



PLANNING BOARD TOWN OF BELMONT, NH

Monday June 27, 2022
Belmont Mill, and Zoom
Belmont, NH 03220

Present: Chairman Peter Harris; Members Michael LeClair, Richard Pickwick, Kevin Sturgeon, Gary Grant and Jon Pike Ex-Officio (6:43pm)
Members Absent: none
Alternates Present: Rick Segalini, Jr., and Dennis Grimes
Alternates Absent: none
Staff: Sarah Whearty, Karen Santoro and Dawn Eastman
Zoom: Vice Chair Ward Peterson; Kathy Franson

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

D. Grimes was appointed as a voting member.

S. Whearty asked permission from the board to record minutes for the purpose of training new staff and advised the board the recording would be deleted after written minutes were completed. M. LeClair clarified recordings would be deleted and the members agreed.

- 1. Plan Submission Meeting and Public Hearing – Paul Zuzgo for Raed Hertel Family Trust:**
Continuation of a request for Subdivision Plan approval to subdivide one lot into seven. Property is located on Jamestown Road, Tax Lot 118-016-000-000 in the “RS” Zone. PB #1122P

No one was present for this application.

S. Whearty explained to the Board that New Hampshire Municipal Association (NHMA) clarified that when an application is found incomplete, because no public hearing is held, it requires re-noticing (RSA 676:4 I.d.(1)). This application was found incomplete at the 3/28/2022 meeting, was tabled to 5/23/2022, then at the applicant’s request, it was further tabled to this meeting (6/27/2022). A public hearing has not yet taken place, therefore noticing is required. This application should be tabled to allow the applicant time to submit the necessary noticing materials.

MOTION: K. Sturgeon moved to Table the Public Hearing on the application of Raed Hertel Family Trust request for subdivision approval to subdivide one lot into seven, located on Jamestown Road, Tax Lot 118-016-000-000, to 6pm, July 25, 2022, at this location.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, D. Grimes – Aye.

2. **Plan Submission Meeting and Public Hearing – Route 106 Realty Trust:** Continuation of a request for:

- a. Site Plan approval for Contractor's Yard, commercial building (motor vehicle & trailer service, professional offices, light manufacturing, retail stores and service business). PB # 0622P
 - b. Conditional Use Permit for a subordinate dwelling unit. PB #1522P
- Property is located on Laconia Road & 28 Corriveau Way, Tax Lot 217-114-000-000 in the "C" Zone.

The Chairman opened the public hearing portion of the review.

Mr. Jon Rokeh was present for this application.

Mr. Rokeh discussed his recent progress of going to the ZBA and receiving the Special Exception for use as a Contractor's Yard. Mr. Rokeh stated he has been working with S. Whearty and the plan revisions that prevented this from going through the last time he was at Planning Board have been taken care of. They completed the test pits; they went down 7' and did not hit seasonal high water. Mr. Rokeh also noted the septic works underneath the parking lot.

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

- i. **Quality Assurance Plan (Site Plan Regulations Section 5.E.6)** because the information on the inspection and maintenance of stormwater features should be included on the plan set.
- ii. **Soils Map and Report (Site Plan Regulations Section 5.D.3)** because test pit data is required separately for the proposed septic system and stormwater features.

The motion was seconded by D. Grimes and carried. (7-0)

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, D. Grimes – Aye.

S. Whearty confirmed the building will be heated by propane and acknowledged the tank shown on the plan. S. Whearty affirmed that hours of operation have been added to the plan of 7am-10pm, Monday through Friday and 10am-10pm, Saturday through Sunday and reiterated they will be required to comply with the Noise Ordinance. S. Whearty addressed exterior storage and Mr. Rokeh replied that a condition of their ZBA approval requires there not be any exterior storage and he will put a note on the plan.

K. Sturgeon inquired about landscaping and trees. In response, Mr. Rokeh explained there will be trees and they are shown on the landscape plan (pg. 5 of 7). The applicant will select the species before the Board signs the plan to make sure they are salt-tolerant. Mr. Rokeh also stated that trees along Corriveau Way will be retained to the extent possible and any gaps will be filled in. He also commented

that the entrance/exit to Corriveau Way will be gated and is only for emergency use.

There being no additional questions or comments the Chairman closed the public hearing.

Board's Action – Route 106 Realty Trust:

MOTION: R. Pickwick moved to grant a Conditional Use Permit for a subordinate dwelling unit and to grant Final, conditional approval of the application for Contractor's Yard, commercial building (motor vehicle & trailer service, professional offices, light manufacturing, retail stores and service business), 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 dated 1/14/22 and 1/25/22.
2. Submit final plans (5 full size, 1 reduced, 1 pdf). Submit one copy for approval prior to submitting all required copies. Add/identify/include note on plan:
 - a. Include a copy of the original, signed survey with the final plan set.
 - b. 911 address should be included on final plan for the new commercial use as approved by the Fire Department.
 - c. Construction Sequence note 4 should be changed to require disposal off-site.
 - d. Add a note specifying no outdoor storage.
3. NHDES-approved septic design required.
4. Payment of decision recording fee. Check made payable to BCRD in the amount of \$20.60.
5. Applicant shall sign and return copy of Town's Inspection Schedule.
6. Conditions precedent shall be completed no later than 6/27/23. Active and Substantial development of the approved improvements shall occur no later than 6/27/24 and improvements shall be substantially completed by 6/27/26.
7. Compliance hearings shall be held by Board as necessary.

APPLICANT SHALL TAKE SPECIAL NOTICE: NO USE/WORK MAY COMMENCE UNTIL ALL PRE-CONDITIONS ABOVE HAVE BEEN SATISFIED. CONTACT THE LAND USE OFFICE WITH ANY QUESTIONS. COMMENCING WORK OR USE PRIOR TO TOWN AUTHORIZATION SUBJECTS THIS APPROVAL TO REVOCATION, OTHER ENFORCEMENT ACTION AND DAILY FINES.

Construction conditions to be complied with once plan has been signed and decision recorded (shall comply with full standards of the Town's Project Security/Construction Process):

8. Construction shall be monitored and certified by a consultant appointed by the Board at the applicant's expense if any. If deemed necessary, the escrow shall be established before construction begins.
9. Building plans should be submitted to the Fire Department and Building Official for review and approval.
10. 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. All system designs required by the Fire Department shall be submitted under stamp of the

- appropriate professional.
11. Underground utilities (telephone, electric, etc.) required from the ROW.
 12. Shall erect orange construction fencing around entire perimeter of area to be disturbed and wetland flagging shall be maintained. No encroachments into the fenced area or beyond the fence barrier is permitted without prior approval of the Town, and NH DES as applicable, in conjunction with review by project engineer.
 13. A copy of the Town's Inspection Schedule shall be provided to the site contractor(s) prior to work commencing. Obtain successful milestone observations from Land Use Staff as listed on Land Use Inspection form and additionally and separately all required inspections by the Building Official, Fire Department, and NH DOT.
 14. Owner of the property must complete and record in the Belknap County Registry of Deeds a Restrictive Covenant provided by the Planning Board stating the restrictions for occupancy of the dwelling.

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

15. Approved uses include Contractor's Yard, commercial building (motor vehicle & trailer service, professional offices, light manufacturing, retail stores and service business), and a Conditional Use Permit for a subordinate dwelling unit.
16. Occupancy/use of improvements requires submission of 2 paper original record (as-built) site plans including structures, utilities, roads, drainage and other site improvements. Plans shall be reproducible in black/white, e.g. through the use of differentiating graphics (pre/post contours dashed/solid), identifying notes, etc.
17. Temporary erosion control measures shall be removed or the cost of the removal shall be secured in escrow prior to Certificate of Occupancy.
18. All improvements to be completed or secured (as allowed by the Town) prior to any occupancy of the site.
19. Dumpster sized appropriately to contain all refuse, placed on an impervious surface, screened all sides.
20. The property owner shall be responsible to inspect, maintain and make immediate repairs to stormwater management features to assure they function in the manner intended and protect water quality.
21. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
22. Landscaping shall be maintained, shall be kept in a sightly manner and not allowed to deteriorate.
23. All exterior lighting shall be downcast and shielded from abutters and traffic.
24. Permits must be obtained for all signage, and signs for inactive, closed or abandoned uses shall be removed within 30 days.
25. The Inspection and Maintenance Plan shall be given to the new owners in the event of a transfer of ownership.
26. The subordinate dwelling unit conditional use permit expires upon termination of the primary non-residential use. The residential use shall cease and all facilities related only to the residential use shall be removed.
27. No changes shall be made to the approved plans unless application is made in writing to the Town.
28. The Planning Board shall have the power to modify or amend its approval upon its own motion to do so.

29. Approval is subject to expiration, revocation, and changes in the Ordinances. This conditional approval shall expire on 6/27/23 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.
30. Where there is a conflict within the information submitted by the applicant, the town shall determine the correct information to be applied.
31. Operational conditions of the Town and other agencies shall be met.

S. Whearty informed the Board that the surveyor for the project has retired and has allowed his license to lapse. This means he will not be able to record sheet 2, the lot boundary plan, as initially requested by Staff. Mr. Rokeh stated that the applicant should have a signed, original survey. A copy of the signed survey will be included with the final plan set to satisfy the Town's requirements. D. Grimes inquired about previous surveys of the lot. S. Whearty explained that no survey of record exist for the lot which is why it was requested by Staff. The Town's regulations do not require all surveys to be recorded, however, when no survey of record exists for a lot, the Town can request that a mylar is provided and the survey is recorded. With the provision of the existing survey by Mr. Rokeh, the Town will have what it needs for our records.

There was a discussion about the revisions to the Zoning Ordinance regarding subordinate dwelling units and condition #26. S. Whearty clarified that a commercial use must be present in order to allow a subordinate dwelling unit. If the commercial use ceases, the subordinate dwelling unit use must also cease. D. Grimes and M. LeClair were concerned about the language requiring the facilities related to the residential use to be removed when use ceases. It was the consensus of the Board that this section of the Zoning Ordinance should be revised to provide clarity.

Mr. Rokeh inquired about the need for a Conditional Use Permit since a Zoning amendment passed in March now allowed an owner-occupied subordinate dwelling unit in the Commercial Zone. S. Whearty reminded the Board that this application was initially submitted prior to the Zoning Amendments. The Amendment now allows an owner-occupied subordinate dwelling unit by right and allows manager/employee-occupied by Conditional Use Permit in the Commercial and Industrial Zones. The granting of the Conditional Use Permit will allow this subordinate dwelling unit to be occupied by either the business owner or a manager/security person.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, D. Grimes – Aye.

J. Pike arrived (6:43pm) D. Grimes stepped down as a voting member.

3. **Plan Submission Meeting and Public Hearing – Sevita Health:** Request for Site Plan approval to operate an Adult Daycare Facility within the existing mall. Property is located at 96 Daniel Webster Highway, Tax Lot 201-009-000-000 in the "C" Zone. PB #2022P.

MOTION: M. LeClair moved that the proposal qualifies as a "minor project" under Site Plan Review Section 5.G as the following criteria are believed to be satisfied:

- a. all structure construction or reconstruction does not exceed 600sf - for the purposes of this section, reconstruction is defined as any work for which a building permit is required and/or converting the use of a structure from primary or accessory residential use to non-residential use; and
- b. all disturbed area does not exceed 20,000sf; and
- c. no significant off-site impacts are generated

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

The Chairman noted there were several additional waiver requests for the completeness of this application: Utilities/Fire Protection Plan, Road/Sidewalks, Landscape Plan, and Quality Assurance.

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

- i. **Utilities/Fire Protection Plan** (Section 5.D.4) because this request does not propose any new construction.
- ii. **Roads/Sidewalks** (Section 5.D.8) – because this request does not propose any new construction.
- iii. **Landscape Plan** (Section 5.D.9) – because no site changes are proposed.
- iv. **Quality Assurance** (Section 5.D.3) – because no site changes are proposed.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

MOTION: K. Sturgeon 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 8/31/22 subject to extension or waiver.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

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: P. Harris moved that the proposal does not have a potential regional impact.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

The Chairman opened the public hearing.

Mr. Evan Mullen of Port One Architects (in person) and Ms. Kathy Franson (on Zoom) were present for this application.

Mr. Mullen stated he is seeking approval for the Change of Tenant/Use to allow an Adult Daycare center within the mall located at 96 Daniel Webster Highway. He informed the Board they received a Variance for the use, Adult Daycare, from the ZBA. This would be Sevita Healthcare's fourth location in New Hampshire and would provide a place for adults to engage in social events and activities throughout the day. They would typically serve seniors or people who might require some additional oversight throughout the day. The participants would be shuttled by Sevita to and from the facility. The hours of operation would be Monday through Friday 8am to 4pm and Saturday 9am to 2:30pm.

M. LeClair inquired about the number of people who would occupy the space and Mr. Mullen shared his calculations of about 118 participants and approximately 12 employees. The occupancy was calculated based on the requirements from NH DHHS (Department of Health and Human Services). Mr. Mullen also noted the bathrooms will be located in that space, so the participants will not be using any of the facilities located within the mall. Mr. Mullen described the primary access would be from the exterior of the building and there will be an emergency egress to the rear of the unit. The Board discussed the egress corridor concerns and it was noted that the Fire Department will review all building plans for Fire Safety Compliance.

J. Pike stated his concern about the location of the dumpsters and the type of refuse due to vagrancy between the mall property and the railroad tracks behind it. Ms. Franson assured the Board she is very aware of the situation and is working with the applicant on their dumpster location. M. LeClair asked if there would be a need for medical waste bins. S. Whearty noted Mr. Kevin Souza from Sevita Health had informed Staff at the ARC meeting they would not have extensive medication at the site. They may have over the counter medications such as Tylenol or Tums. P. Harris asked Ms. Franson to confirm she will do what would be required regarding the dumpsters and she replied "yes".

Ms. Sharon Ciampi was present from the public and commented this proposed use was a good idea and noted that there are ways to properly dispose of medical waste. S. Whearty reiterated Sevita Health is a licensed facility and will be regulated by NH DHHS.

The Chairman noted there were no responses or "no concerns" from Departments.

There being no additional questions or comments the Chairman closed the public hearing.

Board's Action – Sevita Health:

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 the decision being recorded. No site improvements or approved uses shall commence and no Certificate of Occupancy shall be issued until the Notice of Decision is recorded.

1. This action is based on a plan set dated 2/25/2020.
2. Conditions precedent shall be completed no later than 6/27/23. Active and Substantial development of the approved improvements shall occur no later than 6/27/24 and improvements shall be substantially completed by 6/27/26.
3. Compliance hearing shall be held by Board as necessary.

APPLICANT SHALL TAKE SPECIAL NOTICE: NO USE/WORK MAY COMMENCE UNTIL ALL PRE-CONDITIONS ABOVE HAVE BEEN SATISFIED. CONTACT THE LAND USE OFFICE WITH ANY QUESTIONS. COMMENCING WORK OR USE PRIOR TO TOWN AUTHORIZATION SUBJECTS THIS APPROVAL TO REVOCATION, AND OTHER ENFORCEMENT ACTION AND DAILY FINES.

General conditions to be complied with subsequent to the decision being recorded:

4. Approved uses include: Adult daycare facility.
5. Certificate of occupancy/use required for building use (Fire Department and Building Official).
6. Property owner shall install all required fire and life safety facilities and systems required by the Board and/or by other applicable Codes and Regulations. All system designs required by the Fire Department shall be submitted under stamp of the appropriate professional.
7. Permits must be obtained for all signage, and signs for inactive, closed or abandoned uses shall be removed within 30 days.
8. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
9. The Planning Board shall have the power to modify or amend its approval upon its own motion to do so.
10. Approval is subject to expiration, revocation and changes in the Ordinances. This conditional approval shall expire on 6/27/23 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.
11. Where there is a conflict within the information submitted by the applicant, the Town shall determine the correct information to be applied.
12. Operational conditions of the Town and other agencies shall be met.

The motion was seconded by K. Sturgeon.

The Board discussed the plan submission requirement for a Change of Tenant at the existing Belknap Mall. The plan submitted with the application is from 2020. The proposed Adult Day Care will not be making any exterior changes to the mall.

MOTION: M. LeClair made a motion to waive the plan submission requirement for this application.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

Chairman P. Harris reminded the Board that there is an open motion for approval on the floor.

MOTION: M. LeClair restated the motion for final, conditional approval with the amendment that plans are not required.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

4. OTHER BUSINESS:

A. Approval of Minutes 05/23/2022:

MOTION: K. Sturgeon moved to approve the minutes of May 23, 2022 as written.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

B. Staff Report:

1. ConvenientMD Slope Update – 77 Daniel Webster Highway – Tax Lot 201-029-001-000

S. Whearty presented the Board with the correspondence from Mr. James Kenney, property owner. Mr. Kenny had a meeting with the engineers (Allen & Major) and signed an agreement with them. The engineers gave Mr. Kenny the three original plans produced for the developer a couple of years ago. He also contacted the General Contractor (Pete Dobyns of Coastal Construction) who is eager to help. Brian Jones from Allen & Major visited the site again, took photos, and measured the areas that have given way. The two areas are approximately 4,500sf. They agree that the best course of action now is to use a three-dimensional geotextile system from Flexterra to deal with the problem areas leaving the areas where vegetation has been established at this stage. Sarnia Properties has a New Hampshire contractor (E.J. Prescott) that they are asking for pricing, availability, and confirmation that this approach is appropriate and will work. If in years to come other areas become a problem, and the above works as expected, the course of treatment would be extended. Hopefully, in the next month there will be an agreement between the owner and contractor and a timetable can be shared with the Board.

2. Goodwill Dumpster Relocation – 95 Daniel Webster Highway – Tax Lot 201-094-000-000

Mr. Steve Dixon contacted S. Whearty about relocating the dumpster since the Board previously denied the request to remove it. After evaluating alternatives, they have determined the dumpster is too large to relocate behind the building. They are looking into repairing the screening and using smaller trash receptacles. S. Whearty provided a summary of their operations and waste management procedures.

3. Pike Industries – Depot Street – Tax Lot 235-058-000-000

Mr. Cory Gucwa, Environmental Manager for Pike Industries, contacted S. Whearty to request that the Board waive the 2022 Compliance Hearing requirement. Pike Industries just recently completed the conditions of approval for their 8/25/2020 approval and have not started work yet. Mr. Jeff Cloutier, former Pike representative working with the Town, emailed former Town Planner, D. Sassan, on 4/22/2021 asking about the compliance hearings and if the first compliance hearing could coincide with the 2027 AoT (Alteration of Terrain) progress plan. D. Sassan never responded. Mr. Gucwa is asking if the Board would be willing to waive the 2022 Compliance Hearing since no work has started. They would propose to pick up with the 2027 Compliance Hearing.

MOTION: J. Pike moved to waive the 2022 Compliance Hearing.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

4. Quain Trust – 930 & 936 Laconia Road – Tax Lot 122-057-000-000

D. Grimes asked about the TAP and S. Whearty briefly updated the Board on the parking lot repairs/improvements. She informed the Board that NH DOT District 3 office and NH DOT Right-of-Way (ROW) Bureau are both involved. There have been concerns raised regarding the location of the State's ROW. The State has issued a stop work order until the issue is resolved. S. Whearty noted that the ROW issue is between the property owner and NH DOT; it is not the Town's jurisdiction. She is remaining in contact with DOT to stay informed of status and offer assistance where possible.

Adjournment:

MOTION: J. Pike moved to adjourn at 7:54 pm.

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

Roll call – P. Harris – Aye, M. LeClair – Aye, K. Sturgeon – Aye, R. Pickwick – Aye, W. Peterson – Aye, G. Grant – Aye, J. Pike – Aye.

Respectfully submitted:



Dawn Eastman
Land Use Clerk