

**Moultonborough Planning Board**  
**P.O. Box 548**  
**Moultonborough, NH 03254**  
**(603) 476-2347**  
**Minutes**

September 10, 2008  
Regular Meeting - 7:30 P.M.  
Moultonborough Town Offices

**Present:** Members: Judy Ryerson, Natt King, Keith Nelson, Eric Taussig  
Ed Charest (Selectmen's Representative)  
Alternates: Joanne Coppinger  
**Excused:** Members: Peter Wright, Jim Bakas  
Alternates: James Gray (Selectmen's Alternate)

Ms. Ryerson called the meeting to order at 7:30 PM, and appointed Joanne Coppinger to sit on the board with full voting privileges in place of Peter Wright.

**I. Approval of Minutes**

Mr. Taussig requested an amendment to the minutes to clarify his comments regarding the hearing for Chris Sturgeon. Mr. Taussig stated his question at that time was whether or not the special exception included the sale of cars, and the answer to that was that the special exception did not include the sale of cars. The reason Mr. Taussig voted to abstain on the application was specifically because it was his view that the Planning Board could not expand a special exception that was granted by the Zoning Board. Mr. Taussig believes that the Planning Board exceeded its authority. The minutes of August 27<sup>th</sup> will be amended to reflect Mr. Taussig's comments.

**Motion:** Mr. Taussig moved to approve the Planning Board Minutes of August 27, 2008 as amended.  
Mrs. Coppinger Seconded.  
**Motion Carried** – Unanimously.

**Motion:** Mr. King moved to approve the On-site Minutes of September 9, 2008.  
Ms. Ryerson Seconded.  
**Motion Carried** – Unanimously with Mr. Taussig abstaining.

**II. New Submissions**

**1. Henry V. & Mary Hall, Trustees and Kevin A. & Linda M. Murray Trustees  
(264 – 25 & 29)(9 & 23 Woodvale Road) **Boundary Line Adjustment****

This is a request for a boundary line adjustment for an equal area exchange between abutting lot owners. The applicants are exchanging areas of 5040 square feet resulting in no net change in the existing lot areas.

Ms. Ryerson noted the request for waivers dated August 5, 2008 from Hambrook Land Surveying.

**Motion:** Mr. Charest moved to accept the application of **Henry V. & Mary Hall, Trustees and Kevin A. & Linda M. Murray Trustees (264-25 & 29)** as complete for action

by the board, grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be boundary line adjustment #1.

Mr. King Seconded.

**Motion Carried** – Unanimously.

2. **Gill Dacha Trust and Laurence B. Hodson 1998 Realty Trust (120 – 93 & 94)**  
(4 Windswept & Castle Shore Road) **Boundary Line Adjustment**

This is a request for a boundary line adjustment. The proposal is the transfer of 1950 square feet from Tax Map 120 Lot 94 to Tax Map 120 Lot 93.

**Motion:** Mr. King moved to accept the application of the **Gill Dacha Trust and Laurence B. Hodson 1998 Realty Trust (120 – 93 & 94)** as complete for action by the board and to schedule a hearing this evening to be boundary line adjustment #2.

Mr. Charest Seconded.

**Motion Carried** – Unanimously.

**III. Boundary Line Adjustments**

1. **Henry V. & Mary Hall, Trustees and Kevin A. & Linda M. Murray Trustees (264 – 25 & 29)**(9 & 23 Woodvale Road) **Boundary Line Adjustment**

Ms. Ryerson stated that this was a request for a boundary line adjustment for an equal area exchange between abutting lot owners. The applicants are exchanging areas of 5040 square feet resulting in no net change in the existing lot areas.

Ms. Ryerson noted for the record the request for waivers dated August 5, 2008 from Hambrook Land Surveying.

It was noted the Police Chief had no comment.

Jim Hambrook, agent for the Hall's and Murray's presented the application for the boundary line adjustment. Mr. Hambrook briefly described the location of the properties, noting between the Hall's and the Murray's, they own a whole block of lots. The proposal is to exchange 5040 square feet between the parties to eliminate the existing jagged lot line to make it a straight property line. The reason the line is jagged is that's how the original lots were laid out and purchased by the parties. Mr. Hambrook noted the area to be exchanged is all open land, field and lawn mix, is an equal area exchange and has no impact on the density of either property. Mr. Hambrook answered any questions from the board.

There were no questions from the board or the public.

**Motion:** Mr. Nelson moved to approve the boundary line adjustment for **Henry V. & Mary Hall, Trustees and Kevin A. & Linda M. Murray Trustees (264-25 & 29)** as presented, grant the waivers as requested, subject to the exchange of deeds in accordance with Section 5.4 of the Subdivision Regulations.

Mrs. Coppinger Seconded.

**Motion Carried** – Unanimously.

2. **Gill Dacha Trust and Laurence B. Hodson 1998 Realty Trust (120 – 93 & 94)**  
(4 Windswept & Castle Shore Road) **Boundary Line Adjustment**

Ms. Ryerson stated that this was a request for a boundary line adjustment. The proposal is the transfer of 1950 square feet from Tax Map 120 Lot 94 to Tax Map 120 Lot 93.

It was noted the Chief of Police had no comment.

It was noted the Fire Chief had reviewed the application and has no concerns with the adjustment.

Dan Ellis, representing the parties, presented the application for the boundary line adjustment. Mr. Ellis briefly described the proposal, noting the outcome is to add 1950 square feet from the Hodson 1998 Realty Trust property to the Gill property. This is mainly for the purpose of having an area that will meet all regulations for a replacement septic system, in the event the existing system should fail. Mr. Ellis noted the existing Gill driveway encroaches on the Hodson property and that the BLA would increase the lot line to eliminate the encroachment. It was noted the existing Gill lot is non-conforming and the BLA would improve the non-conformity slightly. The Hodson property is just under three acres in size and will decrease in size by .04 of an acre. Mr. Ellis answered any questions from the board.

Mr. Nelson asked that Mr. Ellis describe Lot 94 to the board to make certain the lot is able to be developed. It was noted that lot calculations were submitted with the application. Unit Density was 1.69 for the existing Lot 94 prior to the transfer and 1.66 units for the proposed Lot 94.

**Motion:** Mr. King moved to approve the boundary line adjustment of the **Gill Dacha Trust and Laurence B. Hodson 1998 Realty Trust (120 – 93 & 94)** as presented, subject to the exchange of deeds in accordance with Section 5.4 of the Subdivision Regulations.

Mr. Charest Seconded.

**Motion Carried** – Unanimously.

#### IV. Hearings

1. **C.G. Roxane, LLC (Old 85-21 / New 94-4)(Ossipee Park Road / Route 171)**  
**Continued Site Plan Review**

Ms. Ryerson noted that this was a continued site plan hearing for C.G. Roxane, LLC. The hearing was continued on April 23, 2008 to allow time for the court to issue a decision and allow for any appeal period.

Doria Aronsen, representing C.G. Roxane was present to request another continuance. Ms. Aronsen stated the Oral Arguments are scheduled in Supreme Court for September 17, 2008, so that there is no update at this time. Ms. Aronsen requested a continuance to the end of January.

Ms. Ryerson asked Ms. Aronsen what she would be the implications of the Oral Arguments may be, and how long might this go on for. Ms. Aronsen stated the Supreme Court will rule at some point after the Oral Arguments and then it will be known if the court approved what the ZBA had approved.

Ms. Ryerson questioned if there would be another hearing after this. Ms. Aronsen stated that this was it at the court level.

It was noted the board had required the current abutter's being properly noticed prior to the continued hearing and will require this again.

**Motion:** Mr. King moved to continue the site plan review hearing for C.G. Roxane, LLC (Old Tax Map 85 Lot 21/New Tax Map 94 Lot 4) to February 25, 2009 conditional upon the current abutter's being re-notified not more than 15 days prior to the date of the hearing.

Mr. Nelson Seconded.

**Motion Carried** – Unanimously.

2. **Russell Sabanek & Judy Sprague (141-3)(130 Whittier Highway)**  
**Compliance Hearing**

Ms. Ryerson stated that this was a compliance hearing for Russell Sabanek & Judy Sprague, Tax Map 141 Lot 3 located at 130 Whittier Highway. Ms. Ryerson read into the record the letter dated August 15, 2008 which was sent to Mr. Sabanek and Judy Sprague. Ms. Ryerson referred to a letter dated August 7, 2006 from Russell Sabanek stating "... it is true that the detention pond must be properly maintained and repaired as required. Keepsake Quilting, Inc., our tenant, has the responsibility of maintaining the building and property at 130 Whittier Highway." Rob O'Brian was present to speak to this issue with the board.

Ms. Ryerson stated the issues are, as understood from the Code Enforcement Officer (CEO), that the detention pond is not properly functioning and that there have been complaints regarding this from abutters down gradient for a number of years and it is at a point that it must be addressed. It appears the big problem is that there are trees growing in the berm, which allows water to seep through the berm and into the abutting property. Ms. Ryerson stated that the board is not qualified to determine what needs to be done to address this issue, but something needs to be done.

Rob O'Brian, President of Keepsake Quilting, Inc. was present to speak with the board. Mr. O'Brian stated that he was not sure that everyone agrees that the detention pond is not functioning properly. Mr. O'Brian described what he feels is happening. In the spring, when there is the snow melt and runoff, one of the abutters has a stream that goes through his property and that abutter believes that the detention pond is the issue. Mr. O'Brian noted the CEO added dye to the detention pond to determine if the water on the abutting property was from their detention pond. There has been nothing definitive from adding the dye. Mr. O'Brian has called in an engineer and an excavator to take a look at the pond. No one can determine that the detention pond is the issue. This was brought to a head early in the spring. Mr. O'Brian contacted an excavation company for a quote, noting they were to cut back the detention pond, excavating a section of the berm of the detention pond to see if water would leak through. When this was finally organized it was May. There are no issues in the summer, so they put this off until the fall.

Mr. O'Brian stated they have been tracking the depth of the water in the pond. Their plan is to clear out the middle of the detention pond this fall as planned. They are not clear that it is the detention pond which is at fault. And honestly where to go with this, he is not 100% sure. It would cost Keepsake Quilting thousands of dollars to determine if it is an issue or not. Mr. O'Brian has not had that conversation with Mr. Sabanek yet.

Mrs. Coppinger questioned if it was one abutter who has complained. Abutter William Tolman was present in the audience, stating that he was the abutter that was complaining. Mr. Tolman stated that he has lived at his property at 155 Lake Shore Drive for thirty years and has a pretty good idea that's where the water on his property is coming from. He can not state for certain as he is not an engineer. He can see the water seeping through the stone wall any time there is water in the pond. Mr. Tolman stated the pond is overgrown with bushes and there are large trees in the banking of the pond. Mr. Tolman stated one of his questions to the board is why does the board require developers install ponds, if there is no maintenance of them after they are completed.

Mr. King stated that he feels there is reason to maintain them and that this would be the responsibility of the Sabanek's to see that it is maintained properly. Mr. King stated that he does not know what the steps are to see that it is brought back to a specific standard.

Mr. Tolman stated that he has had a garden in that area, and for the first seventeen years he lived there he had never gotten stuck in the garden with a tractor and he never grew rice there, but now there is water there. Mr. Tolman noted that today, there was still water puddled at the foot of the stone wall, and that it is the only place on his property that you will find water. Mr. Tolman stated the worst is in the winter when the ice builds up 8-10 inches thick in front of his garage doors. It is not as much of an issue in the summer, as he can drive through the water.

Mrs. Coppinger questioned when the pond was constructed. There was no definite date, but was estimated about eighteen years ago. It was noted the pond was a requirement as part of the approval for the Harbor Pines/Windward Realty Group 12 Lot Subdivision approved on December 12, 1990 for 10 residential lots with access from Lake Shore Drive and 2 commercial lots with access from Route 25. Keepsake Quilting is located on the commercial lots approved with the subdivision.

Mr. Tolman noted that he does not own up to the Sabanek property, that there is a twenty foot buffer that is between his property and the Sabanek property which is part of the common land for Harbor Pines.

Mrs. Coppinger questioned when Mr. Tolman started having problems with the drainage. Mr. Tolman stated seven or eight years ago. Mr. Tolman built his garage in 1996 and there was not a problem at that time. They started noticing a problem and he and his son went up to the base of one of the bigger pine trees in the berm, moved the leaves away from the base, and you could see the water trickling down. Mr. Tolman feels the bigger the roots get in the pine tree, and others, the more the roots grow into the banking and into the pond allowing more water to seep out from the pond.

Ms. Ryerson noted she had reviewed the approved plans for the site plan of Keepsake Quilting, noting a reference to notes 4 and 6 on the plan. The notes are "Temporary Erosion Control" which is one of the confusions. Note # 4 states "seed mix shall be equal parts of red fescue (creeping), Kentucky bluegrass, redtop, perennial ryegrass." In other words, the detention pond is to be seeded with grass. Note # 6 states "The bottom of basins shall be periodically cleaned, with the sediment removed to a secure location so as to prevent siltation of natural water ways." Ms. Ryerson stated these notes appear to be more than just temporary erosion control, but do not know that as they are shown on the plan under "Temporary Erosion Control." These seem to be the only notes in the plans that could be found about the maintenance. However, Mr. Sabanek seems to have agreed that it is their responsibility to maintain the detention pond, and Mr. O'Brian's. Ms. Ryerson stated that if Mr. O'Brian has a plan of action they believe would help, the board encouraged this. It was noted that this has been going on for quite sometime, noting letters as far back as January 2004.

The board discussed this matter at length with Mr. O'Brian and Mr. Tolman. Mr. O'Brian stated their plan is to clean the pond out, but the big trees, which would be a significant expenditure, and if they are the issue, he does not feel they are maintenance as they were there long before Keepsake Quilting was there.

Mr. King questioned the location of the pine trees. Mr. Tolman stated they are in the banking of the pond, and would assume they are on the Sabanek property. The board questioned if when the pond was constructed, were the trees there. It was stated the trees were prior to the construction of the pond.

It was noted the issue is not if the trees were or were not there, but that the water is seeping out of the pond.

There were various ideas as to how the pond was constructed and how it is to function. There was an agreement with the board, Mr. O'Brian and Mr. Tolman to allow Keepsake Quilting to proceed with the maintenance of the pond, i.e. the removal of the brush and sediment of the pond as planned, and to continue the compliance hearing to a date certain. This would allow Mr. O'Brian's contractor to clean the pond and to see if this would correct the problem of water seeping onto Mr. Tolman's property. Mr. O'Brian and Mr.

Tolman were in agreement to communicate with each other in regards to this issue. Mr. Tolman stated that he was willing to work with Mr. O'Brian in trying to determine the source of the water.

It was the decision of the board to continue the hearing to allow time for Mr. O'Brian to have the detention pond cleaned as originally planned. This is to be completed prior to the date of the continued compliance hearing. If this does not take care of the issue then further evaluation of the detention pond will be required. It was noted Mr. O'Brian may have this study completed on his own or the board may exercise its right to have the study completed at the expense of the property owner.

**Motion:** Mr. King moved to continue the compliance hearing for **Russell Sabanek & Judy Sprague (141-3)** to November 12, 2008.  
Mr. Charest Seconded.  
**Motion Carried** – Unanimously.

Ms. Ryerson went out of order on the agenda and took up Unfinished Business prior to the Informal Discussions.

## **VI. Unfinished Business**

Ms. Ryerson noted this was a discussion in regards to property of **Walter E. Koziarski, Jr. (71-14), 426 Governor Wentworth Highway**. The site plan was approved with the provision that the board address the issue of screening. Mr. Koziarski was required to return to the board this evening when the board will specify what they will require for a buffer zone. There was a site walk conducted on the property on September 9, 2008.

Dave Dolan was present to speak with the board regarding the buffer. Mr. Koziarski was present in the audience for this discussion. Mr. Dolan noted they had met on-site to look at what was in the area along the side lines and the road for existing buffers. Mr. Dolan noted that there are a number of evergreens mixed in the buffer, and that perhaps with some thinning of the hardwood saplings it would allow the evergreens to fill in. Mr. Dolan provided photos of the area of discussion, so that members not present at the on-site could view what was existing.

The board discussed this at length, noting that they would like an adequate buffer along the abutting property lines, past the residences on each side and along the road.

Mr. King noted that pines aren't necessary a good buffering tree, as the lower limbs tend to die off and you tend to get more of a crown verses low coverage.

After further discussion it was the recommendation of the board that a planting plan be prepared depicting the existing trees, what is to be removed and what and where will be replanted. Mr. King referred to the buffering that has been planted just up the street at Skelley's Market, noting that there are two rows of coniferous trees that are offset, in a zigzag pattern that is very effective. This is something that the board would like incorporated the hemlocks that are existing. Mr. King stated that it is hard to determine right now, because it is confusing looking at the existing deciduous and coniferous trees. It is hard to tell would or would not be adequate.

Mr. Dolan stated the difference between this site and Skelley's is that there was absolutely nothing at Skelley's, it was wide open, noting there are some mature hardwood trees existing as well. In order to plant in there you are going to need to take out a lot of the existing vegetation. Mr. Dolan agreed that it would make sense to clean out a lot of the small hardwood saplings to allow the hemlocks and pines to fill out.

Mr. King would like the plantings to be planted in a zigzag manner and to be six foot in height, not including the root ball.

It was the consensus of the board to have Mr. Koziarski return to the board on October 22, 2008 and provide the board with a planting/screening plan taking into consideration the feedback provided by the board this evening.

## V. Informal Discussions

1. **Bob Hammond** requested to speak to the board on an informal basis regarding his property **Tax Map 23 Lot 14**, 1173/1195 Whittier Highway. Mr. Hammond stated that he would like to replace his sign on his property, but was told that this would require a site plan amendment. Mr. Hammond has recently planted three plum trees in an area going down his ramp and would like to replace his double sided sign located along the side of Route 25 with a one sided sign and relocate it to the foot of his ramp. Mr. Hammond is asking the board to waive the requirement of a site plan amendment as the expense far exceeds the cost to replace and relocate his sign.

Ms. Ryerson stated that Mr. Hammond stopped in to the Land Use Office earlier today to inquire what would be required to complete his project. Ms. Whitney had told him the procedure was to make application for a site plan amendment, which requires abutter notification for a public hearing, including an amended plan.

Ms. Ryerson noted the board had discussed a similar situation this year with Scott Ouellette. Mr. Dolan had inquired about putting up a fence on Mr. Ouellette's site but that the expense of the site plan amendment would cost more than the fence. At that time there was some discussion that there should be some other way, rather than requiring someone to go through the expense of our process that would allow insignificant changes to a site plan.

It was noted that it was the consensus of the board to allow the installation of the fence for Mr. Ouellette subject to the receipt of a letter for the file describing the fence to be installed.

The board discussed this issue at length arriving with the following process. Someone may petition the board for a waiver of a site plan amendment. They must write a letter to the board requesting a waiver of a site plan amendment, and in that letter they must describe their proposed change, in detail. The board will then review the request, determine if this is a minor/insignificant change and either approve or disapprove the request for waiver. If the waiver is approved the letter will be placed on record at the Carroll County Registry of Deeds, at the expense of the petitioner. This will create a paper trail depicting any minor changes to the site plan that were approved by the board.

Mr. Hammond questioned if the board was giving him permission this evening to relocate his sign. It was noted for the record that the board did NOT give permission for Mr. Hammond to relocate his sign, and that he would be required to petition the board, requesting a waiver of a site plan amendment and describing his proposal. The board will review his request when submitted and make their decision at that time.

2. **Joanne Coppinger** requested to speak to the board on an informal basis regarding property of the **Moultonborough School District, Tax Map 66 Lot 7**. Mrs. Coppinger stated that she was in the preliminary stage of designing two gravel parking areas along Blake Road to serve Moultonborough Academy's athletic fields. There is insufficient parking at this time. Technically the school is not required to make formal application to the board, but the building and grounds committee would like input from the board, noting they would like to try and conform as closely as possible to town regulations. Mrs. Coppinger briefly described the proposed project for two gravel lots. The proposal is for thirty-four new

spaces, entering in the existing lot, one way only, and exiting back onto Blake Road. The proposal is to install concrete curb stops to define angle parking and direct the flow of traffic. The second part of the proposal is for an additional twenty-six spaces at the lot for the track. Mrs. Coppinger stated that she was meeting with Chief Kinmond on Thursday for his input on the project. Mrs. Coppinger requested any feedback from the board, positive or negative.

Mr. Charest noted his concern regarding line of sight along that section of Blake Road, and would like to make certain the brush is cut back for visibility.

Mr. Taussig questioned the flow of traffic, suggesting that the exits would be to the north side of the lots rather than the south side. Mrs. Coppinger stated she would discuss the direction of traffic flow in the parking areas with Chief Kinmond.

Mrs. Coppinger noted our regulations relating to setbacks to wetlands. They are not able to conform precisely to those. They have maintained a 25' natural buffer, which will not be disturbed. However, they will have to encroach in the 50' setback with the gravel parking.

Mr. Nelson questioned the buffer between Blake Road and parking to shield the cars from view. Mrs. Coppinger stated she would look at what was there and could propose additional plantings. Mrs. Coppinger noted there is a natural berm along Blake Road and they will keep as much of the berm as they can, as it acts as visual barrier.

Christina Ashjian suggested rail road timbers verses concrete curb stops for aesthetic purposes. Mrs. Coppinger stated she would take that into consideration as well.

## VII. Other Business/Correspondence

1) Ms. Ryerson noted her draft letter John Giere, Attorney representing Barry Dixon. Ms. Ryerson requested board members review the letter, noting she would like to send this out by the end of the week.

2) Ms. Ryerson noted that there were no scheduled hearings for the September 24<sup>th</sup> meeting. Several board members have signed up for the Law Lecture Series which will be held on the 17<sup>th</sup>, 24<sup>th</sup> and October 1<sup>st</sup>. It was the decision of the board to cancel this meeting.

**Motion:** Mr. King moved to cancel the September 24, 2008 regular meeting of the Planning Board.  
Mr. Taussig Seconded.  
**Motion Carried** – Unanimously.

While on the subject of the cancellation of meetings, Ms. Whitney noted that three of the PB meetings fall on the eve of holidays this year, and asked if the board was going to cancel the meetings of November 26<sup>th</sup>, December 24<sup>th</sup> and December 31<sup>st</sup>. Ms. Ryerson noted that the board would only be meeting once in November and December and in order to complete the work necessary the board may need to schedule a meeting at another time.

**Motion:** Mr. Nelson moved to cancel the November 26, 2008, December 24, 2008 and December 31, 2008 meeting of the Planning Board.  
Mr. Charest Seconded.  
**Motion Carried** – Unanimously.

3) Ms. Ryerson stated that she had received an email from Joe Skiffington after a meeting he had attended, noting the board was wrestling with the screening/landscaping. Mr. Skiffington suggested that a landscaper might be willing to attend a meeting and help the board with how this might be done. Ms. Ryerson personally felt that the board should not be in the business of providing landscaping plans for applicants, but on the other hand it may be useful to the board. Ms. Whitney questioned if it would be appropriate for the board to select one company to assist the board when there are many landscaping businesses in town. Mr. King stated if the board were to seek input that it should be someone from the extension service.



4) Mr. King updated the board regarding the draft Wind Energy Ordinance. Mr. King stated the committee has basically written the draft ordinance and they are waiting to see what changes might become of HB 310. Mr. King stated that they would have something available for the work session on October 29, 2008.

5) Ms. Ryerson noted correspondence dated September 25, 2008 regarding the Fox Hollow Connector Road Project. Ms. Ryerson did not get into any specifics of this correspondence. Mr. King noted that the board will be meeting with Town Counsel and the Town Administrator regarding this matter. This closed session meeting is tentatively set for **7:00 PM on October 8, 2008.**

6) Ms. Ryerson noted that Mr. Terenzini has requested that board members have all items for warrant articles by October 24. This is only a suggested date and the board will work on compiling this information as early as possible, while meeting state statutes.

7) Ms. Ryerson noted the board must work on the wording for a town planner, if the board decides to proceed with that. There is wording in both the 2006 and 2007 annual Town Report. The board will look at this at the work session on October 29, 2008.

8) JLMC meeting notes of August 26, 2008 were noted.

9) Selectmen's Draft Minutes of August 28, 2008 were noted.

**VIII. Committee Reports**

**IX. Adjournment**

**Motion:** Mr. King moved to Adjourn at 9:46 P.M.  
Mr. Nelson Seconded.

**Motion Carried** - Unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Land Use Coordinator

These Minutes have not been formally approved by the Moultonborough Planning Board. Please contact the secretary after the next regularly scheduled meeting of the Moultonborough Planning Board to be held on the 2nd and 4th Wednesday of each month, to learn if any corrections, additions or deletions were made.