

**APPROVED**

**TOWN OF PELHAM  
PLANNING BOARD MEETING  
August 21, 2017**

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, Jim Bergeron, Selectmen Representative Hal Lynde, Alternate Paddy Culbert, Alternate Richard Olsen, Alternate Derek Steele, Alternate Bruce Bilapka, Planning Director Jeff Gowan

**ABSENT:** Paul Dadak, Joseph Passamonte, Alternate Samuel Thomas

Mr. Olsen was appointed to vote in Mr. Dadak's place. Mr. Culbert was appointed to vote in Mr. Passamonte's place.

**PLEDGE OF ALLEGIANCE**

**MINUTES REVIEW**

**July 17, 2017**

**MOTION:** (Montbleau/Olsen) To approve the July 17, 2017 meeting minutes as amended.

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

**OLD BUSINESS**

**PB Case #PL2017-00026**

**Map 36 Lot 11-91**

**MAJOR REALTY TRUST - 101 Dutton Road - Proposed 2-Lot Subdivision. (*Applicant has withdrawn – Case will not be heard*)**

**PB Case #PL2017-00003**

**Map 41 Lots 6-125, 126, 127 & 128**

**P.J. KEATING COMPANY – 1 & 7 Bridge Street - Proposed Asphalt Plant.**

Representing the applicant was Mr. Jeffrey Brem of Meisner Brem Corp. Also present was Mr. Kevin Younkin, P.J. Keating Operations Manager. Mr. Brem provided the Board with an update. He believed all the Keach Nordstrom technical items had been adequately addressed. They've applied for two State permits; they're in receipt of the driveway permit from New Hampshire Department of Transportation ('DOT'). He believed they were about to receive the Alteration of Terrain permit with no changes to the plan. They've met with the Fire Chief to discuss/review the details of the confined space plan. A letter dated August 4, 2017 was submitted to the Board from the Fire Chief. Mr. Brem stated if the Board concurred that they were in compliance, he requested that the Board consider a conditional approval based on the Fire Chief's approval of the confined space plan.

Mr. McNamara asked Mr. Gowan if he heard anything further from the Fire Chief and/or Fire Department. Mr. Gowan answered no. He said if there was a consensus of the Board for a conditional approval, it could be based on receipt of a letter of satisfaction from the Fire Chief. He noted the Board could also date specify the plan and have the applicant come back to the Board. Mr. Younkin stated he had several discussions with the Fire Chief during the last week regarding the confined space plan and believed they had determined an acceptable solution to the conditions that were set forth in his letter.

Mr. Steve Keach of Keach Nordstrom (Board's engineering review firm) came forward. He believed the last letter report was submitted March 28, 2017. In reviewing the letter prior to the meeting, he said the remaining comments were matters that could be framed in a conditional approval. He noted the current configuration of the property was more than a single parcel, for which the site plan being requested was multiple parcels as one. He recommended that the owner execute a voluntary lot merger. Mr. Keach noted two State permits were required; 1) Alteration of Terrain, and 2) NH DOT driveway. He received a copy of the NHDOT driveway permit that was issued June 26<sup>th</sup>, and he's received a copy of (technical review) correspondence from the NH Department of Environmental Services ('DES') on June 22<sup>nd</sup>. He understood from a phone conversation with Mr. Brem that they were waiting in queue with the State. He said it wouldn't be a disservice if the Board opted to grant a conditional approval that receipt of such be a condition. Mr. Keach said the issue that delayed the project was working with the Fire Department, and felt that Mr. Brem and Mr. Gowan had filled the Board in correctly as to the status of the appropriate equipment. Mr. Keach believed an additional condition would be to have a performance bond posted for erosion and sedimentation control measures. His comments relative to zoning and planning were previously disposed of. He said the only items left were those that only the Board could dispose of.

With regard to erosion, Mr. Doherty questioned where erosion from the site would go. Mr. Keach discussed the amount of area that would be disturbed and the proximity to Route 38. He said he was concerned with wind born erosion. He told the Board that Mr. Brem's office had put together a very appropriate erosion control plan that was part of the site plan package.

Mr. Bergeron asked for additional discussion about the lot merger. Mr. Keach recommended that the owner execute a voluntary merger to merge the four contributing parcels into a single parcel.

Mr. McNamara opened discussion to public input. No one came forward.

In reading the Fire Chief's letter and the comments from PJ Keating, Mr. Bergeron saw there was some agreement as to how to proceed with the confined space requirements. He felt it seemed simple that the place had to 'be' before the Fire Department knew what they would be up against. He summarized the Fire Chief's comments of what needed to be done. Mr. Doherty stated site plans came in front of the Board all the time and the Board approved them pending permits are secured and the Fire Department approval. He didn't see the current plan as being any different.

Mr. Gowan suggested Mr. Keach and the Fire Department provide a letter of satisfaction with the final plan. Mr. McNamara believed the Board normally follows the recommendations of the Fire Department; in this case he said it appears they have a resolution and he wouldn't object to a conditional approval.

Mr. McNamara said he would accept an approval, conditioned upon:

- 1) Alteration of Terrain permit being issued and a NH DOT driveway permit being issued;
- 2) A letter from the Fire Chief detailing the resolution of his concerns contained in the August 4, 2017 letter;
- 3) Posting of a performance bond satisfactory for erosion;
- 4) Notice of a voluntary merger of the four parcels;
- 5) Letter from Mr. Keach detailing his satisfaction with the site plan.

Mr. Culbert questioned what Mr. Keach would recommend for a performance bond. Mr. Keach replied he would sit down and determine a number. He said it would probably be four digits.

**MOTION:** (Culbert/Bergeron) To approve the proposed asphalt plan with the stated conditions.

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

**PB Case#PL2017-00012**

**Map 7 Lots 9-135 & 9135-1**

**MENDES, David – Katie Lane & Simpson Road – Proposed Special Permit Application to approve the Yield Plan for a proposed Conservation Subdivision of the above referenced lots. Full application for subdivision will follow once Special Permit has been approved and density is established.**

The applicant, Mr. David Mendes came forward with his representative, Mr. Peter Zohdi of Herbert Associates. Mr. Zohdi told the Board he would present two plans; a conventional subdivision and a conservation subdivision. He stated that a representative from his office had walked the land with the Conservation Commission during the previous week. He hoped they could work with the commission to develop a conservation subdivision and move the project forward.

Mr. Steve Keach of Keach Nordstrom (Board's engineering review firm) came forward to discuss his review/comment letters dated August 4<sup>th</sup> and August 21, 2017. He said his comments during the meeting would be focused on the conventional subdivision, which was really a yield plan for the establishment of a base line density. He noted that the August 4<sup>th</sup> letter had some matters that were easily resolved by Mr. Zohdi's office, and as a result his updated letter of August 21<sup>st</sup> basically reflects those comments that had been resolved. He reviewed the remaining comments. 1) Each of the thirteen (13) lots had been checked for compliance of Article III, Sections 307-12 through 307-14 of Zoning – each fully complies as presented. 2) Lots 11 & 12 will require a waiver for lot shape. 3) Based on Section 15.03,C, if the land was platted as a conventional subdivision, the applicant would be compelled (under Zoning) to submit an application for Special Permit for work within the boundaries of the Wetland Conservation District ('WCD'). He noted there were three (3) small areas (aggregate area of 8,201SF) that would have impacts and reasonable to expect the Conservation Commission and Board to permit those impacts. 4) He stated although he believed the yield plan successfully demonstrated there were thirteen (13) lots of residential density on the aggregate parcel; the proposal was to take two (2) conventional lots out, and then have thirteen (13) conservation subdivision lots on top of it. At the time of the initial review he had yet to receive a narrative on which method the applicant would rely on for density offsets. A week ago the applicant submitted a 3-page narrative and believed in essence the areas of contemplated open space significantly exceeds the minimum required to earn the two (2) extra units.

Mr. Lynde questioned the basis for having a 15,000SF rectangular building envelope. Mr. McNamara replied it was a requirement for a conventional subdivision. Mr. Gowan stated the requirement for a 100ftx150ft envelope had been in the Regulations for a long time and asked Mr. Keach if he felt it mattered. Mr. Keach wasn't employed with the Town when the Regulation was developed, but felt it was customary or municipalities to have a similar regulation. He felt it was simply two numbers that had a product of getting 15,000SF. He felt lots 11& 12 satisfied the 'spirit and intent' of the Ordinance because a house, well, and septic could easily be built in those areas and still have room left over for an out building, pool, etc. In his opinion, it wouldn't create marginal lots. Mr. Culbert commented he was present when the Regulation was developed and recalled the dimensions were created so lot shapes would be rectangular. Mr. Zohdi stated he had requested a waiver.

Mr. Doherty referenced page two of the review letter that commented on increased open space being a basis for additional lots. He believed that provision was pulled from Zoning several years ago. Mr. Gowan read aloud a portion of Section 307-102 (density offsets) and stated he believed the Subdivision Regulation got into more detail. Mr. Keach said that the 'take away' was that the application involved density offsets for two (2) units.

He believed that the yield plan showed that the thirteen (13) lots represented by the applicant were in fact there, and the proposal was actually for fifteen (15) lots.

Mr. Doherty saw that the applicant's file contained five (5) waiver requests, the first being to Section 11.04,C,I – to allow 15,000SF area on lot 9-135-1 to not have 100ftx150ft dimension. Mr. Keach believed the remaining waiver requests applied to the conservation subdivision and not the yield plan.

Mr. McNamara read aloud Mr. Zohdi's letter dated August 10, 2017 that was labeled a narrative in support of residential conservation subdivision application. Mr. Zohdi stated they had gone through both the Zoning and Subdivision Regulations. He described the area they would be dedicating to open space, which was all field and had a nice view shed. He noted the Conservation Commission would like the land to have a walking trail; the applicant had no objection and hoped to discuss such at the commission's next meeting. He said he needed to know how the Planning Board wanted to proceed. Mr. McNamara questioned if the commission had any concerns other than walking trails. Mr. Zohdi replied they had a concern about the power line and wanted to know if the applicant would dedicate a portion of the area. He referred to a plan displayed for the public and showed the area in question, and said it wouldn't be developed. He indicated he may be able to convince the applicant to dedicate the area under the power lines to open space.

#### PUBLIC INPUT

Mr. McNamara opened the discussion to public input.

Mr. Walter Ulwick, 89 Simpson Road stated he was concerned about drainage. He then shared photographs (from 2004) with the Board that were taken during the expansion of the power lines when old growth trees had been cut. He discussed the direction of drainage flow. As he displayed a sampling of the photographs, he explained water came through a stone wall, through a drainage ditch, under a culvert and connected to the road. Mr. Ulwick was concerned with the area receiving additional drainage from the development and the possibility of water backing up and going onto his property. Mr. McNamara replied the Board was currently in a preliminary stage and hadn't decided what type of development it would be (conventional or conservation). Typically engineering is done after the Board makes a decision. He asked if the commission had seen the photographs. Mr. Ulwick replied he dropped them off. Mr. Zohdi noted he wasn't present for the site walk, but understood that the commission did have the photos during their site walk.

Mr. Zohdi explained the process of proving to the Town and the engineering firm that pre- and post-development drainage leaving the site had to be equal. Mr. McNamara told Mr. Ulwick that the Board would take the drainage into account; the Board's engineer would review to make sure it was according to the applicant's work. Mr. Ulwick told the Board that along the roadway in front of the project there were drain covers that weren't a connected drainage 'system' and instead were individual catch basins. Mr. Zohdi replied that the soil in the area was very good sandy material. Mr. Ulwick questioned if there would be a pipe installed under the road. Mr. Zohdi answered no; they would be proposing to contain the water within the subdivision by creating two detention ponds. He stated all drainage calculations would be submitted to the Town. Mr. Ulwick understood that the Town would have oversight of the development and reiterated his concern that the current drainage system couldn't take much more before being overwhelmed. Mr. McNamara stated Mr. Keach would be cognizant of concern when he reviews the plans.

Mr. Lynde questioned if the Board paid attention to 'work force housing' as included in Zoning. Mr. McNamara replied it was one of several attributes an applicant can meet for the density offset. Mr. Lynde inquired who owned the abutting parcels and if there was potential development. Mr. Gowan wasn't aware of any development. Mr. Zohdi described the areas owned by the applicant. He said the Conservation Commission wanted to know what he would do with the parcels. At present the applicant didn't have any specific plan and was looking at different options. Mr. Lynde felt if the area was approached as a whole entity, there might be more connectivity and less road maintenance on the Town. He was concerned with the layout of the proposed

conservation subdivision because there was no access to the open space land by the people within the development. Mr. Zohdi stated they were working with the Conservation Commission to include a walking trail for the residents of the development and the Town. Mr. Culbert noted the Board could only discuss the development in front of them and make a decision whether to move forward with a conventional or conservation plan. Mr. Lynde took issue with the comment, although he knew it was correct legally; however he felt the Board had a right to ask questions from an overview and Town perspective. Mr. Gowan said the matter currently in front of the Board was the decision of what type of development and whether or not they were prepared to accept the yield plan. The applicant will have to re-notify abutters to be able to come back with a formal plan. The Special Permit for the yield plan doesn't require Conservation Commission comment. Mr. Bergeron was interested in hearing more information about the WCD area impact within the conventional plan. Mr. Keach pointed to the impact area and noted that it would essentially be eliminated by developing a conservation subdivision. There was a second impact that would be common to either proposal. He explained that the 8,201SF impact to the WCD was an aggregate of three separate impacts on the site. He saw the proposed impact as sort of 'ordinary' as far as the extent of WCD impact that was proportional to the size of the development and nature of the land. He noted that most of wetland and WCD impacts would be alleviated and/or eliminated under the conservation development proposal.

Mr. Doherty wanted to know if the lot containing the 'pond' would be part of the proposed conservation development. Mr. Keach understood that the green area would be designated as open space. He explained if the Board moved forward with the conservation development, it would in essence be a hybrid development; there would be thirteen (13) conservation lots, two (2) conventional lots and a large green space area attached for open space.

Mr. Bergeron spoke about the property under the power line and understood it could be obtained as open space in the future. He wanted to know if there had been a discussion with the Conservation Commission regarding such. Mr. Zohdi replied it had been discussed and the commission invited them to their next meeting. He said he was working with his client to have the land under the power line as part of the open space; it has not yet been determined. Mr. Montbleau didn't believe building could occur under the power lines. Mr. Zohdi answered no. Mr. Bergeron noted that the easement area wasn't dedicated to open space. Mr. Zohdi commented that the power line was 350ft. wide and they couldn't build in that area. He said the only advantage was if in the applicant decided to do a future development, the well radiuses could be in that area. Regardless, he believed the Town would benefit from the 350ft wide land because building couldn't occur in that area. Understanding that the area could not be built, but could be utilized for well radiuses, Mr. Montbleau felt there was no reason why it should be obtained for open land because it would always remain open land. Mr. Bergeron felt the commission should have input, given the broader view of the land, and the fact that all the surrounding properties were owned by the applicant. Mr. Montbleau questioned if the area could be dedicated as open space as part of the subdivision. Mr. Gowan replied it could be if it was within the property boundaries being described. He believed the Board's comments were derived from the fact that the applicant owned a lot of land and if in the future the applicant developed additional areas, the open space areas should abut each other and not be separate 'islands'.

Mr. Doherty felt the Board needed to always look at adjacent parcels when discussing conservation subdivisions, because part of their purpose was to provide for connected corridors of open land throughout Town. He commented that the Board had recently approved a development on the corner of Sherburne Road and Mammoth Road that took future connections of conservation land into consideration. By virtue of being the power line, Mr. Zohdi pointed out no one could develop that area whether or not it was designated open space. He said the reason they would like to reserve the area was for a possible future development of the Hayden Road side. He would like the Board to decide which project they preferred, so when he went back to the Conservation Commission they could discuss the details.

Mr. Montbleau understood that the purpose of the hearing was to find out if the applicant could legitimately get thirteen (13) lots out of a conventional subdivision. Once that is determined, the applicant could then focus on a conservation subdivision. Mr. Doherty pointed out that the applicant was showing eleven (11) lots in the

conventional plan and had included two (2) additional (conventional) lots on their submission. He said the two additional lots were distracting because they weren't part of the subdivision. He noted if they were going to be included in the yield plan, they would need to be part of the conservation subdivision. Mr. Doherty asked for the size of the parcel. There were two (2) parcels of land: 1) Lot 9-135 (original parcel), and 2) 9-135-1, to which Mr. Keach noted were just over seventeen (17) acres. Mr. Zohdi explained that the total acreage was 29.23 acres; however from that, two lots were being taken as a conventional subdivision, first would be 9.28 acres, the second would be 2.55 acres.

Mr. Gowan recommended that the Board make a decision whether to have the applicant move forward with a conventional or conservation subdivision. As a second matter they could decide (at a different meeting) whether the applicant had met the criteria for density lots, and determine how many. Mr. McNamara agreed that the Board could vote regarding the type of development, but preferred to hear from the Conservation Commission before making a decision regarding density. He entertained a motion to go forward with a Special Permit to allow a conservation subdivision and defer the additional density bonus until the Board heard from the Conservation Commission.

**MOTION:** (Culbert/Montbleau) To go forward with a Special Permit the application as a conservation subdivision and defer holding the additional density bonuses for a later time until they hear from the Conservation Commission.

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

For clarification, Mr. Gowan stated the matter of 'density' should be date specified. Once the density is established the applicant will separately file an application to come back with a conservation subdivision.

The Case was date specified to the September 18, 2017 meeting.

Mr. Doherty wanted to know if the applicant would be discussing a conservation subdivision and a two (2) lot conventional subdivision when they returned to the Board. Mr. Zohdi answered yes; he would be coming back with two (2) subdivisions. Mr. Doherty felt the manner of which the proposal had been brought forward was confusing. Mr. Zohdi replied he would do a separate conventional subdivision and land transfer; after which they would discuss open space. He wanted the opportunity to discuss the plans further with his client and to meet with the Conservation Commission.

**PB Case#PL2017-00013**  
**Map 22 Lot 7-1**

**DOHERTY, Stephen & Debra Ann - 9 Atwood Road – Proposed Special Permit Application to approve the Yield Plan for a proposed Conservation Subdivision of the above referenced lots. Full application for subdivision will follow once Special Permit has been approved and density is established.**

Representing the applicant was Mr. Karl Dubay of The Dubay Group. He came forward with the applicant, Mr. Stephen Doherty. Mr. Dubay told the Board that they received comments from Keach Nordstrom (Board's engineering review firm), the Board and the public regarding their yield plan. In summary he said the Board asked them to increase open space, increase buffers, and review the lots; they had done all three. He said Mr. Keach had also asked them to do more things on the quantitative level which they had also done. Mr. Dubay stated they had increased open space, buffers and reduced the length of the proposed cul-de-sac. He believed the Board and abutters will view it as an improved plan. He discussed the differences between the conventional and conservation plans and provided the Board with revised plans.

Mr. Dubay began by speaking about the conservation land they were offering to be dedicated to the Town. In the updated conservation plan there was approximately 66% of the land dedicated to open space, the cul-de-sac road had been shortened, and the number of lots around the cul-de-sac was reduced to four (4) lots. With those

amendments, the development was able to be pulled away from (the abutting) Gaudet Lane. They are requesting one driveway off Heather Lee Lane for one home that would be substantial. With that one home, there would be deeded covenant so no further development would occur. He continued to review the updated plans and outline the amendments that had been made. With regard to the yield plan, Mr. Dubay pointed out that there were eleven (11) lots shown, and the proposed conservation plan contained ten (10) lots.

Mr. Steve Keach of Keach Nordstrom came forward to discuss the application. He noted that his original review letter was dated August 4, 2017 and a number of the comments had fallen out based on the recent submission, and reflected in his updated review letter dated August 21, 2017. His discussion focused on the remaining items.

Mr. Doherty referred to plan sheet 17 of 17 that showed a cul-de-sac contained within the transmission line. He commented that was an additional use for that type of area used in a yield plan. Mr. Keach replied he would speak to that point later in his discussion. He said as far as the basic tenants of the eleven lots, it was his belief that the applicant had satisfied the requirements in the Zoning Ordinance and Subdivision Regulations as presented (dimensional aspects). He spoke to the Wetland Conservation District ('WCD') impacts. He pointed out that the applicant was showing more lots of density than was being requested in the conservation subdivision. To Mr. Doherty's point, Mr. Keach discussed the yield plan lot that showed a cul-de-sac and driveway access that encroached on the existing power transmission easement and required a WCD impact. He took note of it because infrastructure could be done within a powerline easement, but it would require a joint-use agreement with the easement holder. He said usually utility companies looked at joint use agreements very strategically; he found it reasonable to suspect if the applicant filed an application, they would probably prove successful. He said the yield plan number of lots presumed success of obtaining the agreement; the applicant has built in a buffer to the scenario by requesting a conservation plan with ten (10) lots, even though the yield plan contains eleven (11) lots. Mr. Keach told the Board he had not done an exhausted review of the conservation subdivision concept and would not until instructed to do so.

Mr. Doherty understood joint-use agreements were often very beneficial to the power company because they could gain access to the power lines. Mr. Keach believed that to be correct, and in this case believed they had infrastructure in addition to stanchions on the property. Mr. Dubay noted that the purpose of having the cul-de-sac go into the easement was to gain frontage to lot 8. He stated there were things they could have done to consolidate the items and still met the numbers for a yield plan. Mr. Keach reiterated he didn't recall a yield plan being submitted that showed a higher density than what was being requested under the actual application.

Mr. Doherty pointed out that the parcel had Town-owned land connected to it in at least three spots, possibly four. He felt it was an ideal example of connecting corridors and open land throughout the Town. He referred to the Zoning requirements within the Innovative Land Use Ordinance and commented that the Board had the ability to vary items; they didn't have to go to the Zoning Board. He said the Board will have to review and decide what they would like to see to tie the Town land together. He was unsure about the lot coming off Heather Lee Lane because of the frontage being 50ft. Mr. Dubay pointed out that all the lots touched open space and there would be trails interconnecting them. He spoke to the lots along Atwood Road and Peaceful Drive, which were in the character of the neighborhood. He then discussed the lot coming in from Heather Lee Lane, which had a 50ft wide deeded right-of-way to the parcel. Technically, he said they could extend the road, but felt it would be too much pavement. There would be a big buffer to residents of Heather Lee and the wetland and WCD would be respected. Mr. Dubay felt there were unique characteristics on the project for lots 1-4 and lot 10. He said they would move forward with the qualitative and quantitative arguments as part of the density. He commented that the proposed home off Heather Lee would be very substantial and felt the residents would be impressed because it could demand a high value and at the same time lock out any future development in the area.

Mr. Culbert wanted to know the road frontage for lots 1 & 2 on the yield plan. Mr. Dubay believed lot 1 contained just over 200ft. and lot 2 contained 279ft. Mr. Culbert suggested removing one, or both of the lots and leave eight (8) lots to develop. Mr. Dubay replied there was nearly 500ft. of frontage and two of the

structures were existing currently. He noted they had already eliminated a house lot. Mr. Culbert asked him to look at it.

Mr. Gowan firmly believed that the Board did not have the authority to approve the Heather Lee Lane end of the project. He stated that the proposed lot had zero frontage on Heather Lee Lane. He said a right-of-way was not frontage, unless a road was built. He believed everyone knew that to build a road would undo the value of the lot. He pointed out if the plan proceeded as shown, the applicant would need a variance for zero frontage and also permission from the Board of Selectmen to build a driveway off a cul-de-sac. Mr. Keach agreed. He referred to RSA 674:41 that contained a provision requiring approval by the Selectmen to construct a private drive within a public easement. Mr. Gowan stated he liked the plan, it just had some complications that needed to be resolved. He asked if the applicant owned the right-of-way. Mr. Dubay replied if it was properly dedicated, it would be owned by the Town and they would need to go to the Selectmen. He pointed out Section 307-96 of Zoning spoke to reasonable adjustment and required frontage. In this application he believed frontage could reduce to zero because of the right-of-way reservation already recorded at the Registry. He said they could design and propose a new Town road in that area with a cul-de-sac; however, he reiterated Section 307-96 indicates adjustment (including frontage) could be made. Mr. Doherty noted that the 50ft. section didn't extend to the Heather Lee Lane cul-de-sac and wasn't part of the parent parcel, therefore the Board couldn't vary that part. It was outside the scope of Article XV. Mr. Dubay replied there were technicalities that were being pointed to, which suggested they work on the conservation part of the plan. He understood there were options and wanted to do the right thing. He welcomed the input.

Mr. Bergeron spoke to 674:41, which would let the applicant build a road through the dedicated easement, provided the Board of Selectmen grant an approval to do so. He believed the Board had the ability to grant 50ft. at the entrance of the stone wall (off Heather Lee Lane) where the applicant's property began. Mr. Gowan felt it would be best to speak with counsel and receive an opinion. Mr. Bergeron replied he had property on a Class VI road and knew that the Selectmen could grant access. He didn't think the applicant needed to request a variance. Mr. Gowan stated a dedicated right-of-way was not a Class VI road. Mr. Keach said the current discussion was which direction the Board would send the applicant. Mr. Bergeron noted that the applicant brought a better plan in with a reduction in the number of lots. Mr. Doherty felt the applicant could get the lot built, whether they put in a road or a driveway. He said it didn't change the fact that the conservation layout was better than the conventional layout. He said the Board could vary its own Zoning only in Article XV.

#### PUBLIC INPUT

Mr. McNamara opened the discussion to public input.

Ms. Kim Kearney, 36 Gaudet Lane thanked the applicant for listening to her husband during the previous meeting and increasing the footage between their property and the proposed abutting homes. She requested having 'no cut' signs installed along the property line. Mr. McNamara replied they could install 'no cut – no disturb' signs. Mr. Dubay stated they were proposing conservation land that wouldn't be disturbed.

Mr. John Mackey, Heather Lee Lane wanted to know if the lot off Heather Lee Lane would be viable in both development scenarios. Mr. Dubay replied they would like to propose a driveway in the conservation development and leave Heather Lee Lane alone. The alternative would be to extend the Town road and build a new cul-de-sac on the applicant's property, which would create more impact. Mr. Mackey suggested that the applicant eliminate the lot and add one to the other side of the development, which would preserve the tract of land. He questioned who would maintain the right-of-way if the lot was developed. Mr. McNamara replied it was still to be determined based on how they decided to proceed.

Mr. Doug Shawver, 65 Heather Lee Lane inquired what would happen to the proposed plan if the applicant wasn't allowed access off Heather Lee Lane. Mr. McNamara believed there was no other way to access the property. Mr. Gowan stated the applicant could, by right, build a town road. Mr. Dubay noted if they received



approval they would have a covenant stating it would only allow a single family home. He felt it was unreasonable to suggest nothing could go into the property. Mr. McNamara told Mr. Shawver the Board was in an early stage of reviewing the plan.

Mr. McNamara asked the Board to make a decision regarding which plan they preferred. He accepted a motion to approve the applicant's Special Permit to proceed as a conservation subdivision. Mr. Doherty stated the Board couldn't approve the Special Permit, they could approve that the applicant move forward with a conservation subdivision. Mr. McNamara agreed.

**MOTION:** (Culbert/Montbleau) To approve the applicant moving forward with a conservation subdivision.

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

Mr. Gowan stated notification would occur once a formal application was submitted.

### **NEW BUSINESS**

#### **PB Case#PL2017-00015**

#### **Map 29 Lot 7-114-1**

#### **NICHOLAS DIMITRIOU / LIBERTY UTILITIES – 125 Bridge Street – Proposed Meter Station**

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 Liberty Utilities was Mr. Shawn Furey Construction Manager, Mr. Ian Crabtree, Construction Supervisor and Mr. Greg Clement Manager I & R, Gas Control. Mr. Furey began by providing the Board with a brief update of the distribution project. He explained they had come in front of the Board seeking approval of the meter station located behind Dimitriou's Restaurant next to Dunkin Donuts. He stated there were no Wetland Conservation District ('WCD') impacts; they were outside the 50ft. buffer. They've applied for, and received a Shore Land Permit from the Department of Environmental Services because they were within the 250ft. buffer. Mr. Furey stated they were requesting a landscaping waiver because of the location setback from Route 38. They are proposing a slatted fence to be installed around the perimeter of the station.

Mr. McNamara asked if the station would be visible from Route 38. Mr. Furey didn't believe it would be, given it was located behind Dunkin Donuts and have fence slats around the front. He provided a brief description of the facility and fence line. He told the Board they had secured an easement with Nicholas Dimitriou for the property. Mr. McNamara questioned when they expected to complete building. Mr. Furey replied the estimated completion date was mid-December. The pipeline itself was anticipated to be done at some time in November.

Mr. Doherty inquired if the station had good access for protection services to patrol it. Mr. Clement answered yes; however, if the Fire Department requires access inside the fence, they could install a knox box.

Mr. Furey described the purpose and function of the meter station. Mr. Doherty wanted to know if the station was being designed for expansion. Mr. Clement answered yes; they were nowhere near capacity for approximately ten years. Mr. Crabtree displayed photographs of a similar station located in Hookset, NH.

Mr. Culbert heard mention of a slatted fence and questioned how high it would be. Mr. Furey replied the fence would be approximately 7ft-8ft in height with a goal of going around the building. Mr. Doherty questioned if workers would park within the fenced in area. Mr. Clement replied parking was inside.

Mr. McNamara opened discussion to public input. No one came forward.

Mr. Gowan commented that Dimitriou's was for sale but regardless of what happened, the project would not be impacted by a future sale.

Mr. Lynde understood they were currently laying pipe in front of the school and would be going up Willow Street toward Route 38. He asked if there would be sidewalks down to the school. Mr. Furey replied they weren't involved with that portion of the project, but understood Marsh Road would receive sidewalks next year.

Mr. Culbert questioned if the lines were pressure checked. Mr. Crabtree replied every line that went into service was pressure tested to one and a half times the operating pressure. He believed they would be conducting an eight (8) hour test.

**MOTION:** (Doherty/Montbleau) To accept, for consideration, the waiver request to Section 303-3- landscaping and buffering.

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

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**MOTION:** (Doherty/Montbleau) To approve the waiver request to Section 303-3- landscaping and buffering.

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

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**MOTION:** (Montbleau/Culbert) To approve the proposed meter station, with the condition of Fire Department approval.

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

**PB Case#PL2017-00016**

**Map 29 Lot 7-95**

**PELHAM REALTY GROUP, LLC - 150 Bridge Street - Site Plan Review for a Septic System Layout**

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 was Mr. Jay Lord. He came forward and explained the situation with the septic system. They began in July, 2016 and got to the design phase in January, 2017. As they got into the design, the difficult of laying a system out was recognized. Once determined they submitted to the State and received approval. He stated the project had been very costly. He described the location and landscaping.

Mr. Culbert questioned if the landscaping on the edge of the road would be improved. Mr. Lord replied they had done a landscaped island in the area of the control building. He understood that the owner of the plaza had a plan to upgrade the entire parking lot. Mr. Gowan noted when a plan is submitted to do so it would come in front of the Board. He said the only thing that gave him pause was the proposed Arbor Vitae and suggested the applicant consult with a landscape architect regarding what variety would be appropriate. Mr. Lord replied they would be planting a variety that didn't get tall, and would grow to about the height of the shed. Mr. Gowan asked about the vents. Mr. Lord replied all the venting had been moved to the outside edge of the parking lot.

**MOTION:** (Culbert/Olsen) To approve the Site Plan.

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

**ADMINISTRATIVE**

**Bond Reduction – Brunswick Meadows Map 42 Lot 10-210**

Mr. McNamara read aloud the Keach Nordstrom letter dated July 27, 2017 that recommended a bond reduction of \$49,458.00, leaving a balance of \$5,100.00.

**MOTION:** (Montbleau/Culbert) To reduce the bond in the amount of \$49,458.00, leaving a balance of \$5,100.00.

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

**Discussion and potential approval of Draft 2018-2024 Capital Improvements Plan**

Mr. McNamara understood the Board members had received a copy of the 2018-2024 CIP for review and approval. Once the Board approves, the plan will then be sent to the Selectmen and Budget Committee.

**MOTION:** (Lynde/Montbleau) To approve the 2018-2024 Capital Improvement Plan.

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

**Board Member Comment**

Mr. Lynde wanted to speak about Case #PL2017-00012 and the associated yield plan that was submitted. Mr. McNamara felt it would be improper for the Board to discuss the case without representation present. Mr. Lynde wanted to make a motion to reconsider the Board's vote. Mr. McNamara replied the Board could do so when the applicant came back in front of them. Mr. Lynde felt if the Board was going to reconsider their vote, the applicant should be notified. Mr. Gowan informed that statutorily, the Board had thirty (30) days to reconsider any decision. Mr. McNamara said the Board could discuss at their September 18<sup>th</sup> meeting. Mr. Lynde agreed. Mr. Gowan will notify the applicant.

**DATE SPECIFIED CASE(S) – September 18, 2017**

PB Case#PL2017-00012 - Map 7 Lots 9-135 & 9135-1 - MENDES, David – Katie Lane & Simpson Road

**ADJOURNMENT**

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

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

The meeting was adjourned at approximately 10:20pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary