

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

Regular Meeting

October 14, 2009

Minutes

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

I. Pledge of Allegiance

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

II. Approval of Minutes

Motion: Mr. Nelson moved to approve the Planning Board Minutes of September 23, 2009. Seconded by Mr. Charest, carried unanimously.

III. New Submissions

**1. Donald Weatherbee (150-17)(48 Black's Landing Road)
Conditional Use Permit**

This is a request for a Conditional Use Permit for a proposed addition to an existing home.

Motion: Mrs. Coppinger moved to accept the application of **Donald Weatherbee (150-17)** and to schedule a hearing this evening to be Hearing #2, seconded by Mr. Jensen, carried unanimously.

**2. Harilla Landing Yacht Club (288-8)(484/490 Long Island Road)
Site Plan Amendment**

This is a request for a site plan amendment for minor changes made to a previously approved site plan.

Ms. Ryerson noted the request for waivers dated August 25, 2009 from Jeff Foote.

Motion: Mr. Nelson moved to accept the application of **Harilla Landing Yacht Club (288-8)** grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #3, seconded by Mrs. Coppinger, carried unanimously.

**3. White Pines Trust – Robert White & Sharon Loizance (194-34)(143 Eagle Shore Road)
Subdivision Amendment**

This is a request for a subdivision amendment of a recently subdivided parcel. Ms. Ryerson called for a discussion with the board regarding the acceptance of this application as it appears the lots may not meet the

required 4 to 1 ratio, which would require a variance from the Zoning Board of Adjustment. It is a policy of the board if an application requires ZBA approval, it must be granted prior to the acceptance of an application. The board discussed this, noting they could accept the application and schedule it out for a hearing on a specific date, allowing the applicant time to go through the ZBA process or deny the acceptance of the application this evening. Mr. Nelson commented that usually the surveyor provides the board with information regarding the 4 to 1 ratio. Carl Johnson, agent for the applicant requested to speak to this issue. Mr. Johnson indicated that the lots do meet the 4 to 1 ratio and explained his methodology. Length x width = area, therefore area./ average length = average width. Mr. Johnson stated the ratio of proposed Lot 1 is 3.67 to 1 and proposed lot 2 is 3.55 to 1. Based on this information the board proceeded with the acceptance of the application.

Motion: Mrs. Coppinger moved to accept the application of **White Pines Trust – Robert White & Sharon Loizance (194-34)** and to schedule a hearing this evening to be Hearing #4, seconded by Mr. Charest, carried unanimously.

**4. Douglas E. & Jo Anne Knee (27-03 & 05)(381 Sheridan Road)
Three Lot Subdivision**

This is a request for a three lot subdivision.

Ms. Ryerson noted the request for waivers dated September 22, 2009 from Associated Surveyors.

Motion: Mrs. Coppinger moved to accept the application of **Douglas E. & Jo Anne Knee (27-03 & 05)** grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #5, seconded by Mr. Charest, carried unanimously.

**5. Nica-Lee Realty Trust – Michael Morgan, Trustee
Site Plan Review (44-33)(1070 Whittier Highway)**

This is a request for an as-built site plan review showing existing building footprint, and adding a fence.

Ms. Ryerson noted the request for waivers and the request for a Conditional Use Permit dated September 21, 2009 from David M. Dolan Associates, PC.

Motion: Mr. Jensen moved to accept the application of **Nica-Lee Realty Trust (44-33)** grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #6, seconded by Mr. Charest, carried unanimously.

6. NH Route 25 Realty Trust – Michael Morgan Trustee (Dion’s Plant Place & Landscapes) Site Plan Review (141-9)(63 Whittier Highway)

This is a request for a site plan review adding an outdoor display area on the pavement, and the additional use as a floral shop.

Ms. Ryerson noted the request for waivers dated September 21, 2009 and the request for a Conditional Use Permit dated September 30, 2009 from David M. Dolan Associates, PC.

Motion: Mr. Charest moved to accept the application of **NH Route 25 Realty Trust (141-9)** grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #7, seconded by Mr. Nelson, carried unanimously.

7. **George & Virginia Bibler Family Trust (112-46)(71 Coe Point Road)**
Two Lot Subdivision

This is a request for a two lot residential subdivision.

Motion: Mr. Jensen moved to accept the application of **George & Virginia Bibler Family Trust (112-46)** and to schedule a hearing this evening to be Hearing #8, seconded by Mrs. Coppinger, carried unanimously with Mr. Nelson abstaining.

IV. Boundary Line Adjustments

V. Hearings

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

Mrs. Coppinger stepped down from the board for this hearing.

Ms. Ryerson stated that this was a continued hearing from August 26, 2009 for a site plan review. Ms. Ryerson commented there were several issues that were discussed at the last meeting that still need to be addressed.

Loralie Gerard was present representing the applicant. Mrs. Gerard submitted revised plans to the Land Use Office on the 13th and emailed a letter today addressing the August 17, 2009 memorandum from the Planner. Mrs. Gerard went over each of the items in her letter of October 14, 2009. Mrs. Gerard noted she had depicted the centerline for an existing right-of-way to be 12' wide as shown on the plan. Mrs. Gerard spoke to signage, indicating each building is allowed 16 square feet of signage on the building and 36 square feet on the main sign. There is only 1 square foot available on the main sign, so there will be no additional signage there, only the addition of 16 square feet on Building "B".

Mrs. Gerard noted the proposed use of Building "B" was for a full service garage with the office and bathroom facilities located in Building "A", the existing store. This proposed use opens the entire site for review. The board discussed at length issues which included the location of the dumpster, the flow of traffic accessing the full service garage, the ROW, number of parking spaces, display of various items (tires, wood) onsite, and signage.

Mr. Charest asked Mrs. Gerard if she or her client had spoken with the abutters (Ratsep) regarding the ROW. Mrs. Gerard indicated Mr. Townsend had a brief conversation with the abutters, but that they had not come to any agreement with them and are providing access as shown on the plan.

Ms. Fairchild requested clarification regarding the planters which are located in the States ROW and the required 25' vegetative buffer. It was noted if the state is in agreement to allow the location of the planters and has approved them, then the applicant should provide documentation from NHDOT. The site is existing and they are not required to provide the 25' vegetative buffer.

There was a lengthy discussion regarding the display of tires for sale in front of the store.

Ms. Ryerson questioned the easement shown on the plan going across the drainage ditch. Mrs. Coppinger stated it was a grass swale which goes down approximately 1 foot.

It was noted there were several items that still need to be addressed before the board would be ready to vote on the plan. Items that still need to be addressed include any storage or display of product (i.e. tires, wood) must have the location depicted on the plan. All proposed and existing lighting must be shown on the plan, the 75' well radius needs to be depicted on plan and all signage must be shown on the plan and have proper approvals for all existing or proposed signage.

Motion: Mr. Nelson moved to continue the hearing for **Townsend's Hometown Grocery LLC (52-27)** to October 28, 2009. Seconded by Mr. Charest, carried unanimously.

Mrs. Coppinger returned to the board at this time with full voting privileges.

**2. Donald Weatherbee (150-17)(48 Black's Landing Road)
Conditional Use Permit**

Ms. Ryerson stated that this was a request for a Conditional Use Permit for a proposed addition to an existing home.

Mr. Weatherbee briefly described the proposed addition to his home, noting he had received a permit from NHDES for the proposed expansion.

Mr. Nelson questioned if the proposed addition would also require ZBA approval for the expansion of a non-conforming primary structure. Upon review of the sketch and the ordinance, the board was in agreement that this request would require approval from the planning board for a conditional use permit and the ZBA for the expansion of a non-conforming primary structure [Article VII, B(3)] The board stated they could approve the conditional use permit subject to ZBA approval.

Mr. Merhalski had prepared a draft Notice of Decision for the Conditional Use Permit. Mr. Merhalski reviewed the Notice with the applicant and board, noting he would add the requirement for ZBA approval for the expansion of a non-conforming structure.

Motion: Mr. Nelson moved to approve the Conditional Use Permit for **Donald Weatherbee (150-17)** subject to compliance with the Draft Notice of Decision set forth this evening as amended. Seconded by Mr. Charest, carried unanimously.

**3. Harilla Landing Yacht Club (288-8)(484/490 Long Island Road)
Site Plan Amendment**

Ms. Ryerson stated that this was a request for a site plan amendment for minor changes made to a previously approved site plan.

Jeff Foote, agent for Harilla Landing presented the application for site plan amendment. Mr. Foote gave a brief history of the site, stating they received site plan approval in 2006 and have received a Certificate of Occupancy for the storage building. However, they had encountered many issues while working on the site work and are requesting approval for minor changes. Mr. Foote went over the memorandum from the Planner, addressing any changes made to the approved plan, as well as proposed changes to be made. These included the widening of the entrance to the storage building by 9', change to lighting, the placement of an underground propane tank to heat the building as they were required by the Fire Department to install a fire suppressant system. The relocation of the diesel fuel tanks to the inside of the building, relocation of the sign, buffer along the side of the building, use of boulders and jersey barriers in place of guardrails and the placement of temporary storage racks outside the building.

Mr. Foote stated it was brought to his attention that the storage racks are located partially within the required setback and they will either need to be relocated or Harilla apply to the ZBA for a variance to allow them to remain within the required setback. Mr. Foote stated they could be relocated onsite that would not take up parking or add additional lot coverage. With the relocation of the diesel fuel tanks inside and the addition of an underground propane tank there's a net gain of one parking space. Mr. Foote indicated they have spoken with a landscaper regarding the plantings. He noted they are located on Long Island, which has a problem with deer eating all the vegetation. They are proposing to plant white pine and spruce.

Mr. Jensen questioned what percentage of the work is proposed verses what has been completed. Mr. Foote stated everything was completed with the exception of the plantings and the relocation of the storage racks.

Hollis Austin noted they had offered plantings from their property and questioned if that was the intent of Harilla Landing. Mr. Foote stated yes, that they would still like to take Mr. Austin up on his offer and he will contact Mr. Austin directly regarding the plantings once approved by the board.

Mr. Nelson noted the plan presented this evening was not stamped by a licensed surveyor and that there were many items not shown on the plan. Mr. Foote stated he had requested a waiver of a signed plan with the application, allowing him feedback from the board prior to the completion of a final plan. Mr. Foote indicated he will provide the board with an as-built plan signed by a licensed surveyor.

It was noted there were many changes needed to the plan and the board would like these depicted on the plan for review at a continued hearing. It was the decision of the board to continue the hearing to allow time for Mr. Foote to provide the board with a revised signed plan depicting the changes as discussed this evening.

Motion: Mr. Nelson moved to continued the hearing for **Harilla Landing Yacht Club (288-8)** to October 28, 2009, seconded by Mr. Charest, carried unanimously.

**4. White Pines Trust – Robert White & Sharon Loizance (194-34)(143 Eagle Shore Road)
Subdivision Amendment**

Ms. Ryerson noted that this was a request for a subdivision amendment of a recently subdivided parcel.

Carl Johnson, surveyor and agent presented the amended subdivision application. Mr. Johnson noted they had received approval from the board in February 2009. Upon applying the newly required 50' wetland setback the building pocket was near the road, away from the lake and the feasibility of selling the lot was low. They went back reconfigured the lots, and had a wetland scientist, Randall Shuey look at the wetlands and how they apply to our zoning ordinance. Mr. Johnson noted the Town Planners memo, noting many of the items not included with this application were submitted with the original application. Mr. Johnson will submit copies for the record to be included with this application. Mr. Johnson addressed each of the items in the memo.

Mr. Jensen stated the location for the septic on Lot 2 was very far away, questioning the location of the pump line. Mr. Johnson pointed to the location of the pump line along the driveway, with an increase in elevation of approximately 26', which would require it to be a pump up system.

Randall Shuey gave the board a brief description of his delineation of the wetlands and how they changed from the original plan.

Mr. Johnson noted the board had questions regarding the 4 to 1 ratio during the acceptance of this application and explained again why both lots meet the requirement. Mr. Johnson explained his methodology.

Length x width = area, therefore area \div average length = average width. Mr. Johnson stated the ratio of proposed Lot 1 is 3.67 to 1 and proposed lot 2 is 3.55 to 1.

Abutter Maggie Alexander noted her concerns regarding the close proximity of the pump line and her well. Mr. Johnson indicated the pump line will be greater than the required 75' from her existing well.

It was noted the lot owners will need to apply to the CSPA for the development of these lots.

Revisions needed on the plan include the depiction of the abutter's well head and well radius, a note added to the plan indicating the utility easement will not impede on the access easement, an amended state subdivision approval and adding setback lines to the pump line.

Mr. Merhalski stated he had not prepared a draft decision for this application this evening, noting if the board wished he would review a boiler plate Notice of Decision, adding and making any changes as noted this evening regarding revisions to the plan and the receipt of an amended state subdivision approval.

Motion: Mr. Nelson moved to approve the application of **White Pines Trust – Robert White & Sharon Loizance (194-34)** subject to compliance with the Draft Notice of Decision as drafted this evening. Seconded by Mrs. Coppinger, carried unanimously.

5. **Douglas E. & Jo Anne Knee (27-03 & 05)**(381 Sheridan Road)
Three Lot Subdivision

Ms. Ryerson stated that this was a request for a three lot subdivision.

Carl Johnson, surveyor and agent presented the application for subdivision. Mr. Johnson provided the board with a revised plan, noting the proposal is now for two existing lots to become three lots. Upon reviewing the memo from the Town Planner it was the decision of the applicant to eliminate one lot, therefore eliminating the need for a subdivision road as it will become a common driveway servicing two lots, with the third lot having access from Sheridan Road. Mr. Johnson addressed each of the items in the Planners memo.

Mr. Johnson stated he did not provide lot calculations on proposed Lot 1, as it is already developed and was once a standalone lot prior to a boundary line adjustment several years ago. Mr. Nelson stated that the must provide lot calculations as the board can not approve what may or may not be a non-conforming lot. Mr. Johnson stated they were trying to eliminate the need to delineate the wetlands on lot 1 and questioned if there was a method they could use that would provide the board the information that lot 1 would not be non-conforming. This was discussed at length, with the final conclusion being the need for the wetlands to be delineated and applying the 50' setback to the wetland.

It was the decision of the board to continue the hearing to allow time for the delineation of the wetlands and the preparation of a revised plan and unit density calculations for lot 1.

Motion: Mrs. Coppinger moved to continue the hearing for **Douglas E. & Jo Anne Knee (27-03 & 05)** to October 28, 2009, seconded by Mr. Nelson, carried unanimously.

The board went out of order at this time, taking up hearing #7 before hearing #6.

7. **NH Route 25 Realty Trust – Michael Morgan Trustee (Dion’s Plant Place & Landscapes) Site Plan Review (141-9)(63 Whittier Highway)**

Ms. Ryerson stated that this is a request for a site plan review adding an outdoor display area on the pavement, and the additional use as a floral shop. In conjunction with this application there is a request for a conditional use permit to allow outdoor display of nursery/plant stock on an existing paved surface, located within the required 50’ wetland setback.

Dave Dolan, agent for the applicant reviewed the plan, noting the changes requested to the site. Mr. Dolan addressed each of the items in the memo from the Town Planner.

Mr. Jensen noted his concerns regarding the possibility of fertilizer going into the wetlands next to the display area of plantings/trees and questioned what they fed their outdoor plant stock with. Owner Bianca Dion stated they do not feed their outdoor plant stock, noting they come pelletized. The board discussed this and have required a note added to the plan that there may not be any fertilizer or pesticides stored or displayed within the 50’ setback area.

Mr. Merhalski had prepared a draft Notice of Decision for site plan review. Mr. Merhalski reviewed the Notice with the applicant and board. Mr. Nelson recommended language added to the Notice of Decision stating that there will be no fertilizer or pesticides within the 50’ setback from the wetland.

Motion: Mrs. Coppinger moved to approve the application of **NH Route 25 Realty Trust (141-9)** subject to compliance with the Draft Notice of Decision as amended this evening and grant the waivers as requested. Seconded by Mr. Charest, carried unanimously.

6. **Nica-Lee Realty Trust – Michael Morgan, Trustee Site Plan Review (44-33)(1070 Whittier Highway)**

Ms. Ryerson stated that this was a request for an as-built site plan review showing existing building footprint, and adding a fence. In conjunction with this application there is a request for a conditional use permit to allow the construction of the fence within the required 50’ wetland setback area.

Dave Dolan, agent for the applicant stated there was a prior site plan approval in 2003, and the current owner purchase the property in 2009. Mr. Morgan applied for a building permit to enclose the overhang area in front of the bay doors. It was brought to his attention that this would require board approval and that he should submit an application to the board with an as-built plan of the site. In doing the field work for the application it was determined that the prior owner had not constructed the site as approved by the board.

Mr. Dolan addressed each of the items in the memo from the Town Planner. It was noted the proposed and existing drainage is not shown on the plan, and that it was not constructed as approved. At this time it appears the drainage is directed into an adjacent wetland.

It was noted the board had not received any comment from the Fire Chief regarding this request. Mr. Merhalski advised the board to seek comments from the Fire Chief regarding access.

Board members questioned the number of parking spaces provided for the site, noting there were several spaces in front of the loading areas. Mr. Morgan stated that the tenants would park in front of the loading areas, and if needed they could move their vehicles for deliveries.

Revised plans will be required showing how they are going to address the drainage in to the wetland, parking and the depiction of the dumpster location on the site.

Motion: Mr. Nelson moved to continue the hearing for **Nica-Lee Realty Trust (44-33)** to November 10, 2009, seconded by Mr. Charest, carried unanimously.

**8. George & Virginia Bibler Family Trust (112-46)(71 Coe Point Road)
Two Lot Subdivision**

Due to the late hour the board opened the hearing for the Bibler's and at the request of their agent Dave Dolan continued the hearing to November 10, 2009.

Motion: Mr. Nelson moved to continue the hearing for the **George & Virginia Bibler Family Trust (112-46)** to November 10, 2009, seconded by Mr. Charest, carried unanimously.

VI. Informal Discussions

VII. Unfinished Business

VIII. Other Business/Correspondence

- 1) Zoning Board of Adjustment's Draft Minutes of October 7, 2009 were noted.
- 2) Selectmen's Draft Minutes of October 1, 2009 were noted.
- 3) Ms. Ryerson noted the board had a brief discussion of possible sign violations at their work session on the 30th. Mr. Merhalski has forwarded the list onto the Code Enforcement Officer for his comments as discussed.
- 4) Mr. Merhalski stated he was in the process of working on the budget and that it was request for level Funding. Mr. Merhalski questioned if the board had any items to be included in the budget request for 2010. If there are any requests please let him know by tomorrow.
- 5) Ms. Ryerson noted the Local Government Center Annual Conference to be held in Manchester, November 18-20, 2009.
- 6) Mr. Jensen noted an article published October 9, 2009 in the paper regarding the proposal for a Steep slopes ordinance in Laconia. Mr. Jensen handed out copies of the article to board members for informational purposes.
- 7) Ms. Fairchild questioned if there was any update on the Master Plan Implementation Committee. Mr. Merhalski noted there is a meeting scheduled for Thursday, October 22, 2009 at 3 PM here in Town Hall.

IX. Committee Reports

X. Adjournment: Mrs. Coppinger made the motion to adjourn at 11:12 PM, seconded by Mr. Charest, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Land Use Coordinator