

APPROVED

**TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
November 2, 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*)

Acting Secretary Danielle Masse-Quinn called roll:

PRESENT ROLL CALL: Tim Doherty – present
Jim Bergeron – present
Danielle Masse-Quinn – present
Alternate Bruce Bilapka – present
Alternate Paddy Culbert - present
Selectmen Representative Kevin Cote - present
Planning Director Jeff Gowan – present

Via Telecommunication:

Roger Montbleau – present via telephone; no one in the room

Paul Dadak – present via Zoom; no one in the room

Alternate Selectmen Representative Hal Lynde - present via Zoom; no one in the room

Alternate Richard Olsen- present via telephone; no one in the room

ABSENT/

NOT PARTICIPATING: Cindy Kirkpatrick
Alternate Samuel Thomas
Alternat Mike Sherman

PLEDGE OF ALLEGIANCE

Mr. Doherty appointed Mr. Bilapka to vote for meeting minutes and the first two cases. He appointed Mr. Culbert to vote for the third case.

MEETING MINUTES

October 19, 2020

MOTION: (Cote/Bilapka) To approve the October 19, 2020 meeting minutes as written.

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

(7-0-0) The motion carried.

October 21, 2020

MOTION: (Cote/Masse-Quinn) To approve the October 21, 2020 subcommittee meeting minutes as written.

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

(7-0-0) The motion carried.

OLD BUSINESS

Case #PL2020-000002

Map 6 Lot 4-175-1

PAWTUCKET ROAD LANDHOLDINGS, LLC - 32 A & B Valley Hill Road – Proposed 3-Lot Subdivision consisting of duplex-style units

(Mr. Bilapka was appointed to vote)

Representing the applicant was Doug MacGuire of the Dubay Group who joined the meeting via Zoom. He provided the Board with an update. They were in a holding pattern waiting for a response from the New Hampshire Department of Environmental Services (‘DES’) regarding the status of the site. They received a letter of deficiency dated September 17th and from that requested a meeting to discuss a plan of action. He informed DES was almost entirely remote; the compliance supervisor was not available until October 16th. He felt they had a productive meeting and received good direction on how to satisfy DES concerns and move forward. He reviewed the timeline for requirements to be satisfied. Mr. MacGuire let DES know the property was currently in a temporary stabilized state based on the stormwater pollution prevention plan and has remained stable based on the active construction plan. Information regarding such has been submitted to DES. He noted an Alteration of Terrain permit will be filed by the end of November. With regard to wetland areas and potential mitigation, he met with DES and left the meeting with the understanding that they would get back to him. As soon as direction is received, they will address it. Mr. MacGuire requested a continuance to January 2021 to all of them to work through the items required by DES.

Mr. Montbleau asked if the applicant had a plan to remediate the vernal pools. Mr. MacGuire answered yes; they are working on a mitigation plan. The DES wants to speak to their compliance specialist for recommendations.

Mr. Dadak questioned if the weather would affect how they proceed during the winter. Mr. MacGuire replied typically when active construction is not being performed on site they will go into ‘winter maintenance’ mode where everything is basically frozen with little/no runoff. He stated the site was currently stable (no active erosion/runoff) and everything was being contained.

During a previous meeting Mr. Culbert heard the applicant state there wasn't a vernal pool and now he heard them admit there was a vernal pool. Mr. MacGuire replied they didn't agree that there were vernal pools on the site; unfortunately for them, it was not their decision as to how DES looks at the case. He said they explained their position and submitted supplemental information. He said DES may want to see mitigation/improvements on site. He said to see a successful outcome of the project they would be in favor of providing some sort of mitigation. Mr. Culbert recalled there were three vernal pools that were filled in and wanted to know if those areas would go back to being vernal pools. Mr. MacGuire replied that was still being worked out with DES. He said the reality is they didn't know what was there because the area had been disturbed; all they can go off of is their wetland scientist's determination that was made before disturbance was done. He noted DES was providing guidance for how to move forward. Mr. Culbert stated there were frog eggs and tadpoles in three different areas after construction. He questioned if those areas would be replaced. Mr. Gowan said this was contained in Mark West's letter. Mr. MacGuire replied that was data Mr. West provided to DES. He spoke about the plantings that could be done to create a positive effect. They want to create a plan to hear feedback from the Conservation Commission and the Planning Board. He stated they were making progress and expected to have a lot answers the next time they came in front of the Board.

Per request of the Board during November 16, 2020 meeting minutes review the following section is verbatim:

Paul Dadak: This is Paul Dadak here. This could be a stretch, but I know on one of the site visits I was on the abutters indicated they knew approximately where they thought the vernal pools were. And I know that's kind of like hearsay, they can say approximately, but, and the other thing was I know if I look up Google Maps I can see my house and my property. Is there any...again, it might be a stretch but is there any information available from aerial, aerial photos?

Mr. MacGuire: Yes

Paul Dadak: *That someone could be using.*

Mr. MacGuire: *Well, and I think just, not to completely rehash this because I know the Board has other items on the agenda but there was discussion regarding these pools Mr. Dadak, and that's...you're correct on that. And actually you can see certain...what looks like areas that can hold water at certain parts of the season from aerial photos. And that was all brought forward in Mark West's review that was weighted by DES. The problem is, with this situation is that these, these depression areas were not missed by our wetland scientist. He went out and performed a full delineation of the site and he also found these depressions and from...and this is all been submitted to the Town and submitted to the State, but he reviewed these depressed areas and determined that they did not meet the criteria as a wetland. And so unfortunately, we can't go backwards in time and say okay well were these vernal pools? Because vernal pools only happen at a certain small time of the year and after the snow melt in the Spring. And at the time these depressions were very shallow. They were completely dry at the time that he was looking at these and based on the lack of vegetation, the, I guess the vegetation that hangs that could potentially be something that the egg masses cling to, there was none of that. There was no wetland plants of any kind in the area. He reviewed that and said no these are not jurisdictional. And so, and that was...that was shown right on our plan originally when we were moving forward with...as a single duplex. Those were right on our plan then. And so, you know, fast forward to where we are now and we're reviewing this area and, you know I can understand the concern. And that's why we're moving forward with DES and going through this process as best we can. But that's kind of the difficulty. It wasn't that this was missed. There was a professional, Bruce Guilday (sp?) our wetland scientist has been doing this for, you know, decades. And you know he looked at these, scrutinized those areas and he said that they were not wetland areas. So its kind of hard to forensically go back just by aerial data.*

Mr. Montbleau stated the Board needed to wait and see what the DES says about the plan and they also needed to receive input from the Conservation Commission. He said the discussion was wasting time given everything could change after hearing from DES. He felt the case should be date specified (as requested) to January 2021.

Mr. Doherty questioned if there had been other cases that had ‘dragged’ out into subsequent years and questioned if it was appropriate to allow a date specification or to have the applicant submit a new case in 2021. Mr. Montbleau did not recall having a case go this long without receiving more information to discuss. He deferred to the Board for an opinion whether they wanted the case to come back as a new plan.

Due to the fact that the plan had already gone a full year, Mr. Doherty asked for the Board’s opinion to either date specify the current plan or have the applicant reapply and renotify abutters. In fairness to the applicant, Mr. Bergeron was willing to date specify the case to one more meeting with a condition if everything has not been resolved, the case would be dropped completely. There was a brief discussion. Mr. MacGuire asked the Board to consider date specifying the case as he believed they would have substantial information moving forward. Given the circumstances, Mr. Gowan suggested the Board date specify out to January 4, 2021 with the understanding that is the last date specification unless they present their plan and not just an update. He said the Board could ask the applicant to renotify abutters prior to the January meeting. Mr. MacGuire stated they would be happy to renotify abutters; he said it was a fair suggestion. Mr. Doherty looked to the Board members for an opinion. Mr. Gowan commented the abutter notification didn’t have to be by certified mail. He said first class mail with a letter explaining what’s happening. Mr. MacGuire will send out abutter notification via certified mail prior to the January meeting.

The case was date specified to January 21, 2021 to allow adequate time for the applicant.

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. Bilapka was appointed to vote)

The applicant Joshua Glynn came forward in person to discuss his request for a conditional use permit for an accessory dwelling unit (‘ADU’). He explained during the last meeting he was notified there were potential wetlands from a preliminary map of the area from 1983. He said some of the Board members had asked for an updated plan to show the driveways and access to the garage. Subsequent to the last meeting he had a wetland specialist come to the site and issue a letter explaining the current condition of the soils indicating there are not wetlands present. A copy of the letter was previously sent to the Board members.

Mr. Gowan read aloud the letter from TES Environmental Consultants dated October 23, 2020 sent to Meisner Brem Corporation. The letter indicated an investigation was done October 19th to determine if excavation on the applicant’s property occurred within wetlands. TES found no wetlands in the location of the existing excavation. Mr. Doherty clarified what portion of the property was reviewed. Mr. Glynn recalled they reviewed the eastern section of the excavated area. Mr. Doherty understood they reviewed the portion of the property where the work was done as opposed to the other side of the property. Mr. Glynn stated the property was well excavated. No excavation was done on the eastern portion of the lot in the area of the septic system.

Mr. Cote asked for the overall size of the ADU. Mr. Glynn replied it was 1,000SF. Mr. Gowan pointed out they received confirmation from the Building Inspector that the ADU met the 1,000SF threshold. He asked if there was adequate septic loading for the ADU and the primary dwelling. Mr. Glynn answered yes. Mr. Glynn added there had been a question regarding the egress. He spoke with the head of the Fire Department and Building Inspector who indicated the design was adequate.

Mr. Bergeron spoke about the existing easement on the property which allowed for the flow (drainage). Mr. Glynn described the location of the Town’s easement; 25ft. in from Debbie Drive. Mr. Bergeron wanted to know if the 50ft. wide right-of-way (shown on a preliminary plan) had ever been executed in a deed. Mr. Gowan stated he was unable to get clarification regarding who owned the right-of-way; it was never deeded to the Town.

Mr. Glynn pointed out the road was never connected; however, he was interested to find the owner of the property. He was interested in taking ownership of it. Mr. Bergeron informed when a parcel is set aside and not deeded there is an expiration date as to when it could be executed. He said in some cases (depending on how the subdivision went chronologically) if that date had gone by the ownership (from center line) would revert back to the abutters. His concern was the ability to get water off the land. Mr. Glynn stated he had the Town's Highway Department come out to view the pipe and cement basin and told them he would look to pipe and stone the area and wasn't sure what would be appropriate to leave the Town. He said they suggested a 6ft. round hole (swale) to allow access to clean the pipe. Using the plan in front of the Board, he described the location. Mr. Bergeron understood the easement existed on all the deeds so the Town could access the swale. He asked how the pipe had been laid in. Mr. Glynn witnessed the excavation and noted they hit a lot of ledge and described the depth of the existing Town pipe. Mr. Bergeron asked for a description of the driveways. Mr. Glynn explained the ADU would have a garage. They were looking to have access from the back side for the main house and the ADU would have access from the front. He said the proposal fit the lot.

Mr. Cote saw there would be a lot of impervious surface and questioned if the water would drain to a specific spot. Mr. Glynn replied there were two areas the water would drain to and described those locations; using the displayed plan, he showed the location. He knew there were abutters to the west that are concerned about water flow, which was the reason he went out to make sure proper drainage was installed.

Mr. Bergeron pointed out the application was the first detached ADU to come in front of the Board. He didn't see any issues with it and thought the lot was suitable for the purpose.

Mr. Gowan asked for a confirmation of the square footage. Mr. Glynn explained the footprint of the garage (carriage house design) was not the same footprint of the ADU.

PUBLIC INPUT

Mr. John Burger, Debbie Drive addressed the Board via Zoom. He said the building seemed great. His only concern had been drainage; however, from what he heard during the meeting, he had no problems.

MOTION: (Cote/Dadak) To approve the plan and the Conditional Use Permit.

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

(7-0-0) The motion carried.

Case #PL2020-00012

Map 24 Lot 12-204

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

(Mr. Culbert was appointed to vote)

Representing the applicant was Karl Dubay of The Dubay Group who joined the meeting via Zoom. Also joining via Zoom was the applicant Tom Loosigian. Mr. Dubay commented they have the following: 1) a subdivision permit from the State,) letter from Keach Nordstrom (Board's engineering review firm) dated October 29, 2020,

3) drainage easement deeds, and 4) formal waiver request for three items (discussed during the previous meetings). He noted the abutters had asked for additional items, which were provided on the updated plans submitted to the Board. He stated the Board wanted them to make sure the houses (especially the two next to abutters) had restrictions in the recorded plan for the location of the houses. He displayed a color rendering and described the changes and restrictions added to the plan. He noted they tried to wrap up all outstanding items contained within the letter.

Mr. Dubay reviewed the requested waivers:

- 1) Section 203-1.B(4) – to allow the protective well radii to be within the s15ft. sideline setbacks for interior proposed lot lines;
- 2) Section 203-4.B(4) & Figure 203-4.2– to allow cul-de-sac geometries as depicted.
- 3) Section 203-4.B(2) & Table 203-4 to allow a minimum paved width of 20ft. and a centerline radius of 100ft approaching the cul-de-sac.

Mr. Bergeron questioned if there had been another waiver. Mr. Keach replied initially there was for site specific soil mapping, but it was withdrawn because the applicant provided the information on the plan. Mr. Cote saw the site soil mapping was on sheet 3 of the plan.

MOTION: (Cote/Culbert) To accept for consideration the waiver to Section 203-1.B(4) – to allow the protective well radii to be within the s15ft. sideline setbacks for interior proposed lot lines.

ROLL CALL VOTE: Mr. Doherty – Yes
 Mr. Bergeron – Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau – Yes
 Mr. Dadak – Yes
 Mr. Culbert - Yes
 Mr. Cote - Yes

(7-0-0) The motion carried.

MOTION: (Cote/Dadak) To accept for consideration the waiver to Section 203-4.B(4) & Figure 203-4.2– to allow cul-de-sac geometries as depicted.

ROLL CALL VOTE: Mr. Doherty – Yes
 Mr. Bergeron – Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau – Yes
 Mr. Dadak – Yes
 Mr. Culbert - Yes
 Mr. Cote - Yes

(7-0-0) The motion carried.

MOTION: (Cote/Dadak) To accept for consideration the waiver to Section 203-4.B(2) & Table 203-4 to allow a minimum paved width of 20ft. and a centerline radius of 100ft approaching the cul-de-sac.

ROLL CALL VOTE: Mr. Doherty – Yes

Mr. Bergeron – Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau – Yes
 Mr. Dadak – Yes
 Mr. Culbert - Yes
 Mr. Cote - Yes

(7-0-0) The motion carried.

Mr. Culbert questioned why the waiver regarding site specific was withdrawn. Mr. Dubay replied they provided the site-specific soils data on the plans as required in the regulations and did not need to request a waiver for such. Mr. Culbert asked what would happen if they ran into a large boulder. Mr. Dubay replied they would take it out. Mr. Culbert confirmed they wouldn't move the location of the house. Mr. Dubay said if they found a big boulder where the house was being located, they would take the boulder out. Mr. Culbert said he would give the ability to move a house 10ft. and wanted to know if that was acceptable to the applicant. Mr. Loosigian replied they would not impede on any of the agreed upon buffers including the widened setbacks on the two flanking lots. Mr. Culbert mentioned the lots were tight areas. Mr. Dubay believed there was some flexibility, but to where it counted for the abutters and increased setbacks and extra criteria for the driveways, those areas were locked in.

Ms. Masse-Quinn recalled a discussion regarding a 50ft. wooded buffer of trees for lot 204-1 to separate the abutter's yard from the new lot. Mr. Loosigian replied there was no existing 50ft. wooded buffer in that area; it wouldn't physically fit with the proposed plan. On that sideline they had voluntarily increased the building setback to 25ft. and moved the driveway to the opposite side to allow more wooded buffer to remain. Ms. Masse-Quinn confirmed a line of trees and privacy would be kept. Mr. Loosigian answered yes; the sole reason they made those changes was to give the abutter more privacy. Mr. Dubay pointed out they also voluntarily provided a 50ft. sideline setback along the front curve (in the area of the curved stone wall). Ms. Masse-Quinn recalled hearing Mr. Keach comment that the Foreman Lane land would not be developed on today's standard. She said he also mentioned homes were built on bad land with high water tables and the ground and surface water had plagued the neighborhood during the last eleven years. She wanted to know why land on one side of the road would be different than on the other. Mr. Loosigian stated he could only speak to his parent's property as he grew up there. He informed they had never had problems with water in their basement; there were no wetlands in that area. He said Ms. Masse-Quinn's questions had to do with topography and where water will flow. He noted the wetland scientist had verified that the proposed property was dry.

Mr. Cote heard Mr. Keach speak about the drainage and asked if he would speak to it again. Mr. Steve Keach (Keach Nordstrom) referenced sheet 3 of the project plan (existing conditions) and explained the land.

Mr. Culbert asked Mr. Cote if he polled the Board of Selectmen regarding the Board's questions. Mr. Cote replied there was no record indicating the Town would be doing work on the road. Mr. Culbert inquired if the applicant would pave the whole road (Foreman Lane). Mr. Loosigian believed the best way to handle the situation would be to provide the Town with the funds necessary (through a bond) to redo Foreman Lane. Mr. Culbert said since the Town had no plans (in the foreseeable future) to get the drainage done, he would like the applicant to do it. Mr. Gowan replied in the past the Board has accepted voluntary contributions and spoke of an example from the past. He said for an applicant to work on a Town road meant they would basically own the road, which would be a problem. He recommended if a dollar figure could be achieved the applicant could make a voluntary contribution (not an exaction).

In Mr. Cote's opinion, he thought the applicant had 'good intentions' as far as doing the road and felt the Board should leave it at that.

Mr. Culbert asked the applicant if they had a figure in mind to do the road. Mr. Dubay replied the Road Agent would know the approximate cost and said the Board could refer to them and the Town's engineer. He said it could be included with a conditional approval so a scope and bond could be worked out.

Mr. Cote asked if there was drainage on Foreman Lane. Mr. Keach replied the only drainage was cross-culverts at the north end of Foreman Lane (at Ledge Road). Mr. Cote commented whatever improvements would be made to Foreman Lane would not be to drainage. Mr. Culbert understood and clarified he was speaking about the road overlay. He wanted to know the cost to do so. Mr. Keach said after looking at the area, he didn't know if anything could be done to improve drainage outside the right-of-way. He thought they should focus on having a properly drained roadway travel surface. He believed the original discussion related to a shim overlay of the road, a restoration of the existing paved surface. Given the condition of the pavement and misshapen roadway surface, it would go a long way; however, in keeping with the applicant's statements, it would be fairly simple to put a cost on a shim and overlay for the existing portion of Foreman Lane. The money would go into a capital reserve fund specifically earmarked for Foreman Lane. In terms of timing he would like to see any betterment to the road occur subsequent to substantial completion of construction of the project. Mr. Lynde like the idea and felt they should proceed in that manner. He asked if it would be done by the developer or if the Town would have to take it on. Mr. Keach preferred it to be a Town project so the Highway Department can properly manage it. Also, he understood the applicant's offer to be a shim and overlay; the Town may want to do additional improvements. Having funds in a capital reserve will give the Town the greatest flexibility. Mr. Lynde questioned when the Town would receive the money. Mr. Keach believed Mr. Gowan contemplated receiving it as a condition of approval. Mr. Dubay suggested they could add an amount to the bond for the public road improvements they would already be making. Mr. Keach replied a bond is a different thing; they never want to have to call a bond. Mr. Dubay inquired if they could have the funding held to the time of the certificate of occupancy instead of holding up the plan recording. Mr. Keach said work shouldn't be done to the existing portion of Foreman Lane until building/construction is substantially complete.

Mr. Bergeron didn't think a shim/overlay would do any good for a road that wasn't built to standards. Mr. Keach said it seemed the applicant was prepared to honor the prior commitment for doing so. He said taking the money and placing into a capital reserve would give him and the Highway Agent an opportunity to assess the road and find out its true needs and make the final paving money available. Mr. Bergeron said he spoke to Mr. Dubay during the site walk regarding the outflow that happens from a different outsource. He said in order to get things right there would need to be some changes in elevation to the invert on Ledge Road, which he felt was the Town's responsibility. He believed the builder was doing what is necessary for their portion to be built to standard.

Ms. Lisa Gagnon, 6 Foreman Lane spoke to the Board via Zoom. She stated all her questions had been answered.

Mr. Jay Bistany, 3 Foreman Lane spoke to the Board via Zoom. He thought it was great the applicant was standing by their statements about improving the road but from a Town perspective, he pointed out the road was currently 8ft. wide (for a majority of it), and the development would increase traffic by 60%. After a substantial snowfall, the road basically becomes a one lane road; he wanted the Town to look at making improvements and widening to the proper width.

Ms. Margery Moore, 5 Foreman Lane came forward in person. She wanted to know how long the project would be going on. Mr. Loosigian replied they had a few different scenarios; currently, he planned to build one of the homes for himself and the other two would be built simultaneously and sold. Plans can change but currently they planned to build the site as one continuous project. He could not promise they would all be built at the same time. Mr. Gowan said usually a builder is in a hurry to build a project once they are approved and a pre-construction meeting occurs. He noted the Road Agent wouldn't want to do improvements to Foreman Lane until the project was finished and it was on the Town's schedule. Currently, the road was not on the Town's 'near-term radar'. He has not seen the Board place time limits. He described what needed to be done before certificate of occupancy would be issued.

Ms. Moore spoke about the proposed buffers and requested clarification. Mr. Cote saw that the plan notes (C1) called for a 25ft. buffer to be deeded and the proposed driveway was moved to the opposite side of the structure. Ms. Moore wanted to know if it would run along her entire lot line. Mr. Dubay displayed the plan and noted there was a 50ft. setback along the curved area (he pointed out the location beginning at her driveway) running along her property line to the stone wall. At the stone wall (bend in the lot line) the buffer will be 25ft. There will be some clearing to move the utility pole, clean up the area (for a basin) and install street trees. Ms. Moore was concerned about her privacy. Mr. Loosigian explained they needed to clear the trees to build the drainage basin; however, the sideline along Ms. Moore's pasture had an increased building setback from 15ft. to be 25ft. He planned to leave as many trees as possible and did not intend to clear everything to the lot line, although he needed to get the proposed house in. Mr. Dubay showed how the driveway had been moved to the opposite side of the structure. Ms. Moore felt the applicant had changed components of the plan and did not follow agreements previously made. With regard to the road, she said her comment was not wanting the road widened. She wanted it on the record that she did not comment about not wanting the road repaired/paved. She saw that basin #1 had not been removed as was earlier stated by the applicant. Mr. Dubay explained they had a 'basin #1' in the front of the property (entrance from Foreman Lane); however, with Mr. Keach's help, they redesigned the area (with under drains) and removed it completely so the area would just be lawn. Mr. Loosigian pointed out they renamed another basin 'basin #1' which was the reason for it being shown on the plan. He noted they had also moved the cul-de-sac further away from Ms. Moore's property. Mr. Doherty told Ms. Moore the plan had been revised many times because applicant had been asked to do so by the Board (based on input received by abutters), not because the applicant had arbitrarily changed things. He didn't see anything on the plan that was arbitrarily changed.

Ms. Moore stated she had raised a number of issues during the hearing of October 19th and wanted a dialog regarding them. Mr. Dubay told the Board in their last round of revisions they had some of her items inherent in the design; however, there were some subjective items he felt needed further discussion with the Board, such as providing additional driveway to Ms. Moore allowing more room to maneuver and protect the school bus she drives. He said the rebuild of her front yard area would be grassed. They believed having a longer driveway with access to the cul-de-sac would add value to Ms. Moore's property. He spoke about the amendments that moved the cul-de-sac and roadway further away from Ms. Moore's lot based on her previous requests. He noted that whole area had underdrains that would allow for drainage to move away from her property. Based on Ms. Moore's letter, he believed she had changed her mind and wanted everything back to where it previously had been. Ms. Moore said she asked to leave the 'stub' where it was and have the proposed road follow the existing road. Mr. Dubay said they had provided Ms. Moore with a bigger front yard, drained the area without having basins, provided more driveway and added street trees. He said whole cul-de-sac drains away from Ms. Moore's property. He was open to addressing any outstanding items.

Ms. Masse-Quinn thanked Ms. Moore for driving a school bus the last sixteen years.

Ms. Moore read aloud a prepared letter that voiced additional concerns (from her previous letter):

- 1) With the redirection of Foreman Lane (pavement width to 20ft) and drainage changes, she requested that the Town move the right-of-way in the same direction as the redirection of Foremen Lane;
- 2) Concern about her peaceful enjoyment of her property and the new watershed plan affecting the front of her property with the elimination of the previous basin #1 and supplemental underdrain system installation;
- 3) Concern the proposed underdrain system will seep toward/near her leach field and into her septic system and possibly overflow into neighbor's yard– will the Town pay to repair any damages;
- 4) Concern that the proposed drainage system will have a negative impact to the value of her property.

Mr. Dubay inquired if Ms. Moore's leach field was on the property line. Ms. Moore described the location of her septic and leach area. Mr. Dubay explained the Department of Environmental Service ('DES') had regulations regarding under drains and septic separation. He spoke about the plan and mentioned Ms. Moore's

fence was currently located within the right-of-way. He described the proposal for the under drain, which should help her existing situation. Mr. Keach felt it would help Ms. Moore understand the intent of the underdrain was to carry water away from her property onto the applicant's property. Mr. Dubay displayed the plan and showed the relationship of the drainage to the public right-of-way. Mr. Keach understood there was no work planned for Ms. Moore's property. He mentioned he had asked the applicant to design the drainage shown on the plan because he knew the area in front of her house was relatively flat and needed help; the proposed drainage would provide that help. Ms. Moore wanted to know if there would be a continuous pipe under her driveway. Mr. Keach answered yes. Ms. Moore said every pipe under driveways in Town have lumped/cracked areas. Mr. Keach replied his inspector would be overseeing and inspecting the work so they will know it's right and not create a speed bump. Ms. Moore asked how the water would be pulled uphill from her property to the applicant's property. Mr. Keach described the plan and commented the water was underground and would not go uphill.

5) Questioned why she had to remove her picket fence for the construction of the project as it was contained entirely on her property and not within the right-of-way.

1) Mr. Dubay referenced plan sheet 6 that showed the existing location of Ms. Moore's recently installed stockade (picket) fence (5ft in height). He explained after the fence was installed, they resurveyed the area and found that the fence was located within the right-of-way. He said usually the Town requires them to identify things contained within the right-of-way so they can be relocated to the right-of-way line; they were doing as the regulation tell them to do. Mr. Gowan questioned if the location of the existing fence would impact the improvements being made in that section of the road. Mr. Dubay answered yes; they were trying to make sure her drainage and the drainage coming off the road (in the flat area) was 'wicked' away. He added Ms. Moore had basically encroached her front yard into the right-of-way; they were only doing what was required to recognize it. Mr. Gowan said if the proposed work weren't going to impact the fence, it would be up to the Selectmen to determine if a code enforcement action should be taken. Mr. Dubay suggested as a condition for approval they could indicate Ms. Moore is to make an application to the Selectmen to determine if she can leave her fence in the right-of-way. He said they would honor the decision and if necessary, slide the other drain away from it. Mr. Keach stated there was an encroachment and what the Town opts to do regarding such is up to the Town. He said if the Town does nothing the under drain will be moved away from the fence. As a caveat, Mr. Gowan stated the Town would not be responsible for any fence within its right-of-way. Mr. Dubay noted it (the encroachment) was a small distance (3ft-7ft.) within the right-of-way. Mr. Loosigian said if they can leave the fence in and install the drainage how the Town would like it to be, they will do so. It was not their intention to make Ms. Moore move her fence. Mr. Dubay added if the fence were left alone it would remain approximately 12ft-24ft away from the pavement of the road; there will be a lot of extra grass in that area. Ms. Moore commented there was currently a lot of grass in that area. Mr. Dubay replied there would be a lot more. Mr. Gowan suggested leaving the encroachment (of the fence) an issue for the Selectmen if they want to pursue it. *(a possible condition of approval could be: It is anticipated that the Board of Selectmen will accept the new portion of Foreman Lane once the road is built, subject to guidance by Town Counsel and the excess right-of-way may be dedicated to an abutter or abutters as deemed appropriate at that time).*

Mr. Lynde questioned if the fence caused a problem in achieving what the applicant was attempting to do to get the water away from Ms. Moore's property. Mr. Dubay answered no; if they are able to accommodate the fence, they will make a small adjustment to the underdrain. Mr. Keach mentioned he had no consternation on the effect of the underdrain system if it was moved over 5ft-6ft.

Mr. Bergeron referenced public right-of-way line shown on the plan and wanted to know if that was how it currently was situated. Mr. Dubay answered yes; it was shown on many recorded plans with the Registry and on their survey. Mr. Bergeron wanted to know what area would be dedicated. Mr. Dubay explained they would be dedicating an additional public right-of-way to accommodate the proposed cul-de-sac. Mr. Bergeron suggested the Selectmen rearrange the right-of-way to accommodate Ms. Moore's fence placement and line up

with the proposed cul-de-sac. Mr. Keach said the process of achieving that outcome was defined under New Hampshire law. Upon completion of the improvements and acceptance of the completed road construction by the Town; any supplemental right-of-way can be petitioned by the abutter through the Selectmen.

Mr. Cote inquired if Ms. Moore were successful in petitioning the Selectmen for the additional land, if she would then be responsible for the drainage that existed in the location. Mr. Keach answered no; not once it was accepted by the Town.

Mr. Lynde questioned if the Town could allow the fence to remain within the right-of-way without changing the lot line. Mr. Keach replied that was the Selectmen's prerogative. Mr. Gowan read a proposed condition of approval regarding the excess right-of-way. Mr. Keach cautioned including it as a motion because it pre-disposed a petition to release being filed. He said the applicant didn't have the authority to file it. Ms. Moore didn't know how she felt about petitioning to get land. Mr. Cote explained when/if the Town accepted the project as being completed, the Town would own the improvements to the road. He explained if Ms. Moore petitioned the Town for the extra land, the Town would still have rights to fix the drainage if something were to happen in the future. Ms. Moore stated she didn't want any more to maintain. Her main concern was how her frontage was being affected. It was noted there was currently a 50ft. easement that was more/less centered. Mr. Keach described the area in front of her property and how the right-of-way and easement would be treated.

Mr. Bergeron felt the issue regarding the fence should be taken care of and not left hanging. Mr. Cote replied to 'fix' the situation the fence would have to be moved because it was not on the abutter's (Ms. Moore) property. He pointed out the engineer stated the fence could remain and they would work around it. Mr. Bergeron said it should be taken care of for a possible issue in the future. Mr. Cote replied the issue with the fence will always be there because it wasn't on the abutter's property unless she petitioned the Selectmen. Mr. Bergeron drew a line on the proposed plan to show how the right-of-way line could be shifted; Mr. Gowan and Mr. Keach both drew similar lines on their plans. Mr. Dubay had also drawn a line on the proposed plan being displayed. He said as a future option, if Ms. Moore wanted the additional land/frontage, she could petition the Selectmen to do so. Mr. Cote understood there was an existing right-of-way and questioned if it could ever 'go away'. Mr. Dubay replied by law it could not go away with their project; however, it could through another step taken by the abutter with a request to the Selectmen. It was clear Ms. Moore had options.

6) Concern regarding the extension of her driveway and how it will match the re-pavement of Foreman Lane and how water runoff will flow.

Mr. Dubay referenced plan sheet #6 and spoke to the grades of the new Foreman Lane. He spoke to the plan layout and the driveway grade. He explained how the area (previously end of Foreman Lane) would be rebuilt and allow Ms. Moore to have additional driveway area/capacity for vehicles. The grade will have a platform off the new Foreman Lane per Town Regulations and would cross-drain (pitch) toward basin #4. Ms. Moore was concerned that the lowest portion of the road would have drainage flood her access into her barn. Mr. Dubay stated currently the water had no place to go so it flows down her driveway and sits.

Mr. Keach referenced sheet #6 of the plan and spoke about the area at the end of the driveway extension where it touches the cul-de-sac. He described the elevations and spot grades on Ms. Moore's property; the proposal essentially shows the low spot for any water coming from Foreman Lane extension toward her property will hit a low spot (lower than Ms. Moore's existing driveway) and flow in the direction of basin #4. Water from the improvements were not anticipated to flow onto Ms. Moore's existing driveway surface.

Mr. Bergeron wanted to know the elevation (footage) from the 'platform' of the road to the low point. Mr. Keach described the area beginning at the edge of pavement (Foreman Lane extension) and said there was approximately 6in. Mr. Gowan said the inspector has techniques to demonstrate the design is working without having to wait for the first storm.

Ms. Moore believed the proposal would cause her driveway to become a ramp. She was concerned how she would be affected in the winter with ice and snow. Mr. Cote pointed out the difference in grade was 6 inches over sixty feet. Mr. Keach explained the Town's driveway standards seek to avoid the scenario she fears. He said the applicant had designed a driveway scheme that complied with the standard detail for driveways within Pelham.

7) Concerned about the length of the extended driveway and having a Town easement over it.

Ms. Moore wanted to know how the extended driveway would affect her frontage. Mr. Cote said this question was discussed earlier. He explained once the project is accepted, she could come in front of the Board of Selectmen and petition to own the land (with the fence and driveway). Ms. Moore wanted to know what would happen if she didn't petition the Selectmen. She wanted to know if her frontage would be taken away. Mr. Keach replied it would remain unaffected. Ms. Moore did not want her driveway extended because she would have to pay to maintain it and have the snow removed. Mr. Gowan pointed out there was no way to push the cul-de-sac away from Ms. Moore's property without extending her driveway. Mr. Bergeron referenced the existing conditions plan sheet in comparison to what's being proposed and pointed out Ms. Moore would be traveling over the same amount of pavement as she currently did. Ms. Moore did not like the fact that there would be an additional 50ft.x20ft. paved area she would be responsible for maintaining and added she wouldn't own the land it was on. Mr. Gowan said everyone's driveway crossed into a Town right-of-way. Ms. Moore reiterated she did not want the additional 50ft of driveway to maintain as it was not what she bought into when she purchased her property. Mr. Gowan noted Ms. Moore had given testimony that caused the Board and engineer to move the cul-de-sac away. Ms. Moore said she wanted it moved back into their own property. She said she had a hard time maintaining what she currently owned, and it placed a financial burden on her. Mr. Dubay believed the cul-de-sac would add to her property value. Ms. Moore replied not to her; she did not intend to sell her property.

Mr. Doherty said the cul-de-sac would not be moved to where it was originally located. He asked Ms. Moore if she had any additional points. Ms. Moore felt the subdivision was putting a lot of burden on her. She asked the Board to vote no on the piece of land.

Mr. Lynde commented maybe the Board could consider moving the cul-de-sac to where it was previously located. Mr. Bergeron believed doing so would have a negative effect on Ms. Moore's property. Mr. Lynde felt the Board had tried to accommodate Ms. Moore and now she wants the Board to not approve the project. He said if someone wants control over abutting land, they have to buy it. He said the board and applicant had tried to accommodate her.

Mr. Cote thought the applicant and engineer had been very responsive to everything the Board and abutters have asked of them. He understood people want to enjoy land they purchase and there are time people have to adjust. He stated the Loosigians also have property and have a right to do things with it along the Town's guidelines. He believed they had done so and had been accommodating. He was ready to move forward with the project.

Mr. Bergeron questioned if approving the requested waiver would affect the draft conditions of approval (compiled by Mr. Gowan). Mr. Gowan did not believe it would.

Mr. Gowan read aloud a draft list of conditions for approval:

- 2) All State permits (other than individual septic permits) to be received and approved with approval numbers noted on the recordable plan;
- 3) Approval of all required waivers to be noted on recordable plan;
- 4) Written memorandum from Steve Keach indicating his satisfaction with final recordable plan set having addressed all items identified in his most recent review letter dated October 29, 2020;
- 5) Surety and plan compliance escrow to be provided as estimated by Keach Nordstrom prior to plan recording;

- 6) If a fire cistern is to be required by the Fire Department, it must be depicted on the recordable plan with enough information to demonstrate it is buildable in that location. Alternatively, the developer can voluntarily opt to utilize sprinklers for fire suppression in the dwellings;
- 7) All applicable impact fees to be paid at the time of the building permit issuance;
- 8) Any easements to be depicted on recordable plans and individual plot plans and found acceptable by Town Counsel at the applicant's expense and recorded on individual plot plans;
- 9) Memorializing on recordable plan notes the voluntary contribution toward the offsite betterment of Foreman Lane. The amount of the voluntary contribution for shim and overlay to be recommended by Keach Nordstrom in consultation with the applicant and Road Agent. The voluntary contribution to be collected at 33.3% from each of the three proposed homes prior to issuance of each Certificate of Occupancy. The funds to be held in a capital reserve fund expressly for the purpose of Foreman Lane improvements to be utilized at the discretion of the Road Agent when he schedules Foreman Lane improvements. *(amended – see below)*

Mr. Cote asked for clarification regarding condition #9 specifically the point about 33%. Mr. Gowan stated he was trying to capture the contribution prior to Certificate of Occupancy. Mr. Keach suggested rounding the total contribution up to \$21,000; making the contribution for each of the three houses an even \$7,000. Mr. Gowan explained the capital reserve fund would be established with the first installment, which would be required prior to the issuance of the Certificate of Occupancy. Mr. Cote wanted to know if the applicant sold one of the lots to someone else to build the house, would the builder be responsible for the 33%. Mr. Loosigian stated he builds homes for a living and planned to build all three and believed there should be further discussion given there may be changing times and a possibility all three aren't built. Mr. Cote suggested if the applicant build two houses, the payment should be paid in full so there is no wait. He said if 2/3 of the project is done the Town should have 100% of the roadway improvement money. Mr. Loosigian felt that was fair.

Mr. Gowan offered the following amendment to condition #9 (sentence 3): *The voluntary contribution to be collected 50% prior to issuance of first Certificate of Occupancy and 50% prior to issuance of second Certificate of Occupancy.*

There was no objection by the applicant or Board members to the proposed amendment to condition #9.

Mr. Doherty pointed out there were three waivers that had been accepted for consideration.

MOTION: (Bergeron/Cote) To accept for consideration the waiver to Section 203-1.B(4) – to allow the protective well radii to be within the 15ft. sideline setbacks for interior proposed lot lines.

ROLL CALL VOTE: Mr. Doherty – Yes
 Mr. Bergeron – Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau – Yes
 Mr. Dadak – Yes
 Mr. Culbert - Yes
 Mr. Cote - Yes

(7-0-0) The motion carried.

MOTION: (Cote/Culbert) To accept for consideration the waiver to Section 203-4.B(4) & Figure 203-4.2– to allow cul-de-sac geometries as depicted.

ROLL CALL VOTE: Mr. Doherty – Yes

Mr. Bergeron – Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau – Yes
 Mr. Dadak – Yes
 Mr. Culbert - Yes
 Mr. Cote - Yes

(7-0-0) The motion carried.

MOTION: (Cote/Culbert) To accept for consideration the waiver to Section 203-4.B(2) & Table 203-4 to allow a minimum paved width of 20ft. and a centerline radius of 100ft approaching the cul-de-sac.

ROLL CALL VOTE: Mr. Doherty – Yes
 Mr. Bergeron – Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau – Yes
 Mr. Dadak – Yes
 Mr. Culbert - Yes
 Mr. Cote - Yes

(7-0-0) The motion carried.

Mr. Doherty asked Mr. Gowan to read aloud the proposed conditions for approval.

Mr. Gowan read the following aloud (as amended through discussion):

- 1) All State permits (other than individual septic permits) to be received and approved with approval numbers noted on the recordable plan;
- 2) Approval of all required waivers to be noted on recordable plan;
- 3) Written memorandum from Steve Keach indicating his satisfaction with final recordable plan set having addressed all items identified in his most recent review letter dated October 29, 2020;
- 4) Surety and plan compliance escrow to be provided as estimated by Keach Nordstrom prior to plan recording;
- 5) Developer voluntarily opts to utilize sprinklers for fire suppression in the dwellings;
- 6) All applicable impact fees to be paid at the time of the building permit issuance;
- 7) Any easements to be depicted on recordable plans and individual plot plans as reviewed and found acceptable by Town Counsel at the applicant's expense and recorded on individual plot plans;
- 8) Recordable plan notes to memorialize the voluntary contribution toward the offsite betterment of Foreman Lane. The amount of the voluntary contribution for shim and overlay to be recommended by Steve Keach in consultation with the applicant and Road Agent. The voluntary contribution to be collected in two installments, 50% prior to issuance of first Certificate of Occupancy and 50% prior to issuance of second Certificate of Occupancy. The funds to be held in a capital reserve fund expressly for the purpose of Foreman Lane improvements to be utilized at the discretion of the Road Agent when he schedules Foreman Lane improvements.

Mr. Doherty asked if anyone felt the plan was not ready to be approved with the specified conditions of approval. Mr. Culbert wanted to think about the conditions until the next meeting. Mr. Gowan stated in his twenty-five years on the Planning Board he had never seen more scrutiny on a three-lot subdivision. He said the Board had done a great job but felt it should move forward. Based on the conditions read aloud, Mr. Cote made a motion to approve the plan.

MOTION: (Cote/Dadak) To approve the plan with the stipulation of the conditions read aloud by Mr. Gowan.

ROLL CALL VOTE:

Mr. Doherty – Yes
 Mr. Bergeron – Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau – Yes
 Mr. Dadak – Yes
 Mr. Culbert - Abstain
 Mr. Cote - Yes

(6-0-1) The motion carried.

ADMINISTRATIVE

Map 39 Lots 1-61 & 1-62 – Hawk Ridge Road – Request for bond reduction

Mr. Gowan indicated he was in receipt of a letter dated September 15, 2020 from Jeff Quirk of Keach Nordstrom recommending a reduction from \$84,481.95 to \$7,118.50 (releasing \$77,363.45).

Mr. Doherty mentioned when the plan was approved, he had stepped down from the Board because at the time he was working for Draco Homes. They are no longer in business. He asked the Board if they wanted him to step down for the vote regarding the bond reduction. There were no objections to Mr. Doherty remaining seated.

MOTION: (Cote/Masse-Quinn) To approve the bond reduction of \$77,363.45 leaving a remaining balance of \$7,118.50.

ROLL CALL VOTE: Mr. Doherty – Yes
 Mr. Bergeron – Yes
 Ms. Masse-Quinn – Yes
 Mr. Montbleau – Yes
 Mr. Dadak – Yes
 Mr. Culbert - Yes
 Mr. Cote - Yes

(7-0-0) The motion carried.

Map 22 Lot 7-1 - The Pines Subdivision – Request for bond reduction

Mr. Gowan stated he was in receipt of a letter dated October 15, 2020 from Jeff Quirk of Keach Nordstrom recommending a reduction from \$39,344.38 to \$11,615.00 (releasing \$27,729.38).

MOTION: (Culbert/Cote) To approve the bond reduction of \$27,729.38 leaving a remaining balance of \$11,615.00.

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

Mr. Dadak – Yes
Mr. Culbert - Yes
Mr. Cote - Yes

(7-0-0) The motion carried.

DISCUSSION

Discussion regarding adding Prohibited Uses Table in the Mixed Use Zoning District ('MUZD') Ordinance

Given the time being so late, Mr. Doherty suggested deferring the discussion to another meeting. There was no objection.

DATE SPECIFIED PLAN(S) – January 21, 2021

Case #PL2020-000002 - Map 6 Lot 4-175-1 - PAWTUCKET ROAD LANDHOLDINGS, LLC - 32 A & B Valley Hill Road

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

Not requested.

ADJOURN

MOTION: (Cote/Culbert) To adjourn the meeting.

ROLL CALL VOTE: Mr. Doherty – Yes
Mr. Bergeron – Yes
Ms. Masse-Quinn – Yes
Mr. Montbleau – Yes
Mr. Dadak – Yes
Mr. Culbert - Yes
Mr. Cote- Yes

(7-0-0) The motion carried.

The meeting was adjourned at 11:00pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary