

**APPROVED**  
**TOWN OF PELHAM**  
**PLANNING BOARD MEETING**  
**January 5, 2015**

The Chairman Peter McNamara called the meeting to order at approximately 7:00pm.

The Secretary Paul Dadak called roll:

**PRESENT:** Peter McNamara, Roger Montbleau, Paul Dadak, Tim Doherty, Alternate Joseph Passamonte, Alternate Mike Sherman, Selectmen Representative Robert Haverty, Planning Director Jeff Gowan

**ABSENT:** Paddy Culbert, Jason Croteau

Mr. Passamonte was appointed to vote.

**Reappointment of Planning Board Alternate member(s)**

Mr. McNamara stated they would take action at their next meeting of January 22<sup>nd</sup>; during which he hoped to have a full Board in attendance.

**PUBLIC HEARING – Per RSA 675:3-7 Proposed amendment to the Pelham Impact Fee Enabling Ordinance.**

Mr. McNamara spoke of the proposed amendment, which would clarify that only current property owners may apply for a refund of impact fees and to clarify the rights and responsibilities of an applicant. He then provided a brief background and explained the Board, a number of years ago, promulgated and the voters adopted an impact fee ordinance. Over the ensuing years, the impact fee was for a collection of funds to be used in the design and construction of what was, at that point, proposed to be a new high school and what has now turned out to be an addition/renovation of the existing high school. A significant amount of money was collected (of approximately \$600,000). Several years ago developers and some disgruntled individuals sued the Town seeking a return of some of the monies they had paid in to the Town. A Superior Court judge agreed with the Town that the people lacked ‘standing’ to bring such a lawsuit and were not entitled to a refund. Just in December, 2014 the Supreme Court agreed with the Superior Court. This was a win for the Town given that the Court agreed with the Town’s position that the monies were properly allocated and the Ordinance was properly developed and implemented. As a result of that decision, Town Counsel has suggested several changes to the Impact Fee Enabling Ordinance. Most of the changes were very minor, such as substituting words.

Mr. McNamara pointed out the only really substantive change and read the addition to the proposed language aloud, found on page 7, K - paragraph 1. *“Only the current owner or owners of the property on which impact fees have been paid may apply for a full or partial refund of such fees together with any accrued interest”*.

Mr. Gowan clarified that the court case was fought with the initial 1999 Enabling Ordinance, in which the current owner of the property was identified as the individual entitled to refund, should there be any refund. In 2006 the Board created a more up to date Enabling Ordinance; however, that version wasn’t as clear as to who would be entitled to a refund in the event that a refund was determined by a court. He reiterated that the 2006 Enabling Ordinance was being modified, not the earlier version.

Mr. McNamara confirmed that the proposed language had been approved by Town Counsel. Mr. Gowan replied all the changes were penned by Town Counsel.

Mr. McNamara opened the hearing to public input. No one came forward. There was no further discussion.

**MOTION:** (Passamonte/Dadak) To approve the suggested changes to the Pelham Impact Fee Enabling Ordinance.

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

Mr. Gowan told the Board he would appraise the Selectmen regarding the Planning Board's vote. He said the ordinance would be a question on the March, 2015 ballot.

Mr. Doherty questioned where the Ordinance could be found. Mr. McNamara replied it was posted on the website and also available in the Planning Department during regular business hours. Mr. Gowan explained it wasn't part of the Zoning Ordinance *per se*; however, it was under the Planning Board's authority under Zoning to enact an impact fee enabling ordinance. It was its own separate ordinance that technically came in under Zoning.

## **NEW BUSINESS**

### **PB Case #PL2014-00037**

#### **Map 33 Lots 1-158-21 & 1-161 and Map 39 Lot 1-159**

**CALLAHAN, Russell & Angela / TOWN OF PELHAM (applicants) – applicant is the Town of Pelham Conservation Commission – Scenic View Drive lot line adjustment.**

Mr. Dadak read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Steve Michaud of Doucet Survey came forward with Conservation Commission members Paul Gagnon and Karen Mackay. Mr. Michaud told the Board the case related to lot line issues on abutting parcels. He began by addressing the Callahan parcel that consisted of 11.78 acres. The proposal was to carve out 6.4 acres of which would be conveyed to the Town. By using a tax map, he showed the Board where the parcel was located and which portion was proposed to be conveyed to the Town. The purpose for the two lot line adjustments was to create connectivity between parcels already owned by the Town.

Mr. Gagnon discussed the history of the parcels purchased by the Town and how the current proposal came into fruition. By making the proposed connection the Town will then have six hundred contiguous acres. A person will be able to hike from Sherburne Road to the shore of Gumpas Pond without leaving Town owned land. Mr. Gagnon then showed the Board a map indicating the location of the multi-use trails (snowmobile trails) throughout the Town. The parcels being acquired contain a connector trail through them.

With regard to the value of the land, Mr. Doherty felt it was important to point out when parcels of Town land are linked together the surrounding properties become much more desirable to any developer looking to develop the remainder of the lands. He appreciated the land owners for their contributions and the Conservation Commission for seeking land to conserve. Mr. Dadak also thanked Mr. Gagnon and Ms. Mackay for seeking land to create connecting Town land. Mr. Montbleau added his gratitude to Mr. Gagnon and Ms. Mackay for their hard work and diligence to conserve land within the Town.

PUBLIC INPUT

Mr. Jim Bundock, 20 Scenic View Drive told the Board it was the first time hearing about the proposal. He asked to see the maps and details. Mr. McNamara told him to take his time reviewing the information. Mr. Bundock reviewed the displayed maps with Mr. Michaud. He was not sure if the map represented the latest plan. He told the Board he reviewed several plans. The plan being shown implied his property had 353.52ft. of frontage. He thought there may be some confusion regarding a paper road, but after closer review of the map didn't feel it would affect the proposed plan. Mr. Michaud noted the map being reviewed was a copy of a page from the Town Assessor's map. He added it was not used for the purpose of surveying; the map was only used to identify the areas that were going to be conveyed to the Town and highlight the areas already owned by the Town.

Mr. Gowan stated the Board members were provided with the actual document that demonstrated the survey. It was that document that would be signed by the Board, and recorded at the Registry of Deeds. Mr. Bundock reviewed the survey document which was the same document he understood. He said by using that document, it was likely that the information of the conveyance was correct.

Mr. Bundock told the Board in general he was in favor of acquisitions, such as the proposed. He thought the connections were fantastic and well done.

Mr. Bob Lamoureux, president of the Pelham Border Riders and member of the Forestry Committee commended the Board for their time and effort and hoped they would have a favorable vote for the proposal.

**MOTION:** (Dadak/Montbleau) To accept the lot line adjustments for consideration.

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

Mr. Michaud noted there was a waiver request submitted that was relative to the scale of the plan. He read the request aloud, relative to Section 10.04,A requesting they be allowed to submit a plan being 1"=60ft.

**MOTION:** (Montbleau/Passamonte) To accept, for consideration, the waiver request to Section 10.04-A – plan scale.

**VOTE:** (6-0-0) The motion carried.  
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**MOTION:** (Montbleau/Dadak) To approve the waiver request to Section 10.04-A – plan scale.

**VOTE:** (6-0-0) The motion carried.  
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**MOTION:** (Montbleau/Passamonte) To approve the lot line adjustments.

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

**PEROLA, David & Irene / TOWN OF PELHAM (applicants) – applicant is the Town of Pelham Conservation Commission – Scenic View Drive lot line adjustment.**

Mr. Dadak read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Steve Michaud of Doucet Survey came forward with Conservation Commission members Paul Gagnon and Karen Mackay. Mr. Michaud told the Board the map previously outlined contained a small triangle of land (.29 acres) that was proposed to be conveyed to the Town. The parcel contains approximately 5.09 acres and after conveyance will contain approximately 4.7 acres. He noted by bringing the parcel below five acres, required State subdivision approval, which they were currently in the process of obtaining. The existing septic system has been inspected at the time of construction. They hoped that would eliminate the need for them to do test pits and other associated tests typically required by the State.

**MOTION:** (Montbleau/Dadak) To accept the lot line adjustments for consideration.

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

Mr. McNamara opened the hearing to public input. No one came forward. It was noted that a waiver request was submitted to Section 10.04-A – plan scale to allow 1”=60ft.

**MOTION:** (Montbleau/Dadak) To accept, for consideration, the waiver request to Section 10.04-A – plan scale.

**VOTE:** (6-0-0) The motion carried.  
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**MOTION:** (Montbleau/Dadak) To approve the waiver request to Section 10.04-A – plan scale.

**VOTE:** (6-0-0) The motion carried.  
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**MOTION:** (Montbleau/Passamonte) To approve the lot line adjustments, subject to State Subdivision approval.

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

**MINUTES REVIEW**

December 15, 2014 – deferred.

Mr. Gowan noted that Town Counsel would be meeting with the Board at 6pm prior the Board’s next meeting, Thursday, January 22, 2015.

**ADJOURNMENT**

**MOTION:** (Montbleau/Passamonte) To adjourn the meeting.

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

The meeting was adjourned at approximately 7:45pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary