**APPROVED**

**TOWN OF PELHAM**

**PLANNING BOARD MEETING MINUTES**

**April 16, 2018**

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

The acting Secretary Derek Steele called the roll:

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| PRESENT: | Peter McNamara, Roger Montbleau, Tim Doherty, Jim Bergeron, Blake Clark, Selectmen Representative Hal Lynde, Alternate Paddy Culbert, Alternate Samuel Thomas, Alternate Richard Olsen, Alternate Bruce Bilapka, Alternate Derek Steele, Planning Director Jeff Gowan |
| ABSENT: | Paul Dadak |

Mr. Steele was appointed to vote and act as Secretary in Mr. Dadak’s absence.

**PLEDGE OF ALLEGIANCE**

**PLANNING DIRECTOR UPDATE**

Mr. Gowan spoke to the Board regarding the Skyview Estates development. He explained that phase I was far along in terms of being built out; phase II home construction has not yet started. He was contacted by an abutter and made aware of a lack of adherence to a note on phase I and II plans (not a condition of approval) that indicated no irrigation from community well system was allowed (and memorialized in each property deed). He noted the Planning Department didn’t have a mechanism to review deeds. He said the wording in the deeds didn’t comport exactly with the note on the plan. Mr. Gowan told the Board he drafted a letter to the owner that indicated the matter had to be resolved; the letter was reviewed by Town Counsel. Inspections are not being held up; however, the Planning Department is holding any permits for new homes and Certificates of Occupancy. Mr. Gowan stated the situation had to be resolved to the satisfaction of Town Counsel and the Planning Board.

Representing Skyview Estates LLC was Attorney Andy Prolman of Prunier & Prolman. He let the Board know they received Mr. Gowan’s letter on Friday (April 13th) and had spoken to Town Counsel. He also spoke with the chief engineer of Pennichuck and believed the note was an error compared to what was being required from the Pennichuck agreement as the community water system was installed and built out. He noted they were in compliance with the Pennichuck agreement in that all the initial deeds say exactly what Pennichuck required; which was ‘no underground irrigation systems and no private wells’. Attorney Prolman agreed that the deeds don’t exactly comply with note #10 on the plans (both phases); however, he expected they would come back to the Board requesting an amendment to that note, so it complied with the Pennichuck agreement. He wanted the Board to know they received Mr. Gowan’s letter and would come back in front of them shortly.

Mr. Culbert specifically remembered note #10 on the plan and stated it was accurate. Attorney Prolman replied he hadn’t yet reviewed meeting minutes; however, he understood there was a conflict between note #10 and what was required under the Pennichuck agreement. He said Pennichuck had no problem with above ground sprinklers and hoses. Mr. Culbert stated he was the reason why note #10 was on the plan and had seen a 7-gang hose coming out from a water spigot.

Mr. Gowan understood that abutters would be notified when the proposed modification to the plan is submitted. He stated there was an additional modification for phase II that would have to come back in front of the Board.

Mr. Bergeron referenced Mr. Gowan’s letter and questioned if the Board and Town Counsel was okay with the statement *“No new building permits within either phase and no certificates of occupancy for either phase will be issued until this issue is addressed to the satisfaction of the Planning Board and its legal counsel.”* Mr. Gowan stated he would never put that type of statement in a letter without counsel sign-off. Mr. Bergeron asked if there was any issue of liability to hold up those two items while the matter is being settled. Mr. Gowan reiterated that he deferred to Town Counsel who had no issue.

Mr. Lynde assumed the note on the plan was because there had been a problem with water in the area. He said whatever note they come back with had to comply. Attorney Prolman understood.

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

**MINUTES REVIEW**

**April 2, 2018**

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| **MOTION:** | (Montbleau/Lynde) To approve the April 2, 2018 meeting minutes as amended. |
| **VOTE**: | (7-0-0) The motion carried.  |

**ADMINISTRATIVE**

**Discussion of changes to Pelham Land Use Regulations**

Mr. McNamara stated Board members were provided with a copy of the proposed unified Land Use Regulations developed by Steve Keach of Keach Nordstrom. No one had comments at this time. Mr. Gowan suggested that comments be forwarded to him so the information could be culled together into one set of changes for review at a later meeting. He understood there was a lot of information and believed review would take several passes.

**OLD BUSINESS**

**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. McNamara stated the Board received a request for continuance from the applicant’s representative in order to have time to obtain an ingress/egress easement from parcel 5-111 owned by Tennessee Gas Company and to obtain a letter from Pennichuck Water stating they will provide water and to have final plans reviewed by the Town’s consultant.

The case was date specified to May 21, 2018.

**NEW BUSINESS**

**PB Case #PL2018-00011**

**Map 6 Lot 4-137-28**

**DREME BUILDERS - 30 Longview Circle - Proposed 2-lot Subdivision**

Mr. Steele 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 discussed the history of the property, which was originally part of the Longview Subdivision. A proposed duplex was previously in front of the Board (on the northerly end of the lot) and was currently under construction. The applicant was seeking to subdivide the property into two pieces of land; the first would be the duplex lot containing 2.43 acres, the remaining lot will contain 1.61 acres. He summarized information on the duplex lot. Mr. Maynard stated that the proposed house lot would have a driveway grade of 6%. He said the State Subdivision approval had been granted. A septic plan had been done but had not yet been submitted to the State for review.

Mr. McNamara questioned if the application was ready for acceptance. Mr. Gowan replied it was adequately complete for acceptance.

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| **MOTION:** | (Montbleau/Clark) To accept the plan for consideration.  |
| **VOTE**: | (7-0-0) The motion carried.  |

Mr. Doherty asked for information regarding the turn-around easement. Mr. Maynard replied his research found that the turn-around easement was shown on a record plan dating back to the original subdivision; however, he didn’t find a deed from the developer to the Town, or any release of the easement. His research found that the extension of Longview occurred before the extension of the cul-de-sac. He believed it was an item shown on a plan and never constructed. Mr. Doherty asked if it was Town land. Mr. Maynard replied he didn’t find a deed to the Town.

Mr. Bergeron asked if Mr. Maynard had reviewed the Planning Director’s comments regarding the proposal. Mr. Maynard replied he hadn’t seen the comments but had spoken to Mr. Gowan during the past week. He was then provided with a copy of the comments. Mr. Gowan noted he wrote his comments before speaking with Mr. Maynard and believed some of the items had been addressed. Mr. Maynard spoke to the items contained in Mr. Gowan’s comments. With regard to slopes, he noted that his client had spent a considerable amount of money bringing in fill material; the existing slopes are not naturally occurring. He said additional fill would be brought in to finish off the driveways. He commented that he had done everything in his power to make sure that the driveways meet the goals. He was open to any site-specific requirements the Town might have. He noted they made sure that the driveway for the duplex met the requirements and would do the same thing for the new lot.

Mr. Doherty referenced plan sheet 3 of 3 noting there were two sets of topographical lines and wanted to know if the man-made slopes were already installed. Mr. Maynard explained that the first grouping of lines was after material had been brought on; he had originally done an existing condition plan for the duplex. He said a lot of the lines were the original as-built grades of the lot from when fill was brought in. He stated that a considerable amount of fill had already been brought in to the house lot; however, it was still approximately 4ft. from where it needed to be to meet the proposed grades.

Mr. Bergeron understood Mr. Gowan’s recommendation was to have Keach Nordstrom review the plan before any action was taken by the Board. He understood the terrain in the area was challenging and wanted to follow Mr. Gowan’s recommendation.

Mr. Montbleau understood that fill was brought in and questioned if it was to give a plateau for the house. Mr. Maynard answered yes; it started with the duplex which had a large amount of fill brought in. Mr. Montbleau saw that the first contour line off the back of the house was equal to the contour line in the front, that appeared to create a ‘table-top’ area. He asked if the rectangle shown on the plan was the house foundation geometry. Mr. Maynard replied it was a proposed box (30ftx60ft). Mr. Montbleau saw that the topography dropped off approximately 40ft from the back of the house. Mr. Doherty noted the proposed slope would extend over 240ft. Mr. Maynard replied the slope would began approximately 15ft-20ft. off the back of the house and would be graded at a 2-1 slope. He noted that the Subdivision Regulations reference a ‘naturally occurring’ slope, where the site no longer had a naturally occurring slope. Mr. Lynde understood that the record had been lost as to what the naturally occurring slope was. Mr. Maynard replied that was correct. Mr. Lynde asked if the owner received Planning Board approval to fill the area. Mr. Maynard answered no; there was a building permit on file for the lot and could be filled as part of lot construction. Currently it was one lot with an active building permit for a duplex; the fill was done as part of the excavation. Mr. Montbleau stated they didn’t need the Board’s approval to fill the lot. Mr. Gowan said the Board didn’t grant permission to fill unless it was part of a subdivision project plan.

Mr. Gowan noted that the house foundation had to be down to virgin soil. Mr. Maynard replied the foundation was on virgin earth; there was an 8ft. wall to virgin earth on the back and a walk-out foundation on the front.

Mr. McNamara said he agreed with Mr. Gowan and Mr. Bergeron to hear from Keach Nordstrom with a preliminary (not extensive) review. He believed the Board would benefit from such.

Mr. Clark asked if it was typical for the Board to see a 100ftx150ft (building) box on the plan that met the slope criteria. Mr. Maynard believed that would be hard to do since it was filled land and not naturally occurring land. The 100ftx150ft. box was shown on the plan. He said the box would have to be looked at separately from the topography because it was no longer a naturally occurring slope. Mr. Clark questioned if at any time within the lot’s history a 100ftx150ft building envelope could be fit on the lot that met the criteria. Mr. Maynard said if they continue filling they could. He noted that the slope criteria could be ‘terraced’ to meet the criteria. Mr. Clark said he was accustomed to seeing building envelopes on plans but didn’t see it on the plan currently in front of them. Mr. Montbleau believed the question had been answered as to whether or not the foundation could get into virgin soils and noted that Keach Nordstrom would review for confirmation.

Mr. Gowan offered to send Mr. Keach a note to let him know Mr. Maynard would be sending plans and ask that he do a quick analysis.

Mr. McNamara opened the discussion to public input.

Mr. John Sullivan, 34 Longview Circle provided the Board with a brief history of the proposed property. He said a couple years ago they (owner) began filling the property before the Planning Board approved the plan. At that time, he contacted Mr. Gowan regarding those actions. He understood one foundation had already been lost. Mr. Maynard stated the first foundation that went in for the duplex was not on virgin earth. He said the whole thing was knocked down and re-poured correctly. Mr. Sullivan recalled (from past meetings) there was a discussion regarding the frontage being less than 400ft, which he felt went to why the parcel wasn’t already two lots. Mr. McNamara replied if there wasn’t proper frontage the lot would have required a variance. Mr. Sullivan noted the current frontage was 416.16ft. He then spoke to the slope and understood the Town’s (duplex) requirement was 55,000 contiguous square feet of land not on greater than 20% slope. Mr. Gowan clarified what was required for a single house lot. Mr. Sullivan reviewed the proposed plan and pointed out that virtually the entire property was over 20% (slope). He wanted to know where the 55,000SF area was located on the 2.43 acres (duplex lot). If that 2.43 acre lot wasn’t capable of giving 55,000SF, he wanted to know how much of the proposed 1.6 acres would have to be dedicated. Mr. McNamara replied that was the reason they wanted Keach Nordstrom to review the plans.

Mr. Sullivan told the Board there were a number of errors contained on the site plan such as the scaling, location, Town Zoning requirements listed incorrectly, etc. He said there was also a distance point (on road frontage) that was pinned to no specific location and not found on any previous plans, dating back to the original subdivision. He stated that the people who surveyed the area (and got the distance) had the driveway installed partially on his property. Mr. Sullivan informed the Board that the neighborhood had an existing covenant and was unsure how they are enforced. Mr. Gowan replied neither the Town nor the Planning Board enforced covenants. Mr. Sullivan stated only single-family homes were permitted in the neighborhood and noted that construction had to be completed within one year. Mr. McNamara replied Mr. Keach would review all information. Mr. Sullivan asked if he would review the building site and contiguous space. Mr. Gowan replied Mr. Keach would often review the land itself and would find whatever was askew with the plan.

Mr. Lynde asked Mr. Sullivan to provide a write-up to the Board summarizing his points. Mr. Sullivan said he would do so. Mr. Gowan noted he would send Mr. Sullivan’s correspondence to Mr. Keach.

Ms. Karen Plumley, 25 Valley Hill Road was concerned about her well water and wanted to know if the property or proposed single-family home would be on well water. Mr. Maynard answered no; they would be on the Pennichuck Water system. Ms. Plumley questioned if there would be any more blasting or similar disturbance. Mr. Maynard replied they were just filling; there was no need to blast.

Mr. McNamara stated Mr. Gowan would send a note to Mr. Keach indicating that Mr. Maynard would be in touch with him.

The case was date specified to May 21, 2018.

**PB Case #PL2018-00012**

**Map 22 Lot 7-259**

**BOUTWELL, Nate - 57 Old Bridge Street - Seeking a Conditional Use Permit to develop the lot as follows: Existing Office Building, Existing Garage to be reconstructed as office & proposed 50ftx85ft multi-use building with first floor office/retail and second floor Residential in the MUZ District**

Mr. McNamara announced that the review and discussion would only be considered preliminary. No decisions would be made.

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

Mr. Nate Boutwell came forward with his representative Joseph Maynard of Benchmark Engineering. Mr. Maynard stated the lot was just under an acre in size and was located within the multi-use zone. The lot has frontage on Old Bridge Street and was currently developed with an older home (converted into an office) and detached garage and shed. Currently the lot is serviced by an on-site well and septic system. The applicant would like to develop the lot under the Town’s MUZD regulations. Mr. Maynard stated they were in front of the Board with a conceptual proposal, so they may move forward with final engineering. They proposed to leave the existing house (1200ft office space), rebuild the existing garage to accommodate another office, construct a 50ft.x85ft two-story/mixed use building (lower level office/retail and second story apartments/condominiums). The site is in a very sandy soil area; preliminary drainage numbers have been done. A spot has been identified on the lot for a detention basin. Proposal to have two new septic systems capable of handling the new uses. Currently the proposal would be for an office/retail space of 5,890SF and five two-bedroom residences. The existing well would remain for irrigation purposes; Pennichuck Water line would be extended to the site. With regard to parking, they calculate needing 33.5 spaces; however, 31 spaces shown on the plan. There would be a number of internal connecting sidewalks that would extend out to Old Bridge Street.

Mr. Maynard said they felt it was important to bring the proposal to the Board for comments/changes/edits before getting involved with landscape architects, full drainage reports, etc. Mr. McNamara replied the Board appreciated the submission.

Mr. Gowan was very pleased the applicant notified abutters, so they would have the opportunity to provide input early on. He felt it was good for the Board to give feedback.

Mr. Bergeron reviewed the information provided for the septic and asked for more information. Mr. Maynard noted that the State had blanket per square foot numbers for office/retail space based on five gallons per day for every 100SF of building space. He explained typically when the project is built out they put meters; the State allows for meter readings after a six-month timeframe. He said for the proposal they used the maximum numbers in the State’s rules to start with. Mr. Bergeron discussed loading and wanted it demonstrated that the lot was capable of 2,000 gallons per day.

Mr. Thomas asked if there was any concern of spillage within the existing storage garage. Mr. Maynard replied it was residential garage for a number of years and was being used for storage at present. He said there weren’t any concerns.

Mr. Doherty reviewed the proposed walkways and saw there was almost a cross-walk to line up with the sidewalk in front of the cemetery. He wanted to know if the walkway behind the existing office building could be connected to the walkway coming out of the garage. Mr. Maynard said they could connect them. Mr. Doherty inquired where the irrigation well was located. Mr. Maynard showed it was between parking spaces 14 and 15; they would install a manhole and put it in the pavement. He showed that Pennichuck was located near the roundabout approximately 500ft-600ft away. Mr. Doherty questioned if there was any flood plain on the property. Mr. Maynard said he found nothing on the maps for the lot. Mr. Doherty wanted to know if there was any thought about snow storage or the need for a dumpster. Mr. Maynard felt they had good snow storage areas along the lot line and near the detention pond.

PUBLIC INPUT

Ms. Karen Banakos, Wisteria Lane came forward and told the Board her property was within 9ft. of the proposal. Her property was landlocked off Wisteria Lane. She said when the trees are removed, the proposed buildings would be the view from her backyard. Mr. McNamara replied the applicant would need to demonstrate that their lot was sufficiently buffered with some blending into the neighborhood. Ms. Banakos understood that the water would be Pennichuck. She wanted to know about the septic because she was concerned about her well. Mr. McNamara said the lot loading would be closely reviewed. Ms. Banakos told the Board that the pictures of the development were beautiful; however, the lot was not that big. Mr. Gowan stated he couldn’t imagine the Board not walking the site when the application is submitted. Ms. Banakos was curious how the proposal would impact the value of her house. Mr. McNamara couldn’t answer, but noted it was a mixed-use district and other uses were allowed. He said once the fully engineered plan came in front of the Board they would have a better understanding of how everything would look and what the Board could do to protect her property.

Mr. George Banakos, Wisteria Lane shared the same concerns as his wife, the main one being where the proposed septic will be located. He said the applicant’s property was very close to where his well was located. Currently his well is at 750ft. Mr. Banakos said the pictures of the proposed development were beautiful, but there was no way in his imagination could he visualize it on the site. Mr. McNamara said the Board would visit the property and listen to what people’s concerns are.

Mr. John Jepson, 12 Woodbury Avenue was concerned with what would go on with the old Town road and wanted to know if the applicant would get the property. Mr. Maynard explained that the old Town road was owned by the State who constructed a detention basin in front of the applicant’s property. He said it was part of the right-of-way. Mr. Jepson asked who decided the right-of-way. Mr. Maynard replied the State maintained it as part of the re-development. Mr. Jepson wanted to know who gave the applicant the right to use the land. Mr. Maynard said it was a right-of-way and they were trying to connect to a neighboring street. Mr. Jepson said the second right-of-way went into his driveway and wanted to know who gives the applicant the right to use it. Mr. McNamara said the Board would look at it. Mr. Jepson inquired if the proposed detention pond was actually wetlands. Mr. Maynard replied the proposed detention pond was for the drainage from the site. Mr. Jepson asked if the trees in the detention pond area would be cut down. Mr. Maynard said when designing the detention pond, they would take tree removal and the land change into consideration. Mr. McNamara said when the fully engineered plan was submitted the Board’s engineer would look at it. Mr. Jepson said the meeting was the first he was hearing about the proposal. Mr. McNamara said it was the first time for the Board to hear about it too; it was the first step in a process. He noted that the applicant didn’t have to notify abutters, but they did so they could hear comments. He said when an engineered plan is submitted the Board will have a better understanding of concerns and how they could best accommodate everyone.

Mr. James Suprenant Piro, 83 Old Bridge Street was concerned with runoff from tree removal and additional asphalt. Mr. McNamara said when they received a fully engineered plan the Board would have their engineer review the proposal paying particular attention to what would occur with tree removal and changes to impervious surfaces. He said the Board would also review the area when they conduct a site walk.

Ms. Mary Ann Sarris, 44 Old Bridge Street told the Board her biggest concern was the impact on traffic. She stated the traffic was currently horrendous from Marsh Road through to Route 38. She was concerned with adding a business and apartments. Mr. McNamara said the applicant would have to provide traffic numbers for the approximate number of vehicles accessing the site. The Board would try to make provisions. Ms. Sarris reiterated the difficulties with traffic and couldn’t comprehend what would happen with the proposed business and apartments. Mr. McNamara stated that the Highway Safety Committee would review the plan when it was submitted for safety, accessibility and increase in traffic. He explained the current meeting was the beginning of the process. When an engineered plan is submitted abutters will receive notification of the Board meeting and be invited to attend the site walk. Ms. Sarris offered to provide input to the Highway Safety Committee as she didn’t feel the street could take much more traffic than was currently there.

Mr. Christopher Suprenant Piro, 83 Bridge Street agreed with the problem of watershed. He had current photographs of the water going across from the Banakos’ driveway. He explained the direction and amount of current waterflow. He said one day he’d like to sell his property to his children and appreciated everything the Town was building (Police Department, Fire Department, Library, medical building) but didn’t feel the proposed building fit for the location. He said the proposed building was essentially on top of Laurent’s garage. He said Hudson had a mish-mash of businesses on top of houses, but that was not how Pelham was and he didn’t want it to become so. Mr. Suprenant appreciated that the area was now business zoned but didn’t know what that meant for his property with regard to value. He noted again that he had current photographs of the water flow. Mr. McNamara said when the plan was submitted he would be welcome to show them to the Board or submit them for the record.

Mr. Dan Martin, 73 Old Bridge Street shared some of the concerns voiced by his neighbors, but also wanted to state that he’d seen some of the properties developed by Mr. Boutwell and thought he did a great job. He was interested and looked forward to seeing what would be brought forward and how the concerns would be addressed. Mr. McNamara replied track record counted for something and the Board would review thoroughly.

Ms. Jennifer Sullivan Sands, 9 Woodbury Avenue told the Board she was a realtor and agreed with a lot of the comments. She believed a building of the proposed size would decrease the value of her home. She was very concerned with the radon levels and noted there was a high level in their well because of the work being done on the rotaries. She was concerned what would happen to her well because of the disruption from construction. Mr. McNamara said most people in Town had a level of radon in their well; it was very naturally high occurring. Ms. Sands said they had their water tested a few months ago and everything came back normal, so the correlation made sense. Mr. McNamara suggested, if the project is approved, that they take a base line of the water pre- and post-construction. Ms. Sands told the Board that she her other big concerns were traffic flow and home value. She didn’t feel the proposed structure size fit with the neighborhood.

Mr. Clark saw that an abutting building appeared to be served by a gravel driveway and questioned if the lot would require an additional curb cut. Mr. Maynard replied there was currently a civil matter, which was not in the Board’s purview. Mr. Clark asked if the abutter had a curb cut to Old Bridge Street. Mr. Maynard answered yes; there was a separate curb cut to Old Bridge Street.

Mr. Maynard felt they received a lot of good input and felt there wasn’t anything they couldn’t overcome.

Mr. Doherty clarified some of the labeling on the submitted plan, which Mr. Maynard said he would correct.

Mr. McNamara explained to the public anyone within 200ft. of the location would receive legal notice when the applicant submitted an engineered plan to the Town.

Through the discussion, Mr. Maynard believed he heard that the Board was okay with their design/proposal in concept. Mr. McNamara believed the Board was concerned with the traffic, density, drainage and other concerns raised by abutters. He said they appreciated the applicant coming in with the conceptual for review.

**NON-PUBLIC SESSION**

Not requested.

**DATE SPECIFIED CASE(S) – May 21, 2018**

PB Case #PL2018-00001 - Map 1 Lot 5-124 - HEBERT, Christopher - Mammoth Road

PB Case #PL2018-00011 - Map 6 Lot 4-137-28 - DREME BUILDERS - 30 Longview Circle

**ADJOURNMENT**

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| **MOTION:** | (Montbleau/Lynde) To adjourn the meeting.  |
| **VOTE**: | (7-0-0) The motion carried.  |

The meeting was adjourned at approximately 8:35pm.

 Respectfully submitted,

 Charity A. Landry

 Recording Secretary