

**TOWN OF BELMONT  
ZONING BOARD OF APPEALS**

RECEIVED  
TOWN CLERK  
BELMONT, MA

2023 OCT -3 AM 11:02

**CASE NO.** 23-21

**APPLICANTS** Over 100 Belmont residents (list attached as Exhibit A)

**PROPERTY** The joint properties of 283, 301, 305, and 315 Prospect Street & 12 and 20 Park Avenue

**DATE OF PUBLIC HEARING** August 21, 2023

**MEMBERS SITTING** Casey Williams, Chair  
Andrew Kelley, Vice Chair  
Elliot Daniels  
Teresa McNutt  
David Stiff

**MEMBERS VOTING** Casey Williams, Chair  
Andrew Kelley, Vice Chair  
Elliot Daniels  
Teresa McNutt  
David Stiff

**Introduction**

This matter came before the Board of Appeals (the “Board”) of the Town of Belmont (the “Town”) on the appeal, pursuant to the Zoning By-Law of the Town of Belmont, Massachusetts (the “By-Law”) § 7.3.3(f) and Chapter 40A of the Massachusetts General Law (the “Zoning Act” or “M.G.L”) c. 40A §§ 8, 15, of the April 19, 2023 Belmont Hill School Design and Site Plan Review (the “DSPR”) and Opinion and Decision in Planning Board Application 23-04. That DSPR concerned a project at the Belmont Hill School (“Project”) described fully in the DSPR.

**Proposal and Procedural History**

In one letter dated June 26, 2023, Appellants:

1. Appealed the DSPR to the Board;
2. Asked the Office of Community Development to enforce the Town’s zoning bylaw by revoking a storm water drain installation permit and a sanitary sewer installation permit for the Project, both issued June 8, 2023, and any other permits issued for the Project; and
3. Asked the Office of Community Development to enforce the Town’s zoning bylaw by “withholding all other permits for the BHS project pending further proceedings by the” Board and Planning Board.

By letter dated June 30, 2023, the Office of Community Development denied requests for zoning enforcement (2 and 3 above).

**Public Hearing**

Attorney Alessandra Wingerter, of Fitch Law Partners spoke on behalf of the Appellants and argued that the Planning Board’s DSPR and decision was erroneous because the Planning Board misunderstood the Dover Amendment, and the Planning Board incorrectly believed it could not impose “reasonable conditions” that were stricter than the By-Law. She requested that the Board remand the decision to the Planning Board for further review, and also asserted that the Planning Board had stifled community input during hearings.

Robert Fitzgerald, of Goodwin Proctor, represented the Belmont Hill School. He stated that on June 26, 2023, the Appellants asked the Office of Community Development to take enforcement action with respect to its issuance of two permits. Attorney Fitzgerald further explained that Mr. Glenn Clancy, the Director of Community Development, had responded on June 30, 2023 that there was no lawful basis to revoke the two permits issued, and informed the Appellants of their rights to appeal that decision with the Zoning Board of Appeals, but the Appellants did not file an appeal within the 30-day response period.

Attorney Fitzgerald also asserted that the Board lacked jurisdiction to hear this appeal because Section 8 of the Zoning Act requires that appeals be related to building permits, but a building permit has not been issued for this Project. Attorney Fitzgerald also argued that the Appellants must demonstrate harm to a private interest, not a general public interest or concern. As to the Dover Amendment, he argued that only “reasonable conditions” for the bulk and height of the structures, yard sizes, parking, open space, and building coverage requirements may be imposed, and noted that it would be unreasonable for a Planning Board to impose requirements that are more restrictive than the By-Law.

Numerous residents, abutters, and community members spoke in favor of the appeal and in opposition to the Planning Board DSPR decision. They raised concerns related to various environmental impacts, risk of fire, and traffic and safety, and expressed dissatisfaction with how the project was handled by the Planning Board.

**Discussion & Decision**

The Board discussed whether it had jurisdiction to hear the appeal. Attorney George Hall, Town Counsel, suggested that Board consider the following three questions. The Board’s discussion is summarized below each question.

- 1. Does the issuance of the sewer and stormwater permit provide a right of appeal of the DSPR decision to the Board?*

The Board does not have purview over sewer or storm water permits, and would typically not consider an appeal for such permits. The Board acknowledged that this is a unique case, as building permits are generally not issued for parking lots, which is the bulk of the Project.

Case # 23-21  
Appeal of April 19, 2023 Planning Board Belmont  
Hill School Design and Site Plan Review and Decision

2. *Did the Appellants waive their right to receive future permits by not appealing the Offices of Community Development response to their enforcement letter?*

The Office of Community Development denied the Appellants' June 26, 2023 enforcement request on June 30, 2023. The Appellants did not separately appeal that denial within 30 days from the date of the Office of Community Development's decision. Because Appellants did not appeal the Office of Community Development's June 30, 2023 denial of their enforcement requests within thirty days, any appeal on those issues was untimely.

3. *Has an Appellant demonstrated that they are personally aggrieved or have suffered injury to a protected legal interest as a result of an error by the Planning Board?*

The Board considered the background documents, opening arguments, and public discussion, and did not identify a claim of aggrievement based on a personal rather than public interest.

Although the Board did not believe it had jurisdiction to hear the appeal for the reasons stated above, the Board reviewed the arguments about the Dover Amendment and the merits of the DSPR. The Board agreed that the Planning Board, generally adhering to the guidance of Town Counsel, appropriately applied its authority as informed by the Dover Amendment. The Planning Board considered impact on abutters, stormwater, traffic and congestion, conservation restrictions, and other relevant factors as part of their DSPR. The Board is unaware of any "reasonable restrictions" proposed by the Appellants or community members that were not already considered and incorporated into the DSPR decision.

The Board also agreed that it would not review Planning Board meeting procedures.

Accordingly, **upon a motion duly made by Casey Williams, and seconded by Teresa McNutt, the Board voted 5-0 to dismiss the appeal.**

For the Board,

Dated: October 3, 2023



---

Gabriel S. Distler,  
Staff Planner  
Planning Division  
Office of Community Development

### Appealing Residents

Raif Geha 248 Rutledge Rd, Belmont  
Orietta Geha 248 Rutledge Rd, Belmont  
Christian Liles 216 Rutledge Rd, Belmont  
Dagmar Liles 216 Rutledge Rd, Belmont  
Melissa Liska 208 Rutledge Rd, Belmont  
Matthew Schwartz 200 Rutledge Rd, Belmont  
Carolyn Gillette 200 Rutledge Rd, Belmont  
William Bihrlle 178 Rutledge Rd, Belmont  
Mary Bihrlle 178 Rutledge Rd, Belmont  
Brian Palmer 210 Clifton St, Belmont  
Lisa Palmer 210 Clifton St, Belmont  
Ann Roe 269 Prospect St, Belmont  
Barry Lubarsky 257 Rutledge Rd, Belmont  
Amy Grossman 249 Rutledge Rd, Belmont  
Mark Grossman 249 Rutledge Rd, Belmont  
Lois Pines 175 Rutledge Rd, Belmont  
Barsam Joyce 170 Rutledge Rd, Belmont  
Barsam Paul 170 Rutledge Rd, Belmont  
Ellen Harris 162 Rutledge Rd, Belmont  
Matthias Mokros 162 Rutledge Rd, Belmont  
Fred Heller 154 Rutledge Rd, Belmont  
Glenn Morgan 144 Rutledge Rd, Belmont  
Sandy Fleming 144 Rutledge Rd, Belmont  
Hillary Berkman 141 Rutledge Rd, Belmont  
Wendelyn Kistler 97 Rutledge Rd, Belmont  
Philip Kistler 97 Rutledge Rd, Belmont  
Scott Miller 200 Clifton St, Belmont  
Nancy Almquist 121 Clifton St, Belmont  
Eric Almquist 121 Clifton St, Belmont  
James Dow 95 Clifton St, Belmont  
Jacquie Dow 95 Clifton St, Belmont  
Peter Burke 216 Prospect St, Belmont  
Rosemary Burke 216 Prospect St, Belmont  
Bob Orfaly 225 Prospect St, Belmont  
Sylvia Orfaly 225 Prospect St, Belmont  
Michael Moskowitz 257 Prospect St, Belmont  
Mary Moskowitz 257 Prospect St, Belmont  
Carolyn Schwartz 46 Prospect St, Belmont  
Michael Schwartz 46 Prospect St, Belmont  
Rebecca Schwartz 46 Prospect St, Belmont

Marcia Sugrue 15 Village Hill Rd, Belmont  
David Lesnit 15 Village Hill Rd, Belmont  
Margaret Barsam 83 Village Hill Rd, Belmont  
Deran Muckjian 108 Village Hill Rd, Belmont  
Cynthia Muckjian 108 Village Hill Rd, Belmont  
Jane Lappin 37 Amherst Rd, Belmont  
Frederique Rigoulot 80 Woodfall Rd, Belmont  
Vincent Rigoulot 80 Woodfall Rd, Belmont  
Courtney Sturgeon 409 Common St, Belmont  
Chloe Sturgeon 409 Common St, Belmont  
Jean Devine 52 Raleigh Rd, Belmont  
Phil Chisholm 52 Raleigh Rd, Belmont  
Elaine Dimopoulos 51 Oakmont Ln, Belmont  
Samuel Rubin 168 Claflin St, Belmont  
Linda Levin-Scherz 75 Woodbine Rd, Belmont  
Jeff Levin-Scherz 75 Woodbine Rd, Belmont  
Suhgenie Kim 26 Prentiss Lane, Belmont  
Janet Liddell 83 Leicester Rd, Belmont  
Bruce Liddell 83 Leicester Rd, Belmont  
Carolyn Bishop 7 Orchard St, Belmont  
Walter Bishop 7 Orchard St, Belmont  
Vanessa DiMauro 92 Richmond Rd, Belmont  
Andrew Schiermeier 90 Fletcher Rd, Belmont  
Benoit Schiermeier, 90 Fletcher Rd, Belmont  
Marie-Cecile Ganne 90 Fletcher Rd, Belmont  
Sarah Wang 273 Orchard St, Belmont  
Allison Lenk 145 Sherman St, Belmont  
William Anderson 76 Stony Brook Rd, Belmont  
Katherine A Anderson 76 Stony Brook Rd,  
Belmont  
Pam Moore 47 Fletcher Rd. Belmont  
Lucy Brown 35 Ross Rd, Belmont  
Summer Brown 35 Ross Rd, Belmont  
Judith McSwain 35 Ross Rd, Belmont  
Constantine Chinoporos 25 Crestview Rd,  
Belmont  
Alix Pollack 15 Dean St, Belmont  
Brian Iler 482 School Street, Belmont  
Russell Mann 68 Wellesley Rd, Belmont  
Diane Toomey 46 Flett Rd, Belmont

Cabell Eames 26 Lewis Rd, Belmont  
Curtis Eames 26 Lewis Rd, Belmont  
Chris Doyle 15 Cedar Rd, Belmont  
David Brams 15 Cedar Rd, Belmont  
Shealagh Brams 15 Cedar Rd, Belmont  
Craig White 25 Lewis Rd, Belmont  
Laura Duncan 699 Concord Ave, Belmont  
Peter Lappin Griffiths 39 Amherst Rd, Belmont  
Joseph Baldwin 24 Ross Rd, Belmont Jennifer  
Baldwin 24 Rodd Rd, Belmont Annette  
Hannon 74 Village Hill Rd, Belmont Frank  
Hannon 74 Village Hill Rd, Belmont

Portia Thompson 11 Beatrice Cir, Belmont  
Barbara Chinoporos 25 Crestview Rd, Belmont  
Anne DiGiovanni 29 Woodbine Rd, Belmont  
Jim Sullivan 32 Richmond Rd, Belmont  
Lisa Johansen 32 Richmond Rd, Belmont  
Emily Sullivan 32 Richmond Rd, Belmont  
Grace Sullivan 32 Richmond Rd, Belmont  
Allison Martin 1 Hillcrest Terr., Belmont  
Juliet Jenkins 76 Lorimer Rd, Belmont  
Judith Feinleib 87 Oakley Rd, Belmont  
Lisa Oteri 31 Waverley Terrace, Belmont  
Ralph Jones 56 Summit Rd, Belmont