

PLANNING BOARD

Monday, June 23, 2008
Belmont Corner Meeting House
Belmont, New Hampshire

Members Present: Chairman P. Harris; W. Peterson, C. Patten, R. Caldwell and R. Davis.
Members Absent: C. Long and G. Flack.
Alternates Present: W. Rollins.
Alternates Absent: W. Otto.
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

PUBLIC HEARING – JAMES AND ANNEMARIE COVIELLO: Continuation of the public hearing for subdivision approval to construct an 18 unit manufactured home park. Property is located on Durrell Mountain Road, Tax Lot 212-067 in the "R" Zone. PB # 0808.

Mr. Robert Rook, Mr. Bruce Lewis and Mr. James Coviello presented the application.

Mr. Rook explained as a result of the last meeting the Coviellos have added a sidewalk around the loop to where the dumpsters will be located.

P. Harris stated that he has concerns about the age restriction requirements. Mr. Coviello stated that he has talked to his attorney about the restrictions and he will follow the rules on how to handle those restrictions. P. Harris wanted to know what the impacts of age restriction would be and how they would affect existing houses. C. Daigle stated that she had hoped to review the age restriction documents prior to tonight's meeting because of concerns about the minimal services being provided. With age restricted occupancy staff had some concerns about what is being offered so she contacted the NH Human Rights Commission and sent them the letter from Mr. Coviello's attorney outlining the proposed amenities. The Commission will be reviewing the letter and will submit their opinion to staff. C. Daigle stated that the services may be too thin to meet the standards. The rules under which Mr. Coviello is applying have expired but the Commission will still use them to determine if the services provided will meet those standards.

C. Daigle previously requested information on the differences between Coviello's private water system and a Community Water System regulated by the State. His water service will be categorized as a private water system. What is the physical or testing differences between the two systems? The applicant

has been responsive but they haven't provided that information. Mr. Bruce Lewis, a water supply engineer, explained that he specializes in small water systems and has no problems with staff's comments. On June 1st he submitted information to staff concerning the water system. The proposed testing schedule has been provided to staff and exceeds most private water systems. They are doing this to make sure there is good water. There will be two bacteria tests a year instead of one as recommended by the State. They don't have the water quality results so the system hasn't been designed. The water system will be designed to meet the Fire Departments requirement for sprinklers. He has worked with Underwood Engineers on other projects and has no problem working with them on this project. W. Rollins stated that they would be doing the same steps as if they were regulated by the State. The materials will meet the same State standards. Mr. Lewis stated that it is correct they will be designed to the same standards. W. Rollins stated that one difference would be that they would not have a licensed operator to operate the system. Mr. Lewis stated that the protective well radius will be met to make sure that water quality is addressed. Mr. Coviello stated that the water system is allowed under DES regulations. He would be allowed one additional house at the project location but he decided to keep that for the recreation hall and possibly other amenities. The water system fits into DES requirements at the time of the design.

P. Harris wanted to clarify that the age restriction would require that 80% of the units to have at least one of the occupants 55 years of age. Mr. Coviello stated that it would be a requirement and the amenities package will not be determined until the 18 units are sold. The education and amenities will be designed for 55+ residents but he doesn't want to put something in that no one will use. He wants to give people the ability to live in a rural setting which is no different than others that live on Durrell Mountain Road. This park will give them the advantage of not living in a cookie cutter park. The rules will give him the advantage of being able to regulate how the residents keep their lots. He will be able to regulate the amount of junk vehicles on a site and how trash and clutter is handled which is something that traditional home owners cannot regulate. They cannot regulate what happens on abutting properties.

The Board had concerns that the water supply design was not finalized. C. Daigle stated that if they approve the application a condition of approval could include that the water system design be approved based on review and approval of the town engineer. Or the Board can require the water system design be submitted prior to approval. P. Harris stated that the approval comes down to the Board being comfortable with their approval. If the Board approves the application and the applicant can't meet the standards approved then he can't build. Mr. Lewis stated that there is plenty of water they are just waiting for results of the quality of water. P. Harris stated that it can be a conditional approval and the applicant would have to meet the conditions before any development could begin.

P. Harris stated that housing studies show that Belmont needs higher quality homes. The elderly and low income housing may tend to use more services per tax dollar generated. He stated that this is a nice development and appreciates the efforts of the applicant to put in sidewalk which was a safety concern of his.

Ms. Denise Naiva stated that the proposal is not in keeping with the Master Plan but is allowed under the zoning laws. She encourages the Board to keep that in mind. She supports Mr. Coviello's intention to keep the park rural. Having a community recreation hall or pool would impact the rural

character. She has concerns about lighting and would not like the park to light up the whole area.

Mr. Ernie Millette, an abutter, wanted to know the difference between a 55+ community and a 62+ community. C. Daigle explained that in a 55+ community only 80% of the units have to be occupied by one person 55 or older. In a 62 age restricted community all occupants have to be 62 years of age or older. Mr. Millette stated that in a 62 plus community the grandchildren only come and visit and usually the occupants have only one vehicle. It has less impact than a 55 plus community. In a 55+ community there may be a majority of single parent families that have children. C. Daigle explained that the 55+ community is something that Mr. Coviello offered and is not required. But if he is offering it then the Board has to be sure he meets the State standards because if there is a violation then he will not be able to run it. The Board is looking for the restrictive covenants and audit process to make sure he meets the 55+. Mr. Millette stated that he appreciates the fact that Mr. Coviello made the offer.

Mr. Ray Carbone wanted to know if there is any financial advantage to it being a 55+ community. C. Daigle stated that the elderly may qualify for elderly exemption but they would have to check with the assessor to make that determination. R. Caldwell stated that if he were marketing a 55+ community he wouldn't want a lot of children at a bus stop. Mr. Coviello stated that in the park rules they will discourage swing sets and the marketing will be geared toward 55 years and older. C. Daigle stated that in some circumstances grandparents are raising their grandchildren. Mr. Coviello stated that in the next stage of approval he will provide the documents and rules. W. Peterson stated that normally in situations involving condos and similar developments all the documentation is provided before the Board makes their decision. Mr. Coviello stated that he will be abiding by the State's rules.

Mr. Carter Bard, an abutter, stated that he doesn't know the rules of occupancy but wanted to know what happens if Mr. Coviello reneges or abandons his plans. C. Daigle stated that there are three sets of conditions that have to be met as part of the approval process. The first set of conditions has to do with items that have to be met before anything can be done on the property. The second set of conditions deal with construction approval and the last set of conditions deal with the operation of the site such as lighting and signage. By following this method Mr. Coviello can't get ahead of his conditions. He will have to bond the entire project once he wants to put units on site. Mr. Bard wanted to make sure that the bond would take care of the site if it was abandoned. P. Harris stated that this is a three year buildout plan. Ms. Naiva wanted to know what level of conditions they are at now. The Board stated that the wells have been dug and they are waiting on the water quality test. Ms. Naiva wanted to know if the roads would be dirt or paved. C. Daigle stated that they will be paved and built to town standards but will remain private with only a 30'ROW.

C. Daigle stated that the applicant has been upfront with his plans but in actuality he is a short term owner, he may sell the property or something could happen to him, so the conditions have to protect the town and its residents as well as the occupants of the park. The next owner could change the private regulation and that is why there are conditions placed on the approval.

Mr. Millette wanted to know how the park will be run. Mr. Coviello stated that he will sell and install the houses. This is not an association. He will own the property and the occupants will own the units. The cost of the units will be around \$120,000 with a park rent of around \$300. Mr. Millette stated

with a mortgage payment of around \$700 to \$800 a month plus \$300 park rent there may be some foreclosures because of the economy. This may not be a good time to be adding new lots to the town. C. Daigle stated that the Board cannot deny the application on that basis. She stated that 27% of the homes in Belmont are manufactured homes. The Town is familiar with the related issues. W. Rollins wanted to clarify that this is not an association because it is referred to as one in the application. Mr. Coviello stated that he will own the land, it is not an association. W. Peterson stated that it is why the Board needs the documentation for age restriction and the rules and regulations of the park. Mr. Coviello stated that this park is a private park and if the water system crashes it is not the Town's obligation to repair it. If it is not repaired the park would be shut down. R. Caldwell stated that from past experience he knows the town couldn't let the park close because they would have to provide assistance to the occupants of the park and may have to assist the land owner with a bond to do the necessary repairs. He knows Mr. Coviello's intentions are fine but things happen.

Ms. Suzanne Bard, an abutter, wanted to know if the Board had taken into consideration the possibility of a water bottling company being put on the lot across the street because the use is grandfathered. She wanted to know what could be done to protect her well. C. Daigle explained that when the use changed on that property the grandfathering is abandoned.

R. Caldwell wanted to know when they would get the documentation in writing. P. Harris stated that a lot of good information came in tonight and the applicant has worked with the Board but there are still are a couple of documents missing concerning the age restriction. They would not be holding the applicant up by waiting for him to produce those documents because the applicant has a three year build out. Mr. Coviello stated that two months ago he talked with his attorney about the rules and regulations and they will be available on paper when he gets conditional approval. The design of the water system will also happen at that time. C. Daigle stated the water system is black and white, it is either going to meet the requirements or not. The age restriction requirements are less specific and will be reviewed by the NH Human Rights Commission and the Town's attorney and if there are any differences they will have to work them out. W. Rollins wanted to know if the town's attorney could review the age restriction documents. C. Daigle stated that he could. P. Harris stated that the Board could wait until the documents are submitted and then hold a special meeting at little cost to the applicant. C. Daigle stated the applicant doesn't want to invest additional money until he receives conditional approval so he can go to the bank for financing. Even asking for an extension may not get them more documentation because of the money. W. Peterson stated that this would be the first time an applicant didn't have to provide documentation prior to conditional approval. If he doesn't do what he represented and the conditions are not met then he would have to come back to the Board with a new project. C. Daigle agreed that if the conditions are not met or if there is any significant change then the applicant would have to come back to the Board. C. Daigle explained that the Board has three options; they can ask for an extension because the 65 days for review is up, or they could deny the application or grant conditional approval. Mr. Rook wanted to know if the application could go forward tonight if they removed the age restriction. W. Peterson stated that it could not because the Board would have to look for other amenities that would need to be provided. It would be a different review. Mr. Rook stated that the Board needs to rely on experts to review the amenities and water system. Mr. Coviello has to meet the conditions of approval. Conditional approval would give Mr. Coviello a chance to arrange financing and would not delay the project another 2 months. C. Daigle stated that the time frame would be same whether he has to produce

the documents before or after getting conditional approval. W. Peterson stated that the water system is not a big issue. C. Daigle agreed that it is not a big issue because the applicant has offered to have Underwood Engineering review the plans. The age restriction documents can be part of the conditional approval. W. Rollins had concerns about just requiring the age restriction documents prior to obtaining a Certificate of Occupancy. He thinks it should be submitted prior to the plan being signed and decision recorded. P. Harris stated that the reviews should be done by the experts. C. Daigle stated that if there is anything different than what is approved the applicant will have to come back to the Board so the Board will not be surprised. W. Peterson stated that the services and amenities need to be on the plan when approved so that if there is any change then the applicant has to come back to the Board. C. Daigle explained that they are on the plans. W. Rollins stated that this not the first 55+ community. C. Daigle agreed and stated that the applicant is subject to Federal and State scrutiny. They have to provide an audit review based on numbers to remain a 55+ community. W. Peterson stated that the only amenities he sees are bocce ball, hiking trails and horse shoe courts. Mr. Coviello stated that he has provided the grounds for the recreation hall and the spot for the bus stop. It is designed to handle any contingencies that come along. He has to make sure he meets the standards or he will be shut down. He is living next door to the development so he wants to keep it nice and that is why he has restricted the size. C. Daigle stated that you just can't provide the bus stop but they have to provide the services. It is up to the NH Human Rights Commission to make that determination. W. Peterson wanted to know if they would have the answer within a month. C. Daigle stated that the review could be done within week but they are only looking at the letter. If the proposal doesn't meet the requirements then they will provide a letter to Mr. Coviello outlining the changes that need to be made. Mr. Coviello stated that he needs conditional approval to allow him to go to the bank for financing.

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

BOARD'S ACTION – JAMES AND ANNEMARIE COVIELLO:

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 construction, improvements or approved uses shall commence and no building permit shall be issued until plan is signed and decision recorded.

1. Security – (also see Town of Belmont Project Security Process):
 - a. Prior to any site work - escrow for construction inspections (roads, drainage, water, amenities, etc.), closure in case of abandonment (Phases 1 & 2) and Town's review of water plans and age documents. Applicant shall submit engineer's estimate of closure costs. Town's Construction inspector shall submit estimate of inspection costs and review of water plans.
 - b. Prior to plan signing/recording – escrow for all incomplete improvements and as-built plans. To include Phases 1 & 2. Applicant shall submit engineer's estimate

for improvements and surveyor's estimate for pins, bounds and plans.

Amounts to be set by staff. Security to be in a form approved by the Town. Retainage of 10% until complete and 2% for one year post-completion.

2. Submit permits for septic approvals and Town driveway permits (for road cuts).
3. Applicant shall sign and follow Inspection Schedule prepared by Planning staff/inspector.
4. Submission of final plans (7 full paper plan sets) – add notes/correct:
 - a. Sheet 3
 1. Note #5 refers to gate, but it's been removed.
 2. Setback notes to include 35' wetland setback.
 3. Narrative overview to be updated (maximum of 2 bedrooms, 2 wells)
 4. Amend Note 7 to: "Occupancy of units is restricted in accordance with RSA354-A:15 and NH Human Rights Commission Rule HUM302.03".
 5. Remove references to "Association" from plan.
 6. Eliminate access from lot to the east.
 - b. Submit 2 full copies of water design/construction plans to Town for independent review and approval for Town inspector's use.
5. Payment of decision recording fee to be determined by staff at time of recording.
6. Amend/submit Quality Assurance Program:
 - a. Septic:
 1. Program to include septic maintenance plan as delineated in 4/28/08 letter from septic designer.
 2. Proof of each septic tank pumping/inspection/filter cleaning shall be submitted to the Town.
 3. Program shall require written notice to be given to each new homeowner:
 - a. regarding inappropriate items to be disposed of through septic system.
 - b. that garbage disposal units are prohibited.
 - c. that water softener/purifier discharge requires separate drywell.
 - d. prohibiting the planting of trees or shrubs w/in 10' of any leach field.
 4. Designer shall be contacted regarding any failure or expansion of loading factor or system.
 - b. Water:
 1. Program to include water testing plan as identified in staff report.
7. Age Restriction documents to be reviewed by Town at applicant's expense and by NH Human Rights Commission for guidance or opinion. Submit:
 - a. copy of published policies and procedures demonstrating the age-restriction intent;
 - b. copy of Rules and Regulations stating the age-restriction intent;
 - c. identify procedure to be used to verify occupants ages/compliance. Submit annual compliance audit to the Town.
8. Compliance hearing shall be held by Board as necessary.

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

9. All structures shall comply with all applicable building, fire, health, and life safety codes. Residential Sprinklers are required.

10. Construction shall be monitored and certified by a consultant appointed by the Board at the applicant's expense if any.
11. Property owner shall install all required traffic control and fire and life safety facilities and systems required by the Board and/or by other applicable Codes and Regulations.
12. As-built plans for utilities, roads, drainage and other site improvements required prior to occupancy/use.
13. Phasing:
 - a. If phase 2 does not occur as scheduled:
 1. sidewalk to be extended to Durrell Mountain Road from Phase 1.
 2. dumpster and mailboxes to be reconfigured w/appropriate turnout/parking area.

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

14. Buffers shall be maintained, shall be kept in a sightly manner and not allowed to deteriorate.
15. All exterior lighting shall be shielded from abutters and traffic. No street lights, residential site lighting only.
16. Permits must be obtained for all signage, and signs for inactive, closed or abandoned uses shall be removed within 30 days.
17. No changes shall be made to the approved plans unless application is made in writing to the Town.

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

OTHER BUSINESS:

BOARD'S ACTION-MINUTES:

It was the consensus of the Board to wait until the July 14, 2008 meeting to approve the minutes of June 9, 2008, when more members will be present.

STAFF REPORT:

REGIONAL IMPACT PROJECT:

R. Ball explained that he attended a regional impact meeting in Laconia for an Ethanol Plant that Mr. Del Gilbert wants to install. The proposal includes a 12,000 gallon tank for E85 ethanol. There will be two underground tanks and one small one. He will be relocating the diesel tanks. The underground tanks will be in the aquifer and well head protection area of Lakeland Management wells that serve Maple Hill Acres. He explained that Belmont would not allow an Ethanol Plan in our aquifer protection area. W. Rollins wanted to know if the underground tanks are going to double walled R. Ball stated that there was discussions about also requiring the tanks to be in concrete vaults but Mr. Gilbert was not receptive to that idea. The project will be regulated by the State and he plans to attend additional meeting concerning this project.

BBI WASTE INDUSTRIES TAX LOT 235-043:

The chairman signed the Notice of Decision for BBI Waste Industries.

TAX BASE ENHANCEMENT TASK FORCE:

C. Daigle informed the Board that the next economic development meeting is July 7th at 3:30.

SUNSET ROCK LLC TAX LOT 235-039:

C. Daigle explained that Sunset Rock LLC has brought the site to grade and there is no drainage leaving the site. They would like the Board to determine if this is considered substantial improvement so that they can be vested for four years.

MOTION: W. Peterson moved that substantial improvements to the site have been made and the project is vested for four years.

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

BLUE SKY ENTERPRISES TAX LOT 231-014:

C. Daigle stated that she sent a letter to Blue Sky Enterprises setting the amount of security needed to make immediate and cover future improvements to Hurricane Road.

G.E. MERRILL & SONS TAX LOTS 242-004,242-008,242-010 & 245-017:

C. Daigle stated that a letter was sent to G.E. Merrill concerning their security.

EARTH EXCAVATION REGULATIONS:

C. Daigle reviewed some additional changes to the Earth Excavation draft regulations as recommended by input from Town Counsel and Mary Pinkham-Langer as follows:

1. 1.C. rewrite last paragraph to clarify what activities are regulated under the Excavation Regulations versus Site Plan.
2. 2.A.2. Add actual effective date.
3. 2.A.3. Define expansion.
4. 2.A.4. Reword for clarity and delete 2nd definition under 13. "Expansion"
5. 2.C.1. Clarify w/RSA 155-E:2,I cite
6. 2.C.2. Delete leading "non-permitted", and clarify that "expansion" by adding cite to 155-E:2, III
7. 2.D. Delete leading paragraph that gives the Board the "authority" to grant an exception.
8. 2.E.1. Clarify "dis" and "approving" abutters
9. 2.E.5. Reword to "state or federal agencies" and indicate such permits may be a condition of approval.
10. Page 2.E.1 Clarify what a grandfathered pit needs to bond and correct the date for abandonment.
11. 3.F. Delete interpretation
12. 3.G. Added wording for waiver to separation

13. 5.A., page 5-2, 5th para eliminate 65 day review period, refer to 155-E:7 (20 days)
14. 7. Add H for requiring evidence of other required permits.
15. 8.A.2. add the usual "for good cause shown" in granting an extension.
16. 8.C.4. delete as "opaque".
17. 8.C. Add new 5. failure to obtain other agency permits
18. 8.C. Add new 6. any other basis for denial that is reasonable and lawful
19. 8.E.1. change "shall" to "may" to give Board more latitude.
20. 9.A.C. change "value" to "estimated cost".
21. 9.E. 2nd para delete, "if such owner is reserved by the Board in its original approval".
22. 9.G. insert new #7 to require evaluation of off-site infrastructure as part of annual report.
23. 10.E. clarify that waste can be contracted with the same provider the Town uses, but cannot be deposited as part of the Town's residential pickup service.
24. 10.M. include waiver provision for SHWT separation.

The Board agreed to the changes. It was the consensus of the Board to schedule the Public Hearing for July 14, 2008 at 7 pm.

ADJOURNMENT:

MOTION: On a motion by C. Pattern, seconded by R. Davis, it was voted unanimously to adjourn at 8:54p.m. (6-0)

Respectfully submitted,

Elaine M Murphy
Administrative Assistant