

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

**Regular Meeting**

**March 24, 2010**

**Minutes**

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

**I. Pledge of Allegiance**

**II. 2010 Board Organization – Election of Officers and Review of Policies and By-Laws**

As Senior Member present, Mr. King called the organizational meeting to order at 7:30 PM. Mr. King called for nominations for Chair and Vice Chair.

**Motion:** Ms. Ryerson moved to nominate Joanne Coppinger as Chairperson, seconded by Mr. Charest, carried unanimously.

**Motion:** Ms. Ryerson moved to nominate Natt King as Vice Chair / Secretary, seconded by Ms. Coppinger, carried unanimously.

Ms. Coppinger called the regular meeting to order at 7:36 P.M, and appointed Peter Jensen to sit on the board with full voting privileges in place of Jim Bakas.

**III. Approval of Minutes**

Ms. Coppinger requested two amendments to the minutes, first on page 9, changing Mr. Holland to Mr. Hume and second on page 5, changing hydrocyanic to computer.

**Motion:** Ms. Fairchild moved to approve the Planning Board Minutes of March 10, 2010 as amended, seconded by Mr. Charest, carried unanimously.

Ms. Fairchild noted as a point of order the next item on the agenda was the review of Policies and By-Laws. Mr. King stated that he wished to proceed forward with the items on the agenda and requested that they discuss their policies under Unfinished Business after they have conducted the remaining items on their agenda.

**IV. New Submissions**

**V. Boundary Line Adjustments**

**VI. Hearings**

**VII. Informal Discussions**

1) **Brian Davis** requested to speak to the Board on an informal basis regarding his property, **Tax Map 89, Lot 1**, 714 Whittier Highway. Mr. Davis stated he would like to add fill on his property adjacent to Route 25. There is a provision in the Zoning Ordinance, Article VI, Paragraph A(6) that requires “All lots in the commercial zones and other commercial lots shall require Planning Board approval before tree cutting or topographical changes can be made. Mr. Davis briefly described the filling, noting there would be no stumps or brush, clean fill only. There are no wetlands or drainage within 300’. It will require the removal of approximately 20 trees, many of them sumac. He will put up a silt fence during this process, remove and clean up the trees. He stated that this may take a year or two to complete, and he would seed and mulch as he goes along.

**Motion:** Mr. King moved to allow the filling of the lot, seconded by Mr. Charest.

Discussion on the motion, members questioned the area be filled. Mr. Davis stated approximately 300’ x 150-200’ deep. The board discussed the area to be filled, noting the square footage was approximately 60,000 s.f. and questioned how this request fit in with the newly adopted stormwater ordinance. Board members referred to the ordinance with Ms. Coppinger noting the applicability states “The requirements of this article shall apply to all subdivisions platting new roads, commercial and multi-family developments and redevelopments which disturb 20,000 square feet or more in all zoning district(s)”. Members discussed the triggering of the stormwater ordinance. Mr. Merhalski went onto further clarify the triggering threshold and referred to Section V, “All subdivisions, commercial and multi-family developments and redevelopments which disturb 20,000 square feet or more shall submit a Stormwater Management Plan (SMP) with an application for subdivision or site plan review”. Mr. Merhalski stated the Board’s jurisdiction is limited by statute to subdivision and site plan review and this has not been determined to be separate from that, and would not apply as it is a residential structure, which is what the board had specifically left out with single family homes. Mr. Nelson noted his concerns with this area eventually being developed commercially.

Board members questioned runoff onto the abutting parking lot, and drainage towards the rear. Mr. Davis stated the fill would be lower than the parking lot and follow the grade of the parking lot. Mr. Davis noted that his property wraps around the rear of the abutting lot and that any drainage would be on his own property. Ms. Coppinger stated this appeared to be a reasonable project, so long as there was good erosion control but felt it would be good for the board to look at the site. It was the decision of the board to schedule an on-site visit to view the site and the area to be filled.

**Motion:** Mr. King moved schedule an on-site visit for Wednesday, March 31, 2010 at 6:45 PM, seconded by Mr. Charest, carried unanimously.

## **VIII. Unfinished Business**

Mr. Merhalski provided board members with a copy of the Policies approved in 2009. The Board reviewed the policies, making comments and suggestions. Ms. Fairchild asked that the board consider amending the start time of the meeting from 7:30 PM to 7:00 PM. This request was discussed, and it was the decision of the board to amend the start time as well as the effort to not begin any new hearing after 10:00 PM and to conclude the meeting by 10:30 PM, starting with the April 14<sup>th</sup> meeting.

**Motion:** Mr. King moved to change the meeting time, effective April 14, 2010, starting at 7:00 PM, to not begin any new hearings after 10:00 PM and to conclude the meeting by 10:30 PM, seconded by Mr. Maroun, carried unanimously.

There was a change made to reflect an amendment to RSA 91-A, requiring draft minutes to be made available not more than 5 business days after the meeting. To be consistent, changes were made

throughout the policies changing all references of Land Use Coordinator and Land Use Board Secretary to Land Use Staff.

**Motion:** Mr. King moved to approve the Policies of the Planning Board as amended this evening, seconded by Ms. Fairchild, carried unanimously.

Mr. Charest had a question relating to filling of property, noting during the informal discussion it occurred to him that the BoS has many requests that come to them requesting when the town has excess fill/material that it be brought onto their land. They need to fill out a “Disposal Agreement” form, which is then approved by the BoS. Mr. Charest’s question was, how do they know that the property owner isn’t disturbing 20,000 s.f. or more. The board discussed this, noting their concerns that they could be filling wetlands. It was noted if it a residential lot and not in the Aquifer protection area or commercial use, the board does not have any jurisdiction over this. Mr. Merhalski commented when a property owner comes in to the BoS it may behoove the board to request the owner tell the BoS where this will be and to verify that it’s not within one of these areas.

Cristina Ashjian asked for clarification of the practice of the board for the posting of “Draft Minutes” to the website and or bulletin board. Noting the Planning Board is not consistent with the BoS and other committees in the posting of Draft Minutes. Mr. Merhalski commented the reason this was implemented was that the Draft Minutes have never been seen by the board, and there have been instances when the Draft Minutes have been posted on the bulletin board and then subsequently posted on public websites, other places, and quoted in newspapers incorrectly as to what was actually said without the board members having the chance to review and or amend their own statements. The reason the Draft Minutes are no longer posted on the board is because board members have asked in the past to have the opportunity to look at them prior to them going out. The board is required by statute to have Draft Minutes available within 5 business days. They are available in the Land Use Office if people ask. There was a lengthy discussion regarding the posting of Draft Minutes on the bulletin board and the website. Ms. Fairchild expressed her concerns with the posting of Draft Minutes. Mr. Jensen does not see a problem with posting Draft Minutes. The board should make the access to all information required easily to the public, noting they are clearly marked DRAFT. Ms. Fairchild commented if the Draft Minutes are posted prior to board members being able to see them, it could cause potential problems, and that there are instances when posting Draft Minutes could matter. Ms. Fairchild has requested if the board is going to go forward with posting the Draft Minutes again that board members receive Draft Minutes once they are available, and posted on the bulletin board and website.

**Motion:** Ms. Fairchild motioned that the board continue the practice that has been recently put in place, of posting only minutes that have been approved by the board and draft minutes that have not been approved will be available for the public in the Land Use Office as required by the Right to Know Laws. If the board hears of more problems or complaints by the public, they will reconsider it after it has been in effect for a few months, seconded by Mr. King.

There was additional discussion regarding this issue with Mr. Jensen commenting he disagreed with it as he feels the board needs to be consistent with other boards. Ms. Ryerson commented she was not concerned with consistency so long as the board is in compliance with the RSA. However, she noted there’s a lot of concern in town that people are trying to hide things and does not think it is helpful for the board to make it more cumbersome for the public to view draft minutes. It was suggested a disclaimer, in bold type, be added to header of draft minutes, to the effect that they are draft minutes and have not been approved by the Board and may not accurately reflect the sentiments/statements made.

Ms. Coppinger called for a vote of the motion on the floor as made by Ms. Fairchild. The motion failed by a vote of 2 in favor (King, Fairchild), 5 opposed (Ryerson, Jensen, Coppinger, Maroun, Charest).

**Motion:** Mr. Jensen moved that the Board clarify the minutes, with verbiage in the header “Draft Minutes”, post on the bulletin board, and post a pdf copy on the website when available, seconded by Mr. Maroun.

Ms. Fairchild has requested Board Members are provided with an electronic copy of the “Draft Minutes” as soon as they are available. Mr. Merhalski stated his practice is to send the Draft Minutes to the members with their packets, noting if any member wishes them as soon they are available to please send him an e-mail letting him know they would like them and he will send them electronically.

Ms. Coppinger called for a vote of the motion on the floor as made by Mr. Jensen. Motion passed by a vote of 6 in favor (Ryerson, Jensen, Coppinger, King, Maroun, Charest), 1 opposed (Fairchild).

## **IX. Other Business/Correspondence**

1) An Application For and Notice of Voluntary Merger for Kenneth & Patricia Belliveau (120-52 & 45)(35 Greyhound Street) was presented to the board. Mr. Merhalski briefly described the two lots to be merged.

**Motion:** Mr. King moved to approve the Voluntary Merger as presented, seconded by Mr. Charest.

Discussion on the motion, Mr. Nelson commented the application shows there is a mortgage on Lot 52, if the property owners defaulted on the mortgage, Wells Fargo Home Mortgage only has their mortgage on Lot 52, so in effect, would be foreclosing on a lot and basically undoing the merger. This could be an issue and may be a De facto subdivision as they have interest in the property. Mr. Merhalski stated from the statute there was nothing the board could do if this meets zoning requirements and it does not mention anything about lien holders or mortgage. Mr. Merhalski agrees with Mr. Nelson but noted the request as presented meets the requirements of the statute. Mr. Nelson commented that he just wanted to alert the board to that fact.

Ms. Coppinger called for a vote of the motion on the floor as made by Mr. King, carried unanimously.

2) Ms. Coppinger noted there was a work session next week. Ms. Fairchild asked if an Agenda had been set for the work session. Ms. Coppinger commented the board had been charged to bring items to the work session that is of concern. Items noted prior was the board will work on their work plan for the upcoming year, discuss the requests for extensions of site plan approvals and review the ordinance in regards to compliance for Work Force Housing and to tighten up the restrictions on special exceptions.

3) Mr. King asked Mr. Charest what was taking place at the BoS meeting on Thursday. Mr. Charest stated that it was a work shop. Part of the work shop will be a discussion of the property on Route 109. Mr. Charest updated the Board as to what took place on the meeting of the 18<sup>th</sup>. There were different opinions and assumptions from those who were in attendance which resulted in a lengthy discussion. It was noted there was a response from the Town to the Planning Boards comments posted on a public website and members questioned why they were not provided with a copy. Mr. Merhalski updated the board regarding Mr. Terenzini’s response of the Planning Boards comments to the BoS. He stated that it was not a document to the Planning Board which was why the Board was not provided a copy of the letter. The discussion continued with members commenting on what the BoS may or may not discuss at their work

session. Mr. Charest encouraged Planning Board members to attend, with Mr. King, Mr. Jensen and Ms. Fairchild indicating they would attend. Ms. Coppinger and Mr. Maroun stated it was awards night at the Academy and that they were attending. If the awards banquet was out at an early time they would then go to the work session.

4) Zoning Board of Adjustment Minutes of February 17 and March 3, 2010 were noted.

5) Selectmen's Draft Minutes of March 18, 2010 were noted.

**X. Committee Reports**

**XI. Adjournment:** Mr. King made the motion to adjourn at 9:41 PM, seconded by Mr. Charest, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant