

**Town of Pelham, NH**  
**Pelham Conservation Commission**  
**6 Village Green**  
**Pelham, NH 03076-3723**

**MEETING OF 12/11/19**

**APPROVED 02/06/20**

Members Present

Karen Mackay, Paul Gagnon,  
Mike Gendreau, Dennis Hogan (alt),  
Brandie Shydo, Al Steward (alt),  
Louise Delehanty

Members Absent:

Ken Stanvick, Kara Kubit (alt),  
Lisa Loosigian,

Paul Gagnon brought the meeting to order at 7:04 p.m. He appointed Mr. Hogan and Mr. Steward to voting members for this meeting.

**DISCUSSION:**

The Commission will discuss a citizen's petition regarding the repeal of the Conservation Subdivision Ordinance. Approximately 100 town residents have signed the petition. Selectman Kevin Cote will present the petition.

Citizen's petition language:

Are you in favor of repealing, in its entirety, Pelham Zoning Ordinance Article XV, Residential Conservation Subdivision by Special Permit? The effect would be to eliminate the building of subdivisions that would allow "cluster" style developments where houses are built closer together (on less than the required 1 acre property) in exchange for open space land.

The Planning Board will have a public hearing regarding this petition. They will vote to support or not support the petition as it appears on the warrant.

This citizen's petition will be submitted to the town to appear on the ballot at town meeting this March. Lots of town residents are concerned about the conservation subdivision regulations and the speed at which the town is developing. Recently, the town has repealed the 55+ and 62+ housing ordinances and some residents feel that the conservation subdivision ordinances should also be repealed. Residents are concerned that developers are coming to the town and offering useless slivers of land and counting that land as acreage to get extra lots. The Selectmen do not always accept offered land such as the case with the development at the corner of Mammoth and Sherburne Road. Mr. Cote suggested that the Selectmen vote to accept the land ahead of Planning approval to see if the land will be useful to the town. Residents also have concerns about the density offsets, which are the ability of a developer to increase the number of houses in a subdivision if the developer meets certain criteria defined in the regulations. Residents feel the conservation subdivision regulations give builders more power and control over development. Builders will push these type of developments in order to gain density offsets.

The development off Nashua Road is a 55+ cluster style subdivision. Some residents believe this is a conservation subdivision, but it is not. Residents that signed the petition are not happy with this type of development. The 55+ and 62+ development ordinances have been repealed.

The conservation subdivision regulation is placed in the control of the Planning Board. Planning members are elected officials. Residents are concerned that future Planning members may not understand well setbacks, septic designs, slopes and test pits because they are not required to have any expertise. Future members could vote against the best interests of the town because of the lack of knowledge.

Mr. Cote said one development in process off Currier Road has concerned residents. This development has 60 percent of the well radii overlapping each other, wells will be drilled on the rock bed of the site and the maximum test pit depth is 5 feet to ledge. Mr. Cote said builders can request variances. Ms. Mackay said the wells and septic systems cannot overlap Planning regulations will not allow the well on lot 1 to overlap the septic on lot 2. Regulations require 75 feet between wells and septic systems. Residents are concerned that wetlands are given to the town rather than usable uplands in the conservation subdivisions. Wetlands are valuable for the town as they filter water and provide recreational uses.

Mr. Steward does not think the houses are that close together in the conservation subdivisions. Building in NH has required 1 acre so there is space for wells and septic systems on each lot. This space was expected to be required for well recharge and to make sure neighboring wells are not interfered with by septic systems on adjacent lots.

If the conservation subdivision is eliminated, development is not eliminated. All developments will be traditional subdivisions. Repealing the regulation will not stop or slow development in town. The idea is to slow development; we all think the town is developing too fast. Removal of the ordinance will not slow development. Unless people are upset about density offsets, as this is the only difference between conventional subdivisions and conservation subdivisions.

Mr. Cote described himself as a conservationist. In principle he thinks conservation subdivisions are a good idea, but many people think the amount of land for this type of development could be running out or not enough land area in town is available to support this type of development.

There are a finite number of lots that could be developed in town. Mr. Cote asked if we have an idea of how many parcels that could qualify for this type of subdivision. Any property over 15 acres not counting slopes over 20 percent and some other requirements must be met in order to qualify for a conservation subdivision. The conservation subdivision regulation originally required 15 acres, then the regulation was dropped to 10 acres then the regulation went back to 15 acres. Mr. Gagnon agreed that 10 acres was too small for this type of development because the regulation requires 40 percent of the lot be conserved in open space. Forty percent of a 10 acre lot is only 4 acres which is not overly valuable for conservation purposes.

Mr. Hogan recently walked through a subdivision that had very specific requirements. There were a lot of benefits in this type of development with less road area, less runoff, less salt and potential connections between two pieces of town land. Mr. Hogan is also concerned with the Nashua Road development or similar developments. He does not want to see that type of development being spread through town. He thought Mr. Cote may be concerned that some regulations are not being followed. When the conservation subdivision fits the site, the result is good. Mr. Hogan is concerned residents

are getting confused between conservation subdivisions and 55+ or 62+ development. There are some issues that can be worked on in the conservation subdivision, but he feels the regulation is beneficial to the town. He would like to find a way to get to common ground with residents in regard to the regulations and to inform the public about the regulations.

Mr. Cote explained some people think a rural town has long roads, houses set back from the road and spread out houses. The petition specifies to keep Pelham rural. In residents' minds conservation subdivisions with close together houses are not rural. Mr. Cote understands the purpose is to conserve the land around the development. Some residents think the ordinance should be repealed and/or completely rewritten.

Mr. Steward discussed the new proposed development on the corner of Marsh Road and Mammoth Road. The subdivision is for about 10 houses with open space to be given to the town along Beaver Brook. This donation to the town will connect Merriam Farm to another town parcel on the west side of Beaver Brook. Ms. Mackay stated the parcel in question will be developed. If there was no conservation subdivision, this lot would be developed out to Beaver Brook with no connection of town land along the brook. We are trying to connect land through town, the conservation subdivision regulation helps us achieve this goal. If everyone needs an acre and you develop a whole lot there is no place to cut a trail, no space for wildlife and limited area for recreational uses. If the conservation subdivision regulation was not in affect, the developer would go into this lot with beautiful views and a couple hundred feet along Beaver Brook and develop the whole lot. The land along Beaver Brook that was to be donated to the town would be gone. Two houses would be along the brook with lawns and fertilizers running off into the brook causing algal blooms in all the wetlands south. Some elements of the regulations could be changed and made better, but Ms. Mackay is completely opposed to repealing the ordinance.

Most development of substantial size comes to us usually related to environmental issues. All conservation subdivisions require the developer complete a yield plan that describes how many houses can fit on that land in a traditional subdivision. If 10 houses can fit on the yield plan and the developer wants 1 more house our board and Planning might agree. We discuss if an extra house is reasonable. Then the case goes to Planning and they discuss if an extra house is reasonable. The case may go before other boards also. Some developers don't request any density offsets, no extra lots. This development on Beaver Brook could have asked for extra houses, but did not. The developer could have taken the whole lot for the houses, but instead put aside 40 percent of the lot to save in open space. The subdivision will have the same number of houses, a shorter road, less impervious surface, less water treatment structures, less salt used in winter. In addition, the houses are often a little smaller and closer to the road so driveways are shorter. Ms. Mackay understands people want rural character to the town, but do the people want the town to look rural or actually be rural. The more space we can keep open the more rural the town is actually going to be.

Mr. Gagnon invited Mr. Rodger Montbleau to join the conversation. Mr. Montbleau at this meeting is a member of the Planning Board and as a town resident. He commended Mr. Cote for getting involved in the town and his enthusiasm. Mr. Montbleau would like residents to come to Planning to ask questions and get informed about town regulations and procedures. He asserted there was a lot of misinformation floating around town. Mr. Montbleau is glad to have the conservation subdivision ordinances. Planning and Conservation work together because we all realize the importance of preserving connectivity, wetlands and open space. He cannot believe how much progress the Commission has made with purchasing land and maintaining and expanding connectivity through town. Mr. Montbleau tried to get

the town to buy open space 15-20 years ago. At that time, there was no appetite to pursue open space land. He thanked Conservation for conserving land.

Mr. Montbleau said the conservation subdivision is helpful for Planning and should remain. The regulation helps keep trail connectivity. Members of the town boards try to maintain connectivity between open space lands. This can be challenging through new subdivisions. This connectivity allows town residents to use trails for recreation. Families can find lots of trails, close to home, to utilize. Some surrounding towns do not have much open space. Open space must be planned for before and during the development process, otherwise it's too late. Mr. Montbleau brought a checker-board to show a visual representation of how the town could look all divided up in a grid with 1 acre lots and 200 feet frontage all through town. Once the town is built out, there will be no place for open space. This would be a huge mistake to build out. Corridors in open space are beneficial for residents, wildlife, and for current and future residents to use.

The town should be able to have development and conservation land. Mr. Montbleau acknowledged not every regulation is perfect. Conservation subdivisions are beneficial. The boards are dealing with some residual issues with over 55 and 62+ developments. These developments got too prevalent. Now we need developments like Garland Woods and Skyview Estates. Conservation subdivisions should fit the site and the topography of the lot.

Years ago when cluster housing came about, it was like a third rail, or dirty word. Conservation subdivisions have less roads to plow, less roads to maintain, less impervious surface, more ability for sheet flow of storm water into the earth. If done right the regulation can be great, but sometimes not every contingency has been thought of when the regulations were written. We may need to change the regulations to better reflect the desires of town residents. Conservation subdivision regulations give the Planning Board more control over development than in a conventional subdivision. We have regulations, but not as much control as with the conservation subdivision even though residents may not see things that way. The state also has stringent regulations regarding septic systems which provides another layer of protections. Board members want to make sure conservation subdivisions do what they are meant to do with open space protections, wildlife corridors, and trails for recreation.

Mr. Montbleau wants experienced people on the Planning Board. He abuts a 65 lot conservation subdivision. Prior to the subdivision going in he had 95 acres of open land abutting his land. This subdivision was going to be a grid type development that would build out all the land. After the conventional subdivision was approved, the developer came back to Planning and asked for a conservation subdivision and went through the approval process again. The developer left the required open space land. The subdivision is hardly visible from the surrounding houses and roads. The developer made a trail head parking area. People are always walking their dogs and hiking with their kids. This was a win-win. This development was built on a large glacier rock. They did the development right even though the lots were about one-half acre. Conservation subdivision if done right can satisfy the need for development as well as conservation interests of the town. This development reserved 26.5 acres of open space, all of which is upland. The development is surrounded on 3 sides by town land.

Garland Woods has a community well. There was discussion that some residents of Garland Woods have drilled their own wells. The ordinance prohibits drilling individual wells if the development has a community well system. Community wells are not required in a conservation subdivision, but that could be discussed as a possible change to the ordinance. Mr. Gagnon stated he was open to changes in the regulations, but he thought it was not wise to throw the conservation subdivision regulations out

and start over. This would be throwing out the good provisions because some provisions could be improved.

Ms. Mackay stated the regulations have been rewritten several times. She is not opposed to relooking at the regulations and working with other boards to make improvements. Provisions of the regulations that do not work well should be removed from the regulations. Other provisions that are more useful to town residents could be added.

Mr. Cote is correct in describing the Planning Board members as volunteer, residents of town. Any resident can run for the office and have the chance to get elected and sit on the Planning Board. He suggests there is a chance multiple inexperienced members could be elected and not have the knowledge needed to understand decisions they make about new developments. Ms. Mackay agreed there could be members that were not completely knowledgeable about all Planning regulations. Planning is similar to Conservation in that both boards are volunteer members of town. Not all members of Conservation are knowledgeable about all aspects of conservation and environmental issues, but we have many members and each member brings their knowledge and perspective to our discussions. Planning is the same. Different members have different skill sets and knowledge. Working together, members of all our boards have a wide range of knowledge and have the ability to solve development issues. In addition to Planning and Conservation, many plans go before Zoning Board of Adjustment (ZBA) and are reviewed by the town engineer. Regulations along with the various knowledge of members of boards help to produce the best developments. Additional evaluation is done at the state level for many aspects of a new development. All development plans have multiple layers of review prior to a final plan approval. Mistakes can be and sometimes are made in the process, but many people have eyes on a project with the goal to make the project the best it can be. Mr. Cote said that town residents do worry about mistakes on projects.

Ms. Mackay said she has been on this board for 13 years. In that time, members of the public have come to make comments perhaps 4 times. If people are concerned, or have questions, or don't understand a plan they need to come to our meeting. All town boards have public meetings. The public must come to ask questions, give opinions and make comments, especially abutters. Residents don't come to our meetings, but they must if they have questions. Subdivisions with environmental issues and of any substantial size come before us twice, come before Planning at least twice. If there are zoning issues, the plan goes before ZBA once or twice. There is a fair amount of time for residents to make comments on all major projects. Mr. Cote said sometimes residents come to the meeting and express their opinions and the project gets pushed through anyway. Mr. Mackay agreed that does happen sometimes.

Mr. Gendreau sat on a subcommittee a few years ago where part of their focus was discussing changes to the conservation subdivision regulations. Residents tell him frequently they feel the town is growing too fast. He agrees. He discussed how adding town water and sewer would be a detriment to the town. Neighboring towns have installed public water and sewer systems which led to population explosion in those towns & postage stamp sized lots. He did agree public water & sewerage may be used in the downtown area for businesses, but not for residential lots.

Mr. Gendreau believes all conservation subdivisions should come to us whether they have wetlands impacts or not. Conservation should be involved in the early stages prior to a developer spending 10's or 100's of thousands of dollars on designs and engineering plans. Maybe we could make suggestions earlier in the process. Planning sees plans, maybe they could ask for our advice earlier in the process. Mr. Gendreau would like to see Planning say "no" more often. He is in favor of tweaking the

conservation subdivision regulations. He is frustrated with the density offsets or additional lots that can be earned on the conservation subdivisions. He understands there is an uproar over the Currier Road development, but we have not seen it so we cannot comment on that development.

Mr. Cote says there is a problem with many residents classifying all cluster housing as conservation subdivisions even though they are not conservation subdivisions.

Mr. Gagnon said regulations encourage developers to create conservation subdivisions back from main roads so they cannot be seen by current neighborhoods or passersby, but this is not a requirement. Maintaining buffer lots is encouraged.

Ms. Delehanty said she heard concerns about the Currier Road development. People were concerned about heavy traffic on Peabody Lane. Heavy traffic will be coming down the road and headlights will be flashing into current residents' homes. She sympathizes with the residents of that small street. She also has a problem with the new development on Windham Road across from the transfer station. Residents in the neighboring subdivision were concerned about clear cutting of trees for the new development and lack of buffers between the new development and their lots. The place is currently a wasteland, with clear cutting of trees and no buffer for the residents that have lived in the area for many years. She can understand why the development is bothersome to abutters. She would like to see the town boards say "no" more often. At times, what a developer wants is not a wise use of land. She realizes the town must be careful to respect the developers' rights also.

We advise Planning and ZBA. If small strips of land connect to other open space, the space is worth the town acquiring the land in order to maintain connections. Ms. Delehanty believes the town should take open space if it is offered. Ms. Delehanty reiterated that members of boards have different experiences and bring their knowledge in order to make informed decisions. Not everyone knows everything, but the mix of people with different knowledge makes the boards better. All members bring in important knowledge that may be different than other member's knowledge.

The pace of development in town is an understandable concern for many people. People think throwing out this regulation will slow or stop development, but it will make things worse. We will have grid development on all the space rather than keeping some open space. Repealing this regulation should not be a natural progression of reducing regulations. Regulations are confusing, but getting rid of them will not improve the situation.

Mr. Gagnon explained that repealing the 62+ and 55+ ordinances simply end this type of development. If the conservation subdivision is repealed, development will still occur, development will revert to conventional subdivision developments. Development will not stop it will just be spread out.

Mr. Gagnon described several successful conservation subdivisions in town.

#### Waterford Estates

This subdivision is located off Sherburne Road. Seventeen acres were donated to the town from this subdivision. This land expanded Veteran's Memorial Park. Mr. Gagnon spent 3 days on this property recently cutting and blazing trails. There is now connectivity on town land from Veteran's Memorial through to Cutter Woods to Gumpas Pond. There are two high capacity wells on that lot that are now town owned. The thought was that these wells could be used if residents uphill on Sherburne Road run out of well water and need to get water to their homes. This is a win-win situation. This is also an example of how to solve a problem with little slivers of land the town does not usually want to own.

One way to get around the little slivers of land throughout the subdivision is to have all the slivers on the property stay with the homeowners association. The town gets the larger block of open space. If the developer splits the open space into two lots the Selectmen will accept the land. Mr. Cote thinks the Selectmen are correct not to accept the slivers because the town doesn't want to be responsible for those little pieces. If the homeowners association keeps the little pieces and gives the town the large blocks the Selectmen will accept the land.

#### The Pines

This subdivision is located on Atwood Road. There are no density off set or bonus lots on this project. Seventeen acres were donated to the town. This donated land abuts Peabody Town Forest and another town parcel. The donated land connected these two town lands. If the regulation was not on the books there would have been no land to add to Peabody and no connection to other town land. The whole parcel would have been developed with the same number of houses built.

#### Garland Woods

This subdivision got some extra lots. Thirty-seven acres of open space was preserved in this development. A beautiful field with trail connectivity from Costa Conservation Area, through an old apple orchard into Garland Woods. This trail allows passage through town. The trail would have ended in the middle of town if this was a traditional subdivision.

#### Spaulding Hill

This subdivision was spoken about by Mr. Montbleau. The project conserved 26.5 acres of land and provided a trail head and connectivity to town land.

#### Sweet Birch

This development is located off Gumpas Hill Road. The project conserved 8.3 acres of open space with 1 or 2 extra homes. Extra lots are not given away as candy the way some residents believe. They are thoughtfully discussed. They drilled a community well for the development.

#### Currier Road

This development will not be impacted if the petition passes because the project is already in process. If Currier Road was a traditional subdivision, there would be 36 homes that covered the whole lot. The road would have been 7,000 linear feet, almost 1.5 miles with 2 wetland crossings and 4 gas line crossings. Houses would surround the wetlands with the lots within the wetland conservation district (WCD). Lawns would be mowed up to the wetlands and would be fertilized. This development would be like the checkerboard Mr. Montbleau described. The conservation subdivision option has 3,000 linear feet of road with no wetland crossings and one gas line crossing. The gas line is predominately in the open space. The conservation subdivision requires 40 percent of the land be conserved. This subdivision proposes to protect 57 acres of open space land that abuts town land. This will almost triple the size of Wolven Park.

Mr. Gagnon reiterated we don't like the speed of development in town, but removing the conservation subdivision regulation is not the way to slow development. Taking a tool out of the Planning Board's tool chest will not stop development. Planning has more flexibility with the conservation subdivision than the traditional subdivision. Forcing developers to do a traditional subdivision is not the right answer.

Ms. Mackay read some points from Ms. Loosigian into the record because she was unable to attend tonight's meeting. Ms. Loosigian thinks the regulation is a valuable tool for protecting land from

development. The conservation subdivision has less impervious surfaces which reduces storm water runoff. She supports the regulation, but is open to making changes and improvements.

Mr. Hogan would like us to publicize more about how town boards operate. He would like to know how to make people aware of the process of development and how to help people to understand how to learn and give opinions about projects if they are concerned.

Mr. Gendreau asked if we could consider some type of subcommittee or group to help residents understand our processes and have better outreach. He also stated we are responsible for representing town residents and if they are asking for ways to slow down growth that should be our focus (all committees).

Mr. Montbleau suggested there could be a workshop type of program. He reminded us that town board members are subject to open meeting laws. Members cannot meet without posting a public meeting. We may be able to work out something with perhaps an impact meeting maybe every 90 days. We would need an agenda. This may help us hear residents' concerns. Mr. Gagnon said there would need to be someone to lead the effort.

Mr. Gendreau suggested that if members of the community want to slow down growth in the town to please contact call Mr. Gagnon. The town buying land does slow development. Mr. Steward has sent out numerous letters to land owners over the past months and we are hoping to get out first land purchase from it. The Commission has purchased over 1,000 acres in the past 10 years.

Mr. Gagnon appreciates Mr. Cote coming to present the petitioners position.

Motion: (Mackay/Hogan) The Commission believes that the conservation subdivision regulations serve a valuable service to the town. We believe the regulations should remain intact, but we are open to making changes to them to make them work better for the people of town.

Vote: 7-0 in favor.

Public Input:

None.

### **WALK IN ITEMS:**

Ms. Delehanty reminded residents to recycle their live Christmas trees. They can be put outside to provide shelter for birds for winter. Make sure to remove all tinsel and ornaments. When winter ends, the trees can be cut up and mulched.

### **ADJOURNMENT:**

Motion: (Steward/Hogan) to adjourn.

Vote: 7-0 in favor.

Adjourned 8:33 p.m.

Respectfully submitted,  
Karen Mackay,  
Recording Secretary