ZONING BOARD OF ADJUSTMENT
BELMONT, NH

Meeting Minutes of February 26, 2026
Belmont Mill & Zoom

DRAFT

Members Present: Chairman Peter Harris; Vice Chairman John Froumy; Dana Silcock; & Mark Mastenbrook
Members Absent: None
Alternates Present: Susan Bouthiette
Staff Present: Karen Santoro, Town Planner
Zoom: Jen Bouchard; "Sydney"

6:00 Public Meeting

Chairman Harris opened the meeting at 6:00 pm and welcomed those in attendance and announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using Zoom. He announced that any party experiencing any difficulty in accessing the meeting through Zoom at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

Chairman Harris stated that Susan Bouthiette would be seated as a voting member.

Abutter's Hearing - Appeal of an Administrative Decision: Anthony Gobbi: Appeal of an Administrative Decision of Article 11: A:4 of the Zoning Ordinance to operate an automotive sales and repair facility after the use had been abandoned. Property is located at 14 Wareing Road in the Industrial Zone, Tax Lot 126-015-000-000. ZBA Case# 02-26Z.

Anthony Gobbi and Carlos Almonte were present to discuss the application. C. Almonte stated that he would be speaking for Mr. Gobbi, the aggrieved party. J. Froumy asked if Mr. Almonte was a lawyer. C. Almonte stated that he was not.

J. Froumy stated that the applicant cited two cases in the original submission. The first, Town of Hinsdale v. Town of Chesterfield. He stated he had reviewed that case and is wondering what the relationship is to his application. Hinsdale v. Chesterfield was a case relative to a Class V Road that the Town of Hinsdale voted to discontinue. It is completely unrelated to whether or not the lack of use of a property justifies a Planning Review. He asked the applicant to clarify if they were having this hearing to determine whether or not the applicant need to go for Site Plan Review? C. Almonte stated that they were not here to clarify the need for Site Plan Review, rather they were there to determine if the use was legally abandoned. The notice that was sent out had stated that the use was abandoned. That is what they would like to establish. J. Froumy asked what the applicant's definition of abandonment was, as he understands it by the town bringing it to his attention.

C. Almonte stated that he will give the Board how New Hampshire Case law defines abandonment. The definition of abandonment in Hinsdale v. Chesterfield is that abandonment of a non-conforming use requires both an intent to abandon, and an overt act or failure to act that carries the implication of abandonment. J. Froumy asked why the applicant was calling this a non-conforming use? C. Almonte stated that the property was established before the zoning laws were in place. J. Froumy stated that it is a use that is allowed there, yet you're still calling it non-conforming? C. Almonte stated that non-conforming was what the court of law calls it. It's called non-conforming because it was made before the zoning laws were in place. It's a grandfathered property. J. Froumy stated that grandfathered is a colloquial term, not a legal term. C. Almonte stated that the relationship to this application is that the courts of New Hampshire define in that case what abandonment is, which is coupled with intent, not just

passage of time. J. Froumy asked if he was familiar with administrative abandonment? C. Almonte stated that he was. J. Froumy asked if he felt that the Town of Belmont was acting on the principals of administrative abandonment? C. Almonte stated that he believes that the only thing that should be looked at is intent, and if there has been abandonment that has actually happened. He does not believe that the Town has all of that information. The previous owner was well into her 80's, possibly 90's, and she was dying of cancer for the last few years of her life, and her dying wasn't voluntary, and what his understanding is that for you to relinquish something it Has to be voluntary. Death and cancer are not voluntary, so therefore she could never have relinquished the use. New Hampshire goes further to say that death is an interruption, not abandonment.

J. Froumy asked if C. Almonte has studied the Town of Belmont's ordinance and the justifications by the Town to have rights to perform Site Plans? C. Almonte stated that yes, he has, and he has also received counsel that local ordinance cannot eliminate the intent of requirement as imposed by state law. J. Froumy asked if he found the words abandonment in those ordinances. C. Almonte stated that it referred to the passage of time.

J. Froumy stated that it did not mention abandonment, it says the discontinuance of use. J. Froumy stated that they have so far established what abandonment is, and there is an unfortunate use of the word "abandonment" up to this point. He asked if the applicant agreed that the business stopped being used, that the land stopped being used for that business? C. Almonte stated that he did not agree. J. Froumy asked for clarification if he was stating that the business was continued? C. Almonte stated that the land was preserved with the intention of continued use. When the land was purchased, it was purchased in a time capsule state. Completely ready and furnished, with all the paperwork, with all the industry specific tools, heavy duty lift, original business signage, and frame machine. He believes that by definition, a time capsule is to preserve.

J. Froumy stated that this went on for 6 years, if this had gone on for 25 years, would that intent be still valid? C. Almonte stated that if they had acted in the way that they did, in preserving the land and specific infrastructure, and continue having the signs up and they actually had it for sale during that period and they were selling it exactly as they had it as a historical use of a garage and dealership. So, if they couldn't sell it for 25 years because of the market or if Mr. Carista didn't think he was getting his money's worth, that's still not abandonment.

J. Froumy stated that they weren't there to validate abandonment. This Board has to look at the ordinance. They have to be very open minded about this, and they need to use the proper tools to either grant or deny what this is. They cannot talk about abandonment of the business; they have to talk about lack of use. He is asking if the business discontinued the use. In 2020, the State of New Hampshire produced two filing numbers for AC Auto Sales, both of which expired in 2020. Since that time there hasn't been no ability for it to file state taxes or notices of business activity. At that point in 2020, business activity either did cease to exist, or it should have. Because there is nothing filed with the state showing it still existed.

C. Almonte stated that the ordinance that Belmont has cannot be applied in a way that contradicts controlling New Hampshire law. Which requires intent. No such intent exists on the record, and burden of proof is on the party that is stating that it was administratively abandoned. J. Froumy stated that the authority for the Town to administratively abandon a use is found under RSA 674: 43 & 44. They have a rather large liberty to set these standards. In those 6 years, did Mrs. Carista actually do auto repairs and sales in the 6-year period? C. Almonte stated that she was dying in that 6-year period. J. Froumy stated that he owns a lift and many tools for working on his cars, but he has no intention of running a business. Just owning the tools is not a foundation for an argument. C. Almonte stated that he might own the tools and a lift and he's not a mechanic, but he also didn't divest in his property to own a commercial scale garage, nor did you ever operate in your property. Working on a little twelve volt or a little Jeep is not the same as an intention that Mr. Carista and his spouse had. Her failure to act while she was dying may not be covered in the Town ordinance, it is covered by state law. J. Froumy asked if say someone was dying for 10 years, and all of the standards for that neighborhood changed, and safety regulations for that business changed, would you recommend that a site plan isn't necessary despite all of these changes, because

there was an intent to go back in 10 or 20 years later? C. Almonte stated that the absence of an historic site plan does not negate the lawful existence of use, and by definition of what the property is, which is non-conforming, because it was made before the law was in place, afforded to continue for over 50 years. This business continued up until the date of his death, and reasonably was preserved and was advertised as being sold by his widow, and they purchased it 3 months after her death.

J. Froumy stated that the purpose of the ordinance is not to deprive Mr. Gobbi the use of that property. He stated that he asked that last question about changes in safety standards and the character of the neighborhood because of the purpose of the ordinance, which is to balance the land owners' rights to use the land with corresponding rights of the abutting land owners and the public at large, to protect the public safety by means of providing adequate driveways and sidewalks and traffic islands and things of that nature. Fire safety, which is something that this Board has often had to take into great consideration, as we've had issues in this area, if not in the Town. To promote harmonious and esthetically pleasing development. Protecting groundwater, flooding, drainage, erosion, sanitary sewage disposal, and to ensure adequate facilities to serve the intended use.

J Froumy stated that another case that the applicant cited, Town of Windham v. Sprague wasn't listed anywhere in any New Hampshire case law. C. Almonte stated that they are not changing the use of land, it will remain the same as it's been since 1953. He stated that they are not changing the zoning, the zoning is still Industrial, and they are not developing anything new. It will all stay the same.

J. Froumy asked if everything will be staying the same at it was since 1953, and as the applicant has stated that have been no changes in the character of the neighborhood, and there have been no changes in the safety standards, the fire requirements or anything since 1953. C. Almonte stated that this property is a non-conforming use, by definition it exists as its own separate of what is going on in the town. He stated that what J. Froumy addressed was development, changing of zoning, and changing of use, which they are not doing. The point of him saying that it hasn't changed is because the infrastructure has not changed from 2020 when it was last listed. If it was legal n 2020, being what it is how it is, he does not see anywhere that it has changed sufficiently to say that it's not permissible to be continued as it's historical use.

J. Froumy stated that his position is that he believes that the use was interrupted for 6 years as a residential use, and that the statue demands that the Town take a look at this again as a site plan, and it's not non-conforming any longer because of that. The non-conforming portion would no longer be true because of that interruption of use. Because it's an industrial zone, you are allowed to do this. You do not have to come back to this Board and get a variance because it is a permitted use. All you are required to do is go in front of the Planning Board and show that you have taken steps to make sure that it's safe fire wise etc. It's for your protection as it says in the ordinance, as well as your neighbor's protection. He stated that that is the position he is taking, he is not speaking for the Board. He also stated that he wanted to applaud C. Almonte as he's done a great job presenting this case. He stated that he finds it very unfortunate that Mrs. Carista passed for the reasons C. Almonte explained, but he doesn't alter the fact that this was an interruption of use. He wishes the applicant well, regardless of the outcome tonight. He stated that the Town always welcomes new businesses.

M. Mastenbrook asked if there was any proof of any business being run out of this location since 2020? We're any cars sold? Do they have a license with the state? You are required to file with the state every year, and there is nothing since 2020. C. Almonte stated that the business was listed for sale as an operating facility since then every year as an operating facility. M. Mastenbrook stated that there is no proof that any business was being done from this business since 2020. C. Almonte stated that lack of proof is a burden of the Town, not the owner. M. Mastenbrook stated that this goes into his decision, because the statute is 2 years. He stated that he drives by that location all the time and there hasn't been any business going on at that location. He's asking the applicant if he has proof, because as a Board would look at this more favorably, but there is no proof. That was what Mr. Froumy was trying explain to them. C. Almonte stated that they were told that no business ever existed until they furnish

proof. As for the time period, that lack of proof is on the Town, and you driving by, respectfully, does not conclude as fact or something that they could look at. Again, lack of proof does not mean that we are guilty. M. Mastenbrook stated that he was just pointing out that if they had proof, that would work in their favor. C. Almonte stated that a lot of the estate paperwork was removed before they got there. When they got there, a lot of it was still there, but personal paperwork was not there.

M. Mastenbrook stated that it looks like the only thing that is different, whether the Board approve or disapprove, is that the applicant would have to do a Site Plan. The neighborhoods in this town have changed since 1953. As a Board member, he appreciates that they make sure all of the codes are in place. He agrees with everything that Mr. Froumy said, and he doesn't see any reason to look at this any differently at this point. Nothing has been done over there, and now it changed to a residential use. C. Almonte stated that it was still zoned as Industrial, whether they say it's residential, it's not residential. Besides that, again, lack of proof is on the Town. If the Town cannot furnish that, the lack of evidence should go to pushing for the site to be approved. This site being recognized for what it is does not mean that they will be putting anyone in danger. Historically, he hasn't seen when the facility was a threat to anybody's life or property. He also doesn't see that any business that Mr. Anthony Gobbi plans to conduct, which is to continue the historical use will pose such a threat.

M. Mastenbrook asked if Mr. Almonte was saying that if he came here in 10 or 15 years from now and wanted to use this as a garage because at one point it was used as a garage and all of the equipment was still there, then he should be able to use it as a garage today. C. Almonte stated that state laws say that, it's not his personal opinion. M. Mastenbrook stated that the Town has an ordinance that says two years. C. Almonte stated that local ordinance cannot eliminate the intent requirement posed by state law and its grandfathered status or it's non conformed use status.

S. Bouthiette asked where Mr. Almonte obtained the information that the burden of proof was on the town? C. Almonte stated that there was case law for that. S. Bouthiette asked if that case law was cited in his application? C. Almonte stated that he was planning to hand that out at the beginning of the meeting. He stated that he believes that the town should be informed about the laws it is enforcing and what it should know about the laws it is enforcing. He stated that he wasn't aware that he had to provide that. S. Bouthiette stated that he should provide the explanations if he was going to cite case law. C. Almonte stated that he believes that it is common knowledge. The burden is on the Town for that.

K. Santoro requested to address the Board. She stated that the burden of proof has never fallen on the town. They have recent cases both to the Planning Board and the Zoning Board in the Town in which the which the burden of proof falls on the applicant. The Town does not maintain land records of all businesses. That would be incredible. She stated to clarify one of the points that Mr. Froumy made, the reason he could not locate the Town of Windom v. Town of Sprague, that is because it is a State of Maine case regarding a travel trailer being located outside of a park. It has nothing to do with the State of New Hampshire. She stated that one of the other things that Mr. Almonte noted is that he spoke to Mr. Froumy on the phone prior to this meeting. She stated that she warns the applicant against ex parte communication. C. Almonte stated that he called to ask if the meeting was still on. K. Santoro stated that he didn't speak to Mr. Froumy, rather he spoke to the Land Use Clerk. K. Santoro stated that she also wanted to inform the Board that this property falls under Aquifer Protection. The Town does have the authority to regulate and require Site Plan. This property has not been used in over two years, which is what the applicant is appealing, Article A:4. The Town is requesting Site Plan Review to address those issues, including Aquifer Protection, which has changed since the business has ceased use since 2019. The applicant was informed prior to purchase that a Site Plan would be required to open the business. Had the applicant filed the Site Plan in a timely manner, his business would be open by now.

A. Gobbi stated that that was incorrect, because all of the surveyors are backed up until spring or summer.

P. Harris stated that Mr. Carista was a pretty good man. He came up from the big city, he made good on all his work, bought land, built his little business garage and all, ran a good operation, very small mom and pop thing. He had cars that he bought and sold. He had a wrecker that came with the property from a previous owner that was doing the same type of thing. He worked on this Board years ago. He was a man that liked to see things done right. He didn't like people being taken advantage of by the law. He stated that as far as this appeal of her decision, he is very proud of what Ms. Santoro has done for this town over the years that she's been here, and she does anything she can to prevent any wrong doing or hardship on a landowner. Tonight, they have crossed a lot of waters, and done some negotiations already to understand it's not going to get turned into an industrial property. Its going to be something similar in nature and use, which is very nice to see. Mr. Carista got sick 5 years before he died 6 years ago. He stated that he owns a similar business and he took on many of the customers that Mr. Carista couldn't take on anymore. Mr. Carista ended up selling everything. He sold his tools off because he could no longer function at work. He passed and left Mrs. Carista with everything. On several of the sales listings it listed as a "single family 6 car garage". One had it listed as "possible commercial industrial use" It's been taxed as residential. C. Almonte stated that he has several different listings and they are listed as a single-family home instead of commercial because when it's mixed use, it's either listed as one or the other. But when you look at the description they describe "complete with newer car lift equipment, previously used as a car lot shop, road frontage, the location is ideal for visibility. The convenience of this private location." That's in the description for all of them. If you look at them, they are all pretty much copy and paste. P. Harris stated that his point is that he doesn't think anyone did their homework and looked into the ordinances for Belmont. If they did, they would have seen that the use falls into that window of expiration.

P. Harris stated that as far as he knows, this property had no violations or write ups of that nature that would have caused any hardship for anyone on that property. Another concern is what if someone comes and buys that place and brings in big equipment and creates another industrial use on that property?

C. Almonte stated that he and Mr. Gobbi both share his concerns. They would like to do everything right and by the book. If you knew Anthony Gobbi, he's actually one of the most righteous man that he knows, especially in this industry. He will not lie to you; he'd rather you not like him then tell you a lie. He's a man of morals, and the only reason that he (C. Almonte) is here tonight is because he can speak to Mr. Gobbi's character. He's seen his character in from of people and behind people. This is the type of man you would want a business like that running in a small neighborhood, and continuing, as Mr. Carista did. He would not be burning materials or putting smoke into the air. He would not be ripping people off. He takes pride in everything he does. C. Almonte directed the Board's attention to the audience and stated that Mr. Gobbi's daughter was present. He stated that Mr. Gobbi was a single father who has 100% custody. He stated that Mr. Gobbi's daughter is his world, and that Mr. Gobbi was a model to his daughter, for not only what a man is, but what humans should be in this world. He stated that Mr. Gobbi is a fellow Christian, and he was there to preserve the status quo, and continue as a small-time business and a contributing member of society.

P. Harris asked Staff about the history of the property. K. Santoro stated that for this property they have a few building permits and the assessing card which lists the property as residential. The history stops in 2019, when Mr. Carista passed away and the use ceased. After that there are a few minor mechanical permits for the home.

D. Silcock stated that he respects Mr. Almonte's presentation of Mr. Gobbi's character, and he feels that they could probably be friends with respect to his character. He stated that he wished he could make decisions based on character, but he can't as a Zoning Board officer. In regards to the first part of this conversation. He asked to clarify that the applicant feels that the town ordinance goes against state law. C. Almonte stated that was correct. D. Silcock stated that J. Froumy referenced two RSAs in his questioning. He asked to review J. Froumy's notes on those RSAs. J. Froumy stated that the RSA states that the Town is given the authority to set ordinances. D. Silcock stated that they are there tonight to decide if the current Town of Belmont ordinance breaks the law. K. Santoro clarified that this is an Appeal of an Administrative Decision. The Board isn't trying to determine of the

ordinance is legal, rather was her interpretation of the ordinance correct. The Board needs to decide if they will keep it or overturn it. If the Board upholds her decision, the applicant will have to go to Site Plan Review. If the Board overturns it, the applicant will file a Change of Tenant. The applicant is appealing the decision, not state law, not ordinances or the legality of the ordinances. To clarify, state law in many cases gives local authority, and the Town of Belmont's ordinances have been legally reviewed multiple times and before any ordinance changes go to the warrant, in any point in time, they are reviewed by the Town's legal team.

D. Silcock stated that he was there for the applicant's appeal of the administrative decision. It is their job as a Board to review if the Zoning Administrator was correct in her interpretation of the ordinance. J. Froumy stated that it is not on the Town to prove anything. It is up to the applicant to bear the burden of proof.

J. Froumy asked the Applicant why he didn't just go to the Planning Board for Site Plan Review? A. Gobbi stated that when he bought this property, he was told by his agent that it was all set to go. He's not blaming her for anything. He stated that he had a similar operation in Winchester, and he sold it in order to move closer to the school he wanted his daughter to attend. Since then, he's been trying to replace what he had. When he finally found this place, he found out that he can't use the place. When he looked into getting a site plan, he found that everyone he talked to was backed up until the spring or summer, and it was going to cost thousands of dollars, and he has a massive mortgage on this property. He was expecting to put up an open sign and start serving the community immediately. He stated that things such as making sure that there are smoke detectors and fire extinguishers, and making sure things are clean and kept, that's fine. But this Site Plan thing is something completely different. He stated that he cannot get one for months, and then it's going to cost thousands of dollars he doesn't have.

J. Froumy stated that unlike the courts of criminal law or civil law, they can't go with the strongest argument, they have to go with the law and the ordinances that the Town Planner was attempting to uphold. The Board doesn't have the liberty of sympathizing with a good argument, they only can sympathize with what they understand the ordinance to be. That is how Zoning Boards throughout the state are expected to perform. Whether in Belmont or some other town in New Hampshire, they would have to expect the same thing. This Board has an obligation to protect the aquifer.

C. Almonte asked if the Board had any evidence or history to show that it would be endangering the aquifer in order to enforce this decision that it is so heavily based on? J. Froumy stated that they don't have to show that the Applicant was going to injure the aquifer in some way, rather they don't wait for that injury to happen. There are standards that are set for properties that are located in the Aquifer Protection Zone. C. Almonte asked if it would be possible for the Board to come up with a scenario where the Applicant would be allowed to operate until such site plan can be set in place? J. Froumy stated that he didn't think that was possible because it would violate the ordinance. The Zoning Board doesn't make law, in fact, the Board can't even vary from the law. They often have to rule on things that might make them feel awful, but they have to do it by law. C. Almonte stated that he finds it difficult to have that ruling when the official legal note says that the decision was about abandonment, and it kind of switched on that early on. They aren't arguing if the use was unused, they are arguing if the use was abandoned. J. Froumy stated "abandonment" was a legal term, and "lack of use" is an observable term. The law simplifies that down to an observable term. The Chairman read back real estate listings, and they know that the Secretary of State shows that this use was expired. The prior owner passed away at a very old age, and his business had really slowed down, maybe even stopped. Mrs. Carista wasn't doing auto repair work to the best of their knowledge.

Chairman Harris opened the public hearing.

D. Grimes inquired about the "grandfathering" of a business. If the Applicant purchased the property and the business, and got the business license, does that fall into a grandfather situation? J. Froumy stated that he doesn't know that it would make a difference if they agree that there has been an interruption of use.

MOTION: J. Froumy moved to deny the appeal to reverse the Town of Belmont's administrative decision requiring a Site Plan and Planning Board review to re-establish an auto repair and sale business at 14 Wareing Road for the following reasons:

1. The authority to require Planning Board review is set forth by the State of NH as described in RSA 674.43 & 674:44.

2. The ZBA finds that the subject property was used by Mr. Carista for the purpose of auto sales and services until his death on October 18, 2019 at the age of 89. The business was operated under the New Hampshire Secretary of State filing # 109585 & # 722552. The Secretary of State's website states that the business filing expired in 202 and since then has not been renewed under the name "A.C. Auto Sales". There is no evidence of reports, fees paid, or maintenance of a registered agent in accordance with the Secretary of State "Business status definitions" (As published on the State website.)

3. Stasia Carista, who was the wife of A. Carista and was 69 years old at the time of his death, continued to live on the property in her residential type structure until her death at 75 on July 26, 2025. With no filing with the state, nor any signage, and in light of her age, there is no evidence that Mrs. Carista continued running the auto sales and repair business. Instead, she used the property exclusively for residential purposes.

4. The current owner, Anthony Gobbi, purchased the property on November 6, 2025. There is no evidence that he continued to operate AC Auto Sales or resurrected it after the State of New Hampshire declared the business listing expired in 2020.

5. The Town of Belmont's Site Plan Review Regulations, Section 1.A clearly states that it complies with the authority granted to the New Hampshire RSA 674:43 and 674: 44, which includes the statement of purpose for Site Plan Review to:

    a) Protect public safety.
    b) Provide for fire safety.
    c) Promote harmonious & aesthetically pleasing development.
    d) Protect the environment.
    e) Ensure adequate facilities to serve the intended use.

    Section 1.E.1 further states that review is required with "A proposal involving a change of use category, e.g., from residential to commercia1, from residential to multi-family, from retail to professional office requires Site Plan review." The appeal being heard tonight asks the ZBA to suspend this requirement which has been authorized by State statute, voter approval and the usual process since zoning was established in the Town, has been applied in all past cases where the Town was aware of changes of use from Residential to Commercial. When the property was offered for sale, it was often described as Residential with no mention of the business use.

Second: M. Mastenbrook
Vote: All in favor, motion carried. (5/0)

Minutes of January 28, 2025

MOTION: M. Mastenbrook moved to approve the minutes of January 28, 2026, as written

Second: D. Silcock
Vote: All in favor, motion carried. (5/0)

STAFF REPORT

K. Santoro stated that March 10 was Town Meeting, 7AM to 7PM at the High School. Voting Guides are available at Town Hall.

K. Santoro stated that she'd like to thank John Froumy for many years of service to the Zoning Board. He's always very thorough and much appreciated. We will miss him on the Board.

ADJOURNMENT

MOTION: M. Mastenbrook moved to adjourn at 7:20 PM
D. Silcock seconded the motion.
Vote: All in favor, motion carried. (5/0)

Respectfully Submitted,

Susan M. Austin
Land Use Assistant

DRAFT