

**APPROVED**

**TOWN OF PELHAM  
PLANNING BOARD MEETING  
December 5, 2016**

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

The Secretary Paul Dadak called roll:

**PRESENT:** Peter McNamara, Roger Montbleau, Paul Dadak, Joseph Passamonte, Tim Doherty, Alternate Paddy Culbert, Alternate Mike Sherman, Alternate Richard Olsen, Selectmen Representative William McDevitt, Planning Director Jeff Gowan

**ABSENT:** Jason Croteau, Alternate Robert Molloy

**OLD BUSINESS**

**PB Case #PL2016-00016**

**Map 22 Lot 8-130**

**52 WINDHAM ROAD, LLC – 52 Windham Road – Special Use Permit and Site Plan Review for proposed mixed use development consisting of a 1500SF retail building and 15 townhouse condominium units in the Mixed Use Overlay District**

Mr. Culbert was appointed to vote in Mr. Croteau's absence.

Mr. David Jordon of MHF Design Consultants along with Mr. Brian McGowan, project applicant and Mr. Barry Ganek, project architect were present to discuss the proposal. Mr. Jordan provided the Board with a color rendering of the site plan that was revised to include amenities discussed at previous meetings including a gazebo, walking trails, an area for a potential community garden, and an area for pets. He gave an overview of the proposal which was for a single multi-family three story building, with sixteen two-bedroom units with sixteen enclosed garage units. There was also a 2800SF commercial building toward the front of the site. There are thirty-two at-grade parking spaces. A complete set of engineered site plans was submitted to the Board and Keach Nordstrom (Board's engineering review firm). Mr. Jordan believed they were at the point of having a complete set of plans and hoped to receive conditional approval.

Mr. Jordan noted one comment from Mr. Keach involved the width of the entrance driveway. He stated Site Plan Regulations call for a 24ft. wide driveway and they are proposing a 22ft. width. A waiver request has been submitted for the reduced width. Renderings of the commercial and residential buildings were displayed for review.

Mr. Steve Keach of Keach Nordstrom came forward to discuss his review letter dated November 30, 2016. He discussed how the plan had changed since originally submitted over a year and a half ago. The footprint of the site that will be impacted by the proposed construction has been considerably reduced. From a civil site standpoint, he said it was a rather simple site plan. He found the plans submitted from MHF Design to be full, complete and well done. Mr. Keach reviewed the General Comments and Zoning Matters contained in his letter. Under the Planning/Design Matters he noted there was a waiver approved for an earlier version of the plan to allow the main site driveway width to be reduced from the required 24ft to 22ft. Given the current plan is substantially different he and Mr. Gowan felt the waiver should be revisited. Mr. Gowan told the Board that the Highway Safety Committee considered the configuration and were in agreement with the 22ft. width. Mr. McNamara read aloud an email dated October 12, 2016 from Fire Chief James Midgley, who reviewed the driveway plan and found it to be in compliance with the request to have access to three sides of the building

and an area for apparatus to turn around. The Fire Chief indicated the driveway layout satisfied the department's needs. Mr. Keach was not opposed to the waiver request and found the remaining items in his letter to be dotting 'i's' and crossing 't's'.

The Zoning Ordinance limits building height within the MUZD to not more than 40ft.; the architectural design elevation suggests a proposed 40'-4". Mr. Doherty asked about the building height and if the cupolas were taken into consideration. Mr. Keach said the measurement is typically taken from the lowest grade point around the perimeter of the building to the ridge of the building, not including the cupola. He told Mr. Doherty it had been addressed and believed it was a design draft issue.

Mr. McNamara read aloud the newly submitted waiver request dated December 2, 2016 for Section 303-1,B.1 of the Site Plan Regulations that requires a minimum width of 24ft. for two-way travel; the request is for a driveway width of 22ft.

**MOTION:** (Montbleau/Culbert) To accept, for consideration, the waiver request to Section 303-1,B.1 – driveway width from 24ft to 22ft.

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

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**MOTION:** (Culbert/Montbleau) To approve the waiver request to Section 303-1,B.1 – driveway width from 24ft to 22ft.

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

Mr. Gowan suggested the applicant have a maintenance schedule addendum to the plan to provide guidance to the Homeowner's Association for how the impervious surfaces and drainage structures are to be maintained. Mr. Jordan replied the document already existed as it was required for the State permitting process. He believed it was referenced on the site plans. Mr. Keach recalled that the document was included in the drainage report.

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

Mr. McDevitt felt the landscape plan showed creativity, imagination and a desire to make the property look as good as possible. Mr. McNamara commended the architectural drawings and felt they were beautifully rendered.

Mr. McNamara reviewed the proposed conditions for the conditional use permit:

- 1) All State permit approval numbers with the exception of individual septic approvals to be noted on the recordable plan;
- 2) Bond and plan compliance escrow, as estimated by Keach Nordstrom, to be provided to the Planning Board prior to plan signature and recording;
- 3) Homeowner's Association documents to be reviewed and found satisfactory by Town Counsel, at applicant's expense;
- 4) Written confirmation from Pennichuck indicating they will supply potable drinking and fire protection water for the project;
- 5) Maintenance plan and schedule for storm water structures, project driveways and parking areas to be reviewed by Mr. Keach and noted on the recordable plan set;
- 6) Applicant must provide a fire protection plan for both buildings stamped by a Fire Protection Engineer and found satisfactory by the Pelham Fire Department prior to building permit issuance;
- 7) All applicable impact fees to be paid at the time of building permit issuance;

- 8) Letter from Mr. Keach indicating his satisfaction with the final plan submission to be received by the Planning Director, prior to signature.

**MOTION:** (Culbert/Passamonte) To approve the Conditional Use Permit.

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

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**MOTION:** (Culbert/Passamonte) To approve the plan as described with the list of conditions (listed above).

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

Mr. McNamara thanked Mr. Jordan and Mr. McGowan for their perseverance during the review process. He felt they had come up with a very nice plan for the center of Town. He appreciated their attention to detail and willingness to work with the Board. He wished them the best of luck with the project.

**PB Case #PL2016-00024**

**Map 22 Lot 8-35**

**GUZIEKA, Richard – 139 Main Street - Proposed change of use for expansion of commercial business**

Mr. McNamara stated the case was heard at the previous meeting. The Board conducted a site walk (December 3<sup>rd</sup>) that had a robust attendance from abutters to the project. He believed everyone handled themselves with respect and there was a lot of information discussed.

Mr. Richard Guzieka, the applicant, came forward with Mr. Lance Ouellette, owner of proposed commercial business, to discuss the submitted change of use for 139 Main Street.

Mr. Dadak made note of the applicant’s submissions during the meeting: clear plan, information about salt tolerant plantings, potential fencing, and suggestions on plantings. Mr. McNamara stated the Board received minutes from the site walk to review. Mr. Passamonte noted he was present for the site walk, but not noted in the minutes.

Mr. Ouellette told the Board he provided additional information on topics discussed during the site walk, such as the fence location, proposed shrubbery, night sky compliant light specification/locations.

Mr. Doherty spoke about the site walk and commented it was extremely difficult to hear because of the traffic noise on Route 38.

Mr. Ouellette displayed a plan showing the proposed location of fencing, which ran approximately 50ft. and would be between 8ft-10ft. in height. He proposed using rough cut lumber, either a white pine or cedar and showed a rendering of such. He then discussed the type of Arbor Vitae and Forsythia to be planted, and where they would be located. Mr. Culbert preferred cedar instead of pine. Mr. Ouellette spoke with Mr. Boissonneault (Mammoth Lumber) who told him white pine would outlast almost anything as long as it was cared for; it’s a lot stronger and it doesn’t shrink as much. As far as color, the looked the same. He felt the Board should consult with Mr. Guzieka since he would have to maintain the fence. Mr. Culbert knew that cedar lasted a long time and asked Mr. Guzieka if he had any objection to using cedar. Mr. Guzieka replied he had no objection to using cedar or white pine. He recently searched for cedar but was unsuccessful. Mr. McDevitt felt cedar was a good idea, but at the same time wasn’t bothered by white pine. He noted the fence wouldn’t have ground contact. Over the summer he went to Home Depot and was surprised to see they had primed white pine being sold with a 10-year guarantee (as long as it didn’t have ground contact). He questioned if the price for the fencing would be raised considerably by using cedar versus white pine. Mr.

Culbert stated he didn't object to using white pine as long as there was a maintenance schedule noted in the plans. Mr. Doherty stated he had dealt with a lot of different types of fencing over the years and found they all need maintenance and rot when having contact with the ground. He said it was almost impossible to find large native cedar at this time of year. He had no objection to using any wood native to the area. He didn't feel a specific maintenance schedule was necessary. Mr. Gowan commented that the question of the fence could be handled within the Notice of Decision. He said the decision could stipulate that the fence be maintained to the satisfaction of the Code Enforcement Official, as long as the operation in is in existence. Mr. Culbert was happy with Mr. Gowan's proposal.

Mr. Sherman was concerned that the Board had no idea who the secondary or third possible lessee of the property might be and what other vehicles may be involved. He wanted to see the information on the plan prior to the Board's vote. Mr. McNamara was unsure if there were any definite plans regarding other occupants. He said the Board could place a limit on what would be stored on property, subject to coming back to the Board. Mr. Ouellette replied he would be occupying less than half the space on the lot. At the previous meeting he provided the Board with a list of the types of equipment that would be on the lot. He spoke with a potential lessee and noted they would have no more than seven vehicles (including employee vehicles) on site. Rather than speculate, Mr. McNamara said if there was another lessee, they would come to the Board for review.

Mr. Dadak asked for clarification of the proposed on-site lighting. Mr. Ouellette showed the location of the one light proposed; but showed the location of two additional lights (being a worst case scenario). Mr. Culbert asked if both entrances would be used. Mr. Ouellette answered yes. Mr. Gowan understood that the lighting would be dark sky compliant. He asked that the applicant be cognizant to keep the lighting down-lit. Mr. Ouellette noted the lighting at his current location is at a 22 degree angle and shines toward the trucks. He said none of the lights would face the residential areas, except the light closest to Route 38, but that would be down-facing. Mr. Culbert questioned when the lot would meet the worst case scenario. Mr. Ouellette stated he would only be installing one light.

#### **PUBLIC INPUT**

Ms. Cheryl Peirce, 160 Main Street told the Board a question was raised during the site walk about moving the storage bins to the Route 38 side of the lot; she couldn't recall the answer. Mr. Ouellette replied he wasn't leasing the space Ms. Peirce referred to. He said it would be used for another potential tenant. Mr. Doherty stated he wouldn't want to see the bins on that portion of the lot because it would put vehicles closer to the residential houses. He said the current configuration would block the view, sound and lighting of the operation. He felt the proposal was mapped out as the best possible plan to not be intrusive on the neighborhood. Ms. Peirce felt if the bins were moved, the trucks would face Route 38 and not the residences. Mr. McNamara believed the reason for the fencing was to control the view. Mr. Ouellette noted the hours of operation were from 7am to 7pm; they wouldn't be mulching at night. The salt bin would be move to the furthest point near the secondary entrance. He said the fence would eclipse the mulch containment by approximately 4ft. Ms. Peirce was concerned about the Bobcat coming in at night. Mr. Ouellette reviewed the plan and showed the proposed location of the salt bin as discussed during the site walk. He provided an overview of where the lot would be loamed and seeded.

Ms. Lisa and Makala Culleton, came forward (Ms. M. Culleton was the potential buyer of 160 Main Street). Ms. M. Culleton wanted to know if the access on Main Street could be eliminated and have the lot accessed only by Rita Avenue. Mr. Ouellette explained any mulch delivery would come off Rita Avenue. He said given the lot layout and possibility of having two additional tenants the secondary entrance would be needed. Ms. M. Culleton questioned if employees could access through Main Street and the bigger trucks access through Rita Avenue. Mr. Ouellette recalled a larger truck having difficulty accessing through Main Street. He noted that the two accesses had been in existence for a long time. He pointed out there was nothing located across the street from the Main Street access and therefore accessing from that area would have very little

impact. Mr. McNamara stated the lot was better off from a safety standpoint having two entrances/exits. Mr. McDevitt wanted to know the concern with using the Main Street entrance. Ms. M. Culleton felt there would be less noise and damage on Main Street if the trucks used the access on Rita Avenue. Ms. M. Culleton questioned if there would be any business signs. Mr. McNamara recalled there would be no signs. Ms. M. Culleton asked what type of equipment would be used to cut wood and where it would be done. Mr. Ouellette said they would use a chainsaw and showed the location on the lot, which was at a corner of the lot away from residents on Main Street. He understood there was a concern, but felt with the tree buffering and fence there wouldn't be a problem.

Mr. Culbert asked if the chainsaw cutting could be limited between 9am-4pm. Mr. Ouellette replied they didn't make an extravagant amount of noise. He said if they had to cut because of an emergency, such as a tree coming down, he hoped no one would be angry (if it was outside specified hours). He said he ran a neat and clean operation at the Tractor Supply location and the Atwood Road operation and would remain true to what he'd been doing. Mr. Culbert was concerned with chainsaw use beginning at 7am. Mr. Ouellette said they didn't operate like that. Mr. Culbert asked when they would start that type of work. Mr. Ouellette replied maybe around 10am. He explained a typical day would be for the employees to arrive at 7am, warm up the trucks and leave the site. He said if they had a job and brought materials back to the site for processing it was usually done in the middle of the day or late afternoon. Mr. Sherman wanted to know if the operation could be limited to have no tree cutting on the weekends. Mr. Guzioka stated he could limit Sundays. Mr. Ouellette stated they worked on Saturdays, but agreed to eliminate Sunday. Mr. McNamara believed the concern was neighbors hearing constant noise for hours.

Since wood cutting and chipping was not part of the normal business operation, Mr. McDevitt suggested if the change-of-use was approved it include the condition that incidental wood cutting or chipping would be permitted. Mr. Ouellette noted there was approximately five cords of wood on site that needed to be cleaned up, which may take longer than a couple hours. Mr. McNamara understood and replied that would be a one-shot deal and when it was completed, there wouldn't be any more. He stated it should be understood that wood cutting and chipping was incidental to the business operation. Mr. Dadak noted that the business would cut wood to move it off-site, which was different from having a wood cutting business.

As conditions for approval, Mr. McNamara suggested there should be a limit of the larger equipment stored on site by using the list provided by Mr. Ouellette for such. The list was provided at the previous meeting entitled "Prospective Equipment List" noting at the bottom "Equipment list subject to change – 10/29/16". He said it should also be understood that wood cutting and/or chipping shall be incidental to the business. Mr. Ouellette offered to add a condition that there be no cutting on Sundays. Mr. Gowan understood that the conditions would also be: 1) limited to the list of equipment provided; 2) limited to the hours of operation provided (except in during a snow event); 3) lighting shall be Dark Sky compliant; 4) landscaping as provided including Arbor Vitae; and 5) Fencing as provided to be 8ft-10ft in height.

Mr. Passamonte questioned, in terms of allowed equipment on site, if another lessee came on site. Mr. McNamara replied that would require the owner to come back in front of the Board to explain what would be done on site. Mr. Guzioka understood.

Mr. McDevitt suggested adding to the conditions that the fencing be maintained in good order. He believed it was clear during the site walk and the approval conditions should state that no materials would be sold from the property (retail sales). He questioned if they would have a sign. Mr. Gowan replied businesses were entitled to have a sign (per Zoning), separate from the current review process. There would be no condition restricting a sign as it was allowed in Zoning. As discussed during the site walk, Mr. McDevitt confirmed that the logs on the south side of the lot would be removed and nothing further would be dumped in that area. Mr. Ouellette replied that would be part of the clean-up process; the area would be landscaped. As a separate item from the current discussion, Mr. Gowan noted that the oil tank viewed during the site walk also needed to be removed. Mr. Guzioka said he would place an ad for its removal but in the meantime would move it.

Mr. Doherty suggested altering the condition for the hours of operation to give an exception for ‘weather related and acts of nature’ situations versus stipulating ‘snow events’. The Board found his suggestion reasonable.

Mr. Sherman was appointed to vote.

**MOTION:** (Doherty/Passamonte) To approve the Site Plan with the listed conditions and stipulations provided in the testimony heard during the meeting.

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

### **NEW BUSINESS**

#### **PB Case #PL2016-00025**

#### **Map 1 Lot 5-124**

#### **HERBERT, Christopher – Mammoth Road – Preliminary Discussion for proposed 44 units – Adult Community Site Plan**

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 was seeking a conceptual discussion for a 44-unit adult community on a parcel consisting of approximately 12.5 acres. He noted the wetlands and soils (generally Canton) had been reviewed and flagged by Gove Environmental Services. Each unit would have two bedrooms. The existing house would be converted into the community club house. Mr. Zohdi told the Board that the parcel was on the bank of Beaver Brook and he’d done a similar development on the other side of the brook in Windham. The proposal will be to bring Pennichuck Water to the site; all units will have fire sprinklers.

Mr. Sherman saw that units 1, 2 and 11 were located in the 100-year flood plain. He thought the Town was going to stop building in the flood plain and questioned if they would finally stop doing so. Mr. McDevitt stated it was a Planning Board decision by their vote whether or not to allow building. He said the Selectmen were in no position to stop it. Mr. Gowan stated per the Flood Plain Development Ordinance, presently development in the flood plain was allowed. He said there were details within the Ordinance that were important for the Board to consider. Mr. Gowan saw there was a section of the proposed hammer head located within the 50ft. wetland setback, which ‘technically’ the Board had the authority to permit through their vote (after it went in front of the Conservation Commission). Mr. Sherman stated the Town did a Pelham Hazard Mitigation Plan in 2012, which spoke about what to do for proposed improvements. One improvement was to restrict development within the flood plain, with enforcement being the Planning Department. Since they had the enforcement authority, he questioned why the Board wouldn’t use it to not allow development in the area. Mr. Gowan replied the Board was bound by some degree by what was contained in Zoning, which restricts how building is done. He suggested that the Board had authority over the site plan beyond simply the flood plain aspect; if the Board provides feedback, the applicant could modify the plan accordingly. Mr. McDevitt felt the Board should act conservatively regarding building in the flood plain given the Town’s involvement with flood studies and discussions with the State. Mr. Dadak agreed if there was any way to limit activity in the flood plain it should be done, so as to not effect areas further down the brook.

Mr. Doherty spoke to development that occurred in Massachusetts within the flood plain. He said they don’t allow the properties to be filled in to allow water to settle where it belonged. He said the lots were sold as

being built to flood with no electricity wired in areas that flood. Mr. Doherty didn't believe the proposal in front of the Board was to fill in the flood plain for the development.

Mr. McNamara pointed out the development was in close proximity to the gas transmission line. He wasn't sure if the buffer shown on the plan would be sufficient. Mr. Doherty believed there was specific State and Federal guidelines for high density zoning near the gas line and questioned if they had been contacted. Mr. Zohdi replied they had been notified through abutter notification; to date the applicant hadn't discussed the plan with the gas company.

Mr. McDevitt discussed the Regulations and believed the development requirements for the community would be reviewed by Keach Nordstrom (Board's engineering review firm). In looking at the plan, he didn't see accommodations made for senior recreation or visitor parking.

Mr. McNamara felt the proposed plan was grossly overdeveloped. While meeting the letter of the law, he didn't feel the proposal met the spirit of the Ordinance. He discussed his concerns in particularly the density and usable open space, which he felt could be ameliorated by more buffers and sidewalks. Mr. Zohdi understood they would have to include sidewalks as required by Zoning. He said for the proposed community they would need a road at least 22ft wide with a sidewalk, or they could construct the road at 24ft. wide without a sidewalk. He spoke to the concern about the flood plain and understood there were two different definitions: 1) flood way, and 2) flood plain. He stated they wouldn't build within the flood way and based on the Board's comments would shift units out of the flood plain. He was taking note of the Board's concerns and understood they may need to lose a couple units and create more open space. Mr. Zohdi reviewed a depiction of the development and showed the areas for additional parking. He told the Board there was no requirement of a setback from the gas line; the recent development in Windham contained 197 units. He noted roads and driveways could be constructed over the gas line; however, units could not be built over the line. He agreed to pull the hammer head out of the setback. Mr. Zohdi stated he would work on the plan and satisfy the Board's concerns.

Mr. Dadak questioned the type of drainage would be proposed. Mr. Zohdi replied they would apply for an Alteration of Terrain permit and do a drainage study based on the Town's Regulations and include bio retention areas.

Based on the conceptual nature of the plan, Mr. Doherty felt the hammer heads should be removed and the roads connected (to show three road loops). Mr. Zohdi had no objection. Based on topography, Mr. Doherty saw plenty of room for walking trails along the edges of the parcel. Mr. Culbert felt the proposal was grossly inadequate on buffering in between units. Mr. Gowan suggested it would be a good idea to have the Highway Safety Committee review the plan.

Mr. Montbleau felt Mr. Zohdi had always done a good job for his clients and addressed the concerns/comments of the Board. However, in this proposal he agreed with the Board's concerns, specifically the density. Mr. McDevitt noted that the proposal was essentially a large cul-de-sac. He discussed a situation that occurred on Bowley Drive that had cascading development with only one access. A culvert at the entrance collapsed making it difficult to access the area. He cautioned the Board to be extremely careful about the proposed access to the development.

Mr. Passamonte requested future plans be submitted to the Board to allow review prior to two-three days before the meeting.

Mr. Doherty suggested some of the units be combined into duplexes to shrink building footprints.

Mr. Zohdi appreciated the Board's feedback.

**MINUTES REVIEW**

Mr. Culbert was appointed to vote.

**December 3, 2016**

**MOTION:** (Culbert/Passamonte) To approve the December 3, 2016 site walk minutes as amended.

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

**November 21, 2016**

**MOTION:** (Culbert/Dadak) To approve the November 21, 2016 meeting minutes as written.

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

**ADJOURNMENT**

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

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

The meeting was adjourned at approximately 8:53pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary