



# ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, February 23, 2022  
Belmont Mill  
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members Mark Mastenbrook and Sharon Ciampi.  
Members Absent: David Dunham (E).  
Alternates Absent: John Froumy (E).  
Staff: Elaine Murphy and Sarah Whearty.

The Chairman opened the meeting at 6pm and welcomed those in attendance. He announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using electronic means. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

The chairman explained that there is not a full 5-member Board present. An affirmative vote of 3 members is necessary to approve any application. All applicants have the option to be heard by the short Board or to request to be tabled until the next regular meeting. If the applicant chooses to proceed, and their application is denied, the fact that the denial was by a short Board is not grounds for a rehearing.

Chairman Peter Harris, meeting room  
Norma Patten, Zoom  
Mark Mastenbrook, meeting room  
Sharon Ciampi, meeting room  
Sarah Whearty and Elaine Murphy meeting room

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.

**ABUTTERS' HEARING –WARD & CYNTHIA PETERSON:** Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a Contractor's Yard in the "R" zone. Property is located at 661 Province Road, Tax Lot 226-074-000-000, ZBA # 0322Z.

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

The motion was seconded by S. Ciampi and carried. Roll Call P. Harris aye, N. Patten aye, M. Mastenbrook aye and S. Ciampi aye. (4-0)

P. Harris read the history of the lot. It is developed with a single-family use and conforming structure. It has one single-family, accessory structure that is preexisting, nonconforming to Province Road setback. There is a motor vehicle and machine shop use that is conforming. The motor vehicle and machine shop structure is preexisting nonconforming to Rogers Road setback. A subdivision has been approved but not recorded for the lot.

Mr. Ward Peterson presented the application and agreed to a short Board. The members that viewed the site were: P. Harris, N. Patten, M. Mastenbrook and S. Ciampi.

P. Harris stated there were no Staff comments.

Mr. Ward Peterson explained that he wants to change one commercial use, Stephen's Frame and Collision, a 2,160sf motor vehicle garage with an office to a Contractor's Yard. The remaining motor vehicle commercial use, Peterson's Machining, will remain the same. There will be no construction, disturbance or building associated with this change of use. The new tenant is a tree service that wants to rent the space for heated storage of vehicles and equipment related to the tree service. They will use the shared outside parking and outside storage areas. Unlike the previous tenant the tree service will not have normal public traffic, employees will come to the shop, park their vehicles and leave with their work vehicles. The normal work hours are 7am to 7pm Monday thru Friday and Saturdays 7am to 12pm. Emergency hours during storm events may occur occasionally.

The tree service does not use any fertilizers or pesticides. Inside storage may include small quantities of appropriately contained fuel and oils for chain saws and equipment. They will not be storing any chips or trees on site except for what is on the truck prior to material disposal. No servicing or maintenance of vehicles will be done on site. There will be a building mounted sign.

The restroom will be shared by the two commercial units. There is an on-site well, commercial septic system and an on-site commercial dumpster.

Site Plan and Special Exception approvals were initially obtained for the two existing motor vehicle uses in 1988. The site is in compliance with all approvals and aquifer inspections.

The Contractor's Yard use will reduce any existing impact on the neighborhood or community as there is no proposed exterior changes to the building or shared on-site parking and storage areas. The use will reduce or eliminate public traffic to the site and reduce the type and amount of regulated substances used, stored and disposed of from the site. A DOT driveway permit upgrade has been approved.

M. Mastenbrook wanted to know how fuel will be stored on site. Mr. Peterson stated it will be stored in gas cans. M. Mastenbrook stated the end time will be 7pm and fixing chain saws can get loud. Mr. Peterson stated that if he tells the tenant to stop something he will stop. They are not repairing the chainsaws just sharpening them. The air hammers used in the auto shop were louder.

M. Mastenbrook stated that the employees are going to be parking their personal vehicles on site during the day and company vehicles on site at night. They have their own well and septic so they are not adding to municipal water and sewer.

P. Harris stated that in the area there are other businesses. Some businesses include auto repair, sawmill, high end furniture restoration, fiberglass boat repair, Clairmont sweeping, construction company, woodworking shop and glass shop. Mr. Peterson's shop has been there for a long time, rezoning, and has no issues with the town.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

#### **BOARD ACTION – WARD & CYNTHIA PETERSON:**

**MOTION:** M. Mastenbrook moved to grant approval for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a Contractor's Yard in the "R" zone as it meets all the criteria.

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F. does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts. It is replacing a business that created more noise and fumes. It is similar to other businesses in the area.
4. The proposed location is of adequate size.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. The business will reduce traffic in and out of the site.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street. The site has its own septic and well. No new structures are proposed, it is just a change of tenant.
7. The proposal does not create excessive demand for municipal services and facilities.
8. The proposal does not create hazards to the health, safety or general welfare of the public. It is no different than other Contractor's Yards in the area.

