

## PLANNING BOARD

Monday, June 22, 2009  
Belmont Corner Meeting House  
Belmont, New Hampshire

Members Present: Chairman Peter Harris; Ward Peterson, Claude Patten, Jon Pike, Christine Long and Russ Davis.  
Members Absent: Gary Flack.  
Alternates Absent: William Rollins, William Otto and Reginald Caldwell.  
Staff: Candace Daigle, Rick Ball and Elaine Murphy.

The chairman opened the meeting at 7p.m.

### **PLAN SUBMISSION MEETING AND PUBLIC HEARING – LEVEL HEADED**

**CONSTRUCTION:** Request for subdivision approval to subdivide one lot into three. Property is located at 196 Bean Hill Road, Tax Lot 223-020 in the “RS” Zone. PB # 0609P.

C. Long stepped down for this application as she is an abutter to this application.

Mr. Bryan Bailey and Mr.& Mrs. Ray Tessier presented the application.

Mr. Bailey explained that the property is located on the west side of Bean Hill Road. The existing 9 acres is completely walled in. The Tessiers live in an existing home on the property and want to subdivide the lot into two additional lots. One lot will be on the left and one on the right side of the house. The existing driveway is going to service lot 223-020-002. Lot 223-20-001 will have its own driveway on the northwesterly side of the lot. This is not the only possible location for the driveway as there are other possible locations with good sight distance. There is only one small wetland in the middle of the six acre primary lot. They have received State subdivision approval. They are requesting waivers for level 2 & 3 Soils map and report and extending the topography 100’ offsite.

### **BOARD'S ACTION – LEVEL HEADED CONSTRUCTION:**

**MOTION:** W. Peterson moved to grant the following waivers:

- a. Level 2 & 3 Soils Map & Report based on wetlands were identified, test pits provided, results of test pits, and size of lots on the condition that the most recent soil names be used on the final plan.
- b. Extend topography 100’ offsite based on residential zoning and 25’ setbacks.

The motion was seconded by C. Patten 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 August 26, 2009 subject to extension or waiver.

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

The chairman opened the public hearing.

Mr. Bailey addressed the concerns outlined in the staff report. He explained that the brush will be cleared on site to provide the necessary sight distance. He explained that there are no conditions on lot 223-020-001 that merits the driveway's proposed location, it can go anywhere on the lot. The existing driveway on lot 223-020-002 will be recorded on the plan. The utility poles go across the property and will show a 10' easement to coincide with the new lot. There will be a new driveway section for lot 223-20 and the abandoned section will be revegetated. This will also be on the recorded plan.

Mr. Bailey addressed the waiver request for letters from utility providers because the utilities are already on the street. The existing lot has above ground utilities. The new lot 223-020-002 will have underground utilities from the onsite pole. The utilities for lot 223-020-01 will come across road then will go underground to the structures. The lots are in compliance. He explained that he used the primitive soil map and will change the name to reflect the names in Merrimack-Belknap soils survey.

Mr. Steven Anstey, an abutter, wanted to know if they would be doing any blasting. Mr. Bailey stated none that he knows of. Mr. Anstey wanted to know if his 911# would be changing. C. Daigle stated that it does not affect the existing 911#s. Mr. Anstey wanted to know if this development would affect him from developing their lot. Mr. Bailey stated that it would not. Each property has to stand on its own merit.

Mrs. Caroline Anstey stated that they have their own telephone poles on their lot and they don't want them coming across their lot to tie into them. Mr. Bailey stated they are having underground utilities and will not be connecting to the Anstey's pole.

Ms. Christine Long, an abutter, stated that Bean Hill Road is scheduled for road work. There are already water issues on the road and she wants the applicant aware of that when they put in their driveway so they do not compound the issue. Mr. Bailey stated that there will be no adverse affects from the driveway. They will follow the Road Agent's design recommendations.

Mrs. Anstey wanted to know where the houses would be located. Mr. Bailey stated that they will be in the center of the lot and about 100' from the road.

**MOTION:** W. Peterson moved to grant the following waivers:

- a. Letters from utility providers due to minor nature of subdivision and utilities are available at the street.
- b. Underground Utilities Lot 223/20 as utilities in place, no change proposed.
- c. Underground Utilities Lot 223/20/2 using existing on-site pole, but then running underground to structures.

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

The 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. Install new driveway section for Lot 20 and revegetate area of the driveway to be abandoned.
2. Submission of final plans (2 mylars, 6 paper copies, 1 reduced plan):
  - a. All pins/bounds to be set and so certified on final plan.
  - b. All driveways to have paved aprons.
  - c. Add NH DES SD approval number.
  - d. Note – not on aquifer.
  - e. Show area to be brushed for 223/20 driveway.
  - f. Add approved driveway on lot 223-020 to recorded plan.
  - g. Show utility easement for lot 20 over lot 20-002.
  - h. Update soil names.
3. Payment of decision recording fee.
4. Compliance hearing shall be held by Board as necessary.

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

5. No changes shall be made to the approved plans unless application is made in writing to the Town.
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 –JAMES & ANNEMARIE**

**COVIELLO:** Request for re-subdivision approval to create one additional site to previously approved manufactured home park, release age restriction, and make other changes. Property is located on Durrell Mountain Road, Tax Lot 212-067 in the "R" Zone. PB # 0709P.

C. Long rejoined the Board.

P. Harris read the lot history. It is a conforming vacant lot. Approved on 6/23/08 for 18-unit manufactured home park, age-restricted, community water, community septic, 2 accesses to Durrell Mountain Road, to be built in 2 phases starting within 12 months, completed w/in 36 months, no waivers requested or granted, all units restricted to 2 bedrooms. Approval not vested and expires 6/23/09.

Mr. & Mrs. James Coviello presented the application.

Mr. Coviello explained that he received subdivision approval from the Planning Board last year and is requesting to make changes to that approval. He wants to remove the primary driveway access to the property and cut down on the disturbed area. This would give him the extra area needed to add one more lot. The purpose of eliminating a driveway is to cut down on the road area needed. The road didn't add anything to the development. The Town Engineer has agreed that eliminating the driveway would not affect the development. Removing the road would shift the phasing to allow him to do five lots coming off the main road. He originally was going to put in temporary mailboxes and a temporary dumpster but now he could do it at one time and still put in five units as part of Phase 1. He will put in drainage swales for the disturbed area. The age restriction has been dropped even though that is what he wants. He cannot meet the regulations and the Town is against it. What he doesn't want is to put more kids in the school system but he has to drop the age restriction. He is also requesting that the two bedroom restriction be changed to allow three bedrooms in some units. The septic system is designed to support three bedrooms and his engineer supports that change. They are waiting on State approval. The septic system and the wells are designed to support three bedrooms. There are no waivers requested and no wetland permits needed. The well system is designed for a 150' radius instead of the required 125'. The only things in that area will be the horseshoe pits and bocce ball court.

Mr. Coviello summarized the changes stating they include removing the age restriction, allowing three bedroom units and adding an extra lot.

J. Pike wanted to know if the remaining driveway entrance is going to be widened. Mr. Coviello stated that it is not going to be modified. It is designed for two way traffic.

P. Harris stated that increasing the number of bedrooms creates the need for a bus stop and a playground due to the influx of children. They are building a village and they need to provide a spot for a playground and bus stop. Mr. Coviello stated the playground is in an area away from the main houses. He is not designing a recreation field. P. Harris stated that by adding bedrooms they are creating a village and they have to pay attention to the safety of the children. Mr. Coviello stated that all the sidewalks are already in the plan. J. Pike stated that the area for the playground is quite steep. He wonders how the children are supposed to get to it. W. Peterson explained that on past projects the Board has required amenities for children. They need a place to play. Having nineteen lots with three bedroom units has the

potential for a lot of children. He also wanted to make sure that the bus stop and mailboxes are marked on the plan. C. Daigle wanted to know if the area designated as the potential play area is going to be graded. Mr. Coviello stated that he is putting in an area for bocce ball and horseshoe pits and will have a flat area for picnic tables. There will be no recreation hall. J. Pike stated that the children need a place to play in the park so they are not out on Durrell Mountain Road. He referred to the plan and the words "potential" play area and "potential" horseshoe pits etc. He stated that Mr. Coviello has in the past stated that the potential amenities would be paid for by the tenants if they wanted them. The word "potential" has to be removed from plan and a playground for the children to play in has to be part of the amenity plan.

C. Daigle suggested relocating the bus stop to make it adjacent to the driveway so the children will not have to go onto Durrell Mountain Road to get the bus. Mr. Coviello stated he is willing to relocate the bus stop. He explained that the lots are not the typical lot size you see in a park. Most of the lots are about 1 acre. R. Ball stated that they are 8,000-10,000 square foot lots. Mr. Coviello stated that there are no individual lots mapped out but he has 19 units on 20 acres. W. Peterson stated that there are a lot of hilly areas.

J. Pike wanted to know if the detention pond is going to be fenced in for safety reasons. He explained that they have made other applicants fence in fire ponds. R. Ball stated that it is not designed to retain water. It should drain out after every storm. J. Pike stated that it still should have a fence around it to prevent a child from falling into it. Mr. Coviello stated that the detention pond area is already there and the water flows right down through it. He stated that it is private property and he is liable for the land. The area designated for the playground is in a safe area. J. Pike stated that a playground is to keep the children off Durrell Mountain Road. Mr. Coviello stated that he will fence in the detention pond. Mrs. Coviello stated that if there is no water then they are fencing in nothing. J. Pike stated that in the past they had the same situation where the applicants claimed that there would be no water in the pond but after heavy rains the ponds have had water in them. He is asking them to put up a fence around the pond using the chain link fence that Mr. Coviello stated that he already has.

P. Harris stated that there is a potential for thirty-eight children and they need a place to play. Mr. Coviello stated that he wanted an age restricted park but his application was brought to human services so that he is being watched by the State so he couldn't do it. P. Harris stated that there needs to be safeguards in place for the children. Mr. Coviello stated that he will grade the area for bocce ball, horseshoe pits and the picnic tables. C. Daigle stated that they can combine the area for the potential recreation hall and play area for playground equipment. Mr. Coviello stated that he will put in a swing set and sandbox if necessary. Mrs. Coviello stated that they will not be putting in a sandbox because animals can use it as a litter box and can carry diseases.

J. Pike read R. Ball's staff report and stated that he is concerned that sites 10, 12, 2 & 3 don't meet ENV-WS 1005.04 (a). He is also concerned that the septic tanks are inadequately sized. There is also a need for more test pits. He also wanted to know if each site is going to be monumented. J. Pike would like these issues addressed before they make a determination on this application.

**BOARD'S ACTION – JAMES & ANNEMARIE COVIELLO:**

**MOTION:** J. Pike moved to table this application to August 24, 2009 (as the applicant would be away for the July meeting) to allow the applicant time to address the outstanding issues discussed tonight.

R. Ball wanted to know if the septic designs have been submitted to the State. C. Daigle explained that it was a condition of the previous approval that it be done before the plan is signed. W. Peterson wanted to know if the septic is an issue that can be overcome. R. Ball stated that it can be overcome by changing the tank size without affecting sites. C. Daigle stated that the Board can approve the plans with the condition that if he doesn't meet the State's septic approval the plan will not be signed. It would be extremely costly to get the State's septic approval before he gets subdivision approval.

Mr. Coviello stated that he has done fourteen test pits for the new road.

R. Ball stated that if an area is for the exclusive use of an individual unit then it should be monumented so those renting the unit understand where their area is. Mr. Coviello wanted to know if it has to be monumented by a surveyor or if he could put pins in to mark out the individual lots. R. Ball stated that he could use pins to mark out the lots.

W. Peterson stated that the plan needs to show what the amenities are. Mr. Coviello stated that the amenities would be bocce ball, horseshoe pits, a graded flat area for picnic tables and a swing set. R. Davis wanted to know where the children will play baseball. They can't play in front of the units because they will break windows. Children do not want to play bocce ball and horseshoes. W. Peterson stated that they only needed 75' x 75' area to play ball in. Mr. Coviello stated that he doesn't have that much area. C. Daigle stated that the neighborhood will have children and the Board encourages amenities for the children. The staff report gave example of those amenities that the Board required for Sandy Ledge and Maple Ridge. They could eliminate the horseshoe pits and combine that area with the recreational hall area and put in a ½ basketball court. Mr. Coviello stated he could put in a basketball hoop.

Mrs. Coviello wanted to know what kind of amenities the Board is looking for because they can't seem to please the Board in that area. They wanted to have a 55+ community but they couldn't satisfy the Board with their proposed amenities. C. Daigle stated that it was not the Board's regulations but the State's Human Rights regulations. The proposal was very thin on providing services to meet the anti-discrimination clause. The Town granted approval but the Coviello's did not meet the Commission's standard. Mrs. Coviello stated that if they put in the amenities for the children then they would be encouraging people with children to rent and that is not what they want to do. P. Harris stated that they treat all applicants fairly and when an application comes in they look at its merits not on whose name is on it. They have to look at safety for everyone. Everything has to be done legally and it has to be on the plan. Mr. Coviello stated that if he eliminated the word "potential" from the plan would that correct the problem. The amenities would be two picnic tables, half basketball court and a swing set. W. Peterson suggested that they could just pave an area near the trail entrance for a basketball hoop.

P. Harris stated that the plan is set up to attract children because of the reasonable pricing. He

wanted to make sure the bus stop is relocated to accommodate those children. Mr. Coviello stated that the bus stop will be relocated so it is adjacent to the driveway. Mr. Coviello stated that he has invested everything into this project so he needs to make it right. He stated that he has talked to the Fire Department and they have no problem with using the "T" as a turn around. The Fire Department want to have signage to show the direction for site numbers. Code Enforcement Officer, Steve Dalton, had concerns about eliminating one driveway in the case of mass evacuation. The Fire Department and Public Works Department did not have any issues with that. C. Daigle stated that they units are all sprinkled. P. Harris suggested that the common area be loamed and grassed.

The motion to Table was seconded by W. Peterson and carried. (6-0)

**PLAN SUBMISSION MEETING AND PUBLIC HEARING – JAMES & ANNEMARIE**

**COVIELLO:** Request for a one- year extension (6/23/10) on a previously approved subdivision for 18-unit age restricted manufactured home park approval. Property is located on Durrell Mountain Road, Tax Lot 212-067 in the "R" Zone. PB # 0809P.

P. Harris read the lot history. It is a conforming vacant lot. Approved on 6/23/08 for 18-unit mfg home park, age-restricted, community water, community septic, 2 accesses to Durrell Mountain Road, to be built in 2 phases starting w/in 12 months, completed w/in 36 months, no waivers requested/granted, all units restricted to 2 bedrooms.

Mr. Coviello explained that he was going to withdraw this application if he had received approval on the previous one but since that one has been tabled he does not want to lose his approval on this one.

C. Daigle stated that her concern is having multiple active plans for one property. The applicant has not provided the evidence for an age restricted community. W. Peterson stated that they could extend the approval to the August 24<sup>th</sup> meeting on the condition that this application be withdrawn if the first application is approved.

**BOARD'S ACTION – JAMES & ANNEMARIE COVIELLO:**

**MOTION:** J. Pike moved to Table the application for a one- year extension (6/23/10) on a previously approved subdivision for 18- unit age restricted manufactured home park approval. to August 24, 2009.

The motion was seconded by W. Peterson and carried. (6-0)

**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

June 8, 2009, meeting as submitted. (3-0-3) R. Davis, J. Pike and W. Peterson abstained.

**STAFF REPORT:**

**STAFF RECOGNITION:**

The Board recognized and thanked E. Murphy for her work on implementing the MGMS software program that will create a database for permits and applications. A similar letter of appreciation was also sent to Denise Rollins for her participation.

**WJK REALTY TAX LOT 224-038:**

C. Daigle stated that the former WJK Realty now Heitz Motors at 6 Farrarville Road is getting their water sampling done on time. The January test and report was on time and reported that the arsenic levels have been reduced to .019 and the State's standard is .018. C. Daigle recommends that nothing further needs to be done at this time except monitoring. The arsenic maybe naturally occurring. The next test will be done in July and the report due in September as they continue test three times a year.

C. Daigle stated that Mr. Heitz has reduced the inventory of cars and has been very cooperative. He would like to know if he can display one roof carport for sale. He would like to have one on display near the Farrarville Road entrance. C. Daigle stated that when she told him he would have to meet setbacks he stated that he is not sure he wants to do that. J. Pike stated that he has no problem with it as there are other ones on Rte 3. The Board discussed the opinion that it be allowed as an accessory use to car sales. A permit will be needed for the carport and it will have to meet setbacks.

C. Daigle stated that Mr. Heitz would like to have a second sign. He is allowed three signs. Mr. Heitz will also be moving the dumpster. It will meet setbacks and be on a solid surface and screened.

**EARTH EXCAVATION:**

The Board received copies of a draft Earth Excavation fee schedule. C. Daigle explained the current fee is \$50 permit fee, \$500 & \$200 per additional acre. The proposed fees 0-2 acres \$200, 2-25 acres \$500, 25-50 acres \$1,000, 50+ acres \$2000. The fee for a compliance hearing is \$100. W. Peterson wanted to know if the fees were for disturbed area only. C. Daigle stated they are based on the excavation site only, not the lot size.

It was the consensus of the Board to schedule a Public Hearing on the Earth Excavation Regulations on July 13, 2009.

**CAPITAL IMPROVEMENT PROGRAM (CIP):**

It was the consensus of the Board to review and act on the CIP without appointing a subcommittee.

**SUBDIVISION AMENDMENTS:**

The Board asked C. Daigle to go over the possible proposed subdivision amendments. She explained they are mostly housekeeping issues.

Under the purpose section add "links and buffers". To provide for the preservation of open space,

wildlife habitat, links and buffers.

Under Section 1.E add: consistent with Counsel's opinion on additions to condo units.

Section 2.C is about granting waivers. C. Daigle explained that she is waiting on a Bill vote to determine the wording.

Section 5.D.1: Will add to the first paragraph that an overview sheet is required for multi-sheet plans and a phasing plan when phasing is proposed.

Section 5.D.1.d will require a "total" lot frontage on plans for assessing purposes.

Section 5.D.6 to ease the review of stormwater management plans and also update reference to new NH DES Stormwater manual.

Section 5.E.1.b(1) would require that construction schedule approved by Board be added to final plan so it's readily available during inspections.

Sections 5.E.5.h, Section 7.B.2, Section 8.B and Section 8.F updated to recognize no more Water Commission. The Board agreed to add Sewer Department also as it will be dissolved in March 2010.

Section 9.C:1 would expand on underground utilities to keep them out of the way of road drainage.

Section 9.C.2 & 3 would be updated to recognize no more Water Commission and Sewer Department.

Section 9.D updates to ease review of stormwater management plans and update reference to new DES Stormwater Manual.

Section 9.F would make reference to local maps to encourage open space design. Update name to "open space" Give them guidelines on designing open space.

Section 9. G: define when iron rod vs stone can be used for pins.

Section 10.H.5 add features to minimum road standards.

Section 10.I.3 goes with 9.G when metal pins vs. stone can be used.

Section 12 updates NH DES Stormwater Manual reference.

J. Pike stated that he is fine with the proposed amendments except he would like to eliminate the one on granting waivers until the bill passes so that the wording will be correct. P. Harris agrees and supports the proposal. W. Peterson would like the wording in 9.F: changed to reword design for open space subdivision shall incorporate (cite Con Com Unfrag map) from shall incorporate to shall consider to design for open space subdivision shall consider (cite Con Com Unfrag map). C. Daigle stated that she

will make the changes and bring them back to the Board.

**STONINGTON HEIGHTS:**

C. Daigle stated that Mr. Mark Mooney has decided not to turn Stonington Heights open space over to the Town as he offered and was a condition of his subdivision approval. He will be turning it over to a different conservation organization. Since he had offered to turn the open space to the Town he did not have to provide a management program on the technique that will be use to conserve the land. He could be sent a letter listing the techniques used by other similar development that have conservation organizations other than the town maintains the open space. Mr. Mooney has not responded to the Town's position that not turning the open space over to the Town is a violation of his approval unless he applies to amend that condition. The condition of the approval was that the land be turned over to the Town for conservation land. J. Pike stated that he will talk to Mr. Mooney about this. R. Ball stated that Mr. Mooney came to the Planning Board, Conservation Commission and Board of Selectmen with his proposal to turn the land over to the Town. A stewardship plan has to be in place if the Town will not be the owner. A management plan would have been part of his approval if he planned to turn the land over to a private conservation organization.

**BELMONT HARDWARE TAX LOT 122-122:**

C. Daigle explained that she has received n inquiry from S. Dalton about the storage racks that have been erected in the driveway at Belmont Hardware. J. Pike stated that he has also received numerous complaints about the racks. C. Daigle explained that a structure is anything constructed or erected with a fixed location on the ground not easily moveable by one unassisted individual. She asked the Board for their input as to whether the racks meet that definition even though they are not an enclosed building. If the Board considers them a structure then they are in violation of the zoning regulation.

It was the consensus of the Board that even though they do not want to impact a small in-town business the racks do meet the definition of a structure. The racks are also taking up parking spaces and the loading area. They have noticed that the unloading of the equipment is taking place in the ROW and there is very limited on site parking available. The Board also discussed safety concerns. They were concerned that children may decide to start climbing on the rack and could fall or be injured. C. Daigle stated that it is probably not considered an attractive nuisance. It is a structure the same as if he added it onto the building. J. Pike stated that there are no footings under the racks and footings were required under the racks that were approved for the steel company in the industrial park. R. Davis stated that if they have temperatures in the 90's for a couple of days the asphalt may soften and the racks may fall into the road. W. Peterson stated that this is a substandard lot and they would not be able to meet the setbacks anywhere on the lot.

The Board also discussed the dumpster location which appears to be in the ROW. The dumpster is overflowing and the contents are spilling into the ROW. They have also noticed that equipment is now being stored on the roof of the building and are concerned about the structural integrity of the roof to hold that equipment. C. Daigle stated that is a Code Enforcement issue.

P. Harris suggested that the owners be given an opportunity to meet with Town officials to discuss the issue so that they know the Town is just doing their job. C. Daigle stated that if they want to appeal the

decision they can do that through the Zoning Board. C. Daigle stated that she will pass this information onto the Code Enforcement Officer for enforcement and meet with the owners.

**ADJOURNMENT:**

**MOTION:** On a motion by W. Peterson, seconded by J. Pike, it was voted unanimously to adjourn at 9:49p.m. (6-0)

Respectfully submitted,

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Elaine M Murphy  
Administrative Assistant