

## APPROVED

**TOWN OF PELHAM  
PLANNING BOARD MEETING – PUBLIC HEARING  
May 22, 2017**

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, Jim Bergeron, Selectmen Alternate Representative William McDevitt, Alternate Mike Sherman, Alternate Richard Olsen, Planning Director Jeff Gowan

ABSENT: Joseph Passamonte, Alternate Paddy Culbert

Mr. McNamara appointed Mr. Sherman to vote in Mr. Passamonte's absence. He noted that the Select Board had appointed Mr. McDevitt as an alternate ex-officio member at times when Selectman Hal Lynde could not be present.

Mr. McNamara then opened the Public Hearing. He explained that the Zoning amendment was exactly the same amendment regarding over fifty-five/over sixty-two Ordinance that was approved by the Board earlier in the year and placed on the March (2017) ballot and subsequently approved by the voters.

**PUBLIC HEARING ON PROPOSED ZONING AMENDMENTS**

Notice is hereby given in accordance with RSA 675:3-7, the Pelham Planning Board will hold a public hearing to discuss a zoning amendment which may be proposed at a Special Town Meeting, the date of which will be set by the Pelham Board of Selectmen. This Planning Board public hearing shall take place on May 22, 2017 at 7:00 pm at the Pelham Municipal Center, 6 Village Green, Pelham, New Hampshire. The proposed amendment is described as follows:

1. **DRAFT changes to the Pelham Zoning Ordinance, Article IX Senior and Elderly Housing;**
  - a. **Eliminates provisions allowing 55+ housing but preserves 62+ Elderly housing, Assisted Living and Congregate Care developments;**
  - b. **increases required land area from 10,000 to 15,000 sq. ft. of usable land per unit;**
  - c. **increases buffers to abutting properties from 50 to 100 feet with discretion given to the Planning Board to require additional buffering;**
  - d. **requires all units to be fully ADA compliant;**
  - e. **requires a club house for stand-alone and duplex Elderly Housing developments;**
  - f. **the areas affected by this proposed zoning amendment are the (R) Residential district, (RU) Rural district, (B 1-4) Business districts 1-4, (B-5) Business district 5, and possibly the (MUZD) Mixed-Use Zoning district.**

*The full text of this proposed amendment is available from the Planning Department at (the Pelham Municipal Center) Town Hall, 6 Village Green during normal business hours and from the Town of Pelham website at [www.pelhamweb.com](http://www.pelhamweb.com) on the Planning Department page. Copies of the Ordinance were available to the public during the public hearing.*

Mr. McNamara gavelled the Public Hearing open and asked if anyone would like to speak on the matter.

Ms. Lorraine Dube, 8 Birch Lane came forward. She was very much in favor of keeping the fifty-five and older and commented that Pelham had never been an exclusionary Town; they had always welcomed everyone. She thought the 55+ would benefit the older people in Town, as well as the parents of children in Town. She viewed the Ordinance as a way for the Town to benefit by having more taxes in the system, which she felt would be beneficial because even if the number of children decreases, it would still provide a tax base to help them. Ms. Dube has been in Town since she was a child and spoke about the current data that showed school numbers decreasing. She believed Pelham would have more tax benefit because of the income the 55+ would bring and the school and older people would benefit as well. Ms. Dube didn't see any detriment to having 55+ and felt it would be a win-win for the whole population.

Ms. Cynthia Taylor with Housing Initiatives of New England Corporation, who owned Pelham Terrace at 25 Windham Road came forward to speak. She told the Board she had thirty years of experience dealing with senior housing. She stated if the Town allowed the 55+ in addition to the 62+ they would help the older adults and make a better community as people age in place. She noted communities were much more successful when there were people on the younger side when dealing with 75-80 year old people. Ms. Taylor spoke about the density calculation and felt because it was so low it would be difficult to attract people to come to the community and build the proposed housing. She said in this day and age people were trying to develop more dense housing for seniors so there was a sense of community and the proposed Zoning had very low density and reiterated it would be hard to attract somebody to do housing in the community. She commented if the Town was trying to attract assisted living, in order to provide services a specific density was needed to allow having services within a facility. She said the smallest assisted living she was able to make work was forty units; and even that was a struggle. Ms. Taylor asked the Board to think about what the community might need and suggested the Town may need another zone for assisted living versus just independent living. She felt the density at Pelham Terrace was nice and had offered community an alternative to single-family housing. She ended by encouraging the Board to think about what the community needed and reiterated a lot of people were aging in place who needed to move to a facility that had continuing care or some level of help services.

Mr. Doherty asked Ms. Taylor to reintroduce herself. Ms. Taylor replied she was with Housing Initiatives of New England Corporation who owned Pelham Terrace on Windham Road near Southern New Hampshire Medical.

Attorney John Bisson introduced himself to the Board. He stated he was the attorney that represented a number of Pelham landowners in the action against the Town of Pelham regarding the Zoning Ordinance as it appeared on the March Warrant. He indicated they had serious concerns about the substance of the amendment as it proposed and the motivation to hurry and address the issue by special meeting. They had seen a memorandum from the office of the Selectmen to the Planning Board dated April 26, 2017 and hoped it was part of the public record. He said it seemed that one of the reasons for hurrying up through the special meeting process was to prevent public cynicism regarding planning boards and the concern that in this case cynicism may reach new heights all through no fault of the Board. Attorney Bisson told the Board they wondered if any analysis had gone into the cost associated with the special meeting process and how it would impact the members of the community. They expect a special meeting is not free and there should be a process to analyze that issue.

Attorney Bisson pointed out that Pelham's largest demographic was age 35 to 54; based on the most recent statistics he had, the population base was approximately 4,348 people aged 35 to 54 and those were the people coming into the market for 55+ housing. He questioned the desire to limit a product that would be available to that group of people. He said they had not heard anything that suggested a motivation or a public purpose being served and were concerned whenever there was a zoning amendment, as it needed to be consistent with the Master Plan.

Attorney Bisson noted Pelham's Master Plan specifically stated that one of its goals was to "*develop regulatory measures that will facilitate the provision of affordable housing, such as: 1) review and consider revising the housing for older person's ordinance to further encourage the provision of such housing.*" He was not sure how

eliminating 55+ housing further encouraged such housing. He stated in addition to being inconsistent with the Master Plan, under State Law it was illegal to discriminate on the basis of age; the Fair Housing Act (in New Hampshire) allowed limited exception. He noted the Statute that provided for 62+ housing, also provided for 55+ housing. He thought the message being sent in Pelham was that it's okay to be 62, but it's not okay to be over 55, which sounded to him as age discrimination. He couldn't think of any other justification, except the age difference, for allowing 62+ housing and not allowing 55+ housing. He hadn't heard any articulation, or seen anything (in the public information available) any justification that explains how 55+ housing is somehow more of a burden to the Town than 62+ housing. By allowing 62+ and not allowing 55+, it seemed to him the only reason for doing so was the age discrimination issue, which depending upon his client's perspective, he anticipated would result (perhaps) in a challenge on the discrimination issue, unless there could be a legitimate basis for such. Attorney Bisson heard at an earlier meeting and reviewed in minutes that one of the issues that appeared to motivate this was the excess capacity in the schools, and that more school children were needed. He didn't understand linking the ordinance to that issue, and believed the public would appreciate some explanation of how the amendment would further that interest of the Town. He stated the Planning Board was not free to propose an amendment without some link to the Master Plan; and the Town's Master Plans states that housing for older persons is encouraged. He hoped in the discussions that follow, the Board will articulate how the amendment would further encourage such.

Attorney Bisson asked that the public record include the April 26, 2017 memorandum from the office of the Selectmen directed to the Planning Board members. (*see Attached memorandum*).

Mr. Doherty asked Attorney Bisson to provide the Board with the information (referred to) from the Master Plan. Attorney Bisson replied he had cited from Master Plan update II-10, the paragraph that described the need to further encourage the provision of housing for older persons.

Mr. Blaise Coco, owner Coco Realty Associates came forward and provided the Board with a copy of a study he had recently done comparing population by age group, income, poverty level, unemployment rate and housing units from data contained in the 2015 New Hampshire Census for eight towns (Pelham, Derry, Hudson, Londonderry, Manchester, Nashua, Windham and Salem). He noted he had been in the realty business for approximately 31 years. He stated he was asked to do a study to compare Pelham to seven other towns to see where it fit. He said the goal was to find out if there was room for additional elderly/senior housing. The age brackets were categorized and they found that approximately 78% of Pelham's population (of 13,113) were less than fifty-four years old. Age 55+ was approximately 26%, which was consistent with the other towns. He said it was interesting to see that there was more room to bring in seniors (55+). He noted if the amendment passed, someone age 54, who had lived in Town their whole life and was looking for a nice place to stay, would need to find another town because they would be sent away. Mr. Coco spoke about economic welfare for the community and felt it was the Board's and resident's responsibility to create wealth in Pelham. He said it boded well in a down market and commented that 'short sales' were very prevalent with people paying cash and borrowing very little, which meant for strong economic growth. He noted that foreclosure 'resets' would be happening within the next year because the programs that were set would begin to come up for review. He noted equity was very strong and very real for people 55+.

Mr. Coco spoke about the history of his company, which originated in Methuen, and explained they saw what happens in a low economic/low income level situations. In the data he found it interesting that the income per capita rate for Pelham was \$38,000 with a median household at \$90,000, versus Windham at \$50,000 per capita and \$109,000 median household. He then reviewed the poverty levels, noting Pelham's percent beat Derry, Manchester and Nashua, which were heavily multi-family towns. Mr. Coco pointed out that Pelham was the second highest for unemployment, with Salem being the highest, and added that people in their 50's weren't retiring and were still working. He stated those people brought a slew of wealth, experience and education to the community and questioned why those folks would be limited. He understood people aged 62+ were retiring and interested in traveling back and forth to Florida for part of the year. He said Pelham wanted (people in their 50's) to be vibrant in the Town, which would bring a strong position in a down market. He believed the Town

had the responsibility to plan for a down market and realtors tried to help. Mr. Coco questioned why the Board would eliminate seven years out of the Town and didn't understand the difference of people aged 55 to 62. He said if they decided to stay with age 62, and the developers and builders built for that age, it would make Pelham an elderly town, which he didn't think Pelham wanted. He didn't think they really wanted to go that way, and cautioned that the Board should be careful what they ask for, as they might get it. He said if the developers found a way to make a profit they would build for those people age 62 and over. Mr. Coco questioned what could be done with people aged 54 who wanted to stay in Town and have an ease of life. He said they couldn't stay in their own town because for some reason seven years was being cut out. He didn't understand why, he hadn't heard any argument that made sense from a marketability standpoint. He would hate to see the Town have difficulties in the next down market. He referenced information from a study done by CNS News that found more Americans aged 18-34 now live with mom and dad, which is exactly the age bracket Pelham wanted to move into Town. He said the bad news was that age wasn't buying today because they were staying home. The study also indicated that almost 9 to 10 young people who were living in their parents' home a year ago are still living there today, making it the most stable living arrangement. He ended by saying when a 54 year old left a single-family home to move into a cottage-type community in Pelham, that single-family home would be left for a younger person/family to purchase. This creates housing and keeps seniors in Town who helped build the Town.

In the statistics provided, Mr. Doherty didn't see a comparison of 62+ units and questioned if they were mostly rentals or individual salable units. He wanted to know what would be more valuable to a town. Mr. Coco replied from a 'creating wealth' standpoint, he believed owner-occupant / single-family would be for Pelham. He reviewed the statistics for housing units that showed the total units compared to the single units. He commented that there wasn't a rental market in Pelham. Mr. Doherty wanted to know Mr. Coco's opinion regarding developing land with rentals (one large building) compared to individual units for sale. He asked if the tax base would be larger with individual units, or if it would be an asset to the Town to have one big building rented out. Mr. Coco didn't know specifically, but said he imagined single units would bring more wealth and equity to the Town. He said if he was a planner he would suggest doing single-family units.

Mr. Dadak questioned if there was a reason there were figures for 55+ units in Hudson and Windham, but not for the other towns. Mr. Coco said they put the information together late at night and made telephone calls to obtain the figures; Hudson and Windham were the only two who responded. He inquired how many 55+ units were currently in Pelham. Mr. Gowan replied there were 275 either built, approved or under construction, which included Pelham Terrace and Kirlin Place (both rentals). Mr. Coco asked how many units were rentals. Mr. Gowan believed there were less than 100. He pointed out that the statistics didn't address 'affordability'. He understood that the 55+ being built were not within the range of most Pelham residents, even if they had a house to sell. He felt an important point in all the discussion was the 'importing' rather than those moving from Pelham into the units, which he believed may be the exception. Mr. Coco knew that some of the projects that were vibrant and being sold had Pelham residents moving into them. He said if the Town had 175-180 55+ (owner-occupant units) it was way under the number in Hudson (287) and Windham (243). Based on the percent of the population over 55, Pelham had plenty of room to grow to meet, or beat the #1 per State capita Town (Windham). He noted 2% (to equal Windham) would equate to an additional 300 units.

Mr. Doherty inquired if all the towns listed presently had 55+ housing. Mr. Coco knew that Londonderry, Hudson, Windham and Salem had them. He assumed the other did, but was not sure. Mr. Doherty asked if he was aware of any other towns that were looking to do away with 55+ housing. Mr. Coco was not aware of any. He spoke of a project in Sandown that was age restrictive, which went 'belly up'. He stated it was all about economics and felt the Town should prepare itself against the down side, which he felt would come in the next 3-4 years.

Mr. Steve Rancourt, 7 McGrath Road came forward and told the Board he resided in Town for approximately twenty years. He asked for an explanation regarding notification for a special meeting and the Town's responsibility regarding such. Mr. Gowan noted the Board was conducting a public hearing or zoning, not a

special meeting. He stated that the requirement for notice was exceeded; postings were done in the usual places, such as Town Hall, Library, on-line (Planning Board and Planning Department websites), advertised in the Lowell Sun and NH Union Leader. He explained there was a 2014 Statute that was previously missed (for March, 2017 Town Meeting), which was not missed during this public hearing process. The Statute requires notice via first class mail to the residents of any district that could be impacted by this Ordinance of a 100 properties or fewer. Mr. Gowan stated he and the Zoning Administrator agreed that 55+ were not allowed (per se) in the Mixed Use District; however, they decided to notice them out of an abundance of caution. Mr. Rancourt asked if notice was sent out to all the residents. Mr. Gowan replied notice was sent to residents of districts who are impacted by the potential change with 100 residents or fewer. He reiterated that the Statute did not require notice to every property owner, which would be over 5,000. Mr. Rancourt questioned if he should have been notified as he lived in a residential section off Sherburne Road. Mr. Gowan replied legally, there was no requirement for such notification.

Mr. Rancourt discussed his concerns with the Board. He explained he was 53 years old and getting close to the age being discussed. He said he currently had an accessory dwelling for his parents, which with maintenance on the building and property was beginning to be a lot. He was looking at some point for a transition. Mr. Rancourt believed the requirement to have everything ADA compliant seemed a bit excessive and questioned if a cost analysis (per unit) had been done to understand how it would affect an entire project since some might not need or want it. Mr. McNamara replied legally over 62 was required by the Federal government to be ADA compliant; the Board didn't have a choice in the matter. Mr. Rancourt spoke of the additional setbacks, requirements and restrictions that were included in the language would cut back the amount of units a development could have. He believed the generation ('Baby Boomers') that would move into the developments would have positive impacts on the community because: 1) they would belong to an association that would maintain their own roadways, 2) would pay taxes based on the normal rate of tax, and 3) usually wouldn't be sending someone through the schools, although the taxes they paid would help the schools. He commented keeping the 55+ would benefit the financial income brought to the Town because of what people were still able to do at that age.

Mr. Rancourt questioned if there was a certain reason the Town wanted to change the requirement. Mr. McNamara replied the Board had a prolonged discussion earlier in the year, when the Zoning Subcommittee voted the Ordinance out. He stated years ago Pelham's Master Plan encouraged over 55, and over 62 development because the Town had none; therefore the Planning Board made a concerted effort to develop the Ordinance and did so with the intent of increasing the housing stock. He said since that time, what's happened is that the Town has 275 units of 55+ and no one had built a 62+ development. He thought it may be strictly for economic purposes, which he felt was fine; developers found they could built more units per acre. Mr. McNamara stated there were multiple problems with the Ordinance and the Board heard testimony from David Hennessey (who runs a real estate office and is the Zoning Board Chair) who wanted the Board to get rid of everything. He said for several reasons Mr. Hennessey was vehement that they should get rid of 55+ and 62+. He noted his main concern was in a number of years the Town would have a whole selection of housing that had in essence been subsidized by the Town that would not be sustainable; it would be below cost and not be able to be sold. Mr. McNamara understood Mr. Coco had a different opinion. Mr. Gowan added that Mr. Hennessey's concern was when the Baby Boomer bubble moved through the housing market there would possibly be a point (if too much was built) that they didn't have buyers. He commented there was also a concern regarding density and the units were filling up the remaining available land. If the number of units doubled or tripled there would be a question of how much land would remain for other types of units and possibly workforce housing. He noted not every senior 55+ had a larger home to sell and use cash to buy another unit and there were a lot of residents in Pelham in that age bracket that would be hard pressed to do so. He believed providing options for them was the longer vision that had not yet been ensconced in Zoning and likely worked on by the Board this year.

Mr. Rancourt felt there might be other options, or a better way to approach the situation, such as limiting building permits. He questioned if someone age 62 could move into a 55+ unit. Mr. McNamara answered no. Mr. Rancourt inquired how the Town would gain by moving the age. Mr. McNamara explained there were other

categories, and pointed out that Pelham didn't have (or had very few) extended care facilities. He said as people got older they usually needed progressive help. He noted that's what was addressed (assisted living and concentrated care facilities) in the remaining Ordinance for 62+.

Mr. Doherty discussed the proposed amendment 1.B - increases required land area from 10,000 to 15,000 sq. ft. of usable land per unit (found in Section 307-52, B). He listed the following: 1) because it was not affordable now, the Ordinance would make it so less units per lot could be built, which would make it more affordable, 2) by putting a bigger buffer around the edge, it would make it so not as many could be build, so maybe that would make it more affordable, and 3) eliminate the 55+ completely, seeing that they're unaffordable now, so what's left in Town should be more affordable because no more would be built, it would be supply/demand and the price would drop. Mr. Doherty stated he was being sarcastic, but felt his statements reflected what the Board was proposing. Mr. Rancourt agreed that the proposal would make them (developments) more expensive, not more marketable. He noted that the population 'bubble' would move, so the proposal wouldn't solve a problem, it would just move the line. He said he did a lot of work in assisted livings and housing for the elderly. He commented that the facilities weren't always as nice as people think, and they're a lot different than the communities. He stated that the age of the children staying with people affected how long they would stay. He felt the Town should keep the Ordinance because it wouldn't have a bad impact on the Town.

Mr. Rich Lannan, 11 McGrath Road told the Board he was a developer, although he had no projects or work in Pelham, he had been involved with 55+ communities in Massachusetts. He commented if those projects were changed to 62+ he would have a huge problem filling and selling the units due to the laws and restrictions. He said seven years didn't sound like a lot, but it was huge. He didn't understand why 55+ would be eliminated; real estate is supply and demand and there would be a saturation point. Mr. Lannan said because of the compliance with ADA and other things the 62+ developments were more expensive to build, which would be counter-productive to making them more affordable. He noted the market for such was also much smaller. Rather than changing the Ordinance, Mr. Lannan felt the Town would be better off to have specific area (with the right density, zoning etc.) to have assisted care living. He said with the right area of Town and the right density, a developer would be attracted to build the right type of housing that provided extra care. Speaking as a taxpayer he felt the Town needed the higher end single-family developments and believed the 55+ developments was a benefit that didn't cost the Town because they maintained their own roads and had no children in the school. He felt 62+ would be overly restrictive and the Town wouldn't see them being built because the demand in the market wouldn't be there. Mr. Lannan would like to see the Board go in a different direction and review zoning and make it more attractive for assisted care living.

Mr. Coco pointed out with Pelham having approximately 175 units it was down by about 100 units from the other two towns (Hudson and Windham) listed on his statistic breakdown. From an economic standpoint, he stated if the number of units was reduced within a 10 acre parcel, supply and demand suggests prices would need to rise in order to offset the cost of the land. He didn't believe there would be a shortage in the age category given there were 10,000 Baby Boomers maturing every day in the country. He said when there was, possibly in thirty years the Board could make a decision to open the 55+ or 62+ to the entire market. Mr. Coco stated if single-family homes were built with a goal to hit the first time homebuyers, he questioned if the Board thought a builder would keep their prices down because of single-family homes. In his opinion, the builder would ride the market because they were in it for profit, and the prices would soar.

Mr. McNamara closed the public input section and brought the discussion back to the Board for discussion.

Mr. Doherty stated he was being sarcastic when he spoke earlier and wanted to restate his points and be serious. In taking Mr. Gowan's comment that the units (55+/senior housing) presently for sale in Pelham were not affordable to the residents of Town so the proposal was to stop building them. He said there were comments saying if the units continued to be built it would drive the cost down because there would be too many of them. He pointed out driving the cost down was what the Board wanted to do. He felt they were going completely backwards from what they should be doing. He reiterated that the cost would go down by building too many

units; supply and demand. He stated if the Board took away the ability to build more units it would only drive the cost up, and defeat the 'affordable' argument. Mr. Doherty said affordability was the only logical reason stated for eliminating 55+, which he felt was wrong and wouldn't drive the cost of 55+ housing down. With 62+ if they made it so a builder had to build 1/3 less units on a property (by the square footage of usable land per unit) and then the increase the buffer, the remaining land would become so expensive to build 62+ it wouldn't make sense. Mr. Doherty stated he had run the numbers over and over and reiterated that the proposed ordinance didn't make sense either economically or mathematically. He said it wasn't something they needed for the Town.

Mr. Dadak heard Mr. Doherty say if builders could build more they would charge less. He didn't believe builders based their charges on what they could build; they base it on how much they could sell for. Mr. Doherty believed testimony was if the Town built too many, and they ended up with so many they couldn't be sold, the cost would be driven down. Mr. Dadak believed it wasn't the volume, it was that the market may change. Mr. Gowan commented the testimony (from Dave Hennessey during the initial public hearing) was there should be no age restricted housing.

Mr. McDevitt stated he was way over age 62. To address Attorney Bisson's point regarding 'cynicism' (verbiage contained in Selectmen's letter of April 26, 2017), he said people in towns were naturally cynical about planning boards. He spoke about a meeting he attended last year regarding the significant lack of water off Sherburne Road in some of the developments. He said there was a gentleman who was red faced with anger at the Planning Board and Selectmen, that they were allowing a development at the top of Spaulding Hill Road on less than one acre of land. The gentleman couldn't believe that the Planning Board would fly in the face of what the voters voted for. The gentleman didn't know it was conservation subdivision and there were a bunch of them in Town. Mr. McDevitt pointed out that 71% of the people (voting) supported what the Planning Board proposed last March. He informed that he ran into people who had no idea that it (the Warrant Article) was inoperable because they failed to make a notification of people. He said what was behind the comment about 'cynicism' was those folks, 71% of the people (that the Board works for), took an action they believed the Planning Board was going to carry out. Had the decision not been made to seek a Special Meeting, those people were about to discover that their wishes were not going to be carried out because of an administrative error. In Mr. McDevitt's opinion, to maintain any credibility for the Planning Board and Board of Selectmen, they had to get it fixed quickly. He stated he didn't work for the developers, he worked for 10,000 voters (some are developers). He reiterated 71% of the folks who voted wanted the Board to take action, therefore they were moving quickly. He noted the Selectmen voted in support with a 5-0 vote. Mr. McDevitt stated he previously did not suggest that the Town needed more school children. He said a question had come up as to whether the tax payers were better off with single-family homes or the 55+ developments. He said the point he was making during the previous meeting was in looking at the statistics put out by the schools, was they had plenty of capacity remaining. Building new schools or adding on to existing schools was not in the foreseeable future. He understood that the people moving into the newer homes had an average of 1.5-2 children.

Mr. McDevitt commented regarding affordability. He said the Master Plan indicates 'affordable housing'. He wanted it noted for the record that there were a number of seniors seated in the audience who supported the article, but preferred not to be on camera. He said voters were concerned about affordability. He resides in neighborhoods, such as Jericho Road, Therriault Road, Appaloosa Avenue, Hobbs Road, Mt. Vernon Drive, Vassar Drive, Thomas Avenue, Nancy Drive, Wellesley Drive, moved into Town years ago and who were perhaps ready to move into a 55+ development. He stated those houses were worth approximately \$200,000-\$275,000 (with some exceptions). Those residents were considering whether or not to approve the article and would be lucky if their house was worth \$300,000. Mr. McDevitt commented that the costs for a house in Long Pond Woods was between \$318,500 - \$343,500. He said a lot of the people that lived on the streets he mentioned would have to take \$100,000 mortgage at age 55 or 62, which he didn't feel was affordable. He said it may be affordable for someone in Massachusetts who just sold a \$400,000 house and moves into Town. He knew some of the people who lived in the developments and noted they were nice places. He said the Villages ranged from \$289,900-\$359,900. He questioned how people (living on the streets he mentioned) would afford one the homes

if they had to take a \$100,000 mortgage and their spouse died and they were living on Social Security. He stated the houses may be affordable, but not by the folks who lived in Town.

In response and with respect to the realtor who spoke, Mr. McDevitt commented that Pelham wasn't a market, they were discussing homes. He said the people who lived in Pelham were able to figure out what kind of home they want to live in and that's why they were concerned. In regard to whether taxes would be lowered, he felt there was a good argument, but at the same time they couldn't ignore the impact to emergency response (Ambulance, Fire etc). He added that the Senior Center's bus was at capacity; they had one driver who went around Town (100 miles of road) and picked people up to go to the center who couldn't get their on their own. He said there were things that would begin to show up that had costs; although he couldn't argue about the fact that the Town wouldn't have to plow the roads.

Mr. McDevitt replied to Ms. Taylor (Pelham Terrace) that people at the Senior Center say the Town needed more assisted living. He's never heard anyone at the Senior Center say the Town needed more 55+ houses. He said he couldn't speak for the Board of Selectmen, (in his opinion) he encouraged the Planning Board to review more places such as Pelham Terrace and Beaver Brook Commons. He wanted people to know that the houses being built were extremely nice, but questioned how many was enough. He said the ones who got to decide were the voters; given the chance to hear the arguments last March, 71% of the people thought continuing 55+ housing was a bad idea.

Mr. McDevitt began by saying he wasn't blaming the attorney in the audience, but noted while the attorney was talking to some of his clients, he referred to an advertisement that had been in the Pelham-Windham News (a defunct newspaper). The ad read: Pelham Voters - Vote No on Article 4 - Elderly Housing Changes. He said it was an illegal advertisement; there were State laws that require it to indicate who (placed it). He said he wasn't saying anything, except if the attorney happened to represent any of the people, or if they were in the room.

From the audience, Attorney Bisson said he hoped Mr. McDevitt wasn't suggesting that. Mr. McDevitt replied he didn't say that. Mr. McNamara interjected and said 'please, please' to the audience (adding calming hand gesture). Attorney Bisson asked if he would have a chance to respond. Mr. McNamara answered 'no, I've closed the public...' Attorney Bisson wanted to be clear, and know in advance. Mr. McNamara stated 'I have closed the public portion, input portion of this...' Mr. McDevitt said he was only mentioning the attorney in the event that he represented the people. Attorney Bisson stated he took offense to that. Again Mr. McNamara said 'please, please' and used a calming hand gesture. Attorney Bisson said Mr. McDevitt needed to stop saying those things, because he had nothing to do with anything that was in the newspaper. Mr. McNamara stated 'Please sir, stop it, stop it'. Mr. McDevitt replied he didn't need to stop saying anything unless the Chairman asked him to. Mr. McNamara asked Mr. McDevitt to continue. Attorney Bisson asked that Mr. McDevitt not suggest that... Mr. McNamara banged the gavel down and stated 'Sir, please be quiet'. Mr. McDevitt stated his point was that anybody in the room that paid for the ad, to please follow the law next time. He said the Planning Board did not follow the law, the public caught them on it, and it was now being fixed. From the audience, Attorney Bisson stated they had to sue to get... Mr. McNamara stated 'Sir, sorry'. Attorney Bisson said if he was going to make representations... Mr. McNamara banged the gavel down a few times and stated 'You're out of order sir. I've closed the public portion of this hearing'. Attorney Bisson replied he understood. Mr. McNamara asked him to refrain from any further comment. Attorney Bisson said the people had to sue to fix the problem. Mr. McNamara stated if Attorney Bisson continued the meeting would be recessed and he would have a Policeman come to escort him out of the meeting. He asked him to please stop commenting.

Mr. McDevitt wanted to clarify because he didn't think what he was saying was incendiary. He said they all went at each other in ways that they could and expected there would be some more. He commented that his point was if an ad was placed in the newspaper, by State law it had to say who paid for it. He noticed the ad in the Pelham-Windham News didn't. He said it could have been one person, or it could have been fifty people. He stated let's all follow the law.

Mr. Montbleau believed the only reason they were holding the meeting was from an error in notification; otherwise it would be a non-issue. He noted that he agreed with quite a bit of what Mr. McDevitt stated, and said he wouldn't repeat all of it. He pointed out that the article was voted on by a majority and what was at stake was the credibility of the Board. He stated it went through the process, but notification was in error; there was no malice involved. He said they found out that the majority of the Town's people that voted were in favor of the amendment. Mr. Montbleau stated the Board of Selectmen strongly suggest that the Planning Board correct it in the way that would make sense, which would be to send it back for another vote in the same form that it went out. He said the answer will prove out as soon as the article goes back to the voters; otherwise it could come back in November if somebody wants to start working on forming another amendment. Mr. Montbleau heard a lot of compelling information during the current public hearing that he didn't hear the first time around. He stated he had to acquiesce to the wisdom and prudence of the Selectmen in his vote. When the Board was finished tonight, he was of the mind to send it back to the voters in the same form that it came out. After which he said it would be fine if the committees then decided they want to change it, but first he wanted to see the results of the vote.

Mr. Doherty noted that the last two Board members spoke about a notification mistake. He said the reason why the Board heard compelling statements from the audience was because the notification was done this time and people came out to voice their opinion. He stated if there was proper notice and the Board had done due diligence, perhaps people would have come forward the first time. He was surprised there weren't more people present, but didn't feel people paid attention at this time of year, versus in the wintertime. He didn't feel the vote would have been 70% if the notification had been right and the people came out to provide input. He believed it would have been very different. Mr. Doherty assumed the next vote would be at 90% in favor because so few people would come out to vote for one question. He believed everything they were doing was stacking the deck to get rid of the 55+ housing. He was sure it was a mistake on notification and why people didn't show up. He agreed with Mr. Montbleau that there was a lot of compelling things said. He also agreed with Mr. McDevitt about the need for 62+ units, but didn't feel it was a reason to make it harder and more expensive to build. Mr. Doherty felt he should read what was being proposed, which would make it so difficult and restrictive that there would be less of that type of development, not more. He believed they would be entirely eliminated. Mr. McDevitt replied he was speaking more specifically about assisted living housing, like Pelham Terrace. He encouraged the Board as they went forward to consider such.

As a new member of the Board, Mr. Bergeron said he had a unique perspective. He came on the Board after the vote to place the question on the ballot, which was a 4-3 vote. He noted that the vote of the Board was on the ballot; however the actual text of the change was not. Often times, he believed people put a lot of faith in the Boards that they would do what's best for the Town and people they represent. Mr. Bergeron stated this particular Zoning Ordinance had some issues with it that he's said from the beginning need to be looked at more closely. He said it seemed Pelham would be doing something that no other town had done, which was to basically repeal 55+ zoning. He didn't know that residents in the Town wanted to throw out people they know between age 55 and 62. He'd like to speak to some of the 71% of the 1,450 people that showed up (to vote) to make sure they really understand what's being proposed. He reiterated it was a complete elimination of the 55 to 62 housing group. He said all the widows he spoke to that would look for property with a condominium-style ownership weren't going to be able to find it in Pelham. He reiterated they would be eliminating an entire housing stock. Mr. Bergeron stated if they eliminate it, the cost of the remaining units would be driven up, which would be opposite for affordability. He noted making less of them wouldn't make them more affordable. With regard to Mr. Montbleau's comments of proceeding properly, Mr. Bergeron was of the opinion that the Ordinance should be worked on for a longer portion of time. He said it came out of a subcommittee without any professional input, planning or experts. He recently attended a legal seminar as part of his legal responsibility of being an elected official and specifically took courses on the demographics of what's happening in this part of the country (particularly New Hampshire). He stated they would see a population age in the next 10-20 years and people were going to want to age in place, stay in Town and find different types of affordable housing. He added that school enrollment would drop.

Mr. Bergeron felt it was his professional responsibility to give the voters something that worked for them and the Town. He's been researching and reading other town's zoning and found that Windham had a rather complex 55 and 62 zoning ordinance and gave density bonuses (when criteria is met) to developers who built a mixed-use development. He said Windham spent a lot of money on professional planners and did a study on 55+ housing and found it to have a positive cash revenue for the town. He said that housing wasn't impacting them because generally it was a condominium-style ownership that didn't have miles of road and very few school children.

Mr. Bergeron said he was trying to propose stepping back and seeing what changes were being made and what affect they would have. He believed it would be monumental to strike out a growing age group that was looking for a condominium-style ownership. He needed the proponents of the ordinance to tell him why they wanted to do so, and felt it was almost discrimination based on age. He wanted to take time and push it out so it could be done right and present something the voters really liked without throwing out the fifty-five year olds. In response to the cynicism Mr. McDevitt spoke about regarding the Boards; it was the last thing Mr. Bergeron wanted was to have someone come up to him and not be able to have a civil conversation. He wanted to be able to explain himself and why he voted the way he did. He questioned why the ordinance was going forward to a special town meeting and believed it to be unprecedented. Mr. Bergeron stated not one person who voted for him had asked for the ordinance to be repealed; they have only asked that he take a cautionary course. He wanted to know the motivation and whose idea it was to suddenly throw out the 55+. He didn't want to proceed without due process, even if it took a few more months.

Mr. Bergeron said if the people present believed that the proceeding put a stop on anyone coming in with a plan, he wanted legal to clarify if there was any harm in stopping now and not put it on the ballot and instead recommend it go to the regular Town Meeting ballot next March. He said it could then get done properly with professional assistance. He said if they had those meetings, that stop would be put on all the development people were trying to do. He said it might just be a ruse to stop a certain type of development. Mr. Bergeron was specifically referring to the stop, put on developers who may come in front of the Board with conceptual plans looking to have those plans accepted for consideration. He wanted to know if the stop watch began when the Board began to hold hearings for Zoning changes on a particular matter. Mr. McNamara replied it was stopped when there was notice of a change. He explained if the Board declined to bring the Ordinance forward, people could come in until it was 'noticed' prior to March (Town Meeting). Mr. Bergeron understood if the Board didn't put the Ordinance forward 'as is', they could continue to have hearings and the time is stopped. Mr. McNamara answered no. Mr. Bergeron questioned where the fear of the 55+ housing came from. Mr. Gowan stated it was when the public hearing was 'noticed'; however, it didn't stop applications from coming in or the Board from hearing and/or approving the application. He said it stopped the ability from getting a Building Permit issued, until such time Zoning is decided by the voters.

Mr. McDevitt referred to an article from the New Hampshire Municipal Association publication Town and City (October, 2008). The article spoke about age restricted housing in New England and he read aloud an excerpt: *"Age restrictive housing in New England has become one of the legal tools that can be employed to limit, or exclude altogether, the number of affordable units attractive to young families with children. The main reason why age restrictive housing has become so wide spread in this region, is it's perceived by municipalities as a way to control the rising cost of public education."* With regard to the Ordinance, he said it depended on whose ox is being gored (who is being damaged). Mr. McDevitt stated some towns were saying this as a way to keep education costs down and keep young families out; yet he was hearing from other people that it was trying to keep older families out. Mr. Bergeron believed if someone could move into a 55+ house with a condominium form of ownership and age in place, it would release the single-family home for the younger family. He also noted with the new Accessory Dwelling Unit Statute handed down by the State, people would have more opportunity. There would be more children and a regrowth of the Town. Demographically, he noted the birth rate had dropped and so would school enrollment. He believed the Town needed to present affordable places for people to live, which was his job as a Board member.

Mr. Doherty spoke about housing in general. He said the number of bedrooms didn't matter; the people who purchased houses 30-50 years ago did so with a small/modest amount of money. He said those houses were built cheaply. He stated his family had owned construction companies over the years and understood the industry and noted his parent's home wasn't worth the same as a new comparable size home being built now. He explained the changes to building standards and cost associated with such. He said 40-50 year old homes couldn't be compared to brand new homes because of the increased standards. Mr. Doherty felt consideration should be given to the fact that people residing in older homes have probably paid it off years ago and saved the additional \$100,000 to put toward a new home; therefore not needing a mortgage. He didn't feel the Board should assume everyone was poor.

Mr. McNamara asked for a motion to approve the proposed amendments to the Pelham Zoning Ordinance – Article IX – Senior and Elderly Housing as publically noticed, and to send the approved amendments to the Board of Selectmen for placement on the ballot at a Special Town Meeting to be held at their call. Mr. McDevitt made the motion. Mr. Montbleau seconded. He explained it was a painful vote for him to second in the sense of, there was a lot of new information. He thought it was prudent to move in the consistency of the vote of the Town's people that had already voted on the Ordinance and for the credibility of what the boards stood for.

**SHOW OF HAND:** (McDevitt/Montbleau) To approve the proposed amendments to the Pelham Zoning Ordinance – Article IX – Senior and Elderly Housing as publically noticed, and to send the approved amendments to the Board of Selectmen for placement on the ballot at a Special Town Meeting to be held at their call.

**VOTE:** (5-2-0) The motion carried.  
Voting in the affirmative were: Mr. McNamara, Mr. Montbleau, Mr. Dadak, Mr. Sherman and Mr. McDevitt.  
Voting in opposition was: Mr. Doherty and Mr. Bergeron.

### **ADJOURNMENT**

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

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

The meeting was adjourned at approximately 8:43pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary



## TOWN OF PELHAM

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April 26, 2017

Dear Planning Board Members,

You are all aware that Article 4, eliminating the zoning provision providing for so called over 55 housing developments passed overwhelmingly (71% Yes) at Town Meeting. There is no reason for most voters to assume that the result will be other than they voted. As we know, a fatal flaw in the process (and acknowledgment of that flaw by the Selectmen) rendered the voter's directive unenforceable; thus contrary to the wishes of a large majority of the voters, nothing has changed.

The Selectmen are greatly concerned that the voters will be more than confused and disturbed by the fact that the Planning Board, acting properly, will continue to review and possibly approve these developments. While most of us more intimately involved in such matters know that Article 4 is unenforceable, most residents likely do not. Public cynicism regarding Planning Boards goes with the territory but in this case cynicism may reach new heights, all through no fault of the Board.

The Selectmen and Planning Board, both being elected positions, are, if nothing else, subject to the direction and instructions of the voters at Town Meeting. In this case, again, 71% gave their approval to Article 4 and, as a consequence, directed both Boards to carry out their wishes. So, given the presence of the invalidating administrative error, how can this be done?

The Board of Selectmen have discussed this at their past two meetings and come to one conclusion. The Board of Selectmen will call a special Town Meeting to allow the voters to vote again on Article 4 providing the Planning Board sends said article forward, this time

with all administrative requirements fulfilled. The Planning Board should note that all posting and hearing rules for March Town Meeting articles still apply. The Planning Board may wish to review all requirements with counsel.

While it may be tempting to do so, we urge the Planning Board and, for that matter, Town departments, not to "pile on" and seek additions and corrections to other matters which passed and are enforceable as they stand. A Pandora's box of additional articles may serve to confuse the voters as to exactly why the Selectman have called a special Town meeting.

Therefore, please consider this as a formal request from the Board of Selectmen to the Planning Board to resubmit Warrant Article 4 to the voters. Ideally, the special town meeting should be scheduled before the summer school break to allow for maximum citizen participation.

Pelham Board of Selectmen