. Gowan told the Board he would include a discussion on the Board's next agenda.

DATE SPECIFIED PLAN(S) - October 20, 2014

PB Case #PL2014-00019 - Map 32 Lot 1-16-24 - SKYVIEW ESTATES, LLC – Skyview Estates Phase II - Majestic Avenue

PB Case #PL2014-00030 - Map 28 Lot 2-7 - COLE CIRCLE, LLC – PETERSON, Robert – 24 Burns Road

PB Case #PL2014-00027 - Map 16 Lot 13-84 - NEW ENGLAND PENTECOSTAL MINISTRIES – 955 Bridge Street

MINUTES REVIEW

September 4, 2014

MOTION: (Doherty/Dadak) To approve the September 4, 2014 meeting minutes as written.

VOTE: (4-0-0) The motion carried.

September 15, 2014

MOTION: (Doherty/Dadak) To approve the September 15, 2014 meeting minutes as written.

VOTE: (4-0-0) The motion carried.

ADJOURNMENT

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

VOTE: (4-0-0) The motion carried.

The meeting was adjourned at approximately 8:23pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary