

APPROVED
TOWN OF PELHAM
PLANNING BOARD MEETING MINUTES
January 22, 2018

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

The Secretary Paul Dadak called the roll:

PRESENT: Peter McNamara, Roger Montbleau, Paul Dadak, Joseph Passamonte, Tim Doherty, Jim Bergeron, Selectmen Representative Hal Lynde, Alternate Bruce Bilapka, Alternate Derek Steele, Planning Director Jeff Gowan

ABSENT: Alternate Richard Olsen, Alternate Samuel Thomas, Alternate Paddy Culbert

PLEDGE OF ALLEGIANCE

2nd PUBLIC HEARING ON PROPOSED ZONING AMENDMENTS

The full text of all proposed amendments is available from the Planning Department at (the Municipal Center) Town Hall, 6 Village Green during normal business hours and from the Town of Pelham website at www.pelhamweb.com on the Planning Department page.

Mr. McNamara opened the Public Hearing.

The proposed amendments are described as follows:

1. DRAFT changes to the Pelham Zoning Ordinance, **Article IX Elderly Housing**

Adds the following requirement to Section 307-51, *Requirements for complex*:

G. Each Elderly Housing complex shall provide not less than 10% of the buildable land (as described in 307-52) as open space for use by the residents for outside social and/or recreational purposes and shall be independent from the small areas of land located between units and those areas required for buffer(s).

The Board offered no comments. The hearing was open to public input. No one came forward.

MOTION: (Lynde/Passamonte) To recommend the change to Pelham Zoning Ordinance – Article IX Elderly Housing be placed on the ballot in March.

VOTE: (6-1-0) The motion carried. Mr. Doherty voted in opposition.

2. DRAFT changes to the Pelham Zoning Ordinance, **Article XV Residential Conservation Subdivision by Special Permit**

Amends 307-98, *Definitions*, and 307-102, *Density Offsets* to eliminate all criteria for potential density offsets except for the provision of Workforce Housing as defined in 307-98.

Amends 307-106, *General Requirements*, C and D, as follows:

C. All conservation subdivisions shall be served by a community water system managed by a third-party entity with demonstrated expertise in the management of such water systems. All applicants must demonstrate to the Planning Board's satisfaction that their Homeowner's documents prohibit residents from drilling private irrigation wells.

D. Roads constructed as part of a conservation may be private roads at the discretion of the Planning Board.

The Board offered no comments. The hearing was open to public input.

Mr. Dave Hennessey, 71 Dutton Road stated he ran a real estate office in Amherst, NH with forty-five agents. He noted the number of listings that were done in the past year within twenty towns. He said the overwhelming majority of those towns have 'cluster zones' and almost all look like Pelham's (conservation) zoning. He said quite a bit of time was taken to 'hammer out' the zoning plan. He felt that ten years of deferred development in Town was cascading over people and making them want to change what the Town had. He said the development on Nashua Road and building along Sherburne Road had become the focus of anti-development people. Mr. Hennessey said his intent when working (in subcommittee) on the zoning was to give the power and flexibility to the Planning Board to deal with the planners coming in, and allow both sides to 'horse trade' for the good of the Town. He said by taking away density bonuses was already in the subdivision plan and zoning law; however, the Board needed the courage to do so. The Board had the right in the existing rules to require sufficient buffers and not give density bonuses. He felt it was a mistake to adopt a draconian change to the zoning as a reaction to the Nashua Road development. Mr. Hennessey called attention to the (Garland Woods) development off Currier Road, which he felt was a superb example of what can happen when developers and the Planning Board work together and trade off density bonuses for a better result for the entire Town and save open land. He noted Brandy Lane was a similar situation of doing negotiations and working with developers. He reiterated that the Board had the ability in the existing language to 'not grant' density bonuses. He didn't understand why the Board would toss away the power and the tools to create a better town because they didn't trust themselves. He said if they held to what they believe and know is the right thing to do, the existing conservation subdivision rules provide the tools and the right to say no, so the Board can create a better town. He urged the Planning Board to vote the proposal down.

Mr. Hennessey stated he had been fighting for long time to create a quasi-public community well system in Town. He said the Board chose the one year (to propose a change) when Pennichuck Water tripled its rates. He said the Board was making conservation subdivisions almost impossible to sell. He said the Board had to allow the flexibility under changing circumstances to remain flexible and work with developers, and make sure abutters weren't harmed. He said unless the Board wanted to go back to one acre/one house lots with no common land, they needed to 'kill' the new proposal.

Mr. Paul Gagnon, Dutton Road speaking as a voter and a member of the Conservation Commission (not speaking for the commission). He thought the various Town boards had a good track record of working together and considered each other's input. He said when the conservation subdivision ordinance was being created there was mix of various board members and public that worked many evenings to get it written. He felt the process the Board used (this year) was flawed; no one except Planning Board members was included (in discussions), the first public hearing was held during a snow storm when no one could come to make suggestions, the Chairman, Vice Chairman and Secretary weren't present. He wasn't sure if it was a legal meeting. He said there was virtually no input and the process was questionable. Mr. Gagnon agreed with Mr. Hennessey that

bonus densities had been given too freely; however, if they were taken away, developments such as Currier Road (Garland Woods) the Town wouldn't see fields left open because there would be no incentive to do so. He understood and supported workforce housing, but felt that the Board could have been more selective in what they chose to eliminate rather than using a draconian approach of canceling everything except workforce housing. With regard to wells, he felt the Board needed to question whether they've eliminated the motivation for a developer to do conservation subdivisions. He said everyone seemed to come in for conservation subdivisions, so there was some incentive. He was concerned with not seeing any more conservation subdivisions because of the elimination of bonus lots and developments being forced to have community wells. Mr. Gagnon asked in the future that the Board go back to the process they used where more people are engaged. He was personally not in support of the changes being proposed because he felt they were too drastic. He believed there were ways they could have come up with language changes that were more reasonable and might not have been such a disincentive for developers to use a conservation subdivision.

Mr. Bill McDevitt, Lane Road agreed with the prior two speakers. He reminded the Board and public about the items being eliminated from the ordinance in the proposal, such as: preservation of unique land, wildlife habitat/corridors, environmental features and/or facilities, innovative layout and design of project to encourage village or community type environment, village greens, parks, community viewsheds and/or integration into existing protected farm activities or existing recreational facilities, playgrounds, trails and/or community centers etc. He stated those were things that people value. Mr. McDevitt said there were no elected or appointed officials that didn't want to have a vote taken back occasionally. He reminded the Planning Board that they supported a Master Plan that solicited public input. The thing people valued most about living in Pelham were some of the things being proposed for elimination in terms of the density bonuses. He agreed that some of the conservation subdivisions had been poorly executed. He pointed out that the things being eliminated were of great concern. He was sympathetic to the fact that affordable housing was a difficult issue to solve. He noted there were one or two members of the Board who said on record that they didn't think somebody would build affordable housing under the proposed conditions. He suggested if that was the case they shouldn't go through the exercise of eliminating conservation subdivisions and proposing density bonuses for something they weren't sure someone would build. Mr. McDevitt spoke about community wells and didn't like the requirement for having one. He believed they could lead to considerable difficulties in the future. One way to solve that problem was to allow individual wells. He'd heard second hand that community wells were extremely expensive and believed they may be 'throwing the baby out with the bath water' if they were trying to talk to 'affordable housing' and they force the prices that developers had to pay to go so high that the homes would be expensive. Mr. McDevitt hoped that the Board consider not recommending the proposed changes.

Mr. Lynde admired the speakers and appreciated their comments. For clarification, he said they had started late into looking at zoning changes and had a clock to meet. He said if they didn't meet when they did, they wouldn't be talking about the proposed changes. He stated he favored and supported open space. He was bothered that some of the developments were getting a little too much density offsets. He didn't see the benefit to the Town of adding more units. His understanding of 'cluster housing' was if ten houses could be put on ten acres, those ten houses could be put in a smaller area to preserve open space. He stated they needed to address the issue of affordable housing and making it an item to deserve bonus lots was worthwhile. He spoke about how a home could be built that would entice a younger family by making room for them to finish areas or add a garage at a later time. Mr. Lynde felt the Board had a lot of work to define things currently in the ordinance. He noted there was a requirement for at least 15% open space in any subdivision. He said the proposal was their attempt to correct what they saw as some excesses. He believed Mr. Hennessey was correct that the Board didn't have to give density bonuses. He would support lower priced housing, so people could move into Town. He thanked the speakers and said he would take their comments to heart.

Mr. Montbleau totally agreed with the three speakers. He said the inclement weather created a 'perfect storm' in the sense of some people made it to the meeting and some didn't. He said a lot of townspeople didn't have the opportunity to weigh in on the proposal. Some of the other boards working with conservation subdivisions look to them as one of the tools to keep open land available to the Town for recreational purposes and for

wildlife. Mr. Montbleau stated he had been on the Board since the mid-1980s and watched the Town develop. He recalled when 'cluster' zoning originally came forward. It wasn't taken into consideration because there was still a lot of open land. He said they were now in a different age where they had to preserve the land. He felt the various boards and people who worked on the conservation subdivision ordinance did a tremendous service to the Town. He agreed with Mr. McDevitt that it appeared the Board was 'throwing the baby out with the bath water' in the radical re-write. He heard Mr. Lynde's comments that his heart was with the Town, open land and preservation. Mr. Montbleau stated on the night of the storm he was prepared to speak in the same manner that the three speakers had done. He felt the Board could be more focused and rein in the density bonus lots and preserved some of the incentives. He didn't want the proposed ordinance to go in front of the voters in its present form, and thought the Board should conduct a meeting and discuss how they wanted to go forward. He believed with the Board's awareness and the public interest they could take the existing ordinance and make it work.

Mr. Bergeron stated the Board was not eliminating residential conservation subdivisions; the only changes made was that density offsets would not be granted unless the applicant proposes to build some workforce housing among the lot of the conservation subdivision. Other than that, they would still have the ability to dedicate a portion of a parcel to open space. He believed the thought behind the proposed language was logical; if someone had fifteen acres, they could build fifteen houses on half the acreage. Mr. Bergeron informed that the New Hampshire Water Well Board ('NHWB') adopted new rules and regulations relative to wells and do not condone any well to have an overlapping well radii. The NHWB works closely with the New Hampshire Department of Environmental Services ('DES') to protect ground water and ensure that it stay uncontaminated. Mr. Bergeron commented that the Town had been developing since the 1950s on one acre/one house/one septic system/one well by soil type conditions. He believed some of the developments (previously approved) would have been very hard to do if they had to go through all the road constructions, soil type requirements etc. He noted that the Board had admitted to passing more developments that were wrong than were right. With the proposal they were attempting to rein things in and have answers for those who live on (conventional) one acre lots with one septic and one well. Mr. Bergeron said the Town came within an inch of a protest petition to eliminate the entire section of the Zoning Ordinance. He spoke to those people to assuage them and ask that they give the Board time to fix zoning. He stated that the Conservation Commission and Forestry Committee had done the best job to get the Town thousands of acres of open space land. He believed the Board was handing them parcels that were almost useless. He had been receiving negative feedback from his constituents. Mr. Bergeron reiterated they weren't eliminating residential subdivisions. He stated he would continue to support the changes because otherwise the Board would see a radical reaction by people who have seen a majority of subdivisions that aren't appealable. He said he would do everything he could to protect the resources they had. He supported the proposal and would continue to do so.

Mr. Doherty stated he spoke with Bob Lamoureux of the Forestry Committee (and member of the subcommittee who created the ordinance) on the phone because he was unable to attend the meeting. He said Mr. Lamoureux wanted to remind the Board that the Ordinance was an innovative land ordinance that the Board could vary, whether or not they made changes because it was a guide. Mr. Lamoureux felt the Board shouldn't give bonus densities out like 'candy'; he also felt they should leave the existing language alone. Mr. Doherty agreed with Mr. Lamoureux that the Board didn't need to make the changes because they had the right to either give bonus densities or not and they also had the right to require community water. With regard to getting rid of the incentives in the density offset section, Mr. Doherty noted all the same requirements for the developments would remain. The Board had found that out of seven criteria for density offsets, only one was being used. He said he tried to push developments to include additional criteria, but wasn't supported by other Board members. He noted they weren't seeing protection of front lots for open space, sidewalks or the inclusion of workforce housing. He pointed out if there was an existing municipal water supply going past a development, a developer would connect to it. He questioned why that development would be given bonus density for something they would do (regardless). Mr. Doherty told the Board it didn't matter to him whether they submit the proposal or not because it was an innovative ordinance and the Board had the flexibility to negotiate with the developers. He reviewed Item G. under the Purpose: *to conserve scenic views, unique and aesthetic elements of the town's character while minimizing views of new development from existing roads.* He said there was mention that the

Town wouldn't see fields being left; however, the purpose was to maintain the scenic views. He used the Currier Road (Garland Woods) development as an example of a development that had preserved fields. Mr. Doherty agreed with Mr. Lamoureux that they didn't need to make changes to the ordinance; however, if making changes reined in the Planning Board from giving bonus lots, he supported placing the proposal on the ballot. He said if he voted yes, it was to let the people decide what they wanted to do, and if he voted no, it was to make it so the people couldn't decide. He voted against the Elderly Housing because he didn't think they should put anything dealing with elderly housing on the ballot again after subjecting the voters to a special election. Mr. Doherty said he would vote for the proposal only because he wanted the voters to have the right to vote. He was personally not in favor of the proposal.

Mr. Dadak stated he was originally in favor of the changes, but after listening to the testimony he believed they had done things too fast. There were technical things they should consider that didn't have answers. They could only work within the State Regulations regarding setbacks for wells etc. He said there had to be other towns that have worked with similar concerns about drinking water, wells and the proximity to septic systems. He'd like input from the State and other towns who had to wrestle with conservation subdivisions.

Mr. Passamonte commented that he was on the subcommittee when the ordinance was reviewed. He said the Board had not been following the language contained in the ordinance. He believed the proposal eliminated a lot of confusion for what the Board allows for extra lots. He said he was in the same mindset as Mr. Bergeron with supporting the proposal.

Mr. McNamara stated he would vote against the proposal. He said they had heard from the Zoning Board Chair, Conservation Commission Chair, and Mr. McDevitt who each had decades of experience. He respected their opinions and felt it was wise for the Planning Board to listen to other boards who were also involved in what they did. He also agreed with Mr. Doherty that as the ordinance stood, the Board had the power to say 'no' and not give density bonuses. Mr. McNamara felt they probably went into the process too quickly and if they wanted to make changes and means to address workforce housing, they should do it more inclusively and with more time. Mr. McNamara will vote not to recommend placing the proposal on the ballot.

Mr. Lynde understood that the existing language gave the Board a lot of flexibility and guidelines as to when they allow things. He believed the rationale for wanting to change things was because it wasn't happening. He said he wouldn't have a problem leaving the language in if the Board could show they could do things right. He believed the Board wanted to act in the best interest of the Town, but sometimes it didn't happen. Mr. Lynde respected the people who spoke. He said the intent of the ordinance was to preserve open space.

Mr. Gowan reminded the Board that they had the ability to amend the Subdivision Regulations (Chapter XV), without going to the voters, which is the 'nuts and bolts' part of conservation subdivisions. He agreed that the Board never had to grant a bonus lot and going forward should let the developers earn them. He noted if the proposal was approved by voters the Board would have to change the Subdivision Regulations to be consistent with the ordinance.

Mr. Doherty wanted to be clear that the comments he relayed from Mr. Lamoureux were his own comments, and not in representation of the Forestry Committee. He said Mr. Lamoureux wanted the Board to know he was against the changes, and would vote 'no' if it was placed on the ballot.

Mr. Bergeron questioned if the proposal would be placed on the ballot if a majority of the Board voted not to approve the proposal. Mr. Doherty said the Board needed to vote to decide if they would submit the proposal for the ballot. Mr. Lynde stated if they voted no, it would not be placed on the ballot. Mr. Bergeron commented that he heard nearly every member say they could do things right, but haven't yet. He stated he would do things right whether the changes were made or not. He wanted to give the opportunity to the voters to decide.

Mr. Lynde said he was comfortable if the proposal didn't pass that they had a good Planning Board.

MOTION : (Bergeron/Passamonte) To recommend that the changes (to Article XV Residential Conservation Subdivision by Special Permit) be placed on the ballot.

SHOW OF (3-4-0) The motion failed.

HAND VOTE: Voting in favor were: Mr. Bergeron, Mr. Passamonte and Mr. Lynde.
Voting in Opposition were Mr. McNamara, Mr. Montbleau, Mr. Dadak and Mr. Doherty.

Mr. McNamara closed the public hearing.

MINUTES REVIEW

December 18, 2017

MOTION: (Doherty/Lynde) To approve the December 18, 2017 minutes as written.

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

January 4, 2018

MOTION: (Bergeron/Lynde) To approve the December 18, 2017 minutes as amended.

VOTE: (4-0-3) The motion carried. Mr. McNamara, Mr. Montbleau and Mr. Dadak abstained.

OLD BUSINESS

PB Case #PL2017-00022

Map 17 Lot 12-232

CROTEAU REV. TRUST c/o Arthur Croteau -9 Ledge Road – Site Plan Review to permit the construction of an addition to the existing 60’x80’ service garage, permit the construction of a 30’x80’ pole barn and to re-organize and add some additional parking.

Mr. Bergeron stepped down. Mr. Steele was appointed to vote.

Representing the applicant was Mr. Joseph Maynard of Benchmark Engineering. He noted at the meeting in December the Board asked that Keach Nordstrom (Board’s engineering review firm) conduct a cursory review of the plan. He stated Mr. Keach provided an initial memo and the plans were revised. A subsequent memo (December 21, 2017) was submitted from Mr. Keach to Mr. Gowan. Mr. Maynard stated that they had addressed a majority of the corrections Mr. Keach’s suggested; there were a couple items previously submitted for waiver that Mr. Keach found to be unnecessary. The waiver request letter has been rewritten. He spoke to runoff going to a neighboring property (also owned by the property owner). Under Section 303-3.A(3) there is a provision that allows increased runoff onto a neighboring property, providing there is a letter from the abutter. Mr. Maynard told the Board they had a letter to submit that indicates the abutter will accept the small increase in runoff from the applicant’s property. In general, he said Mr. Keach’s comments were satisfied, including a new septic design (that still needs engineering review and State approval).

Mr. Keach of Keach Nordstrom came forward to discuss his memo dated December 21, 2017. He summarized the general comments, planning/design matters and the summary of remarks with recommendations.

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

MOTION: (Montbleau/Passamonte) To approve the waiver to Section 303-2-a.4 for consideration – interior parking islands (green space).

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

MOTION: (Montbleau/Passamonte) To approve the waiver to Section 303-2-a.5 for consideration – exterior parking facilities.

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

MOTION: (Montbleau/Passamonte) To approve the waiver to Section 303-2-B.4 for consideration – parking space requirements.

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

MOTION: (Montbleau/Passamonte) To approve the waiver to Section 302-3.E(3)(a)(23) – Site specific soil survey mapping and use of the NGVD 1988 for vertical survey control – Section 302-3.E(3)(a)(22).

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

Mr. Maynard stated in lieu of providing a waiver to Section 303-4 regarding ‘peak stormwater’ he will provide a physical easement.

Mr. Doherty believed similar businesses had a dumpster where they placed parts removed from businesses and questioned where it was located on the property. Mr. Maynard replied there was no dumpster on the property when they were doing the survey.

Mr. Gowan wanted to clarify if the Board wanted a plan compliance monitor letter ‘after the fact’. Mr. McNamara didn’t think it was necessary for the purposes of the limited site plan in front of them. There was a consensus of the Board that it was not needed.

Approval conditions:

- 1) Provide a physical easement (in lieu of waiver for Section 303-4 ‘peak stormwater’);
- 2) A final letter from Keach Nordstrom indicating their satisfaction with the plan.

MOTION: (Montbleau/Passamonte) To approve the Site Plan.

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

Mr. Bergeron returned to the Board.

PB Case#PL2017-00023

Map 18 Lot 12-15-1

HARRIS POND LANDHOLDINGS, LLC – 363 Gage Hill Road – Proposed 3 Lot Subdivision and Seeking Special Permit for well locations and minor WCD encroachment for driveway turnaround.

Representing the applicant was Joseph Maynard of Benchmark Engineering. He summarized the description of the proposal. The applicant is seeking a three-lot subdivision; with three new driveways. There will be an improvement to the overall streetscape where they will cut back an existing hill along Old Gage Hill Road to improve sight distance for driveways and visibility along a sharp curve existing in the area. Subsequently there are three Special Permit requests: 1) middle lot (approx. 100SF impact) for construction of a well – supported by the Conservation Commission; 2) well-constructed in Wetland Conservation District ('WCD') (approx. 700SF impact); and 3) driveway (approx. 800SF) (not supported by the Conservation Commission).

Mr. McNamara read aloud a letter submitted by the Conservation Commission dated December 20, 2017. The Commission voted 4-0-0 in favor to recommend development on lot 12-15-01-01, which impacts 100SF for the well. Included in the motion/vote was the preference that lot 12-15-01-02 not be built upon because of the extensive impact to the WCD and the expansion that most likely will occur into the WCD as time passes; however, if the Planning Board chooses to approve the lot, the Commission would prefer the well be moved behind the house to reduce the well and waterline impacts to 700SF and that both the size and the orientation of the driveway and house be changed to minimize WCD impacts.

Mr. Maynard told the Board they took the Conservation Commission's comments into consideration and felt the third lot made the project, especially with the large amount of improvement they would make to Old Gage Hill Road.

Mr. Doherty wanted to know what was done to alleviate the water situation with the abutter. Mr. Maynard replied they looked at the situation several ways, and ultimately ended up putting a dip in the driveway, and forcing a swale all the way back to the wetlands. Doing so, they could take the water from the abutter's lot corner and send it back to the wetland through a permanent drainage easement. Mr. Doherty understood it would be above ground. Mr. Maynard said that was correct. They didn't have the grade to be able to install a pipe underground. Mr. Bergeron asked if they had enough natural slope with the existing topography. Mr. Maynard replied from the lot to the wetland they had enough pitch to keep water flowing and not sit. Mr. Bergeron wanted the abutter comfortable.

Mr. Steve Keach of Keach Nordstrom came forward to speak to his review letter dated December 21, 2017. He commented that the State subdivision approval and Department of Transportation ('DOT') driveway permits for each lot were required. He noted the purview of driveways was with the DOT, rather than the municipality. He would like to see Fire Department comment regarding the application. Mr. Maynard stated they had a conversation with Fire Inspector John Hodge who informed they could either install a 10,000-gallon system or sprinkle the buildings. He said they agreed to do one or the other, but leaned toward sprinkling the buildings. Mr. Bergeron asked if the Fire Department was aware there was a cistern in the pond. Mr. Gowan replied they didn't rely on dry hydrants any longer; they only wanted built hydrants or sprinklers. He added it was difficult for the pumper trucks to pull water out of brooks and streams. Mr. Keach went on to review his comments in the letter. There was a brief discussion regarding sight distance. Mr. Keach spoke about how the proposed alterations would allow each of the driveways to see 400ft in each direction. He recommended reciprocal language in the easement deeds include terms and conditions that preclude the ability of owners within the limits of the easement to erect vertical items that prevent continued sight distance after the sight line problem is cured by the removal of earth.

Mr. Montbleau wanted to know if the proposed alterations would change the drainage. Mr. Keach answered no.

Regarding the northerly lot, Mr. Keach encouraged the applicant to continue discussions with the DOT. Mr. Maynard replied he had spoken with the DOT; they were very happy the hill in the front of the property would be taken back, given the sight line along the main road. They were also happy a drainage easement would be installed. Mr. Keach spoke to the abutter's concern about the construction of driveway for the northerly lot as it pertained to drainage flow to the south. He said the design engineer had designed a 'trough'; the water will

run over the driveway. He said Mr. Maynard was correct that there wasn't enough room between the driveways to put in a culvert with any kind of cover. He felt the applicant had addressed the situation to the best of their ability and believed if the proposal was built correctly it would work.

Mr. Doherty asked if there was a recommendation for an easement across the property, so a future owner wouldn't be able to repave the driveway and cause water to back up. Mr. Keach explained the plan showed a drainage easement on the northerly lot that would carry water along grading. He didn't think an easement could contemplate, it was a matter of getting it built correctly the first time.

Mr. Bergeron wanted to know the expected finish grade. Mr. Maynard replied it was almost two feet lower than the existing driveway; for every 100ft there would be an approximate 2ft. drop. He tried to create a wide swale that could be easily maintained. Mr. Keach noted a quarter inch per foot was the typical crown on a road.

Mr. Montbleau questioned if the 100-year flood plain would be affected by the proposal. Mr. Maynard replied the 100-year flood area fell within the wetland area. Mr. Montbleau wanted to know if there was an event if water would be brought up to the proposed foundation. Mr. Maynard replied it would have to come up 4ft to get to the basement of the structure, which would be considerable, given the size of the wetland complex. He said it was a large wetland that flowed toward Methuen.

Mr. Gowan suggested the Board consider making a condition for approval that the house locations be site specific. Mr. Maynard believed only the third lot had that concern; the remaining two lots had substantial buildable areas. He would accept a condition for 'site specific' for the third lot. Mr. Bergeron questioned what the Board had done in the past to ensure 'site specific' happens. Mr. Gowan replied the Building Inspector would check it. Mr. Maynard added that they would certify to such when they submit the 'as built' plan. He spoke about how it would be staked and noted on the plan. Mr. Keach stated the critical lot was the southerly lot, which didn't have a lot of room for variation. He said some of the needed waivers dealt with this lot. He then reviewed the final comments in his letter, which mainly pertained to waivers.

Mr. Bergeron addressed the comment regarding the waiver for overhead lines. He felt the utilities should remain on a pole and not be underground based on the location. Mr. Keach didn't like to see line utility services where they were avoidable. Mr. Bergeron felt they weren't avoidable at the proposed location.

Mr. Lynde stated he had a problem with the southerly lot. He recalled the applicant indicating if they were restricted, they would put a duplex in. He felt doing so might be a better alternative. Mr. Maynard stated if they were restricted to two lots they wouldn't do the major improvement to the frontage along Old Gage Hill Road, because they wouldn't need to. Mr. Lynde asked if the sight distance requirements would be met with only having two lots. Mr. Maynard answered yes. Mr. Lynde believed if the lots were combined (to do away with the third lot) most of the waiver requests would go away. Mr. Maynard commented the developer was willing to fix an inherent problem to an older street; to do so, it was a considerable burden on the middle lot, which would ultimately affect the lot's value. To fully develop it they were looking for a trade-off.

Mr. Montbleau spoke about the southerly lot. He saw that the driveway would have an 800SF impact to the WCD, which required a Special Permit. He wanted to know if the house would violate the WCD buffer if the (site specific) location was shifted one foot to the north. Mr. Maynard replied (on the north) they were eighteen inches off the setback line and if it was pushed back in a northeast direction, it would be approximately five feet before hitting the WCD line. Mr. Montbleau's point was that the site specific location for the house was tight. Mr. Maynard understood that was the reason for having an approval condition for site specific. Mr. Montbleau asked if the well radii (on the northerly lot) had to encroach on the second lot. Mr. Maynard explained they had done so because the area it encroaches on the neighboring lot was precluded from development due mostly to the WCD buffer. Also, it gave the northerly lot plenty of flexibility for a house and septic. Mr. Montbleau asked if the well would be drilled in the WCD. Mr. Maynard answered no. Mr. Montbleau inquired if the northerly

lot contained 35,000SF contiguous dry land. Mr. Maynard answered yes; it contains 50,615SF. The middle lot contains 57,376SF and the southerly lot contains 35,762SF of contiguous dry land.

Mr. Bergeron addressed the well radii. He asked if the location on the center lot had been moved. Mr. Maynard answered no. He said they moved the southerly lot because of a request by the Conservation Commission. Mr. Bergeron questioned if the 15ft. setback restraint was the Town's restriction. Mr. Maynard replied it was the Town's Zoning. Mr. Bergeron believed the Board should review that requirement. He asked for the distance between the wells to the effluent disposal areas ('EDA') and/or septic. Mr. Maynard replied the EDA from the State's standpoint was the actual field itself. He said under Subdivision Regulations they had to show a 4,000SF area dedicated for a septic system. He noted that the 4,000SF areas delineated on the plan were outside of the 75ft. well radiuses. Mr. Bergeron saw that the center lot had the most potential for impact. Mr. Maynard said there was plenty of room for the 4,000SF area in front of the house and driveway. Mr. Bergeron inquired what type of system was being proposed. Mr. Maynard said it would dependent on who built the system; typically, when seeking a subdivision approval from the State it's for a four-bedroom house. He noted there was no issue with any test pits on the property. Mr. Bergeron pointed out that every house built had the potential for an accessory dwelling unit. Mr. Maynard replied the State wouldn't approve it if the lot didn't meet the loading. Mr. Keach noted a State (DES) subdivision approval was for 'up to' and including a four-bedroom home, unless stated otherwise.

PUBLIC INPUT

Ms. Cynthia Hay, a direct abutter came forward to speak about her concerns regarding water. She wanted to know what could be done to ensure the project was built correctly. She asked that any/all approval be conditioned upon the need for NH DES subdivision approval and NH DOT driveway permits. She felt the Pelham Fire Department should review and provide comment regarding the plan. She asked if they would provide something in writing. Mr. Gowan said if the plan was larger they might provide expanded comments, but in this case their comments would be focused on having a cistern or sprinklers. Ms. Hay wanted to see the approvals be contingent on obtaining permits for the WCD. She asked for an explanation of the site specific soil mapping and whether it gave some indication as to what happens when building/disruption occurs in the WCD. Mr. Maynard explained that site specific soil mapping and special permit to do work in a wetland buffer were two different things. He said the soil mapping dealt with what the soils were on a specific piece of property. He noted they did several test pits across the property that were witnessed by the Town's agent. Ms. Hay stated she had a wet basement all the time, even though she was located on an elevated piece of land.

Mr. Maynard discussed the drainage and said they designed a system they felt would work. He said the State would be called when work is done. Regarding the swale, he said they could have Mr. Keach conduct an inspection at the time it's created to make sure all grades are proper; he offered to post an inspection bond.

Mr. Montbleau understood Ms. Hay saying she had water in her basement. Ms. Hay replied it was a frequent occurrence to have water in the basement. She said water pools in the first lot adjacent to her. Depending upon the weather conditions, water can also be seen across the road. Mr. Montbleau wanted to know the comparison of the elevations between the southerly lot and Ms. Hay's property. Mr. Maynard replied Ms. Hay's lot was higher than the proposed lots. He noted that her home was from the 1940s era. Typically during that time the foundation was dug into the till layer (water table). In new construction, they try to stay above the till layer; if not they provide proper foundation drains so static pressure didn't come up through the floor. Ms. Hay was worried about having more water if the area was disturbed more. Mr. Maynard replied they were cutting the swale so there wouldn't be ponding in front of the lots. He said anything new would have proper drainage.

Mr. Doherty wanted to know the possibility of having a duplex if the middle lot already existed with 2.1 acres and 57,000SF of upland. Mr. Gowan replied if there were two acres of land and 55,000sf of contiguous area a duplex would be allowed. Mr. Doherty noted the Board was currently looking at three single-families and now a duplex could be thrown into the mix. Mr. Gowan said that would depend if the Board approved the plan for

‘single-family’ only and preclude duplexes. Mr. Doherty noted they could potentially have two single-families and a duplex and wanted to know if there was something the Board could do to limit the development to single-family homes. He asked if the lot lines could be adjusted so they wouldn’t have enough acres to be eligible for a duplex. Mr. Maynard pointed out if there was duplex, with more than four bedrooms, the well radius would be expanded to 100ft, which would no longer stay within the setbacks.

Mr. McNamara closed the public input aspect of the meeting. The Board then addressed the waivers.

MOTION: (Passamonte/Dadak) To accept the waiver request to Section 10.04.S for consideration– site specific soil survey mapping.

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

MOTION: (Passamonte/Dadak) To approve the waiver request to Section 10.04.S for consideration– site specific soil survey mapping.

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

MOTION: (Passamonte/Dadak) To accept the waiver request to Section 11.01.C (1) for consideration– 100ft x 150ft. building envelope

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

MOTION: (Bergeron/Passamonte) To approve the waiver request to Section 11.01.C (1) for consideration– 100ft x 150ft building envelope.

VOTE: (6-1-0) The motion carried. Mr. Lynde voted in opposition.

MOTION: (Passamonte/Dadak) To accept the waiver request to Section 11.11(b)2 for consideration– site specific soil survey mapping.

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

In this instance, Mr. Doherty stated he had no issue with the overlapping well radii into the middle lot because there would be no building or septic installed in the area. Mr. Lynde wanted to know which lot the waiver pertained to. Mr. Maynard replied it was for Lot 12-15-01.

MOTION: (Doherty/Passamonte) To approve the waiver request to Section 11.11(b)2 for consideration– site specific soil survey mapping.

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

MOTION: (Passamonte/Doherty) To accept the waiver request to Section 11.04.B(5) for consideration– minimum lot width (northerly lot).

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

Mr. Doherty would like to see the lot 50ft. wide (or more) in the back. He didn't think it should come to a point. Mr. Maynard noted the corner was out in the middle of a wetland and had the natural corner where the stone wall went under water in that location. He said when they have a scenario such as this, they typically don't go into the swamp to try to set the corners; they set them at the edge of wetland. He said if the Board had an issue with it, he could put an angle point at those two lines, but there would be some lot corners under water. Mr. Doherty still felt the corner of the lot shouldn't come to a point.

Mr. Bergeron commented about the property and believed over the years the hydrology had changed because of what is happening in another state with beaver issues. He said the land didn't previously flood. He provided a brief history of the area.

MOTION: (Passamonte/Dadak) To approve the waiver request to Section 11.04.B(5) for consideration– minimum lot width (northerly lot).

VOTE: (6-1-0) The motion carried. Mr. Doherty voted in opposition.

MOTION: (Doherty/Bergeron) To accept the waiver request to Section 11.12.A for consideration– lots to be serviced by underground utilities.

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

Mr. Doherty said the Board had conflicting comments about the easement in the front being cleared of obstructions and dug out for drainage. He believed if they were to require digging for underground utilities, as opposed to having poles and overhead utilities, after the area was graded and complete it may be disturbed later and cause the water problem to reoccur. He felt they should have overhead utilities. Mr. Keach said if the utilities had to go underground, the lines would come from across the street (on Old Gage Hill Road) and drop underground through conduit and run to the homes. He noted they would need more than one pole to service the three homes. Mr. Bergeron stated he would normally agree with Mr. Keach; however, in this case given the topographical restraints it would be much better to have wires in the air to each service mass. Mr. Keach agreed in this case there were mitigating circumstances.

MOTION: (Doherty/Passamonte) To approve the waiver request to Section 11.12.A for consideration– lots to be serviced by underground utilities.

VOTE: (6-1-0) The motion carried. Mr. McNamara voted in opposition.

Mr. McNamara inquired if the Board needed to take separate votes with regard to the Special Permits. Mr. Gowan believed the Board could take one vote. Mr. McNamara noted there were three separate requests for Special Permit (WCD impacts). Mr. Maynard noted that the middle lot had a 10ft. x 10ft. area to construct a well, 2) southerly lot had a 700SF encroachment to construct a well and water line to the proposed house, and 3) southerly lot also had an 800SF impact for the driveway and associated grading.

MOTION: (Passamonte/Bergeron) To approve the Special Permits – Wetland Conservation District impacts.

VOTE: (5-2-0) The motion carried. Mr. Montbleau and Mr. Lynde voted in opposition.

Mr. Gowan reviewed a proposed list of approval conditions:

- 1) Three sight distance easements;
- 2) Letter of satisfaction for the final plan from Keach Nordstrom;
- 3) Receipt of New Hampshire Department of Transportation approved driveway permits;
- 4) Site specific house location to be staked and referenced in the notes for Lot 12-15-01-02;
- 5) Bounds set;
- 6) Small escrow amount for inspection of swale once installed (amount per Keach Nordstrom);
- 7) Receipt of State subdivision approval;
- 8) Outcome of Fire Department inspection and determination of fire protection to be memorialized on the plan.

MOTION: (Passamonte/Dadak) To approve the subdivision with the listed conditions.

VOTE: (5-2-0) The motion carried. Mr. Montbleau and Mr. Lynde voted in opposition.

NEW BUSINESS

PB Case #PL2017-00020

Map 31 Lot 11-33

Charles M. Klezkowski, Jr. (Owner) / American Towers, LLC (Applicant) – Spring Street Off – Site Plan Review for a proposed 150ft. monopole and associative facilities, also seeking Special Permit to access drive through wetland buffer.

Mr. McNamara announced that the case had been withdrawn.

PB Case #PL2018-00004

Map 3 Lot 5-174

HARRIS, John, HARRIS, George Jr., HARRIS, George III - off Shelly Drive - Seeking a Special Permit for WCD Impact for Construction of Driveway

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

Representing the applicant was Mr. Joseph Maynard of Benchmark Engineering. He summarized the request. The property contained approximately 7.5 acres and received a variance from the Zoning Board in 2014 for frontage. The access to the property is through a driveway easement off the end of Shelly Drive. They met with the Conservation Commission on December 13, 2017. He read aloud a letter submitted by the Conservation Commission dated December 20, 2017 that indicated they voted 4-0-0 in favor to recommend the plan as described. He noted the State Dredge and Fill permit was received earlier in the afternoon and would be submitted to the Planning Department once an approval is granted.

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

Mr. Montbleau made a motion to approve the special permit for Wetland Conservation District impact – driveway construction. Mr. Doherty seconded.

Mr. Lynde questioned if the variance should have been acted upon within a certain amount of time. Mr. McNamara replied it ran with the land. Mr. Maynard stated they had been working on the project since 2014. He explained that the National Heritage Organization asked them to do a specific study on the property that had to be done during certain months of the year. They finished the study last summer.

Mr. Gowan referenced RSA 674:41 – erection of buildings on streets. He read a portion of the section aloud. Mr. Maynard informed that Attorney David Groff had done the variance application and presentation. He said they were very specific about trying to build on a lot with zero frontage. They conducted site walks with the Zoning Board and Conservation Commission. The access had been on a platted plan that was approved by the Planning Board and subsequently enacted on as the Shelly Drive subdivision. He reiterated that the lot was from a legal and binding plan that was approved by the Planning Board in the 1990s and subsequently had Zoning relief for a buildable lot with zero frontage. Mr. Keach didn't think the statute mattered for the purpose of the case in front of the Board.

Mr. Lynde inquired if there was any concern about emergency access to the lot. Mr. Maynard replied during the Zoning hearing process there was a considerable amount of conversation that went on back and forth with the Fire Department, who also conducted a site walk and offered input. Ultimately what came out of the Fire Department's letter was that they were okay with the design and approval.

MOTION: (Montbleau/Doherty) To approve the Special Permit for Wetland Conservation District impact - driveway construction.

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

PB Case #PL2018-00001
Map 1 Lot 5-124

HEBERT, Christopher - Mammoth Road - Site Plan Review of Proposed 29 Unit Elderly Housing Community and Seeking a Special Permit for WCD Crossing for Grading and Drainage.

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

Representing the applicant was Mr. Shayne Gendron of Herbert Associates, who came forward and provided a summary of the request. He said the parcel contains approximately 12.7 acres (with 10.07 usable land) and is considered a rural district with 230ft. of frontage on Mammoth Road. There are some slope areas as well as an area of flood plain near the front of the property associated with Beaver Brook. The proposal is for twenty-nine units. There is a 22ft. wide private roadway that will access all the properties. The existing home will be repurposed for a club house. There is a unique drainage design that combines a series of tree boxes and bioretention areas. Because the soils are very good on the property, they were able to do some treatment that infiltrates directly into the ground; for this they were able to save on detention areas and be much smaller than what would normally be seen in a similar project. As part of the application there are two special permit requests; one is for grading of a large detention area in the Wetland Conservation District ('WCD') located in the low portion of the lot, the second is 723SF for a level spreader going slightly into the WCD.

Mr. McNamara recalled the plan was submitted for preliminary review several months ago and questioned if Keach Nordstrom (Board's engineering review firm) had reviewed the plan. Mr. Gendron was unsure if they had. He noted the layout hadn't really changed since that time (in October, 2017). Mr. McNamara asked if the plan was sufficiently detailed to be accepted for consideration. Mr. Gowan stated it was, which would allow Keach Nordstrom to conduct their review. He said if accepted, it could also be submitted to the Conservation Commission and the Highway Safety Committee for review.

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

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

Mr. Doherty saw that the retention area appeared to be entirely in the 100-year flood plain and questioned if it would be under water in the event of a 100-year flood. Mr. Gendron replied it would not be under water. He

said he could provide the Board with more information regarding such. Mr. Bergeron asked that the Board be provided with information regarding the highest recorded water elevation of Beaver Brook. Mr. Gowan suggested Mr. Gendron review the VHB Flood Study, which may contain information. He will make the report available.

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

Mr. Lynde questioned if the appropriate 400ft. sight distance was met. Mr. Gendron answered yes. Mr. Lynde asked if a site walk had been conducted. Mr. McNamara didn't recall doing so. Mr. Lynde questioned the adequacy of using the existing house as a club house.

Mr. Doherty inquired if the water main would be brought in to supply all the houses. Mr. Gendron replied they were working with Pennichuck Water to supply water to the site. Mr. Doherty questioned if there would be fire hydrants rather than cisterns. Mr. Gendron said it may have sprinkler systems.

Mr. Lynde noted the absence of a reasonable amount of open space.

Mr. Passamonte wanted to know why the club house couldn't be more centrally located in the development for residents to access. Mr. Gendron replied it would negate the purpose of using the existing home. Mr. Gowan suggested that the applicant submit photographs of the house. Mr. Gendron offered to provide the Board with additional information about the house, such as size and layout.

Mr. Bilapka questioned if bonus lots were given to the development. Mr. Gowan answered no; it was a senior housing project.

There was a brief discussion regarding the location of the proposed club house. Mr. Doherty gave his observation of senior housing developments, which had their clubhouses near the entrance and mail pick up. The clubhouses are used as a gathering point.

Mr. McNamara felt it would be a good idea to conduct a site walk once the Board received a preliminary review of the proposal.

The plan was date specified to the Thursday, February 22, 2018 meeting.

PB Case #PL2018-00002

Map 22 Lot 7-1

DEBORAH ANN TRUST- 9 Atwood Road - Proposed 13 Lot Conservation Subdivision with 1 Open Space Lot and Also Seeking a Special Permit for the Conservation Subdivision and WCD Impact.

The case was date specified to February 5, 2018.

PB Case #PL2018-00003

Map 35 Lot 10-351 & Map 41 Lot 10-312

DHB HOMES, LLC (applicant) / FINEMAN, Neil (owner) - 48 Currier Road & 56 Bridge Street - Special Permit application for a yield plan to show a conventional subdivision of 41 lots to determine the base density for a conservation subdivision

The applicant has requested a continuance to the February 22, 2018 meeting.

The Case was date specified to the Thursday, February 22, 2018 meeting.

DATE SPECIFIED CASE(S)

February 5, 2018 (Monday):

PB Case #PL2018-00002 - Map 22 Lot 7-1 - DEBORAH ANN TRUST- 9 Atwood Road

February 22, 2018 (Thursday):

- 1) PB Case #PL2018-00001 - Map 1 Lot 5-124 HEBERT, Christopher - Mammoth Road
- 2) PB Case #PL2018-00003 - Map 35 Lot 10-351 & Map 41 Lot 10-312 - DHB HOMES, LLC (applicant)
/ FINEMAN, Neil (owner) - 48 Currier Road & 56 Bridge Street

ADJOURNMENT

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

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

The meeting was adjourned at approximately 10:07pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary