

**APPROVED
TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
January 20, 2022**

Chairman Tim Doherty called the meeting to order at approximately 7:12 PM.

Ms. Beauregard called the roll:

PRESENT ROLL CALL:

Tim Doherty (Chairman) – present
Jim Bergeron (Vice Chairman) – present
Scott Sawtelle - present
John Spottiswood – present
Bruce Bilapka - present
Kevin Cote – present
Hal Lynde - present
Jennifer Beauregard – present
Jennifer Castles - present

**ABSENT/
NOT PARTICIPATING:**

Roger Montbleau
Danielle Masse-Quinn
Cindy Kirkpatrick
Paddy Culbert
Samuel Thomas

PLEDGE OF ALLEGIANCE

Mr. Doherty said that the three alternate members; Mr. Bilapka, Mr. Sawtelle and Mr. Spottiswood would vote tonight. This will make the voting on a six-vote basis.

OLD BUSINESS

Case PL2021-00031

Map 39 Lot (s) 6-183 & 6-184-1, CMK Equipment, LLC – Marsh Road/Patriot Drive – Proposed subdivision of a 33.36-acre lot of mixed use residential and business onto an 18-acre lot with the remaining 15+ acres to be used by addition an additional 750' and ending in a cul-de-sac to existing Cornstalk Lane. Seven new lots with a mix of single-family and duplex dwellings will be created.

Mr. Joseph Maynard introduced himself as representing the applicant, CMK Equipment, LLC. He noted this project has been before the board within the last couple of years under different variations. This application is for two properties being combined: Map 39 Lot 6-183 which is 32.7 acres in size and Map 39 lot 6-184-01, which is .63 acres in size. This land is zoned residential and has frontage on Marsh Road and Mammoth Road. This land also has a short, stub road called Cornstalk Lane, that was permitted back in 2017. This property includes a number of pre-existing, non-conforming buildings and uses on it and historically was the home of F&F Paving. It also includes a duplex on Marsh Road with a barn and storage and it was used previously for farming. This plan represents subdividing those existing buildings

and uses on Marsh and Mammoth Roads and taking those and putting them on an 18-acre piece of property. The second part of the plan is to extend Cornstalk Lane, which is currently about 300 feet to about 900 feet to a cul-de-sac. Off of that road, there would be 7 new house lots and three of those lots would qualify as duplex lots. Drainage would involve sending runoff to a detention pond near the cul-de-sac. An abutter, Mr. Culpa had concerns about traffic and lights, so they have proposed planting evergreens in that area to buffer his property. The project has a special permit, which is a 1,200 s/f area which involves the elevation, the detention pond and an outlet pipe. All of their drainage measures outside of the WCD, but the grade needs to come down between 6-9 inches through a smaller area so the pond will be able to flow freely. There is a letter of support from the Conservation Commission in the application. There are three waivers, the first being: lot lines being substantially perpendicular from the street. The second is: the site-specific soil mapping and they are asking to not have to do the entire property. The 18 acres that are being subdivided with the pre-existing uses, that area has not had site specific soils done on that area. Anything having to do with the new subdivision, they have had site specific soils done. The third is: an application for a detached accessory dwelling unit, which is in the middle of the property. That is where there was an office for the rock crushing business that was there previously, and they would like that building to become a detached accessory dwelling unit on that lot. Mr. Lynde asked if this is zoned business because they are asking for a business to go in there. Mr. Maynard said the existing property out at Marsh Road was always a business and there is still business usage there. Mr. Bergeron asked if that was just a continuation of the business that was already there. Mr. Maynard said yes, it is the same type of business, but it is not the same owner. Ms. Beauregard said it is the same type of use and that has not ceased use since the change of ownership. Mr. Bergeron asked about the detached accessory dwelling and Ms. Beauregard confirmed that they do need a separate application for that because it didn't show up on the initial abutter's notification. She thought they should renotify the abutters for that purpose. Mr. Maynard said it was on the original application, but he can do that. Mr. Doherty asked which lot type that would be on. Mr. Maynard said it is on a single-family lot. Mr. Cote asked about the 100-foot buffer with Beaver Brook and asked if any headway had been made with the Conservation Committee and the owner. Mr. Maynard spoke with his client and said he told them that was a request and they had concerns about that lot in general. He said that if they gave that lot to conservation, then that would allow people to walk right through the backyard of the lot they were creating. The owners will need to talk more about that. Mr. Cote asked if there was a willingness and enough land to create a 100-foot buffer and protect it. Mr. Maynard said it is shoreline protection anyways and Beaver Brook has 250 feet of shoreline protection. He said as part of this project, the proposed house will be out of the 150-foot setback, but partially in the 250 setback, so it would need a shoreline permit. Mr. Cote asked if there would be signage. Mr. Maynard said yes, they would do all of the WCD signage associated with it and if the boards wanted it, he could put it along the 50-foot setback to Beaver Brook. Mr. Bergeron asked Mr. Cote if that was in regard to the letter of recommendation from the conservation committee. Mr. Cote said yes, they had mentioned having a trail easement at that point. His concern was more for not cutting any more land and having more infiltration into Beaver Brook. Mr. Bergeron asked if anything had come about from talks between Mr. Gagnon and Mr. Kleczkowski (the owner). Mr. Maynard said that Mr. Kleczkowski is in Florida and isn't sure when he will be back. Mr. Cote said the conservation commission is looking for an easement for trails and his concern is more for infiltration into the brook and to protect that buffer. Mr. Bergeron said he understood that, and he thought that because that discussion hasn't occurred yet, that he would tread lightly on that. Mr. Doherty opened it up to the public and no one spoke. Mr. Steve Keach introduced himself from Keach-Nordstrom Associates, Inc., as the engineer for the town of Pelham. He referred to the letter he wrote, addressed to Ms. Beauregard, dated January 18, 2022. This letter is part of the file. He said that Mr. Maynard had properly characterized many of the remarks that he had made in his overview. He went over his letter and briefly went over the points he made. Mr. Maynard clarified the point of the existing well and said that was a dug well and it still produces a good amount of water. It is currently tied up to the building on the property, but to meet the ordinances for the subdivision, he plotted a well that would meet those rules on the drawing, as an option. Mr. Doherty mentioned that he disagreed with a point that Mr. Keach made

about using bags for erosion control. Mr. Doherty said that he was on a worksite a while ago and there was bad rain, and the binder was down, and the bags were there. He said those bags were needed because the soils came out of the development, onto the binder and down the road. Mr. Keach understood, but he said he would recommend a barrier to the catch basin, so the earth doesn't make it onto the pavement. He has seen them fill up, water can't get into the basin, so it bypasses it and causes that in reverse. He said he would have the bags removed at the time of the binder and then do a barrier beyond the curb to prevent the dirty water from overflowing. Mr. Keach said after the binder, you would switch method of erosion control. He said erosion plans always require adjustments in the field. Mr. Bergeron asked if Mr. Keach was referring to sheet 13 and he said yes. Mr. Bergeron said he did not have that page. Mr. Keach explained the bags are fabric sacs that go inside the basin and are held in place by the rim and that is detailed on page 13. Mr. Doherty asked Mr. Keach if there is enough erosion control on these plans to protect the Beaver Brook shoreline. Mr. Keach said he does think so, because of the spatial separation between where the construction would occur and the brook. He said the soil is found to not be very erodible and they don't have a lot of grades out there. The land is very well drained and very moderately sloped. He thought the design plans of the road and the drainage system were very well thought out. He is not at all concerned about erosion from the construction of the street reaching Beaver Brook. He said these plans are fundamentally solid and the design is good. Mr. Cote asked about the 633 feet from the cul-de-sac to Beaver Brook and does the grade go from Patriot Road down towards Beaver Brook. Mr. Maynard said it is relatively flat with a gentle grade toward the brook. He said the prior owner said that was where the old gravel pit was. He said they will create the detention pond in an upland area, and it will discharge to the old gravel pit, which is now a wetland. That would become additional storage area and the runoff will go to the detention pond and then go into the wetland complex. Mr. Cote asked if infiltration pond #1 is on Lot 4 and would the water be finalized there. Mr. Maynard said no, it would go down to there. Mr. Cote asked if all the water from this road is going to there. Mr. Maynard said yes. Mr. Cote asked if there was any way to make it go the other way. Mr. Maynard said no because it is all uphill. Mr. Keach said due to gravity, that wouldn't be possible. Mr. Doherty asked Mr. Maynard about being able to meet all of Mr. Keach's comments. Mr. Maynard said it would be no problem to meet all of his comments. Mr. Cote asked if he needed a variance for one of the lots that only had 175 feet of frontage. Mr. Maynard said that was not on this project, but it had been fixed. Mr. Doherty asked about date specifying for him to come back. Mr. Maynard said they would have to renotify the abutters for the ADU. Ms. Beauregard said they would have to notify 10 days prior to the meeting and the meeting is on February 7, 2022. Mr. Keach asked if they normally would entertain an application for an ADU after a lot is created. Mr. Doherty said in this case, where they are announcing ahead of time, it would be part of the application. He had never seen one done prospectively. Mr. Doherty said there might not have been an ADU already there. Ms. Beauregard said there would be time and he would have to notify by January 28, 2022. Mr. Maynard said yes, he could do that. Mr. Doherty also asked if he would talk to his client about the brook. Mr. Maynard said he has had that discussion with the owner, and the owner had stated that he would take that up with conservation. Mr. Cote said he believed the conservation commission gave this plan their blessing and wanted the owner to just consider that. Mr. Doherty read the sentence from the letter as follows: Conservation Commission has asked the developer to donate the 100-foot abutting Beaver Brook or provide a trail easement to the town of Pelham. Mr. Cote said they also voted 7-0. Mr. Doherty said they recommended the Planning Board approve the plan with the request that some land along Beaver Brook be donated to the town of Pelham, should the board choose to accept that. Mr. Cote said they just requested it. Mr. Doherty said they are only an advisory board to the Planning Board, so they cannot demand that. Mr. Cote said that in general, they gave this plan approval. Ms. Beauregard said she would date specify for February 7, 2022.

Case PL2021-00032 – Map(s) 10 & 11 Lot (s) 13-2-1 & 13-3 – Magiera, Donald F. / Petersen Built Homes, LLC – Bridge Street (Rt. 38) – To permit the merger of 2 lots for a total of 37.5 acres and then to subdivide into 19 buildable lots consisting of 2 duplexes and 17 single-family dwellings.

Also, seeking a Special Permit 18,000 square feet WCD impact for drainage pipe outlet for a conventional subdivision.

Mr. Maynard introduced himself from Benchmark Engineering, LLC representing James Petersen Built Homes in this application. This is two parcels of land being merged together to form a 37.5-acre property. This land has frontage on Rt. 38 with no access to any stub roads. As discussed in previous meetings, this will be a conventional subdivision with a new road to be built, ending in a cul-de-sac with total road length to be about 2,000 feet. The two duplex lots would have their frontage on Rt. 38 but have received a variance to obtain their access through a right of way to the planned road. There will be three drainage locations, with one near Rt. 38 and that land is very flat. They will have catch basins, which send it to a swale, which discharges to a wetland that is by Rt. 38. As part of that swale there is a small WCD impact of about 2,500 s/f. The second drainage measure is detention pond #1, on the left side of the road and will have a special permit for 7,500 s/f. The last drainage measure is at the end of the street, off the cul-de-sac and that will be a detention pond also and there will be only 2,000 s/f of WCD impact in that area. There are four waiver requests, as follows: 1) building block requirements for a couple of lots (Lot's 3, 12, 13, 19) 2) 203-1 B (2) for well radius (for some lots). 3) minimum pipe cover at a couple of locations, the first one is at 0/50 and the second is at the detention pond #1. Mr. Doherty asked about the third waiver and that they only showed two and he thought they may not have accepted the third one for consideration. Ms. Beauregard confirmed there were three waivers in total. 203-1 B (2), 203-1 (B) 4 and 203-5 B (3). Mr. Maynard said the fourth waiver would be Section 203-1 A, dealing with the width of a lot not being less than 50 feet. This would affect the two duplex lots, as those were created with a 25 foot right of way. Mr. Maynard said the rest of the application is straightforward.

MOTION: (Mr. Cote/Mr. Sawtelle) To accept the waiver for Section 203-1 A for consideration.

VOTE: (6-0-0) The motion carried.

Mr. Doherty opened it up to the public. Ms. Beauregard said there was a letter from an abutter, which is contained in the file. The letter is in the form of an email and is from a Rachel Shipulski, 20 Koper Lane. Mr. Doherty read it into the record. In summary, her concerns were mostly having to do with erosion on her land. She would like to deny the applicant the special permit for WCD drainage and eliminate building a residence behind her, at 20 Koper Lane. She feels her land will be impacted greatly. She also feels that the board has a careless attitude towards her requests. She said she would be reaching out to the NH Department of Environmental Services for additional guidance. Mr. Doherty closed it to the public. Mr. Maynard said that the abutting properties on Koper Lane sit higher than this development and their water shed drains onto this property. Water that flows from that area ends up on the Salem line and water will not be taken from this development and sending it up to the homes at Koper Lane. Mr. Maynard mentioned again, that due to gravity, that couldn't happen. Mr. Steve Keach joined at the table. He noted that the property mentioned is higher than this development and water cannot be directed there in any way and due to gravity water could not go uphill. Mr. Keach briefly went over the points in his letter, dated January 17, 2022, to Ms. Beauregard. That letter is part of this file. Mr. Doherty mentioned that as part of #11, that Mr. Keach went over, was that this board had asked the applicant to go in front of the ZBA and get a variance for Lots 1 and 2, to not have those driveways out onto Rt. 38. The board appreciated that the applicant did that and by making the entry way on Rt. 38 is much safer. Mr. Doherty asked Mr. Maynard to get the board another set of plans and at the next meeting they can act on the waivers. Mr. Maynard said yes, he could do that. Ms. Beauregard said she has a list of recommended conditions if the board felt they were ready to act on it tonight or if not, and they want to see new plans, then they could date specify it. Mr. Bergeron said he wanted to wait for a new set of plans to look at. Mr. Doherty said they could date specify it to February 7, 2022. Mr. Cote asked what the total length of the road was. Mr. Maynard said it is a shade under 2000. Mr. Keach said they measure max at the edge of right away to the radius point of the cul-de-sac, and it is 37 feet short of max. Ms. Beauregard has added the fourth waiver that had been accepted for consideration. Mr. Maynard agreed with the date specifying to February 7, 2022. Mr. Lynde asked if they gave a response for the builder's request to store material at the site. Ms.

Beauregard said they hadn't discussed that yet or said yes yet. Mr. Jim Petersen, the developer for this project introduced himself. He said that he has material left over from another project and he had sent a letter to Ms. Beauregard asking if he could store that material at this site. He said there is an existing driveway there and he would store the material about 200 feet in on the left. He would cut an area in there about 100 to 150 feet. Ms. Beauregard said there is a plan detailing this in the packet/file. Mr. Petersen said he wouldn't need to store things there until a few months out and he may have approval at that time. Mr. Bergeron said they should let that go until they see the plans. Mr. Petersen said that he doesn't mind waiting until the February 7, 2022, meeting for that to be addressed. Mr. Bergeron asked if he would clear an area and would that area be cleared for the typical construction of the homes. Mr. Petersen said that what he would do is he would file for an intent to cut 100 by 150-foot area, but yes, a house would go there in the future. Mr. Bergeron mentioned that there was cutting done previously on this site and Mr. Petersen said he did not own the property at that time. Mr. Bergeron said he thinks to operate in good faith, he would recommend holding off on what he is requesting.

Case PL2021-00034 0 Map 15 Lot 9-38 – ALBERTSON, Dolores – 15 Kens Way – Proposed 3-lot subdivision of an approximately 5-acre property, leaving the existing lot with a single-family home on 2.5+ acres and creating two 1+ acre lots with frontage on a private road. Previous variance granted for frontage and accesses from private road, ZO2021-00029.

Mr. Carl Dubay and Mr. Bill Letendre introduced themselves representing this project. Mr. Dubay said they have met with highway safety. Mr. Letendre said they met on January 11, 2022, and the police had no issues and the fire department were just concerned with widening the road in front of these new lots. The road went down from 20 to 11 and the fire department wanted it to stay at 20 all the way through in front of these two lots. They also had concerns with numbering. The DPW had no issues other than at the front, where there are patio pavers where Hobbs Road meets Kens Way. He said when they widen the road, that will be taken care of. Mr. Dubay passed around a packet that detailed the history of the project. Mr. Bergeron said he had a letter from the board's secretary, Ms. Masse-Quinn, dated January 20, 2022, to Ms. Beauregard and he read it into the record. That letter is contained in this file. An overview to her letter was that she had done research regarding this project and the land parcels. Her findings showed that the board's prior concerns with this land previously mentioned to have no further development, pertained to the land in the back only, that was originally owned by the St. Onge family plan dated 11/18/1996. Mrs. Dolores Albertson allowed the lots in the back a "Right of Way" on and through her own property to give them access to their land in the back. This new plan request has no connection to those lots in the back and has no connection with the Albertson's property. In her opinion, this should not impact the proposal to develop the Albertson's land at 15 Kens Way, into a 3-lot subdivision. Mr. Dubay said all of that coincides with the research his surveyor had done as well. He also said he provided a pictorial packet of the lots detailing the land and the lot progression over time. He said most of the variances started in the 1980's. In 1992 some lots were cut off and in 1996 more lots were created, and 'Cutters Passage' became a private road in 1997, which became Kens Way. The Albertson's piece was retained in whole, and they never opposed any of the building in the back. Mr. Albertson had always owned this land and hoped to benefit from it someday. She always allowed and gave them access to their properties through her land and never said anything or opposed it. He said that they have done paperwork with a subdivision plan, agreements for maintenance, widening of Kens Way, legal documents have been created, DES subdivision permits have been prepared and they are ready to present them, but wanted board approval first. He said the filing would only take about three days. He said they have sought advice from all of the departments that this board asked them to speak with. Mr. Bergeron said that an abutter called him up directly and asked him to speak on their behalf and they own the lot directly to the east (9-37-1). Their concerns were of an area that had wastewater approval done and there was apparently another house lot in there. Mr. Dubay said that was correct. Mr. Bergeron said their concerns were with the elevation difference between the proposed lots and how the runoff would affect them, if any. Also, what are the topographical factors and how would their lot be protected. Mr. Dubay said that would be the Elwell family. He said along the backside of these two new lots, they would leave natural wooded buffers. He

said the houses will be high end homes and will remain private. He said Lot 39 does not have a house but may have gotten a septic approval and that lot could come off either their driveway or off of Kens Way. On their plans, what they did with the grading was (on Sheet 5) shows the topography to be high in the back and forward to the left to Kens Way. An infiltration line will go diagonally to Kens Way, and they would have the new driveway on the lot come in early, on the high side and that would also provide more privacy to that neighbor and have less activity. There will be a tree line with the infiltration system along the slope and at that interface will take on the flow along the tree line, which they purposely left. He said the soils are very sandy and excellent there for drainage. He said that basically there would be no additional run off to adjacent properties. Mr. Doherty opened it up to the public. No one spoke. Mr. Doherty said he went by the site and looked at the two proposed lots and said they are very nice lots and said the plans look very reasonable to him. There are no waivers requested and Ms. Beauregard confirmed. She asked if this was under the threshold for state approval for subdivision. Mr. Dubay said it would require a state subdivision approval, which would be an easy e-file and they are ready to do that tomorrow. He said they would need to go in front of the Selectmen and have that board concur with the RSA for the access on the non-classified road. Mr. Doherty said that was RSA 674-41. Ms. Beauregard read the following conditions if the board were to approve this: 1) receipt of all required state permits other than individual septic permits to be received and noted on the recordable plan 2) HOA documents to be developed and to be found satisfactory by town counsel for the limits of this subdivision 3) release of liability documents to be developed for the municipalities lack of responsibility for maintenance of the road and lack of responsibilities for damages resulting from use of the road, pursuant to RSA 674:41,1 (D) and found satisfactory by town council 4) Board of Selectmen approval of the limits of municipal responsibility and liability agreement. This board should also vote on whether or not to recommend it to the Board of Selectmen for approval. Mr. Doherty asked if that was part of the RSA for this board to recommend to the Selectmen. Ms. Beauregard said yes.

MOTION: (Mr. Cote/Mr. Bergeron) To approve this plan with the conditions that were read.

VOTE: (6-0-0) The motion carried.

MOTION: (Mr. Bergeron/Mr. Spottiswood) To recommend to the Selectmen to issue the two building permits on a private road.

VOTE: (6-0-0) The motion carried.

Case PL2019-00016 (2) – Map 39 Lot 1-49 – WILLIAMS, Bruce & Rhonda – 157 Mammoth Road – Requesting a 1-year extension of Planning Board’s approval of a Subdivision Plan for Williams Woods Subdivision. Case #PL2019-00016, original approval date 7/20/2020.

Ms. Beauregard read the list of abutters. Mr. Shane Gendron with Herbert Associates, Inc. introduced himself representing the Williams on this case. This plan was approved back in July of 2020. It is a four-lot subdivision for Mr. & Mrs. Williams. They own this property and live there in an existing home. The property is 10.4 acres. A variance was received back in early 2020 to access the lots in the back because the property is bisected by Gumpas Brook. They were proposing a common driveway. It had all been approved by the fire department and highway safety and he should have come in July to ask for an extension. It had taken them a long time to get the wetlands permit that he handed out to the board this evening. This permit is not even a final yes, but there is less than 500 s/f of impact that is happening for some grading alongside of the driveway. The state is either asking them to do some type of remediation or pay into the ARM (Aquatic Resource Mitigation) Fund. In this case, because the area is so small, their choice is going to be to pay into the ARM fund. The total amount is \$2,284.61 that the owners will make to the State of NH, to the ARM fund and then they will receive their wetlands permit and wrap up this project. He is asking tonight for the board to extend the approval out for one more year to get this done. Mr. Doherty opened it up to the public. No one spoke. Mr. Doherty said that sometimes these extensions are needed due to delays with the state. He asked Mr. Gendron if he thought that one year would be enough time. Mr. Gendron said yes, and they are there with the wetlands, which was the big permit. The

state won't approve the subdivision until they have wetlands in hand. That was issued on January 14, 2022, and there is a 30-day appeal on that. He said once that is up, the owner can pay the ARM fund. He said he doesn't think there would be any appeals. He said once he finishes up his driveway permit with the state, then they would be done at that point. Mr. Doherty said to Ms. Beauregard that they would do an approval subject to the conditions that were already on the plan that are listed on page 3 of the notice of decision. Ms. Beauregard said yes, and they can just make mention of the notice of decision dated July 20, 2020. Mr. Doherty didn't see any problems with that.

MOTION: (Mr. Cote/Mr. Bilapka) To give a one-year extension to the decision dated July 20, 2020, with the conditions listed on the original approval.

VOTE: (6-0-0) The motion carried.

Ms. Beauregard asked Mr. Doherty to clarify if it is one year from today's date that they will do or one year from the original expiration. Mr. Doherty said it is one year from today's date. Mr. Doherty mentioned that they did not review the minutes at the beginning of the meeting, due to many of the missing board members. Therefore, they will review the minutes from the January 3, 2022, meeting at the next planning board meeting. Mr. Bergeron said that Ms. Masse-Quinn had mentioned to him that she wanted to call into a non-public session to go over legal matters on a pending case. He said he would be inclined to go into a non-public and get Ms. Masse-Quinn on the phone.

MOTION: (Mr. Bergeron/Mr. Cote) Request for a non-public session per RSA 91-A:3, II, 1 (consideration of legal advice or council).

ROLL CALL VOTE: Jim Bergeron - yes
 Kevin Cote - yes
 Scott Sawtelle - yes
 John Spottiswood - yes
 Bruce Bilapka - yes
 Tim Doherty – yes

Mr. Doherty noted that when the Board returned, after the non-public session, the Board would not take any other action publicly, except to possibly seal the minutes of the non-public session and to adjourn the meeting. The Board entered into a non-public session at approximately 9:41 pm.

ADJOURN

MOTION: (Mr. Cote/Mr. Bergeron) To adjourn the meeting.

VOTE: (6-0-0) The motion carried.

The meeting was adjourned at approximately 10:30 pm.

Respectfully submitted,
 Jennifer Castles
 Recording Secretary