

**APPROVED**  
**TOWN OF PELHAM**  
**PLANNING BOARD MEETING MINUTES**  
**June 4, 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, Tim Doherty, Jim Bergeron, Selectmen Representative Hal Lynde, Alternate Paddy Culbert, Alternate Richard Olsen, Alternate Samuel Thomas, Alternate Bruce Bilapka, Alternate Derek Steele, Planning Director Jeff Gowan

ABSENT: Blake Clark

Mr. Thomas was appointed to vote in Mr. Clark's absence.

**PLEDGE OF ALLEGIANCE**

**MINUTES REVIEW**

**May 21, 2018**

MOTION: (Montbleau/Dadak) To approve the May 21, 2018 meeting minutes as amended.

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

**ADMINISTRATIVE**

Nothing was brought forward for discussion.

**OLD BUSINESS**

**PB Case #PL2018-00017**

**Map 32 Lots 1-146, 1-146-2 thru 1-146-68 & 1-149**

**SKYVIEW ESTATES, LLC - Skyview Estates Phases 1 & 2 - The purpose of this plan is to seek revision of plan note #10 regarding restrictions on irrigation from the Community Well System for both Phase I and II plans. A proposed modification to the existing slopes within the Phase II open space may also be discussed.**

Mr. McNamara informed that the applicant's representative Attorney Andrew Prolman had requested a continuance to the July 16, 2018 meeting. They are preparing information requested by the Board.

The Case was continued to the July 16, 2018 meeting. Abutters will not receive further notice.

**NEW BUSINESS**

**PB Case #PL2018-00018**

**Map 38 Lot 1-155**

**MOPAR CONSTRUCTION, INC. – Sherburne Road - Proposed 8-Lot Subdivision**

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. Peter Zohdi of Herbert Associates. He provided the Board (and displayed for the public) a vicinity plan to show the location of the proposed subdivision. He discussed the history of the parcel which was originally approved (and recorded at the Registry) as an 8-lot subdivision that subsequently came back to the Board and was approved as an adult community. He noted that neither of the two developments had been done and the applicant was seeking approval for an 8-lot subdivision. He provided the Board with a copy of the original approval conditions (dated October 21, 2005) for review. He stated that the owner has drilled five wells in expectation of building a 40-unit condominium development. The location of the wells was shown on the plan. They would like to install a small community system with seven of the lots on one of the wells. According to the information from the well driller, the well (for the seven units) produces 30-gallons per minute. The remaining lot will have its own separate well. Mr. Zohdi noted that nothing else had changed on the plan and have agreed to send the plan, the drainage study, etc. to Keach Nordstrom for review.

Mr. McNamara asked Mr. Gowan if the application was sufficiently complete to accept for consideration. Mr. Gowan answered yes; and noted the plan had been sent to Steve Keach of Keach Nordstrom, who has been out of the office for the past two weeks. He believed the plan would be reviewed upon Mr. Keach's return.

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

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

Mr. Thomas stated that proposed area was known to have high stress pertaining to water and understood that the source for one of the wells was 30-gallons per minute. He noted if the gallons were divided by the number of homes, each home would have approximately four gallons per minute. He wanted to know where the source of water would come from and didn't feel the proposal was sufficient. He said there was concern for that area of Town (along the upper portion of Sherburne Road); however, building continued to occur. Mr. Thomas felt the Board should look at the plan to determine how the development could have sustainability over the next twenty years. Mr. Zohdi replied there was a +55 development on (the top portion of) Sherburne Road with sixty-seven units that had no water problems. He spoke about other developments along Sherburne Road that also had no problems with water. With regard to the Skyview development, he explained that the developer hired a professional hydrogeologist who conducted a study and when they drilled in accordance with the approval New Hampshire Department of Environmental Services ('DES') and the static level remained within the specified rules and regulations. Mr. Zohdi pointed out that the proposed well (according to the well driller) produced 30-gallons per minute. When the well is monitored (during the pump down) if the static level goes down there would be a problem, if it doesn't, the proposed subdivision wouldn't have a problem. Mr. Thomas respectfully disagreed and believed he could bring in two hundred people from the area that would speak to there being a problem in that area of Sherburne Road. He wanted to know what was being done to secure water in the long-term for the residents that will purchase units. There were additional comments made about water problems. Mr. McNamara stepped in and asked that the discussion not go off course. He stated the Board was discussing the subdivision in front of them and what it would need to be approved.

Mr. Doherty mentioned that the Skyview Estates development didn't have a water problem. He said they knew that Scenic View Drive had a problem. He noted that the applicant's desire to build a conventional subdivision with a homeowner's association, which was different from the original plan. He didn't find information about the development having a community water system and questioned if the Board was given anything prior to the meeting. Mr. Zohdi answered no; he wanted to notify abutters, monitor surrounding wells and conduct a pump test. If the test complies with the Town and State rules, they would like to have a community well. Mr. Doherty believed the Board shouldn't have accepted the plan for consideration since information regarding the piping structure for the system, storage tank, etc. hasn't been provided. He felt as though he was in a tough spot having not been supplied with information. Mr. Zohdi replied it was their first meeting with the Board and they wanted to discuss how the Board felt about having seven lots on one well. If the Board didn't like the idea he said he wouldn't continue forward. Mr. Doherty discussed his thoughts about water connectivity from Skyview Estates through Town property and would like to see the same ability through the proposed development to the property to the right (Burton property). He said if the Board approved a community well, they should consider having the ability to connect it through the Burton property. Mr. Zohdi said he provided the Board with a copy of the Well Regulation and spoke about the required well radius for the proposed community well. He informed unless the abutter's allowed a well radius easement, they couldn't supply water to more than the proposed seven-lots (four-bedroom units) with the well. He used the displayed plan and showed the designated well radius.

Mr. Dadak understood that the well would need to be tested to ensure it still provided the appropriate yield as it did in 2005. Mr. Zohdi replied he was unable to have the well test done prior to the meeting but wanted to introduce the plan to the Board. He said Bruce Lewis (water engineer), who was involved with the project ten years ago, was hired to review the well test information. He told the Board he would comply with the State's requirements for a community well system. He understood Mr. Doherty's request to provide an easement and said everyone would need to work together to do so. He stated that he didn't have all the answers at this time.

Mr. Montbleau shared his knowledge about hydrology, which was a very complicated process. He understood certain information from his involvement with a large trade organization in Massachusetts that represented members who had underground water contamination issues from gasoline leakage. As the cleanup process progressed over approximately twenty-five years and parameters were set he learned a lot about hydrology. He learned that there is no rhyme or reason to water supply. Mr. Montbleau stated the Selectmen had a public hearing solely on water issues. He said the conclusion of the expert (Charlie Head from Sanborn Head) (during the hearings) that there is no way of saying where water will be, and where it won't be because water migrates in a peculiar way underground. Being an abutter, he's followed the subject for the last fifteen years and went on to speak about water on Spaulding Hill (Skyview Estates). He informed that when the well was drilled on Spaulding Hill they hit a fissure in the rock and a water gorge nearly pushed the drill bit out of the ground. He said the developer then went to the State to seek qualification of the water source. They pumped the water down and it passed, but because the subdivision didn't begin for a couple years, the State required a second pump down, which passed again. Mr. Montbleau stated that the (Skyview Estates) water source was ample for the subdivision and approved by the State. He believed his house was the closest to the subdivision, and through all the blasting and water usage to date, informed he hadn't experienced any change to his well. He pointed out that the Board had approved a development on the lot being discussed in the past, and for the proposed development to move forward the well would need to be pumped down again to certify it could sustain water. He said water was not an exact science and pointed out that the problem existed because of granite everywhere throughout the Town and State; the situation was not unique to Spaulding Hill. He said the expert (Mr. Head) that met with the Board and the Town explained that no one could predict water supply and went on to reiterated there was no rhyme or reason to such. He felt it was unfair to prevent one person from developing their land because other areas had no water. Mr. Montbleau recalled the previous pump down testing on the parcel and believed from that test it would accommodate more than the proposed eight homes. However, he understood the Board needed to see if a current water test would come back as approved (by the State) and if so, it would show the water to be ample (for the site).

Mr. Gowan stated he would research when Mr. Head conducted hearings/presentations with the Board and the Selectmen and would send a link to such.

Mr. Montbleau pointed out that the Burton property (as discussed by Mr. Doherty) was approximately a half mile from the Spaulding Hill well. He questioned how something could be tied in. Mr. Culbert concurred with Mr. Culbert that there was plenty of water during the original water testing done on site.

#### PUBLIC INPUT

Mr. McNamara stated the Board didn't have enough information to make a decision at this point. He understood that Mr. Zohdi would come back with information to support either a community well or individual wells.

Mr. Mark Maglio, 32 Nicholas Lane told the Board back in 2008 when the plan was for a multi-family unit development he heard the drilling etc. and understood they 'hit the gold mine'. He referenced an email from Lewis Engineering dated July 15, 2008, in which he asked when the pump down test would be done. He told the Board when the project stopped, the pump down and well monitoring was not done. He lived in the area for twenty years and told the Board that they had a water problem. He said a lot of the people on Nicholas Lane had probably move because of it. He noted his home had two wells; the rear well went down 900ft. and was abandoned after hydrofracking. A second well (500ft) was put in the front yard and provided approximately 720 gallons per day, of which he used approximately 400 gallons per day. Mr. Maglio said the biggest draw-back was not being able to irrigate. He displayed an information sheet listing his calculations for household water usage, well production. With eight homes he believed the water usage would be approximately 19,456 gallons per day. He recalled Pennichuck indicating that the Skyview houses had two wells at 10 gallons per minute each (total of 20 gallons per minute). He said with the proposal for 30-gallons per minute there would be 1,800 gallons per hour and 43,200 gallons per day produced. This would leave an excess of 23,744 gallons per day. In closing he told the Board there was enough excess water to help residents on Nicholas Lane. He contacted Mr. Zohdi earlier in the day to discuss the possibility of providing water in his neighborhood and asked the Board to consider a connection. He said they could also have discussions regarding how his neighborhood could contribute to the cost of bringing water to their street.

Mr. Zohdi asked that the Board consider the plan, so they could do the pump test. They could then have Mr. Lewis analyze the water system, meet with the abutters and have further discussion with the Board. He noted a larger water system would need a wider well radius. He said they would need the abutters involved because it couldn't be located completely on the proposed parcel. He pointed out there would be a cost (to the abutters) to run the water line into another subdivision. He didn't know if there would be a cost for obtaining an easement from the Burton family.

Mr. Frank Gorman, Southern End Realty, Dracut MA understood that the neighbors were interested in learning if the proposed development could help supply water to the surrounding area. He said it made sense to do so if they have more water than needed. He stated they would cooperate. Mr. Gorman believed it was the developer's responsibility to supply water after a plan is approved, but prior to being issued a building permit. He understood if they couldn't supply water they wouldn't be issued a building permit. He said they were in front of the Board seeking re-approval of the existing subdivision approved years ago. From that point, they would see what could be done with the neighbors. Mr. McNamara said they appreciate the cooperation; however, the plan had to be considered as a new application because the approval never vested since there was no work done. Mr. Gowan said Mr. Gorman's statements would be true if the proposal was for eight individual wells. He said the proposal of a community water system was different; the (State) approval number had to be shown on the front of the plan. Mr. Gowan pointed out that the Town didn't have regulations for wells when the Scenic View development was done. Mr. Gorman noted there were presently five wells that could be used for homes. He said they would do 'more homework' during the next couple weeks and return to the Board.

Ms. Christina Milward, 20 Nicholas Lane told the Board that the proposed cul-de-sac would directly abut her property. She stated she was fairly new to Pelham and was unaware of the water issue when purchasing her home. She questioned if her well would be monitored during the process and wanted to know her rights. Mr. McNamara replied the proposed well would be tested and they would have to monitor abutting wells. Mr. Zohdi discussed the monitoring process for both quantity and quality.

Mr. Lynde believed it would be problematic to supply Nicholas Lane with water because of DES rules. Mr. Zohdi replied within their property they could only get 125ft. radius around the proposed well. Based on the 125ft. radius, per the State requirement they could only pull 4,320 gallons per minute from the well. Also, per State regulation, 4,320 gallons per minute can only supply seven 4-bedroom houses. If they can obtain an easement from the Burton family, the abutters would have to get together to determine how they want to pay for an extension. Mr. Lynde understood that the well capability satisfied the design flow for a larger well radius than they currently had on the plan. Mr. Zohdi said that was correct. Mr. Gorman noted that the proposed well could satisfy seven homes within the land that they owned. If they were to take on neighbors they would need to make the radius bigger, and to do so they would need to go onto someone else's land (Burton family land) for an easement because Nicholas Lane doesn't directly abut the property.

Mr. Bergeron reviewed the plan and the existing wells on the lot. He saw that the smaller wells had overlapping well radii with each other and onto the road, which wasn't permitted. It seemed to him that the applicant was pressured into using the community well system because of the restrictions.

Mr. Zohdi asked for the case to be date specified to the July meeting.

The case was date specified to July 16, 2018.

**PB Case #PL2018-00019**

**Map 9 Lot 13-146**

**PELHAM FISH & GAME CLUB INC. – Simpson Mill Road - Site Plan Review to construct a man-made warm water fish pond for recreational use**

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.

Mr. Bergeron stated he was a member of the Pelham Fish & Game Club, but not an active member. Mr. McNamara asked if he would be able to make an impartial and fair decision on the proposal. Mr. Bergeron answered yes. Mr. Doherty also stated he was a member of the club and could make an impartial decision. There were no objections voiced for the two members to remain seated on the Board.

Representing the applicant was Mr. Doug MacGuire of The Dubay Group, Inc. He stated that the club owned over three hundred acres in Town over nine parcels of land. The club has many recreational firearm ranges as well as an archery area, trap field and club house. The access is off Simpson Mill Road as shown on a color aerial. Mr. MacGuire referenced the existing conditions plan that showed wetland areas and the location for the proposed warm water bass pond. There is no proposal to impact the wetlands or the buffers around the wetlands. The pond will be used as a recreational pond conducive for fish with winter protection areas. Motorized boats will be prohibited. They are assuming a water elevation of 143, with the existing grade being 147. To create the pond, they will cut into the water table and allow the pond to fill naturally. The depth will be between 6ft-14ft. A professional will be hired to help with the specific design and oversee the project. The pond will self-feed and not discharge any water.

Mr. McNamara asked Mr. Gowan if the plan was ready to be accepted for consideration. Mr. Gowan answered yes. He considered the plan as a 'minor site plan review'.

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

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

Mr. Lynde wanted to know how much earth would be excavated and what they would do with that earth. Mr. MacGuire replied the pond would be roughly two acres with approximately 40,000 cubic yards of removal. The dirt will be kept fully on site and reused. Some of which will be used to bolster some of the existing back stops. Mr. Gowan said he had been concerned about maintaining and exercise proper erosion controls and stabilization of slopes. He suggested the Board add a condition of approval to have the Department of Environmental Services review the plan. Mr. MacGuire discussed the proposed slopes and the design for safety in the event a person falls in they could easily walk out. He described the design that would be conducive to plant life, accommodate bass breeding areas and have an area for them to thrive during the winter months. The goal is to dig the system down during the dry season and allow for naturalization time. Starting next season, the plantings will begin, and feeder fish will be added. This will allow for an ecosystem to be created for the bass. The idea is to have a 'catch and release' pond for a sustainable recreational use. Because of the size of land disturbance to create the pond they are required to have a storm water pollution prevention plan; therefore, there will be full-time monitoring during the construction phase.

Mr. Gowan spoke about the proposed parking and recalled it would be a porous surface (gravel). Mr. MacGuire answered yes and explained the area was already clear and had gravel because of the existing woods road in that location. He noted the club itself had substantial parking in addition to what was being shown for the pond.

Mr. McNamara questioned if the Town of Windham, NH had been notified of the hearing. Mr. MacGuire said they had notified Windham.

In reviewing the plan's legend, Mr. Doherty inquired if any lighting would be added. Mr. MacGuire replied the standard legend had been added to the plan, which may contain items not applicable to the proposed project. He said they weren't proposing to carry any electricity to the area or to have any lighting. He will remove the note from the legend. Mr. Doherty wanted to make sure that the pond wouldn't be considered a 'wetland' when it was done because there would be no way of maintaining it because of the existing wetlands. He asked that the Board think about that fact and wanted to know if they had the ability to make the pond exempt from the Wetland Conservation District since it would be man-made. Mr. Montbleau believed once aquatic plants and an ecosystem were established it would become a wetland. Mr. MacGuire didn't believe that the type of maintenance they would need to do would be contrary to the Town's regulations. They were intentionally creating benching around the pond wide enough, so an excavator or full mower could maintain the side slopes, so it didn't become completely overgrown. Mr. Montbleau asked where the water source would come from. Mr. MacGuire replied from the ground; they've been monitoring it for over a year. He understood that the DES had provisions to allow for maintenance because it was at one time an upland.

Mr. McNamara confirmed that the proposed pond would be used for passive recreation and fishing. There would be no swimming. Mr. MacGuire stated that was correct.

Mr. Doherty questioned if the pond would be subject to WCD if it was a farming pond. He wanted to know if they added the word 'farming' to 'warm water bass *farming* pond' if it would then be exempt from WCD. Mr. Gowan thought it was an interesting point and felt it would be reasonable for the Board to say they would not consider the pond to have the same kind of WCD protections since it was an upland. He suggested that the applicant get something from the State echoing the intention of the pond to not be considered WCD because of its man-made nature. Mr. MacGuire inquired if any recreational uses were allowed in the WCD. From his experience, other towns allow for certain maintenance to occur. Mr. Gowan replied WCD is about preserving soils. He said there have been instances where people could cut brush. He said it would be discussion to have

with the Zoning Administrator. Mr. MacGuire pointed out that they would be staying outside of the WCD with the trail. Mr. McNamara suggested submitting a letter or documentation from the State regarding such for the file.

Mr. Dadak asked if they were using guidance from another facility to build the pond. Personally, Mr. MacGuire hadn't done this type of pond, he had done ponds for drainage related items. He noted there were consultants that specialize in habitat creation.

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

**MOTION:** (Montbleau/Doherty) To approve the site plan, subject to compliance with any Department of Environmental Services regulations. Once built per plan, the Planning Board does not consider the pond qualifying as its own wetland with its own Wetland Conservation District buffer.

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

### **NON-PUBLIC SESSION**

Request by Mr. Bergeron to enter into non-public session for consideration of legal advice provided by legal counsel in writing to the members of the Board.

**MOTION:** (Montbleau/Doherty) Request for a non-public session per RSA 91-A:3, II

**ROLL** (7-0-0) The motion carried. Peter McNamara-Yes, Roger Montbleau-Yes, Paul  
**CALL:** Dadak-Yes, Tim Doherty-Yes, Jim Bergeron-Yes, Selectmen Representative Hal Lynde-Yes, Alternate Samuel Thomas-Yes

The alternate members joined the voting members in non-public session.

The Board entered non-public session at approximately 8:35pm.

Mr. Lynde left non-public session.

The Board returned to public session at approximately 8:53pm.

**MOTION:** To indefinitely seal the non-public session minutes.

**ROLL** (6-0-0) The motion carried. Peter McNamara-Yes, Roger Montbleau-Yes, Paul  
**CALL:** Dadak-Yes, Tim Doherty-Yes, Jim Bergeron-Yes, Alternate Samuel Thomas-Yes

### **DATE SPECIFIED PLAN(S) – July 16, 2018**

- 1) PB Case #PL2018-00017 - Map 32 Lots 1-146, 1-146-2 thru 1-146-68 & 1-149 - SKYVIEW ESTATES, LLC - Skyview Estates Phases 1 & 2
- 2) PB Case #PL2018-00018 - Map 38 Lot 1-155 - MOPAR CONSTRUCTION, INC. – Sherburne Road

### **ADJOURNMENT**

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

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

The meeting was adjourned at approximately 8:55pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary