



BELMONT LAND USE OFFICE

ZONING BOARD OF ADJUSTMENT

Wednesday, December 27, 2006
Belmont Corner Meeting House
Belmont, NH 03220

Present: Acting Chairman P. Harris; Members L. Couture and N. Patten; Alternates J. Bennett and E. Hawkins.
Absent: P. Oberhausen (E).
Staff: C. Daigle.

The Acting Chairman opened the meeting at 7pm and appointed J. Bennett and E. Hawkins as voting member for the evening. Everyone rose for the Pledge of Allegiance.

ABUTTERS HEARING – Shirley Johnson: Request for a Special Exception of Article 10.A.3.d. of the Zoning Ordinance to allow a landing and stairs closer (34.5') to the front property line than allowed (50') but not closer than the existing structure. Property is located at 25 Sleepy Hollow Lane in an "RM" Zone, Tax Lot 121/067, ZBA #4806.

The chairman read the hearing notice. Mrs. Johnson and her son Russell Johnson were present for this application. Mrs. Johnson noted the builder was not aware there was a size problem with the stairs. They need the stairs. The stairway on the previous unit was in a different area than on this replacement unit. Mr. Johnson stated the contractor asked them what size stairs they wanted. They were unaware of the code. It's just stairs going out the back door. It's not a deck, but it is larger than the 4x4 allowed within the setback. The chairman asked if at least 3 members had seen the property. Five members have viewed the site. There being no further questions or comments the chairman closed the public hearing.

E. Hawkins noted that that the unit was replaced previously. The front deck is grandfathered. P. Harris noted the comments of the Code Enforcement Officer. The use is allowed in the district. The size is 5'x6'.

P. Harris noted that as small an infraction as this may seem it is important that all applications comply with the Ordinance. When that can't happen this ZBA process is available for people to use. P. Harris noted he did not personally see a problem with what was built. The request is also less than a 1/3 encroachment into the setback.

L. Couture asked if anyone had told them what size they could have. Mr. Johnson noted that no one had told them. They would have left it 4' if they had known. L. Couture noted that the larger size is also safer. Mrs. Johnson also noted that there are more stairs to keep the rise shorter because of her inability to climb stairs easily. L. Couture noted the builder should have known or asked. There were no abutters present and there being no further questions or comments the chairman closed the public hearing.

BOARD ACTION – Shirley Johnson:

MOTION: L. Couture moved that the application be granted for the following reasons:

1. The use is allowed in the district.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.

And with the following conditions:

1. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by J. Bennett and carried unanimously. (5-0)

ABUTTERS HEARING – Thomas Marks for Ron Haddock dba Jenkins Landscaping Center LLC: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a contractor's yard in a commercial zone. Property is located at 576 Laconia Road, Tax Lot 224/040, ZBA #4906.

Mr. Ron Haddock and Mr. Tom Selling were present for this application. Mr. Selling noted they are proposing a use that is allowed under the Ordinance when a Special Exception is granted. He identified the retail and greenhouse areas, but noted the special exception is related only to the rear contractor's building and area which will compliment the nursery and garden center. He showed a rendering of the retail building which will be wood frame. The contractor's building, where equipment will be stored and repaired will be a steel building with overhead doors.

Mr. Selling noted there will be a 24' wide paved driveway from Rte 106 and showed what sections of the site will also be paved. He identified on-site wetlands. They are proposing to obtain a NH DES permit and dredge the wetlands in front of the nursery for a wildlife pond. It will be planted with both wetlands species and plants of interest to wildlife. It will be an excellent display area for they type of plants being sold. E. Hawkins noted the retail building size is 50'x 100'. The contractor's yard is the rear building. R. Selling showed pictures taken today of the large vacant lot with the for sale sign on it. Mr. Haddock is the proposed buyer. He

also showed where the site is in relationship to the aquifer showing that it is not in the aquifer. Mr. Selling noted the site is appropriate for the proposed use striking a balance between the need to protect the wetlands and the proposed commercial uses. It will enhance wildlife habitat. It is consistent with neighboring uses such as the RSTM LLC landscaping business, Arcon and car sales lots across the street and just north. There is one residential abutter to the south, one over 500' to the east and one across and to the north of the property. The site is zoned commercial, but they do abut a rural zone to the rear and Mr. Selling noted the different setbacks.

One of the ancillary uses to the pond is that in an emergency the pond can serve as a fire pond. L. Couture asked about the DES permit. Mr. Selling noted the permit to dredge is pending. She asked where the water comes from and if there is any impact on the Tioga River or other stream. Mr. Selling noted it will be natural infiltration, or it can come in by truck initially. Mr. Selling replied that there is no impact on the Tioga which is much further south. It also does not have any direct impact on a stream. The water source is wetlands. There will be an overflow device constructed as part of the pond so that water can flow through as the wetlands fill. He showed the two existing driveway culverts and explained how water coming into the pond will flow over the weir, through the pipe and into the lower wetlands. There is no defined stream.

Mr. Selling explained that no nuisance or hazard will be created. The products to be sold are garden/nursery related. They will be stored on pallets around the greenhouses or in the buildings. The vehicles or equipment stored in the contractor's building will be on a concrete slab with no floor drains. Any waste oil that is generated will be stored within spill-proof containers. E. Hawkins asked how much equipment will be stored. M. Haddock noted that there will be lawnmowers, small tractors, tools, weed whackers, etc. inside – items that need to be kept out of the weather. Towards the exterior rear of the building will be trucks and other large equipment. E. Hawkins asked if there will be sufficient secondary containment in case of a leak or spill. Mr. Selling indicated there would be and that Mr. Haddock would be using spill pallets and such. Adequate and appropriate facilities will be provided with a dug well and a subsurface disposal system between the two buildings. Test pits have been dug. E. Hawkins asked if the septic design was completed. T. Selling stated not yet, but test pits have been done. E. Hawkins commended the excellence of the application. He did note that one of the notes referred to a test pit. T. Selling provided the pit results and explained they are in the process of getting the design. N. Patten asked if there will be plantings in the rear. Mr. Haddock answered that right now it's just trees and for now it will probably be left as natural growth.

Mr. Selling explained that in 2002 American Cycle got approval to building a motorcycle sales/service building on this lot. There was only one building proposed then and less development. That's why the culverts are in. That's why the test pit done then now falls under a proposed building. T. Selling noted the proposed buildings will comply with all dimensional regulations. There is no sanitary sewer line regardless of the legend. N. Patten felt the presentation was very informative. P. Harris asked about the well. Mr. Selling noted they will go as deep as they need to go to supply both potable and nursery use. Mr. Haddock explained that once the pond is full he'll be using a lot of the water from the pond for his nursery stock and replenishing the pond from the well if necessary. It's safer for the plants. They'll make sure the pond stays viable though. They'd rather put well water into the pond before using it if they needed to. The other thing he plans on doing with the pond is seeing about getting it stocked and

having some kid fishing derbies in it and maybe doing some ice skating events during the winter. L. Couture noted it looked great. P. Harris noted this is an improvement to the previously proposed use for the property. Mr. Haddock explained it should be similar to the old Jenkins Garden Center, only larger.

Right now Mr. Haddock explained there is a question about whether he's in violation on South Road by having his equipment on a residential site. This proposal will clean that up. P. Harris asked for background on why a special exception is needed for a use such as this. C. Daigle explained that for some uses, especially those which can result in visual or other off-site impacts, a special exception is required in the commercial zone to make sure that the specific site is appropriate. There could be some incompatibility if, for instance, there was a retail mall already established next door, which is not the case here.

E. Hawkins asked about the storage of piles of materials and stormwater management. Mr. Selling said he had focused the discussion on the special exception articles, but briefly went over the details of the stormwater management plan where any foreign material will be settled out in a vegetated area prior to joining the wetlands. He feels the treatment swale will adequately address the problem of any materials in the runoff. There will be no hazardous materials used or stored on site. Mr. Haddock noted the type of materials on site will be mulch and maybe a new mulch made of ground rubber. Mr. Selling repeated that the property is outside the aquifer area. P. Harris noted the Planning Board will also be looking at the use and storage of materials.

No abutters were present. P. Harris noted the comments from the Fire Department including sprinklers or a cistern. Mr. Haddock said he has spoken with the Fire Department. P. Harris asked if the use will be year round. Mr. Haddock said it will be. He's proposing a retail store similar to Agway and maybe an ice-cream shop and bakery – a family based business. P. Harris reminded them they will need to show snow removal areas. Mr. Selling noted they will be on the site plan for the Planning Board. They are anticipating that type of question from the Planning Board. P. Harris noted that the use is similar or a lower impact use to area uses than the previous proposal.

There being no further questions or comments the chairman closed the public hearing. E. Hawkins noted he felt it's a well articulated application with the right amount of information up front. He felt that what makes this fly with the Ordinance criteria is its location next to an already approved Contractor's Yard in the commercial zone. It does blend in with other uses. His concern comes down to supporting an application. Should the ZBA approve the application prior to getting a septic approval in hand? P. Harris noted that the system may limit their use of the property until all permits are in hand, but there is a process in place to make sure they cannot proceed, even with the ZBA approval, without obtaining all necessary ancillary permits.

BOARD ACTION – Thomas Marks for Ron Haddock dba Jenkins Landscaping Center LLC:

MOTION: N. Patten moved that the application be granted for the following reasons:

1. The use is allowed in the district.

2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.

And with the following conditions:

1. Use requires Site Plan approval from the Planning Board as well as all other applicable local and State permits.

The motion was seconded by J. Bennett and carried unanimously. (5-0)

OTHER BUSINESS:

1. **Minutes:**

MOTION: On a motion by L. Couture, seconded by N. Patten it was voted to accept the minutes of 11/29/06 as written. (4-0-1 E. Hawkins abstained)

2. **Elections:**

Members nominated E. Hawkins as chairman. He noted he has a very ambitious travel schedule which keeps him away at times and he doesn't think it would be wise for him to be chairman.

MOTION: On a motion by N. Patten, seconded by J. Bennett P. Harris was appointed chairman. (4-0-1 P. Harris abstained)

3. **Zoning Amendment Public Hearing:**

C. Daigle handed out the notice/full text of the January 8th public hearing on zoning amendments.

4. **Adjournment:**

MOTION: On a motion by E. Hawkins seconded by N. Patten it was voted unanimously to adjourn at 8:07 pm. (5-0)

Respectfully submitted,

Candace L. Daigle, Town Planner