

## PLANNING BOARD

Monday, August 25, 2008  
Belmont Corner Meeting House  
Belmont, New Hampshire

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

The vice-chairman opened the meeting at 7 p.m.

**PLAN SUBMISSION MEETING AND PUBLIC HEARING – JOHNGIS REALTY LLC:** Request for a one year extension (8/28/09) for subdivision approval to create a 43-lot open space subdivision. Property is located on Middle Route, Hoadley & Province Roads, Tax Lot 215-007 in the “R” Zone. PB # 1108

Atty. Jeremy Miller presented the application.

Atty. Miller explained that they need additional time to put everything into place.

### **BOARD'S ACTION – JOHNGIS REALTY LLC:**

**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 10/29/08 subject to extension or waiver.

The motion was seconded by C. Long and carried. (5-0)

The vice-chairman opened the public hearing.

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

**MOTION:** C. Patten 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 8/28/09.
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 R. Davis and carried. (5-0)

**PLAN SUBMISSION MEETING AND PUBLIC HEARING – BELMONT LANDING LLC FOR VINEYARD RESTAURANT:** Request for Site Plan amendment to add indoor recreation (live music) accessory to an existing restaurant. Property is located at 171 D.W. Highway (Vineyard Restaurant), Tax Lot 101-022 in the “C” Zone. PB # 1208.

Mr. Carroll Brown Jr. and Mr. David Raptis presented the application.

Mr. Brown, entertainment coordinator, explained that that they are looking for live entertainment in the lounge section. They are looking at having one and two piece bands. They plan on keeping the same clientele that they currently have. Parking will not be an issue because the entertainment will start after the dinner hour winds down around 9 or 9:30. They will use less parking than the restaurant does during peak hours. The venue will maintain a listening atmosphere where people can listen to the music and talk.

C. Long wanted to know what the closing hours are now and what the changes will be. Mr. Brown stated that now the lounge closes at 11:30PM and they would like to stay open as late as the State allows 12:30 AM.

**BOARD'S ACTION – BELMONT LANDING LLC FOR VINEYARD RESTAURANT:**

**MOTION:** R. Davis 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 10/29/08 subject to extension or waiver.

The motion was seconded by C. Patten and carried. (5-0)

The vice-chairman opened the public hearing.

W. Peterson wanted to know about the as-built plans that still have not been submitted by the building owner. C. Daigle explained that there has been a delay in getting the as-built because the State paved over the manholes. She knows Keach-Nordstrom has been out on the site and is in the process of getting the as-built completed.

C. Daigle explained that when the Vineyard Restaurant went in their unit they had the intention of having entertainment. C. Patten wanted to know about the parking associated with entertainment. C. Daigle stated that it is a little less than the original calculation. The heavy use of parking would be after the other tenants are closed. There is no designated parking for any specific unit. Mr. Brown stated that the other businesses hours are usually 8-5 or 6 at the latest so they are closed before the entertainment begins. The shared parking has not been an issue and he doesn't anticipate being a problem because the dinner crowd will be gone.

W. Peterson wanted to make sure that Mr. Raptis is aware of the staff comments from the Police Department concerning the need to have a police officer on the premises if problems arise. It is not a requirement at this time. Mr. Brown stated that he has no issue with the Police Chief's requirements.

Mr. Brown wanted to know if the applicant can be granted a waiver for the information that the building owner has not provided to the Board as a condition of his previous approval. He would like to have a waiver for a month so that they can start the entertainment as soon as possible. They will work with the building owner to get him to supply the outstanding information. C. Daigle explained that at this point they have stopped issuing building permits for the remaining units until the as-built are provided. She explained that Keach-Nordstrom is on site doing the as-built. Holding up the approval only hurts the tenants. Mr. Brown stated that they are only asking for a temporary 30-day approval and if the as-built is not provided then they will stop the entertainment. R. Caldwell stated that it would give them a chance to get started as the as-built is in the works.

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

**MOTION:** R. Davis moved that the application 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:

Conditions to be complied with or secured (as appropriate) prior to decision being recorded. No site improvements or approved uses shall commence and no building permit shall be issued decision is recorded.

1. State or other agency permits to be filed with the Town (NH liquor commission if required).
2. Payment of decision recording fee and additional noticing fee.

3. Standard conditions of approval (see conditions of final approval).

Construction conditions to be complied with once plan has been signed and decision recorded:

4. Property owner shall install all required fire and life safety facilities and systems required by the Board and/or by other applicable Codes and Regulations.

General conditions to be complied with subsequent to plan being signed and decision recorded:

5. All conditions of two prior approvals to remain in effect.
6. Permits must be obtained for all signage, and signs for inactive, closed or abandoned uses shall be removed within 30 days.
7. No changes shall be made to the approved plans unless application is made in writing to the Town.
8. The Planning Board shall have the power to modify or amend its approval upon its own motion to do so.
9. Approval is subject to expiration, revocation and changes in the Ordinances.

The motion was seconded by C. Long and carried. (5-0) The Board agreed they would not hold up this tenant for plans due from the owner.

**PLAN SUBMISSION MEETING AND PUBLIC HEARING – PETER AND NANCY DEVIVO:**

Request for Site Plan approval a contractor's yard (landscaping contractor). Property is located at 188 Horne Road, Tax Lot 209-019 in the "R" Zone. PB # 1308.

Mr. Ron Johnson and Mr. DeVivo presented the application.

Mr. Johnson stated that the property is located on the easterly side of Horne Road in the rural zone. It has a residential dwelling, pole barn, small shed and salt and sand storage. The shed has been moved. On July 23, 2008 they received two equitable waivers for setbacks and a special exception for a contractor's yard in the rural zone to allow parking for tractor trailer and employee parking.

W. Peterson wanted to know about the waiver for the aquifer plan. He wanted to know if there would be any maintenance of vehicles or equipment. Mr. Johnson stated that there will be no maintenance of vehicles or equipment on site and no on site fuel storage. C. Patten wanted to know about salt storage in the aquifer. C. Daigle stated that sand and salt has to be covered and the applicant is offering to limit the size and have it covered.

C. Patten wanted to know about the sight distance. Mr. Johnson stated that they need to do a little bit of brush clearing to get the sight distance exactly 300'. He also offered to close the southerly driveway.

**BOARD'S ACTION – PETER AND NANCY DEVIVO:**

**MOTION:** C. Patten moved to grant the following waivers:

- a. Soils Map & Report on the condition that the southerly driveway be eliminated and the wetlands area restored in a manner approved by the Town.
- b. Topographic Plan.
- c. Aquifer Plan & Report on the condition that there is no on-site commercial fuel storage facility or on-site commercial fuel storage facility or on-site vehicle or equipment maintenance and that the owner schedule and successfully pass annual aquifer inspections .
- d. Storm Water Management and Erosion Control Plan & Report.
- e. Quality Assurance Program with the restrictions as to fuels and maintenance and the requirement for annual aquifer inspections

The motion was seconded by R. Davis and carried. (5-0)

**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 10/29/08 subject to extension or waiver.

The motion was seconded by C. Long and carried. (5-0)

The vice-chairman opened the public hearing.

Mr. Johnson addressed the staff report. He stated that Mr. DeVivo will obtain all outstanding driveway permits and Certificates of Occupancy. He has contacted the town to complete the aquifer inspection. The two encroachments have been corrected. Boulders have been placed in front of the fuel tanks. All material will be stored inside and vehicles will be serviced off site. He will check on the utilities to see which ones are underground. He explained that the southerly driveway will be eliminated and the paved aprons have been done. The Septic location, exterior lighting and the sight distance of 300' has been noted on the plan. Sand and salt storage will be limited to 10cubic yards and will be covered. There will be no on site commercial fuel storage.

W. Peterson wanted to know about sanitary facilities. Mr. Johnson explained that employees come to the site in the morning to pick up vehicles and then leave. This is an off site business and the employees can use the facilities in the house. C. Patten wanted to know how many employees there are. Mr. Johnson stated that there are six including Mr. DeVivo. C. Patten wanted to know where they are working out of now. Mr. DeVivo stated that he has been working out of this site for eight years. C.

Patten wanted to know if Mr. DeVivo is trying to bring the site into conformance and if he had any complaints from the neighbors. Mr. DeVivo stated that he had one complaint about the backup beepers on the trucks and has corrected the problem by putting switches in the truck that can be turned off when they are on site. R. Ball stated the complaint is why the applicant is before the Board. C. Daigle stated that the Board has been consistent requiring sanitary facilities when there are employees on site especially where buildings are constructed. Mr. Johnson stated that the pole barn is not a regular building it is just a hut and is not heated. C. Patten stated that they have to have some kind of facility because employees have to have some place to go after working off site all day. Mr. Johnson wanted to know if they could have a chemical toilet. C. Patten thought that would be fine. Mr. DeVivo wanted to know if it would only be needed for the summer months because in the winter they only come to the site to pick up the plows and drop their cars off. They keep the plow trucks at their home during a storm. R. Davis stated that with a maximum of six employees they could use the facilities in the house. Mr. DeVivo agreed and stated that in the eight years no one has used the facilities in his house. R. Davis stated he doesn't see the need to build another building just for a toilet; it is just a small landscaping business. R. Caldwell stated that a chemical toilet is sufficient.

C. Daigle wanted to know where the clippings and brush would be deposited. Mr. Johnson stated they would be deposited off site.

The Board discussed the size of the storage bins and determined that bins 24" or less do not need a permit or have to meet setbacks.

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

**MOTION:** C. Patten moved that the application 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:

Conditions to be complied with or secured (as appropriate) prior to plan being signed and decision recorded. No site improvements or approved uses shall commence and no building permit shall be issued until plan is signed and decision recorded.

1. Obtain all outstanding driveway and building permits and COs.
2. Submission of final plans:
  - a. Notes/other info:
    1. Show Septic location.
    2. Include Site distances for commercial drive.
    3. Maximum number of individuals on-site engaged in business limited to six.
    4. Successful annual aquifer inspection required.
    5. Salt/salted sand storage limited to 10cy and covered.
    6. All materials shall be stored inside bins and shed areas.

7. Vehicles and equipment to be serviced off site.
  8. No on-site commercial fuel storage facility.
  9. With the exception of snow plowing activities, commercial activities restricted to 7am to 5pm (M-F) and 7am to 2pm on Sat.
  10. Fill encroachments on adjacent lots to be cured/revegetated.
  11. Southerly driveway and brush storage use to be eliminated and the wetlands area restored in a manner approved by the Town.
  12. Show any exterior lighting.
  13. Portable toilet.
3. Payment of decision recording fee (\$16.42).
  4. Applicant shall sign and follow Inspection Schedule prepared by Planning staff.
  5. Compliance hearing shall be held by Board as necessary.

Construction conditions to be complied with once plan has been signed and decision recorded:

6. All required improvements to be completed within 90 days.
7. Buildings to comply with applicable building, fire, health, and life safety codes.

General conditions to be complied with subsequent to plan being signed and decision recorded:

8. Vegetative screening shall be maintained, shall be kept in a sightly manner and not allowed to deteriorate.
9. All exterior lighting shall be shielded from abutters and traffic.
10. Permits must be obtained for all signage, and signs for inactive, closed or abandoned uses shall be removed within 30 days.
11. No changes shall be made to the approved plans unless application is made in writing to the Town.
12. The Planning Board shall have the power to modify or amend its approval upon its own motion to do so.
13. Approval is subject to expiration, revocation and changes in the Ordinances.
14. Open bins with walls exceeding 24" in height are structures and must meet setbacks.

The motion was seconded by C. Long and carried. (5-0)

**OTHER BUSINESS:**

**BOARD'S ACTION-MINUTES:**

**MOTION:** On a motion by C. Patten, seconded by C. Long, it was voted to approve the minutes of the August 11, 2008, meeting as submitted. (3-0-2) R Caldwell and R. Davis abstained.

**STAFF REPORT:**

**DONALD MORIN & JASON DROUIN TAX LOT 212-008:**

The vice-chairman signed the Site Plan and Notice of Decision for Donald Morin & Jason Drouin on Durrell Mountain Road.

**WINNISQUAM BEACH CAMPROUND TAX LOT 117-015:**

C. Daigle explained to the Board that as condition of Winnisquam Beach Campground approval to extend the time they can remain open they were required to post all 911 numbers and street signs. During a routine building inspection it was brought to the Land Use Office attention that it has not been done. The campground is working with the Fire Department to meet that condition. No building permits will be issued until that condition has been met and an inspection is done by the Fire Department to confirm the 911 numbers and street signs are correct.

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

C. Daigle explained that she has been talking with Mr. Howard Warren on how to apply his portion of road repairs to 1,800' of Hurricane Road. She explained that he received a letter asking for \$9,000 for his participation in repairing his portion of repairing the road. He stated that he is willing to pay \$5,000 and the Public Works Director reconsidered, reducing the amount to \$7,000. They are having a hard time coming up with a formula to use to best determine the appropriate amount. Mr. Warren would like to come to the Board to discuss the best way to come up with the formula that is fair to everyone. The Board agreed that Mr. Warren can attend the October workshop to discuss this situation.

**ADJOURNMENT:**

**MOTION:** On a motion by C. Patten, seconded by R Davis, it was voted unanimously to adjourn at 8:26p.m. (5-0)

Respectfully submitted,

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Elaine M Murphy  
Administrative Assistant