



PLANNING BOARD TOWN OF BELMONT, NH

Monday, May 23, 2022
Belmont Mill, Tioga Room and Zoom
Belmont, New Hampshire

Present: Chairman Peter Harris; Vice Chair Ward Peterson; Members Michael LeClair, Kevin Sturgeon, Richard Pickwick, Gary Grant, and Jon Pike, Ex-Officio; Alternate Member Dennis Grimes.
Absent: Alternate Member Rick Segalini, Jr.
Staff: Sarah Whearty, Colleen Akerman and Dawn Eastman.
Zoom: None.

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

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. (Applicant requested a continuation to 06/27/2022)

MOTION: M. LeClair 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 the June 27, 2022 Planning Board meeting at this location at 6 pm.

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

2. 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. (Applicant requested a continuation to 06/27/2022)

MOTION: M. LeClair moved to table the public hearing on the application of Route 106 Realty Trust approval for 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 to the June 27, 2022 Planning Board meeting and to accept the applicant’s waiver of the 65-day timeline set forth in RSA 676:4 to June 30, 2022, consistent with the requested continuance to June 27, 2022 at 6pm, this location.

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

- 3. Plan Submission Meeting and Public Hearing – 46 Horne Road LLC:** Request for Subdivision approval to subdivide one lot into nine. Property is located at 46 Horne Road, Tax Lot 218-119-000-000 in the “R” Zone. PB #1922P.

The Chairman stated there is one waiver request related to the completeness of the application.

MOTION: W. Peterson moved to grant the waiver request for Soils Map and Report (Subdivision Section 5.D.3) because many test pits were completed which provide a reasonable summary of the soil composition present at the site.

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

J. Pike asked for confirmation about the different waivers. He had concerns about waivers for completeness of the application, compared to waivers on the merits of the application. He said he wanted to ensure no approvals are assumed with a waiver for completeness. Staff and Board members assured him approval cannot be assumed based on a waiver for completeness of an application.

MOTION: W. Peterson moved that the application be accepted as complete for the purposes of proceeding with consideration and making an informed decision. However, additional information shall be requested as necessary and must be submitted in a timely manner to complete review and act on the application. The Board shall act on this proposal by 6/27/22 subject to extension or waiver.

The motion was seconded by G. Grant 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: P. Harris moved that the proposal does not have a potential regional impact.

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

The Chairman opened the public hearing.

Mr. Christopher Berry of Berry Surveying & Engineering and Attorney John Kuzinevich were present for this application.

The Chairman stated there are two waiver requests related to the merits of the application.

There were issues with audio and noise from the cooling system at 6:20pm as Mr. Berry started to speak about the waivers. The Board waited for the microphone to be set up for the applicant to speak and returned to session at 6:25pm.

Mr. Berry asked if the Board would like him to address the waivers first or present the project. W. Peterson said the waivers need to be addressed first. Mr. Berry said there is one waiver for completeness that was already addressed and there are two additional waivers. One is a waiver for the lot dimensions for length to width ratio. Two or three lots do not meet the ratio by approximately 100 feet, so they have asked for a waiver. There is no way around it based on the layout of the subdivision, the depth of the site, and the geometry of Dutile Road and Horne Road.

P. Harris asked the Board what they would like to do. J. Pike suggested redrawing the plan. The 4:1 ratio is part of the regulations and we have not reviewed the 4:1 ratio in a number of years. J. Pike recommends denying the waiver because this is an established regulation. This type of subdivision did not work out well for the Town on a past project. The Board discussed options for shortening lots, working around the wetlands, and an internal roadway. J. Pike reiterated that he is in opposition to the waiver.

D. Grimes asked about adjusting the lots in a different configuration. Mr. Berry said this is a common subdivision regulation in many towns but in this case, the lots lend themselves to a square and reasonable subdivision. D. Grimes proposed that there are too many lots for that area and 8 lots instead of 9 lots may be more appropriate. Mr. Berry pointed out that the plan is a 1"=100' scale plan and when you look at the parcels they are all 3 acres or more, and many have more than the minimum 180 feet of frontage. Mr. Berry explained that changing the lot configurations could create some weird shapes and angles.

M. LeClair said the frontage and acreage requirements can be met. Can the building setbacks be met? Mr. Berry said yes, they can meet the side, front and rear setbacks. The topographic plans and concept sketches show 4,000sf homes.

P. Harris explained that the concern for the ratio is with regards to access for the Fire Department and Police Department and their safe access down long drives and narrow lots. The frontage has steep access. In the winter it could be difficult to get in and out of driveways and the Board needs to listen to their professionals. Safety is a major concern, as well as the location of the homes on the lots. If the Fire Department had an opinion about the deep lots and their ability to fight fires, that would be important. Mr. Berry responded that if the deep lots are a concern, they will entertain a restriction on building too far off the roadway. The topographic plans show ample space for the structures, wells, and septic systems.

W. Peterson asked for clarification that only two lots need the lot dimension waiver. Mr. Berry said yes, two lots and three lot lines. M. LeClair stated the dimensions are put in place for a reason. He understands they meet the frontage and acreage requirements but do not have the required lot dimensions. W. Peterson commented that the Board has approved this waiver before.

MOTION: M. LeClair moved to grant the waiver request for Lot Dimensions (Subdivision Section 9.B.1), that lot length shall not exceed 4 times the average width of the lot, because only two lots and three lot lines need the waiver. The lots are all 3 or more acres and meet the minimum 180 feet of frontage. There is ample buildable area for structures, wells and septic.

The motion was seconded by W. Peterson and carried. (6-1) J. Pike opposed.

M. LeClair addressed the public. He said the public is not being ignored, and explained that the Board has to follow the process and it may or may not get to a point where the public can speak. The Board loves having the public here.

J. Pike asserted that sight distance is a major concern. The Board does not hear from Department of Public Works (DPW) Director Craig Clairmont very often. Director Clairmont has concerns about 300 feet of sight distance on a 30mph road. J. Pike read the Staff Report Departmental Response from Public Works: "Horne Road is designated a 30mph road. Sight distance requirement is 300 feet in each direction and should be verified according to each individual driveway location. Each driveway should be established with necessary drainage depending on situation and a minimum 5-foot paved apron installed before construction to ensure pavement protection of the roadway." J. Pike said Dutile Road is a very busy back/side road for traffic between Route 3, Route 106, and Route 107. Speeds have increased on the road after a skim coat was applied. He suggests sticking with DPW's recommendation.

M. LeClair asked the Chairman and Vice Chair if the sight distance has been waived in previous years. W. Peterson, P. Harris and J. Pike all answered that they are not aware of any previous waivers for sight distance. W. Peterson said sometimes banks were allowed to be cut back to get some sight distance. Mr. Berry said there is one driveway affected by the waiver request. They could remove some vegetation and some of the wall and slope. W. Peterson stated if the applicant can get 300 feet of sight distance by making changes, there is no reason for a waiver. Mr. Berry said that is fine, their opinion was that 250-260 feet of sight distance was reasonable. If it is not, they will undertake mitigation. M. LeClair stated that is what the Town wants, and the Board represents the Town.

Mr. Berry withdrew the waiver request for Sight Distance (Subdivision Section 1.D.4).

J. Pike asked about the Land Use Technician's Departmental Response regarding proposed house location. Mr. Berry stated the location has already been shifted and there is no longer an issue. The graphic of the house on the lot on the plan has been adjusted. J. Pike wanted to ensure this information was recorded for the minutes.

D. Grimes asked about improving the sight distance and removing trees and restoring stone walls. There was discussion about stone walls and boundary walls. D. Grimes requested that stone walls be restored if they need to be moved for sight distance improvement. Mr. Berry said they will probably impede sight distance but efforts can be made to restore them after construction while maintaining adequate sight distance. It is not a perfect solution but it is a reasonable effort.

P. Harris stated that sight distance is affected by reduced standards. The Board is in charge of safety and welfare. With lower quality standards, there are safety and welfare issues. More sight distance could be obtained if the number of lots was reduced. There is a potential impact to roads from the steep slopes and drainage issues.

The Chairman asked if anyone from the public wished to speak.

Mr. Don Binette of 67 Horne Road suggested that the area is too tight and small for this subdivision. His lot was created a long time ago and there is not much space with the setbacks for the house. He was also concerned about the road washing out. With more culverts and driveways there will

be problems. There are going to be too many houses on that lot.

Mr. Rick Nedeau of 340 Dutile Road said he agrees with Mr. Binette that the lots are tight. He is concerned about the drainage once the house lots go in. His lot can't take any more water. The lots could be a little bigger with fewer houses, but drainage is his main concern.

Mr. Berry said he can address the comments. He explained that he worked on the drainage requirements and the Stormwater analysis with the Town Planner, and on the designs, Best Management Practices and satisfying the regulations. The lot density meets the space standards. Most of the lots are in excess of 3 acres and have at least 180 feet of frontage. The lots can be built on comfortably. Sight distances can be met. Staff will review all of the work prior to the subdivision plans being signed and any homes built. On 30 acres of land, 9 house lots is not unreasonable when they meet the standards.

S. Whearty clarified that in a typical open space subdivision, or where there is a road and utilities and drainage associated with a road, the road and drainage are required to be installed, inspected and accepted, or secured, before the plat is signed and recorded. It is not as straight-forward in a frontage subdivision. The required driveway aprons, driveway culverts, and rain gardens will be installed before the plan is recorded. At the time each building permit application is reviewed, a design for the infiltration system custom to each home will be required. This is a suggested condition of approval. The building permit applications will be submitted with a plan that will be reviewed. The infiltration systems are usually underground chambers with stone and pipe. Mr. Berry said it is like a septic system for a roof. D. Grimes stated it mitigates water runoff. S. Whearty noted that the infiltration will catch the runoff from the house, and the rain gardens will need to be constructed before building the houses. As the lots are developed, there will be a vessel there to catch the water. M. LeClair said the water is still there even without a house. S. Whearty agreed, but said the development changes where the runoff goes and how quickly it moves. It doesn't create more rain. M. LeClair said it changes and there are improvements being made to take care of that. There was discussion about the order of work to be done, and the lots to be developed. S. Whearty observed that the lots can be developed in any order as the rain gardens will be in place before the lots are sold. This protects the roads and the houses downstream.

Mr. Binette expressed concerns about the water that already comes into his yard. They try to keep it on the opposite side of the road. He said all of the sand on the road washes into his yard and if there are more houses and more roofs he will have twice as much water as he does now. There was discussion about culverts and lack of homeowner maintenance on driveway culverts affecting water flow. Mr. Binette said he hopes the water does not get worse on his lot.

P. Harris asked if the design takes into account all of the driveway pavement being added. S. Whearty replied that it is not exact because it is done with a best guess on how long driveways will be. Subdivisions are always done this way. There is usually a road and a pond, and the pond is only designed to handle the road. It does not take into consideration the driveways and houses.

Mr. Berry reviewed their application process with the Board. Their application was submitted in February. They worked with Staff on the Stormwater Management. If there is no mitigation, runoff increases and causes effects downstream. One thought was to have two large ponds, but the applicant decided it did not fit in the area geographically. A Low Impact Development (LID) was used so there is no impact downstream. The houses are put through a subsurface infiltration. Each driveway on Horne Road has a sag at the entrance. The sag in the driveway will be filled and small residential rain gardens will be installed to the side in the natural low point. With a grassy lawn, no one will know the rain gardens

are there. The water can be infiltrated and have an overflow pipe, which is the same as with natural features. The plan was created with much consideration for Stormwater on the site. A document will be recorded with each home with information on how to maintain the Stormwater devices. Concern was given to ensuring the conceptual is as close to practical as they can get.

M. LeClair asked about requiring gutters on houses. He said you can't tell me I have to put a gutter on my house. Attorney Kuzinevich said there will be deed restrictions for compliance with an operating manual for Stormwater. Functioning gutters attached to an infiltration system will be required. A specific house style will not be required, but the infiltration systems will be custom to each house. M. LeClair said it can be put in the deed, but it is not enforceable. Mr. Berry explained that an operation and maintenance plan has been created to make sure the rain gardens are maintained to ensure they function as designed. Attorney Kuzinevich indicated that a document will be recorded with each home with information on how to maintain each stormwater device. There was a discussion about how it is a homeowner's responsibility to clean and maintain driveway culverts but a majority of drainage culverts are not maintained. Attorney Kuzinevich said they can give the Town the right to enforce the restriction. J. Pike stated that frequently drainage pipes in the vicinity of the road fall within the right of way. Mr. Berry reiterated that a lot of care and effort went into this design.

M. LeClair stated the public needs to feel that they were heard. What we discuss is for the record, and so that the public knows that we listened, and that we care about what happens in Belmont. Mr. Berry responded that a lot of care and effort were put into this design.

The Board acknowledged that Mr. Berry withdrew the Sight Distance waiver and they are ready to move on to final approval.

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

Board's Action – 46 Horne Road LLC:

MOTION: M. LeClair moved that the application for Subdivision approval 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 set dated 4/16/22.
2. One copy of the proposed plan should be submitted to Eversource for information purposes.
3. Complete, or secure in escrow, the following before the plan is signed and recorded:
 - i. Rain gardens shall be installed, inspected, and approved.
 - ii. 5' paved driveway aprons and culverts shall be installed, and approved by DPW.
 - iii. Set pins and bounds.
 - iv. Submit as-builts including driveway aprons, driveway culverts, rain gardens, and pins/bounds.
 - v. Incomplete improvements can be secured in an escrow account. Applicant shall submit engineer/surveyor estimates for improvements to be reviewed by the Land Use Office.

4. Submit final paper plans (5 full size, 1 reduced, 1 pdf). Submit 2 mylar copies of sheets 3-6 suitable for recording. Submit one copy (preferably electronic) for approval prior to submitting all required copies.
 - i. Add/identify/include/correct on plan:
 1. Cover sheet:
 - a. Change “owner” to “applicant” – owner is listed twice.
 2. Sheet 3:
 - a. Note 10 typo – Fire.
 - b. Delete Note 12 – driveways shall be installed as shown on the approved plan. Minor modifications can be made with approval by the Director of Public Works.
 3. Sheets 3-6:
 - a. Add proposed driveway locations.
 - b. Make sheets suitable for recording.
 4. Sheet 8:
 - a. Remove all “non-exclusive/conceptual” labels. Driveways shall be installed as shown on the approved plans. If driveway locations change after the plan is approved, certified sight distance plan stamped by the engineer showing adequate sight distance shall be submitted with the driveway permit application.
 5. Include construction details for the StormTech systems on the plan. Add a note that clearly states that a StormTech system, or approved equal, will be designed for each house. The design, stamped by a Professional Engineer, shall be submitted with the building permit application for review.
 6. Move the proposed house on lot 218-119 to within the setbacks.
 7. Provide overall plans like sheets 4-6 showing rain gardens, driveway culverts, and road culverts.
 8. Show drainage ponds on sheets 8-10.
 9. All driveways shall have 300 feet of sight distance. Remove references to 25mph and 250 feet on sheet 22.
 10. Provide invert elevations for the pipes under Dutile Road shown on sheets 22 and 29.
 11. 37p is not labeled or identified on the Stormwater plans.
 12. Sheet 14 – the plan view and detail do not match. FG = 595.5 and the bottom of the pond = 595.0.
 13. Provide (finished grade) spot elevations for each driveway near the midpoint of the culvert.
 14. Add a note to the plan set: “Care must be taken to preserve the stonewalls in the area of construction or replaced after construction is completed, to the extent practicable without impacting sight distance.”
 5. Provide a draft of all drainage easements to the Land Use Office for review.
 6. Homeowners need to be made aware of the maintenance responsibilities associated with their rain gardens and infiltration systems. This responsibility should be included on each of the deeds for the new lots.
 7. Work with the Land Use Office to revise the Stormwater Analysis.
 8. Changes to the rain gardens after the plan is approved will require a new plan (single sheet) and memo stamped by the design engineer certifying that the drainage will not be affected by the changes.

9. At the time of each building permit application submission, a stamped plan from an engineer shall be submitted with a design of each infiltration system. The infiltration system will be reviewed and approved by the Land Use Office before the building permit is issued.
10. No Certificates of Occupancy will be issued until all drainage improvements shown on the plan, driveway aprons, and driveway culverts are installed and accepted by the Town Inspector and the plan has been signed and recorded.
11. Payment of decision recording fee. Check made payable to BCRD in the amount to be determined (mylar and notice of decision).
12. Conditions precedent will be met no later than 5/23/2023.
13. Applicant shall sign and return copy of Town's Inspection Schedule.
14. 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.

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):

15. Temporary erosion control measures shall remain in place until construction is complete and the site is stabilized. If building permits are requested prior to stabilization, the cost to remove the temporary erosion control measures shall be secured in escrow with the Town until the site is stabilized and the temporary erosion control measures have been removed.

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

16. Prior to any site work - escrow for construction inspections and closure in case of abandonment. Applicant shall submit engineer's estimate of closure costs.
17. Provide wetland information to new property owners for proposed lots 119, 119-1, and 119-7 to make them aware of filling and/or alteration guidelines.
18. Any monumentation disturbed or destroyed during construction shall be replaced.
19. 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.
20. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
21. No changes shall be made to the approved plans unless application is made in writing to the Town.
22. The Planning Board shall have the power to modify or amend its approval upon its own motion to do so.
23. Approval is subject to expiration, revocation and changes in the Ordinances. This conditional approval shall expire on 5/23/23 unless all conditions are met or an extension is applied for and granted in accordance with the Regulations. Active and substantial development of the improvements to be completed no later than 5/23/2024. Construction to be substantially complete no later than 5/23/2026. (NH RSA 674:39) 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.
24. Where there is a conflict within the information submitted by the applicant, the town shall determine the correct information to be applied.

R. Pickwick stated condition #17 needs to include lots 119, 119-007 and 119-001. Mr. Berry had no objection to adding the additional lots to that condition.

Mr. Berry asked about why condition #22 exists. They would like the condition modified to state “at the request of the applicant or their successors or assigns”. Attorney Kuzinevich stated that after signing the plan, this condition means the developer will have spent substantial money on the rain gardens and the Board could change their mind and wipe out all of the work, which would pose issues for homeowners, and cause issues with financing for homeowners and developers. There is no limitation on the time or vesting. J. Pike responded that the condition gives the Board stability and the Town can ensure that the actions are rightfully held to. Attorney Kuzinevich countered that they are doing all of the required items first. S. Whearty added that the condition is intended to provide protection to the Town and convenience to the applicant to cooperatively be able to amend an approval, if necessary, after the plan is signed. The plan isn’t signed until the conditions are met. An example of this condition is that it gives the Board and applicants the flexibility to make modifications in the future. The Board won’t make unjustified changes to the plan. J. Pike was concerned because other developers have made commitments and didn’t follow through, and it has caused problems for the people they sold to. He said he is not saying that is what will happen here, but this helps protect the Town. Attorney Kuzinevich said they have no problem if the condition remains but they would like to add a comma and additional text: “if there is an issue of non-compliance”. J. Pike said the Board has a right to ask for a bond before installation, but they are not asking for that and this is a paperwork issue. Attorney Kuzinevich remarked that this is not just a matter of “signing off” on paperwork. The driveway aprons, culverts, and rain gardens will be installed before the plan is signed, which requires lots of effort from the developer to comply. He said if this condition is simply to ensure compliance, that is not a problem. J. Pike said the same statement has been used for a number of years. If applicants do what they are supposed to, there will be no problems. Attorney Kuzinevich said it is clear the intent of the condition is compliance and that is okay. P. Harris mentioned the condition could be used if there was an omission or error. Everyone makes small mistakes and sometimes things are overlooked.

Mr. Berry asked for clarification on condition #23 for active and substantial completion. They consider the project to be vested if it is active and substantially complete. W. Peterson said he believes that is State law. S. Whearty stated there is no required timeline for construction of the houses, but drainage, culverts and other improvements must be completed within a specific time period.

S. Whearty asked about a specific condition for restoring the stone wall. M. LeClair stated that falls under condition #20.

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

4. **Public Hearing – Mammoth Acquisition Company LLC:** Compliance hearing to discuss the alternative slope stabilization treatment (approved 09/28/2020) on the southeasterly sideline of tax lot 201-029-001-000 and the southwesterly sideline of tax lot 201-029-000-000 that failed. Property is located at 73 Daniel Webster Highway, in the “C” Zone. PB #1722P.

The Chairman opened the public hearing.

Mr. Brian Jones and Mr. Bob Clarke of Allen & Major Associates, property owner Mr. James Kenney and ConvenientMD representative Mr. Dave Sanderson were present for this public hearing.

Mr. Kenney said he will answer any questions for the Board. J. Pike asked when will you fix the slope? He had concerns about lack of attendance at the previous meeting, and read a portion of the Lot History from the Staff Report:

4. 8/11/2021 – R. Ball contacted Brian Jones (design engineer) with concerns about the slope starting to slump, rocks falling, and vegetation not being well established.
5. 8/30/2021 – Email from Brian Jones that repairs would be made in the next few weeks.
6. 3/4/2022 - R. Ball contacted Brian Jones (design engineer) with concerns about the slope continuing to degrade and larger rocks becoming unstable.
7. 3/28/2022 – The Board made a motion to bring ConvenientMD in for a Compliance Hearing to discuss the current status of the slope instability.
8. 4/8/2022 – Certified letter sent to ConvenientMD from the Land Use Department expressing concerns about the public safety risk presented by the slope instability. Land Use Staff recommended closing the parking at the bottom of the slope. Additionally, we made ConvenientMD aware of the proposed blasting that will be taking place at an adjacent site in mid-May that may cause additional slope stability issues.
9. 4/11/2022 – The Building Official and Fire Department were called to the site because portions of the slope had fallen into the parking area. Parking spots were coned off.
10. 4/25/2022 – No one to represent the owner was present. Compliance hearing tabled.

Mr. Kenney responded that he is a new owner of the property and was not aware of the slope problem previously. He explained that he is not involved with the original developers Mammoth Acquisition or Coffman Development. He has never met them. He does not want to be here and he will fix the problem. He said that just this evening he met the engineers who advised Coffman Development. S. Whearty confirmed that there were some noticing issues, but they have been resolved.

Mr. Jones reported that they can only make recommendations to the owner, which was previously Mammoth/Coffman. They suggested a geotextile fabric in addition to the spray application. The previous developers chose not to do that. The three solutions they are currently evaluating are: (1) applying a geotextile fabric anchored into the top of the slope and establishing vegetation on top, (2) a 15-foot (approximate) retaining wall to lessen the severity of the slope, and (3) removing the parking spaces at the toe of the slope to allow the slope to be expanded towards the building lessening the steepness. The engineers were not privy to the land changing hands. They thought ConvenientMD bought the land. They have several solutions to present to Mr. Kenney. They can make recommendations but they don't control the money or the land.

P. Harris said winter is not a good time to work on a solution; this is the growing season. It needs to get done. There are hot times coming and this is the window to make something work.

The Board discussed the steepness and angle of the slope, and the viability and aesthetics of potential solutions. D. Grimes had concerns that a "soft" solution would not last. Mr. Jones stated there is a shallow slope line failure just below the roots of the material. He suggested a hybrid solution that he will share with Mr. Kenney. Mr. Jones described how the geotextile anchored into the top of the slope

would provide tensile strength which would help transfer the strain on the slope. S. Whearty proposed a combination of a small retaining wall with a geotextile to reinforce the slope. Mr. Jones stated that a hybrid solution was presented to Mammoth Acquisition and they will present the same solution to the current owner, Mr. Kenney.

J. Pike asked for confirmation that the addressing for future notices has been taken care of. S. Whearty explained that the way the Town is legally required to send notices meant that the information on file was going to the tenant's accounts department instead of the owner. The Land Use Office has resolved that issue and Mr. Kenney will be included in all future notices from the Land Use Office.

The Board discussed the parking situation, and if the removal of some parking spaces would be part of the solution for the slope failure. W. Peterson does not believe any of the parking spaces can be removed. K. Sturgeon had concerns about water coming over the top of the slope and running down. Mr. Jones reported there is not a lot of surface run off. The water is "in" the hill. It is groundwater, and not coming from the land above. The Board discussed more options and the visual effect that would be created. P. Harris commented that we are here because people didn't do what they promised. M. LeClair said we are not working with the same people. Mr. Kenney replied that those people are no longer around. J. Pike stated it needs to be fixed. P. Harris said that Mr. Kenney bought the property with the slope problem. Mr. Kenney is trying to connect with ConvenientMD to get things done correctly. J. Pike observed that this issue is urgent.

The Board discussed the original proposal of rip rap. Mr. Jones reported the general contractor had trouble setting the stone due to the till being like concrete. It was very difficult to get the stone in place.

S. Whearty suggested that one month should be enough time for the engineers, owners, and tenants to discuss solutions. Mr. Kenney said he just met the engineers and has never worked with them before. He will need to review their suggested solutions. Mr. Kenney recommended jersey barriers remain in place until the issue is resolved. J. Pike was concerned about the loss of approved parking spaces. Mr. Jones said there are 11 more parking spaces than zoning requires. Mr. Clarke said jersey barriers were put in place when the slope fell. It was cleaned up and the barriers moved back. He said Mr. Jones has checked the plans and there are 11 excess parking spaces. He informed the Board that they have been working on this for two years without payment. They were unaware the property had been sold, but they now have the new owner's information.

The Board would like an update at next month's meeting. Mr. Kenney does not need to appear in person. He can work with S. Whearty in the Land Use Office.

R. Pickwick asked about a barrier or fencing at the top of the slope to prevent someone from going over the slope. Mr. Jones answered that someone cannot fall to their death on a 1:1 slope and the standards do not require fall protection. S. Whearty mentioned that in a quarry, 1:1 slopes need a barricade and/or a sign for precaution. Depending on the end result, it could be a consideration. D. Grimes suggested looking into creating some parallel parking spaces rather than completely removing all of the parking at the bottom of the slope.

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

Board's Action – Mammoth Acquisition Company LLC:

MOTION: J. Pike moved that applicant be required to communicate with Staff by 06/25/2022 as discussed during the public hearing. All conditions of the 01/25/2019 approval shall otherwise remain in effect.

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

5. OTHER BUSINESS:**A. Approval of Minutes 04/25/2022:**

MOTION: J. Pike moved to approve the minutes of April 25, 2022 as written.

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

B. Staff Report:**Sign Zoning Certification Form:**

The Board signed the Zoning Certification form from March 2022.

Riggins Rules:

Land Use Coordinator Elaine Murphy provided copies of Riggins Rules from the New Hampshire Municipal Association for all members.

New Hire – Land Use Planning Clerk:

S. Whearty introduced the new Land Use Clerk, Dawn Eastman, to the Board. She will start her employment on 06/01/2022.

Staffing Changes:

Current Building and Land Use Clerk Colleen Akerman has been promoted to the Assessing Administrator/Administrative Assistant position. This created a vacancy in the Building Department.

New Hire – Building Clerk:

S. Whearty informed the Board that a new Building Clerk, Christine Drew, has accepted an employment offer. She will start her employment on 06/08/2022.

Cellco Partnership dba Verizon Wireless – 73 Bishop Road – Tax Lot 205-009-000-000 – PB #1021P:

S. Whearty reported that some basic site work has been completed on this project. In looking at the conditions of approval and researching expiration information, there is a question about the security requirements. The Notice of Decision states that proof of adequate insurance is required. It is standard to require security for the demolition of a tower. The previous Town Planner did not agree with the standard and did not present the Board with a reason to require security. Condition #3 in the Staff Report was removed from the approval conditions but there is no indication if other mentions of security should have been removed from the conditions of approval. If the other mentions of security should have been removed, there will need to be a motion to amend the conditions of approval, remove the reference to maintain security, re-record the Notice of Decision, and publish amended minutes.

J. Pike stated there has always been a condition based on the fall zone of a monopole antenna. Another property had a tower that if it fell, would land on the neighbor's property. That was the reason for the requirement. If it is big enough to fall on their own property, it will only damage their own property. D. Grimes asked for the definition of security. S. Whearty explained the condition involves

two things: insurance to protect the applicant, Town and public in the event the tower is knocked down by weather or other event, and security to protect the Town if the developer walks away and the tower is not use. In that instance, the Town would be the one to take it down so as to avoid a fall hazard. She said that the applicant, Mr. Carl Gehring, said security is an antiquated practice because someone will always be “on the hook”. The reliance on cellular networks is higher than ever and there are towers everywhere. S. Whearty has a different view because former Town Planner, Ms. Candace Daigle, taught her that we need to look beyond our own lifetime. The Town will be here long after we will. It’s possible, in many years, that satellites or other technology may make cellular communications obsolete. The applicant can abandon the tower for less than security would cost.

S. Whearty said the Board can interpret the remaining conditions as it wishes. The Board discussed the specific conditions #3 and #22 from the Staff Report and conditions of approval and what is relevant. M. LeClair said we did the right thing because it is a relevant condition.

It was the consensus of the Board that the security requirement be left in the Notice of Decision and the minutes.

C. New Business: None

D. Non-Public Session – RSA 91-A:3 II(a):

MOTION: On a motion by J. Pike, seconded by W. Peterson, it was voted unanimously by roll call vote to enter into non-public session in accordance with RSA 91-A:3 II(a) to discuss a matter of an employee’s probationary period at 8:15 pm. (7-0)

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

The Zoom connection was disabled and all members of the public left the meeting.

Begin non-public:

The Board discussed S. Whearty’s employment review from Ms. Candace Daigle. The six-month probationary period is over. The Board complimented S. Whearty on adapting and understanding what the Town Planner position entails. P. Harris commented the office is busier than ever and there has been a tremendous work load. The office is organized.

J. Pike commented that item #3 on the report will be addressed by the Selectmen, with regards to increasing department participation in the ARC review and meetings.

There was discussion about office coverage and schedules for the Land Use Office. S. Whearty explained the new Land Use Clerk will have a great line of sight to the front office for visitors and there will be increased office coverage overall with an extra person in the office. She said that being available for the public is an important service.

MOTION: On a motion by K. Sturgeon, seconded by M. LeClair, it was voted unanimously by roll call vote to continue S. Whearty’s employment as Town Planner and to approve the recommended pay increase. (7-0)

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

MOTION: On a motion by J. Pike, seconded by W. Peterson, it was voted unanimously by roll call vote to exit non-public session at 8:24 pm. (7-0)

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

End non-public.

The Board returned to public session at 8:24 pm and determined it would not to seal the non-public minutes.

Adjournment:

MOTION: J. Pike moved to adjourn at 8:25 pm.

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

Respectfully submitted:

Colleen Akerman
Building & Land Use Clerk