

APPROVED

**TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
November 16, 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
 Cindy Kirkpatrick - present
 Danielle Masse-Quinn – present
 Alternate Bruce Bilapka – present
 Alternate Paddy Culbert - 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
Selectmen Representative Kevin Cote – 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
Alternate Samuel Thomas – present via Zoom; no one in the room
Alternat Mike Sherman – present via telephone; no one in the room

ABSENT/

NOT PARTICIPATING: None

PLEDGE OF ALLEGIANCE

MEETING MINUTES

November 2, 2020

MOTION: (Montbleau/Masse-Quinn) To approve the November 2, 2020 meeting minutes as amended.

ROLL CALL VOTE:

Mr. Doherty – Yes
Mr. Bergeron – Yes
Ms. Kirkpatrick - abstain
Ms. Masse-Quinn – Yes
Mr. Montbleau- Yes
Mr. Dadak – Yes
Mr. Cote - Yes

(6-0-1) The motion carried.

DISCUSSION

Discussion regarding adding Prohibited Uses Table in the MUZD Ordinance

The Board was provided with a current and previous version of the ordinance.

Mr. Doherty stated the Board has shown an interest in potentially bringing back the prohibited use column. He believed the last time they made a change to the MUZD overlay district was under the allowed uses to remove townhouses. Since then they had quite a few cases come in front of them all seeming to have the same objective to request town houses and multiple duplexes. He felt if they included town houses and multiple detached units in the prohibited column, they wouldn't have received those types of requests. He pointed out the MUZD was an overlay district, meaning the underlying Zoning remained in place.

The Board discussed (in general) how the original lists were developed, what was currently allowed in the table of uses and what amendments could be made if prohibited uses table was included.

Mr. Doherty opened discussion to the public. No one requested to speak.

There was further discussion about amending the allowed uses. The ordinance will include the term 'innovative land use' within the opening paragraph.

Mr. Gowan suggested language clarifications. A revised draft will be forwarded to the Board for review at a later meeting.

Discussion of Draft Open Space Zoning

The Board was provided with a red-lined and clean version of the proposed Article XV – Residential Open Space Subdivision.

Mr. Doherty invited Paul Gagnon (Conservation Commission Chairman) and David Hennessey (Zoning Board Member) to come forward for the discussion.

Mr. Montbleau (subcommittee chairman) spoke about the revision and review process. He said they tried to provide tools to the Conservation Commission and Planning Board to allow them to continue creating open spaces and not have 'checkerboard' development buildout throughout the Town. They were seeking to continue allowing connectivity to trails (such as snowmobile and walking) for recreational use and aesthetics. He stated the version of the ordinance being reviewed is not a final version; he felt it needed more discussion. He believed the Town's citizens would appreciate the ability to have open space; doing so gives opportunities for wildlife as well as provides open space for people to enjoy while allowing for creative construction of new subdivisions. In summary the ordinance will preserve and protect open land.

Mr. Gagnon stated it was clear the public wanted significant changes to what was called the Conservation Subdivision, and he felt they had done so (with the Residential Open Space Subdivision). He reviewed the proposed ordinance and highlighted the major changes: 1) remove all bonus density lots, 2) minimum lot size of 30,000SF, 3) minimum frontage of 125ft (at 30ft. setback), 4) 40% of parcel dedicated as open space with 50% of that open space has to be uplands, 5) no more than 10% of open space can be used for storm water treatment, 6) conservation commission required to review yield plan and final plan, 7) elimination of all references to work force housing and 8) name of ordinance changed as it was a major change (complete rewrite) of essential elements of ordinance.

Mr. Culbert questioned if the Conservation Commission remained 'advisory'. Mr. Gagnon answered yes; the Conservation Commission remains advisory and the Planning Board can decide whether or not to accept the input.

Mr. Dadak liked item 307-93,D – to conserve scenic views and hide seeing new developments. He said when developments clear cut areas it required more erosion control and storm water treatment.

Mr. Thomas questioned why items 307-93, F and G had been eliminated. Mr. Gagnon replied they weren't deleted, the language was absorbed into C and D. Mr. Thomas inquired why work force housing was removed. Mr. Gowan explained work force housing originally landed in the ordinance so it would be located someplace within an ordinance. He stated it could never have been built as it requires significant density to work financially. He said it had a different goal from a conservation subdivision. He believed the Board should have something for work force housing, but it didn't belong in the proposed ordinance. He said the items Mr. Gagnon spoke about regarding the open space land would force developers to be more creative with their drainage. Mr. Thomas asked for clarification of open space ownership under a development with a homeowner's association. Mr. Gowan replied in those cases, the Conservation Commission's input would be important to speak to the value of the land. Mr. Thomas was thankful for language that protected natural and historic resources.

Mr. Hennessey understood the reasons why some people wanted to eliminate conservation developments. He said they had come a long way during the last year and his first vote on the subcommittee was to remove work force housing. He hoped by doing so citizens understood they didn't want to change the essential makeup of the Town. The second item the subcommittee got rid of was bonus lots and hoped these eliminations would go a long way to restore people's confidence in the Board. Mr. Hennessey appreciated the discussions during the subcommittee meetings. He felt the Town would miss out on some good opportunities to have good open space subdivisions by having such a high bar and believed builders may decide to do conventional developments because they'll make more money on the houses than in the open space development. After speaking with other people about small subdivision lots, he learned others were against having them for things such as snow removal. Mr. Hennessey spoke about the subcommittee's discussion regarding uplands. He felt they needed a broader discussion regarding the homeowner's association verbiage. In closing he believed people were upset with developments that were not conservation developments; however, he hoped they did a decent job with the proposed ordinance.

Mr. Montbleau thanked Mr. Hennessey and Mr. Gagnon for their input, as they added perspectives/discussion from the conservation and zoning aspects.

Mr. Cote thought the subcommittee addressed a lot of the issues that needed to be addressed. His two biggest issues were density offsets and work force housing. He said they discussed the size of the parcel and decided to include a minimum size as open space developments would work best with bigger parcels of land. He said it was good to see them working toward a goal of preserving the remaining rural character in Town.

Mr. Doherty asked if the subcommittee looked at the remaining parcels to see if the Town would be targeting for connectivity. Mr. Cote replied there were quite a few fifteen-acre parcels where thirteen of the acres were wetlands. He noted Mr. Gagnon was always looking for land to purchase (for the Town) and in the past the Town had no problem spending money to do so. He said the open space ordinance would be another tool for the Planning Board. Mr. Cote said he had a report printed out through the Assessor's office of how many parcels were out there. Mr. Doherty asked if the subcommittee looked to target specific pieces of land that would be in need of a conservation subdivision so that land could then be used to do the objective of providing open corridors of open land. Mr. Gagnon replied he looked at every parcel over fifty acres and believed the Conservation Commission would be positioned to advise the Board. There are twenty-three parcels that are fifty acres or greater that are not already owned by the Town. There are almost one hundred parcels over fifteen acres; he didn't look at them, therefore he could not advise which of them would or would not make good conservation subdivisions. Mr. Cote stated the subcommittee had some discussions. He said they were leaving it up to the

Board to decide and not targeting specific pieces of land for open space subdivisions. He said as the Town gets more developed and subdivisions come in, a future Board may view areas (for buffers) between neighborhoods.

Mr. Hennessey used his property (13 acres) as an example that might not meet all the proposed objectives. He said it might be hard to see what the Board might consider a value to the Town. He felt it depended on the individual project and the proposed ordinance was part of the tool kit to help determine what should be done.

Mr. Gagnon told the Board there were many parcels under fifty acres that would benefit the Town; he couldn't say (at this time) how many of the one hundred fit that category. Mr. Doherty said if the Board were going to put an ordinance back on the ballot, he felt there had to be a reason why the people in the Town would want it to come back. He said if there was a list of valuable land the Town might want for connectivity. Mr. Gagnon stated the ordinance gave the Town an option of protecting the parcels. Mr. Cote pointed out the connection of parcels was not the only purpose of the ordinance. He said it was to also preserve the rural character of the Town, historic artifacts, walls, and others. Mr. Doherty said they could adjust the table for lot requirements for frontage and size through conventional zoning and not have an innovative land use while obtaining the objectives that the subcommittee was discussing. He said if there wasn't going to have a specific purpose of connectivity for the trail system (open space) they could make changes through conventional zoning by changing the dimensional requirements. Mr. Cote questioned how the Town would then acquire 'free land' through a conventional subdivision. Mr. Doherty said they wouldn't. Mr. Doherty said there were many conservation subdivisions that did not connect anything, and the open space was of little value for connectivity. Mr. Cote replied it might be for rural character. He reiterated there were other purposes in the ordinance. He said a future Board might view a parcel for open space development for a buffer between neighborhoods; this would preserve rural character. He pointed out a conventional subdivision would not get the Town any 'free land'.

Mr. Montbleau believed Mr. Cote had great ideas. He then spoke about the history of the Valley Hill Road area that in the past had been a deer yarding area; however, it had since been incrementally developed. He said the Residential Open Space Subdivision would give the Board the ability to keep bigger areas of land open for wildlife. He said there was a whole biomass that depended on areas to survive and didn't want the Board to lose sight of this fact. He pointed out the Board needed to have the right tools and believed in the ordinance to preserve the most important pieces that would deserve and require open land. He believed the language had significant changes that would make people enthused. He used the Sky View development (off Sherburne Road) as an example of a good open space development that saved 36.5 acres (for open space) and abutted Town land on two sides. Mr. Gagnon added that the development provided access to Town land and allowed for a trail head parking lot. That entrance provided access to 600 acres of open space. Mr. Montbleau wanted to use the Board's experience and create developments that saved open space. Mr. Lynde noted in the past Deborah Waters was instrumental in starting the process of acquiring land.

Mr. Gowan felt it was important for people to view the proposed ordinance as an entirely new piece of zoning.

Mr. Bergeron believed they could all agree on the intent of what they were trying to do. He said if the ordinance were to pass, they would be looking to gain open space for connectivity and for the public good. He said they would be looking at parcels that didn't necessarily give the public more property but would preserve open space. When reviewing the language, he looked at the mathematics and tried to see what the consequences would be. He said it seemed those who came to the meetings did a good job listening to those who wanted to start with a base change in the minimum required acreage. In doing some research he found the average lot size in New Hampshire was 2.06 acres; this was discussed during the subcommittee meetings and they tried to come up with language that would make everyone happy. He asked Mr. Doherty, as Planning Board Chairman, how he felt about this point. He noted currently the language accomplished two things: 1) connectivity and 2) gain open space. The subcommittee agreed to a minimum of 30KSF sized lot; the septic loading was taken into consideration. Mr. Bergeron felt this will work; he also wanted to have thought given to how a future Board would view the language and how others would apply it to their own personal situation. He would like to include in Zoning a portion of language that comes out of the State Statute that prohibits clear-cutting on a property

about to be subdivided so the ordinance carried some weight and people would see it was different (from the prior conservation ordinance). He summarized the other points/language that had been included.

Mr. Gagnon supported the suggestion to add the State's language about not clear-cutting a lot. He felt there was currently a big weakness in Zoning that allowed that to happen. Mr. Montbleau also gave support. Mr. Bergeron believed the Town could have stronger language than the State. Mr. Hennessey felt this would make sense for all subdivisions. Mr. Bergeron wanted to see the language in Zoning because subdivision regulations could be waived.

Mr. Lynde pointed out the State Statute allowed a person to clear cut their property for agricultural purposes. He said some take that route and then at a later time they do a development. He felt the State Statute was too weak and felt there should be a minimum of five years before a person could develop. Mr. Bergeron agreed and believed the Town had the authority to adopt the language and stop what they have seen in certain areas. Mr. Dadak agreed that the Town could have a more restrictive regulation than the State but felt they would need to check with legal.

Mr. Cote told the Board he had multiple conversations with Mr. Gowan and emailed with Town Counsel about creating a land resource zoning ordinance (resource management ordinance). This would be a way to manage the Town's resources, water filtration, runoff, etc. He said this will be one of his projects to bring forward next year and has received information to do so.

Mr. Doherty commented the ordinance that was done away with by ballot petition (last spring) had been 'watered down' from its original suggestion. He referenced section 307-100 – Parcel Requirements, specifically frontage lands on roads being preserved as buffers to the maximum extent possible in addition to all required setbacks. It was his recollection that any frontage lot that were part of the parent parcel that were broken off and sold within a 5-year period of time prior to the application for conservation subdivision would make the land ineligible for such. He said the conservation-style developments should hide the development from the general public. He felt that language should not have been removed and believed it could be added back into the proposed ordinance so five years prior to a subdivision the parent parcel could not be subdivided. He referenced the opening sentence of the proposed ordinance and said with the inclusion of the words 'innovative land use' there could be certain restrictions included, such as prohibiting developers from selling off frontage land and forcing them to push development back into a parcel. Mr. Gagnon asked Mr. Doherty to suggest language and forward to Mr. Gowan for inclusion and consideration. He said everyone preferred the development off Currier Road where the fields were preserved; it was a good example (of a conservation subdivision). Mr. Doherty said no matter what the ordinance says, the Board could do what they want; he said it was important how they 'sold' the ordinance. He wanted to know what parcels of land would be advertised as needed by the Town. He used Great Bay as an example of a great accomplishment through an ordinance. He offered to see if he could find the language they used and forward for consideration. Mr. Gagnon wanted the opportunity to review the language. Mr. Doherty spoke about an example of a good development in Massachusetts where the frontage lots were preserved, and the subdivision was pushed back into the parcel. He referenced the language of section 307-106,C,1,b and suggested removing it so there would be no lots with frontage along existing Town roads. Under purpose and intent, he noted the language indicated minimizing views of new development from existing roads. He didn't understand why they would minimize views from a Town road and at the same time allow 200ft. of frontage for each lot along Town roads.

Mr. Doherty understood one of the reasons the old ordinance got thrown out was because a senior housing developments built along a Town road was mistaken for a conservation development. Mr. Gagnon suggested the language could possibly be amended in Section 307-106,C,1,b to read - no dwelling unit should be proposed along an existing Town road.

Mr. Bergeron wanted further discussion about building along a Town road and didn't understand why it bothered Mr. Doherty and wanted examples. He didn't see a problem with 200ft. of frontage along an existing Town

road, provided they maintained standard lot size requirements. Mr. Gagnon was unsure about the specific point or how to amend the language. He said it was a Planning Board issue and was simply trying to understand although he saw both sides of the points being made and didn't know the answer.

Mr. Hennessey explained the frontage lots were used to finance the rest of a subdivision. He said in a big subdivision a developer will want to put houses on the front lots in order to collect money (deposits) in order to show the financial viability to come up with the funds for the back lots. He said if the Board wanted to hold a developer 'to the fire' they already had the tools to do so. He agreed with Mr. Bergeron to maintain the flexibility and didn't think they should make the language rigid.

Mr. Gowan mentioned he was taking notes to keep up with the suggestions. With regard to section 307-106,C he built on the suggestions made and proposed – two hundred feet or more and one acre per lot for each lot proposed along an existing Class V road or Town or State road. He said by having this language it wouldn't 'gum up' what happens within the development. He believed it would be a disincentive to not allow developers to do anything along frontage because they were the biggest value lots. Mr. Bergeron agreed that frontage lots were the most valuable. He said allowing them could be the 'carrot' for a developer to possibly want to give up some land from saving on road construction. Mr. Doherty spoke about a development off Webster Avenue that didn't have multiple driveways coming out; there was one road.

Mr. Gowan felt it was important to preserve scenic vistas because they are gone when the land gets developed. He believed preserving vistas was practical and the Board could do so regardless of how the regulations were worded.

Mr. Bergeron commented frontage was the big incentive. He said the big cost was in the development of roads. He said if there is a parent parcel on a road with frontage and the developer can't develop those lots, they will instead look to do a conventional development. There was mention about the Garland Woods development. Ms. Masse-Quinn indicated she would have preferred conventional lots versus the 'cookie cutter' lots that were built. She commented the proposed ordinance would need to be really sold to residents because she believed the previous ordinance was voted out because people were tired of building, there were water issues and they didn't want to see any more houses so close together. She said people wanted privacy and tree lines and have the ability to walk their dogs without 'bumping into' their neighbor. In her opinion the (smaller lots) took away from the character of the Town. Mr. Bergeron pointed out the proposed ordinance would not let that type of small lot happen. Mr. Gowan also added more frontage was required.

Mr. Gowan spoke to the frontage (in the proposed ordinance) and explained by making the width at the setback the lot lines would be corrected around the curve of a cul-de-sac. This will help make all the lots (based on road geometry) better lots for selling.

