

**APPROVED**  
**TOWN OF PELHAM**  
**PLANNING BOARD MEETING**  
**July 18, 2016**

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

The acting Secretary Tim Doherty called roll:

PRESENT: Peter McNamara, Roger Montbleau, Tim Doherty, Jason Croteau, Alternate Paddy Culbert, Alternate Mike Sherman, Alternate Richard Olsen, Alternate Robert Molloy, Selectmen Representative William McDevitt, Planning Director Jeff Gowan

ABSENT: Paul Dadak, Joseph Passamonte

**OLD BUSINESS**

**PB Case #PL2015-00016**

**Map 22 Lot 8-130**

**52 WINDHAM ROAD - 52 Windham Road – Special Use Permit and Site Plan Review for proposed mixed use development consisting of a 1500SF retail building and 15 townhouse condominium units in the Mixed Use Overlay District**

Mr. McNamara stated the Board received a request for continuance from the project engineer David Jordan of MHF Design Consultants, dated July 13, 2016. The applicant requested date specification to the August 15, 2016 meeting to allow preparation time for a new development layout. The applicant understood they would need to re-notify abutters of the August 15<sup>th</sup> hearing.

Mr. McNamara commented that the case had previously been continued several times and suggested the Board request certified mail notice to abutters. Given the number of continuances already granted, he also was of the opinion that the applicant should be advised if they weren't ready in August they should withdraw. Mr. Doherty felt the applicant should be given leeway since Zoning had been changed. The Board agreed to grant a continuance on the understanding that the applicant would have a three-month time limit.

**NEW BUSINESS**

**PB Case #PL2016-00007**

**Map 30 Lots 7-11 & 7-8**

**NEW ENGLAND POWER COMPANY d/b/a National Grid - Briarwood Road – Proposed Lot Line Adjustment**

Mr. Molloy and Mr. Sherman were appointed to vote.

Mr. Doherty 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.

Attorney Thomas Hildreth of McLane Middleton, representing the applicant, spoke to the proposed lot line adjustment. He explained the project (Eversource Merrimack Valley Reliability expansion), which affected the towns of Pelham, Hudson, Windham and Londonderry. Some of which was in front of the State for

approval. Attorney Hildreth told the Board part of the project involved wetland impacts and National Grid had been in contact with Pelham to discuss mitigation of such. Pelham's request was to be given a five-acre piece of land (of the nearly 30-acres owned by National Grid) located in the proximity of the Peabody Town Forest. Using a displayed map, Attorney Hildreth showed the National Grid parcel and the proposed five-acre piece proposed to be deeded to the Town. They have met with the Conservation Commission, who were in support of the proposal. A copy of the draft conservation easement deed has been sent to Town Counsel John Ratigan and the Department of Environmental Services. He ended by describing the steps that would be followed to deed the land to the Town if the Board granted the lot line adjustment.

Mr. McNamara read aloud the letter from the Conservation Commission dated September 7, 2015, in which they propose that the northern portion of the National Grid parcel be donated to the Town of Pelham and added to the Peabody Town Forest as mitigation for the Merrimack Valley Reliability project's impacts. In their opinion, there was great value in protecting the parcel and saw no better way to mitigate than within the Town of Pelham and the very area where the impacts would occur. Mr. McNamara understood Attorney Hildreth had recently gone in front of the Conservation Commission and asked for the result of the meeting. Attorney Hildreth replied the commission voted to reaffirm their position.

Mr. Culbert questioned if the project was associated with the gas line project. Attorney Hildreth answered it did not.

#### **PUBLIC INPUT**

Mr. David Hennessey of 71 Dutton Road told the Board he was not notified about the Conservation Commission hearing. Mr. Gowan stated there is no notice requirement for Conservation Commission meetings. Mr. Hennessey added he looks at Town postings and never saw it posted. He was concerned about the lack of detail for the proposal as the land directly abutted his property. His main concern was where the three temporary impacts would take place. He questioned if the power company intended to use Briarwood Road (Class VI) as an access point, if not then where. He noted his parcel had an easement across the proposed parcel since the 1920's.

Attorney Hildreth stated there was no construction proposed for the five acres being donated to the Town of Pelham. The remainder of the project is governed by the four-town project spanning the entire transmission right-of-way, which included where the impact would occur. Mr. McNamara questioned if there would be temporary construction impacts occurring on the parcel. Mr. Hildreth answered no; the deed indicates the five-acre parcel is not to be constructed on (no buildings, no impacts etc.) between now and when it's given to the Town. Mr. McNamara wanted to know if the Class VI road (Briarwood Road) would be used for access to the parcel. Attorney Hildreth presumed that the Conservation Commission had an existing forest stewardship plan to manage the Peabody Town Forest and believed the commission's letter referenced the existing access to the forest land. He noted no one would have access to the parcel through other parts of the National Grid site.

Mr. Hennessey told the Board there was no public access from the old Lawrence Road now called Briarwood Road. He explained that the kiosk and parking area for forest was located on the western side of the powerlines. He noted that the triangular piece of land may be part of Peabody Forest; however, it was located on the eastern side that had nothing to do with public access. Attorney Hildreth understood that the public access was off Dutton Road. Mr. Hennessey replied Dutton Road was to the east, but the access was though Briarwood (formerly Lawrence Road); the paved section of Briarwood (at the location of the kiosk and parking) was situated to the west of the powerlines. The parcel being given to the Town was on the other side, over the easement to the powerlines, which had no public access and was an 'island' onto itself. He appreciated the donation to the Town but wanted it clear, there was no public access. Attorney Hildreth replied the proposed property was at the suggestion of the Conservation Commission, not National Grid. Mr. Hennessey replied he would've liked the opportunity to weigh in on that decision.

Mr. Gowan noted whatever action was taken by the Planning Board the matter would still need to go to the Board of Selectmen. Mr. McDevitt stated the Selectmen post their meetings, but in this case he would personally inform Mr. Hennessey.

Mr. Molloy asked for an explanation of the verbiage ‘temporary and permanent impacts’ contained within the September 7<sup>th</sup> letter of the Conservation Commission. Specifically what it meant to the Town. Attorney Hildreth stated it referred to impacts occurring elsewhere within the National Grid transmission right-of-way through the Town. He explained that the four towns had no jurisdiction on the wetland impacts occurring as part of the Merrimack Valley Reliability Project because they were preempted by the site evaluation process. In the four towns involved, there is a total permanent impact of 4,400SF; of those, 3,700SF are in Pelham along the right-of-way (not the five acre property being donated). There are approximately 388,000SF of temporary impacts across the four towns, 160,000SF are in Pelham. He didn’t have information regarding where those impacts occur, as they are not part of the request for lot line adjustment.

Mr. Doherty spoke about the items the Board usually discussed when reviewing a lot line adjustment. He didn’t feel the proposed lot pertained to those things because it wasn’t a building lot. He said the Board had to decide if the lot, after the adjustment, was in reason for what was proposed for the lot afterwards. Mr. Doherty questioned if there would be enough land remaining (after the adjustment) to continue with the entire good of the area and not gravely affect the wetlands. Attorney Hildreth believed they did, given the unusual situation of the power company owning the fee interest of the thirty-acre piece of land that exclusively served to support the transmission right-of-way. He stated donating the parcel to the Town wouldn’t cut into their operation.

Mr. Sherman understood what they were receiving for the lot line adjustment, but felt at some point going forward, someone would need to show where the temporary and permanent impacts would be so the Town could understand the impacts to abutters. Mr. McNamara commented in this case, it was simply a lot line adjustment for the purposes of donating land to the Town. He believed other questions would be resolved through the Selectmen’s review process (of accepting the land). Through the process, Mr. Gowan stated there had been efforts to reach out to the public. The Conservation Commission preferred to have the donation of land versus a fund (or other) benefit. He couldn’t answer what would occur within the right-of-way; however recommended that the Board include a condition of approval to address the specific questions regarding impacts during the Selectmen’s review process. Attorney Hildreth felt that would be fine, he wanted people to have appropriate expectations in that the impacts had already been approved by the Department of Environmental Services, Army Corps of Engineers and the State Site Evaluation Council, the discussion involved what would be done to compensate the Town (through a fixed formula) for those impacts.

Based on the questions raised during the Board’s discussion, Mr. Gowan suggested the Board approve the lot line adjustment, with the understanding that he would reach out to the New England Power Company to ensure they had answers when meeting with the Selectmen.

**MOTION:** (Doherty/Croteau) To approve the lot line adjustment.

**VOTE:** (5-2-0) The motion carried. Mr. Sherman and Mr. Molloy voted in opposition.

**PB Case #PL2016-00008**

**Map 39 Lot 1-51-1**

**CEDAR CREST DEV., LLC - Sherburne Road & Mammoth Road - Proposed 10-Lot Conservation Subdivision**

Mr. Culbert and Mr. Sherman were appointed to vote.

Mr. Doherty 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.

Representing the applicant, Mr. Peter Zohdi of Herbert Associates came forward to discuss the proposed 10-lot conservation subdivision. Also present for the applicant was Attorney John Cronin. Mr. Zohdi believed some of the questions regarding traffic and the number of lots was resolved during his previous meeting with the Board and traffic engineer. After receiving comments from the Town's engineer, Mr. Zohdi presented was now presenting a final plan, with the understanding he would need to have an additional meeting with the Town's engineer and the Planning Director to review a few items. He addressed the existing structure, which had received a cursory review by the Town's Building Inspector and noted it was not registered as a historical building. Within reason, the applicant would work with the Board regarding the building. Mr. Zohdi noted they requested two waivers: 1) centerline radius of the road where 200ft. is required and they were requesting 150ft., and 2) road grade where first 100ft. is not to exceed 3%, where they are requesting 3.76% for the first 500ft. He stated the first is recommended for approval by the Town's engineer. The second waiver was necessary for road drainage. He would have a discussion with the Town's Engineer and Mr. Gowan regarding the area around the cul-de-sac.

Mr. Gowan told the Board, although there were minor items to be worked out, he recommended accepting the plan for consideration.

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

**VOTE:** (7-0-0) The motion carried.

Mr. Zohdi spoke about the cul-de-sac, which could be raised to allow installation of a catch basin to provide northeasterly drainage. He will discuss further with the Town's engineer. He told the Board that the plan set had been submitted to the State and were still awaiting approval. Mr. Zohdi then spoke to the open space area. He stated they were willing to deed the entire open space to the Town at the request of the Board.

Mr. Doherty noted written waivers should be submitted to the Board for the file as well as noted on the plan.

Mr. McNamara read aloud an email letter dated July 12, 2016 received from the Town's Building Inspector Roland Soucy that outlined the results of his cursory inspection of the existing structure. Mr. Gowan told the Board the outside of the building gives the appearance of having more of a historical significance than the inside. He personally would recommend against the Board requiring it be preserved.

Mr. McNamara read aloud the waiver requests. The Board took the following action:

**MOTION:** (Culbert/Sherman) To accept for consideration, the waiver to Subdivision Regulation Appendix I, BB.17 – to allow a centerline radius of 150ft.

**VOTE:** (7-0-0) The motion carried.  
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**MOTION:** (Montbleau/Culbert) To accept for consideration, the waiver to Subdivision Regulation Appendix I, BB.21 – to allow a 3.76% slope within 100ft. of an intersection.

**VOTE:** (7-0-0) The motion carried.

Mr. Sherman wanted to know if there was a requirement for a homeowner's association if the Town were to accept the open space. Mr. Gowan believed with any open space there had to be a homeowner's association.

Mr. McDevitt stated his recommendation to the Board of Selectmen would be not to accept the open space, primarily because it was somewhat fragmented. Mr. Sherman understood that the applicant would like to sell the existing house lot separately, but at the same time include it within the homeowner's association. He questioned if doing so would cause problems in the future. He wanted to know if it could be carved off and sold separately as its own one acre lot. First, Mr. Zohdi responded to the question about having a homeowner's association. He stated if the open space land was deeded to the Town a homeowner's association would not be needed. He said the reason they offered the land to the Town was to add to the conservation land. He would leave the decision to the Board whether or not they would like to accept the land. Based on the regulations, he noted 40% of the land was required to be open space. If they were to create a separate lot for the existing structure, Mr. Zohdi stated they would take footage from the house lots to remain in compliance with open space requirements.

Mr. Steve Keach of Keach Nordstrom (Board's engineering review firm) came forward to discuss his review letter regarding the proposal. He said during the last review (May 2<sup>nd</sup>), the Board approved the yield plan and the dispensation for one additional lot, which was conditional upon the final proposal to either dedicate the land to public open space or to construct a trail system with benefitted easements for the public. He said the Board or the applicant would need to choose one and perfect it. Mr. Keach pointed out at present the Town didn't have a 'canned' definition of 'active and substantial development or building'. He commented until such time it was brought into the Subdivision Regulations, it would be appropriate to define one and have a finding on the part of the Board to properly administer plans. He anticipated a waiver request with regard to the well radii requirements under Section 11.11.B. He noted the proposed radii on the site plan all worked with the Department of Environmental Services regulations and consistent with the Conservation Subdivision Ordinance and Regulations, his question was providing the same 15ft. from the exterior property lines as the interior lines. He didn't feel this was a flaw in the plan, he just wanted the Board to consider during review. Mr. Keach addressed the road centerline and the curbing, which he suggested bringing throughout the development as long as drainage could still work. To that end, it sets up a waiver request for slope within 100ft. of an intersection. He was not opposed to the waiver request for the slope. He told the Board he would also support the waiver request for the centerline of the road based on previous discussions and the Board's direction. Apart from the things discussed and other minor comments and possibly raising the cul-de-sac to install drainage structures, Mr. Keach thought the applicant had a good plan.

Mr. Doherty questioned if the perimeter drains would be able to drain past the road. Mr. Zohdi explained they would need to install a catch basin in the cul-de-sac and have a drainage from the houses to the basin. He believed with a four foot difference in elevation they would be able to achieve the drainage. Mr. Doherty wanted to know if a section of pipe (clean out invert) would also cross under the walking trail. Mr. Zohdi replied the culvert stopped at the edge of the road.

Mr. Sherman asked for clarification of how many driveways would access the proposed road. Mr. Zohdi said there were nine driveways.

#### **PUBLIC INPUT**

Mr. Val Boyer, 68 Mammoth Road believed he may have been included with the wrong list of abutters. He and his wife Deborah were concerned with the development being discussed but were notified of the later hearing (Case #PL2016-00011 McCarthy Development). Mr. McNamara asked if he had any questions regarding the proposal being discussed. Mr. Boyer questioned Mr. Gowan's assessment of the existing home. Mr. Gowan explained the existing home was reviewed at the Board's request to determine if it should be preserved as part of an approval. He said the outside appearance was nice, however, the inside was rough. The owner of the parcel may want to sell the home as-is and let a prospective buyer determine what investment they want to make. He noted it was the Building Inspector's opinion that the structure needed a tremendous amount of work. Mr. Boyer liked Mr. Sherman's idea of carving the parcel off to be sold

separately 'as-is'. Mr. Gowan agreed, but advised that the Board would have to give the engineer direction on the matter.

Mr. Boyer questioned what house style was being proposed. Mr. Zohdi replied he was designing the subdivision, he wasn't the builder. He believed the builder normally constructed four-bedroom homes. Through the discussion, Mr. Boyer heard the Town considered one acre as a legal lot. Mr. McNamara answered yes, except within a conservation subdivision, which dedicates 40% of a parcel to open space and allows for smaller house lots. Mr. McDevitt explained the Town approved smaller lots within conservation subdivisions as a trade-off to preserve land.

Mr. Doherty didn't see any way of the Board mandating that the existing structure remain. Mr. McNamara asked what the developer would like. Mr. Zohdi replied the developer would like to sell the house to someone who would like to upgrade it; leaving it as part of the development. He didn't object to changing the lot lines and making the existing house on its own lot, removing it from the development. Mr. Doherty pointed out if the existing house was excluded from the development, the remaining parcel wouldn't have the required 10 acres of land for a conservation subdivision. Mr. Montbleau agreed with Mr. Doherty. He called attention to the fact that the Board's engineer believed the proposal was a good plan as submitted. He wanted to move the plan forward and wanted to know the Board's next step. Mr. McNamara replied Mr. Zohdi and Mr. Keach needed to work on the remaining issues discussed, and the Board had to decide if the open space would be deeded to the Town or included in the development under a homeowner's association. Direction also had to be given regarding the existing house and the two waivers.

Mr. Gowan felt the Board had the authority to allow the existing house to have its own lot. He noted the Board would need to decide if the cul-de-sac would be paved. The proposed road needed to be named and the plan needed review by the Highway Safety Committee.

Mr. Doherty recalled the Conservation Commission Chairman telling the Board the commission had no interest in the parcel or open space. He felt they should heed the advice. Mr. Sherman felt the Board should have been advised regarding the disposition of the house prior to giving bonus density. Mr. McNamara didn't believe the house was in the calculus, just the acreage. Mr. Doherty recalled the Board discussed having the house lot remain in the development and not carve it out separately. Mr. Culbert was against making it a separate lot. Mr. Montbleau stated Mr. Doherty was correct. He also recalled the Board's discussion.

Mr. McNamara asked the Board to make a decision regarding open space. Mr. Gowan suggested obtaining the opinion of the Conservation Commission. After a brief discussion, members of the Board felt the open space should fall under a homeowner's association. Mr. McNamara asked the applicant to seek a formal opinion from the Conservation Commission. Mr. Zohdi asked how to proceed with the cul-de-sac size and if it should be paved. The Board asked for Mr. Keach's opinion. Mr. Keach believed the open space would most likely be under a homeowner association and the cul-de-sac would remain green and deter runoff.

Mr. Zohdi told the Board he would request to meet with the Conservation Commission. He believed he could have the plans ready for Mr. Keach's review within a week.

Mr. Doherty understood through discussion the cul-de-sac would be vegetated and create open space. He pointed out a lot to Mr. Zohdi and asked that additional space be provided for separation. Mr. Zohdi said he would adjust the area.

The plan was date specified to Thursday, September 8, 2016.

**PB Case #PL2016-00009**

**Map 3 Lot 5-15-1**

**BOWLAG, Vincent - 49 Tallant Road - Proposed Site Plan Review to encroach into drain easement**

Mr. McNamara informed the Case had been withdrawn. Mr. Gowan stated they had received written notification of the withdrawal.

**PB Case #PL2016-00010**

**Map 22 Lot 8-31**

**BEAUREGARD, Timothy - 91 Main Street - Proposed Site Plan Review for Construction Equipment Sales (Variance granted June 13, 2016 – Zoning Board Case #ZO2016-00012)**

Mr. Olsen and Mr. Culbert were appointed to vote.

Mr. Doherty 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.

Timothy Beauregard and Chad Beauregard came forward to discuss the proposed site plan. Mr. T. Beauregard explained they purchased the property approximately six months ago and would like to run a used construction equipment business. They would sell a variety of equipment pertaining to construction, new trailers and new generators. He referenced a colored coded map of the parcel showing how the property would be set up for customer display, tenant/customer parking and screening from abutters.

Mr. McNamara asked for a description of the equipment. Mr. C. Beauregard replied they would target late model (2000 and newer) used equipment. They would also sell new trailers and stand-by generators.

Mr. Culbert was concerned about leaking oil and hydraulic fluid. Mr. T. Beauregard stated they would use an OSHA approved spill kit which includes barrels and containment kit in the event something were to occur. They would also follow the advice of the proper Town authorities. Mr. Culbert reiterated his concern about equipment dripping and contaminating the soil. Mr. T. Beauregard replied they would stop and leaks prior to contamination occurring. Mr. C. Beauregard noted they would target late model equipment. Mr. Culbert believed the soil would be contaminated if drip pans or something similar weren't placed under the equipment. Mr. T. Beauregard replied they would monitor their equipment. He described the type of equipment they would sell, which he didn't feel would experience any additional leakage than a residential home.

Mr. Doherty was concerned about the equipment being cleaned (using a pressure washer), which would release grease etc. onto the ground and cause issues. Mr. C. Beauregard told the Board they had no plan to bring a pressure washer onto the site. They wouldn't be degreasing equipment on site. Mr. T. Beauregard noted they had been running the business for five years and never pressure washed the equipment. They've used soap and water, but didn't degrease their inventory and would not pressure wash on site. He commented they dealt with trailers, boom lifts, fork lifts etc., not greasy equipment. Mr. Croteau questioned the size of the equipment they intended to sell. Mr. C. Beauregard replied boom lifts were a big part of their business. Mr. Croteau noted that type of equipment was no more intrusive than a one-ton dump truck in relation to oil capacity etc.

Mr. McNamara understood the applicants had an existing business and questioned where equipment was stored. Mr. T. Beauregard replied their equipment was generally stored at other sites and some is in a building they own in Dracut. Mr. Gowan confirmed with the applicants: 1) that they didn't plan on constructing any buildings on site, and 2) there would be no additional impervious surface (other than reprocessed gravel). Based on the fact that the submission is for a minor site plan, he recommended that the Board accept it for consideration.

**MOTION:** (Croteau/Montbleau) To accept the plan for consideration.

**VOTE:** (7-0-0) The motion carried.

Mr. McNamara suggested the Board may want to conduct a site walk. Mr. C. Beauregard provided the Board with photographs of the site.

Mr. Sherman wanted to know if the applicant would perform service and repair at the location. Mr. C. Beauregard answered no. He discussed their variance hearing and how a member of the Zoning Board spoke in favor of the approval based on the clean-up work they had done to prepare the site for their business. He noted the lot was very screened to abutters. Being fourth generation Pelham residents, their goal was to run a business they were proud of. Mr. McNamara asked how large the parcel was. Mr. T. Beauregard replied it was 1.05 acres.

Mr. Montbleau questioned if the existing structure would be used as an office. Mr. C. Beauregard replied the lower portion would be an office, the upper portion was residential and would be a rental. He explained 95% of their items were sold on-line. They didn't need a lot of store front area. They were looking to consolidate their equipment onto one site. Mr. Molloy asked if trucks would be accessing the site to pick up equipment. Mr. C. Beauregard replied it would only be the two of them, so there wouldn't constantly be people on site. Mr. Molloy wanted to know the hours of operation. Mr. T. Beauregard replied the business was secondary to their main employment; they wouldn't be on site the entire time. The hours would be Monday thru Friday 7:30am-9pm, Saturday 9am-6:30pm and Sunday 9am-5pm.

Mr. Doherty didn't have an objection to the proposal, as long as it didn't turn into a repair shop.

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

Mr. McDevitt stated that the Board should understand how many parking spaces were required per Regulation and where they would be located. He also wanted to know what type of lighting would be associated with the business. He felt the Board should conduct a site walk.

After a brief discussion the Board scheduled a site walk for July 23, 2016 beginning at 9am.

The plan was date specified to August 15, 2016.

### **ADMINISTRATIVE**

#### **Map 39 Lots 1-61 & 1-62**

#### **SOUTHERN END REALTY - Hawk Ridge Road – Discussion of Waiver for the new High School Impact Fee**

Mr. Doherty stepped down.

Mr. Molloy, Mr. Olsen and Mr. Culbert were appointed to vote.

Mr. McNamara believed the request was in front of the Board on the same basis that previous matters had been. Mr. Gowan answered yes. He commented that Hawk Ridge Road was an 8-lot subdivision abutting south of Pelham Veteran's Memorial Park. He noted the road had been built and was to binder coat and the drainage was in prior to the impact fee being approved and enforced. Consistent with other matters that had come in front of the Board, the applicant was seeking to be exempt from the High School Impact Fee.

**MOTION:** (Culbert/Croteau) To approve a waiver to Southern End Realty for the High School Impact Fee.

**VOTE:** (7-0-0) The motion carried.



Mr. Doherty returned to the Board.

**NEW BUSINESS CONTINUED**

**PB Case #PL2016-00011**

**Map 39 Lots 1-54-2 and 1-54-3**

**RJ McCARTHY DEVELOPMENT, LLC - Sherburne Road - Public Discussion of a proposed 21 Lot Conservation Subdivision with two Open Space Lots for Conceptual Review**

Mr. Doherty read the list of abutters aloud. Mr. Kris Nietubyc of 55 Sherburne Road (Lot 1-54) came forward and told the Board he and his wife had not received notification of the hearing. He also informed that his neighbor Bernard and Kristy Milock of 57 Sherburne Road (Lot 1-54-1) who were unable to attend the meeting and were also not notified.

Mr. Culbert asked if Mr. & Mrs. Milock would want the hearing postponed. Mr. Nietubyc replied Mr. Milock indicated to him that he had not received notification and was interested in voicing his opinion on the proposal.

On behalf of the applicant, Mr. Peter Zohdi of Herbert Associates came forward to conduct a public discussion on a 21-lot proposal. He noted the Board wouldn't be taking action and believed he wasn't required to notify abutters. However, Mr. Doherty confirmed that both Nietubyc (55 Sherburne Road) and Milock (57 Sherburne Road) were included on the list of abutters. He saw a return receipt for 55 Sherburne, but not for 57 Sherburne. Ms. Elizabeth Nietubyc came forward and told the Board she signed for the document, as it came to her door. She knew for sure that the Milocks had not received notification.

Attorney John Cronin of Cronin, Bisson & Zalinsky came forward to speak regarding abutter notification. He cited RSA 676:4, I,d – indicates a conceptual hearing does not require notice to the public, but must be conducted at a regularly scheduled meeting of the planning board. Mr. McNamara stated the Board would proceed with conceptual discussion. He informed abutters would be notified when the matter came back in front of the Board.

Mr. Zohdi displayed a plan and highlighted five lots that would be combined and re-subdivided (from a previous elderly development plan). He noted if they went forward with a conventional subdivision they could achieve eighteen lots. However, they would like to do a conservation subdivision and set aside open space areas. He noted Steve Pernaw was completing a traffic study and would make a presentation at a subsequent meeting. Based on the previous plan, Mr. Zohdi understood the concerns with the access intersection (at Sherburne Road) and the water. He noted there were two existing wells on the property and understood from Bruce Lewis (who had done the wells approximately 10 years ago for the previous owner DHB) capable of producing over 100 gallons per minute. Although Pennichuck Water has been contacted to see if they were interested in the wells, the proposed design shows individual wells and septic systems.

Mr. McNamara understood Mr. Zohdi was seeking the Board's opinion for what type of development (conventional or conservation) to bring forward. Within the conservation plan he asked how many acres would be placed into conservation. Mr. Zohdi replied approximately thirty acres would be placed into conservation, and approximately 12-13 acres would be developed. He noted the entrance to the development would be in the same location for either design.

Mr. Doherty questioned if there would be a common driveway off Sherburne Road for two of the lots. Mr. Zohdi answered no; the conservation plan had no driveways off Sherburne Road. He noted there was a previous approval for two houses with a common driveway off Sherburne Road (currently a lot of record). If a conservation development was built, that lot would become open space as lots were merged.

Mr. McDevitt questioned if it was contemplated that Pennichuck would draw water from the wells would the conservation land be set aside for commercial purpose. Mr. McNamara believed Pennichuck was asked if they would be interested in a community well, but for the current plan the applicant was proposing individual wells and septic systems.

Mr. Gowan recalled the previous development (LRL development) was required to include a gated access road into Pelham Veterans Memorial Park as a means for emergency vehicle access. He said the Board may want to consider such. Mr. McDevitt would rely on the Fire Chief's opinion, but felt it might be a good idea for emergency access.

Mr. Doherty spoke about his preference for a conservation subdivision, although he was not sure at this point about the density. Mr. McNamara agreed.

Mr. McNamara opened the hearing to public input.

Mr. Kris Nietubyc of 55 Sherburne Road came forward and inquired what the next steps would be in the process. Mr. McNamara explained the review process noting that abutters would be notified. Mr. Gowan invited Mr. Nietubyc to contact the Planning Office with any questions. Mr. Montbleau asked Mr. Nietubyc if he had any concerns, or knew of concerns his neighbor had that the Board should contemplate going forward. Mr. Nietubyc replied the current setup of the land was rural and they were learning now they may have neighbors behind them. Mr. McNamara said one of the Board's tasks was to buffer neighbors as best as possible.

Ms. Elizabeth Nietubyc of 55 Sherburne Road asked the Board if the plans were available to the public. Mr. Montbleau gave her his copy of the plan. Mr. Zohdi offered the colored plans displayed during the meeting.

It was the consensus of the Board to proceed with a conservation subdivision. Mr. McDevitt voiced concern for adding traffic to Sherburne Road.

#### **DATE SPECIFIED PLAN(S)**

##### **August 15, 2016**

PB Case #PL2016-00010 - Map 22 Lot 8-31 - BEAUREGARD, Timothy - 91 Main Street

##### **September 8, 2016**

PB Case #PL2016-00008 - Map 39 Lot 1-51-1 - CEDAR CREST DEV., LLC - Sherburne Road & Mammoth Road

#### **MINUTES REVIEW**

##### **May 2, 2016**

**MOTION:** (Montbleau/Olsen) To approve the meeting minutes of May 2, 2016 as revised.

**VOTE:** (7-0-0) The motion carried.

##### **June 20, 2016**

**MOTION:** (Doherty/Olsen) To approve the meeting minutes of June 6, 2016 as written.

**VOTE:** (6-0-1) The motion carried. Mr. Croteau abstained

**ADJOURNMENT**

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

**VOTE:** (7-0-0) The motion carried.

The meeting was adjourned at approximately 10:02pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary