

Moultonborough Planning Board
P.O. Box 548
Moultonborough, NH 03254

Regular Meeting

August 26, 2009

Minutes

Present: Members: Judy Ryerson, Eric Taussig, Jim Bakas, Jane Fairchild, Ed Charest
(Selectmen's Representative); Alternate: Keith Nelson; Town Planner, Dan Merhalski
Excused: Members: Natt King, Joanne Coppinger; Alternate: Peter Jensen

I. Pledge of Allegiance

Ms. Ryerson appointed Keith Nelson to sit on the board with full voting privileges in place of Natt King.

II. Approval of Minutes

Ms. Ryerson noted that this was the first week with the minutes in the new revised version as discussed at their prior meeting. Board members gave individual comments. Mr. Taussig felt they were much abbreviated, noting there was a discussion of member's feelings regarding the erasing of the tapes that was not captured in those minutes. He noted his concern relating to historical perspective as to where and why the board does things if the tapes were to be erased. Ms. Fairchild thought the minutes were fine. Mr. Nelson noted the discussion regarding if the tapes should or should not be retained only included the reasons the tapes should not be kept, instead of the reasons why they should be kept. Overall, Mr. Nelson was happy with the minutes.

Motion: Mr. Nelson moved to approve the Planning Board Minutes of August 12, 2009, seconded by Ms. Fairchild, carried unanimously.

III. New Submissions

**1. Townsend's Hometown Grocery LLC (52-27)(967 Whittier Highway)
Site Plan Review**

This is a request for a site plan review for a change of use for the existing 3 bay garage. Reduce the existing gravel area and a small portion of the broken pavement in order to reduce the total coverage as it exists to date. The area that will be removed from the lot coverage will be re-seeded. Loam and seed will be required to restore the area removed from the current total coverage.

Ms. Ryerson noted the request for waivers dated August 6, 2009 from Gerard Land Surveying Co.

Motion: Mr. Taussig moved to accept the application of **Townsend's Hometown Grocery LLC (52-27)** grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #2, seconded by Mr. Charest, carried unanimously.

IV. Boundary Line Adjustments

V. Hearings

**1. Kenneth J. Berlanti and Adam B. Cambre (114-33.1)(Red Hill Road)
Continued Major Four Lot Subdivision**

Mr. Nelson stepped down from the board for this hearing.

Ms. Ryerson stated this was a continued hearing for a Four Lot Subdivision, noting the request for waivers, lot calculations, and comments from the Police Chief, Conservation Commission and Fire Department. Also noted was a memo from the Town Planner dated August 25, 2009, which provided the board further information on issues and deficiencies relating to the subdivision.

Loralie Gerard and Ed Rogers were present representing the applicants. Mrs. Gerard gave a brief history of the property, noting a prior subdivision approval of the property in 2007. Mrs. Gerard referred to a statement that was required to be placed on the plan as part of the approval regarding the road needing to be upgraded only to the last buildable lot. Mrs. Gerard noted this as it is one of the issues raised in Mr. Merhalski's memo, noting the road needs to be brought all the way to the back of the property line. Mrs. Gerard addressed each of the issues dated July 15, 2009 from Mr. Merhalski. A copy of her response faxed on August 25th is included in the application file. Mr. Rogers addressed the issues relating to the engineering of the roadway design. A copy of his response faxed on August 25th is included in the application file. Mr. Rogers submitted the road design, noting the need for drainage and slope easements. They do not have those easements at this time, and requested that be a condition of approval.

It was noted Mrs. Gerard had submitted revised plans to the Land Use Office at 4 PM on August 20th. Mr. Merhalski provided the board with a revised memo dated August 25, 2009 listing the issues which were still outstanding. There was a lengthy discussion in which the board reviewed the list of deficiencies with the applicant's agents with the majority of the discussion regarding the right-of-way (ROW), utility and drainage easements and the requirement of ditch lines. Mrs. Gerard questioned the need to extend the ROW to the rear of the property line, noting the 2007 subdivision approval. It was noted that was a condition of approval for a one lot subdivision in which both lots had frontage on Red Hill Road. Upon further discussion it was indicated the ROW needed to extend to the rear property line. The roadway needs to be constructed, with a turnaround, to at least the portion of Lot 5 where a driveway will be located. Mr. Rogers questioned if they eliminated one of the rear lots would the roadway still need to be constructed to the rear of the lot. It was determined that the roadway needs to be constructed, with a turnaround, to the point where the last driveway is to be located. From that point it can be a driveway servicing the Pearson's two lots which abut the rear of the property.

Abutter Jean Pearson noted her concerns regarding the ROW. Mr. & Mrs. Pearson own two abutting lots to the rear that have access through the subject lot. Mrs. Pearson noted they have recorded easements for access and a utility easement.

Abutter Jay Williams noted his concerns regarding the close proximity of the septic to the wetlands.

Mrs. Gerard spoke to Misc. Issue #5, which was relating to the utility easement. Mrs. Gerard indicated that she had not found a recorded easement, but may have over looked it.

Ms. Ryerson questioned if an on-site visit would be beneficial to the board. Board members felt it would and chose to continue the hearing to allow time for the on-site visit and for the agents to address the issues discussed this evening.

Motion: Ms. Fairchild moved to schedule an on-site visit for Monday, August 31, 2009 at 3:00 PM, seconded by Mr. Charest, carried unanimously.

Motion: Mr. Taussig moved to continue the hearing for **Kenneth J. Berlanti and Adam B. Cambre (114-33.1)** to September 9, 2009. Seconded by Ms. Fairchild, carried unanimously.

Mr. Nelson returned to the board at this time with full voting privileges. The board took a break from 8:55-9:00.

**2. Townsend's Hometown Grocery LLC (52-27)(967 Whittier Highway)
Site Plan Review**

Ms. Ryerson stated that this was a site plan review for a change of use for the existing 3 bay garage. Reduce the existing gravel area and a small portion of the broken pavement in order to reduce the total coverage as it exists to date. The area that will be removed from the lot coverage will be re-seeded. Loam and seed will be required to restore the area removed from the current total coverage.

Ms. Ryerson noted the request for waivers dated August 6, 2009 from Gerard Land Surveying Co. Comments from the Conservation Commission and Police Department were noted. Also noted was a memo from the Town Planner dated August 17, 2009, which provided the board further information on issues and deficiencies relating to the site plan. Mrs. Gerard was provided with a copy of the memo and took a few moments to review the memo.

Loralie Gerard was present as agent representing the applicant. Mrs. Gerard gave a brief history of the property. The property is currently in use as a grocery store, and the building in the rear has a special exception for use as a youth center. Mrs. Gerard noted that her client, Mr. Townsend had spoken with the Code Enforcement Officer prior to the hiring of the Town Planner, and was told all he needed to do was show the existing conditions on the site plan and a change of use for the 3 bay garage. Mrs. Gerard and Mr. Townsend met with the Town Planner, but Mr. Townsend still believes he only needs to comply with what he was told by the CEO.

Mrs. Gerard referred to Mr. Merhalski's memo of August 17th, noting there are several issues she is aware of. She would like to request a continuance to discuss the issues and deficiencies with Mr. Townsend.

Ms. Fairchild questioned what the proposed change is. Mrs. Gerard stated since she submitted the application, the gas pumps have become operable, which is not shown on the plan, noting there are other issues that need to be addressed. At this time the 3 bay garage is an empty building. Her client has indicated that there will not be any plumbing or customers. Mrs. Gerard was told the change of use is for a full service garage. The question was raised as to how you could have a full service garage and no customers. As stated, Mrs. Gerard requested a continuance at this time.

The board felt while a continuance is necessary, they would like to review the plan with Mrs. Gerard so they may provide a list of other issues that they may have. The board reviewed the plan noting the issues and deficiencies included in Mr. Merhalski's memo. The question was asked again what the use is. Mrs. Gerard answered a full service garage, oil changes, and tire changes.

Mr. Nelson stated the board needs to know the specific use so they can judge what is needed on the plan, and if it is a permitted use under the Zoning Ordinance. If it is a commercial use it requires a minimum of three parking spaces which need to be indicated on the plan.

The board discussed various issues on the site questioning the propane refilling station. It was noted this was to refill propane cylinders.

Mr. Nelson stated there is a ROW to access the property to the rear, which is very vague. Mr. Nelson suggested Mrs. Gerard or her client talk with the abutting property owners and try to define where the ROW is going to be, and plat it on the plan so that it will not be encroached up now or in the future. This issue was discussed at length with the confusion being if this is an access easement or a deeded ROW.

Abutters Linda and Ingrid Ratsep were present in the audience. Ms. Linda Ratsep noted her concerns regarding the ROW. Ms. Ratsep stated there are a described ROW and a plan which is recorded at the registry in Book 311 Page 327. The width of the ROW is not specified in the easement, just that it is for foot traffic and vehicular traffic.

Ms. Ryerson questioned if an on-site visit would be beneficial to the board. Board members felt it would and chose to continue the hearing to allow time for the on-site visit and for Mrs. Gerard to address the issues discussed this evening with her client.

Motion: Mr. Nelson moved to schedule an on-site visit for Monday, August 31, 2009 at 10:30 AM, seconded by Mr. Bakas, carried unanimously.

Motion: Mr. Nelson moved to continue the hearing for **Townsend's Hometown Grocery, LLC (52-27)** to September 9, 2009, seconded by Mr. Bakas, carried unanimously.

VI. Informal Discussions

VII. Unfinished Business

VIII. Other Business/Correspondence

- 1) Ms. Ryerson noted there were three members/alternates absent this evening, raising the question for the need of additional alternates. According to the RSA, the board may have up to five alternates. It was the feelings of the board that they should have at least three alternates. They discussed the procedure for this process. This could be advertised on the website and the bulletin board at Town Hall. If members were aware of anyone interested in serving on the board they should ask them to submit a Letter of Interest to the Land Use Office.
- 2) Selectmen's Draft Minutes of August 20, 2009 were noted.
- 3) Mr. Merhalski referred to the section of the ordinance relating to Conditional Use Permit, noting there is no application form for this. It can be addressed through site plan review or subdivision review, but if there is no application before the board, what vehicle is used for the review. Mr. Merhalski stated a form could be made, and questioned if the board would like to take this up under informal discussion or during a public hearing. As it is written now this would not require a public hearing. It was the decision of the board to create a form review and Mr. Merhalski will check the RSA's for any legal requirement of a public hearing.
- 4) Mr. Merhalski noted a conflict in the ordinance regarding Special Exceptions. Article III, B; Minimum Setbacks does not allow any encroachment in the required setbacks, while Article VII, B(3) allows the expansion of a non-conforming structure in the setbacks. This will be discussed during the boards work session.

IX. Committee Reports

- X. Adjournment:** Mr. Nelson made the motion to adjourn at 10:10 PM, seconded by Mr. Charest. Motion carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Land Use Coordinator