

## PLANNING BOARD

Monday, January 08, 2007  
Belmont Corner Meeting House  
Belmont, New Hampshire

Members Present: Chairman P. Harris; J. Pike, G. Flack, W. Peterson and C. Patten.  
Members Absent: R. Caldwell and J. Marden.  
Alternates Present: C. Shibles and C. Long.  
Staff: C. Daigle, R. Ball and E. Murphy.

The chairman opened the meeting at 7 p.m.

### **PUBLIC HEARING – PROPOSED ZONING AMENDMENTS:**

P. Harris explained that most of the proposed amendments are a result of concerns brought forth during the year. Some are just housekeeping and clerical clarifications. The chairman read the purpose of the first proposal.

**Amend the standards for Open Space Residential Development by adding a density bonus and revising standards related to open space ownership, permitted uses, accessibility and values. Recognize areas that have already been identified by the Conservation Commission as having outstanding open space value.**

P. Harris explained that the Board cannot force a developer into using an open space concept. But the developers have been generous with donations of open space and this would encourage them to continue preserving open space.

Mr. George Condodemetraky wanted to know what size the lots have to be. C. Daigle explained that it differs with the zone they are in. Mr. Condodemetraky agreed with the density bonus and stated that they could even allow smaller lots to preserve more open space. The chairman read the second proposal.

**Amend existing campground standards and prohibit new campgrounds and RV resort campgrounds.**

P. Harris stated the Board has been working on the dilemma of how to regulate campgrounds because of the evolving legal basis for residency requirements. He explained that a bill had been introduced to further change residency requirements, but it did not pass. There is concern that more campgrounds may become permanent residences. Campgrounds were simply not designed for that. In many instances, the

roads and infrastructure was not designed for year round use and they don't meet the density requirements for residential use. If Town Ordinances are superseded, campgrounds could convert to permanent residency without upgrading to meet safety standards.

Mr. Mark Mooney stated that he feels that the Board is overstepping their bounds by prohibiting campgrounds. They are taking away the rights of landowners. He takes offense to the word "prohibit". The Board has no jurisdiction to prohibit anything. They are overreacting. They should be doing studies and having more public hearings. The Board explained that they have studied the matter, have been working on campground regulations and have had public hearings which the public has attended. Mr. Mooney stated that he was not aware of any of them until he received the proposed amendments for tonight's meeting. The Board explained that they have had public meetings which were noticed to adopt both Site Plan and Subdivision Regulations on campgrounds and have taken input from the public as a result of those meetings. The Board explained that they have concern about safety with the expansion of campgrounds and the increasing congestion with the units increasing in size and the addition of decks, sunrooms and sheds. There is an increase in people using campgrounds as their residence when they are not traveling. People are staying here six or more months a year and then traveling the rest of the year. Mr. Mooney stated that there is nothing wrong with that. Out west they encourage campgrounds because they promote tourism which adds money into the local economy. P. Harris stated that units are getting larger - some 40' or more, which causes congestion in the campgrounds causing safety concerns. Mr. Mooney stated that he has stayed in campgrounds with the units only 8' apart and has met the nicest people. Even with the 40' units you can have quite a few units on one acre of land. He feels the proposed density of 2 units per acre for an RV Resort Campground is unreasonable.

The Board explained that the concern is about permanent residency and people being allowed to send their children to the local schools and being able to register their vehicles. The State has not made any decision on new residency requirements but they feel that the State will err on the side of people's constitutional rights to vote and educate their children. If this happens and campgrounds are claimed as residences, then safety issues and service impacts could present problems.

Ms. Donna Cilley stated that a newspaper article referred to there being over 400 campsites in Belmont and she disagrees. There are only three campgrounds, Silver Lake, White Birch and Granite State. These campgrounds are almost maxed out on development. Mallards Landing and Winnisquam Beach are not campgrounds. They do not allow for tents or travel trailer or provide transient sites. Belmont and the Lakes Region are known for tourism and without a place for tourist to stay then they have to rely on the locals to support the economy. Places like the Belknap mall, restaurants and recreational facilities depend on tourism and without tourist we might as well become a bedroom community. She stated that campgrounds cannot be considered permanent residences and children cannot be put in the school system. The Board explained that there have already been bills adopted by the Legislature and decisions made by the Attorney General on what constitutes permanent residency and they already allow for non-resident vehicle registration and voting.

Ms Catherine LaRoche stated that she works for the school system and children that live in campers are considered homeless and they can go to the school of their choice. If they are camping in Belmont chances are they are going to attend the Belmont school system. Ms. Cilley stated that if families live in

vehicles the children cannot be taken away from them as long as they are taken care of. Where do you want them living, in parking lots or the side of the road?

Mr. Mooney stated that the Board is overstepping their bounds and have no right to prohibit anything. The Board explained that they have done studies and have talked to legal counsel and may bring the proposal to the voters for them to decide. Both Mr. Mooney and Ms. Cilley suggested the solution was simply to prohibit condominium and association campgrounds. That's where the problem stems from. Visibly upset Mr. Mooney abruptly left the meeting.

Mr. Fred Naiva stated that this issue has two sides - the impact to the economy and tourism, and the impact to the area where the campgrounds are located. The campground developer will make money but at what cost to the abutting property owners? The Board agreed that campgrounds do affect the abutters with additional noise and traffic. Campgrounds tend to like the rural zone for the atmosphere but what happens to the rural atmosphere with the additional impacts associated with campgrounds.

There was further discussion on the types of campgrounds. C. Daigle explained that condominium and association are simply forms of ownership. They don't define the use that occurs on the property, which is what the Town can regulate. Residency is the issue and that is why the amendment is being considered. The Board members noted they did not want to prohibit campgrounds but felt that until the issue of residency can be resolved, it would be unwise for the Town to create even more campsites than they already have. J. Pike stated that this amendment doesn't have to be permanent it can be until the State makes its determination.

Ms. Cilley stated that it sounds like the Board is in a dilemma because they don't want to prohibit campgrounds but unless they do then people may be able to claim their residency even if they only are here a couple of months a year and only occupy a campsite. She stated that there must be somewhere that the Town can turn to for help like the department of tourism. She will do some research on the issue. C. Daigle explained that most of the proposed regulations are already part of the subdivision and site plan regulations (with the exception of the proposed prohibition).

The Board continued with the other proposed amendments. The public had no comments or concerns with the following proposals:

**Allow structures in the Commercial and Industrial Zones to exceed the current 45 foot height restriction by Special Exception granted by the Zoning Board of Adjustment.**

**Amend the definition of Structure to clarify that concrete pads used exclusively for vehicle parking or as support for essential utilities are permitted and are not considered structures.**

**Amend the definition of Setback related to lots abutting more than one road, abutting private roads or that do not abut any road.**

**Correct the existing numbering sequence in Article 8.**

The Board discussed changes to the proposed amendments as noticed. Proposed changes need to be renoticed for the final public hearing.

**Open Space:**

C. Daigle explained that the proposal to “Recognize areas within the Town that have already been identified by the Conservation Commission as having outstanding open space value”, did not seem to be adequately represented in the actual text amendments. She suggested that under the proposed changes to Article 6.B.5. the following be added – “preservation of exceptional natural resource or wildlife habitat”.

**MOTION:** On a motion by W. Peterson, seconded by J. Pike it was voted unanimously to add, “preservation of exceptional natural resource or wildlife habitat”. (7-0)

Additionally under the Open Space proposal the Board noted the correction of replacing references to “Conservation Area” under Article 6.C. to “Open Space”.

**MOTION:** On a motion by J. Pike, seconded by C. Patten, it was voted unanimously to replace references to “Conservation Area” under the proposed Article 6.C. to “Open Space”.

**Campgrounds:**

Significant discussion followed regarding the proposed Campground Ordinance amendments which basically fall into two categories:

1. Proposal to amend Campground section to include and be consistent with Regulations previously adopted in both the Site Plan and Subdivision Regulations.
2. Proposal to prohibit the development of new Campgrounds and Campground RV Resorts.

The majority of the discussion concerned the proposal to prohibit new campgrounds. Board members discussed the conflict between supporting economic growth and protecting the community from the practice of campsites being converted into fulltime dwelling units. The concern with this practice results in at least two equally serious concerns:

- Impact of use occurring on land including quality of life to abutters, environmental, loss of abutting property values;
- Impact on the cost of town services for what are essentially, or legally, fulltime residences.

In regards to the first issue, a traditional campground creating temporary use campsites for transient campers has a significantly different impact on both the community and the neighborhood than one that basically creates permanent 4-season camps. In the first scenario there is a specific economic impact related to tourism which complements the tax revenue. In the second there is the possibility that the use and service impacts increase to more closely resemble those of permanent dwellings while the economic benefits do not.

In the second issue, the major problem in the regulation of campsites is that, regardless of what local Regulations and Ordinances may be adopted by the Town, they can be and are being superseded by State and Federal laws. The State now permits campsite occupants to vote in Belmont and to participate in non-resident motor vehicle registrations. While not specifically problematic, these issues were previously understood to be accorded to “residents” only, and not campsite occupants. The expansion of rights accorded to campsite occupants creates a concern that more rights, including those that would increase costs to the Town will also be accorded through new State legislation or future litigation within the State, and that the Town will not be positioned to assimilate these new “dwellings” and “residents” without impacting its ability to provide services.

The conflict seems to stem from campgrounds having two very different characteristics. The type of campground described earlier by Mr. Mooney is probably the traditional notion of a campground – and the one usually seen by the traveling public. It’s clearly a transient campground, with sites used on a temporary basis unlikely to be converted into dwellings, a campground that would certainly complement area tourism. But the second type of campground, and that which has caused the Board to propose this amendment is a campground which has the following characteristics:

- campsites are occupied by the same RV/camp year round;
- the RV/camp is owned/occupied one person/family;
- the RV/camp can be/is occupied 4-seasons;

This type of campground already accounts for 329 of the 435 campsites within Belmont, and it is the only type of new campground that has been proposed to the Board. It also seems to be the only type of new campground that is being developed within the regional market.

The Board acknowledged that the proposal to prohibit campgrounds was not one the Board wished to take. However, given the Town’s previous experience with unregulated campsite conversion, the uncertainty of where State law will head, and the possibility that future litigation over campground “occupancy” within the State would, by default overturn Ordinances adopted by the Belmont voters, the Board felt it had no alternative but to propose that no new campgrounds be permitted, at least until these issues were resolved.

The Board understood Mr. Mooney’s offense at the use of the word “prohibit”. Although correct in its usage, it is understandably harsh. The term (not) permitted might also be more in keeping with the Permitted Use Table. The board also discussed the possibility of splitting the question into updating the regulations (which are needed in any case as they would apply to both new and expansions of existing campgrounds) and prohibiting new campgrounds. As a result of this discussion, the following action was taken.

**MOTION:** On a motion by J. Pike, seconded by C. Shibles it was voted unanimously to replace the term “prohibit” with “is not permitted”. (7-0)

**MOTION:** On a motion by J. Pike, seconded by W. Peterson it was voted unanimously to split into 2 questions the issues of Not Permitted and Updating the Regulations. (7-0)

**MOTION:** On a motion by W. Peterson, seconded by C. Patten it was voted unanimously to amend the 3<sup>rd</sup> sentence in the definition of campground to, "In campgrounds, sites shall not be occupied by the same person or persons for more than 3 consecutive weeks". (7-0)

**MOTION:** On a motion by W. Peterson, seconded by J. Pike it was voted unanimously to replace the proposed definition of "Temporary Basis" with "means occupancy only for transient recreational purposes, not occupancy to create a domicile or place of abode within the meaning of RSA 21:6 and :6-a for the purpose of establishing residency". (7-0)

**Setbacks:**

The Board recognized that item c. relates only to preexisting nonconforming lots and made the following change.

**MOTION:** On a motion by C. Patten, seconded by J. Pike it was voted unanimously to begin proposed item "c" with "that are preexisting and do not...", and to begin the last sentence of the full text with, "Preexisting lots that do not...". (7-0)

P. Harris closed the public hearing. C. Daigle reminded the Board that there has been a petition for creating an aquifer protection district which will be noticed for the next public hearing. Mr. Kevin Sturgeon stated that it includes the industrial district on Rte 140. Members of the public discussed how this will eliminate the industrial zone and the economic impact it will have. C. Daigle reminded them that this was brought forth by petition and not by the Board. Also that once the notice of public hearing for the petition is posted, the Town can not grant any permits that would be in violation of the posted amendment if it is adopted. The petition will be discussed at the next public hearing. There can be no changes to a petition. It has to go on the ballot as written and must state whether the Board does or does not support it.

**BOARD'S ACTION-MINUTES:**

**MOTION:** On a motion by J. Pike, seconded by C. Shibles, it was voted to approve the minutes of the December 18, 2006, meeting as submitted. (7-0)

**STAFF REPORT:**

**FINANCIAL REPORT:**

The Board received a copy of the 2006 year-end budget. C. Daigle explained that \$9,968.39 was returned to the general fund. They have also encumbered the \$20,000 for Capital and \$2,000 for legal fees.

**ADJOURNMENT:**

**MOTION:** On a motion by C. Patten, seconded by J. Pike, it was voted unanimously to adjourn at 9:26 p.m. (7-0)

Respectfully submitted,

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Elaine M Murphy  
Administrative Assistant