



PLANNING BOARD TOWN OF BELMONT, NH

Monday, May 24, 2021
Belmont Mill, Tioga Room and Remotely by Zoom
Belmont, New Hampshire

Present: Chairman Peter Harris; Vice Chair Ward Peterson; Members Michael LeClair, Gary Grant, Richard Pickwick, Kevin Sturgeon and Member Jon Pike, Ex-Officio.
Staff: Dari Sassan, Rick Ball and Colleen Akerman.
Zoom: Alternate Member Dennis Grimes.
Selectman Ruth Mooney.
Dan Mullen, LLS.

The Chairman opened the meeting at 6:00 pm and welcomed those in attendance.

1. Public Submission Meeting and Public Hearing – Andrew & Tina Thurber: Request for subdivision approval to subdivide one lot into two. Property is located at 51 Hurricane Road, Tax Lot 222-074-000-000 in the “R” Zone. PB # 0921P.

Mr. Daniel Mullen, LLS was present for this application.

The Chairman noted that he lives on Hurricane Road, but does not know the Thurbers. R. Pickwick said he lives close by, but does not abut this property and does not know the Thurbers. It was the consensus of the Board that there is no conflict of interest.

The Chairman read the lot history from the Staff Report. The lot was created through a subdivision in 1975 and the current owner purchased the property in 2018. There are multiple waiver requests.

MOTION: J. Pike moved that the following waiver request be granted:
a) Site Survey (Subdivision Section 5.D.1.c) because the proposed 3-acre lot is surveyed and a previous survey exists for the remainder of the parcel.

The motion was seconded by G. Grant and carried. (7-0)

MOTION: W. Peterson moved that the following waiver request be granted:
b) Topographic Plan (Subdivision Section 5.D.2) because topographic data is provided for the proposed 3-acre lot.

The motion was seconded by J. Pike and carried. (7-0)

MOTION: J. Pike moved that the following waiver request be granted:
c) Wetlands (Subdivision Section 5.D.3) because wetlands data is provided for the

proposed 3-acre lot.

The motion was seconded by G. Grant and carried. (7-0)

MOTION: R. Pickwick 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 in a timely manner to complete review and act on the application. The Board shall act on this proposal by 7/28/2021 subject to extension or waiver.

The motion was seconded by W. Peterson and carried. (7-0)

The Chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

MOTION: W. Peterson moved that the proposal does not have a potential regional impact.

The motion was seconded by J. Pike and carried. (7-0)

The Chairman noted the merits of the application. There were no comments or concerns from most departments. Public Works states protection of roadway should be maintained during all phases of subdivision and construction and to refer to the 04/22/2021 ARC meeting minutes. The Town Administrator noted that the Current Use file contains a NICU (not in current use) area of 1 acre. The additional 0.2 acres shown on the subdivision plan will need to be removed from current use and will be subject to a Land Use Change Tax Penalty.

J. Pike asked Land Use Technician Rick Ball about the Current Use situation. Rick Ball responded that Land Use does not work with assessing and taxes and the current use was not shown on the plan. R. Ball noted that is not the Planning Board's responsibility. D. Sassan explained that the Town Administrator's note is specific to 1.2 acres of curtilage but their current map only shows 1 acre out of Current Use.

Mr. Mullen explained that he did not have the Current Use map when developing the plan and the Thurbers estimated the curtilage at 1.2 acres. He said that he will change the plan to show 1 acre out of Current Use because the records show 1 acre, not 1.2 acres.

Mr. Mullen presented the subdivision proposal for the 16-acre lot with 1 acre out of Current Use. They will subdivide off a single-family lot of 3 acres. Test pits need to be completed for NHDES. The applicants have requested a few waivers, which he acknowledged had been granted. The majority of the land does not affect abutting properties. The applicant is aware that he has to use caution putting in the driveway. That will happen when the driveway permit is obtained. The location where the driveway is proposed currently has a gate and the sight distance to Union Road is 542 feet. There is over 1,300 feet

of sight distance to the south. It is a safe approach.

J. Pike asked if they make the 4:1 ratio. D. Sassan verified that they do.

Mr. Gary Cartier is an abutter. He asked for confirmation on the location of the driveway. R. Pickwick explained the location and its proximity to the horse farm and a row of trees. Mr. Cartier stated he does know the location.