## Additional conditions:

1. All representations made by the applicant during the Public Hearing are incorporated as a condition of this approval.
2. Comply with Aquifer Protection Ordinance.
3. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
4. Approval expires on 2/23/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
5. Site Plan approval by Planning Board required.

The motion was seconded by S. Ciampi and carried. Roll call P. Harris aye, M. Mastenbrook aye, S. Ciampi aye and N. Patten aye. (4-0)

**ABUTTERS' HEARING – DAVID & LEEANN FAY ELLIS:** Request for three Variances of Article 5 Table 2 of the Zoning Ordinance.

- a. To replace a manufactured unit closer (23') to Perkins Road than allowed (50'). ZBA # 0422Z.
- b. To replace a manufactured unit closer (26') to Welcome Road than allowed (50') but not closer than the former unit (10'±), but the square footage increase in the setback exceeds 40%. ZBA # 0522Z
- c. For a deck closer (18') to Welcome Road than allowed (50'). ZBA # 0622Z.

Property is located at 3 Welcome Road in an "RM" Zone, Tax Lot 121-026-000-000.

Mrs. LeeAnn Ellis was present for this application and agreed to a short Board.

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

The motion was seconded by S. Ciampi and carried. Roll Call P. Harris aye, N. Patten aye, M. Mastenbrook aye, S Ciampi aye (4-0)

The chairman read the history of the lot. The lot was previously developed with a home that was demolished and cleared by the Town of Belmont. The only Staff comments came from the Water & Sewer Department who stated they want to be present when the applicant connects to water and sewer.

Mrs. LeeAnn Ellis stated that she purchased the land from the Town at auction and wants to put a double wide on the site. The Town demolished the unit that was on site. She wants to place another unit on the site and move it closer to Perkins Road and further from Welcome Road.

P. Harris stated they used every inch of the site to situate the unit the best they could. It is a reasonable request and similar to others in the neighborhood. The Police and Fire Department have no concerns about how close it is to the road. It is a new double wide that is built to code with new wiring making it safer than what was there. Mrs. Ellis stated they just completed building a new unit at 17 Holiday Lane last year.

M. Mastenbrook stated the lot is very tight and they cannot put any unit on-site without some relief. He wanted to know if the 10' x 12' deck is in the front or rear of the property. Mrs. Ellis stated there is an 8' x 8' deck in the front and it is 18' from the front property line. M. Mastenbrook stated that they could have a 4' x 4' standard landing without needing any relief. He asked Mrs. Ellis what the hardship would be if they had a 4' x 4' landing with steps. Mrs. Ellis stated she had a deck on the other unit she just did and wanted one on this unit.

M. Mastenbrook wanted to know where the parking area would be. Mrs. Ellis stated it is off Welcome Road. S. Ciampi wanted to know where the driveway is in relation to the 8' x 8' porch. Mrs. Ellis stated it is in front of the porch. M. Mastenbrook stated he is concerned about plowing and parking with the cars being so close to the road. It is a really tight lot and he doesn't see the parking working with the deck. P. Harris wanted to know why there is 50' in the back of the unit, why didn't they move it further back. Mrs. Ellis stated they want a yard. P. Harris stated it is yard versus traffic safety. He stated that behind the building it is flat and by shifting the unit 10' they would not need a variance and they would not lose much of the yard. The 18' driveway is not big and he doesn't see the hardship for the 8' x 8' deck when the unit can be moved back 10'. M. Mastenbrook wanted to know if Mrs. Ellis would be willing to move the unit 10' back or cut the deck down to a 4' x 4'. Mrs. Ellis stated they are working with where the utilities are located. M. Mastenbrook wanted to know where the sewer lines are. Mrs. Ellis stated in the middle of the house and they will be pouring a slab. M. Mastenbrook stated the reality is the sewer line can be moved. He stated the purpose of zoning is for the safety and welfare of everyone. They can move the unit back. He is concerned if they grant the deck others will want to move closer to the road. Mrs. Ellis wanted to know if she could have a 4' x 8' deck. M. Mastenbrook stated she would still need a variance. P. Harris explained that the hardship has to be a special condition of the property not a financial hardship. Wanting a big backyard is not a reason for granting a variance. They have to meet the criteria for the health, safety and welfare of everyone. Mrs. Ellis wanted to know if she cuts the deck back to a 4' x 4' would it be allowed without a variance. M. Mastenbrook stated they would not need a variance for the 4' x 4' deck. Mrs. Ellis stated she is withdrawing the variance application for the 8' x 8' deck and will replace that deck with a 4' x 4' landing with stairs.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

### **BOARD ACTION – DAVID & LEEANN FAY ELLIS:**

**MOTION:** M. Mastenbrook moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to replace a manufactured unit closer (23') to Perkins Road than allowed (50') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because it will not threaten the health, safety or welfare of the public. It is a single-family residence in a compact area and similar to others in the area. It will not violate the character of the neighborhood.
2. The spirit of the ordinance is observed because it will not threaten the health, safety or welfare of the public. It is a single-family residence in a compact area and similar to others in the area. It will not violate the character of the neighborhood.

3. Substantial justice will be done because denial would be an unfair burden on the applicant that is not outweighed by the gain to the public.
4. The Variance would not diminish the value of surrounding properties because the new structure will increase surrounding property values.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
  - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the lot is very small and would need some relief no matter how they place the unit on the site.  
and
  - b. the proposed use is a reasonable one because a single-family residence in the residential multifamily zone is reasonable.

Additional conditions:

1. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
2. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
3. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
4. The applicant shall contact the water/sewer department prior to connecting any services.
5. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
6. Approval expires on 2/23/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
7. Submit final plan sets (3 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Make the following changes/corrections:
  - a. Label the distance from the corner of the proposed house to the center of the curb where Welcome Road meets Perkins Road.
  - b. Show driveway location on plan.

The motion was seconded by S. Ciampi and carried. Roll Call P. Harris aye, N. Patten aye, M. Mastenbrook aye and S. Ciampi aye (4-0)

**MOTION:** M. Mastenbrook moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to replace a manufactured unit closer (26') to Welcome Road than allowed (50') but not closer than the former unit (10'±), but the square footage increase in the setback exceeds 40% as it meets all the criteria.

1. The Variance will not be contrary to the public interest because it will not threaten the health, safety or welfare of the public. It is a single-family residence in a compact

- area and similar to others in the area. It will not violate the character of the neighborhood.
2. The spirit of the ordinance is observed because it will not threaten the health, safety or welfare of the public. It is a single-family residence in a compact area and similar to others in the area. It will not violate the character of the neighborhood.
  3. Substantial justice will be done because denial would be an unfair burden on the applicant that is not outweighed by the gain to the public.
  4. The Variance would not diminish the value of surrounding properties because the new structure will increase surrounding values.
  5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
    - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the lot is very small and would need some relief no matter how they place the unit on the site.  
and
    - b. the proposed use is a reasonable one because a single-family residence in the residential multifamily zone is reasonable.

Additional conditions:

1. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
2. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
3. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
4. The applicant shall contact the water/sewer department prior to connecting any services.
5. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
6. Approval expires on 2/23/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
7. Submit final plan sets (3 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Make the following changes/corrections:
  - a. Label the distance from the corner of the proposed house to the center of the curb where Welcome Road meets Perkins Road.
  - b. Show driveway location on plan.

The motion was seconded by S. Ciampi and carried. Roll Call P. Harris aye, N. Patten aye, M. Mastenbrook aye and S. Ciampi aye. (4-0)

Mrs. Ellis withdrew the application for a Variance of Article 5 Table 2 of the Zoning Ordinance for a deck closer (18') to Welcome Road than allowed (50') as she will replace it with a 4' x 4' landing with stairs.

**ABUTTERS HEARING –ROUTE 106 REALTY TRUST:** Request for a Variance of Article 5 Table 1 of the Zoning Ordinance to construct a single-family residence in the “C” zone. Property is located at 54 Peggy Drive, Tax Lot 210-017-000-000, ZBA #0722Z.

Mr. Jon Rokeh and Mr. Al Mitchell were present for this application and agreed to a short Board.

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

The motion was seconded by S. Ciampi and carried. Roll Call P. Harris aye, N. Patten aye, M. Mastenbrook aye and S. Ciampi aye (4-0)

The chairman read the history of the lot. In June 1975, the lot was subdivided. March 3, 2016 the prior manufactured home was removed. November 2, 2018, the lot was merged with tax lot 210-016-000-000. The lot is vacant with an old paved driveway and billboards near the road.

The chairman also read the department responses. The Code Enforcement Officer stated that based on recent code issues with a property close to this (210-009) he wanted to know why they would allow a SFR in the area. The Land Use Technician commented that a Variance is required for the pre-existing, nonconforming, off-site advertising billboards. When a lot with a grandfathered use is redeveloped, all nonconformities must be cured.

S. Whearty stated that legal counsel advised staff that in this case, the pre-existing non-conformities need to be cured if the variance is approved. The billboards will have to be removed, or an additional variance granted, to allow them to stay.

Mr. Rokeh stated that in 2017 there was a merger. The access to the property is from Peggy Drive. The lot cannot be developed commercially. The driveway is all uphill which would lead to a single-family residence. Traditionally the surrounding area has single-family residences. The driveway is in rough shape and needs fixing. It was used for the manufactured unit that was previously there and is not suitable for commercial use.

The proposal is for a house and large garage with a wraparound deck. The lot will be serviced by a well and septic. There is a septic on site, from the previous unit, that they will be redoing and they will try to reuse the well. Mr. Mitchell stated they are 100’ from Route 106 and the house cannot be seen from Route 106. The driveway goes up the hill 40’-50’ higher than the house. He may change the driveway.

Mr. Rokeh addressed the variance criteria. The house will sit back from the road and is approximately 100’ higher. The spirit of the ordinance is observed because the purpose of the ordinance is to limit the number of new residential uses in the commercial zone. This parcel would be very difficult to develop commercially because of the grades and limited access to Route 106.

Substantial justice will be done because the owner will be able to build a home with a large garage on a lot with limited development potential for anything other than a single-family home.



The variance would not diminish the value of surrounding properties because the surrounding property values would not be diminished by the proposal. The home will add substantial value to the property and enhance the surrounding values.

No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the ordinance is to encourage commercial development along Route 106 but the topography of this property prevents it from being developed commercially.

The proposed use is reasonable because a single-family home with large attached garage located well off Route 106 and 100' higher is a reasonable use.

M. Mastenbrook wanted to know how large the property is. Mr. Mitchell stated it is almost 9 acres. Mr. Rokeh stated it has 1,000' of frontage. M. Mastenbrook stated that everything surrounding this parcel and on Peggy Lane is residential.

P. Harris stated he does not see any negatives about the proposal. It is all positive. They cannot develop the property commercially and it is surrounded by residential lots.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

### **BOARD ACTION – ROUTE 106 REALTY TRUST:**

**MOTION:** N. Patten moved to grant approval for a Variance of Article 5 Table 1 of the Zoning Ordinance to construct a single-family residence in the “C” zone as it meets all the criteria.

1. The Variance will not be contrary to the public interest because the house is 100'+ away from Route 106.
2. The spirit of the ordinance is observed because the ordinance limits the number of new residences along Route 106 but this lot is difficult to develop commercially. The grades and access to the parcel make a residential use a better use of the property.
3. Substantial justice will be done because they are building a house with a large garage on a property that has limited potential besides what is proposed.
4. The Variance would not diminish the value of surrounding properties and would add substantial value to this property and surrounding houses and properties.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
  - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because although the Ordinance encourages commercial development along Route 106 the topography of the property prevents commercial development.and

- b. the proposed use is a reasonable one because this is a single-family home with a large garage off Route 106 on a large property with a long driveway surrounded by other residential properties.

Additional conditions:

1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 2/23/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
4. The billboards with offsite advertising (pre-existing, non-conforming use) shall be removed or an additional variance request will be required.
5. Submit final plan sets (3 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Make the following changes/corrections:
  - a. Fix overlapping text and contour label font inconsistencies (size, orientation, etc.).

The motion was seconded by M. Mastenbrook and carried. Roll Call P. Harris aye, N. Patten aye, M. Mastenbrook aye and S. Ciampi aye. (4-0)

**OTHER BUSINESS:**

**BOARD'S ACTION -MINUTES:**

**MOTION:** On a motion by M. Mastenbrook, seconded by S. Ciampi it was voted unanimously to accept the minutes of January 26, 2022 as written. (4-0) Roll Call P. Harris aye, N. Patten aye, M. Mastenbrook aye and Sharon Ciampi aye. (4-0)

**ZOOM:**

S. Whearty stated that the mask mandate in Town-owned buildings has been lifted which also means that the Zoom meeting mandate has been lifted. She explained that the Board of Selectmen (BOS) will continue using Zoom and Town Administrator, Jeanne Beaudoin recommends that Land Use Boards continue offering Zoom. P. Harris stated he would rather see people attend meetings in person. M. Mastenbrook agreed with P. Harris. There have been problems with the technical aspect of Zoom. It has been hard hearing when people are on zoom. S Ciampi stated that the BOS live stream their meetings on public access. S. Ciampi stated she can go either way but stated that Zoom comes in handy when someone is sick. She stated that N. Patten and D. Dunham attend via Zoom and we should get their input. P. Harris stated they will wait until all members are present before making any decisions.

**ADJOURNMENT:**

**MOTION:** On a motion by M. Mastenbrook seconded by S. Ciampi it was voted unanimously to adjourn at 7:35pm. Roll Call P. Harris aye, N. Patten aye, M. Mastenbrook aye and S. Ciampi aye. (4-0)

Respectfully submitted,

Elaine M. Murphy  
Administrative Assistant