Mr. Gagnon inquired about the procedural process of discussing the ordinance. Mr. Doherty replied the first public hearing would be held December 21, 2020. Mr. Gowan explained the Board could have substantive changes made during the first public hearing. Mr. Montbleau noted the language would need to be sent to Town Counsel for review and pointed out there may be slow downs during the upcoming holidays.

Mr. Bergeron asked Mr. Gowan if he caught enough of the conversation to make changes to the draft. Mr. Gowan replied he made notes on the frontage issue (setbacks), dimensions, and general Zoning language. He offered to make changes and forward to the Board for review prior to sending to Town Counsel. He pointed out there could not be any substantive changes made at the second public hearing.

The language regarding 'tree cutting' (clear cutting a lot) will be moved to the general Zoning language. There was a brief discussion regarding lot size and frontage. It was Mr. Bergeron's opinion the language did not need to indicate the lots on an existing Town Road needed to be one acre, but he would go along with it if the Board wanted to pursue doing so. Mr. Doherty stated the original ordinance was not broken; it was the Board that was

broken. Mr. Bergeron was open to reading the original ordinance. Ms. Masse-Quinn stated she would like to hear feedback from residents.

Mr. Gowan stated he would send the ordinance out to Town Counsel and understood the discussion would continue during the Board's first meeting in December.

Discussion of Master Plan RFP

Mr. Thomas explained over the last two months he and Mr. Gowan reviewed and discussed the master plan. He noted the last master plan was issued in 2002 with some partial updates in 2017 done by the Nashua Regional Planning Commission ('NRPC'). He said the master plan is required to be updated every ten years; the Town was well out of date. Mr. Thomas stated the intent was to hire a consultant to drive the program; he will help do so. He said NRPC did not have all the qualifications. He and Mr. Gowan would like the Board's approval to send out requests for proposals to several consultants; the proposals will entail costs (to be spread out over several years). The intent was to have proposals with hard costs to be brought in front of the Budget Committee for approval so work on the master plan could begin in 2021.

Mr. Gowan stated Mr. Montbleau had also been instrumental in the discussions as he was involved with the master plan in the early 1990s. He said one of the challenges was he had tried to build \$5,000 into the Planning Department's budget every year to do chapter updates; however, doing so was impractical and they needed an expert's voice. He told the Board there were several consultants who did this work and noted having a master plan done would be a costly endeavor. He said it wasn't just to do the master plan, it would also entail community input and maintenance of continuity. He mentioned the statutory requisites and added a master plan should be the basis on which all zoning, subdivision regulations and project approvals are based upon. He said if the Budget Committee doesn't approve the proposal brought forward, they would at least have information for the next budget season.

Mr. Bergeron asked Mr. Doherty if he was looking for a motion of the Board to authorize Mr. Thomas and Mr. Gowan to seek requests for proposals in hope of having a budget reconsideration line item for Budget Committee reconsideration in January (2021). Mr. Doherty was open to the motion if someone wanted to second. Mr. Montbleau seconded.

MOTION: (Bergeron/Montbleau) To authorize Mr. Thomas and Mr. Gowan to seek requests for proposals in hope of having a budget reconsideration line item for Budget Committee reconsideration in January (2021).

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

(7-0-0) The motion carried.

Mr. Doherty asked Mr. Thomas and Mr. Gowan to start the initiation process. Mr. Lynde suggested forwarding an estimated figure to the Selectmen. Mr. Gowan replied he could contact a couple consultants for an estimate that could be tightened up once proposals are received.

OTHER BUSINESS

Seeking recommendation of Planning Board – acceptance of Savannah Drive, Wellesley Drive Extension and Squire Drive as Town owned Class V public roads

Mr. Gowan informed the Board the roads have been finished for quite some time. He described the roads and their locations noting they should be candidates for acceptance.

MOTION: (Montbleau/Masse-Quinn) To send a letter of recommendation from the Planning Board to the Board of Selectmen to consider the above-mentioned roads for public acceptance.

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

(7-0-0) The motion carried.

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

Not requested.

ADJOURN

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

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

(7-0-0) The motion carried.

The meeting was adjourned at 10:10pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary