

DRAFT



ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, May 25, 2022
Belmont Mill
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members Mark Mastenbrook, David Dunham and Sharon Ciampi.
Alternates Present: John Froumy
Staff: Elaine Murphy, Dawn Eastman 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.

Chairman Peter Harris, meeting room
Norma Patten, Zoom
Mark Mastenbrook, meeting room
John Froumy, meeting room
Sharon Ciampi, meeting room
David Dunham, meeting room
Sarah Whearty, Dawn Eastman and Elaine Murphy meeting room

S. Whearty informed the large audience that they will change the order of the agenda. They will move the third public hearing to the second one to move the process along faster.

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 – JCCO HOLDINGS LLC: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a Contractor's Yard in the Commercial Zone. Property is located at 631 Laconia Road, Tax Lot 230-094-000-000, ZBA # 1522Z.

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

The motion was seconded by M. Mastenbrook and carried. Roll Call: P. Harris aye, N. Patten aye, M. Mastenbrook aye, S. Ciampi aye, D. Dunham aye. (5-0)

Mr. John Carr presented the application. The three members that viewed the site were P. Harris, N. Patten, M. Mastenbrook, S. Ciampi and D. Dunham.

P. Harris asked Mr. Carr if he was aware of staff's comments. Mr. Carr stated he was and has no problems with them.

M. Mastenbrook wanted to know if the house is part of the property. Mr. Carr stated it is and is rented out and that will not change at this time.

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

BOARD ACTION – JCCO HOLDINGS LLC:

MOTION: D. Dunham 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 Commercial Zone as it meets the following criteria:

1. The proposal is specifically authorized as a Special Exception by the ordinance by Article 5 Table 1.
2. The Special Exception criteria set forth in the 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 because the proposal only includes clean non-treated soils to be stored and used as part of the proposed landscaping Contractor's Yard. The use is compatible with the previous use of the property. It was a commercial lot used for fiberglass and boat repair and storage.
4. The proposed location is of adequate size. The area to be used includes both open area and interior buildings and structures.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. This is a landscaping company that will not significantly alter vehicular traffic entering and existing 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 as this is just a Change of Use.
7. The proposal does not create excessive demand for municipal services and facilities. The site is used to store materials to be used as part of their business operations on and off site.

8. The proposal does not create hazards to the health, safety or general welfare of the public because the site is used for bulk landscaping materials that will be stored on the property. The material stored on the property is clean and non-treated material that is used on residential yards and gardens and will not contribute towards degradation of soils or ground or surface waters.

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 5/25/24 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 grandfathering of the preexisting, nonconforming use/structure (house) expires if use ceases for more than 2 years.
5. Site Plan approval by Planning Board required.

The motion was seconded by M. Mastenbrook and carried. Roll Call: P. Harris aye, N. Patten aye, M. Mastenbrook aye, S. Ciampi aye, D. Dunham aye. (5-0)

S. Whearty thanked everyone for coming and stated that the Board values the public input. She handed out a sheet explaining what criteria the Board makes its decisions on and asked everyone to address those criteria when presenting their concerns about the project.

ABUTTERS HEARING –LAKEVIEW AT BELMONT, LLC: Request for two Variances of the Zoning Ordinance to construct single-family residences:

- A. Article 6 Table 3 without the required minimum lot size, maximum lot size, and road frontage. ZBA # 1722Z.
- B. Article 6 Section B.3 without access from interior development roads. ZBA # 1822Z.

Property is located at 89 Ladd Hill Road in the “R” Zone, Tax Lots 201-066-000-000, 201-067-000-000 & 206-013-000-000.

M. Mastenbrook recused himself for this application. The Chairman appointed J. Froumy as a voting member for this application.

S. Whearty put out the plan for the public to review.

P. Harris read the history of the lot 201-067-000-000. There was a two-lot subdivision in 1984. A building permit to replace roof and refinish the interior walls of the pro shop was issued in 1986. In 1993, there was a discretionary easement and a two-lot subdivision. In 1997, there was a drainage violation that was addressed along with erosion problems. In 2000, there was a Drinking Water Source Assessment Report from NHDES. In 2003, there was a building permit to construct a second floor on the club house and approval to allow a dwelling unit on top floor of the golf course club house. In 2005, there was a building permit to construct a second floor on the club house. Also, a building permit for a lean-to for golf cart storage that was denied, the lean-to needed Site Plan

approval. The Planning Board required a Site Plan for an enclosure to be built off the side of the club house for golf carts. The Site Plan was determined to be incomplete. There was a permit issued for a garage. In July 2021, transient non-community water system notification from NHHDES was received. Plumbing, electrical, and building permits for interior renovations as well as a Zoning Compliance verification letter were issued in 2021.

The history for Tax Lot 206-013-000-000 included a building permit for a steel equipment building. An easement was granted in 1993. In 2001, a building permit for a steel equipment building was denied as it needed Site Plan approval. A forestry notification for timber harvesting was authorized in 2005 through 2007. An electrical permit was issued in 2009. A satisfactory aquifer inspection was completed in 2012. A majority of the Property is located outside of the aquifer protection district.

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

The motion was seconded by D. Dunham and carried. Roll Call P. Harris aye, N. Patten aye, J. Froumy aye, S. Ciampi aye, D. Dunham aye. (5-0)

P. Harris thanked the applicant for providing a good packet.

Mr. William Ferren, Mr. Craig Francisco and Atty. John Sullivan presented the application.

J. Froumy disclosed to the Board and public that he does know Atty. Sullivan, they met at a social situation but they have no social relationship. He does not feel the need to recuse himself from this application but will do so if the Board, applicant, or public wishes him to do so. There was no objection from anyone and J. Froumy remained on the Board.

Mr. Francisco from Bedford Design explained that this is an open space development. There are 30 acres where the club house is and a larger piece containing 148 acres across Ladd Hill Road. They propose nine detached residential single-family two-bedroom condominium units with walk out basements and a private road. The club house will be a separate condo. There also will be three separate units that will have 180' frontage with 30,000sf lots. Lakeview proposes to construct nine 2-bedroom single family condominiums on the northerly side of the property with access from a 20' wide private road and limited common area that includes a driveway in front and a deck to the rear. The units will be serviced by a common well and individual septic systems.

Mr. Francisco explained that the proposed entrance has sight distance up and down Ladd Hill Road. The club house is located on over 4.5 acres and the other units are located on 26 acres with lots less than 30,000 sf. The regulations require access on private road for open space which would require them to cut down a lot of the trees reducing the buffer along the road. They understand the purpose of a buffer but with 100' of frontage instead of the required 180' there will be less disturbance. There will be a no cut buffer along the frontage.

D. Dunham stated there is close proximity between the condominiums, the septic, and the leach fields and he is not sure where the well will go. M. Francisco stated there is one common well for the units. There is a 2% grade from the road with 4' of fill in the front yard where they will build

up the septic. J. Pike stated the septic is governed by the State. He also wanted to know if a percolation test has been done yet. Mr. Francisco stated the soil type done by the county scientist supports 34 bedrooms over 30 acres.

Atty. Sullivan stated they need to address the variance request first because if they don't get the variance then they can't proceed to next level.

M. Mastenbrook wanted to know what the plans are after this project. Mr. Francisco stated they will do the golf course. M. Mastenbrook stated he is concerned about overcrowding and safety if the golf course is not financially stable and they build more houses. Mr. Francisco stated there are 30 acres as part of open area that they can't build on. Mr. Mastenbrook wanted to know if it will remain a 9-hole course or will it become an 18- holes. Mr. Ferren stated it will remain 9 holes.

J. Froumy stated that the proposed units are still part of a condominium and subject to the covenants. He wanted to know if the units 1-3 along Ladd Hill Road are part of those covenants. Mr. Francisco stated they are.

S. Ciampi wanted to know if the single-family residences are included on the common well. Mr. Francisco stated they will each have a separate well. The common well is for the other 9 units along the private road. What they are proposing is more affordable than what is being built now.

P. Harris wanted to know where would the applicant be without the Variance. Atty. Sullivan stated it is impractical to do just the golf course, they could spread out a traditional development but it is not economical to do that. P. Harris wanted to know how many houses they could have on the lot. Mr. Francisco they could have 60 if they wipe out the golf course. P. Harris stated he is concerned about setting a precedent of overbuilding by allowing a proposal without the minimum lot size. Safety is a concern. Mr. Francisco stated it is one lot with 30 acres on one side of the road and additional acres on the opposite side of the road. There will be 9 residential lots, the club house, and 3 lots with 100' frontage.

Atty. Sullivan stated that the interior road for the three single lots would wipe out trees and the buffer area which is why they are requesting a Variance. He addressed the criteria for a Variance. The Variance will not be contrary to the public interest because it is enhancing the area. They could have a traditional cookie cutter development but they are building a destination area associated with the golf course. They are in compliance with the open space requirements and are looking down into a bowl-shaped area which will be favorable for drainage in the area. The secluded area lends itself to the unique character of the land. The proposal is designed for empty nesters.

The proposed development will include modern, residential units that meet today's codes and have appropriate infrastructure. The three other conforming, residential lots would help maintain the character of the neighborhood while making use of the underutilized space.

The spirit of the ordinance is observed because Belmont has adopted zoning criteria for open space residential development. The ordinance needs to be subject to variance in some situations. The golf course presents a unique opportunity to express the spirit of the ordinance in a manner that will enhance the community. This is not raw land but an existing golf course. The town encourages cost

efficient promotion of the rural characteristic of the town. The ordinance allows for a golf course with amenities. Mr. Ferren is professional golfer and the open space promotes the efficient use of land with modern structures that are up to code. Open space development reduces strain on public services. The open space development will preserve a greater amount of land than a traditional subdivision. This open space subdivision will have a resort feel, preserve space around the buildings and golf course, and have common utilities.

The proposed 9 residential units need to be in a condensed setting as there is a limited number of appropriate locations that would not interfere with the golf course play. The lot size and road frontage requirements can be relaxed. With less than 100' of road frontage the condominium association members would have less upfront purchase, and long-term maintenance, costs. The spirit of the ordinance is observed by the flexibility of Open Space Residential subdivision requirements.

The limited common area for the units is smaller than the lot size and is designed to cover the driveway and deck. The maintenance and repair of the common area will be the responsibility of the condominium association. No unit owner could neglect any area that would adversely affect their neighbors.

The limited common area associated with the proposed club house unit would be larger than the maximum lot size the ordinance allows. Given that the limited common area for the club house unit would include the entire playing area of the golf course east of Ladd Hill Road and consists of approximately 26 acres, a Variance is necessary.

The proposed Variance for three residential lots not served by an interior road would allow for the development of unique properties with direct road access. The property intertwined with the golf course limits the opportunities for interior roads. The use of driveways accessing Ladd Hill Road instead of an interior road would preserve the open space and character of the golf course.

Traditional subdivision allows for lots with at least 100' of frontage, which these lots exceed, and therefore preserves the rural character. They will propose a buffer along Ladd Hill Road to preserve the existing vegetation aside from the driveways. The displaced stones from the stonewall would be placed on the existing wall.

Substantial justice will be done because Mr. Ferren owns it and will be improving it. He is enhancing what was dead, the golf course, into a more resort feel rather than another village. It will be aesthetically pleasing with minimal impact on services.

The Variance would not diminish property values because the construction of a new road and a small cluster development will increase property values. The site will bring more views of the lake, introduce a resort feel to the neighborhood, and increase the desirability to prospective buyers. The road, septic, and wells will be maintained by an Association and the town will not be paying for it. The ordinance allows for Open Space Subdivisions and this subdivision has a far less strain on the town than a traditional development. There will be a private road that will be maintained by an association. There will be covenants drawn up stating who is responsible for the roads, well, septic, and other amenities associated with the development.

The private road to the nine residences will appear as an access road winding around the club house. The road will be maintained by the association. The club house will provide food and beverage service making it a more attractive neighborhood.

The three lots with direct access to Ladd Hill Road would have a row of privacy trees with driveway cutouts and will enhance the value of the neighborhood.

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 172 acres are unique in their use, a golf course, that distinguishes them from raw land. The golf course is one of a few destination attractions in the community and should be encouraged to thrive. Lakeview has an existing use and layout which needs to be considered if the use is to be continued and operated at its maximum capability.

The proposed use is a reasonable one because both condominiums and Open Space developments are allowed in the Rural Zone. It is a self-contained community with no additional burden on Town resources. If the Variances are approved it would permit further development of the Lakeview Golf Course and its associated recreational use. To follow the letter of the ordinance would require a far more extensive physical buildout of residences and infrastructure. It would be a great expense to modify the golf course to meet the current ordinance. There would be extensive alteration and disturbance to the natural setting that would be detrimental to the existing use and character of the property and would be counterproductive to the intended result.

Denial of the Variance would hinder the ability of the golf course to remain a viable entity. The proposal provides an opportunity to preserve the use and character of the area while promoting economic investment in the community. Without the Variances the golf course could go stagnate again. Any developer that would purchase the property would construct the maximum number of residential units creating a hardship on the town to absorb more residential density than is necessary. The hardship is that this proposal will keep the golf course open and not open the door to hidden development.

P. Harris wanted to know where the parking will be. Mr. Francisco explained that they have a lease with the former restaurant, Top of the Hill.

The Chairman opened the hearing to public comment.

J. Pike, resident, stated he has concerns about the community water system and well. There is a community water system down the road that the Board of Selectmen had to come to their assistance when the system failed. He would like to address the situation now rather than when the system fails. The Town Administer spent over 1,000 hours working on getting grants to help that association. He is concerned that they are opening Pandora's box with the community water system and wants to make sure that they will be able to maintain it. He is not opposed to the development but is concerned about the effect it will have on the town in 20 years if the community well fails. Due to health concerns, you cannot shut off water to a site because the water bill is not paid. With a

community system it falls on the Association. He suggested a bond for the cistern and protection for tomorrow.

M. Mastenbrook wanted to know if the 3 single-family residences will have their own separate wells and if maintenance is covered by the condominium bylaws. S. Whearty stated it will be addressed at the Planning Board level. Atty. Sullivan stated the common well and non-payment fees can be subject to an injunction and that will take care of any issues. It will be controlled by the association.

J. Froumy stated that if the Variances are granted the applicant will have to go to the Planning Board for subdivision approval and they will address any situations that will require a bond.

Mr. Bruce Cardinal, 44 Silkwood Ave, stated he is the vice-president of Solar Village and they had to replace two wells on Ladd Hill Road due to the lack of water. The Town of Belmont helped the Association get a grant to put in a new water system after 20 years. They had to get a sewer hydro study and put in new leach fields at the cost to the Association. This proposal is similar to what Solar Village had to go through. There are sewer lines on Ladd Hill Road and they had to connect to them.

Mr. Mike Harbilas, 59 Ladd Hill Road, is concern about his property being devalued. When they purchased their property, they bought it for privacy and now they may have houses backing up to their property. A recent real-estate listing advertised privacy and separation between properties. It is not a benefit to the public to have all those condominiums in that area that could have 24 vehicles when the average house has two vehicles. The average speed is 30mph but it is not uncommon for vehicles to go 50mph. Mr. Harbilas stated the hardship is having all the development in one corner of the lot when there are plenty of other spots on the site that can be used. What happens to his well when the leach field fails?

Ms. Jennifer Prentice, 65 Ladd Hill Road, stated that she has views with turkeys. She understands that it is 50/50 whether granting a Variance is a benefit or a detriment to the public. Granting the Variance would create new houses and bring in more taxes. There is financial prosperity but what happens when they are built and turned into airbnbs that use our beaches and services. There are a lot of people on Ladd Hill Road that enjoy the turkeys and deer on their property. This proposal could have an effect on area wildlife. There is a difference between the impact on a small $\frac{3}{4}$ acre lot versus a larger lot. She feels there is a hardship on her property. She welcomes her new neighbors but what is the justice if the Variance is granted. She has concerns about future development and opening Pandora's box to allow other small lots on Ladd Hill Road. The impact on small lots and individual lot owners has to be taken into consideration. She is concerned about impact from the septic and drainage from the large lot and what effect it will have on her well. The massive development is contrary to the character of Ladd Hill Road and what she has invested in. She is concerned for the protection of her water and the stress the development will have on the water source.

P. Harris suggested that Ms. Prentice and others in the area have their water tested to create a base line if any problems should occur in the future. The developer is professional but the approvals

go with the land and new owners may have a different approach on developing the sites. We want to make sure that the abutters are treated fairly.

J. Froumy stated what we approve for this application does not set a precedent on what can happen down the street. The Board looks at each application separately and on its own merits.

P. Harris stated it is important to consider the character of the neighborhood. J. Froumy agreed. Solar Village on Ladd Hill Road is a single-family open space development.

Mr. Steven Sawyer, 48 Diane Drive, stated he lives on the downside of the golf course. He welcomes the development but he has concerns about the wet wooded area and the runoff from the golf course that runs down to the lake but if DES is ok with the situation so is he.

Tricia Brasher, 46 Silkwood Ave., stated that the applicant surveyed the property last month and she is concerned that the applicant is contemplating developing in the back of the property and it is very wet out there.

M. Mastenbrook asked that the applicant address the abutters' concerns. Atty. Sullivan stated that he appreciated the peoples' concerns but they are providing safe water and sewer. The condominiums are designed and constructed to meet modern regulations and codes. He understands everyone's concerns but Open Space development is allowed in this zone. It could be worse, there could be no association to oversee the maintenance of the houses, wells, sewer, etc. He understands that no one wants it in their backyard.

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

J. Froumy stated it is not contrary to the public interest. Creating more taxes for the town is not something the Board cannot base their decision on. There are other Open Space subdivisions on Ladd Hill Road which addresses the character of the neighborhood. These condominiums have good views of the golf course. The association will oversee the water system which they will own. Atty. Sullivan stated that the development is situated so that the property is in a bowl shape with the condominiums being less visible.

S. Whearty stated that Variance approvals go with property. They are not approving a plan tonight, the Planning Board does that through the subdivision process. They are just addressing the Variances for lot size and frontage. J. Froumy stated they are granting or denying a Variance on lot size not for the water or wells. Anything that was talked about during the meeting becomes part of the minutes. The Board discussed putting conditions on the approvals. P. Harris stated the conditions go with the property. M. Mastenbrook discussed the entrances on the road and noted they do not go with the golf course. J. Froumy wanted to know if they could move the building cluster somewhere else on the property. S. Whearty reminded the Board they are not approving the Open Space subdivision. J. Froumy stated that what was presented tonight is a fairly good representation of what they plan to develop.

BOARD ACTION – LAKEVIEW AT BELMONT, LLC:

MOTION: J. Froumy moved to grant a Variance of Article 6 Table 3 of the Zoning Ordinance to construct single-family residences without the required minimum lot size, maximum lot size, and road frontage as it meets the following criteria:

1. The Variance will not be contrary to the public interest because the explicit and implicit purpose of the ordinance addresses altering the neighborhood. The proposal complies with the ordinance and does not alter the character of the neighborhood which is primarily residential. It does not injure the public health or safety or injure the public rights.
2. The spirit of the ordinance is observed because the explicit and implicit purpose of the ordinance addresses altering the neighborhood which is primarily residential. The proposal complies with the ordinance and does not alter the character of the neighborhood. It does not injure the public health or safety or injure the public rights.
3. Substantial justice will be done because the loss to the individual is not outweighed by the gain to the general public. The applicant has the right to develop the property through subdivision. Denial would be an injustice.
4. The Variance would not diminish the value of surrounding properties because it has been acknowledged that other properties would not be impacted. The development of the site does not diminish the lot size or frontage.
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 special condition of the lot is the large size compared to other lots that are $\frac{3}{4}$ of an acre. It is an attractive development that does not alter the area.
And,
 - B. the proposed use is a reasonable one because the development is permitted.

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 conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 5/25/24 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. Subdivision approval from the Planning Board required.
5. Lots 201-066 and 201-067 shall be merged.
6. The plans presented at the meeting are a fair representation of all lots, units, and roadways.

The motion was seconded by N. Patten and carried. Roll Call: P. Harris aye, N. Patten aye, S. Ciampi no, D. Dunham aye and J. Froumy aye. (4-1) S. Ciampi stated she is new to the Board and is not comfortable with knowledge in this situation.

MOTION: J. Froumy moved to grant a Variance of Article 6 Section B.3 of the Zoning Ordinance to construct single-family residences without access from interior development roads as it meets the following criteria.

1. The Variance will not be contrary to the public interest because the explicit and implicit purpose of the ordinance addresses altering the neighborhood. The proposal complies with the ordinance and does not alter the character of the neighborhood which is primarily residential. It does not injure the public health or safety or injure the public rights.
2. The spirit of the ordinance is observed because the explicit and implicit purpose of the ordinance addresses altering the neighborhood which is primarily residential. The proposal complies with the ordinance and does not alter the character of the neighborhood. It does not injure the public health or safety or injure the public rights.
3. Substantial justice will be done because the loss to the individual is not outweighed by the gain to the general public. The applicant has the right to develop the property through subdivision. Denial would be an injustice.
4. The Variance would not diminish the value of surrounding properties because it has been acknowledged that other properties would not be impacted. The development of the site does not diminish the lot size or frontage.
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 special condition of the lot is the large size compared to other lots that are $\frac{3}{4}$ of an acre. It is an attractive development that does not alter the area.
And,
 - b. the proposed use is a reasonable one because the development is permitted.

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 conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 5/25/24 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. Subdivision approval from the Planning Board required.
5. Lots 201-066 and 201-067 shall be merged.

6. The plans presented at the meeting are a fair representation of all lots, units and roadways.

The motion was seconded by N. Patten and carried. Roll Call: P. Harris aye, N. Patten aye, S. Ciampi no, D. Dunham aye and J. Froumy aye. (4-1) S. Ciampi stated she is new to the Board and is not comfortable with her knowledge in this situation.

ABUTTERS HEARING – TRADZ LLC: Request for Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow motor vehicles sales and repairs in the Rural Zone. Property is located at 194 Gilmanton Road, Tax Lot 241-019-000-000, ZBA # 1622Z.

The Board received a copy of a letter and petition from abutters, Mr. Bruce and Ms. Christine Fletcher, as they are unable to attend tonight's meeting.

P. Harris recused himself as a voting member on this application but will remain to chair this application. M. Mastenbrook rejoined the Board and J. Froumy remained on the Board as a voting member for this application.

Mr. George Condodemetraky and Mr. Stephan Condodemetraky were present for this application. The members that viewed the site were N. Patten, M. Mastenbrook, S. Ciampi, J. Froumy, and D. Dunham.

Mr. George Condodemetraky stated that he moved to Belmont in 1969. He went through tough times; he had no job for 9 months while getting acclimated to country life. In 1980 he started a business. One big job he did was the Solar Village subdivision. He worked on another subdivision on Shaker Road and one on Concord Street. He proceeded to buy real-estate in Belmont. He bought property on Concord Street and turned it into a two-family dwelling. He did a 5-lot subdivision and brought in stick-built modulars because manufactured units were not allowed. He purchased a lot of property some along Laconia Road, some in Woodsville, and Northfield. He invested in lots and built on them himself. There are people around that think he is only an engineer but he also does contracting.

Mr. Stephan Condodemetraky stated they are here to simply represent the construction yard and office. Several Board members have visited site. There are pieces of construction equipment on site as they have been operating the contractor's yard for 40 years. They are not asking for any external changes, all the buildings are already on site and permitted. There is a towing business, contractor's yard, and office. Retail sales is a requirement to have a DMV license that is why they are applying for It. S. Whearty stated that the proposed use is allowed by Special Exception. Mr. S. Condodemetraky stated that they have a dealer's license in Derry and they want to transfer it to Belmont. There will be no retail sales to customers and there will be no customers on site. If they sell more than 5 vehicles a year they are required to have a dealer's license. They are not creating a dealership and are not asking to have 18- wheelers. The business stays as it operates now.

P. Harris stated the State regulates the dealer's license. The State will take care of enforcement and will take away his license if there are violations. Mr. S. Condodemetraky stated they are required to have a 12" x 12" sign for an inspection station. Mr. S. Condodemetraky stated

they will only be selling abandoned vehicles that are a result of the towing business. P. Harris stated it is a business and the State checks the books and hours of operations and if there is an issue, they may take his license.

J. Froumy wanted to know if they could have a dealer's license without retail sales. Mr. Jon Pike, resident, stated they have to sell 5 vehicles a year to keep their license. Mr. S. Condodemetraky stated they are not doing on-site retail. He continued to explain that they take the vehicles to auction to sell. They are asking to keep what they have been doing for 40 years. S. Whearty clarified that the vehicles are stored on site and sold at auction or on-line. The site is not opened to the public.

M. Mastenbrook stated there will be no increase in traffic. J. Froumy stated there is no change to the traffic. Mr. S. Condodemetraky said the only change is the one sign that the state requires. J. Froumy stated there are no new buildings. Mr. S. Condodemetraky stated the tow lot is behind the buildings. J. Froumy wanted to know how many vehicles will be on the site. Mr. S. Condodemetraky stated between 20 and 30, sometimes up to 50. Mr. S. Condodemetraky stated the vehicles are down in a depression behind a 100' building and can't be seen in the winter.

S. Ciampi stated the stored vehicles are stored in the direction of the water storage tank. The vehicles could leak oil, gas, or transmission fluid that could go down to the water tower. Mr. S. Condodemetraky stated that all the vehicles are modern vehicles and not junk. They are only on site for ten days. Mr. G. Condodemetraky stated if a vehicle leaks, they will be stored in the building, which has a concrete floor.

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: J. Froumy aye, N. Patten aye, M. Mastenbrook aye, S. Ciampi aye, D. Dunham aye. (5-0)

Mr. S. Condodemetraky stated the proposal does not create undue traffic congestion or unduly impair the vehicular or pedestrian safety because the current entrance would not be utilized any more than it is currently being used. The future entrance will separate the residential entrance from the equipment parking area. Neither entrance will have any impact on pedestrian use. The road Old Rte. 140 goes down to the town water tower. They will utilize that road and that it is safer because it separates the commercial use from the residential use.

The Board discussed the fact that Rte. 140 is a State highway that 18-wheelers use and the applicant will need a new driveway cut. J. Froumy has concerns about the safety of the driveway at the top of the lot and wanted to know when the future entrance will be used for the business. Mr. S. Condodemetraky stated at the of the end of the year or in the spring. J. Froumy stated there is poor visibility from the top of the lot. Mr. S. Condodemetraky stated they have used it for 5 years and there have been no incidents. J. Froumy stated there are safety concerns leaving the site. S. Whearty stated that DOT will require a driveway upgrade for the Change of Use. J. Froumy stated that safety is a concern. S. Ciampi stated there are concerns with personal driveways in that area as people do not travel the posted speed limit now and there have been serious accidents in that area in the past. Tow trucks enter and exit the site slowly and if vehicles are exceeding the speed limit it is a concern.

Mr. G. Condodemetraky stated they meet the sight distance requirement they have a sight distance of 400' to both the left and right. He has been using that driveway for 50 years. He stated that anyone walking on Rte. 140 is taking their life in their hands and that has nothing to do with them.

J. Pike stated there are compliance issues on the site. S. Whearty said that is correct and that is why they are here, to bring the site into compliance.

The Chairman opened the hearing to public comment.

J. Pike stated that he is representing 20 people that are opposed to the idea of a licensed dealership. He stated that when you get a dealer's license you can buy and sell as many as cars as you want. Mr. G. Condodemetraky has another property in the commercial zone and he can sell cars from there. A few years ago there was a chicken coop fire on the Gilmanton Road site and the fire trucks couldn't get through. They are asking for a dealership in the Rural Zone. He read the letter/petition from Mr. Fletcher that had 28 signatures on it. A dealer's license makes it easier to transfer titles, you can't transfer titles without a license. J. Froumy stated they are not talking about licenses they are talking about the character of the neighborhood. A petition cannot be taken in as part of the application. J. Pike wanted to know why abutters are noticed if they are not allowed to talk about the special exception. S. Whearty stated they are allowed to comment but the Board cannot address a petition. J. Froumy stated the restriction is on where dealer's license is located. S. Whearty stated the town does not regulate the dealer's license.

Mr. Chris Gilbert stated has lived across from the Condodemetraky's for 23 years and they are good neighbors and have volunteered a lot for the town. His concern is the creation of noise with trucks backing up at 6 am and 11pm. They are also waking up the abutters with head lights in their windows. He presented pictures of the traffic congestion and vehicles entering and exiting the site. There also have been vehicles that park along Rte 140. Rte 140 has a blind corner and people do not obey the speed limit. He is concerned about the hours of operation because vehicles break down at all hours of the day and they have to be towed. You cannot limit the time vehicles need towing.

Mr. Mark Roberts addressed one of the pictures presented by Mr. Gilbert. He stated it was his excavator on the side of the road because there was no room to unload it.

Mr. S. Condodemetraky addressed the pictures. The 1st picture is the excavator that was used to improve the yard. The rest of the pictures are just vehicles exiting and entering the site. A driver accidentally used the Gilbert's driveway for unloading a vehicle. Mr. S. Condodemetraky commented the noise issue is moot as there is a 100' building that blocks the noise and they cannot hear the backup alarms. He stated that his neighbor drives a school bus and the bus alarm may be the alarm they hear. His drivers do not start before 11:00 am. Mr. Gilbert stated it is not the school bus. S. Whearty stated the town is aware of the violations on site and they are working on compliance with this application. They are not here tonight to discuss the violations. S. Whearty asked that commentary be restricted to the criteria for the special exception.

P. Harris stated the Board is looking at maintaining the rural character of the area. Mr. Condodemetraky stated they have over 60 acres that is mostly forest. He preserves the property; he makes a living in engineering and the construction business.

S. Ciampi stated the application names George and Susan Condodemetraky as the owners. Mr. G Condodemetraky stated he does not sell vehicles he has people that do that. It was clarified that it is not uncommon for the applicant to be different than the owners.

N. Patten stated she needs more time to absorb the information presented and suggested the application be table to the next meeting to give the Board time absorb to the information and review safety concerns. J. Froumy agreed.

BOARD ACTION – TRADZ LLC:

MOTION: J. Froumy moved to table the Special Exception application to allow motor vehicles sales and repair in the Rural Zone to June 22, 2022 to allow the Board time to address safety concerns.

The motion was seconded by N. Patten and carried. Roll Call: J. Froumy aye, N. Patten aye, M. Mastenbrook no, S. Ciampi no, D. Dunham aye. (3-2)

OTHER BUSINESS:

BOARD'S ACTION -MINUTES:

MOTION: On a motion by J. Froumy seconded by M. Mastenbrook it was voted unanimously to accept the minutes of April 27, 2022 as written. (5-0)

ADJOURNMENT:

MOTION: On a motion by M. Mastenbrook seconded by D. Dunham it was voted unanimously to adjourn at 9:25pm. (5-0)

Respectfully submitted,

Elaine M. Murphy
Land Use Coordinator