



ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday March 27, 2024
Belmont Mill & Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris and Members John Froumy, Liz Stewart and Reese Grey
Absent: Mark Mastenbrook
Staff Present: Karen Santoro, Town Planner, and Susan Austin, Land Use Administrative Assistant.
ZOOM: None.

6:00 Public Meeting

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

Chairman Harris stated that he would like to remind everyone to be respectful to each other and the Board members and to please direct all questions and comments to the Board. The public will be allowed the opportunity to address the Board during the public hearing.

Chairman Harris noted that they had short Board tonight, so if any applicants would like to continue until the April meeting, they could.

Abutter's Hearings: Alfred Mitchell: Request for an extension approval of a Special Exception of Article 5, Table 1(permitted uses) to allow a Contractor's Yard in the Commercial Zone. Original Approval date was April 27, 2022. Property is located at 28 Corriveau Way and Laconia Road, Tax Lot 217-114-000-000 in the Commercial Zone. ZBA Case # 02-24Z.

R. Grey noted that he was an abutter to this property. He stated that he did not feel it was a conflict of interest for him to stay at the table for this application, as the application had already been approved, and this was just a request for an extension.

Jon Rokeh was present for the applicant. He stated that the applicant is requesting an extension because he realized that the project required more effort than he originally thought. The applicant would like to get site work done and ready to go, so he can get started on the construction.

History:

12/11/1984 – State approval for construction (septic).
5/6/1985 – Town approved well construction permit.
6/3/1985 – Town application for septic.
4/15/1991 – Cease and desist orders for construction without a permit.
5/10/1991 – Emergency repair of rotting porch (8’x26’).
4/4/2003 – Discharge of oil requiring Groundwater Quality Assessment.
1/5/2010 – NHDES issued Certificate of No Further Action, site was closed.
5/7/2012 – Withdrawn building permit application for MFG removal.
3/30/2016 – Mobile home and shed removed.
3/30/2018 – MFG grandfathering expired.
1/27/2022 – Applicant presented this application to ARC.
2/28/2022 – Planning Board heard this application and found the application complete and no regional impact. The application has been tabled until 5/23/22.
4/27/2022 – Special Exception granted for Contractor’s Yard in the Commercial Zone.
6/27/2022 – Site Plan approval received from the Planning Board.

Current Considerations:

- At least 3 members
- criteria for SE
- Property is not within the Aquifer Protection District.
- Is this a Development of Regional Impact

Chairman Harris stated 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.

Staff’s review suggests there is no evident regional impact as defined in RSA 36:55.

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

Second: J. Froumy

Vote: All in favor, motion carried (4-0)

Departmental Responses:

Fire: No concerns.

Police: No concerns.

Water/Sewer: No concerns.

Public Works: No concerns.

Town Administrator: No concerns.

Building Official/Code Enforcement Officer: No concerns.

Conservation Commission No concerns.

Land Use Technician: No concerns.

Staff Comments:

In April 2022, the applicant came to Planning Board for a site plan for a commercial building with associated improvements for a property located in the Commercial Zone. The applicant does not have a specific tenant

so he selected a handful of possible uses, one of which is a Contractor's Yard. A Contractor's Yard is permitted by Special Exception in the Commercial Zone. Each tenant will require a Change of Use/Tenant application from the Land Use Office. The approval expires on April 27, 2024, a request for extension was received prior to the expiration date.

Zoning Ordinance Section 13:C

A special exception shall expire if such use is not substantially acted upon within, or ceases for more than, two (2) years. For a use not substantially acted upon within two (2) years, a one-time, one-year extension may be granted upon application to the Zoning Board of Adjustment for good cause shown. Application for extension must be filed with the Land Use Office not later than thirty (30) days prior to the expiration of the original approval.

K. Santoro stated that an amendment was passed this year at Town Meeting changing the need for a Special Exception to allow a contractor's yard in the Commercial Zone to a permitted use. (Article 5, Table 1). Since the application had already been processed at the time of voting, the applicant chose to move forward with the extension request.

MOTION:

J. Froumy moved to grant the request for a one-year extension of approval of a Special Exception of Article 5, Table 1(permitted uses) to allow a Contractor's Yard in the Commercial Zone. Original Approval date was April 27, 2022. Property is located at 28 Corriveau Way and Laconia Road, Tax Lot 217-114-000-000 in the Commercial Zone. ZBA Case # 02-24Z. New date of expiration will be 4/27/2025.

Second: R. Grey

Vote: All in favor, motion carried (4-0).

Abutter's Hearing-Route 106 Realty Trust: Request for a one-year extension of a variance approval to Article 5, Table 1 (permitted uses) to allow the construction of a single-family residence in the commercial zone. Original approval date was February 23, 2022. Property is located at 54 Peggy Drive, Tax Lot 210-017-000-000, in the Commercial Zone. ZBA Case 03-24Z.

Jon Rokeh was present for the applicant. He stated that the applicant is requesting an extension because he realized that the project required more effort than he originally thought. The applicant would like to get site work done and ready to go, so he can get started on the construction. He noted that he was aware that he will only be given one extension.

History:

6/10/1975 – Subdivided.

3/3/2016 - Prior manufactured home removed.

11/2/2018 – Lots merged (w/ 210-016-000-000).

The lot is a vacant parcel with old paved driveway and billboards near the roadway.

2/23/2022 – Board approved the construction of a single-family residence in the commercial zone.

Current Considerations:

- Meets the criteria for a variance
- Property is not within the Aquifer Protection District.
- Is this a Development of Regional Impact?

Chairman Harris stated 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.

Staff's review suggests there is no evident regional impact as defined in RSA 36:55.

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

Second: J. Froumy

Vote: All in favor, motion carried (4-0)

Departmental Responses:

Fire: No concerns.

Police: No concerns.

Water/Sewer: No concerns.

Public Works: No concerns.

Town Administrator: No concerns.

Code Enforcement Officer/Building Official: No concerns.

Conservation Commission: No concerns.

Land Use Technician: No concerns.

Staff Comments:

On February 23, 2022 the ZBA approved a variance request to Article 5, Table 1 (permitted uses) to allow the construction of a single-family residence in the commercial zone. Property is located at 54 Peggy Drive, Tax Lot 210-017-000-000, in the Commercial Zone. Application for extension was received prior to the expiration date.

Zoning Ordinance Section 13:D

A variance shall expire if such use is not substantially acted upon within, or ceases for more than, two (2) years. For a use not substantially acted upon within two (2) years, a one-time, one-year extension may be granted upon application to the Zoning Board of Adjustment for good cause shown.

MOTION: J. Froumy moved to grant the request for a one-year extension of approval of a variance approval to Article 5, Table 1 (permitted uses) to allow the construction of a single-family residence in the commercial zone. Original approval date was February 23, 2022. Property is located at 54 Peggy Drive, Tax Lot 210-017-000-000, in the Commercial Zone. ZBA Case 03-24Z. New date of expiration will be 2/23/2025

Second:

Second: L. Stewart

Vote: All in favor, motion carried (4-0)

Abutter's Hearing – CKME, LLC: Request for a variance from Article 5, Table 1 of the Zoning Ordinance to convert the existing office space to residential units. Property is located at 150 Daniel Webster Highway, Tax Lot 101-015-000-000, in the Commercial Zone. ZBA Case# 04-24Z.

Current Considerations:

- Meets the criteria for a variance
- Property is not in the aquifer protection zone.
- Is this a Development of Regional Impact

Chairman Harris stated 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.

Staff's review suggests there is no evident regional impact as defined in RSA 36:55.

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

Second: J. Froumy

Vote: All in favor, motion carried (4-0)

Departmental Responses:

Fire: No comment

Police: No comment

Water/Sewer: No comment

Public Works: This property is serviced by town Water and Sewer. Meter and unit charges will need to be updated reflective to the changes.

Town Administrator: No comment

Code Enforcement Officer/Building Official: No concerns.

Conservation Commission: No Comment

Land Use Technician:

- This is a proposal to create a multi-unit dwelling in a commercial zone.
- Multifamily rental properties, also known as multi-dwelling units or MDUs are multiple yet separate housing units in a single building or several buildings.
- New Hampshire Revised Statutes Section 153:1 Definition: "Multi-unit dwelling" means any structure not defined in paragraph II, which contains 2 or more single units which provide permanent or transient living facilities which may or may not include cooking and eating facilities, for one or more persons
- Article 5, Table 1 – Table of Permitted Uses indicates that a Residential Multi-Family Dwelling is not permitted in a Commercial Zone. However, an owner-occupied dwelling, subordinate to non-residential use is permitted. Furthermore, a dwelling subordinate to a non-residential use occupied by others is permitted in a Commercial Zone as a conditional use.

Staff Comments:

Applicant is proposing to convert existing office space to residential units.

Craig Howland was present for his application. He stated that he has owned the building since 2006, they have been trying to rent it for 14 years and have not had any luck since the state raised the road. Ever since that, the building was not visible from the road any longer. There is no need for office space in Belmont, rather a great need for housing. He is proposing two rental units in the office building. The lot is on town sewer, town water, and has natural gas.

P. Harris stated that this has been requested before. His concern is that there is a problem with the safety. He worries that children in a commercial area would not be safe. There are no sidewalks and no yard for any children to play outside in. L. Stewart stated that the argument can be made that it is up to the parents of the children to make sure they are safe. Not every rental unit offers a yard or a play area, and those still have children living there.

K. Santoro stated that she would like to note that this would only be a two-family home, not a multi-family unit.

MOTION: R. Grey moved to grant a variance from Article 5, Table 1 of the Zoning Ordinance to convert the existing office space to two residential units.

1. The variance will not be contrary to the public interest because: This will help the community as there is a demand for residential rental space in this area.
 2. The spirit of the ordinance is observed because: the variance will not threaten public health or safety or welfare, or otherwise injure public rights.
 3. Substantial justice will be done because: This project would help to reduce the demand for residential housing in Belmont.
 4. The variance would not diminish the value of surrounding properties because: there already are residential units in the surrounding 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: This will help the community as there is a great demand for residential space in this area. There will be no harm to the general public as there is almost no demand for commercial office space.
- and
- b) the proposed use is a reasonable one because: There already exists many other residential units in the general area of this lot. This will not reduce the property values of the surrounding properties. This will help the community as there is a demand for residential rental space in Belmont. The building can no longer be viewed from the street; therefore, its office value has been diminished.

Additional conditions:

- A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- B. The applicant is solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding the same.
- C. Approval expires on 3/27/2026 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.

Second: L. Stewart

Vote: 3/0/1, motion carried with P. Harris abstaining.

Minutes of January 31, 2024

The Board tabled these until the April meeting.

Staff Report

K. Santoro stated that Susan Bouthiette was present this evening, and she would like to serve as an alternate. S. Bouthiette introduced herself to the Board and discussed her qualifications.

MOTION: J. Froumy moved to approve Susan Bouthiette as an alternate to the Zoning Board for one year.

Second: L. Stewart

Vote: All in favor, motion carried (4-0)

K. Santoro reminded the Board that she would be out for two weeks for surgery.

ADJOURNMENT

MOTION: J. Froumy moved to adjourn at 7:20 PM

Second: L. Stewart

Vote: All in favor, motion carried. (4-0)

Respectfully Submitted,



Susan M. Austin
Land Use Assistant