J. Pike noted that there is a new road in front of the property and any heavy equipment should not be unloaded directly onto the road. Mr. Mullen said he would let the owners know.

The Chairman commented that it is a big piece of property and that it is nice that it fits the subdivision guidelines and did not need any ZBA relief.

Board's Action – Andrew & Tina Thurber:

MOTION: M. LeClair 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 (precedent) 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. This action is based on a plan or plan set dated 4/5/2021.
2. Submit final plans (2 mylar, 5 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Add/identify/include note on plan:
 - a. All pins to be set/certified on final plan.
 - b. New lot to have:
 1. paved apron.
 2. underground utilities from ROW.
 3. for on-site delivery, US Postal approved box/location.
 - c. All conditions subsequent shall be added as plan notes.
3. Submit Updated Current Use map(s) to Town Administrator and pay penalties for all newly identified curtilage.
4. Payment of decision recording fees. Cost of plat (to be determined) and notice of decision (\$16.60).
5. Obtain NH DES Subdivision approval.
6. Conditions precedent shall be completed no later than 5/24/2022.
7. Compliance hearing shall be held by Board as necessary.

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

8. Approved uses include: Those permitted in the Rural Zone subject to applicable review processes.
9. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
10. Driveway permit required prior to lot development.
11. No changes shall be made to the approved plans unless application is made in writing to

- the Town.
12. Approval is subject to expiration, revocation and changes in the Ordinances. This conditional approval shall expire on 5/24/2023 unless all conditions are met or an extension is applied for and granted in accordance with the Regulations. Notice to the applicant and/or a public hearing are not required for the Board to determine that a conditional approval has expired. Reapplication in the case of an expired conditional approval requires a new application meeting all applicable Regulations.
 13. Where there is a conflict within the information submitted by the applicant, the town shall determine the correct information to be applied.

The motion was seconded by G. Grant and carried. (7-0)

2. Public Submission Meeting and Public Hearing – Cellco Partnership dba Verizon Wireless:

Request for site plan approval for a wireless communication facility with a monopole structure. Property is located at 73 Bishop Road, Tax Lot 205-009-000-000 in the “RS” Zone. PB # 1021P.

Mr. Carl Gehring of Gehring & Associates was present for this application.

The Chairman read from the Staff Report. The current owner purchased the property in 2003, and the site is presently used for boarding of horses and associated storage. The applicant attended the March 2021 Application Review Committee meeting, and a variance for the proposed cell tower in the RS District was granted in April 2021.

The Chairman noted there are a number of waiver requests. He stated that Staff does a good job with the ARC meetings and has good information on how to go forward. The waivers will be voted on one at a time.

MOTION: K. Sturgeon moved that the following waiver request be granted:
a) Plan Scale (Site Plan Review Section 5.D) because the applicant’s plan scale complies with Site Plan Review Section 5.D.

The motion was seconded by R. Pickwick and carried. (7-0)

With regards to the waiver for the Deed Book and Page of Abutters, W. Peterson asked if it is usually needed. D. Sassan replied that if the application is approved, the information will be required on the final plans. The information is available, but not necessary to move forward with the application.

Mr. Jon “Peter” Christensen lives at 55 Cotton Hill Road. He said that he is not an abutter by land but this tower is 150 feet tall and the sight line/view therefore involves more than just abutters to the property. They are “view shed” abutters; people who will be looking at the pole as it protrudes above the tree line. No one in the area knew about the balloon test or saw how high the balloons were above the tree line. It was asked during the ZBA presentation if it was possible for another balloon test. M. LeClair interjected that Mr. Christensen is getting ahead of us. He knows there are concerns but the Board has to go through the proper process. Right now the Board is only discussing immediate abutters.

W. Peterson asked if this is waived will there still be a list of abutters. D. Sassan answered yes, they would need to be added to the final plan. J. Pike said he thinks a step is being omitted. If something is subdivided, abutters are notified. This is a serious change of use. D. Sassan declared that all abutters

were notified by certified mail in accordance with Town regulations and State law. J. Pike asked if they were notified by the ZBA or the Planning Board. D. Sassan verified that they were notified by both boards in advance of both hearings.

W. Peterson clarified that the list will be included as a condition. J. Pike concurred, but said the balloon test is another issue.

MOTION: J. Pike moved that the following waiver request be granted:
b) Deed Book & Page of Abutters (Site Plan Review Section 5.D.1.b) because such information is not necessary for review of the proposal and proposed condition 2.d.i requires that the deed reference be added to the final plan set.

The motion was seconded by W. Peterson and carried. (7-0)

With regards to the landscape plan waiver, M. LeClair asked if tree removal is part of a landscape plan. D. Sassan explained that the extent of the landscaping is to remove some trees and leave all others. The plan shows the area of the tree line to demonstrate what the landscape will be. M. LeClair asked if there will be landscaping around the fence. R. Ball said no, there will be a wooded buffer around the fence. Mr. Gehrig noted there will be gravel at the base of the tower but the rest will be left natural.

MOTION: M. LeClair moved that the following waiver request be granted:
c) Landscape Plan (Site Plan Review Section 5.D.9) because adequate information regarding tree removal is provided on the plans.

The motion was seconded by K. Sturgeon and carried. (7-0)

MOTION: J. Pike moved that the following waiver request be granted:
d) Site Line Representations (Site Plan Review Section 5.F.1.p) because photosimulations provided by the applicant provide better information than what is required by the regulation.

The motion was seconded by M. LeClair and carried. (7-0)

MOTION: W. Peterson moved that the following waiver request be granted:
e) Equipment Brochures (Site Plan Review Section 5.F.2) because all equipment will be contained within the site compound and it will be required that the specific equipment installed substantively conform to that which is represented in the application, and proposed condition 11 requires that such information be submitted in conjunction with a building permit application.

The motion was seconded by M. LeClair and carried. (7-0)

MOTION: W. Peterson moved that the following waiver request be granted:
f) Items marked "Not Applicable" (Site Plan Review, various sections) on pages 6-27 of the applicant's statement because they are either not of relevance to the request or are adequately addressed elsewhere. It is not uncommon for items that are not relevant to be implicitly waived.

The motion was seconded by J. Pike and carried. (7-0)

MOTION: J. Pike 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 in a timely manner to complete review and act on the application. The Board shall act on this proposal by 7/28/2021 subject to extension or waiver.

The motion was seconded by W. Peterson and carried. (7-0)

The Chairman stated there is a waiver request #6 that specifically relates to the requirements following acceptance of the application. He read the following from the Staff Report:

“As enumerated in Site Plan Review Section 5.F.16, a balloon test, advertised in a newspaper of general circulation in the Town at least 10 days prior to the float, shall be arranged by the applicant within 14 days of application acceptance. The Land Use Office advises that a reasonable interpretation of regulation is that the applicant is required to *schedule* a balloon test within 14 days of application acceptance (June 7th if application is accepted on 5/24/21), but the test need not *occur* within 14 days of application acceptance. The applicant seeks a waiver from the balloon test and in his application, he has submitted the following waiver request:

Waiver #6: Balloon Float (Site Plan Review Section 5.F.16)

The Applicant already performed a balloon float to create the enclosed photosimulations. The Board is respectfully asked to examine the submitted photosimulations to see if they concur that those accurately portray what the proposed tower might look like thereby obviating the need to perform an additional float.”

M. LeClair asked if abutters were notified of the original balloon test. D. Sassan said no. J. Pike commented that the balloon test was looking for signal only. If you drive down 106 and get near Farrarville Road and look southeast there is a tower there, but he lives on Dutile Road and does not have cell service. The service is lacking. It is important for the gentleman who mentioned it to see a balloon test. It is important that we do it.

The Chairman polled the Board to see if any members saw the balloon test. No members saw the balloon test. The Board discussed the importance of being able to see the balloon test in order to see what their constituents would see and to have a better idea on making a decision. M. LeClair asserted that abutters should have been notified of the original balloon test. That is a Verizon failure, not a Land Use Office failure. It is a red balloon that is going to look ugly no matter what, but the red balloon is not a reality. J. Pike restated that Staff does not support this waiver because there was not a publicly noticed balloon test. But people don't read the newspaper. There are other towers that no one thinks about now, but this should be publicly noticed.

Mr. Christensen said it is important to note that the balloon is a one-way view. It is important to know what the view from the tower would look like. He submitted a recent picture of a sale on Cotton Hill Road that he says is descriptive of how things would look from the top of the tower. He suggested that someone take up a drone and take a series of pictures at the 970-foot level. P. Harris asked if Mr. Christensen saw the balloon test. Mr. Christensen said no, no one saw the balloon test. There was discussion about how the manufactured home park next to the tower is a direct abutter but they will only

see the stem of it; Mr. Christensen will see the rest of the top of the tower.

Mr. Glenn Welch of 65 Cotton Road asked about the view shed analysis done in the area. It doesn't indicate who will see that property. P. Harris explained the Board is trying to make a common-sense decision. Mr. Welch asked who did the view shed analysis. R. Ball explained there are photosimulations, but not a view shed analysis. Mr. Welch said it seems like common sense that it would be done.

D. Sassan reminded everyone that the public hearing is not open yet. The Board is receiving input for the waiver of the required balloon test. If there is other information the public needs to present, there will be other opportunities. The Board is only addressing this specific waiver request. D. Sassan stated if the Board decides they will require a noticed balloon test, they would potentially continue the hearing so that future deliberation can take place after everyone views the balloon test.

P. Harris asked if the Town is under any liability by requiring a balloon test, and can it be challenged in court. D. Sassan answered no. The regulations clearly intend to require a balloon test that is publicly noticed through the newspaper, but not through abutter notification. They clearly indicated that it shall occur following acceptance of the application, so it would be easy to defend any decision by the Board to require a balloon test. J. Pike said if we look at the waivers and the next item, he believes there should be a publicly noticed balloon test. He asked what color the tower will be, and noted that the tower in Loudon is green because it was required.

Mr. Gehring stated he will retract the waiver for the balloon test on behalf of Verizon. He said they did not "try to pull a fast one". They can advertise and let the Board know about it and be done with the test before next month's meeting. He suggested a green balloon. R. Pickwick remarked that a red balloon is needed for aeronautical purposes and will be a better visual than a green balloon.

Mr. Welch said a balloon test is done so that everyone who is interested and finds the property visible will know what they are going to see. And how do we know who those people are? Who will know if it is visible to them unless there is a map of where the test will be and where it will be visible from? It makes more sense to let people know they will be impacted. Mr. Christensen said the top of the tower is at 970 feet.

D. Sassan again reminded everyone that the public hearing has not been opened yet. He said that the Board is allowing some input in specific relation to the waiver requests at hand, but that the Board needs to continue with where we are in the process. He said the decision before the Board at this moment is whether to waive the noticed balloon test requirement and he reiterated that newspaper notification is required but that abutter notification is not required. Mr. Welch asked how can a third balloon test be avoided. W. Peterson explained that the regulations determine how the balloon test is done, and that suffices. It is fair to the Town and the applicant and everyone knows what is going on. That is why the regulations are in place.

P. Harris asked Mr. Gehring if he feels the balloon test was done by the rules. J. Pike said they were checking to see if it was in the right position. P. Harris said Mr. Gehring is willing to do the test again.

Mr. Welch asked about putting people on notice. M. LeClair commented that weather will be a factor. Mr. Gehring said if the weather is not conducive, they will have a rain date. If there is rain, it will be okay if it is calm. If it is too windy, they will do a rain date. The Board mentioned that a previous

balloon test was held on the weekend so more people would be home to view it. Mr. Christensen mentioned that R. Ball offered to take pictures on the day of the balloon test from his property, which will also represent other sites in the area.

P. Harris noted that in the past cell phones were “cool”, but they have become important for safety. Companies need to clean up the “dead” spots for safety reasons. He said there was a great presentation at the ZBA meeting.

There was discussion with Mr. Gehring about withdrawing the waiver request and meeting the time constraint of 14 days to schedule the test, but not float the balloon. Mr. Gehring said he will call the engineers tomorrow and work with the Laconia Daily Sun on advertising deadlines for ads. He knows he has to advertise at least 10 days prior. M. LeClair said the applicant should be on next month’s meeting pending the balloon test. J. Pike announced that staff at Town Hall should be notified, as well as notices placed at the Post Office and on the board at the Park and Ride on Route 106. It needs to be put out there for people that may not see the newspaper.

MOTION: J. Pike moved that the following waiver request be denied:

- a) Balloon Test (Site Plan Review Section 5.F.16) because a publicly noticed balloon test is an important step in ensuring that members of the public have an opportunity to participate in a hearing after having the opportunity to view a balloon test. Staff maintains that as long as the applicant arranges for a balloon test within 14 days of application acceptance, he will maintain compliance with the regulation, regardless of whether the float occurs within 14 days of application acceptance.

The motion was seconded by W. Peterson and carried. (7-0)

D. Sassan observed that it makes sense to vote on the Development of Regional Impact (DRI) at this time. The regional notification specific to cell towers has already been completed and all surrounding towns have been notified. J. Pike said he disagrees with Staff. People on Cotton Hill in Gilford will be affected and this does have regional impact. D. Sassan clarified that Staff is not saying there is no impact. Staff has already noticed all towns based on notifications required by RSA 12-K which is specific to cell towers. The applicant has already complied with noticing that extends further than the blanket DRI notification. There was discussion about how the noticing worked. D. Sassan said all towns within a 20-mile radius were notified. That is beyond what would happen with the DRI.

Mr. Christensen said he spoke with the local airport manager and he is not familiar with this proposal. Staff confirmed notice had been sent to the City of Laconia. There is no guarantee if another notice was sent, if the airport would be notified by the City of Laconia. R. Ball stated there is no relevant requirement under FAA guidelines.

M. LeClair said when noticing for DRI abutting towns reply, ignore the notice, or sometimes show up to a meeting. Most of the time it is ignored. The towns have been notified. W. Peterson said that is state law. Mr. Welch asked how someone would be noticed if the tower was ½ mile away across a town line. M. LeClair said it would be in the newspaper and all meetings are posted online. Towns are online and everyone is able to read the minutes.

MOTION: M. LeClair moved that the proposal does not have a potential regional impact.

The motion was seconded by W. Peterson and carried. (7-0)

MOTION: W. Peterson moved that the case be continued to Monday, June 28, 2021 at 6 pm.

The motion was seconded by J. Pike and carried. (7-0)

The Chairman stated it is important to view the balloon test before proceeding with this application. The Board has not opened the public hearing yet, but has allowed the public to speak about the waivers. That is how this process works. This discussion can be continued at the next meeting.

OTHER BUSINESS:

Approval of Minutes 04/26/2021:

MOTION: J. Pike moved to approve the minutes of April 26, 2021 as written.

The motion was seconded by G. Grant and carried. (6-0-1) M. LeClair abstained.

STAFF REPORT:

Wende Richter of Smith Orchard: Ms. Richter sent a thank you note to the Board for approving her site plan last month.

Zoning Amendments: D. Sassan explained that there are potential amendments that were set aside last year, but we don't want to get behind this year. Of particular relevance is the subordinate dwelling units. An application for one with a Conditional Use Permit (CUP) was recently withdrawn. He wanted to bring it up again because there is not a lot of detail about subordinate dwelling units in the Ordinance. There has been some discussion with the Chairman and Vice Chairman about which direction to go with this and there are some good ideas about mimicking the ADU requirements. The Ordinance requires that ADUs must be attached with no more than 2 bedrooms. It must be a minimum of 300sf, and a maximum of 750sf or 25% of the structure, whichever is larger. Adding such requirements to subordinate dwelling units would put constraints in place rather than the Board needing to make a call each time as to whether a particular request meets the intent of the subordinate dwelling unit provision. It is a good idea and he is looking for feedback. He also talked about owner-occupied units versus manager-occupied and whether a CUP is needed. Parameters would already be created and would still require site plan review. The Board would not be giving up their authority to review the applications. D. Sassan offered to discuss it now or write something up and present it at the next meeting. J. Pike said he would like to see something in writing. W. Peterson commented that having the CUP is handy when trying to ensure that the unit is owner- or manager-occupied when in an industrial or commercial zone, rather than a relative or tenant. D. Sassan replied that if the CUP requirement remains, work will need to be done to create approval criteria.

Planning Board Alternate Memberships:

MOTION: J. Pike moved to appoint:
Dennis Grimes as an Alternate Member until March 31, 2024,
and
Rick Segalini as an Alternate Member until March 31, 2023.

The motion was seconded by P. Harris and carried. (7-0)

NEW BUSINESS: None

ADJOURNMENT:

MOTION: M. LeClair moved to adjourn at 7:22 pm.

The motion was seconded by P. Harris and carried. (7-0)

Respectfully submitted:

Colleen Akerman
Building & Land Use Clerk