Moultonborough Planning Board P.O. Box 548

Moultonborough, NH 03254 (603) 476-2347

Minutes

January 14, 2009 Regular Meeting - 7:30 P.M. Moultonborough Town Offices

Present: Members: Judy Ryerson, Natt King, Keith Nelson

Alternates: Peter Jensen, Jane Fairchild

Excused: Members: Eric Taussig, Joanne Coppinger,

Jim Bakas, Ed Charest (Selectmen's Representative)

Alternates: James Gray (Selectmen's Alternate)

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

I. Approval of Minutes

Motion: Mr. King moved to approve the Planning Board Minutes of December 10, 2008.

Mr. Charest Seconded.

Motion Carried - Unanimously.

Motion: Mr. King moved to approve the Planning Board Public Hearing Minutes of

December 10, 2008. Mr. Charest Seconded.

Motion Carried – Unanimously.

Motion: Mr. King moved to approve the Planning Board Work Session Minutes of

December 15, 2008.

Mr. Charest noted that he was present for the work session, and that the minutes indicate he was not. The minutes will be amended to reflect that Mr. Charest was present.

Motion: Mr. King moved to approve the Planning Board Work Session Minutes of

December 15, 2008, as amended.

Mr. Nelson Seconded.

Motion Carried - Unanimously.

Motion: Mr. Charest moved to approve the Planning Board Public Hearing Minutes of

December 17, 2008. Mr. King Seconded.

Motion Carried – Unanimously.

Motion: Mr. King moved to approve the Planning Board Work Session Minutes of

December 17, 2008. Mr. Charest Seconded.

Motion Carried – Unanimously.

Motion: Mr. King moved to approve the Planning Board On-site Minutes of

December 19, 2008. Mr. Jensen Seconded.

Motion Carried – Unanimously.

II. New Submissions

1. RCC Atlantic, Inc. (88-2)(627 Whittier Highway) Site Plan Amendment

This is a request for a site plan amendment to place an additional accessory equipment shelter on grade inside the confines and footprint of the existing, approved fenced tower site compound.

Ms. Ryerson noted the request for waivers dated December 10, 2008 from RCC Atlantic, Inc.

Motion: Mr. King moved to accept the application of RCC Atlantic, Inc. (88-2) 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 with Mr. Nelson abstaining.

2. <u>Clubhouse Motorsports, LLC (23-37)(1180 & 1190 Whittier Highway)</u> Site Plan Amendment

This is a request for a site plan amendment to show existing conditions.

Motion: Mr. King moved to accept the application of Clubhouse Motorsports, LLC (23-37)

as complete for action by the board, and to schedule a hearing this evening to be

hearing #3.

Mr. Charest Seconded.

Motion Carried- Unanimously with Mr. Nelson abstaining.

III. Boundary Line Adjustments

IV. Hearings

1. Robert M. Hammond, Trustee; Robert M. Hammond Trust (23-14) Continued Site Plan Amendment (Whittier Highway)

Ms. Ryerson stated that this was a continued hearing for a site plan amendment, noting that on December 10th it was the decision of the board to continue the hearing to allow time for an on-site visit of the site and to allow time for Mr. Hammond to provide a copy of the letter from the board of selectmen. It was also noted that Mr. Hammond should be prepared to show dated documentation of the improvements made to the site without board approval.

Robert Hammond was present for the hearing and provided the board with a copy a building permit (#24) dated March 21, 1985, for the construction of existing upstairs of agway building", and a copy of permit notice #225, dated January 26, 1990. It was noted the permit attached to the notice was blank. The board was not provided with a copy of a completed permit #225.

Ms. Ryerson noted the board was concerned with the addition of the dwelling unit above the storage area, as this increased the number of units on the site from four to five. In reviewing the permits provided by Mr. Hammond, it was noted the condition that was placed on permit #225 and the need for planning board approval. The condition was the following language on the permit signed by Mr. Hammond. "Construct apartment above existing permitted storage space. This proposal must be approved by Moultonboro Planning Board. Conditional approval to proceed is granted with the stipulation that no vested rights will be accrued." Mr. Hammond indicated that he had appeared before the board in 1990 for approval. In researching the planning board minutes of February 28 and May 9, 1990 the following was read into the record "This is an

application for an amended Site Plan Review for a one-room apartment over the storage building. It is 24' x 48' and the addition was made a year and a half ago. The living quarters were made last fall. There was no additional exterior work. Only interior work was done. This is a change of use. It was previously approved for a storage building and now he wants to change to a dwelling. Mr. Wakefield felt that maybe this could be considered housekeeping and possibly approve with the condition that he receives Variance approval of the Zoning Board; Mr. Wiggins stated that since Mr. Hammond already had a business of rental apartments, perhaps he could apply for a Special Exception with the Zoning Board. Mr. McIntire felt that the Board could possibly waive fees as this was confusing and perhaps the Boards were at fault.

Motion: Mr. Mudgett moved to reject the application an amended Site Plan Review and refund Mr. Hammond \$114.00 Mr. Sanders seconded. Motion Carried: unanimously."

In further reviewing the Zoning Board of Adjustment minutes of June 6, 1990, under Unfinished Business was the following: "Natt King asked about the existing site plan for Robert Hammond Trust (73-1A). He has expanded to five (5) residential apartments and has been unregulated to this point. The square footage requirement in the town should be looked at. This needs to be addressed. Mr. Lyon stated that this is an enforcement situation and this is Selectmen territory. He is in violation of the Zoning Ordinance. It was agreed that a letter should be drafted to the Selectmen stating Mr. Hammond is in violation of the Zoning Ordinances. Mr. King feels that this should be resolved by enforcement and the procedure should be followed in front of the Board or a precedent might be set."

The status of the outcome with the Board of Selectmen was not able to be determined this evening. The board felt that the apartment has not been approved by the Zoning Board of Adjustment and did not receive site plan approval with the Planning Board.

The board discussed their observations of the on-site visit, noting the deck on the second story of the "agway" building does not meet the required setbacks. Mr. Hammond stated that the building is shown on the original site plan of 1988, and that there is no access from inside the downstairs and the deck is the only access to the four apartments. Other areas of concerns are sand and gravel bunkers, the stock pile of materials and the expanded gravel area over the property line. Mr. Hammond indicated that he has a verbal agreement with the airport that he may use a portion of the airport property to the east of the brook shown on the plan to stock pile material. Mr. Hammond had approached the airport in an effort to buy the strip of land from the brook to his property line. Mr. Hammond has contacted both the owner of the airport and the FAA and they are alright with this proposal. He had also contacted with Ames Associates to help him with this process, but was told in order to do this would require that the airport property be surveyed in its entirety and would be cost prohibited on part of the airport. Mr. Hammond asked that the board would consider in their decision of the request for site plan review, to waive the right for the airport to be able to sell him that portion of land. Mr. Nelson stated that would require application for a boundary line adjustment between the airport property owner and Mr. Hammond. That decision could not be made with an application for site plan.

The board stated that the site was not in compliance with the required setback for the site, and is using adjacent land by verbal permission. The unit density was increased by the addition of the fifth dwelling unit which did not receive zoning or planning approval.

The board continued the discussion with Mr. Hammond, noting the site must be brought into compliance. The board noted that two of the apartments could be made into one, making the site compliant, as there were four apartments to begin with, noting they do not meet today's standards as the site is 2.6 acres in size. Mr. Hammond stated that he currently has one apartment that has been vacant for nine months and one could be considered office space. It was stated that the kitchen would need to be removed from the apartment so that it would no longer be a dwelling. Mr. Hammond does not wish to do that. He wants to keep the five dwellings on the site.

The board discussed this site at length noting there are a number of issues on the site, and other items that need to be addressed. It was the decision of the board to continue the hearing to allow time for Mr.

Hammond to make application to the Zoning Board of Adjustment for variances of the necessary setback violations, approach the airport to sell the portion of their lot, east of the brook, and return to the Planning Board for a boundary line adjustment reflecting this area to be purchased. Mr. Hammond indicated the owner of the airport is in the Bahamas for the winter, and that he will be away for the month of March.

Motion: Mr. Nelson moved to continue the hearing for Robert M. Hammond, Trustee;

Robert M. Hammond Trust (23-14) to April 22, 2009.

Mrs. Fairchild Seconded.

Motion Carried – Unanimously.

It was the consensus of the board to allow the Chair and or Vice-Chair to contact Peter Minkow regarding the site, as it has been in violation since 1990 and that Mr. Hammond wishes to continue with five dwelling units.

Mr. Nelson stepped down for hearings two and three.

2. RCC Atlantic, Inc. (88-2)(627 Whittier Highway) Site Plan Amendment

Ms. Ryerson stated that this is a request for a site plan amendment to place an additional accessory equipment shelter on grade inside the confines and footprint of the existing, approved fenced tower site compound.

Carl Gehring, on behalf of RCC Atlantic and RCC Wireless, and Melinda Petit representing RCC Atlantic and RCC Wireless were present for the hearing. Mr. Gehring gave a brief history of the approval of the board for the construction of the tower and the compound facility. Mr. Gehring briefly covered the contents of his application package presented to the board. Mr. Gehring stated the request is to amend the site plan approval for the placement of a new 12' x 30" equipment shelter. The original approval included four proposed equipment shelters within the compound. There are no changes to the site other than slightly relocating the new shelter within the compound. One other change is the addition of a small generator. Mr. Gehring included an Environmental Noise Impact Assessment for this proposal, indicating the generator usually only operates for less than one hour during a daytime test and that the generator operation is approximately 18 dBA and is expected to be far below the prevailing daytime ambient level of 50 dBA.

Mrs. Fairchild questioned if the installation of the generator would impact any of the abutters or any future development in the area. Terence Jatko, co-owner of the property stated that the closest boundary line is approximately 600 feet, and the parcel is 180 acres+/-. Mr. Jatko stated that there is room for building up there, but that he has no plans for a subdivision.

Ms. Ryerson stated that the Police Department had no comment, the Conservation Commission had no comment and it was noted the Fire Department has no objections to this Site Plan Amendment. The Applicant is reminded that any proposed structures must be compliant with the applicable portions of the following: Chapter Saf-C 6000 State Fire code, NFPA 1, Uniform Fire Code 2003 Edition, NFPA 101 Life Safety Code 2003 Edition. It is also recommended that the Town of Moultonborough secure a written agreement to be able to use the proposed diesel fueled stand by generator to provide back-up power for any communications equipment the Town may place on the site in the future.

Mr. Gehring stated that he had contacted Chief Bengtson regarding this request. At the current time the fire department does not have the right to locate on the tower, but if they were in the future, to work out some arrangement with the tower so they could install municipal antennas, Verizon would be amenable to work out an arrangement with the town to give them a 20 amp circuit. The chief indicated their power requirement would be for a small repeater and whip antenna. The generator is sized small and compact to be quiet and unobtrusive, they could give up 20 amps. The details of this could be worked out at that time

directly with the Fire Chief if they are able to mount equipment on the tower. Mr. Gehring suggested it could be a condition of approval or noted for the record in the minutes, that in the event that the town is able to secure antenna space on the tower, RCC Atlantic / Verizon Wireless would be willing to offer a 20 amp circuit to the town for their emergency equipment. This would be a circuit off their generator, and the cost of hooking it up, conduit, wiring etc. and liability would be the responsibility of the town.

Motion: Mr. King moved to approve the site plan amendment for RCC Atlantic, Inc.

(88-2), grant the waivers as requested and reserve the right to amend.

Ms. Ryerson asked that one condition be added to the motion, and be included in future motions of the board as condition number one, that the project changes will be constructed substantially in accord with the plans on file and the testimony.

Mr. Gehring requested clarification of Mr. King's statement to reserve the right to amend. Mr. Nelson stated reserving the right to amend is if there is something that the town finds particularly onerous that's happening on the property that they as a board, can pull it back in for further hearing on it. Generally this is involves something such a parking not being adequate on a commercial property. This would be done through a hearing process.

Motion: Mr. King moved to approve the site plan amendment as amended.

Mrs. Fairchild Seconded.

Motion Carried - Unanimously.

3. <u>Clubhouse Motorsports, LLC (23-37)(1180 & 1190 Whittier Highway)</u> Site Plan Amendment

Ms. Ryerson stated that this is a request for a site plan amendment to show existing conditions. Ms. Ryerson stated that Clubhouse Motorsports will be a tenant in Moultonboro Business Center. The board had reviewed the site plan on record during an informal discussion with Mr. Colbath in October. During the discussion it was noted that the site had not been built exactly as the site plan depicted, and requested that a site plan amendment be filed to show the as-built of the site. Mr. Colbath is a tenant and his business is not affecting the site.

It was noted the Conservation Commission had no comment.

It was noted the Police Department had no comment.

It was noted the Fire Department has no objections to this Site Plan Amendment. The Applicant is reminded that any proposed changes to the structures must be compliant with the applicable portions of the following: Chapter Saf-C 6000 State Fire code, NFPA 1, Uniform Fire Code 2003 Edition, NFPA 101 Life Safety Code 2003 Edition.

Mr. Colbath presented the site plan amendment and answered any questions from the board. Mr. King compared the plan presented this evening with the plan that was approved in 1999. Mr. King noted the changes, the outside parking is indicated in what was shown as the Gravel Loading Area, the retaining wall is shorter and is described as a boulder wall, and the area to the rear of the back building has been paved. All improvements are located well within the setbacks.

There were no questions from the board or the audience.

Motion: Mr. King moved to approved the site plan amendment for **Clubhouse Motorsports**,

<u>LLC (23-37)</u>, property of the <u>Moultonboro Business Center</u>, located at 1180 & 1190 Whittier Highway, with the condition that the project changes will be

constructed substantially in accord with the plans on file and the testimony, and to reserve the right to amend.

Mr. Charest Seconded.

Motion Carried - Unanimously.

V. Informal Discussions

VI. Unfinished Business

VII. Other Business/Correspondence

1) Ms. Ryerson noted the board had received four applications for Voluntary Mergers. These applications are the results of the Tax Deeded land sold by the town and were discussed at the meeting of December 10, 2008. At that time the board discussed this and it was the consensus to authorize the chair to sign the Application for Voluntary Merger to be held in escrow by Town Counsel and released upon him at the time of sale with him recording the deed and merger, and completing the documents at that point in time.

An Application For and Notice of Voluntary Merger for <u>Kenneth R. & Patricia V. Belliveau (120-52 & 120-46)</u> was presented to the board.

Motion: Mr. King moved to approve the Voluntary Merger for Kenneth R. & Patricia V.

Belliveau (120-52 & 120-46).

Mr. Charest Seconded.

Motion Carried – Unanimously.

An Application For and Notice of Voluntary Merger for **Joanne M. Comtois** (129-23 & 129-22) was presented to the board.

Motion: Mr. King moved to approve the Voluntary Merger for <u>Joanne M. Comtois</u> (129-23)

& 129-22).

Mr. Charest Seconded.

Motion Carried – Unanimously.

An Application For and Notice of Voluntary Merger for <u>Richard Connors (98-43 & 98-42)</u> was presented to the board.

Motion: Mr. King moved to approve the Voluntary Merger for Richard Connors (98-43 &

<u>98-42).</u>

Mr. Charest Seconded.

Motion Carried - Unanimously.

An Application For and Notice of Voluntary Merger for William H. Garber (129-111 & 129-97) was presented to the board.

Motion: Mr. King moved to approve the Voluntary Merger for William H. Garber (129-111

<u>& 129-97).</u>

Mr. Charest Seconded.

Motion Carried – Unanimously.

Mr. Nelson did not participate in the discussion involving Lacey Irrigation, LLC (66-19.

2) Ms. Ryerson noted a letter dated December 18, 2008 from Jeanne Lacey, Lacey Irrigation, LLC (66-19). Mrs. Lacey is requesting a twelve month extension of their site plan approval that was granted on March 12, 2008. The board discussed this request noting this was a reasonable request.

Motion: Mr. King moved to approve the request for an extension of site plan approval for

Lacey Irrigation, LLC (66-19) as requested, to March 12, 2010 and reserve the

right to amend.

Mr. Jensen Seconded.

Motion Carried - Unanimously.

3) Ms. Ryerson noted a letter dated January 2, 2009 from Jeff Foote, regarding Harilla Landing Yacht Club (288-8). Mr. Foote has submitted a Waiver Request for Amended Site Plan. The board granted site plan approval on December 4, 2007, and they received a conditional Certificate of Occupancy from the Code Enforcement Officer on December 4, 2008. The Condition was bases on unfinished site work which is now underway. As their contractor has encountered more ledge than expected on the site, they are requesting a waiver for amended site plan, to minimize the amount of electrical trenching needed for their parking lot lighting. They are planning the same number of lights, but are proposing to put them on one line of light poles down the center of the parking area instead of two rows of light poles, one down either side of the parking areas as shown on the plan. It was noted the relocation of the lighting would be further from the property lines.

Ms. Ryerson noted the board has the ability to waive strict requirements of the site plan regulations, and it was consensus of the board to allow minor changes to be made to site plans when requested and reviewed by the board on a case by case basis. It was felt that this is a minimal change and this is an appropriate way to handle the request of Harilla Landing Yacht Club. The board discussed the creation of a paper trail that may be placed on record at the registry of deeds showing or describing the requested/approved changes. A letter noting the decision of the board will be filed with the registry stating that the board accepted an amendment to the site plan with respect to the location of lighting and waived the requirement of a formal site plan amendment.

Motion:

Mr. Nelson moved to grant the waiver for the requirement of a site plan amendment for Harilla Landing Yacht Club (288-8) to allow the placement of the lights as requested in the letter dated January 2, 2008 [sic] and reserve the right to amend.

Mr. King Seconded.

Motion Carried - Unanimously.

4) Ms. Ryerson stated the Land Use Office had received an email on January 12, 2009, from New Hampshire Electric Coop regarding Tax Map 165 Lot 3. New Hampshire Electric Coop requesting an extension of their site plan approval of January 11, 2006. Mr. Cornelissen appeared before the board on an informal basis at the meeting on December 10, 2008. At that time Mr. Cornelissen stated the board had approved a site plan for the construction of a substation on the site, and that it had been over one year since that approval. Mr. Cornelissen stated they would like to start construction on the site and requested an extension of site plan approval. At that time the board reviewed any changes to the regulations which may have affected their approval and it was the consensus of the board that the approved site plan would not be in violation of the wetlands ordinance, but requested that Mr. Cornelissen submit a letter to the board requesting an extension of their site plan approval.

Motion: Mr. King moved to extend the site plan approval for New Hampshire Electric

Coop (165-3) to December 31, 2009 as requested and reserve the right to amend.

Mr. Jensen Seconded.

Motion Carried - Unanimously.

5) Ms. Ryerson noted the board has been asked for comments regarding an Application for Driveway Permit submitted to the State of NH DOT for ACLD Realty Trust, Robert & Leona Maher, Trustees (169-72) Ms. Ryerson stated that this goes back to the Route 25 Corridor Study, and the discussion the board had regarding access management, dealing with NH DOT and asking DOT to confer with the town / planning board before they grant driveway permits. This is a request for a driveway permit from Robert Maher, owner of Tax Map 169 Lot 72, a small piece of land located on Route 25. Mr. Maher owns the abutting lot, Lot 69. The board reviewed the application submitted to DOT, noting that it states, see plan, Boundary Line Adjustment is ongoing. The board was unable to determine what Mr. Maher is requesting from the information provided to the town. It was the consensus of the board to respond back to the DOT asking them not to grant any approval until the planning board has more information. The comment to be included on the Technical Review Sheet will be "The applicant or DOT needs to provide the board with more information and recommend that the DOT not grant a driveway cut until they have heard from the planning board."

6) Ms. Whitney has forwarded to the board, a memo dated December 15, 2008 from Carter Terenzini. Mr. Terenzini noted that there are two very important items before the Planning Board about which he wishes to be kept posted as they progress on the matters. The first, will/have they approached Mr. Sabatino to redefine acceptable uses of his exaction to include any and all work related to improving the Fox Hollow access and egress. Second, the access regulations and related possible overlay district with Center Harbor, which would form the basis of the DOT Memorandum of Agreement relative to curb cut review.

Ms. Ryerson stated that the second portion was what the board had just discussed in regards to the application for curb cut for Mr. Maher. In reporting back to Mr. Terenzini the board noted with the changes that are proposed to the ordinance they are beginning to take some action on access management. Mr. Charest stated the BoS had a discussion at their work session earlier today regarding this. They still have not made any final decisions on what they are going to recommend regarding roads, or what will be done. At this time there are still some questions that need to be discussed and see the exact input.

Ms. Ryerson stated that she and Bob Clark had met with Sally & Ross Humer. They own property across

Route 25 at the end of Sheridan Road. They said if the town were to get to a point that they needed to put in a turn lane or jug handle in that section of the road, that they would be very amenable to working with the town regarding the acquisition of land in that area as they are very concerned about the safety in that area.

Ms. Ryerson and Mr. Nelson did not participate in the discussion involving the Sabatino subdivision. Mr. Terenzini has questioned if the board has or will approach Mr. Sabatino regarding their subdivision subject to their making a contribution of \$11,532 to a fund for improvement of the intersection with Route 25. At that time it was the decision of the board to recommend option #10 to the Board of Selectmen. It was the feeling of the board that they could not consider using the Sabatino money any place else.

- 7) The board discussed the hiring of a Planner, and who and how they will report to the planning board and or Board of Selectmen in relation to RSA 673:16.
- 8) Ms. Ryerson noted the packet of information about Plan New Hampshire's 2009 Design Charrette program, along with an application form and explanation of the program and how your town can be

considered. While this seems to be a program that the board is interested in, they could not meet the February 22nd deadline. Ms. Ryerson encouraged any board member who may wish to work on an application for next year to do so. Ms. Fairchild stated that she would look into this for the upcoming year.

9) Ms. Ryerson stated that she will be away for two weeks and apologized for not being here for the (1st) Ordinance Hearing on Monday January 19, but is confident that Mr. King will properly guide the Board and the public through the process.

However, she brought to the board's attention a change they probably need to make to the Ballot Question relative to Special Exceptions.

The Ballot question as written, noticed and posted, would repeal section E of the Commercial Uses section (p. 18). They have belatedly become aware that this would eliminate the conditions the ZBA applies to ALL applications for Special Exception, not just those that relate to Commercial Uses in Residential areas. This section needs to stay so that the ZBA will have guidance when granting other Special Exception. Ms. Ryerson noted if she were there, she would move to strike that section of the Warrant article, and forward it to the second Public Hearing, on February 2nd.

Ms. Ryerson also referred to an email from Town Counsel relating to the Ballot question on Signs, noting that it was privileged communication and the Board need not discuss it in public. And the Board need not act upon it. However, Attorney Minkow has informed her of his opinion and she believes the Board would be remiss if they did not give the matter due consideration and take appropriate action.

- 10) Ms. Ryerson noted a letter dated November 19, 2008 from Lee Mattson, Chairman of the Center Harbor Planning Board, regarding correspondence from the PB relative to the possibility of sharing a Planner. Mr. Mattson stated that at this time they feel Center Harbor might be better served by a Circuit Rider Planner.
- 11) JLMC Meeting Minutes of November 18, 2008 were noted.
- 12) Zoning Board of Adjustment Draft Minutes of December 17, 2008 was noted.
- 13) Selectmen's Draft Minutes of December 18, 2008 and January 8, 2009 were noted.
- 14) Ms. Ryerson reminded all board members of the Public Hearing that is scheduled for Monday night Starting at 7 PM here at Town Hall.

VIII. Committee Reports

Cristina Ashjian questioned when the board would be receiving the final version of the 2008 Master Plan Update. Ms. Ryerson stated that she had spoken with Don Jutton of MRI, and was told that it would be around the end of January.

IX. Adjournment

Motion: Mr. King moved to Adjourn at 10:11 P.M.

Mr. Charest 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.