

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

**Regular Meeting**

**November 10, 2009**

**Minutes**

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

**I. Pledge of Allegiance**

Mr. King appointed Keith Nelson and Peter Jensen to sit on the board with full voting privileges in place of Judy Ryerson and Eric Taussig.

**II. Approval of Minutes**

Mrs. Coppinger requested two small corrections be made to the October 28<sup>th</sup> minutes. First on page 5, changing "a 50" easement" to "a 50' easement" and the second on page 6, adding "soil survey" after site specific in the second line for clarification purposes.

**Motion:** Mr. Nelson moved to approve the Planning Board Minutes of October 28, 2009 as amended. seconded by Mr. Charest, carried unanimously with Mr. King abstaining.

**III. New Submissions**

**IV. Boundary Line Adjustments**

**V. Hearings**

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

Mr. King noted a letter dated November 10, 2009 from David M. Dolan, Associates, Agent for the applicant requesting a continuance to November 24, 2009.

**Motion:** Mrs. Coppinger moved to continue the hearing for **Nica-Lee Realty Trust (44-33)** to November 24, 2009. seconded by Mr. Nelson, carried unanimously.

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

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

Mr. King stated that this was a request for a two lot subdivision.

Dave Dolan, surveyor and agent for the applicant presented the application for subdivision. Mr. Dolan briefly described the proposed subdivision creating one (1) new lot and one (1) residual lot with existing improvements. Mr. Dolan stated there is an existing easement over the abutting lot and the Bibler lot that accesses twelve +/- lots via Coe Point Road, which is a private road. Mr. Dolan stated they have created a 50' ROW, with a portion on proposed Lot 1 and Lot 2. Mr. Dolan stated he had not shown a specific driveway location for the new Lot 1. Noting there is an existing driveway on Lot 2 and adequate site distance for Lot 1. As requested by the Planner, Mr. Dolan provided lot calculations for both Lots 1 & 2, and has broken down the calculations for Lot 2 into Lot 2 –East and Lot 2 – West, noting the calculations were 1.26 and 1.29 respectfully.

The board did not see the need to depict the location of a driveway for proposed Lot 1.

Mrs. Coppinger requested clarification of Lake Kanasatka on the plan. Mr. Dolan stated he based the lake level, which is the surface elevation, on information set by the State of New Hampshire. The area on proposed Lot 2 is a vegetation/marsh area and is not navigable based on NH DES requirements. It was noted that there was not a Locus Map on the plan and the board viewed a copy of the tax map, which showed the subject lot and surrounding area. Mr. Dolan stated he will add a Locus Map to the plan.

Mrs. Coppinger questioned Mr. Merhalski what his purpose was for requiring Mr. Dolan to provide lot calculations for each area divided by the wet area on Lot 2. Mr. Merhalski stated it was based on septic loading, as the developed area on Lot 2 is being subdivided by the lot line.

Mr. Merhalski reviewed his memo of October 20<sup>th</sup> with the board, noting three issues listed relating to Subdivision Regulations which may be waived by the board. Mr. Merhalski explained his concerns regarding the proposed ROW noting the current subdivision does not create a 50' ROW for frontage on a street. Rather, a 50' access easement straddles the lot line, with portions benefitting access to either side. He noted that this did establish a means of access to and from each lot it did not continue to allow for access rights for the adjacent lots further down the road near the lake. Mr. Merhalski stated if an access easement was granted, a separate utility easement should also be established to allow for utility service over the newly created, and parent, lots, benefitting the adjacent lots as well as the new lot.

There was a lengthy discussion relating to the ROW, noting Coe Point Road is existing private road. A note will be added to the plan indicating that the proposed 50' ROW easement shall also allow access and utility usage for the approximate fifteen lots further along Coe Point Road.

Mr. Merhalski had prepared a draft Notice of Decision for the subdivision. Mr. Merhalski reviewed the Notice with the applicant and board. It was noted the need to add the notation to the plan relating to the ROW, add the locus map and set the pins for the newly created lots.

**Motion:** Ms. Fairchild moved to approve the subdivision for **George & Virginia Bibler Family Trust (112-46)** subject to compliance with the Draft Notice of Decision as set forth this evening. seconded by Mr. Jensen, carried unanimously.

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

## **VI. Informal Discussions**

Joanne Sutcliffe, representative for the **Winnepesaukee Wellness Center** requested to speak to the board on an informal basis regarding **TM 141-6**, 78 Whittier Highway. Ms. Sutcliffe stated the Wellness Center is going to be a tenant in a portion of the multi-tenant building where the former Red Hill Gym was located. They were told by the Code Enforcement Officer that this use would require Site Plan approval for the new use. Ms. Sutcliffe explained to the board while they're a rehabilitation center, they're basically a gym for seniors,

with the only difference from Red Hill Gym being that there is a medical personnel onsite during business hours. The board discussed this and felt that this was not a substantial change in use and have requested the CEO look at this in more depth and see if he felt that this was a substantial change in use that would require site plan review. The board directed the Planner to write a memo to the CEO on behalf of the board requesting that he look at the proposed use and what the previous use was, and see if it is actually a change of use. Mr. Merhalski stated he would speak with CEO and ask that he contact the Wellness Center for clarification of what the specific use is, and what activities they have.

**VII. Unfinished Business**

**VIII. Other Business/Correspondence**

**Discussion of Revised Draft Ordinances**

Mr. Merhalski stated the board has final versions of the Steep Slopes and Groundwater Protection Ordinances and are still in preliminary discussion on the draft Stormwater Protection Ordinance.

The board discussed the dates and window for the scheduling of Public Hearings for proposed changes to the Zoning Ordinance. Mr. King noted the ZBA had cancelled their meeting of November 18<sup>th</sup>, therefore this date would be available for a Planning Board Work Session. The board discussed this, noting there a number of things they are still working on. Ms. Fairchild stated she has been working on a re-drafting of the sign ordinance and would like to see if the board wished to tackle that this year. Other items are the Route 25 zoning issues that will require additional time and discussion. It was the decision of the board to schedule a **Work Session for Wednesday, November 18, 2009 from 5 PM – 7:00 PM** in the Ernest Davis Meeting Room.

While discussing meeting dates it was noted the second meeting in December was Wednesday the 23<sup>rd</sup>. It was the decision of the board to re-schedule the meeting to another weeknight evening due to the proximity of the Christmas Holiday.

**Motion:** Mr. Nelson moved to reschedule the December 23, 2009 Planning Board Meeting to Monday, December 21, 2009, seconded by Mr. Jensen, carried unanimously.

Mr. Merhalski reviewed the draft Stormwater Protection Ordinance noting he had made a few of the recommended changes, leaving in the triggering standards for review, as well as the performance standards, but had taken out the sections about authorization to waive the regulations through a Special Use Permit and some of the definitions. Mr. Merhalski had added a definition of “Impervious Surface”.

The board discussed the triggering threshold for the requirement of a Stormwater Management Plan. Mr. Jensen noted his concerns with the removal of the requirement “disturbing greater than 20,000 square feet of area.” It was felt that this requirement could become costly to the average single family home owner. The board discussed this with the suggestion that a two tier plan may address the concerns. Mr. Merhalski will work on language for the triggering for residential lots.

Mr. Nelson requested a definition of infrastructure. Mr. Merhalski sated things such as roadway surfaces, infiltration systems, drainage systems and fire cisterns. The board asked that this be defined in the ordinance.

Ms. Fairchild noted on the agenda a discussion relating to Sign Ordinance violations, and requested an update. It was noted the list had been sent to the CEO with a due date back to the board for December 31. The board will discuss this when they receive Don’s reply back to the board.

Ms. Fairchild noted her concerns regarding the possible site plan violations on both of the Townsend properties. It appears there may be some sort of tire warehouse distribution on both sites. The board can address the tires on

the Hometown Grocery site through the continued site plan review, and will ask the CEO to review approvals for the “log cabin” site located at 1088 Whittier Highway.

The board then had a discussion of other possible Ordinance Amendments they would like to work on for Town Meeting. Mr. King stated he would like to work on special exceptions. One of the work session items was the consideration for the elimination of special exceptions. There are two options, one to get rid of them entirely having applicants apply for a variance instead of a special exception and the other is to tighten up the existing standards of how one would receive a special exception, by firming up the requirements in getting a special exception so they are more stringent than a variance. This is an item the board would like to work on for the upcoming Town Meeting. The board discussed the pros and cons of removing or tightening up a special exception.

It was noted the board had set a work plan of items to be completed for this Town Meeting. Some of the items included are the removal of special exceptions, rezoning of Route 25, setbacks and access management. There were members who would like to work on the sign ordinance for this year. Mr. Merhalski stated if the board wished to substitute sign ordinance in place of something else they could.

The board would like to focus on Route 25. Mr. Merhalski updated the board on the status with the Access Management and does not feel this will be able to be completed for the upcoming town meeting. They could complete special exceptions, dimensional changes within the zoning ordinance on Route 25 and if the board wishes look at a draft sign ordinance. As the board has not seen any draft for the sign ordinance that may take longer than anticipated and may not be able to be completed for this year.

The board discussed items to be included on the agenda for the upcoming work session on November 18<sup>th</sup>. It included the discussions of the draft Stormwater Ordinance, a discussion relating to tightening up the standards for special exceptions, discussion relating to dimensional requirements and a discussion of the sign ordinance.

Mr. Charest gave a brief update on the Fox Hollow Road project.

Zoning Board of Adjustment’s Draft Minutes of November 4, 2009 were noted.

Boards of Selectmen Draft Minutes of November 5, 2009 were noted.

**IX. Committee Reports**

**X. Adjournment:** Mr. Nelson made the motion to adjourn at 10:30 PM, seconded by Mr. Jensen, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant