

**Moultonborough Planning Board
P.O. Box 139
Moultonborough, NH 03254**

Regular Meeting

October 28, 2009

Minutes

Present: Members: Judy Ryerson, Joanne Coppinger, Jane Fairchild, Eric Taussig,
Ed Charest (Selectmen's Representative); Alternates: Keith Nelson, Peter Jensen;
Town Planner, Dan Merhalski
Excused: Members: Natt King, 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 October 14, 2009. seconded by Mr. Jensen, carried unanimously with Mr. Taussig abstaining.

Ms. Fairchild requested an amendment to the Work Session Minutes of September 30th. Changing "noting that most of the signs on the list are grandfathered" to "noting *many of the signs may be* grandfathered."

Motion: Mr. Nelson moved to approve the Planning Board Work Session Minutes of September 30, 2009 as amended, seconded by Mr. Taussig, carried unanimously.

III. New Submissions

**1. Michael J. Quinn (70-2)(40 Yukon Trail)
Major Subdivision**

This is a request for a major subdivision creating one new lot of 2.0 acres with a residual lot of 23.6 acres. Both lots already have existing residential features.

Ms. Ryerson noted the request for waivers dated October 6, 2009 from Hambrook Land Surveying.

Motion: Mr. Charest moved to accept the application of **Michael J. Quinn (70-2)**, grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #5, seconded by Mr. Nelson, carried unanimously.

**2. Alfreda Gale (85-8)(12 Legacy Lane)
Minor Two Lot Subdivision**

This is a request for a minor two lot subdivision creating one new lot of 2.38 acres with a residual lot of 9.85 acres.

Ms. Ryerson noted the request for waivers dated October 6, 2009 from Hambrook Land Surveying.

Motion: Mr. Charest moved to accept the application of **Alfreda Gale (85-8)**, grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #6, seconded by Mr. Jensen, carried unanimously with Mr. Nelson abstaining.

**3. Thomas D. Given Revocable Trust of 1994, Thomas D. Given, Trustee, Donna Z. Given Revocable Trust of 1994, Donna Z. Given, Trustee, David A. Given, Mary E. Given (226-1)(51 Garnet Point Road)
Minor Two Lot Subdivision**

This is a request for a minor two lot subdivision creating one new lot of 3.45 acres with a residual lot of 2.23 acres.

Ms. Ryerson noted two letters from Hambrook Land Surveying, the first a request for waivers dated July 27, 2009 and second dated October 26, 2009 requesting the application be continued to December 9, 2009.

Motion: Mr. Taussig moved to accept the application of **Thomas D. Given Revocable Trust of 1994, et al.**, grant the waivers for the purpose of acceptance only, and to schedule a hearing for December 9, 2009 to be Hearing #1, seconded by Mr. Charest, carried unanimously with Mr. Nelson abstaining.

**4. Eugene Rainville (207-5-001 to 5-004)(160 Bald Peak Drive)
Site Plan**

Mr. Taussig stepped down from the board for this new submission.

This is a request for a site plan review for Overlook Condominium to site a 14' x 18' golf cart storage shed on a concrete slab on their common area.

Ms. Ryerson noted the request for waivers dated October 6, 2009 from White Mountain Survey Co., Inc.

Motion: Mr. Jensen moved to accept the application of **Eugene Rainville (207-5-001 to 5-004)**, grant the waivers for the purpose of acceptance only, and to schedule a hearing this evening to be Hearing #7, seconded by Mr. Charest, carried unanimously.

Mr. Taussig returned to the board at this time with full voting privileges.

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 noted the request for continuance from Loralie Gerard, Agent for the applicant.

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

Mr. Nelson returned to the board at this time with full voting privileges.

**2. 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 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 earlier in the day. Mrs. Gerard referred to the Town Planners memorandum dated October 27, 2009. Mrs. Gerard noted revisions made to the plan include the relocation of the proposed propane filling station, screening for the dumpster, additional parking for the full service garage and customer parking. Mrs. Gerard noted the front setback shown on the plan is 100', which she will correct to the required 75' for the commercial zone. Ms. Ryerson corrected the setback requirement, noting it is 75 feet from the centerline of the road for commercial zone "C". Mrs. Gerard noted other revisions to the plan include the requirement of a 12' CMP drainage pipe for the crossing of the drainage swale to the abutting lot to the rear. Mrs. Gerard noted there was a question regarding the drainage and has provided a letter dated October 27, 2009 from Joanne K. Coppinger, P.E. summarizing the drainage design for the site. Ingress and egress have been shown on the plan, as well as the existing display areas located in front of the store. Mrs. Gerard indicated she had attempted to speak with the Code Enforcement Officer regarding the sewage loading for the additional use. Mrs. Gerard stated her client had a discussion with the abutter's regarding the ROW issue, noting the abutter's do not approve of the 12' ROW as shown on the plan. They have agreed upon a 50' ROW for an exchange of land with the abutter's to be determined at a later date. Mrs. Gerard stated they feel they have addressed all but three issues and are asking the board for a conditional approval this evening, the three issues being the correction of the front setback, an agreement for the ROW with the abutter's and approval from the CEO regarding the septic loading.

Mr. Nelson commented the ROW would need to be shown on the plan so that the board may review it prior to voting. The location of the ROW may involve a boundary line adjustment with the abutter's and would change the square footage of the lot and would need to be calculated in the lot coverage.

Mr. Merhalski reviewed the items in his memorandum dated October 27th, noting the ROW must be depicted on the plan.

Christopher Meier, attorney with Cooper, Cargill and Chant was present representing the abutter's. Mr. Meier noted there are two abutters that hold ROW rights across the Townsend property, his clients, the Ratsep's and the Lampreys. Mr. Meier stated that there is no agreement between the applicant and the abutters, and that they object to the plan as submitted as it does not protect his clients and the Lampreys rights. Mr. Meier felt the request for a conditional approval was in appropriate at this time.

Mr. Taussig stated he was troubled by the traffic and would like a comprehensive traffic plan done for the site as there are 3 or 4 uses taking place on the site.

Ms. Fairchild, Mr. Jensen and Mr. Charest all shared concerns regarding the ROW and easement issues and did not feel the board could entertain a conditional approval at this time. Ms. Fairchild felt the board should vote to deny the application this evening and when the applicant has addressed the ROW and traffic issue resubmit to the board at that time.

Mr. Nelson noted that he had originally suggested the applicant contact the abutter and work out an agreement regarding the ROW, so that it would not become issue at a later time.

Mrs. Gerard commented she had contacted NHDOT regarding the planters which are located in the States ROW, requesting documentation of such, but has not received anything from DOT.

There was a lengthy discussion regarding the ROW, whether it was a ROW or easement, the width, and location. If an agreement were to be reached with the abutter's the ROW would need to be depicted on the plan and the lot calculations adjusted accordingly.

It was noted the ROW issue will still need to be addressed before the board would be ready to vote on the plan.

Mr. Merhalski noted the applicant would need to agree to the continuance of the hearing, and sign the appropriate paperwork.

Motion: Mr. Nelson moved to continue the hearing for **Townsend's Hometown Grocery LLC (52-27)** to December 23, 2009. seconded by Mr. Charest, carried 5 to 1 in favor with Ms. Fairchild opposing.

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

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

Ms. Ryerson stated that this was a continued hearing from October 14th for a site plan amendment.

Jeff Foote, agent for Harilla Landing presented the board with a revised stamped plan for site plan amendment. Mr. Foote stated they had made all the revisions to the plan as discussed at the last hearing. Items included in the Town Planners memorandum were the requirement for a Sign Permit application, which has been completed and submitted to the Code Enforcement Officer. The relocation of the storage racks as depicted on the plan, noting that are not taking up parking spaces during the summer months. The number of parking spaces had been addressed at the prior meeting. Mr. Foote stated two notes have been added to the plan addressing the boat storage racks and snow storage locations.

Mr. Merhalski had prepared a draft Notice of Decision for the site plan review. Mr. Merhalski reviewed the Notice with the applicant and board.

Motion: Mrs. Coppinger moved to approve the site plan for **Harilla Landing Yacht Club (288-8)** subject to compliance with the Draft Notice of Decision as set forth this evening. seconded by Mr. Charest, carried unanimously with Mr. Taussig abstaining.

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

Ms. Ryerson stated that this was a continued hearing from October 14th for a three lot subdivision.

Carl Johnson, surveyor and agent noted at the prior hearing the board had requested the delineation of the wetlands and lot size calculations for Lot #1. Mr. Johnson stated the wetlands were delineated and the unit density for Lot #1 is 1.31 units. Mr. Johnson noted the 50' setback is depicted on the plan.

There were questions regarding the access for the 2 lots, shown as a 50' easement (Parcel "A") on the plan. There were questions raised regarding Parcel "A" asking if this was a ROW or shared driveway. If this was a ROW it would require a Conditional Use Permit if any construction for the shared driveway is needed within the 50' setback. Mr. Merhalski stated the need for a liability waiver for the crossing of the culvert, or verification for the weight limit. Mr. Johnson questioned if he amended the plan and incorporate Parcel "A" into Lot #3 would the issues with the ROW go away? Mr. Merhalski stated yes, noting they would still require an access easement and utility easement. Mr. Johnson stated the easement area will remain 50' wide.

Mr. Merhalski had prepared a draft Notice of Decision for the subdivision. Mr. Merhalski reviewed the Notice with the applicant and board.

Motion: Mr. Nelson moved to approve the subdivision for **Douglas E. & Jo Anne Knee (27-03 &05)** subject to compliance with the Draft Notice of Decision as amended this evening, seconded by Mr. Charest, carried unanimously.

Ms. Fairchild left for the evening at 9 PM.

**5. Michael J. Quinn (70-2)(40 Yukon Trail)
Major Subdivision**

Ms. Ryerson stated that this is a request for a major subdivision creating one new lot.

Jim Hambrook, agent for Mike Quinn presented the application for subdivision. Mr. Hambrook stated the proposal is to create one new 2 acre parcel. Mr. Hambrook noted that both lots already have existing improvements, and that they had received approval from the board for a second dwelling on a lot in 2007. Mr. Hambrook stated the access is over Emerson Path and Yukon Trail which are private ways. The utilities are existing underground and the vaults are shown on the plan. Mr. Hambrook had a copy of the utility easement, but had not depicted the underground lines as he does not know the exact location. Mr. Hambrook noted unit density calculations for new Lot 2.1 and the residual lot and 1.85 units and 5.33 units respectfully. Mr. Hambrook stated he had depicted a future 50' ROW location on the plan on a portion of Lot 2 and the abutting property of Charles Bollinger. Mr. Bollinger has requested this shown on the plan as he wishes sometime in the future to relocate the portion of Yukon Trail that passes through his property. Mr. Hambrook had a letter from Mr. Bollinger acknowledging the right to use Yukon Trail for the new lot. Yukon Trail also services the abutting property of the Bird's and Salchli's. Mr. Hambrook stated all rights are existing, and the board granted a subdivision in 1996 of the abutting lot to the north east.

Ms. Ryerson requested clarification of the number of lots that Yukon Trail services. Mr. Hambrook stated four, the two Quinn residences, the Bird residence and the Salchli residence. Mr. Hambrook stated Yukon Trail is a private way. Emerson Path services the abutting lots of Lakes Region Water Company and the Irelands.

Mrs. Coppinger requested clarification that Emerson Path has a specified width, but Yukon Trail does not. Mr. Hambrook stated a portion of Emerson Path was created when the subdivision was done in 1988 for the LRWC and Ireland lots.

Mr. Merhalski reviewed his memo of October 21st with the board, noting many of the issues listed are relating to Subdivision Regulations and may be waived by the board.

There was a lengthy discussion relating to the ROW. Mr. Merhalski stated the portion of the proposed future ROW crossing the abutting property of Charles Bollinger must either be removed from the plan or there needs to be something on the plat which was signed by the Bollinger's allowing them to relocate the ROW. Mr. Hambrook stated he had a letter from Mr. Bollinger acknowledging this and that it can be placed on record at the registry of deeds, and add a note to the plan referring to the letter.

Abutters Ward and Ginny Bird were present in the audience, noting they have no issues with the proposed subdivision or access and spoke in favor of the board approving the request for subdivision.

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. These included an access easement for the gravel driveway access for the dwelling unit on the Residual Lot 2, over proposed Lot 2.1, and receipt of State Subdivision Approval.

Motion: Mrs. Coppinger moved to approve the application of **Michael J. Quinn (70-2)** subject to compliance with the Draft Notice of Decision as drafted this evening. seconded by Mr. Charest, carried unanimously.

**6. Alfreda Gale (85-8)(12 Legacy Lane)
Minor Two Lot Subdivision**

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

Ms. Ryerson stated that this is a request for a minor two lot subdivision.

Jim Hambrook, agent for Alfreda Gale presented the application for subdivision creating one new lot of 2.38 acres with a residual lot of 9.85 acres. Mr. Hambrook noted the wetlands were delineated and a site specific *soil survey* had been prepared for the board. The unit density calculations are 1.47 and 7.7 units for the new lot and residual lot respectfully. Mr. Hambrook stated they have received an approved driveway permit and stated subdivision approval is pending at this time.

Ms. Ryerson questioned if the application was for a minor subdivision or a major subdivision. Noting if it were approved as a minor subdivision this would restrict any future subdivision of the residual 9.85 acre lot. Ms. Gale was present in the audience and stated that she has no plans to further subdivide at this time, but did not want to restrict any future subdivision. It was noted the abutter's were notified of a subdivision only, not specifying minor or major so there would not be the need to continue for re-notification purposes. The application was amended, with the appropriate fee paid by Ms. Gale, for the board to treat this application as a major subdivision.

Mr. Merhalski had prepared a draft Notice of Decision for the subdivision. Mr. Merhalski reviewed the Notice with the applicant and board.

Motion: Mr. Charest moved to approve the subdivision for **Alfreda Gale (85-8)** subject to compliance with the Draft Notice of Decision as set forth this evening. seconded by Mrs. Coppinger, carried unanimously.

Mr. Nelson returned to the board at this time with full voting privileges.

7. **Eugene Rainville (207-5-001 to 5-004)(160 Bald Peak Drive)**
Site Plan

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

Ms. Ryerson stated that this is a request for a site plan review for Eugene Rainville.

Jim Rines, agent for Eugene Rainville presented the application for Overlook Condominium to site a 14' x 18' golf cart storage shed on a concrete slab on their common area. Mr. Rines gave a brief history of the property noting they had been before the board a few years ago for approval to allow condominium ownership of the structure. As this is a multi family unit, the proposed storage shed requires site plan approval. There are no other proposed changes to the site and proposed lot coverage is 9.4%.

Ms. Ryerson stated there is notation of a jurisdictional wetland on the plan, questioning if this would require a 50' setback. Mr. Rines noted the wetland is less than 20,000 square feet.

Mr. Merhalski questioned the location of the underground electrical utility, noting the easement should be located on the plan. Mr. Rines stated he did not know the exact location of the lines, but they believe the proposed location would not interfere with the lines. It was noted by law they are required to notice Dig Safe prior to any work and Dig Safe will flag the location of the utilities.

Mr. Merhalski had prepared a draft Notice of Decision for site plan review. Mr. Merhalski reviewed the Notice with the applicant and board.

Motion: Mr. Charest moved to approve the application of **Eugene Rainville (207-5-001 to 5-004)** subject to compliance with the Draft Notice of Decision as set forth this evening. seconded by Mrs. Coppinger, carried unanimously.

Mr. Taussig returned to the board at this time with full voting privileges.

VI. Informal Discussions

VII. Unfinished Business

VIII. Other Business/Correspondence

1) Zoning Board of Adjustment's Draft Minutes of October 21, 2009 were noted.

2) **Discussion of Revised Draft Ordinances**

Mr. Merhalski stated that he had made amendments to the three (3) draft Zoning Ordinances as directed by the Board at the work session on September 30th.

Mr. Merhalski began with the Steep Slopes Development Ordinance, going over the changes that were made to clarify issues raised at the previous work session. These were relating to the triggering mechanism, the definition of "Site Disturbance" and "Steep Slope". He had also deleted the ridgeline item from the Performance Standards section and kept in the restriction of development over 25% grade.

The board reviewed and discussed the draft as presented, making only minor spelling and grammatical changes to the draft.

Motion: Mr. Nelson moved to accept the draft language for the draft Steep Slopes Development Ordinance as amended this evening, seconded by Mr. Charest, carried unanimously.

Mr. Merhalski then moved onto the Groundwater Protection Ordinance, going over the changes that were made as a result of the discussion at the prior work session. These changes included returning the triggering thresholds back to the 15% or 2,500 sq.ft., whichever is greater and he made numerous editing changes for phraseology to restrict the ordinance to only commercial sites.

Motion: Mr. Jensen moved to accept the draft language for the draft Groundwater Protection Ordinance as amended this evening, seconded by Mr. Charest, carried unanimously.

Due to the late hour, the board only briefly looked at the draft Stormwater Protection Ordinance, noting a few of the Recommended changes made at the prior work session. The board only briefly touched on this ordinance this evening and at the prior work session. They will take this draft ordinance up at their meeting on November 10th.

Route 25 Zoning Ordinance Issues was on this evening's agenda, but due to the late hour was not discussed.

IX. Committee Reports

X. Adjournment: Mr. Nelson made the motion to adjourn at 11:12 PM, seconded by Ms. Ryerson, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant