

APPROVED
TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
October 5, 2020

Chairman Tim Doherty called the meeting to order at approximately 7:00pm.

The following notice was read aloud “A Checklist To Ensure Meetings Are Compliant With The Right-to-Know Law During The State Of Emergency” (*regarding access to the meeting*)

Secretary Cindy Kirkpatrick called roll:

PRESENT ROLL CALL: Tim Doherty – present
 Jim Bergeron – present
 Cindy Kirkpatrick - present
 Danielle Masse-Quinn – present
 Alternate Bruce Bilapka - present
 Planning Director Jeff Gowan – present

Via Telecommunication:
Roger Montbleau – present via telephone
Alternat Mike Sherman – present via telephone; no one in the room
Alternate Selectmen Representative Hal Lynde – present via Zoom

ABSENT/
NOT PARTICIPATING: Paul Dadak
 Selectmen Representative Kevin Cote
 Alternate Paddy Culbert
 Alternate Richard Olsen
 Alternate Samuel Thomas

Mr. Doherty acknowledged Mr. Lynde would be the Selectmen Representative for the meeting. He then appointed Mr. Bilapka to vote in Mr. Dadak’s absence.

PLEDGE OF ALLEGIANCE

Mr. Doherty extended condolences to the Trump family for contracting the China virus.

MEETING MINUTES

September 21, 2020

MOTION: (Montbleau/Masse-Quinn) To approve the September 21, 2020 meeting minutes as written.

ROLL CALL VOTE: Mr. Doherty – Yes
 Mr. Bergeron – Yes
 Ms. Kirkpatrick - Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau- Yes
 Mr. Bilapka – Yes
 Mr. Lynde - Yes

(7-0-0) The motion carried.

September 28, 2020 – deferred.

OLD BUSINESS

Case #PL2020-00012

Map 24 Lot 12-204

LOOSIGIAN, Peter & Lisa - 8 Foreman Lane - Proposed 4-Lot Subdivision

Mr. Doherty informed the applicant had requested date specification to October 19, 2020.

The Case was date specified to October 19, 2020.

NEW BUSINESS

Case #PL2020-00019

Map 21 Lot 3-115-26

GLYNN, Joshua - 23 Debbie Drive - Seeking a Conditional Use Permit for a detached Accessory Dwelling Unit

Mr. Gowan read the list of abutters aloud. There were no persons present or who had not been notified who asserted standing in the case.

The applicant Joshua Glynn (via Zoom) discussed the request. He told the Board he had lived in Town fourteen years and had been looking to build a garage with an in-law type of apartment for a while. He said they had already had something 'in the works' when the Town approved the Accessory Dwelling Unit ('ADU') by Special Exemption. The proposal is for a 40ft.x52ft. SF garage with a 1,000SF in-law apartment above it.

Mr. Doherty understood the apartment would be on the second floor of the garage and inquired if there were external stairs for access. Mr. Glynn replied the staircase would be covered; there is a covered entry way on the side facing the street. Mr. Doherty saw the first-floor plan showed one entry into a mud room with a set of stairs going up to the apartment and what looked like an elevator door in the same location within the mud room.

Mr. Bergeron noticed that portion of the plan and also had other concerns regarding the soil type, wetland soils, and the location of the building. He said they were lucky to have the original subdivision plan (from 1985). He wasn't sure about the (1985) plan scale in comparison to the plan submitted by the applicant. He inquired if the applicant was prepared to demonstrate they had the additional 10,000SF of non-hydric soil and that the location was not interfering with the Wetland Conservation District ('WCD'). He saw a Department of Environmental Services ('DES') plan for a septic system. Mr. Bergeron made the applicant aware that this was the first case coming in front of the Board for a detached ADU, which had some limitations to be met. He noticed on the 1985 plan there appear to be wetlands and some sort of a water easement right through the property. Unfortunately, because the plan scales are different, he said it appears the proposed location (for the garage) goes over those areas. He said the Board will need to discuss some of the technicalities of the plan and perhaps ask for more information regarding the plan. Mr. Bergeron displayed a copy of the original subdivision from 1985.

Mr. Gowan oriented the plan to show the applicant's lot with approximate area of the proposed garage. The plan showed a catch basin, (possible) drainage structure and easement as well as wetland. He noted the plan was drawn prior to the Town having the WCD overlay. He recommended having a soil scientist correctly flag

and show on the applicant's plan, some detail of the wetland and WCD line. He didn't know how the Board could move forward without additional information regarding such.

Mr. Bergeron wanted the applicant to understand the Board was viewing the 1985 plan and the current DES septic plan that had an entirely different scale. He said the underlying soils and WCD wasn't shown.

Mr. Glynn explained the whole site had been excavated; the building site has been prepared. Mr. Gowan asked if the site had been excavated and prepped by him. Mr. Glynn answered yes; he explained he was always going to do something in that location, so his engineer came to survey the property and had people dig for a test pit. He used Meisner Brem and they didn't notify him of any wetlands in that area. He understood they had met all setbacks and the Town had a 25ft. easement, which was connected properly (using crushed stone) for drainage. He noted at one point he contacted the Town and had the Highway Department come to the site regarding the pit. The Highway Department said everything would be alright as long as the area was left (6ft.) open to clean the drainage. Mr. Glynn commented they had already done a considerable amount of work.

Ms. Kirkpatrick inquired when the work started. Mr. Glynn replied in July. He added that he used a well-known engineer to the Town (Meisner Brem). Until today he had never heard anything about a wetland or soil issues.

Mr. Gowan said he hadn't seen the plan until earlier in the day; the plan appeared to be in conflict with what the applicant's engineer produced.

Mr. Doherty believed the drainage easement was to the right of the ditch line shown on the 1985 plan. Mr. Glynn said the drainage easement was approximately 25ft. off the road; the building wasn't anywhere near the easement. Mr. Doherty reviewed the proposal and believed the drainage easement was different than was shown on the old (1985) plan. Since the 1985 plan was being brought into the record (by the Board) Mr. Glynn asked for an explanation of the letters contained on it and how the Board was determining they were wetlands. Mr. Gowan replied the line with dots in between showed the edge of the wet area (universal wetland symbol). He pointed to a drainage easement. Mr. Glynn commented everything had been re-routed except for the Town's 25ft. easement; none of the things Mr. Gowan pointed to existed anymore. Mr. Gowan asked if the entire wetland was gone. Mr. Glynn answered yes. He reiterated he had an engineer and thought he was in full disclosure; they contacted the correct people. He commented that he wasn't a soil expert, so he hired one. He said the Town had come out to do a test pit; there was no mention of the plan that suddenly 'popped up' with wetlands.

Mr. Doherty suggested the old plan be shown to Meisner Brem to see what the difference between the two plans that the Board was seeing. Mr. Glynn stated the area had completely changed. Mr. Gowan said the plan showed the soils for the general area of the subdivision but didn't know if they were done in preparation for approval if they've changed over time or if the road was in the same location. He pointed out the applicant's lot was configured differently today than was shown on the plan. He stated it was possible the 1985 plan was an 'in process' plan as the project was being done. He added it was possible that over time the wetlands were impacted in a way that they were no longer functioning wetlands. He said he was not accusing the applicant of doing so. Mr. Gowan said he could send photographs of the relevant plan sections to Meisner Brem and see if any of it was the same condition today. He saw that the small plan showed a wetland trench being diverted off the property into a 50ft. right-of-way that he didn't believe the Town owned. He said there had been significant alteration of the terrain. He wasn't calling in question the work Meisner Brem had done. He said the applicant described test pits were done for the septic field and questioned if other soil sampling had been done with regard to hydric soils (wetland soils). Mr. Glynn didn't know if it had been done but hoped Meisner Brem would have done due diligence for the Town and got any appropriate wetland forms. He reiterated the area had been changed drastically and had included considerable drainage in the area to (maintain) continue the flow of the water so as to not disrupt the pattern. He said the discussion was a surprise to him and apologized as he felt he was well prepared for the meeting.

Mr. Bergeron said when the Board looks at plans, they look at the location of the ADU, which the Town had left to the discretion of the Board. He would like to see more information if there had been alterations done to the land (i.e. fill, alteration to the slope/topography). They need to know the existing conditions because the plan Mr. Gowan displayed showed a definite wetland delineation. Mr. Doherty noted if water were flowing onto the property and settling but was now going through a drainage ditch, the property would have dried up because it wouldn't have sitting water for the last 30+ years. Mr. Bergeron wanted to know if the water flowed to the property or exiting from the property. Mr. Glynn noted currently everything was dry; however, there was never 'running' water. He explained water flowed from his neighbor's yard (15 Debbie Drive) into the Town's road easement and into his front yard (Town's 25-ft. easement). He stated they connected the water flow with a 12-inch drainage pipe and crushed stone to the drain in the front. He spoke about the houses on Oak Hill being built on fill; the water sheds from those yards flowing onto his property through an existing 12-inch pipe under his driveway that connecting to his other neighbor's house (17 Debbie Drive). He said the water had always moved through his yard.

Mr. Doherty referenced the topographic lines on the septic design plan and mentioned the catch basin on the other side of Debbie Drive was catching the water and bringing it under the road. He said the ditch line might be an open ditch that headed west beyond the property. He said forty years ago the water may have just gone into the front yard and settled and caused a wetland condition prior to the roads being put in. He said once the roads were put in and the ditch line was established the water probably continued to move and the wetland might have dried out.

Mr. Lynde heard comments that there had been a complete change to the property and asked if the applicant could put a timeline as to when that occurred and if they were the owner at the time. Mr. Glynn replied they recently (past three months) made changes to the property in anticipation to putting the building in. Trees were cut and excavated a spot for a foundation. They've received an approved septic design and dug in the area of the septic to make sure there was no ledge.

Mr. Montbleau inquired what engineering firm had done the plan Mr. Gowan brought in. Mr. Gowan replied the legend was marked 'preliminary subdivision plan – May 22, 1985' done by Reteck Associates out of Lakeport, NH. Mr. Doherty confirmed it was a preliminary plan. Mr. Gowan answered yes. He noted the soils would have been reliable, but the configuration of the lots and roads may have changed. Mr. Montbleau confirmed the company did the soils typing and put their stamp on the plan. Mr. Gowan replied it was not a stamped plan; it was the only thing he had in the file.

Mr. Bergeron said he would be reluctant to move on the request without more information regarding the underlying soils and WCD areas to ensure everything was in compliance with the new regulation. He would also like to see the driveway locations and entrance/exits (addressed by first responders). He also wanted to ensure that the ADU had the appearance of being secondary. He mentioned the State had given the right to have and (attached) ADU; however, when they become detached there was a different RSA (674:73) that gives towns leeway. Mr. Glynn asked Mr. Bergeron if he had a copy of the proposed plan (building design) in front of him. Mr. Bergeron replied he had a copy of the DES typical overlay for septic system. He also had a copy of the architectural drawing for the building. Mr. Glynn noted they had tried to capture the architecture of a New England style carriage house (barn-type) atmosphere. He wanted to add to the neighborhood and have the structure look great. Mr. Bergeron understood the style aspect but wanted information regarding the soils, WCD and life safety aspects. Mr. Glynn replied he could work with the architect to create an additional egress. Mr. Gowan said both the Building Inspector and Fire Inspector will conduct separate reviews of the structure and confirm whether it meets proper egress. He stated he would contact Meisner Brem and provide them with photographs of the 1985 plan.

Mr. Glynn asked for direction how to proceed and wanted to know if the Board wanted Meisner Brem to submit new drawings including the driveway location (more detailed rendering). He believed he had filled the requirements of the special exemption. He wanted to know how he could provide clarification to the Board.

Mr. Gowan suggested any engineering firm would be familiar with the fact that, despite an earlier plan, things could happen over time to properties. He was interested in what the applicant's engineer says when comparing the old (1985) plan to the new plan. He said they could provide a narrative to the Board explaining what they are presently observing. He would like to see a better document regarding the easement. Mr. Glynn pointed out the easement was identified on the plan; the location of the building and easement were indicated. He reiterated they had been working on the garage proposal for approximately three years. He said even if they weren't going to have the ADU, they were going to build the garage. Mr. Gowan replied there wouldn't be an instant approval until the applicant proved there were no wetland soil types and building wouldn't be done within the easement. He looked at the submitted information and saw that a ditch line was shown; however, an easement was different. It would require access by the Highway Department. He said before the Planning Department signed off on a building permit, they would have to be sure there were no hydric soils remaining on the property in that area. Mr. Glynn stated he would work with Meisner Brem and provide an updated plan to include the soils and detail regarding the easement and show the proper measurements to/from that easement including the driveway location, etc.

PUBLIC INPUT

Mr. Chris Hubert, 6 Oak Hill Drive told the Board the location of the proposed garage (structure size and position) looked fine.

Mr. John Burger, 15 Debbie Drive had no objection (in principal) to the building. He was concerned with drainage and wanted to make sure water did not back up behind his property.

Mr. Bergeron saw a 50ft. right-of-way appearing on the latest drawing that showed a depressed area for water; this was different than what was shown on the original subdivision. He wanted to know the status of that area and if it was a potential road; if it was dedicated and belonged to the Town. Mr. Gowan didn't have an answer. Mr. Doherty pointed out the (1985) plan was 'preliminary' and had no bearing on a registered (recorded) plan. He said most plans completely changed from the preliminary design to what is registered (recorded). He stated the Board should not base any decision on a preliminary plan because when plans come in, they could be a completely different design. Mr. Bergeron understood the property had been owned by 4-5 owners (according to records). Mr. Glynn pointed out he was presenting engineer certified plans to the Board and didn't see how uncertified plans (1985) could be more accurate than his presentation. Mr. Doherty replied they wouldn't be as they are 'preliminary' plans. Mr. Glynn believed the Board should continue with the certified plans he presented. Mr. Bergeron said the DES doesn't ask for the specificity the Board asks for when doing subdivisions. He added that a septic approval is an entirely different plan than a site-specific soil mapping plan. Mr. Glynn commented about the 1985 plan and couldn't believe it was that accurate as it contained notes drawn in sharpie. His plans contained very detailed description presented by Meisner Brem. He said it seemed the Board was relying on a preliminary plan that were drawn in the early 1980s.

Mr. Gowan stated while the plans were preliminary, the soils were extremely detailed. While other things change, such as lot shape and where things were laid out, it was unlikely that the soils changed unless they were impacted through filling. Mr. Glynn reiterated that he had stated to the Town that there were no soils to sample at the moment; the whole thing has been disturbed. He didn't understand why they would continue with a preliminary plan when he had provided a plan showing what the yard looked like at this time. Mr. Gowan said the problem was there were no soils listed because it was a septic plan. There was no topography and minimal measurements. He said the Board had an obligation to be sure what was on site and it didn't help that the site had already been prepared. Mr. Glynn replied he had done so under the guise that Meisner Brem knew what was being done. He said they had surveyed the entire lot so the building could be placed; they did not just do a septic design. Mr. Gowan hoped the engineer could articulate how the location was and how it was today and what evidence there was (if any) of hydric soils, wetlands and WCD. Mr. Glynn said he would ask them to do so.

Mr. Doherty wanted to know if a vehicle could drive from Debbie Drive to Oak Hill Drive. Mr. Glynn answered no. Mr. Gowan believed that area contained a paper road. He said he would check to see if the right-of-way was ever recorded. He said in the past roads would be verbally deeded to the Town but not have a recorded deed indicated such.

Mr. Gowan believed the applicant had a lot of surprises during the meeting. He told Mr. Glynn he submitted a fabulous drawing of the structure.

Mr. Doherty understood the Board wanted the applicant to go back to their designer and look to see if there were any hydric soils on the lot. Ms. Kirkpatrick wanted to see plans of the driveway connecting to the new building.

Mr. Gowan suggested date specifying the case to save the applicant the hassle of re-notifying abutters. Mr. Doherty suggested Mr. Glynn speak to the Fire Department regarding not having two egresses in the same location within the mud room.

The case was date specified to November 2, 2020.

Case #2020-00020

Map 41 Lot 6-132

PROLYN CORPORATION – 45 Bridge Street - Proposed Site Plan review of a 24ft. x20ft. water treatment building with an 8ft.x16ft. connector

Mr. Gowan read the list of abutters aloud. There were no persons present or who had not been notified who asserted standing in the case.

Representing the applicant was Shayne Gendron of Herbert Associates who came forward (in person) with Attorney James Tamposi. Mr. Gendron stated the proposal was for a 24ft.x24ft. two-stall garage to house water treatment tanks that supply water to the (apartment) community. Currently the tanks are located in the basement of unit one; however, the ceilings are very low and not an optimal location to locate the new tanks. They would like to add a small connection in unit one, which will connect to the basement. The Prolyn apartment complex has been in that location for approximately fifty years. He recalled working on septic designs in 2001. He said they had to stay current with water regulations to ensure water remains potable for the residents. The location of the proposed two-stall garage is currently a lawn area.

Mr. Doherty saw that the plan was showing a ‘proposed’ well and wanted to know if that was an old proposed well or a new proposed well. Attorney Tamposi replied there were no new wells going in. It was a 48-unit townhouse apartment complex serviced by well. Currently they treat the water and were mandated by the Department of Environmental Services (as a community water supply) to test and submit reports on the quality of the water. He said there were some water issues in that area of Route 38. The treatment system is going to require a larger area; the current area (under unit one) had a low ceiling, making it difficult to properly treat water. It was recommended they build the ‘addition’, which they decided to do as a two-car garage in the event there was ever municipal water they would have a usable garage. The garage will be fully insulated to take care of the water treatment system.

Mr. Doherty noted the plan dated September 2020 showed a ‘proposed’ well. Attorney Tamposi believed that must be an old notation; there was an existing well that had been at the location for a long time and is currently being used.

Mr. Doherty saw there was Wetland Conservation District (‘WCD’) and wanted to know how the wells were accessed. Attorney Tamposi replied the wells were not in the area they were adding the treatment system.

Referencing a displayed plan, he described the existing area the water was currently being treated (basement of unit one). The proposal is to add a breezeway and garage to provide room for a sufficient water treatment. Mr. Doherty asked what well was in the middle of all the units. Attorney Tamposi replied that was the well they used for all the water. He believed there may be three different wells on the property but there was only one currently being used. Mr. Doherty understood the water was drawn from the existing well into unit one and then distributes back to the other buildings. Attorney Tamposi stated the water would continue going into unit one, but for treatment, it will be pumped to the garage area properly treated and then be distributed. The tanks will continue to remain in the basement of unit one.

Mr. Gowan explained the prior owner of Prolyn apartments had spent time in the Planning Department and complained about what the Department of Environmental Services ('DES') made him go through to manage the water system. Attorney Tamposi said over the years dealing with Department of Environmental Services ('DES') had become more onerous and recently entered into an agreement with Pennichuck Water. He said Pennichuck's employees will have direct access into the proposed building to monitor the system.

Mr. Bergeron understood the proposed location of the building will be in an open grass area and asked if the new structure would have any impact on emergency access. Mr. Gendron answered no; the area was wide open and relatively flat. They are leaving approximately 31ft. between the property line and proposed building.

Mr. Montbleau agreed with Mr. Gowan regarding Pennichuck's ability to take care of the water system in a professional way for the owner. In looking at the building renditions, he thought it was a great project to turn over to Pennichuck. He was familiar with the location and the proposed (flat) area for the garage and believed it would be a great improvement and safety mechanism for the residents. He was in favor of the proposal.

Mr. Doherty opened the discussion to public input. He asked the abutter, Brandon Juszak if he would be affected by the proposal. Mr. Juszak questioned how far the building would be off the property line. Mr. Doherty described the location, which he believed would be approximately 31.5ft. off the backside of the property line. Mr. Juszak had no objections. Mr. Gowan understood there was a fence between the applicant's property and Mr. Juszak's business.

Mr. Sherman questioned if the applicant would have been required to come in front of the Board if they had simply wanted to construct a garage. Mr. Gowan answered yes; as it was the kind of project where the individual tenants don't own the property. Mr. Doherty said they had to come in front of the Board for the commercial use of a garage.

Mr. Doherty asked if the units were condominiums or apartments. Attorney Tamposi replied they were apartments.

Mr. Bergeron agreed with Mr. Montbleau and had no objections. He said it was a necessary change and didn't see any negative fallout. He thought having Pennichuck involved was good for all parties involved.

Mr. Doherty assumed if the building were to be a commercial rental garage as opposed to being used for the treatment of water, the owner would need to come back in front of the Board. In Mr. Gowan's opinion they would have to come back. He said the use would be for what the applicant applied for. If they decided to make it a garage it may return as a change of use.

MOTION: (Montbleau/Masse-Quinn) To approve the Site Plan.

ROLL CALL VOTE: Mr. Doherty – Yes
Mr. Bergeron – Yes
Ms. Kirkpatrick - Yes
Ms. Masse-Quinn – Yes

Mr. Montbleau – Yes
Mr. Lynde – Yes
Mr. Bilapka - Yes

(7-0-0) The motion carried.

DISCUSSION

Mr. Gowan provided the Board with a calendar list of important dates leading to Town Meeting for review.

Mr. Bergeron asked for the status of the discussion regarding the Mixed-Use Zoning District prohibition table and wanted to know if the topic would be in front of the Board during an upcoming meeting. After a brief discussion, an agenda item will be scheduled for the October 19th meeting.

NON-PUBLIC SESSION – If requested in accordance with RSA91-A:3

Not requested.

DATE SPECIFIED CASE(S)

October 19, 2020

Case #PL2020-00012 - Map 24 Lot 12-204 - LOOSIGIAN, Peter & Lisa - 8 Foreman Lane

November 2, 2020

Case #PL2020-00019 - Map 21 Lot 3-115-26 - GLYNN, Joshua - 23 Debbie Drive

ADJOURN

MOTION: (Montbleau/Bilapka) To adjourn the meeting.

ROLL CALL VOTE: Mr. Doherty – Yes
Mr. Bergeron – Yes
Ms. Kirkpatrick - Yes
Ms. Masse-Quinn – Yes
Mr. Montbleau – Yes
Mr. Lynde – Yes
Mr. Bilapka- Yes

(7-0-0) The motion carried.

The meeting was adjourned at 8:42pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary