

## PLANNING BOARD

Monday, December 17, 2007  
Belmont Corner Meeting House  
Belmont, New Hampshire

Members Present: Chairman P. Harris; G. Flack, W. Peterson, C. Patten, R. Caldwell and C. Long.  
Alternates Present: W. Rollins and R. Davis.  
Staff: C. Daigle, R. Ball and E. Murphy.

The chairman opened the meeting at 7 p.m. and appointed W. Rollins as a voting member for tonight's meeting.

**PLAN SUBMISSION MEETING AND PUBLIC HEARING –VICTOR VIRGIN:** Request to extend site plan approval for one year (12/18/08) for a contractor's yard with maintenance and storage buildings. Property is located on Depot Street, Tax Lot 234-005 in the "I" Zone. PB # 3307

Mr. Victor Virgin presented the application.

Mr. Virgin stated that he has done some improvements but hasn't pulled a building permit yet and is asking for a one year extension.

### **BOARD'S ACTION – VICTOR VIRGIN:**

**MOTION:** C. Patten moved that the application be accepted as complete for the purposes of proceeding with consideration and making an informed decision. However, additional information shall be requested as necessary and must be submitted to complete review and act on the application. Action on this proposal shall occur by 2/20/08 subject to extension or waiver.

The motion was seconded by W. Rollins and carried. (7-0)

The chairman opened the public hearing and asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**MOTION:** W. Peterson moved that the application for extension be granted Final, conditional approval as it appears to meet all of the technical requirements of the Ordinances and Regulations of the Town of Belmont with the following conditions:

1. All conditions of the original approval remain in effect.
2. Compliance hearing shall be held by Board as necessary.
3. Extension is to 12/18/08.
4. No changes shall be made to the approved plans unless application is made in writing to the Town.
5. The Planning Board shall have the power to modify or amend its approval upon its own motion to do so.
6. Approval is subject to expiration, revocation and changes in the Ordinances.

The motion was seconded by C. Long and carried. (7-0)

**PLAN SUBMISSION MEETING AND PUBLIC HEARING – JANIS POWELL:** Request to extend or reapprove subdivision approval for one year (11/27/08) to subdivide one lot into a total of two lots. Property is located on 263 Durrell Mountain Road, Tax Lot 212-050 in the “R” Zone. PB # 3407.

Mr. Robert Powell presented the application.

Mr. Powell stated that Mr. Wheeler has not finished his surveying and that is why he is asking for the extension.

**BOARD'S ACTION – JANIS POWELL:**

**MOTION:** C. Patten moved that the application be accepted as complete for the purposes of proceeding with consideration and making an informed decision. However, additional information shall be requested as necessary and must be submitted to complete review and act on the application. Action on this proposal shall occur by 2/20/08 subject to extension or waiver.

The motion was seconded by G. Flack and carried. (7-0)

The chairman opened the public hearing and asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**MOTION:** G. Flack moved that the application for extension be granted Final, conditional approval as it appears to meet all of the technical requirements of the Ordinances and Regulations of the Town of Belmont with the following conditions:

1. All conditions of the original approval remain in effect.
2. Compliance hearing shall be held by Board as necessary.
3. Extension is to 11/27/08.
4. No changes shall be made to the approved plans unless application is made in writing to the Town.
5. The Planning Board shall have the power to modify or amend its approval upon its

own motion to do so.

6. Approval is subject to expiration, revocation and changes in the Ordinances.

The motion was seconded by C. Patten and carried. (7-0)

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

P. Harris wanted to know if any petitions for Zoning Amendments have been submitted. C. Daigle stated that none have been submitted.

P. Harris explained that tonight the public hearing is for the proposed Aquifer Ordinance. He explained that Belmont has been working on protecting the aquifer for a few years. In 2001 Belmont requested DES funding for the 1<sup>st</sup> Tri-town Aquifer Project. In 2002 the 1<sup>st</sup> Tri-town Aquifer Project began and was completed in 2003. They requested DES funding for a 2<sup>nd</sup> Tri-town Aquifer Project. In 2004 the 2<sup>nd</sup> Tri-town Aquifer Project began. The Planning Board adopted a detailed site plan regulations regarding construction and operation on the aquifer. In 2007 the 2<sup>nd</sup> Tri-town Aquifer Project was completed. He explained that at the last Planning Board meeting the Conservation Commission discussed their concerns about the proposed Aquifer Ordinance.

Mr. Ken Knowlton wanted to know where the Planning Board stands on the Aquifer Ordinance because he was concerned about a newspaper article that alluded to the fact that the Planning Board would not move forward with the ordinance. P. Harris explained that it would be determined tonight. P. Harris explained that at the last meeting a lot of concerns arose that had to be studied. The proposed ordinance is based on the State's model ordinance and they were scrutinizing it to make sure it would work for Belmont. Adopting this ordinance would give Belmont the authority to follow through with inspections. Mr. Knowlton stated that he has some experience on the State level. The State has many laws and departments that enforce them. He has been the only inspector for junkyards and has gone after violators. From experience being the only inspector is not easy but there are ways to get it done. You can do inspections on a three year cycle, doing a third each year for three years and then starting the cycle again. If the Board is concerned there is not enough time or money for inspections there are ways to work that out. The Conservation Commission is here to help educate people. Once the people are educated the inspections are easier and faster because the businesses know what is expected of them. After one year of education they could institute an inspection cycle. He understands the concern about the tax dollars being used for the inspections but protecting the aquifer should take priority over the cost. There are a lot of people on Town water and it is very important that we take aquifer protection seriously. We need the Aquifer Ordinance and we can work on enforcement techniques later.

P. Harris stated that the Board has to review everything. It is not something to put on the books and only look at occasionally. The Board is a watch dog on where it should be implemented and how it is controlled. He is comfortable adopting an ordinance written by someone else instead of rewriting everything but it has to work for Belmont. He stated that professionals know how to use and handle regulated materials and home owners are exempt. He is not sure how to categorize the uses. He doesn't know why everyone isn't included in the same category if they have over 5 gallons of regulated material. Ms. Ginger Wells-Kay stated it is like a pesticide license; you don't need a license if you are a

homeowner but a business using a certain amount does. P. Harris stated that he supports the ordinance going forward but his concern is that a third of Belmont is over the aquifer. He wants it to go forward in a form that is enforceable.

R. Ball stated that he refined the numbers from last week when he stated that there were 268 lots with commercial and industrial uses. He explained that only 119 of them are in the aquifer district and about 54 of them would use regulated substances. There are 21 gravel pits. Those 54 uses would need preliminary inspections. C. Daigle stated that she talked to the Code Enforcement Official, Mr. Steve Dalton, and he has strong background regulating material and he is willing to do the inspections. Assuming he has 100 inspections a year that would be two a week for the existing uses. He did asked what would happen when the numbers grow. She explained to him that the Planning Board would look at that when an application comes forth. The applicants may have to pay for some of those inspections. She stated that Mr. Dalton was comfortable taking it on at a town level. She explained that there are two kinds of ordinances, one that prohibits everything and the other one uses Best Management Practices. If they adopt the three year inspection cycle it is not enough. If the ordinance is on the books and you don't do the inspections it gives the public a false sense of security. The inspections are a chance to meet the business owners and establish a working relationship while inspecting the business. She does not see any other cost to the taxpayers above the staff we already have.

R. Ball stated that another concern that the Board had was having had to do with deciphering the chemicals to determine if any part of them are on the regulated substance list. He explained that they would not have to determine what substances are in each product but will be regulating the substance and the volume.

C. Daigle introduced Mr. Dave McLelland, Water Department Manager, who has to work protecting the municipal well radius. P. Harris stated how lucky Belmont is that they have had only two or three cleanups for contamination because there used to be a time when there was a service station on every corner. Now we have to move forward so we won't have any other problems. He asked Mr. McLelland if Belmont used any treatment in the water. Mr. McLelland stated that they use very little treatment. Belmont has high iron content in the water and they have a chemical to suspend the iron so that it is more aesthetically pleasing. Belmont does not have any contaminates in the water from any outside source.

Mr. Alfred Beliveau wanted to know what the cost would be if the businesses did not comply. C. Daigle stated that Belmont doesn't have much compliance cost throughout the year. It is a small part of what we do. The Aquifer Ordinance is a State law so there may not be any cost to Belmont because they could ask for a DES inspection. Businesses are already required to do it. The inspections could help the businesses by reminding them of the regulations and educating them on how to follow it. Belmont has very little compliance work beyond staff level. Most businesses today are aware of Best Management Practices and how they enhance the value of their property rather than burdening them. Mr. McLelland stated that he worked in environmental compliance for eight years and most business owners are willing to comply if issues arise. Most issues are due to lack of education and once educated they will follow regulations. Most of business owners in town will be willing to be educated. Frequent on site visits keep businesses in compliance. P. Harris agreed with Mr. McLelland that most of the time violations are due

to the lack of knowledge; once they are educated they will follow through. C. Daigle stated that not all owners are the on site person so the inspections would give the inspector a chance to meet new personnel and educate them on what is required. P. Harris stated that they could hand out safe management practices packages as part of the permitting process. C. Daigle stated that it would be helpful with residential uses as they are not regulated by the proposed Ordinance and may not know how to handle regulated substances.

Mr. Magnus McLetchie stated that it is government's responsibility to provide for the health and safety of its resident. This ordinance is minimal and he supports it. The cost of enforcement is minimal to protect the environment and public. There will always be those who will dispose of regulated substance incorrectly but that is not the majority. We have to have this ordinance and inspections. It is essential to have safe water and air for Belmont's future. New Hampshire is noted for its clean air and water. Water is a great asset to New Hampshire and we have to protect it.

Mrs. Susan Condodemetraky commended the Board for bringing forward this ordinance and wanted to know how they would deal with the previously approved plan for the asphalt plant. P. Harris thanked Mrs. Condodemetraky and her family for working so hard to protect the aquifer. He explained that the ordinance uses DES Best Management Practices. The safeguards were in place when applicants came in for site plan review and the applicants were knowledgeable. Mrs. Condodemetraky wanted to know about the exhaust in the air. C. Daigle stated that emissions are regulated by the State. Water monitoring wells have been installed and testing was required prior to construction and after. Mrs. Condodemetraky wanted to know if Best Management Practices were optional. C. Daigle stated that is regulated by the State and the Board required them. The Board can apply what is appropriate. R Ball stated that the applicant addresses them in the Quality Assurance Plan. Spill containment measures can also be addressed through the Quality Assurance Plan.

Mr. Kevin Sturgeon stated that you can not excavate within 5' of the seasonal water table and wanted to know if the Town is exempt from the ordinance. C. Daigle stated that by State law the Town is exempt from zoning. Mr. Sturgeon stated that he is concerned that the prohibited uses will be amended in the future so that all uses become prohibited if they are amended each year.

Ms. Wells-Kay stated that it is important that homeowners become educated to know what their part is. In Salem they educate tax payers by inserting educational material in their tax bill. P. Harris stated that you have to trust the people using regulated substances to know how to handle them. He believes that the inspection times will balance out because some larger businesses may take longer while other smaller ones may take less time. Businesses that are well documented will take less time. He stated that Belmont has come a long way by investing in good staff and volunteers like those that came forward tonight. Mr. Beliveau wanted to clarify that he is for aquifer protection. His concern is for the cost to the town.

Mr. Sturgeon wanted the Board to think about zoning and if they knew then that the aquifer was under Rte 140 when zoning was enacted would they have changed the zoning on Rte 140?

R. Caldwell wanted to know how long Mr. Dalton would be able to handle inspections because

he doesn't want to create another position to do the inspections in a year. C. Daigle stated that Mr. Dalton didn't see it as a problem with doing the inspections. He is very capable and willing. This will be a joint effort at first until we get the process running and then he will just have to fit in 50-60 inspections a year.

Ms. Wells-Kay stated that there needs to be some education in place for the public. P. Harris stated that they could put editorials in paper and send out mailings.

C. Daigle reviewed some additional changes to the proposed amendment. She explained that under the definitions 3f junkyards has been reworded. Also outdoor maintenance has been added under definitions. Under permitted uses the changes clarify that if a new use currently requires a Special Exception from the ZBA, it will still need the Special Exception even if it also needs a Conditional Use Permit under the ordinance.

C. Daigle had concerns about letter I, the storage of liquid petroleum products. What happens if a small business wants to change the oil on their two vehicles, how would they be regulated? We regulate contractor's yards through permitting but section I would prohibit the basic needs of businesses such as changing the oil in their vehicles. Mr. Knowlton stated that there doesn't seem to be any difference between a two vehicle business and a larger business with a fleet of trucks. He suggested including the word temporary use because they would not be keeping the regulated substance on site. W. Peterson stated that in reality they could purchase the regulated substances in 55 gallon drums. The Board discussed that it might be better regulate it under N the storage of regulated substances and eliminate section I. C. Daigle stated that she will contact DES for explanation and clarification on Section I. She Daigle stated that under Exemptions letter B the wording has been changed back to be consistent with DES "capacity of 5 gallons or more." W. Rollin stated that homeowners would be subject to their jurisdiction and authority. C. Daigle stated that most homeowners don't buy regulated material in five gallon drums. If they buy in that quantity the use it more of a professional use. W. Peterson stated the he has seen how the 5 gallon requirement can cause problems for business as they may have to go out and buy the regulated material in smaller quantities.

C. Daigle stated that Section 11 has been reworded so that the greater restriction or higher standard shall prevail. Section 12 is reworded to state that a Notice of Decision will be recorded in the Registry of Deeds.

Mr. McLelland stated that he can help with the education. He sends out a water quality report to water users and could include some educational material on protecting the aquifer.

**MOTION:** W. Peterson moved to post the Aquifer Ordinance for their January 14, 2008 meeting. The motion was seconded by G. Flack and carried. (7-0)

**OTHER BUSINESS:**

**STAFF REPORT:**

**SIGNAGE:**

C. Daigle stated that the Board was proposing changing the size of signs in the residential multi-family zone. Should they also consider reducing the size in the residential single-family, rural and village zones? The Board discussed the fact that it would be consistent to have the same size in those zones. One 49sf sign per lot in those zones would be adequate.

It was the consensus of the Board to allow one 49sf sign per lot in the residential single-family, residential multi-family, rural and village. They will post the proposed amendment to include the residential single-family, residential multi-family, rural and village zones.

**BLUE SKY ENTERPRISE INC. TAX LOT 231-014:**

The chairman signed the amended site plan and earth excavation plan and Notice of Decision for Blue Sky Enterprise. C. Daigle explained to the Board that R. Ball did go out to the site after the last meeting to see if they had excavated with 50' of the boundary line as an abutter had stated. R. Ball stated that they did encroach in the setbacks but have brought the site into compliance once they were aware that they did have a disapproving abutter. The applicant was not aware of the disapproving abutter because nothing was put in writing and Pike did not attend the first public hearing.

**ECONOMIC DEVELOPMENT FUND:**

C. Daigle explained that three years ago at Town Meeting the Town voted to fund Economic Development. The Board hasn't used the money because they were waiting to complete the housing report. They have been encumbering the funds but the auditors want a formal arrangement or commitment in place to encumber the funds. The Board of Selectmen has an Economic Development Capital Reserve Fund and the Planning Board can put the money in that fund. The Planning Board and the Board of Selectmen need to have a meeting to determine what the economics are and how to promote them. W. Peterson stated that the Planning Board has been proactive in economic development. C. Daigle stated that they need support from the Board of Selectmen in order to move forward. The Town has had committees in that past that didn't work well because they needed direction. R. Caldwell wanted to know how many people have come to the Land Use office in the last year wanting to put a new business in Belmont. C. Daigle stated that there have been approximately two. Recent studies show that communities in New Hampshire are going to enjoy industrial growth with small businesses leaning towards technology. There are no more big businesses. They are more of the mom and pop small business with few employees. R. Caldwell stated that they should wait and see instead of wasting money on committees that will not bring any new information. C. Daigle stated that they should support the businesses that are here. If a task force such as recommended by Mr. Thibeault is enacted they can work on determining what makes it more attractive for business to come to Belmont.

C. Daigle outlined the Board's options. The Board can give the money back to the general fund if they do not contract with someone by the end of the year. They can start their own Capital Reserve Fund or put it in the Board of Selectmen's Economic Capital Reserve Fund. W. Rollins wants to make sure the Planning Board has the discretion on how to spend money. C. Daigle stated that if it goes to the Board of Selectmen it will be at the Planning Board's discretion as long as it is earmarked for economic development. She stated that a task force is a good idea but it also has its drawbacks. It takes the right people to champion the project. The Board discussed the possibility of having a professional not tied

politically to the town lead the committee.

It was the consensus of the Board to put the money in the Board of Selectmen's Economic Capital Reserve Fund. R. Caldwell abstained.

**NEM TAX LOT 205-056:**

C. Daigle explained that she has been approached by a representative from McGreevey stating that they want to do car repairs at the carwash. They were before the Board in October for site plan approval to sell cars on that lot and now they want to eliminate the carwash and use the bays for repairs. The representative stated that they want to waive site plan approval because there previously was a garage on site. P. Harris stated that he thinks this is a major change. The Board had concerns about the age of the building, how it was constructed, the number of employees they would have, the type of work they would be doing and fire safety. They also want to know what materials they would be using and how they would be stored. Will there be a repair room and if Best Management Practices would be used. The Board feels that it will need site plan approval but the applicant can ask for Site Plan Waiver if he chooses. They also discussed the fact that a garage had previously been on site but the use has been abandoned so they need to treat it as a new application.

C. Daigle stated that the representative also wanted to know if they could be heard at the January worksession. The Board agreed to hear the application at the worksession as long as they meet the filing deadline. They agreed to this because this is their quieter season and they do want to promote business in Belmont.

**ADJOURNMENT:**

**MOTION:** On a motion by W. Peterson, seconded by C. Long, it was voted unanimously to adjourn at 9:40p.m. (7-0)

Respectfully submitted,

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Elaine M Murphy  
Administrative Assistant