

PLANNING BOARD

Monday, May 23, 2005
Belmont Corner Meeting House
Belmont, New Hampshire

Members Present: Chairman P. Harris; J. Pike, G. Flack, W. Peterson and C. Patten.
Members Absent: J. Marden and R. Caldwell.
Alternates Absent: C. Gilbert and C. Shibles.
Staff: C. Daigle, R. Ball and E. Murphy.

The chairman opened the meeting at 7:00 p.m.

PUBLIC HEARING – PLH-BELMONT, L.L.C.: To extend Site Plan approval for one year (4-28-06) to construct two commercial buildings (40' x 80' and 40' x 150') for Business and Professional Offices, Restaurant and Retail uses. Property is located at 320 D.W. Highway, Tax Lot 103-014 in the "C" Zone. PB # 0805.

Mr. Shawn Cross presented the application.

Mr. Cross explained that they are still negotiating with the State and cannot move forward until the negotiations are final.

P. Harris wanted to know if there have been any changes in the ordinances that would affect this application. C. Daigle stated that there are no ordinance changes that would affect this application.

BOARD'S ACTION – PLH-BELMONT, L.L.C.

MOTION: W. Peterson 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 7/26/05 subject to extension or waiver.

The motion was seconded by C. Patten 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: W. Peterson moved that the application to extend the previous approval be granted 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. All pre-conditions of the original approval including those listed above and in the approval letter dated April 29, 2003.
2. Submission of a lighting design plan in conformance with current Site Plan Regulations.
3. Extension is to 4/28/06.
4. Compliance hearing shall be held by Board as necessary.

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

5. All construction conditions listed in the approval letter dated April 29, 2003.

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

6. All operational conditions listed in the approval letter dated April 29, 2003
7. Approval is subject to expiration, revocation and changes in the Ordinances.

The motion was seconded by G. Flack and carried. (5-0)

PLAN SUBMISSION MEETING – ALICIA SEGALINI AND MARK MOONEY: Request for Boundary Line Adjustment approval. Properties are located at 428 & 459 South Road, Tax Lots 244-028 & 244-029 in the “R” Zone. PB # 1105

Mr. Paul Darbyshire, Ms Alicia Segalini and Mr. Mark Mooney presented the application.

Mr. Darbyshire explained that they are doing a boundary line adjustment between the Segalini’s property and the Mooney’s property. They are transferring .265 acres from Mooney to Segalini. Segalini’s lot will be 1.327 acres and Mooney’s lot will be 10.25 acres. They are asking for waivers for topo, soils and a Quality Assurance Program because there are no new lots being created, no new construction and no new roads.

BOARD'S ACTION – ALICIA SEGALINI AND MARK MOONEY:

MOTION: W. Peterson moved to grant the following waivers

- a. Topography.
- b. Soils.
- c. Quality Assurance Program.

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

MOTION: G. Flack 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 July 27, 2005 subject to extension or waiver.

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

PUBLIC HEARING – ALICIA SEGALINI AND MARK MOONEY:

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

BOARD'S ACTION – ALICIA SEGALINI AND MARK MOONEY:

MOTION: J. Pike 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. Plan (2 mylars & 6 paper copies)
 - a. Correct side and rear setbacks for Parcel A to 25’.
 - b. All pins to be set and so certified on final plan.
2. Recording fee.
3. Deed for Parcel A to be reviewed/approved by Town prior to recording with plan.
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 W. Peterson and carried. (5-0)

PLAN SUBMISSION MEETING – DURRELL MOUNTAIN ROAD L.L.C: Request for a Boundary Line Adjustment approval. Properties are located on Durrell Mountain Road & Rogers Road, Tax Lots 214-012 & 214-009 in the “R” Zone. PB # 0905

Mr. Howard Warren presented the application.

Mr. Warren explained that Andrew P Sanborn Farm L.L.C. owns 115 acres and Durrell Mountain Road L.L.C. owns 29 acres. They are proposing to take 16 acres from Durrell Mountain Road L.L.C. and add it to Andrew P. Sanborn Farm L.L.C. making it 131.4 acres and Durrell Mountain Road L.L.C. 12.5 acres. They are asking for a waiver for topo, soil and significant features. The property has a brook under the Class VI portion of the road to the dam site. There are nine acres of dry flat field as a building site. The ordinance requires 20' of frontage on a Class V or better road. This boundary line adjustment gives the 131 acres the required frontage necessary to allow a house to be built on it if the land is purchased in the future. He is asking for the Board to grant the waivers because the area is not suitable for access to property because of the beaver pond and standing wetland. The frontage is not being used as access for this application. The access is closer to the Gilford town line. He stated that the staff report references RSA 674:41 but it is possible to get a waiver on the Class V portion of Old Rogers Road and have access off Rogers Road. If they get a building permit they would have to use the other driveway. He has a February 15, 1985 letter from the Board of Selectmen authorizing the issuance of a building permit for a single family structure that is transferable to any subsequent owners. The 20' frontage is not intended for access to the lot. The access will be on a Class VI road. J. Pike wanted to clarify the difference between access and frontage. C. Daigle explained that based on counsel opinion as compared to a similar situation on Summit Drive, court cases and state law states that access to lots need to be in the same place as the legal frontage. The Board can go back to counsel for a legal opinion on this application. Mr. Warren stated that this is not a buildable lot because they haven't released the municipal liability and by adding the frontage it would keep them from having to go for a variance. The definition of frontage states that it has to be 20' but does not state that it has to be the access to the lot. Having to provide more information wouldn't show anything different. C. Daigle stated that there is no indication on the application that the frontage would not be the access. Mr. Warren stated that he is willing to put it on the plan that the frontage is not intended to be used for access. C. Daigle stated that there is no frontage on a Class V road. Mr. Warren stated that the requirement is access on a Class VI highway and they can go to the Board of Selectmen for release of municipal liability but they are not trying to make it a buildable lot at this time. He already has a letter from the Board of Selectmen and State law support it. He is trying to avoid going to the Zoning Board for a variance.

Ms. Karen Feltham, member of the LLC, stated that there is frontage on a Class V road and access off a Class VI road. The remaining lots off Middle Route have access off Rogers Road. A 114 acres subdivision was approved with frontage on a Class V road. C. Daigle stated that staff's recommendations are based on counsel's opinion. J. Pike stated that he agrees with Mr. Warren that the frontage and access does not have to be one and the same but he does not want to set a precedent. Mr. Warren stated that a precedent has already been set with four other cases in that area alone. P. Harris stated that each application has it own circumstance and merits and is looked at individually. It was the consensus of the Board to seek counsel's opinion on frontage/access to a lot and the logic behind it.

BOARD'S ACTION – DURRELL MOUNTAIN ROAD L.L.C.:

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

- a. Partial topo (area to be transferred and lot 214/9).
- b. Significant features (wetlands, waterbodies, rock, vegetation, habitat, stonewalls, etc.). No

- access over 20' ROW area
- c. All soils/wetlands information.

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

MOTION: G. Flack 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 July 27, 2005 subject to extension or waiver.

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

PUBLIC HEARING – DURRELL MOUNTAIN ROAD L.L.C:

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

BOARD'S ACTION – DURRELL MOUNTAIN ROAD L.L.C:

MOTION: W. Peterson moved to table the application to the June 27, 2005 meeting to allow the Board to get a legal opinion from counsel on legal access/frontage.

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

PLAN SUBMISSION MEETING – BBE REALTY, LLC: Request for open space subdivision approval to subdivide one lot into 38 lots. Property is located off Sargent Lake Road, Tax Lot 238-004 in the “R & RS” Zones. PB # 0705

Mr. Stephan Nix presented the application. Mr. Richard Gagne, Mr. Bryan Bailey and Mr. Tom Selling were also present.

Mr. Nix explained that they are here to have their 37 lot subdivision application accepted as complete. The subdivision is located off Sargent Lake Road and is Phase 2B of a two phased subdivision. Phase 1 consisted of 11 lots and Phase 2 had 6 lots. They are requesting a waiver from State permits as they are in the application process with the State and should be completed by the time the Planning Board's process is complete. They are also requesting a waiver of public utilities availability, as they will have a letter from the utilities companies that will be supplying the utilities by the next meeting. They are requesting a waiver for fire protection as they have talked to the Fire chief and they have originally agreed to a 30,000 gallon cistern and now are considering a residential suppression system. Mr. Nix wanted to know if an economic impact study would need to be done. If one needs to be done then they would like to get started. C. Daigle explained that the fire protection waiver came in after the closing date. It is unusual to grant a waiver for fire protection. If the plan is submitted by the next meeting then the application can be granted complete. Mr. Nix stated that fire suppression details don't exist until much later. If they do it up front then they have to design the whole

subdivision up front. They will determine later whether a cistern or sprinkler would be used. P. Harris explained they cannot grant something if they don't know what they are granting. Mr. Nix stated that there will be public utilities available on the site and that letter is coming. C. Daigle stated that if a cistern is on the plan they need to know what size it is and where it is located. J. Pike stated that in the past applicants came to the Board with fire protection on the plan. He wants to see it before approval. Mr. Nix wanted to know if an economic development study is required. J. Pike wanted to know what the total buildout time for the project would be. Mr. Nix stated that the road construction would be this summer and go through the winter. Next spring they want to start selling the lots. Mr. Gagne stated that the buildout time would be 5 years. He plans on building about 4 or 5 houses a year. J. Pike stated that the phasing would have less of an impact over a period of time. W. Peterson stated that for 5 or 6 houses won't need one. C. Daigle stated that there is still the impact on 37 lots. Mr. Nix stated that the price is significant. J. Pike noted that the grading plan needed changes. Mr. Nix stated that those plans have been made. There is an escrow fund for Belknap County Engineer to review those plans, which they are doing now.

BOARD'S ACTION – BBE REALTY,LLC:

MOTION: J. Pike moved to grant the following waivers:

- a. Public Utilities Availability.
- b. State permits.

The motion was seconded by W. Peterson and carried. (5-0)

MOTION: J. Pike moved to Table the application until June 27, 2005, as it is not complete for the following reason:

- a. Utilities & Fire Protection Plan was submitted after this meeting closing date;

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

OTHER BUSINESS:

A Preliminary Conceptual – Mark Thompson.

Mr. Frank Yerkes stated that he is representing Mr. Mark Thompson who would like to change the form of ownership from duplexes to condominiums. They are not changing anything else except the form of ownership. They are creating three separate condominiums one for each lot and they would be part of the existing association. They are on the existing town sewer and have a private well. An as-built plan will be done. C. Daigle wanted to know if there would be separate lots or limited common area. Mr. Yerkes stated the 3 lots will be converted and there will be legal ownership of the limited common open area. C. Daigle wanted to know if each duplex is on a separate lot does the lot go away or is it limited common area. C. Daigle stated that they would need subdivision approval. Mr. Thompson stated that he is trying to create affordable housing in Belmont. C. Daigle explained that because of the limited common area there can be no additions to the units without coming back to the Board. An as-built will

have to be done. Mr. Thompson stated that they couldn't add on because of the setbacks. The by-laws and condominium documents will have to be reviewed by counsel.

B. Design Review Plan Discussion – Fouad & Susan Youssef: Discussion for a Site Plan for a Professional Building. Property is located at 230 Daniel Webster Highway, Tax Lot 102-015 in the "C" Zone. PB # 1305.

Ms. Gloria Andrews and Mr. Jim Bolduc presented the application. Mr. & Mrs. Youssef were also present.

Ms. Andrews explained that they are here to get some feed back from the Planning Board on a proposal for a professional building. She addressed staff's concerns and questions. She explained that there is a utilities pole on the opposite side of the street. They plan to put a pole on their side of the road and then go underground to the building. The signage will depend on the tenants. The heating fuel will be either oil or gas. They would be asking for a waiver for the Quality Assurance Program. A narrative will be provided with the application. They will have a written waiver for on site wetlands because there are no wetlands on site. They are using the county maps to do the soil survey. R. Ball stated there are level three soils on site. Ms. Andrew stated there will be an on site well. R. Ball stated that most of the site will be paved so a waiver for site specific is reasonable. Ms. Andrews stated that the landscape plan will be shown on the site plan. Sight distance will be provided for traffic to and from the site. C. Daigle explained that the driveway cut is regulated by the State of NH. Ms. Andrews stated that the parking aisles with be 19' instead of 25' because of size of lot. R. Ball stated that usually there is a space between the parking and the building. C. Daigle stated that the site doesn't support that amount of parking. The 24' requirement is to allow vehicles to go both ways. The parking spaces are made the smallest allowed. Mr. Bolduc stated that there would be a green strip between building and parking. J. Pike stated that the proposal is a lot for a small lot. Mr. Bolduc stated that the further back the building goes the harder it is for the architect to design it. It needs to be forward because of the sloping in back. They could push the building back 5' to existing building line and add fill to the back wall. P. Harris wanted to know what the purpose of not using the area on side of building is. Mr. Bolduc stated that it is because of the steep slopes.

W. Peterson stated that he does not support only 19' between aisles. J. Pike agreed that parking SUV's or full size vehicle on a lot that size would be difficult. P. Harris wanted to know if there is a way to center the building so you could travel around it. Ms. Andrews stated that they have looked at placing the building in the middle of the lot but it would require a separate retaining wall. G. Flack wanted to know how high the building is going to be. R. Ball stated that it is 12'. G. Flack stated that it would need a retaining wall. C. Daigle stated that they could reduce the size of the building and reduce the number of parking spaces. R. Ball stated that there still are questions concerning the boundary line. Mr. Bolduc stated that in 1960 a surveyor made a judgment to modify the lot lines to have it at an angle. They have talked to the abutter and are working on correcting the boundary line and deeds.

- C. **Design Review Plan Discussion – Realty Resources:** Discussion for a Site Plan for a 32 unit multi-family Housing Development. Property is located at Rte 107 Province Road, Tax Lot 204-023 in the “RM” Zone. PB # 1205.

Mr. Peter Holden explained that they are looking at a 24 acre parcel off Rte 107 just before the Laconia town line. The proposal is to construct a multi family use on site with six buildings and 32 units. The lot has 588’ of frontage. The lot used to be an old gravel pit and they plan to use the disturbed area. They have public water available and municipal sewer available through an agreement with Laconia. They will have a gravity sewer line with one pump. The “RM” zone allows for two units per acres with a 50’ front setback and 25’ side and rear setback. The first building will be more than 100’ from road. The buildings and parking will be out of the wetlands setback. Stormwater management will recharge water back into the ground infiltration. W. Peterson wanted to know about the well head protection. Mr. Holden stated that they have a 300’ well radius protection. C. Daigle clarified that the well services will come from Briarcrest. Mr. Holden stated that there would be one handicap unit per building.

Mr. Mike Akerman, an abutter, had concerns on low income housing and road access and congestion. This project abuts the back entrance to Briarcrest and the sight distance in that area is not good. Rte 107 is a State road and is not patrolled much.

The Board wanted to know how many bedrooms would be in the units. Mr. Terry Turner stated that half the units would be 3 bedroom units and half would be 2 bedroom units. Mr. Holden stated that if any abutters have any concerns they are willing to meet with them to discuss any issues. Ms. Donna Cilley stated that the Board needs to stay focus on the number of handicap units because there is a need for them. Mr. Turner stated that there will be 4 handicap units two 2 bedrooms and two 3 bedroom. He is following the Federal Law for handicap units

BOARD'S ACTION-MINUTES:

MOTION: On a motion by W. Peterson, seconded by G. Flack, it was voted to approve the minutes of the May 9, 2005, meeting as submitted. (4-0-1) C. Patten abstained.

STAFF REPORT:

A. **CONCORD STREET SIDEWALK:**

The Board discussed the Concord Street sidewalk and agreed to arrange for a joint meeting with the Board of Selectman and engineer Mr. Bill Stack to discuss the project.

ADJOURNMENT:

MOTION: On a motion by J. Pike, seconded by G. Flack, it was voted unanimously to adjourn at 9:30 p.m. (5-0)

Respectfully submitted,

Elaine M Murphy
Administrative Assistant