

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

November 12, 2008
Regular Meeting - 7:30 P.M.
Moultonborough Town Offices

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

Mr. King called the meeting to order at 7:30 PM, and appointed Peter Jensen, Jane Fairchild and Joanne Coppinger to sit on the board with full voting privileges in place of Eric Taussig, Judy Ryerson and Peter Wright respectfully.

I. Approval of Minutes

Motion: Mr. Charest moved to approve the Planning Board Minutes of October 22, 2008.
Mr. Nelson Seconded.
Motion Carried – Unanimously.

Motion: Mrs. Coppinger moved to approve the Planning Board Work Session Minutes of October 29, 2008.
Mr. Charest Seconded.

Mrs. Fairchild noted for the record that on page two of the minutes, the second full paragraph, the minutes refer to a committee called the Route 25 Corridor Committee. Mrs. Fairchild would like it clarified that within that committee there are other documents, including minutes, that call it the Route 25 Zoning Work Group and that they are one in the same committee. She does not want this group to be confused with the prior Route 25 Corridor Study Committee, noting that they are two different groups.

Motion Carried – Unanimously.

II. New Submissions

**1. Michael Morgan (141-8)(61 Whittier Highway)
Site Plan Amendment**

This is a request for a site plan amendment for a proposed 1,800 square foot addition to an existing building.

Mr. King noted for the record the request for waivers dated October 22, 2008 from Davis M. Dolan Associates, PC.

Motion: Mr. Nelson moved to accept the application of **Michael Morgan (141-8)** 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 hearing #2.

Mr. Charest Seconded.
Motion Carried – Unanimously

III. Boundary Line Adjustments

IV. Hearings

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

Mr. King noted that this was a continued compliance hearing for Russell Sabanek and Judy Sprague. This is regarding the detention or retention pond on the site that is apparently is not being maintained in a proper way at this time.

It was noted for the record that there was no one present this evening representing Mr. Sabanek and Ms. Sprague. Mr. King recommended that the board authorize the Land Use Office to send a letter admonishing them for not attending the meeting. Mr. O'Brian, President of Keepsake Quilting was present at the last meeting on September 10th and should have clearly understood that he should have been here this evening.

Motion: Mrs. Coppinger moved to continue the compliance hearing for **Russell Sabanek & Judy Sprague (141-3)** to December 10, 2008, and to authorize a letter to be sent to the property owners notifying them of this action.
Mr. Bakas Seconded.
Motion Carried – Unanimously.

**2. Michael Morgan (141-8)(61 Whittier Highway)
Site Plan Amendment**

Mr. King noted that this is a request for a site plan amendment for a proposed 1,800 square foot addition to an existing building.

Dave Dolan, agent for the NH Route 25 Storage Realty Trust presented the application for a site plan amendment. Mr. Dolan briefly described the existing site, noting it is approximately 3.6 acres, located on Route 25. In 2005 the board approved a site plan for a storage building on the site. At that time there was a septic design approved, and a dredge and fill permit obtained to improve what was then an access road. The dredge and fill permit was for the installation of five culvers connecting the wetlands that are on each side of the driveway that accesses the property. Work was begun on the property, over the past winter NH Route 25 Storage Realty Trust purchased the property with the foundation, culverts installed, driveway roughed in, and the parking area roughed in. Over the summer and fall they have been working on the project, completed the building, paved the driveway and the parking spaces, which were approved and located per the original 2005 approval.

In October, Mr. Morgan came before the board on an informal basis to discuss the tenants for the property, which will be the owner occupying one of the units for an office, Galaxy Gym, The Plant Place to occupy three units in the existing building. The proposed 1,800 square foot addition is for additional storage space for the owner of the property and an electrical contractor for storage. They have added on additional parking space, originally there were 23 spaces proposed, now there will be 24. There has been a new septic design for the proposed use, it has been relocated and noted on the plan. It complies with all the setbacks to the wetlands. The wetlands were delineated only on a portion of the property, around the area that is proposed for development. Exterior lighting has been installed and will be added to the plan. The revised lot coverage will be 18%. Mr. Dolan noted the hours of operation for the gym were noted on the plan, and is what was discussed at the informal discussion in October. Mr. Dolan stated they have submitted a driveway

permit application to NH DOT. Mr. Morgan has had correspondence with the power company to work out a Joint Use Agreement on the access to the property. The property is a benefit of a couple of other easements for access over abutting properties, including The Plant Place. Mr. Dolan noted there is a proposed sign location shown within that easement. Mr. Dolan answered any questions from the board.

Mrs. Coppinger questioned if the parking to the north is new, or was it on the original plan. Mr. Dolan stated that parking area was on the original approval, and was roughed in. The work was started on the property and was never completed. The property was purchased last winter by the current owner and the work was completed. It is in the location that was originally approved in 2005.

Mr. King questioned the design type of the building for the addition. Mr. Dolan stated the addition will be in keeping what is there, which is clapboard siding, with twelve foot overhead doors. It was noted there is a pitched roof.

Mr. Charest questioned the need for a driveway permit. Mr. Dolan stated that each time there is a change in use you are suppose to reapply to the NH DOT. In researching the property Mr. Dolan could not find a driveway permit on record for the proposed building.

The board discussed the proposed uses and tenants of the building. Mr. King stated that he would be concerned if the proposed uses for the two new units were other than for storage only. It was noted for the record the need for the owner to come before the board for any change in tenants.

Mr. King questioned the negotiation going on between Mr. Morgan and PSNH for a Joint Use Agreement. Mr. Dolan stated in order to have the driveway under the power lines, the standards for having a Joint Use Agreement is for the driveway to be perpendicular to the power lines, which is impractical in this situation. The owner is currently having a proposed Joint Use Agreement reviewed by his attorney. It was noted that this would be a civil matter.

Mr. Nelson stated that it appears that the board is going to carry forward the conditions of the prior approval in regards to use, and would like make certain if there is a motion for approval that it contains the requirement that the conditions continue to be met, or have been met. The board reviewed the prior approval granted on September 28, 2005. Mr. Nelson read the 2005 motion into the record "...approve the site plan review for Daniel J. Baker (40-61) subject to the DES dredge & fill permit and with the conditions that the work be performed on the inside of the building before and after daylight hours, and the applicant returning to the board for uses other than the apartment..."

Motion: Mr. Nelson moved to approve the site plan amendment for **Michael Morgan (141-8)** subject to the condition that the applicant continue to come back to the Planning Board for any change of uses on the property, reserve the right to amend, and grant the waivers as requested.
Mr. Charest Seconded.
Motion Carried – Unanimously.

V. Informal Discussions

Mr. Nelson did not participate in either of the informal discussions.

1. **Tom Mason, Jr.** requested to speak to the board on an informal basis regarding **Tax Map 72 Lot 95**. Mr. Mason has filed an Intent to Cut with the Administration office for selective cutting on his property. The filing of an Intent to Cut generates an internal sheet to be signed by various departments after their review. Ms. Whitney noted that the Planning Board may not consider the property residential and should it be reviewed by the board for their approval. Mr. Mason provided the board with an 8 1/2 x 11 copy of a portion of his lot that he wishes to have selectively cut. Mr. Mason stated the lot is 140 +/- acres, which is the

original well fields for the Suissevale/Balmoral project that is in use today. The site is located behind Skelley's Market, borders the golf course on one side and Balmoral on the other. They would like to selectively cut some of the hardwood on the site, log it and thin it out. The site has not been logged since the early 1980's. Mr. Mason stated he had received a call from the Administration Office stating that he would need to speak with the Planning Board as they consider the lot a commercial piece of property. Mr. Mason stated he was not aware of this. Mr. King noted the site is being used commercially, but there is not a commercial special exception for the site. Mrs. Coppinger questioned what the site was being used for. Mr. Mason stated that there are three well heads on the site and a small 12' x 12' pump station.

Mr. King stated for clarification that this was a selective cut, that it was not a clear cut. Mr. Mason noted it was selective, going in and thinning it out a bit. Mr. King noted the only concern that he would have would be that they keep a reasonable distance from the lots in Balmoral. The board would like to have a buffer maintained from the abutting property. Mrs. Coppinger questioned what is a reasonable buffer? Mr. King said that would depend on the vegetation, and that he is not a forester, and that Mr. Mason should use his best judgment. Mr. King was not certain where the Planning Board comes in on this, because it's not a commercial piece, it might be used that way because of the well heads.

Mr. Jensen commented that if it is being used a commercial, in a commercial fashion that it should be treated by the board as a commercial piece of property in terms of the requests that are made. The question is how should they make a decision. If it's being used commercial, then the board should treat it from that stand point.

The board discussed the intent to cut and do not see a problem with a selective cut. The 8 ½ x 11 sheet will be placed in a file to keep on record. The board questioned the points of access for the lot, as well as the locations of the wells on the site. Mr. Mason sketched the approximate location of the wells and the areas to be selectively cut.

Mrs. Coppinger commented that Mr. Mason is currently working on a site plan for the well areas on the site across Route 109. Mr. Mason stated that they have installed test wells and are in the process of starting the permitting process with the state for that site. If that project goes forward and the well on this site are abandoned, then will this site become residential. There was discussion if the site was residential or commercial. It was noted that this was a grandfathered use, the well have been in since the late 70's, which was prior to zoning.

It was the consensus of the board that they acknowledge a selective cut will take place on the site and that it is fine. The board does not have any authority over the site, as it is not under site plan. The board thanked Mr. Mason for discussing this issue with the board.

2. **Jim Bolduc** requested to speak to the board on an informal basis regarding **Tax Map 137 Lot 35.** Mr. Bolduc noted the board had recently approved a two lot subdivision for **Peter Lawlor** of his property off Vonhurst Road. They have been working on obtaining State Subdivision approval and other conditions placed by the board. They have completed the removal of the cooking appliances in the cottage, filed the disclaimer with the registry of deeds, provided an easement to the Diamond/Sledzik property and received state subdivision approval. One issue that has come up is a requirement that NH DES provide a letter stating that the remainder lot, with the two existing septic systems, was sized properly when it was reduced in size from 4 ½ acres to 2 ¼ acres. Mr. Bolduc has had several discussions with Eric Thomas of NH DES, who has signed the approved subdivision, that as part of his review did he take into consideration the fact that there were two existing septic systems on the remainder lot. Mr. Thomas stated that by RSA, and other requirements that he must meet, that would be one of the things that he would look at. Mr. Thomas reviewed his files and stated that there is a septic loading calculation provided by a licensed septic designer that shows the remainder 2 ¼ lot was sufficiently sized to handle to two existing septic systems. Mr. Bolduc requested this in writing, and Mr. Thomas stated that it wasn't necessary, as it was part of their requirements for his review of the approval for subdivision. This was communicated back to the town and

the response was that Mr. Bolduc needed a response in writing from NH DES. It was noted for the record that Mr. Thomas did call the Land Use Office and leave a message summarizing the fact that as part of his review in the granting of subdivision approval that the lot is sufficiently sized to handle the two septic's. Mr. Bolduc is here tonight to looking for an explanation of the condition of approval, that there is not a requirement to receive a written piece of correspondence from the state in addition to the approval for subdivision dealing with the issue of the two septic's on the remainder lot.

They are asking the board if the information provided to the board is sufficient for the Chair to sign the subdivision plan for recording.

Mr. Bolduc noted in addition to the subdivision approval Mr. Lawlor had a Mr. Lamprey complete an inspection of both of the existing septic systems and provided the board with a one page letter describing his findings, declaring both septic systems in good working conditions.

The board reviewed the approval granted for the subdivision and based on the information provided and the message from Mr. Thomas that the conditions of the approval have been met and that it was the consensus of the board to authorize the Vice Chairman to sign the plan for recording.

VI. Unfinished Business

VII. Other Business/Correspondence

1) Mr. King noted the receipt of a Notice of Gilford Planning Board Meeting on November 17, 2008. The notice is pursuant to RSA 12-K;7 I. (a) Regional Notification - Any municipality or state authority or agency which receives an application to construct a PWSF which will be visible from any other New Hampshire municipality within a 20 mile radius shall provide written notification of such application and pending action to such other municipality within the 20 mile radius.

VIII. Committee Report

1) Ms. Fairchild provided members various documents relating to the Route 25 Zoning Work Group, which was appointed at the meeting of the Planning Board on October 22nd. The group has also been referred to as the Route 25 Corridor Committee, noting they are one in the same group. The committee was to look into different suggestions that have come forward regarding possible zoning changes on Route 25 in the commercial corridor.

Ms. Fairchild gave the activity to date, noting there have been two meetings, and one more meeting is scheduled to develop final suggestions to be submitted to the PB. The group's goal is to review and suggest revisions to the zoning of the Route 25 commercial corridor by taking a proactive approach to making incremental improvements to Route 25; work should be completed in time for consideration at the 2009 town meeting.

The rationale for Zoning Changes is based on the following. The Route 25 Corridor Study which identified major safety concerns, the potential for significant additional commercial growth if unchecked and major access issues. The Master plan recommendations from 1991 up to and including the present that reflect town residents' desire to "maintain the scenic beauty and rural character" which may be in danger on Route 25. For the protection of natural resources, wetlands and the wildlife corridor at Route 25/Sheridan Road which is designated as the highest rank of wildlife habitat, and enhancement of the quality of life of residents.

Ms. Fairchild gave a brief summary of the focus and work to date, noting that three sections of Route 25 have been identified for attention*. These sections retain some rural character and commercial development is minimal. One option is to return these to residential/agricultural use. This step would preserve the 3 sections until a comprehensive plan for Route 25 can be developed. They could also remain zoned as residential indefinitely. There were concerns expressed regarding property owners who may anticipate selling land as "commercial" to command a higher market price. There are 18 homes in the identified

sections. 3 building lots are for now for sale. Another option is to designate a new “residential/professional” zone for these sections, thus permitting lower impact commercial development.

The group reviewed current commercial uses in Village Zone C and has considered whether some uses could be restricted in that district. Also noted was the group has also expressed a strong desire to develop further design standards.

In closing Ms. Fairchild stated the Route 25 Zoning Work Group hopes to emerge after its next meeting with a list of suggestions for immediate consideration and adoption by the Planning Board for ballot questions for the next town meeting.

* Three identified sections are: Glidden Road to Moultonborough Neck Road; Fox Hollow Road to Blake Road; Ben Berry Road to Sandwich Town Line.

Ms. Fairchild noted one option discussed was to change the three zones back to Residential/Agricultural use, another was to create a new zone which would be called Residential/Professional and a third document submitted this evening was from Ms. Ryerson.

Ms. Fairchild presented the board with the following draft ballot questions;

Proposed Zoning Ordinance Amendment for 2009 Ballot Questions -DRAFT

I.

Are you in favor of the adoption of Amendment No. XXX as proposed by the town planning board as follows: To see if the Town will vote to amend the Zoning Ordinance of the Town of Moultonborough Article VI (C)(1)(a) Commercial Zone “A” by returning certain portions of NH Route 25 to Agricultural/Residential zones for the following purposes: to maintain the desired rural character and scenic beauty of the town; to improve safety for drivers and pedestrians through better access management; to protect natural resources and wildlife habitat; and to enhance the quality of life for residents. The proposed amendment would include changing the zoning of all the land within 500 feet of the edge of the right-of-way on either side of US Route 25 from Glidden Road to Moultonborough Neck Road; from Fox Hollow Road to Blake Road; and from Ben Berry Road to the Sandwich Town Line, from Commercial Zone A to Residential/Agricultural use.

Proposed Zoning Ordinance Amendment for 2009 Ballot Question-DRAFT

II.

Are you in favor of the adoption of Amendment No XXX as proposed by the planning board as follows: To see if the Town will vote to amend the Zoning Ordinance of the Town of Moultonborough Article VI (C)(3) Commercial Zone “C”, The Village, to restrict the types of commercial development permitted in the Village Zone to allow only low impact commercial uses as determined by the planning board and the following descriptions, in order to maintain the special small town character of the Village.

It was noted Ms. Ryerson was not present for this evenings meeting but had provided the following draft Ballot question for board members review;

Are you in favor of the adoption of Amendment No. X as proposed by the Planning Board for the town as follows: To see if the Town will vote to amend the Zoning Ordinance of the Town of Moultonborough, Article VI (C)(1)(a) Commercial Zone “A” by designating certain portions of that Zone as Professional/Residential, with strict design guidelines, for the following purposes: to maintain the desired rural character and scenic beauty of the town; to improve safety for drivers and pedestrians through lessened traffic impacts; to protect natural resources and wildlife habitat; and to enhance the quality of life for residents. The proposed amendment would include changing the zoning of alt the land within 500 feet of the edge of the right-of-way on either side of US Route 25 from Glidden Road to Moultonborough Neck Road and from the east end of Saw Mill Road to Blake Road and restrict uses to residential uses permitted in the

Residential/Agricultural Zone, and to professional offices as defined in the ordinance and which adhere to guidelines in the ordinance and Site Plan regulations.

Also submitted from Ms. Ryerson was a copy of a portion of the Stratham Zoning Ordinance which describes Stratham's zones that they currently have.

Mr. King stated that he feels this is an important aspect of what the board needs to do, zoning wise.

Mrs. Coppinger commented that someone had recently caught wind of the possibility of eliminating special exceptions and had commented to her that there really is no where for commercial development to locate in Moultonborough. Mrs. Coppinger noted that she had never thought of that as she is not planning to locate a business in Moultonborough, but if we further restrict, where can it go and where do we want commercial development, or are we just not going to let it in.

Mr. King feels that commercial can be expanded in certain areas, especially along the area served by the Bay District Sewer. The way it is now, is that there is just a corridor for the commercial zone. The board needs to look at eliminating the corridor feel, so that there still is residential rural areas along Route 25, but expand the depth of those areas the board feels commercial is appropriate. Mr. King feels it is important to get a larger area for some commercial development and eliminate the strip that is not going to be very nice in a number of years.

Mr. Nelson commented the majority of the area served by the Bay District Sewer is mostly swampland. The board must examine all areas and see what potential commercial spots would fit, including the area around Moultonborough Neck Road and Route 25, rounding out that area. It already exists and a natural place as there is intersection already in place. Another area that is developed is on Route 109, it is becoming commercial. Special Exceptions have been granted and if you are going to do commercial development maybe it should be put into nodes in town.

Ms. Fairchild commented that the discussion this evening points out that this is a larger problem that the work group is in no way going to solve this and that they are trying to come up with some quick things that may be put in place now as part of a larger effort over a long period of time.

Mr. Nelson commented that in 1996 there was an article that was voted against adopting a similar proposal. The vote was 576 to 458 against adopting an amendment to establish Commercial Zone A and Commercial Zone B which would have segments that are similar to what is proposed now, designated by lot, where it started and where it ended. The reaction to some was that this was spot zoning. It was noted that this was not spot zoning but was the perception, and this is the type of things the board will be running up against again. Mr. Nelson noted in 1996 they had retained the special exception, which in effect now is being eliminated. The proposal suggested by the committee is dramatically more restrictive than what was defeated in 1996.

2) Mr. King updated the board regarding the small wind turbine committee is meeting Tuesday, the 18th and there will be a report at the December 10th Planning Board meeting.

3) Mr. Nelson commented that he will forward the sign ordinance to Mr. Taussig for this review and comments.

4) Mr. Jensen commented that at an earlier meeting Mr. Taussig had presented draft language repeal the Special Exception and Mr. Nelson had reserved his comments as he had not reviewed the material. Mr. Jensen questioned if Mr. Nelson had a chance to review this and if he had any comments this evening. Mr. Nelson stated that he feels in some circumstances we need an outlet, and basically what is being proposed may work for a year, but feels the board is going to need to come up with something else. Effectively what would happen is, if this were enacted, there would be a moratorium in town on commercial development in those areas. Assuming that the town adopted it, the planning board would need to look at the

zoning ordinance to determine where they go from there regarding commercial development in town.

IX. Adjournment

Motion: Mr. Nelson moved to Adjourn at 9:14 P.M.
Mr. Jensen 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.