

Moultonborough Planning Board
P.O. Box 548
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Minutes

January 19, 2009
Public Hearing - 7:00 P.M.
Moultonborough Town Offices

Present:	Members:	Natt King, Keith Nelson, Eric Taussig, Joanne Coppinger, Ed Charest (Selectmen's Representative)
	Alternates:	Jane Fairchild
Excused:	Members:	Judy Ryerson, Jim Bakas
	Alternates:	Peter Jensen, James Gray (Selectmen's Alternate)

Mr. King called the Public Hearing to order at 7:04 PM and welcomed the public. Mr. King appointed Jane Fairchild to sit on the board with full voting privileges in place of Judy Ryerson. Those present in the audience from the Board of Selectmen and the Zoning Board of Adjustment were Karel Crawford, Betsey Patten, Joel Mudgett, Jerry Hopkins and Russ Nolin. Other members of the audience included Gary Haracz, Hollis Austin, Cristina Ashjian, Marlene Taussig, Sally Carver, Janet Cutler, William Page, Thom Lacey, Herb Farnham and Norman & Chia-Chi Poitras.

Mr. King stated that this was a public hearing on proposed zoning changes, and if there are significant changes there will be a second hearing held on February 2, 2009 at 7 PM at the Town Hall.

Mr. King stated there are five proposed changes to the zoning ordinance that will be brought to the floor separately. Input will be allowed from the board and then the public. Mr. King noted that there are two issues that have been raised by town counsel and will be brought up at the necessary time.

The first proposed amendment is to **Article VI; Paragraph C.(1)** to change the boundaries of Commercial Zones and permitted uses. Mr. King stated the board has seen this proposal a number of times at their work sessions. Ms. Fairchild commented on this proposal. The amendment was introduced after a small study group was appointed in an effort to address some of the various issues that have been raised regarding Route 25. There have been many questions to the board and the Board of Selectmen over a period of years about whether we have the best zoning arrangement in place now, with all of Route 25 being zoned commercial. Currently there are three zones along Route 25, Zone A, Zone B and Zone C. Commercial Zone "A" includes all land within 500 feet of the edge of the right-of-way on either side of Route 25 from the Moultonborough / Center Harbor Town Line to the intersection of Blake Road. Commercial Zone "B" includes all land within 500 feet of the edge of the right-of-way on either side of Route 25 at the intersection of Route 109 South to the Moultonborough / Sandwich Town Line. Commercial Zone "C" includes all land within 500 feet from the centerline of the road on either side of Route 25 from Blake Road to the intersection of Route 109 South.

The committee met three times and set some goals they would like to see happen on Route 25. The first goal was the safety issue of pedestrians and drivers. The second goal was the strong concerns of the Town's people relating to preserving scenic beauty and rural character of the Town. The third goal was the preservation of natural resources and wildlife habitat on Route 25. The fourth goal is to improve the general quality of life of residents, through less traffic congestion. These goals are interim steps, realizing that whole issue of zoning and other issues along Route 25 need to be addressed in a more

comprehensive way that will take some time to review and see what the best solutions for the future would be. The goal of the committee is to take a pro-active step and make some advances to address this before it is too late.

Ms. Fairchild went on to note the recently adopted Master Plan Update, stating there were a number of questions and concerns about this issue on Route 25. This is an attempt to begin to address what was expressed from a number of people during the update process. Ms. Fairchild stated there was a Route 25 Corridor Study completed, and that there are problems with intersections in several places on Route 25.

The proposal is to remove two stretches along Route 25 from new commercial development to residential, with a sunset clause that will expire by the end of two years. Hopefully by that time the board will come back with better permanent solutions to fixing these issues, or maybe not, maybe the board would begin studies and find that there isn't a problem. Right now the board thinks that it is. The areas that are proposed include returning the section from Glidden Road to Moultonboro Neck Road back to Residential/ Agricultural and from Marvin Road to Blake Road back to Residential/ Agricultural. Each of the six intersections that have been identified by the State of NH DOT as being dangerous, according their criteria, fall within the two stretches the board is proposing to revert back to residential use for the time being.

Mr. King took comments from the board at this time. Mr. Charest stated that he was in agreement with what Ms. Fairchild has stated, noting that he served on the Route 25 Corridor Study Committee. The Route 25 Corridor Study is available for review, and included in the study are the areas they tried to anticipate where the danger lies. In the study, it indicated the build out of the land along Route 25, if it were all built upon, the traffic would nearly equal to what is on Route 128 around Boston. If the lots were developed it would cause congestion. How do you insure development along Route 25 that doesn't impact the traffic in such a way as to make it more dangerous than now? If congestion comes it will only hurt business instead of helping it. One of the main comments resulting from the Master Plan Study was that they wanted the rural character of the town to be maintained to some degree. They were aware that there would be development, but not unbridled development, development that is specific and meets the needs of the area and does not destroy the character of the town. If you look at some of the towns around us, over the past thirty years, and the development they have had, picture what Moultonborough would look like thirty years from now without some managed development, access management of the cuts along Route 25.

Mr. Taussig commented that he had served on the Route 25 study and their conclusion was that unless there was some rationalization of driveway cuts, that there would be no possible way of improving the corridor. The rapid development, without any systematic planning for left turn lanes, or restrictions on left turns and other traffic controls, make the highway even more dangerous. The problem is significantly exacerbated in certain areas where there are driveway cuts that are very close to each other. The hope is that they can come up with some rationalization, including parallel service or frontage roads that would be used for access in certain areas to avoid multiple driveway cuts. This would lessen the need for other traffic controls.

Mr. Nelson made the following comment "in my opinion, the best place to locate commercial development is along Route 25. But we're faced with a challenge, and the challenge is to maintain the rural character of Moultonborough. The way that the existing zoning is, is you have a 500 foot strip going all the way along Route 25, which is going encourage strip development essentially. What I'm looking for, is, try to encourage development in these particular areas, which we don't have the formula for yet, but encourage development in those particular area that will maintain the rural character, maintain the trees, limit the accesses and perhaps deepen the commercial zone back from the 500 feet so it can develop more of a commercial nod, where you would have an entrance, have it still look very rural, and

then have a commercial village, if you will, in the back.” The planning board is not ready at this point to propose such a thing. Mr. Nelson’s understanding is that if this is brought forward, and the reason for the sunset provision is to maintain the commercial liability of the properties, but still do advanced planning and have time to do advanced planning so that the rural character will not be destroyed within the next two years while we are waiting to develop the proper ordinances to protect and enhance the Town of Moultonborough.

Mr. King took comments and questions from the public at this time.

Jerry Hopkins stated with regards to the 500 foot setback, the zoning board has seen several applications before it for the back half of lots that extend past the 500 feet. Mr. Hopkins questioned if there was any consideration in the preparation this to include the total parcels that are covered partially by the 500 foot setback. Ms. Fairchild commented that the study committee was just formed and only had the task of locating some areas where they thought they could protect certain assets and aspects of the road. They have not gotten very far into the solutions, and feels that would be a possible solution. These are the types of things that they want to look at over the coming year or two to develop further solutions.

William Page had several comments and concerns regarding this proposal Mr. Page feels that this proposal specifically targets specific owners, and is a potential for causing great hardship financially as well as their business interest. Mr. Page stated that he had also served on the Route 25 Corridor study and he vehemently disagreed with the statements. He could not draw the same conclusions drawn by the members. Mr. Page questioned why this was not being considered by the Zoning Board as opposed to the Planning Board. Mr. King stated the Planning Board proposes ordinances and changes to the zoning ordinance, the Zoning Board interprets that. This is statutory. The board questioned what specifics Mr. Page felt was targeted or that it impacts. Mr. Page stated the board has specifically targeted sections of Route 25. The board disagreed with Mr. Page’s opinion, they are not in any way targeting specific individuals. Mr. Page felt that individuals purchased land with some expectation of usage, and once a vote is taken, they cannot meet those expectations. Ms. Fairchild commented that any existing business can be sold as that business, or a similar business, and continuing operating as a business. Mr. Page commented as a resident he is concerned about the process and questioned what was specific problems that have gone on along Route 25? Mr. King noted that this was not an arbitrary process that the board has gone through. They have based the majority of this on the Master Plan and respondents to that. The board is being proactive in preserving our rural character. Any regulation that changes has a positive impact on some and a negative on others, and the board tries to do it as best they can. The alternative is to remain stagnant.

Thom Lacey stated that he owns property on Route 25 and would have not bought it if he was not able to receive zoning and planning approvals. Mr. Lacey stated due to the economy, he is not planning on developing his site at this time and is concerned if he will be able to complete these in the future. Mr. Lacey appeared before the planning board for an extension of his site plan approval. This was granted for one year. Mr. Lacey questioned what would happen if he is unable to complete it at the end of the extension? The board stated he could request another extension. It was questioned how many extensions someone may request. Ms. Fairchild noted the proposal is for two years, at that time it will revert or it’s not.

Joel Mudgett commented to the best of his knowledge if you come back in for an extension, any zoning changes that have been approved, you must conform to them. Mr. Nelson stated that you are supposed to have substantial development of your site plan within one year. In regards to compliance with future zoning ordinances he was uncertain about the status of that under the current law. Mr. Nelson stated he had pushed for the sunset provision on this proposal, as he saw the objection that Mr. Page and Mr. Lacey are having. The board is not looking at taking away the commerciality of the property. They are looking to control the development of the property in the commercial fashion.

Mr. Nelson stated there are a few issues that need to be clarified with a couple of items in the proposal. The date needs to be specific for the sunset provision. Mr. Nelson would suggest one year and the following amendment to the proposal to read:

c. The provisions of Article VI C.(1)(a) and (b) relating to the boundaries of Zones “A” and “A-1” shall expire on **March 31, 2010 shall revert to the provisions of Article VI C. (1) as existing in the Moultonborough Zoning Ordinance on March 11, 2008.**

Mrs. Patten commented the language must specifically state that this will revert. You can change it, but if there is no change it has to revert.

Mr. King stated that the change made to this item will require a second public hearing, which has been scheduled and noticed for February 2, 2009, 7 PM at Town Hall.

The second item is a proposed amendment to **Article VI; Commercial Uses A.** Ms. Fairchild gave a synopsis of this proposal, stating in conjunction with the prior proposed amendment just discussed by the board, proposed is the addition to permit the board to go forward with studying a better access management plan on Route 25 for the reasons stated “Because Route 25 is a highly visible tourist route it is important that all proposed uses have attractive landscaping and signs, and other aesthetic qualities.” The board would like to do additional studies on the road to specifically address the access management issues, looking at the overall picture of how they should be control access onto Route 25. The Planning Board will consult with NH DOT and the applicant to arrive at the best possible access management solutions. Ms. Fairchild stated that the proposed amendment will give the board time to look at the Route 25 Corridor Study and the overall access on Route 25. This will allow the Planning Board to weigh in on the location of driveway cuts.

Mr. Taussig commented that he was in favor of this, as it would give the board a little bit more coordination with the state to have better traffic management along Route 25.

There were no other comments from the board or public.

Mr. King polled the Board to see if they were in favor of recommending to the Selectmen this proposal for inclusion on the Town Warrant as presented at the Public Hearing: Eric – Aye; Ed – Aye; Jane – Aye; Joanne – Aye; Keith – Aye; Natt – Aye.

The third item is a proposed amendment to **Articles VI A (3), VI D, VI E; Repeal of Authority to grant Special Exceptions for Commercial Use in Residential / Agricultural Zone under the Town of Moultonborough’s Zoning Ordinance.** Mr. King noted that this does not mean that this is eliminating commercial uses entirely, it means that another standard will be used, which is a variance rather than a special exception. A variance has a higher threshold than a special exception.

It was noted the need to amend this language. As written this would repeal section E of the Commercial Uses section and that would eliminate the conditions / criteria the ZBA applies to all applications for Special Exception, not just those that relate to Commercial Use in the Residential/ Agricultural zones. Mr. King noted that the board wants to eliminate Special Exception from the Residential/ Agricultural areas, however not from the commercial areas.

Mr. Taussig commented that he was an advocate for this amendment. Mr. Taussig stated that one of the problems with the Special Exception is that they run with the land and as a result we have had

haphazard development in the residential areas. By repealing the commercial special exceptions applicants would be held to a higher standard which would be a variance instead of a special exception. Mr. Taussig referred to the proposed Master Plan, stating it is very critical of the fact that special exceptions essentially created what looks like spot zoning.

The board discussed the revision of this amendment and was in agreement that the language could be revised to add the following “as it applies for commercial development in Residential/ Agricultural Zones only” after section VI E. The language will read as follows:

Are you in favor of the Adoption of Amendment No. _____, as proposed by the Planning Board for the Town Zoning Ordinance as follows: To see if the Town of Moultonborough will vote to repeal Articles VI A (3), VI D, VI E **as it applies for commercial development in Residential/ Agricultural Zones only** and those portions of Article VII relating to Special Exceptions **as it applies for commercial development in Residential/ Agricultural Zones only**, of the Zoning Ordinance of the Town of Moultonborough, to eliminate Special Exceptions for commercial uses in the Residential / Agricultural Zone; and to delete all references to Special Exception for Commercial Uses in Residential /Agricultural Zone where they appear.

Mr. King stated that the change made to this item will require a second public hearing, which has been scheduled and noticed for February 2, 2009, 7 PM at Town Hall.

The board took a 10 minute break at this time.

The fourth item is a proposed amendment to **Article V; Signs**. Mr. King stated that there are some relatively significant changes to this section of the ordinance. Mr. King noted the board had received input from Town Counsel questioning part the proposal relating to the pre-ordinance signs.

Mr. Taussig spoke to this, stating there had been cases that had been brought to his attention, and that all of those related to towns that had attempted to get rid of existing signs and eliminate signs that were preexisting prior to a change in the zoning ordinance. The proposal is not to get rid of any preexisting signs. Every sign that is in existence now is grandfathered. The only thing they requested was that they would give a one year period for people to get what is called a pre-ordinance sign permit for registration purposes of the sign. Mr. Taussig feels that this is a reasonable proposal and will be at no cost to the owner. The owner would complete the form and get a pre-ordinance sign permit. This would allow for signs to continue subject to the terms of the ordinance. There is a provision relating to abandonment of signs. The rest of the ordinance basically tries to rationalize signs in town and create a little more uniformity and a little less clutter. Mr. Taussig stated the sizes and changes are minimal to the existing sign ordinance. One other big change with reference to this ordinance is that, it changes the permitting process to come before the Planning Board rather than the Select Board. It was felt that when someone is before the Planning Board for site plan review, they should be the entity that reviews signs, rather than the Select Board do it.

Mr. Charest commented that the members of the Select Board have a difference of opinion at this moment, and that they will be discussing the change of authorizing signs to the Planning Board. It was not clear when this would be decided. Mr. Nelson stated that if the Board of Selectmen were to retain the permitting authority that it would need to be amended this evening.

The board and public discussed this issue at length with many questioning what specific changes were made relative to this section of the ordinance.

Karel Crawford stated that our existing sign ordinance is 3-4 pages in length and the proposed copy is 10 pages. Mrs. Crawford asked if there was a marked copy to view all of the proposed changes. Mr. Taussig stated that he did not have a marked copy available this evening, noting that this has been being worked on by the Sign Committee and previously discussed at Planning Board meetings for the last few years. Mr. Taussig will try and locate the marked copies from the last few years for the next public hearing.

Mr. Mudgett questioned the need to renew a sign every five years, and questioned what happens if five years come, and someone forgot to renew their permit. Is someone going to come and tear it down? It does not appear the process is contained in the ordinance.

Upon further discussion it was the feeling of the board that there had been a considerable amount of time and effort put into the draft and they would like to have this placed on the warrant. The items that seem to have the most concern was the pre-ordinance permit provision, the five year renewal requirement and a question on who would retain the permitting authority.

It was the decision of the board that the Board of Selectmen retain the permitting authority for signs and to delete the pre-ordinance permit provision from the proposed sign ordinance.

Mr. Nelson stated that could amend these two items and that they could be revisited in the future. The board would rather put forward the majority of the changes and not have it fail due to two or three items.

Mr. King stated that the change made to this item will require a second public hearing, which has been scheduled and noticed for February 2, 2009, 7 PM at Town Hall.

The fifth item is a proposed amendment for the inclusion of a new **Article X, Small Wind Energy Systems Ordinance.**

This is a proposal for an ordinance to regulate Wind Energy Systems (WES). The Zoning Board of Adjustment had requested that the Planning Board craft language pertaining to WES. A committee was formed for this purpose and they had presented draft language to the board last year. At that time it was noted that the State of NH was in the process of drafting a model ordinance regulating WES. It was the decision the Planning Board to propose the model ordinance form the NH OEP with a few modifications. The board opened this item for discussion. Several areas of concern were raised by ZBA member Jerry Hopkins.

Mr. Hopkins stated that the model ordinance does not provide for a hearing process, noting that the committee and the ZBA would like that to be included in the ordinance. This would give abutters the opportunity to express their concerns if needed. Mr. Hopkins requested that Paragraph C.2(x) be amended to require an applicant to provide a copy of an approval from their utility company for interconnection with their provider, not just a copy of the application. Mr. Hopkins stated the proposed ordinance disfavors guy wires, and he recommends that they disallow guy wires. Mr. Hopkins went on to ask the board if they had considered addressing roof mounted systems and the fact that there is a zero setback requirement from occupants on the property.

The board discussed this at length and addressed the areas of concern raised by Mr. Hopkins. Mr. Nelson and Mr. King felt that this proposal was important and that with a few changes this could be in place and if needed make additional changes in future.

The changes made to the proposed amendment were to Paragraph C.2(x) to read as follows:

Small wind energy systems that will be connected to the power grid shall include a copy of the application approval for interconnection with their electric utility provider.

Striking Paragraph D,1,a,ii as written: Guy wires are disfavored, but where they must be used to support the tower are exempt from the small wind energy system setback requirements, and to replace with Guy wires are *prohibited*.

Mr. King stated that the change made to this item will require a second public hearing, which has been scheduled and noticed for February 2, 2009, 7 PM at Town Hall.

Mr. King noted those were all of the items on the agenda and called for a motion to adjourn.

Motion: Mr. Charest moved to Adjourn at 10:53 P.M.
Mrs. Coppinger 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.