

APPROVED
TOWN OF PELHAM
PLANNING BOARD MEETING
March 16, 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, Paddy Culbert, Jason Croteau, Mike Sherman, Alternate Tim Doherty, Alternate Joseph Passamonte, Planning Director Jeff Gowan

ABSENT: Selectmen Representative Robert Haverty

Mr. McNamara opened the meeting by congratulating Mr. Sherman on being elected a full-time Board member. He then accepted the following motion:

MOTION: (Culbert/Montbleau) To appoint Tim Doherty as an alternate Board member.

VOTE: (5-0-0) The motion carried.

Mr. Gowan confirmed Mr. Doherty was appointed for a three year term, unless he was to run on next year's ballot. Mr. McNamara answered yes.

Mr. Croteau arrived.

OLD BUSINESS

Case #PL2014-00032

Map 28 Lot 2-12-2

MAMMOTH FIRE ALARMS REALTY TRUST - 112 Marsh Road - Applicant is seeking to make a change to a plan that was approved July 21, 1997 (Recorded Plan #28882). The plan shows the Wetland Conservation District buffer increased from 50ft. to 75ft. The applicant requests that the setback be changed back to 50ft. to enable the owners to construct an addition on an existing garage.

Robert Cavanaugh, an abutter in this case, informed the Board his legal representation was not present. Mr. McNamara informed Mr. Cavanaugh he would be able to speak when the hearing was open for public input.

Mr. Shayne Gendron of Herbert Associates, representing the applicant, came forward to discuss the Case. He began by providing an overview of the request. The applicant was seeking to change the Wetland Conservation District ('WCD') setback from the present 75ft. back to 50ft. The plan was approved in 1997 with a greater WCD setback from the required 50ft. They would like to change the setback per Zoning to 50ft. so an addition could be put onto an existing garage. Through the review process a site walk was conducted. There are currently areas of disturbance within the WCD that the applicant has proposed plantings. There is also an existing propane tank the applicant has requested to leave in place. Mr. Gendron stated during the previous meeting there was a discussion about a deed restriction. He pulled the deed and saw that the property has a Wetland Conservation District; however, he saw no reference to a 75ft. setback. He noted they weren't requesting to eliminate the setback, they were requesting a reduction to 50ft.

Mr. McNamara stated the Board requested a legal opinion at the last meeting regarding the deed restriction and had received a response. The legal opinion was generated via email by Staff Attorney Margaret M.L. Byrnes of the New Hampshire Municipal Association ('NHMA') dated February 24, 2015 (4:12pm). The opinion reads that it is not a deed modification issue; given the reference in the deed that the property is 'subject to the Wetlands Conservation District, building setbacks' does not mean that the Board would be modifying the deed by granting the applicant's request. (*see case file for full verbiage of legal opinion*).

Mr. Gowan explained there was an unwritten policy by the Selectmen regarding legal expenditures; departments are to have legal requests first go to the NHMA, which Pelham is a member. The NHMA has legal services offered to member communities. He noted if the Board wanted to seek legal opinion past NHMA, such request would need to be approved by the Town Administrator. Mr. McNamara offered his opinion and noted that the Board could have a longer discussion at another time. He assumed everyone was acting in good faith; however the fact was what happened was done improperly. He stated the Planning Board alone could decide who to hire, be it engineering, legal etc. He commented there may be a good reason for the policy, but neither the Town Administrator nor the Selectmen dictate to the Planning Board who they would use. He said the Board would listen to an explanation why the policy would be in the best interest for them and the citizens. At present, it was his intention to send any legal guidance request to Attorney John Rattigan, who the Board had used for several years and received good advice.

Mr. McNamara stated the Board had received a legal opinion from NHMA as well as hearing the opinion from the abutter's counsel (during the previous meeting). He believed the problem for the Board would be if they made a decision in whole, or in part, based on the advisory opinion of NHMA and they were brought to court on an appeal. He pointed out NHMA doesn't defend opinions in court and the Board would then need to speak to an attorney. Presently, the Board didn't have Attorney Rattigan's opinion on the matter. He suspected this type of situation wouldn't occur very often and wanted to be aware that if the Board based their decision on the NHMA opinion, the author of which wouldn't defend it in court.

Mr. Gowan explained his understanding of the Selectmen's reasoning behind the policy. A couple years ago the Town had gone way over the legal budget. Being the 'keeper' of the budget, the Selectmen reined in who had access to the legal budget and seeking advice outside of NHMA. He suggested if there was a consensus of the Board on the matter they should contact the Selectmen directly; he didn't want to be in the middle of those discussions. Mr. McNamara replied the Planning Board is an elected Board who is ultimately responsible to the voters. He discussed a situation in the past of the prior Town Administrator wanting to dictate who the Board hired as the Board's engineer; the Board ultimately prevailed.

Mr. Culbert wanted Attorney Rattigan's opinion. Mr. Montbleau agreed with Mr. McNamara. He spoke of his time on the Board and the legal battles that had occurred. He appreciated obtaining an opinion from NHMA; however, in this case he felt legal opinion was necessary to ensure the Board was on solid ground with their decision. Mr. McNamara added when Attorney Rattigan provided an opinion he would be prepared to defend such in court. Attorney Rattigan also provides opinions in an effort to avoid court challenges being that he is familiar with the Board and the Town.

Mr. Doherty felt the Board should be discussing the revision of the submitted plan, which was originally approved by the Planning Board. He felt it was up to the applicant to discuss the legalities of whether they were going to exercise whatever rights they felt they had. Mr. Doherty stated the Board had the right to revise a plan that they (or a past Board) passed. Mr. McNamara noted the reason they sought legal opinion was due to the question being raised regarding the applicability of the deed restriction. The Board has now received an opinion indicating they could. Mr. McNamara wanted the Board to know if there was an appeal, Attorney Rattigan would need to defend the NHMA opinion, although it may, or may not be an opinion he shares.

Mr. Dadak preferred the conservative position of seeking Attorney Rattigan's opinion. Mr. Sherman also preferred the issue go to Attorney Rattigan prior to the Board's vote. Mr. Croteau agreed.

There was a consensus of the Board to seek a legal opinion from Attorney Rattigan. Mr. Gowan stated he would share that information with the Town Administrator, but still advised that the Board take a stand on the issue of seeking legal opinions by contacting the Town Administrator/Selectmen. Mr. McNamara noted similar situations arise with the Zoning Board and suggested both boards may possibly need a line item within their budgets for legal services.

Mr. McNamara acknowledged that Mr. Cavanaugh's lawyer was not present and stated there was no prejudice because of it. Mr. Cavanaugh came forward to address the Board. He wanted them to know that his attorney intended on being present for the hearing. His attorney is the coach of the girls' basketball team and they had an awards ceremony. Mr. Cavanaugh noted he and his attorney would be present at the next hearing.

There was a brief discussion as to when to date specify the case. The applicant agreed to a date specified date of April 20, 2015.

The Case was date specified to April 20, 2015.

Case #PL2014-00026
Map 35 Lot 10-193 &
Map 36 Lot 10-191-1

GREEN, Richard, GREEN & GREEN COMPANY - 1-5 Garland Lane - Proposed 46 Lot Conservation Subdivision (Special Permit for Yield Plan and 20% Density Offset – 7 Lots – granted July 7, 2014)

Mr. Joseph Coronati of Jones & Beach Engineers, representing the applicant came forward to discuss the proposed subdivision. Also present were Michael Green and Jenna Green to discuss the proposal. Mr. Coronati provided the Board with an update of what they had done since last in front of the Board. They had worked with Keach Nordstrom (Board's engineering review firm) and other Town departments, such as the Fire Department. They've worked with the Conservation Commission and abutters to locate trail connections and draft trail easement language, which is near finalization. Mr. Coronati believed the information regarding the bond was forwarded from Keach Nordstrom to the Town. He told the Board that the Homeowner's Association and Covenants had been submitted and will be reviewed by Town Counsel. It was his understanding that the Conservation Commission recommended approving the Special Permit. The State's permit applications for Alteration of Terrain, State Subdivision and Water System are ongoing.

Mr. Coronati displayed an artistic rendering showing the style of roads and homes (in conjunction with landscaping and street scape) that were planned for the development.

Mr. McNamara saw that the applicant received letters from the Department of Environmental Services ('DES') regarding the well citing and conditional approval. To prove the wells are capable of sustaining the necessary water, DES listed stringent conditions for testing. Abutter notifications have been sent out. Mr. Coronati replied a lot of the water permitting had been subcontracted to Hampstead Water Company. He discussed his knowledge of the water pump/testing process, which was required to be during 72 hours for the individual wells. Mr. McNamara noted that the geographic area was known by DES to have a high prevalence of low yield bedrock wells that do not perform reliably over time. With that knowledge DES imposed some fairly stringent conditions on the testing.

Mr. McNamara asked for an outline of where the proposed trail system would be located. Mr. Coronati called attention to sheet C3 of the plan set (road layout plan) that showed the entire development. He displayed the plan sheet to show the proposed trail location. The entrance and exit points remained as they exist; the portion within the property would have a new layout, which showed two areas crossing onto abutting property before

connecting back to the existing trails. There were already pathways that would help when rebuilding the trail. Signage (for snowmobiles and low noise) will be installed throughout the winter months to instruct those using the trail system of its use. Mr. McNamara questioned if documents had been reviewed by Town Counsel. Mr. Gowan spoke of the importance regarding the trail system. He told the Board there had been meetings which included the abutter (Bob Shepard). He noted the Shepards liked the proposed trail location; although they weren't inclined to grant an easement, they granted permission for use. With regard to the Garland property, Town Counsel has reviewed the trail easement language a copy was provided to the Board. Mr. Gowan indicated that the trail would be demarked by fence posts (installed by the applicant) and contain gates. Ongoing maintenance would be performed by the snowmobile club. If a situation of non-compliance arises, there will be a method in place to correct the behavior. Mr. Gowan believed the Conservation Commission was pleased with the arrangements made in connection with the trails. Mr. McNamara wanted to know if the abutter could take back the permissive use of their property. Mr. Gowan answered yes; they could take it back any time they wanted to. However, he believed they were pleased with how the project unfolded which defined the location for snowmobiles to cross their property.

Mr. Doherty stated currently the applicant didn't meet Zoning, unless an amendment was put on the plan to relocate the trail onto the applicant's property in the event the abutter disallowed use of their property. He pointed out within Section 307-103 – Standards for approval - existing trails had to be protected. Mr. Doherty reviewed past meeting minutes in which the applicant consented to rework the trail where necessary so it could continue to pass through the premises from one end to the other. He noted the applicant had not indicated the trail would be pushed onto someone else's property in two locations. He said the applicant spoke to other boards about the standard of approval, but not with the Planning Board as required in Section 307-103. In following Zoning the Board had recourses in the event the abutter took away the trail. The trail could be relocated and kept entirely on the property. Mr. Doherty wasn't suggesting reworking the trail at this time, but felt there could be a note on the plan to let it be reworked if the abutter took the trail off their land.

Mr. McNamara commented if the plan didn't meet Zoning and approval couldn't be granted. Mr. Doherty believed having a note on the plan to rework the trail could allow for a conditional approval. Mr. Gowan appreciated Mr. Doherty's points, except the continuation of a trail was not an absolute requirement of Zoning or anything else. He said it was something the Planning Board tried hard to preserve. Mr. Doherty pointed out that the 'standards for approval' in Section 307-103 must be met or mitigated to the satisfaction of the Planning Board; one of which was protection of existing trail system. He further stated existing trail systems had to be protected within conservation subdivisions. Mr. Gowan believed the question was then if the applicant would concede to a condition that they would somehow accommodate the trail if the Shepards were to remove the permissive right for such.

Mr. Green understood there was no existing trail easement. He was told by the Garlands they didn't want the trail on the property. He stated they came before the Board in good faith and had worked hard to include the trail all the way through. He also understood what was being stated, and noted future buyers would be encumbered to something different from what the plan showed. He reiterated they had been acting in good faith. Mr. Coronati said they spoke to the Board about having conversations with the abutter and had worked to finalize the location before coming back to the Board. Mr. Doherty replied the conversation had to occur with the Planning Board. Mr. Green looked to the Board for guidance; he preferred not to burden homeowners with additional language.

Mr. Culbert said he recently received a copy of the plan and would feel better reviewing it prior to granting an approval. Mr. Coronati explained that the plan itself had not changed much over the last couple months; mainly the documents (cisterns, easements, homeowner's association etc.) had been the focus.

Mr. Pat Colburn of Keach Nordstrom (Board's engineering review firm) was in attendance for Steve Keach. He told the Board he reviewed Mr. Keach's memo dated March 9, 2015 and Mr. Gowan's staff report. He pointed out there were a series of requested waivers and saw no objection by Mr. Keach in his most recent memo. He understood the applicant was making progress with DES for the well citing approval and prepared

for the next step of drilling wells for testing of quality and quantity. Mr. Colburn couldn't speak to the trail easement given he wasn't part of the earlier discussions. From what he saw it had been an ongoing discussion and everything was submitted to Town Counsel for review. Mr. Gowan noted Town Counsel wouldn't review homeowner's documents until a Notice of Decision was issued. The only outstanding item unrelated to the waiver requests Mr. Colburns saw was the line of sight easement discussion for the next set of reviewed plans, which would control the long term sustainability of the sight line. He concluded by telling the Board he felt the applicant had adequately addressed all of Mr. Keach's comments. Mr. Coronati indicated the locations of the lines of sights were contained on three of the plan set pages (SD1,2 & 3).

With regard to the waiver requests, Mr. Culbert saw that Mr. Keach used the terms 'not opposed' and 'supports'. He wanted to know if he supported the waivers. Mr. Gowan believed Mr. Keach interchanged the words. Mr. Colburn had no indication that Mr. Keach was opposed to any of the waiver requests.

PUBLIC INPUT

Mr. Sherman had questions for Mr. Bob Lamoureux of the Pelham Border Riders (snowmobile club). Mr. Lamoureux came forward. Mr. Sherman understood there was no easement for the existing trail and questioned how long it had been used. Mr. Lamoureux believed it had been used for at least 25-30 years. Mr. Sherman asked if there had been any problems using the area. Mr. Lamoureux answered no. He noted there were three people on the deed and theoretically permission could be granted by one of the people listed; it wasn't necessary to have permission from all three. Mr. Gowan inquired if the club had written permission to utilize the Garland land in its current configuration. Mr. Lamoureux replied they received verbal permission, which enabled coverage with insurance certificates. He added that a signature (from the owner) wasn't necessary.

Mr. Montbleau wanted to know if Mr. Lamoureux had reviewed the proposed trail location. Mr. Lamoureux answered yes. He added that he hadn't given thought to the trail leaving the Garland property and wasn't aware of a Zoning violation. He simply assumed the proposal would be fine. Mr. Montbleau asked if the proposed configuration would work for the Border Riders. Mr. Lamoureux answered yes, except if they were to lose the middle section on the Shepard property. Mr. Montbleau believed everyone wanted to make certain that there would be no nuisance issues to constrain a person's quiet enjoyment of their property. Mr. Lamoureux felt the proposed trail layout would work for everyone involved. He pointed out that the Town's trail system wasn't only used by snowmobiles; they were used by various groups and citizens. He didn't feel they would ever have to move the trail, but agreed there should be a backup plan. He wasn't opposed to an alternate plan.

From what Mr. Croteau understood, the proposed trail leaving the property didn't conform to Zoning. He noted the trail was important for the Town. He believed having a secondary easement, with the trail being contained completely on the applicant's property, would satisfy everyone. Mr. Gowan replied the proposed complied with the Regulations, except for the pieces the applicant was requesting waivers to.

Mr. Doherty spoke of the time when a subcommittee was created to put together the conservation subdivision ordinance. He also spoke of people purchasing land to put together a trail system for the Town. He said the purpose of having stipulations in zoning was for protection. He stated if there was an alternative trail system the applicant would meet zoning and believed the Board members would be happy. He didn't want to see the goals for the Town broken down because of a flawed plan.

Mr. Dadak questioned if there were any issues in areas near new homes/new subdivision with maintaining a trail. He noted the use of the trails weren't solely for snowmobiles; they were also used by people walking, hiking and other passive recreation. Mr. Lamoureux told the Board the trail came close to a lot of houses in Town, but hadn't heard of any complaints. Mr. Gowan asked the Board to consider the complexity of the project and the fact that a conservation subdivision was more than just having a trail. He added that a conventional subdivision was possible.

Mr. Sherman asked if the abutter (Shepard) would grant an easement to protect the trail. Mr. Gowan told him the abutter didn't always have a positive experience with snowmobiles. In the initial conversation, they didn't want anything to do with the trail, but were agreeable to having a defined area that would be maintained. Mr. Culbert wanted to know if the future owners of the abutting lot could disallow the trail on their property. Mr. Gowan told him a permissive right would be withdrawn. He added if someone purchased the abutting lot, they would most likely do so to develop it, which would give the Planning Board the opportunity for review. He also told the Board at times Zoning is difficult to contemplate and reach a decision on. It was his challenge as Zoning Administrator.

Mr. Lamoureux asked the Board if there was a way to approve the plan with a contingency to revisit the trail, if necessary, in the future. Mr. Gowan believed the Board could make a condition, but it may be hard to achieve. Mr. Culbert understood the question to be if a 'plan B' could be created on the plan. Mr. Green explained because the plan was an open space development, the lots were smaller in size with the septic toward the front making the houses toward the rear of the lots; the trail would also be in the rear of the lot. He said when they came in with the subdivision they worked with the snowmobile club and more than compensated items to achieve appropriate density. He pointed out there was no wetland impacts and the vista has been preserved. He stated if they were unable to build the subdivision, there would possibly be no trail. Mr. Coronati pointed out the Town was currently in a similar situation with the Garlands, who at any time could refuse to have a trail on their property. He felt the Town was in a better position with the proposed plan with having more of the trail preserved and set on a plan with neighbors willing to work with them to lay out the location. Mr. Culbert questioned if the applicant could create a 'plan B'. Mr. Green replied a 'plan B' would have the trail going behind a vast majority of the proposed homes. He noted had the plan been brought in as a conventional subdivision they would have no need to preserve the trail. He added it was their intent from the start of the process to help preserve the trail. Mr. Lamoureux wanted to know the distance between the rear stone wall and the proposed lots. Mr. Coronati replied there was a 20ft-25ft open space area behind the lots. Mr. Green reiterated that the septic were close to the road and the houses were set back. He said they wouldn't be able to swap those locations given the land contours.

Mr. Green approached the displayed plan and asked the Board if there was an alternate location for the trail connection so as to not have it travel along behind the entire development (as a plan B). Mr. Lamoureux asked for the distance between the rear stone wall and the rear of the proposed houses. He learned the distance from the rear of the houses to the lot line would be approximately 35ft.

Mr. McNamara summarized the status of the case. He stated based on testimony from Keach Nordstrom and the applicant, virtually everything had been resolved other than some administrative items.

The Board acted on the waiver requests as follows:

MOTION: (Culbert/Dadak) To accept, for consideration, the waiver to Appendix 1, BB,12 – minimum tangent length of 100ft. between successive horizontal roadway curves.

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

MOTION: (Culbert/Dadak) To approve the waiver to Appendix 1, BB,12 – minimum tangent length of 100ft. between successive horizontal roadway curves.

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

MOTION: (Croteau/Dadak) To accept, for consideration, the waiver to Section 11.11,C, 2 –

4K area test pits required on all lots.

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

MOTION: (Dadak/Culbert) To approve the waiver to Section 11.11,C, 2 – 4K area test pits required on all lots.

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

MOTION: (Croteau/Culbert) To accept, for consideration, the waiver to Appendix I, BB, 2 and BB.11(d) – Road width .

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

Mr. Culbert asked for clarification where the road width would be decreased. Mr. Coronati replied the main road running through the entire development was 26ft.; only the two cul-de-sacs were narrower.

MOTION: (Culbert/Croteau) To approve the waiver to Appendix I, BB, 2 and BB.11(d) – Road width .

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

MOTION: (Croteau/Montbleau) To accept, for consideration, the waiver to Appendix I, BB, 21 – require minimum platform length of 100ft. with maximum 3% grade to stop condition.

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

Mr. Culbert questioned what area wouldn't be at 3%. Mr. Coronati replied the waiver was in relation to the subdivision connection to Garland Lane for a length of approximately 66ft.

MOTION: (Culbert/Dadak) To approve the waiver to Appendix I, BB, 21 – require minimum platform length of 100ft. with maximum 3% grade to stop condition.

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

Mr. McNamara discussed the proposed trail. He disagreed with Mr. Doherty, that the trail was a violation of Zoning. He stated there was no existing trail system; the proposed plan would establish one. Mr. Coronati noted there was an existing trail; however there was no easement or documented rights of use. Mr. Dadak questioned how many years the trail existed on the property. Mr. Coronati stated Mr. Lamoureux indicated the trail had been used for approximately 25-30 years. Mr. McNamara believed everyone wanted the property developed as a conservation subdivision. He felt the applicant and Mr. Coronati had gone to great lengths to try and make the plan conform and get as much of the trail a guarantee as possible. Given the terrain and economics, it doesn't seem that a 'plan B' trail is feasible. He understood the abutter was entitled at some point to disallow the trail use on their property. He didn't feel a contingency agreement could be drawn up without knowing how the properties would be set up; writing such would be almost meaningless and difficult to enforce without some kind of specificity.

Mr. Dadak was concerned with setting a precedent for future development to not continue trail systems based on economics. Mr. Green replied they had continued the trail system and the connection. He would like to see the development done with a trail system, although the owner would prefer not to have one.

Mr. Sherman would feel more comfortable if there was an easement from the abutter (Shepards), or if the Conservation Commission had approached the owner to purchase the land. Mr. Gowan replied the abutter was not interested. He stated the proposed conservation plan was the best one that had ever been received.

Mr. Croteau felt there should be a 'plan B' for the trails. He told the applicant they had done a great job, but there remained a 'what if' situation. Mr. Doherty commented at present, the applicant needed to mitigate the situation with the Planning Board. Mr. Green asked the Board if they had a suggestion for moving forward. He believed if the trail had to be moved and located behind every house it would kill the subdivision. From the beginning they indicated they would try to make the trail system work and reconfigure the subdivision where they could. He reiterated the trail was currently connected. The trail system was comprised of 'permissions' and at any point those permissions could go away.

Mr. Montbleau agreed that the proposed development was one of the best conservation subdivisions received to date to make a great community. He recognized that the applicant tried to maintain a compatible trail system that had been in existence for many years. He believed similar situations would arise in the future as other lands were developed. Mr. Montbleau pointed out if the seller's goals weren't reached, they could easily stop the trail system, which would eliminate access. He encouraged the Board to strike a balance. He was surprised the abutter was giving up rights of quiet enjoyment of their property to accommodate the snowmobile club and other residents. He suggested posting signs along the trail (such as quiet zones) to educate the people using the trail system. He didn't feel a guarantee could be made and believed the proposed plan contained the best of all worlds. He hoped everyone would be conscience enough to preserve it.

Mr. Croteau understood the applicant was willing to provide an easement into the property from Currier Road and would be satisfied with such. Mr. Green believed they would be able to provide an easement along the southern border of the property.

Mr. Lamoureux came forward. He commented that the proposed easement (along the southern border) may work, but there would be a similar situation of going off the property and having to speak with a number of property owners. Mr. Croteau said it appeared to be the only 'plan B' option. Mr. Lamoureux would have liked more time to review the trail situation and asked if the Board would feel more comfortable pushing the case to the next meeting.

Mr. McNamara asked how the applicant felt about coming back in a couple weeks. Mr. Green didn't know what would change. Mr. McNamara questioned how they felt about an easement on the southern side of the lot. Mr. Green had no objection to such. He said they would need to draft wording to indicate they would allow an easement along the western and southern edge of their lot in the event the trail wasn't allowed on the abutter's property in the future. Mr. Culbert had no objection. Mr. Doherty noted with the proposed easement, if the trail was lost to the snowmobiles at least foot traffic could access the area as a recreational trail. He felt it would be a good 'plan B'. There were no objections by the Board members to the suggested easement along the western and southern portion of the property. Mr. McNamara added that language would need to be drafted reflected the easement. Mr. Green understood.

The Board addressed the Special Permit.

MOTION: (Culbert/Croteau) To approve the Special Permit.

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

Mr. McNamara read aloud proposed conditions for approval.

- 1) All required State permits received, including NHDES Water Supply approval with permit approval numbers noted on the recordable plan (not including individual septic plans which will be approved by NHDES on an individual basis);
- 2) Letter to Planning Department from Steve Keach indicating his satisfaction with the final plan submission resolving all items identified in Mr. Keach's March 9, 2015 review letter;
- 3) Provision of surety for on-site restoration (including future public infrastructure installation) and for off-site improvements to Pasture Lane (formerly Garland Lane) and to the intersection of Fineview Circle and project road. An escrow amount for plan compliance monitoring is also required. All surety and escrow amounts as recommended by Keach-Nordstrom;
- 4) Homeowners documents, trail easement, etc. to be reviewed and approved by Town Counsel at applicant's expense;
- 5) Plan sheets C1 and C2 to be stamped by both the Certified Soil Scientist and Certified Wetland Scientist who prepared Site Specific Soil Survey and Wetland Mapping;
- 6) All driveways to be approved by the Pelham Road Agent prior to construction;
- 7) Final plan to depict and describe sight line easements as described in General Comment #1 of Mr. Keach's March 9, 2015 review letter;
- 8) Off-site proposed improvements to Town roads (Fineview Circle and Pasture Lane) must be approved by the Pelham Board of Selectmen prior to plan signature and recording;
- 9) In the event the abutting property owner extinguishes their permission to have a portion of the trail on their property, the applicant shall accommodate a revised trail easement to the extreme southern/western edge of their property subject to the trail easement restrictions already agreed upon by the Board.

Mr. Gowan will work with the applicant to draft easement language.

MOTION: (Croteau/Dadak) To approve the conservation subdivision plan with the conditions read aloud (listed above).

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

NEW BUSINESS

Case #PL2015-00003

Map 21 Lot 8-167

CROTEAU, Bryan - 12 Homestead Road - Site plan review for proposed general home occupation to operate a landscaping business

Mr. J. Croteau stepped down. Mr. Passamonte was appointed to vote.

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. Bryan Croteau came forward to discuss his landscaping business that he'd run for approximately ten years in the Pelham and Windham area. He has three trucks; one is left in a garage. There are two employees who arrive and leave for offsite jobs at approximately 7am and return at approximately 5pm.

Mr. McNamara explained to the Board that Mr. B. Croteau requested and was granted a Special Exception by the Zoning Board. He is required to abide by the criteria associated with such. The hours of operation will be

essentially 7am-5pm Monday-Friday and 7am-3pm Saturday with no work on Sunday. Some work is seasonal. No work will be performed on the premises. The only things stored on site are equipment, trailers and trucks. Materials are not stocked or sold on site. The business doesn't deal in pesticides or do applications. No customers would come to the property. The only on site lighting is customary to a residential property.

MOTION: (Culbert/Montbleau) To accept the site plan for consideration.

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

PUBLIC INPUT

Mr. Bob Lamoureux, Blueberry Circle came forward to tell the Board Mr. B. Croteau was an outstanding individual who ran a clean operation. He spoke in favor of the plan.

Mr. McNamara noted during the Zoning Board hearing, three neighbors came in to speak in favor of Mr. B. Croteau and his business. He said it was rare to see such support.

Mr. Gowan questioned if any signs were contemplated. Mr. B. Croteau answered no.

MOTION: (Culbert/Sherman) To approve the site plan.

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

Mr. J. Croteau returned to the Board.

Case #PL2015-00004

Map 27 Lot 2-82 & 83

SILVER OAKS REALTY, LLC - 20-24 Gumpas Hill Road – Special Permit application to approve the Yield Plan for a proposed Conservation Subdivision. Full application for conservation subdivision will follow once Special Permit and density is established.

Mr. Dadak read the list of abutters aloud. Mr. James Fisher of 47 Seavey Road informed the Board he had not received notification of the hearing. His lot is located directly across the Class VI road. Mr. Dadak reviewed the case file and stated notification had been sent out, but found no signed receipt of such. Mr. McNamara asked Mr. Fisher if he objected to the Board proceeding with a hearing. Mr. Fisher answered yes; he recently heard of the plan and had a lot of questions. He stated he didn't have time to prepare for the hearing. One of his neighbors had a plan that showed his address as 10 White Tail Lane. Mr. Dadak reviewed the abutter list and confirmed Mr. Fisher's notification was sent to 47 Seavey Road.

Mr. Karl Dubay of the Dubay Group, representing the applicant, came forward. He told the Board they sent notification to the legal owners of record and had met their obligation.

Mr. Gowan explained that the plan was not in front of the Board for approval; the applicant was looking for an approval of their yield plan. He suggested information would come forward if the hearing was allowed to proceed. Mr. Fisher simply wanted to understand why notification didn't reach him. Mr. Gowan couldn't speak to why he didn't receive notification; but noted he personally brings abutter notification to the post office and has receipts stamped for confirmation. Mr. Fisher agreed to the hearing proceeding.

The applicant, Anthony Franciosa, came forward and joined Mr. Dubay for the discussion.

Mr. Dubay provided the Board with a brief overview of the plan, which was the combination of two lots totaling approximately 20 acres. A complete survey and wetland delineation have been done. Test pits have also been dug. The applicant has decided to proceed forward with a yield plan, which shows fourteen lots. They've met with staff, which provided helpful comments. The yield plan is not proposing a development as shown in the yield plan; the applicant would prefer to come forward with a conservation subdivision with 16-lots on a cul-de-sac with substantial buffers, open space and protection of an existing farmer's field. The applicant felt there were a lot of benefits to having a conservation development. They will not propose any new homes on existing road frontage. Mr. Dubay discussed the criteria for yield plans, which they felt they met and exceeded; there will be not impacts to wetlands or wetland buffers. He stated they were trying to do the right thing and felt the proposal was an outstanding example of a conservation subdivision.

Mr. McNamara questioned if there were any artist renditions of the proposed homes. Mr. Franciosa replied that drafts were being worked on to designs and create an accurate representation. The homes would be a bungalow style with farmer's porches between 1800SF-2400SF, with garages. Mr. Dubay indicated the lots would each be .5 to .75 acres in size; the homes would be in proportion to the lot sizes. Each lot will have individual wells.

MOTION: (Dadak/Culbert) To accept the plan for consideration.

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

Mr. Doherty called the Board's attention to the plan sheets showing several well radii overlapping.

Mr. Pat Colburn of Keach Nordstrom came forward to discuss Steve Keach's review letter of March 9, 2015. This review letter focused generally on the yield plan and base line density (at the request of the Planning Director). The comments were limited and in general agreed with the 14-lot baseline density derived by the applicant. The number of density offset lots was left to the discretion of the Board. Mr. Colburn called attention to the last section of the review letter which discussed the condition of the existing Gumpas Hill Road and the fact that the road had a narrow 15ft-16ft width in places. The recommendation is for the Board to consider required off-site improvements to bring it closer to the Town's standard for a Class V right-of-way given the consideration that the project would double the traffic on the road.

Mr. Gowan saw a reference to improvements to Tower Hill Road in the context of the conventional yield plan. He wanted to know if he was correct in observing that improvements to Tower Hill Road wouldn't occur with a conservation plan. That was how Mr. Colburn understood the plan as well.

For public information, Mr. McNamara said that the process and purpose of the initial meeting to review the density that could be developed if an applicant decided to submit a conventional plan versus a conservation subdivision plan. He summarized the items reviewed to develop density. The Keach review letter concluded that the applicant was well prepared to make a credible argument for award of two lots in density offsets. Ultimately the Board will make the final decision.

In looking at the plan Mr. Doherty saw that the farmer's field appeared to be flat. Mr. Dubay stated that was correct; it was a relatively flat field. Mr. Doherty questioned if the field would be protected and leased to a farmer for use, or if it could be used by residents. Mr. Dubay replied the field was protected by a stone wall. He further stated that the entire complex of the field and the stone wall along with the brook next to it would be protected in the open space. He commented that there would be some community gardens on the final plan; however, the vast majority of the open space would be preserved. He also spoke about the center of the cul-de-sac, which would be an additional green space for use by the residents, similar to the Town's village green space.

Mr. Dadak asked what vegetation was currently on the property. Mr. Franciosa described the vegetation and the special nature of the Sweet Birch/Black Birch Trees. He said parts of the lot were harvested in the past but there remained some mature growth.

Mr. McNamara opened the hearing to public input. No one came forward.

Mr. McNamara felt it was pretty clear based on all the testimony that the applicant had met their responsibility to meet the satisfaction of the yield plan. He believed there were sufficient things covered to justify two additional lots. Being familiar with Zoning on this issue, Mr. Doherty agreed and would like to see the applicant move forward as a conservation subdivision.

MOTION: (Culbert/Croteau) To approve the Yield Plan with the additional two-lot bonus.

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

Mr. Dubay told the Board they had another round of witness test pits and needed to get the drainage design done and reviewed by Keach Nordstrom. He believed it would take them approximately three weeks to do so. He stated they had an open door policy if anyone had questions, wanted to review the plan or the site.

Mr. McNamara informed the public abutter notification would occur once a plan was submitted.

ADMINISTRATIVE

Senior Recreation Impact Fee schedule adjustment – *Deferred until a later date - to be specified.*

DATE SPECIFIED PLAN(S) - April 20, 2015

Case #PL2014-00032 - Map 28 Lot 2-12-2 - MAMMOTH FIRE ALARMS REALTY TRUST - 112 Marsh Road

MINUTES REVIEW

February 19, 2015

MOTION: (Montbleau/Dadak) To approve the meeting minutes of February 19, 2015 as written.

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

March 2, 2015

MOTION: (Culbert/Montbleau) To approve the meeting minutes of March 2, 2015 as written.

VOTE: (5-0-1) The motion carried. Mr. Sherman abstained.

ADJOURNMENT

MOTION: (Croteau/Sherman) To adjourn the meeting.

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

The meeting was adjourned at approximately 9:50 pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary