



ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, April 27, 2022
Belmont Mill Tioga Room & Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members David Dunham, Mark Mastenbrook and Sharon Ciampi.
Members Absent: Alternate Member John Froumy (E).
Staff: Sarah Whearty, Colleen Akerman and Karen Santoro.
Zoom: Vice Chair Norma Patten.

The Chairman opened the meeting at 6pm and welcomed those in attendance. A Zoom option is being offered. One of our Board members is participating by Zoom. 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. There is a quorum of members physically present.

Roll Call:

Chairman Peter Harris, meeting room
Vice Chair Norma Patten, Zoom
David Dunham, meeting room
Mark Mastenbrook, meeting room
Sharon Ciampi, meeting room
Sarah Whearty, Colleen Akerman, and Karen Santoro, meeting room

1. **Abutters' Hearing – TAP Public House, Inc.:** Request for one year extension (6/24/23) for:
 - A. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a deck closer (5') to the side property line than allowed (15'). ZBA # 0822Z.
 - B. A Special Exception of Article 11.A.3.d to construct a deck closer (42.3') to the front property line than allowed (50') but not closer than the existing structure. ZBA # 1122Z.

Property is located at 930 Laconia Road in the "C" Zone, Tax Lot 122-057-000-000.

Mr. Mike Campione was here for this application. He said he was not aware there was an expiration date associated with these approvals. His project has been set back due to Covid.

M. Mastenbrook asked if the extension is granted, what is the plan to move forward and when will the project start? Mr. Campione explained that with Covid they were just trying to keep

the doors open. Their lease was up for renewal and they made a deal with the owner to construct more parking. They have been approved for the Variance but still need to get Site Plan approval for the deck.

P. Harris asked if there had been any changes in the ordinance. S. Whearty said no.

The members who viewed the site were: P. Harris, M. Mastenbrook, and D. Dunham.

The Chairman opened the hearing to public comment and noted there were no abutters present. There being no questions or comments the Chairman closed the public hearing.

Board's Action – TAP Public House, Inc.:

MOTION: M. Mastenbrook moved to grant a one-time, one-year extension of applications #08-22Z and #11-22Z to 6/24/2023. The applicable terms of the Ordinance have not changed since the original approval. The characteristics of the lot and its surroundings have not changed in any way that would cause the initial review and action to be invalid. All of the conditions of the initial approval shall remain in place. The Ordinance does not allow for subsequent extension of this approval.

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

2. Abutters' Hearing – Donald Quinn for Winnisquam Beach Association: Request for two Variances of Zoning Ordinance:

- A. Of Article 8.B.9.f.1.a to add a manufactured unit closer (15.1') to an unrelated structure (porch) than allowed (20'). ZBA # 0922Z.
- B. Of Article 8.B.9.f.2 to add a concrete slab closer (11.9') to an unrelated structure (shed) than allowed (20'). ZBA # 1022Z.

Property is located at 11 Dove Terrace in the "RS" Zone, Tax Lot 117-015-000-054.

Mr. Donald Quinn was present for this application.

Mr. Quinn explained they bought the property 8 months ago with the intention of putting a new trailer in the space. They decided on the same location east to west, but north to south is longer than the previous trailer. With the investment in the new trailer, they decided to put a slab under the trailer with an extension of 10 feet in the back for kayaks and fire wood. The slab is larger than the trailer. Mr. Quinn distributed letters from his abutters stating they have no issues with the proposal.

Mr. Quinn said this will be a similar use as when they purchased the lot. It is going to be used for seasonal camping and boating and is not different than what is already there.

N. Patten stated this will be an improvement to the lot.

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. Mastenbrook and carried. Roll Call: P. Harris - Aye, N. Patten - Aye, D. Dunham – Aye, M. Mastenbrook - Aye, and S. Ciampi - Aye. (5-0)

The Chairman noted the Departmental Responses from the Staff Report. The Code Enforcement Officer is concerned about the closeness of the structures but there were no other responses or comments.

D. Dunham asked where the propane tank is going to be. Mr. Quinn answered it would be on the slab in the back. M. Mastenbrook asked for confirmation they are proposing the tank be located between two structures. Mr. Quinn said yes, between the shed and the trailer.

M. Mastenbrook commented the Board is cautious of approving things because of space issues. Usually there is a trailer still onsite so members can get a feel for the distances, but this lot is already empty. The Board considers whether moving a structure a few feet away to make it legal is a possibility; such as if it is 23' on one side and 17' on the other, could it be moved 3' to prevent the issue. He is concerned about the propane tank between the two structures, but will leave that for Code Enforcement.

M. Mastenbrook asked for clarification on the size of the unit. If it is 8' by 40' that is only 320sf. Mr. Quinn replied that there are bump outs that increase the size beyond 320sf. M. Mastenbrook asked if the shed is staying where it is. Mr. Quinn responded yes. He said there is 23' on one side and 15' on the other. This is a condo association. As people upgrade, they are going to require this type of Variance because of the lot size. He said he also reviewed previous agendas. Everyone abuts the right side of the site so they can enjoy some open space. What he is asking for is not different than what is there now, or what future people will want. M. Mastenbrook said it meets the hardest part of the Variance. S. Whearty clarified that the individual sites are not considered "lots" with setbacks. All of the setbacks have to do with structures. She also noted that the unit was not shifted to allow the applicant to utilize the existing hookups from the previous trailer. Mr. Quinn said it is a challenge to do anything new. He indicated the location of the unit on the plan for Board members.

P. Harris remarked that this association has been around for a long time and improvements are slowly being made. If this application proceeds forward, the Board is interested in health, safety and welfare. Many units have been upgraded which is a great safety factor. When it gets crowded and there are fires it could cause serious problems. A lot of the advice the Board follows comes from the professionals in our Town, and the Fire Department had no concern with this application.

They worry more about second stories. There are plenty of pictures and good information to make an informed decision.

N. Patten questioned if the proposal is only for a slab with no roof. Mr. Quinn stated there is no roof and no awnings. N. Patten suggested any motion for this application include a condition that this area does not become enclosed.

M. Mastenbrook asked if this is a park model unit. Mr. Quinn answered that it is a “destination trailer” not a park model. It has a rubber roof. He said he has no problems with not enclosing the area and it is not his intention to do so.

Mr. Quinn mentioned that he is concerned about safety as well and worried about keeping traffic safe by not parking on the road. That is why he placed his unit 17’ from the road, to allow enough room for parking.

The Chairman opened the hearing to public comment and noted there were no abutters present. There being no questions or comments the Chairman closed the public hearing.

S. Whearty advised separate motions for the Variances. M. Mastenbrook explained that he was down in the area and the lot is cleared. It is one of the bigger lots in the area. What is being proposed is legitimate and fits in with the neighborhood. Everything around it is the same. It looks like this site will have more room between everything than a lot of the neighbors.

Board’s Action – Donald Quinn for Winnisquam Beach Association:

MOTION: M. Mastenbrook moved to grant approval of a Variance of the Zoning Ordinance, Article 8.B.9.f.1.a to add a manufactured unit closer (15.1’) to an unrelated structure (porch) than allowed (20’) as it meets all the criteria.

1. The Variance will not be contrary to the public interest because the lot is a very small, nonconforming lot and they are limited to where they can put a unit. The proposal will not alter the character of the neighborhood.
2. The spirit of the ordinance is observed because this is a private campground condominium on a nonconforming lot. It is similar to what everyone else in the area has adopted. There are no health, safety or welfare dangers. This proposal will not change the character of the neighborhood. It is a limited lot and granting the Variance will not cause a danger to the public.
3. Substantial justice will be done because denial would be an unfair burden on the applicant that is not outweighed by the gain to the public. The applicant has a right to use the residential lot for a residential use.
4. The Variance would not diminish the value of surrounding properties because the proposal will increase the value of surrounding properties and the new unit will be safer and up to code.
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 property was subdivided to create a lake community with small lots.
and
 - b. the proposed use is a reasonable one because a residential use in a residential area is reasonable.
6. Additional conditions:
- A. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setbacks are allowed by this approval.
 - B. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
 - C. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - D. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - E. Approval expires on 4/27/24 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.
 - F. No roof type enclosures shall be added without Zoning Board approval.
 - G. Submit final plan sets (3 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Make the following changes/corrections:
 - i. Label the distance from the western-most bump out of the proposed unit to the closest point of the unrelated unit on site 55.
 - ii. Add a legend to identify hatches.
 - iii. Add labels to identify existing versus proposed and open versus enclosed porches.

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

MOTION: M. Mastenbrook moved to grant approval of a Variance of the Zoning Ordinance Article 8.B.9.f.2 to add a concrete slab closer (11.9') to an unrelated structure (shed) than allowed (20') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because the lot is a very small, nonconforming lot and they are limited to where they can put a unit. The proposal will not alter the character of the neighborhood.
2. The spirit of the ordinance is observed because this is a private campground condominium on a nonconforming lot. It is similar to what everyone else in the area has adopted. There are no health, safety or welfare dangers. This proposal will not change the character of the neighborhood. It is a limited lot and granting the Variance will not cause a danger to the public.
3. Substantial justice will be done because denial would be an unfair burden on the

- applicant that is not outweighed by the gain to the public. The applicant has a right to use the residential lot for a residential use.
4. The Variance would not diminish the value of surrounding properties because the proposal will increase the value of surrounding properties and the new unit will be safer and up to code.
 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 property was subdivided to create a lake community with small lots.
and
 - b. the proposed use is a reasonable one because a residential use in a residential area is reasonable.
 6. Additional conditions:
 - A. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setbacks are allowed by this approval.
 - B. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
 - C. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - D. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - E. Approval expires on 4/27/24 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.
 - F. No roof type enclosures shall be added without Zoning Board approval.
 - G. Submit final plan sets (3 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Make the following changes/corrections:
 - i. Label the distance from the western-most bump out of the proposed unit to the closest point of the unrelated unit on site 55.
 - ii. Add a legend to identify hatches.
 - iii. Add labels to identify existing versus proposed and open versus enclosed porches.

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

3. **Abutters' Hearing – Route 106 Realty Trust:** Request for a Variance of Article 4, Section I.4.g of the Zoning Ordinance to allow billboards with offsite advertising (pre-existing nonconforming use). Property is located at 54 Peggy Drive in the "C" Zone, Tax Lot 210-017-000-000, ZBA # 1222Z.

Mr. Jon Rokeh was present for this application.

Mr. Rokeh explained this location was approved for a residential house in the Commercial Zone because there was no way to develop the property commercially. At the end of the ZBA meeting for that approval, they realized they should have applied for a Variance to keep the pre-existing, nonconforming use of the billboards. Since the use of the property was changed, a second Variance is needed. The billboards are close to 100' lower than the existing house and they are completely unrelated. There are no other uses on the property. The billboards have been there for a long time, and they are asking for a Variance to allow them to stay as is.

M. Mastenbrook countered that last time the applicant received a Variance to put a residential home in a Commercial Zone, but now they want the lot to remain commercial by keeping the billboards. He is not sure how to do this. When looking at the land, the topography is horrible. But an approval could open pandora's box for having commercial and residential uses on the same lot. He questioned what would happen if this was a flat lot. He is trying to understand what the hardship is to allow the billboards to be kept with a residential use on the lot.

Mr. Rokeh said the hardship is that the billboard is pre-existing. It is not likely to create a precedent because billboards can't be installed now. He explained the existing lot is the result of multiple lots that were merged together. The billboard and the single-family home were on multiple lots, but they were merged and it created a problem. If the lots were not merged, there would not be an issue. The only way to continue to go forward might be to create a subdivision to have the billboard on its own lot. He shared that Mr. Mitchell would likely abandon the house approval and continue to use the billboards if he cannot obtain this Variance. If the house is not acted on within two years, the approval expires and the lot would continue to be used as a vacant lot with billboards. They did not realize the billboards would be taken away with the house approval. They thought the grandfathered billboards could stay in place, but part of the conditions for the house approval were to remove the billboards. If they had known in advance, they would have applied for both Variances at the same time in order to keep the billboards in place.

P. Harris had questions about the grandfathered rights for the billboards. There was discussion about the current guidance Staff has received from Legal counsel with regards to pre-existing nonconforming uses. Mr. Rokeh said there were questions about the pre-existing use, and if they were not modified or changed would they need to be removed. S. Whearty confirmed that because the initial Variance for the single-family home made the lot more nonconforming, it was a modification of a nonconformity and a Variance is required for the billboards to remain.

P. Harris said they are concerned about the effects of billboards, and Route 3 is a major concern. It is hard to have a pre-existing sign that has no effect on traffic or visibility torn down. He thinks it is creating more of a hardship than it needs to. M. Mastenbrook observed that this problem exists because a residential use was allowed in a Commercial Zone.

S. Whearty announced there does not appear to be anything in the sign ordinance that would prevent putting up an electronic sign on the billboard. What is on the billboard can be changed.

The Board discussed that the property is pretty useless the way it is. In good faith, they approved the application for the house. This lot has steep slopes that can't be built on. They are trying to find a way to make something work. Mr. Rokeh maintained that the billboards were originally a grandfathered use but they need a Variance to keep them.

S. Ciampi asked if the billboards are not approved, will the building plans be abandoned. Mr. Rokeh responded yes. The billboard is a long-term use and Mr. Mitchell does not want to jeopardize the billboard use because it can't be put back once it is gone. They went into things with the assumption that the billboards were grandfathered when they applied for the house. If they knew the billboards would need to be removed, they would not have moved forward with the application for the house.

P. Harris said there is a concern about setting a precedent. He would be opposed to adding a billboard, but these are existing billboards. Mr. Rokeh countered that he does not feel this could set a precedent with a billboard and house on the same lot because off-site advertising is no longer allowed. M. Mastenbrook replied that is unless they are presented with the same scenario. D. Dunham asked if a subdivision could be done to make the problem go away. S. Ciampi acknowledged she is having a difficult time making a decision. She asked about the hardship. Mr. Rokeh stated the hardship will be to lose a major part of the property's defining factor for the whole time it has been owned; the billboards. If Mr. Mitchell can't keep them, the defining part of the property will be lost. They are a huge part of his business model for residual income. D. Dunham asked if the proposed house is on speculation. Mr. Rokeh answered no, it is a personal residence for Mr. Mitchell.

S. Whearty observed that when considering a hardship, it can't be an applicant-created hardship; whether it be the house or the merger of the lots. A hardship can't be created to then allow more noncompliance. M. Mastenbrook asserted that an argument for a hardship is the topography. The land can't be subdivided to have anything else up there. Mr. Rokeh proposed that if Mr. Mitchell wanted to try to do a subdivision it would probably not be allowed due to buildable areas and steep slopes. The Board asked about the criteria for granting or denying the Variance.

S. Whearty explained that New Hampshire Municipal Association says when defining a hardship for a Variance, one of the pieces is a zoning restriction that interferes with reasonable use of the property. This property was just approved for a residential use of a house, and that is a reasonable use of the property.

D. Dunham stated there will be no additional visual impacts to anything in the area. It will not increase the impact on Route 106 and it will not impact the proposed house. The ordinance exists to prevent billboards from doing things like that, but this billboard exists now. Mr. Rokeh suggested it is the perfect location because they are off the road and not in your face. There is no way to do multiple structures or subdivide this property.

Mr. Rokeh said Mr. Mitchell is trying to develop the property and turn it into something dramatically better for Belmont for taxes. Finances are not a hardship or a benefit. In terms of a Variance, the special conditions that distinguish it are because there is no relationship that exists that limits the creation of new signs for off-site advertising. This limits implementation. There is no

expansion proposed for these billboards. It is a reasonable use because they have been in place “forever” and allowing them to remain is not unreasonable. D. Dunham observed that the signs will be remaining one way or the other.

M. Mastenbrook asked about grandfathering. S. Whearty stated that if something existed prior to zoning, it can more or less stay the same. It can't be made bigger, or have the position or location changed. This Variance is necessary because of the previous Variance for the house. If this lot was developed as a commercial use the billboards could have stayed, but because it is more nonconforming it needs a Variance. If the billboards were knocked down, they would have two years to rebuild in the same footprint. They could build other accessory buildings permitted in the Commercial Zone, with only a building permit and no need to come before any other Boards. Mr. Rokeh declared that any new buildings would be related to the residential use at this point.

S. Whearty clarified that building on this lot cannot be restricted as a condition of granting this Variance.

Mr. Rokeh maintained he does not think this would set any precedent because it is a unique lot. Staff told them the billboards would need to be removed. N. Patten asked if billboards are allowed in a Commercial Zone. S. Whearty and J. Rokeh explained they are not allowed at all. S. Whearty said they are prohibited because it is off-site advertising. That is only allowed for complexes like the mall. Off-site advertising is prohibited by zoning. There was discussion about the existing billboards on Route 106. S. Whearty said if the uses of those properties change to a nonconforming use, the billboards would need to be removed.

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

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

The Chairman opened the hearing to public comment and noted there were no abutters present. There being no questions or comments the Chairman closed the public hearing.

Board's Action – Route 106 Realty Trust (Tax Lot 210-017-000-000):

MOTION: N. Patten moved to grant approval for a Variance of Article 4, Section I.4.g of the Zoning Ordinance to allow billboards with offsite advertising (pre-existing nonconforming use).

1. The Variance will not be contrary to the public interest because the existing billboards have been in place for numerous years and are located off of state highway 106. There is no detriment to the public interest for the billboards to remain in place.
2. The spirit of the ordinance is observed because the ordinance is to limit the creation of signs that advertise for an “off-site use”. The existing billboards were put in place prior to this restriction and no additional size or expansion is proposed to the existing condition.

3. Substantial justice will be done because the owner will be able to leave the existing billboards in place and the construction of the single-family home will be able to move forward.
4. The Variance would not diminish the value of surrounding properties because the billboards have been in place for numerous years and leaving them in place is not a detriment to the neighborhood.
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 purpose of the ordinance is to limit the creation of new signs that advertise an off-site use. This site had the billboards in place prior to the ordinance that limits them. No new signs or expansion of the existing signs is proposed.
and
 - b. the proposed use is a reasonable one because the billboards are an existing use that has been in place for numerous years. Allowing them to remain in place unchanged is a reasonable request.
6. Additional conditions:
 - A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - B. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - C. Approval expires on 4/27/24 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.
 - D. No electronic messaging signs shall be added to the billboard.
 - E. Submit final plan sets (3 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Make the following changes/corrections:
 - i. Fix overlapping text and contour label font inconsistencies (size, orientation, etc.).

The motion was seconded by D. Dunham and carried. Roll Call: P. Harris - Aye, N. Patten - Aye, D. Dunham - Aye, M. Mastenbrook - Aye, and S. Ciampi - Abstain. (4-0-1)

4. **Abutters' Hearing – Route 106 Realty Trust:** Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance for a Contractor's Yard in the "C" Zone. Property is located on Laconia Road, Tax Lot 217-108-000-000, ZBA # 1322Z.

Mr. Jon Rokeh was present for this application.

Mr. Rokeh explained that this site is an existing gravel parking lot. It has had previous approvals but the most currently approved Site Plan is for a limo service company. Because limos are used off-site, it technically makes this a Contractor's Yard. They store cars that are used off-site. In the Zoning ordinance, a Special Exception is required for this use in the Commercial Zone. In order to complement the Site Plan approval for this lot, the applicant has applied for a Special Exception for the Contractor's Yard use. It is a well-designed site and satisfies the criteria. The proposal is not incompatible with other uses, noises, or fumes. It is compatible with other uses in the area. It is an adequate size. It is designed for everything proposed and then a little bigger. There is plenty of parking, septic, and a well. There is access to state highway Route 106 and driveway permits have been obtained. There will not be an undue amount of traffic. There will be no high traffic generating use. There is a private water and sewer system so it will not overload any municipal systems. There is self-contained drainage. There is no effect on municipal services. The property will not create any safety hazards because the commercial Site Plan will not create any hazards.

The members who viewed the site were: P. Harris, N. Patten, D. Dunham, M. Mastenbrook, and S. Ciampi.

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

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

The Chairman noted the Departmental Responses were no response or no concerns. He read Staff Comments: 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. Applicant has presented that the use will be for a limo service which was determined to be classified as a Contractor's Yard. The building will have a small office and garage bays. Limos will be parked on site but no repairs or mechanical work will take place. A Contractor's Yard is permitted by Special Exception in the Commercial Zone.

D. Dunham commented they used to sell Christmas trees there. There are lots of parking spaces proposed. Mr. Rokeh said it is planned that way in case an expansion is needed or in case something happens and the property has a different use in the future. It is better to have it laid out already. If the property needs to be rented or sold, it is more functional with everything in place.

The Chairman opened the hearing to public comment and noted there were no abutters present. There being no questions or comments the Chairman closed the public hearing.

M. Mastenbrook said the 60' x 120' size of the building is substantial. What will be in the building? Mr. Rokeh said the majority is open garage area for the company to fit as many limos as possible inside. The outdoor parking will be for transient use, and there will be a small office and manager's quarters. The owners will live at the site. M. Mastenbrook said there should be no repair work done at the site. Mr. Rokeh said that is correct. There will be no fuel storage and the limos are all serviced at a regional shop.

Board's Action – Route 106 Realty Trust (Tax Lot 217-108-000-000):

MOTION: M. Mastenbrook moved to grant approval for a Special Exception of Article 5 Table 1 of the Zoning Ordinance for a Contractor's Yard in the "C" Zone.

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts. The proposed commercial use and the associated Contractor's Yard is compatible with other uses along Route 106.
4. The proposed location is of adequate size because the lot is adequately sized to accommodate the proposed use pertaining to the operation of the business. The design has provided adequate parking and the Site Plan has been approved by the Planning Board.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. The site is located on Route 106 and all business traffic will enter and exit onto the state highway. The proposal will not create a significant amount of new traffic onto the state highway.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street. The site is on private septic and well and they have been designed to accommodate the commercial use. The drainage has been designed for the impervious area shown on the site plan with no increases in stormwater runoff.
7. The proposal does not create excessive demand for municipal services and facilities because it has private septic and well.
8. The proposal does not create hazards to the health, safety or general welfare of the public because it is a commercial use proposed in a commercial area along a state highway.
9. Additional conditions:
 - A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - B. Comply with Aquifer Protection Ordinance.
 - C. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - D. Approval expires on 4/27/24 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.

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

- 5. Abutters' Hearing – Alfred Mitchell:** Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance for a Contractor's Yard in the "C" Zone. Property is located at 28 Corriveau Way, Tax Lot 217-114-000-000, ZBA # 1422Z.

Mr. Jon Rokeh was present for this application.

Mr. Rokeh reported that Mr. Mitchell owns this lot and not the Route 106 Realty Trust. It had a trailer with septic and a well. There is a driveway onto Corriveau Way. A commercial development is proposed with the front half as office space and open garage bays in the back, similar to Belmont Business Park. There will be parking for employees, tenants, and visitors. There will be a dumpster. No outdoor storage is proposed. The Contractor's Yard use is appropriate for professions such as plumbers and electricians who have their products stored at the site. In theory it is for items that are used off-site. They are going through the Planning Board Site Plan approval process right now and a lot of concerns have already been addressed. They still need to do the test pits to make sure everything works. The septic is proposed to be in the parking lot out front. They need to have that in place before the final Planning Board approval. They may ask for another continuance. All traffic will use Route 106. The back entrance will be gated 100% of the time and will have no commercial traffic. It will only be used if the Fire Department or an ambulance needs to come in or leave. There is some greenspace on both sides. The Planning Board has been discussing screening for the neighbors. The Special Exception criteria is the same as for the previous application.

Mr. Rokeh continued that it will be a commercial development on the Route 106 corridor with indoor storage of products. There will be no noise or fumes. It is of adequate size, has an oversized parking area and will not create undue traffic. The State granted a driveway permit onto Route 106. Existing drainage and sewer will not be overloaded. There will be private water and sewer with no excessive municipal demand. People coming and going will access the lot from Route 106. There will be no excessive demand on services. The Corriveau Way access is only for the Fire Department if necessary. There are no hazards and it is designed for all uses in a safe manner.

The members who viewed the site were: P. Harris, N. Patten, D. Dunham, M. Mastenbrook, and S. Ciampi.

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, D. Dunham - Aye, M. Mastenbrook - Aye, and S. Ciampi - Aye. (5-0)

The Chairman noted the Departmental Responses were no concerns or no response. He read Staff Comments: 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 Chairman opened the hearing to public comment.

Ms. Virginia Lawrence of 30 Corriveau Way said she is concerned about traffic because she has three small children. How will the site only use Route 106 for access? It is a thru-way street. Mr. Rokeh explained there will be a gate with a Knox lock for the Corriveau Road access. Only the Fire Department will be able to get through the locked gate. The new entrance will be on Route 106, and is part of the package presented to the Planning Board. There will be no commercial use coming into or out of Corriveau Way. The driveway at Route 106 will always be open. He showed the driveway, parking, and building location on the plan. The building is almost to the setback line but it is within what is allowed. It is better to have the corner next to the Lawrence property, otherwise people will be driving around that side of the building. The other side of the lot has a trailer park, which is a more commercial lot than the Lawrence's lot. Ms. Lawrence asked if the lot will be open or fenced in. Mr. Rokeh answered it would be open.

Mr. Thomas Lawrence of 30 Corriveau Way asked about business hours. Mr. Rokeh said the hours will be from 7 am to 5 pm Monday through Friday and from 8 am to 12 pm Saturdays, which are normal business hours. There won't be room for any outdoor stuff to be done.

Mr. Rokeh said the Planning Board process is continuing and everyone is welcome to come give comment to the Planning Board. Tonight's meeting is only about the Contractor's Yard.

Mr. Brad Corriveau of 67 Dutile Road said he was in attendance to meet his new neighbor. He is concerned about the safety of children in the area. He was pleased Corriveau Way would not be in use for access to and from the property.

M. Mastenbrook commented that Corriveau Way has a lot of residential use and the limo business would have been less intrusive in this area. Part of the requirement for a Special Exception is noise. The type of businesses that will be located here have not been determined. What if there is a small engine repair business with the door open, or someone fixing tractors? All of that noise is brought into a residential area even though the lot is Commercial. The Board does not have a say in what goes in there, but you can't say that noise will not be an effect because it is located on Route 106. It will affect people on the back side of the lot and the wrong business could cause problems. Mr. Rokeh said the limo business chose their lot and the projects were determined because there is already a buyer for the lot for the limo business. Both lots are being developed at the same time because they are close together. They are trying to minimize issues by not having a huge storage area in the back and they have proposed the building in the best location to minimize effects. The site is geared towards people working inside.

S. Whearty confirmed if the proposed Site Plan is approved by the Planning Board, a new Site Plan will not be required for each Change of Use, but a new Change of Tenant form will be required for each new tenant. The Planning Board does put conditions in place for lighting and noise and they have to meet safety standards. The Select Board has a Noise Ordinance as well. There was discussion about enforcement of the Noise Ordinance. Mr. Rokeh maintained they are doing everything they can for indoor uses and not doing things on Corriveau Way to try to minimize as many issues as possible. M. Mastenbrook asked for confirmation that there will be no outdoor storage. Mr. Rokeh said vehicles would not be able to maneuver into the garage if there was outdoor storage.

S. Whearty read from the Planning Board agenda the types of uses proposed in the Site Plan: Contractor's Yard and commercial building for motor vehicle and trailer service, professional offices, light manufacturing, retail stores and service business. M. Mastenbrook asked what a service business is. Mr. Rokeh said a plumber is an example. Some tenants will have a big garage and a small office and others will store products and have a small office. Many will not even be there most of the day. S. Whearty said the Zoning Ordinance defines a service business as a business that provides service, rather than products, for compensation.

Mr. Rokeh explained that the building is configurable and there can be up to four units, segmented every 25'. They will try to rent the location as a duplex with two tenants. M. Mastenbrook asked if the Planning Board or Zoning Board add conditions for business hours. P. Harris said the Planning Board does that. Mr. Rokeh assured the Board they are not asking for anything other than standard business hours.

Mr. Corriveau has concerns that there are little kids on both sides. It is in a residential area, but it is in the Commercial Zone. Mr. Rokeh commented that this project is benign compared to what is allowable. M. Mastenbrook asserted that he is looking out for health and safety, and impacts on the area to make the best decision. S. Ciampi asked if this proposal is going back before the Planning Board next month. Mr. Rokeh said if they get everything done in time. S. Ciampi encouraged abutters to attend the Planning Board meeting so they can see the conditions businesses will need to abide by. There was discussion that abutters can attend the Planning Board meeting in person, review minutes after the meeting, or there is a Zoom option available for participation.

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

Board's Action – Alfred Mitchell (Tax Lot 217-114-000-000):

MOTION: S. Ciampi moved to grant approval for a Special Exception of Article 5 Table 1 of the Zoning Ordinance for a Contractor's Yard in the "C" Zone.

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts. The proposed commercial use and the associated Contractor's Yard is compatible with other uses along Route 106.
4. The proposed location is of adequate size because the lot is adequately sized to accommodate all proposed uses pertaining to the operation of the business. The parking lot is oversized to ensure plenty of parking space.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. The site is located on Route 106 and all business traffic will enter and exit onto the state highway. The proposal will not create a significant amount of new traffic onto the state highway.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street. The site is on private septic and well and they have been designed to

- accommodate the commercial use. The drainage has been designed for the impervious area shown on the site plan with no increases in stormwater runoff.
7. The proposal does not create excessive demand for municipal services and facilities because it has private septic and well.
 8. The proposal does not create hazards to the health, safety or general welfare of the public because the commercial site plan has been designed to accommodate the proposed uses in a safe manner.
9. Additional conditions:
- A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - B. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - C. Approval expires on 4/27/24 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.
 - D. Site Plan approval from the Planning Board required.
 - E. No external storage.

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

6. Other Business:

A. Board's Action – Minutes of 02/23/2022:

MOTION: On a motion by M. Mastenbrook, seconded by S. Ciampi, it was voted unanimously to accept the minutes of February 23, 2022 as written.

Roll Call: P. Harris - Aye, N. Patten - Aye, D. Dunham - Aye, M. Mastenbrook - Aye, and S. Ciampi - Aye. (5-0)

B. Elections:

MOTION: On a motion by M. Mastenbrook, seconded by S. Ciampi, it was voted unanimously to elect Peter Harris as Chairman and Norma Patten as Vice Chairman.

Roll Call: P. Harris - Abstain, N. Patten - Abstain, D. Dunham – Aye, M. Mastenbrook - Aye, and S. Ciampi - Aye. (3-0-2)

C. Staff Report:

Notifications for Development of Regional Impact:

S. Whearty shared that the City of Laconia sent a notification that there is an application for 3 apartment buildings with 90 units on Province Street; and the Tilton ZBA sent notification that a building with a height of 59' where 40' is allowed is proposed for the previous Anchorage location on Lake Winnisquam.

Other:

Land Use Technician Karen Santoro was introduced to the Board. She has taken over Rick Ball's position.

A ZBA customer satisfaction survey was received by Staff with "Excellent" ratings for Elaine Murphy and Sarah Whearty.

Zoom Meetings:

S. Whearty inquired if the Zoning Board wishes to continue offering a Zoom option for meeting access now that the Selectmen have removed the mask mandate. It was noted that three members must be physically present in the meeting room to meet quorum requirements.

MOTION: On a motion by D. Dunham, seconded by S. Ciampi, it was voted unanimously to continue offering Zoom meeting access for the Zoning Board.

Roll Call: P. Harris - Aye, N. Patten - Aye, D. Dunham - Aye, M. Mastenbrook - Aye, and S. Ciampi - Aye. (5-0)

D. New Business: None

Adjournment:

MOTION: On a motion by M. Mastenbrook, seconded by D. Dunham, it was voted unanimously to adjourn at 8:07pm.

Roll Call: P. Harris - Aye, N. Patten - Aye, D. Dunham - Aye, M. Mastenbrook - Aye, and S. Ciampi - Aye. (5-0)

Respectfully submitted,

Colleen Akerman
Building & Land Use Clerk