

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

Regular Meeting

July 28, 2010

Minutes

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

Mr. King called the regular meeting to order at 7:04 P.M. and appointed Keith Nelson to sit on the board with full voting privileges in place of Chris Maroun.

I. Pledge of Allegiance

II. Approval of Minutes

Ms. Ryerson noted the need for a minor editorial change on page 4, paragraph 1, the sixth line down should read "a lot has to have frontage on the street", not a street has to have frontage on the lot.

Motion: Mr. Charest moved to approve the Planning Board Minutes of July 14, 2010, as corrected, seconded by Mr. Jensen, carried unanimously with Mr. King abstaining.

III. New Submissions

1. The Daniel W. Watson Trust & The Eda Ann Watson Trust (247-22 & 254-24)
Boundary Line Adjustment (23 Davis Lane & 29 Long Island Road)

This was a request for a proposed Boundary Line Adjustment transferring 2.96 acres from Tax Map 247 Lot 22 to Tax Map 254 Lot 24. Mr. King noted the request for waiver of Section 4.3 of the Subdivision Regulations dated June 23, 2010 from David M. Dolan Associates, PC.

Motion: Mr. Nelson moved to accept the application of **The Daniel W. Watson Trust & The Eda Ann Watson Trust (247-22 & 254-24)**, grant the waiver for the purposes of acceptance only and to schedule a hearing for this evening to be Boundary Line Adjustment #1, seconded by Mr. Charest, carried unanimously.

2. The Daniel W. Watson Trust & The Eda Ann Watson Trust (247-22)(23 Davis Lane)
Major 2-Lot Subdivision

This was a request for a proposed two lot subdivision creating one new lot of 2.45 acres with a residual lot of 7.12 acres. Mr. King noted the request for waiver of Section 4.3 of the Subdivision Regulations dated June 23, 2010 from David M. Dolan Associates, PC.

Motion: Mr. Charest moved to accept the application of **The Daniel W. Watson Trust & The Eda Ann Watson Trust (247-22)** , grant the waiver for the purposes of acceptance only and to schedule a hearing for this evening to be Hearing #1, seconded by Ms. Ryerson, carried unanimously.

IV. Boundary Line Adjustments

1. The Daniel W. Watson Trust & The Eda Ann Watson Trust (247-22 & 254-24)
Boundary Line Adjustment (23 Davis Lane & 29 Long Island Road)

Dave Dolan of David M. Dolan Associates, PC presented the application for a Boundary Line Adjustment (BLA). The proposal is to transfer 2.96 acres from Tax Map 247 Lot 22 to Tax Map 254 Lot 24. Mr. Dolan stated Sheet 2 was an overview of the properties showing the TM 254, Lot 24 in green and noted it was the Long Island Campground. DMD was initially hired to do a subdivision of TM 247, Lot 22, and has submitted a separate application to be heard pending the BLA. In completing the survey for the subdivision they discovered that for a number of years a lot of the campsites and access facilities for the campground are located on Lot 22. The purpose of the BLA is to adjust the property line so all of the uses associated with the campground are onto the lot known as the Long Island Campground property, TM 254, Lot 24.

Mr. Dolan stated Sheet 1 shows the proposed boundary line, an access road to a gravel boat storage area, campsites and trailer sites. This places the boundary line between those and the residential property. They have requested a waiver for a lot of the site details and perimeter survey of the entire campground so they did not have to locate all of the trailers, etc. For purpose of the BLA there are no new lots being created. The BLA plan shows the details on TM 247, Lot 22. The wetland was delineated by Schauer Environmental Services. There is a gravel driveway that accesses the residence off Davis Lane, which continues and crosses onto the campground property. It is only used by the property owner, the trust, which owns both properties. Mr. Dolan referred to the Planners review, noting he recommended an access easement should be established on the plat to allow this. Mr. Dolan noted the gravel drives are not used to access the campground, just for access by the owner, as he maintains the campground. Mr. Dolan suggested adding a note to the plan indicating if there was a change in ownership or use of either of the properties that an easement may be required for the continued use of the gravel drives. Mr. Dolan answered any questions from the board.

Mr. Nelson commented that in the past if lot lines and configurations changed a pre-existing non-conforming use, they would lose their grandfathering rights and would need to go to the Zoning Board for a Special Exception on the lot as reconfigured. Mr. Dolan stated that he had had the same concern before submitting the application and discussed this with the Planner. Mr. Nelson noted that on the remaining lot, there are still commercial uses, a basketball court, horseshoe pits and volley ball net. Therefore TM 247, Lot 22 is not purely residential as it is going to be used for the commercial purposes of the campground. Mr. Dolan stated the proposal is to get as many of the campsites contained on the campground property and could not comment on what extent those uses will continue.

Mr. Merhalski noted in his review he found that the use is a pre-existing, non-conforming use on the lot. It would only have to come back for ZBA approval if it was going to become more non-conforming. In this case because they are adding a section of those sites that were on lot 22 into the larger grandfathered parcel, it would become less non-conforming, therefore not required to come back to the ZBA. Mr. Merhalski did not know the status of the recreational areas as they did not state in the application if they were going to be used by campground or just remain on lot 22. If the owner would like to put an access easement over that area on TM 247, Lot 22 for benefit of TM 254 Lot 24 they could. This was not something that he had reviewed as being incorporated into this application. He was not aware the remaining parcel was still to be commercial, and thought it was reverting to residential. Mr. Dolan stated they would like to continue the uses as they have been used on both properties.

Mr. Nelson referred to the subdivision of the Castle property and that in the past the Board has required them receive a new special exception for reconfigured lots. In this case the non-conforming use. Mr. Merhalski stated that you never lose grandfathering, unless you abandon the use or add a new use. In

the case of the Castle, it was his understanding that they changed things when the bottling plant was broken out. The uses that are grandfathered remain on the lots regardless of subdivision. It's whether or not the subdivision is granted, if the Zoning Ordinance precludes certain densities, that would be the determining factor, so the board would refuse to grant the subdivision based on the zoning prohibition if there was a density calculation. In this case they are adding land, including dwellings to it, so long as they meet the density requirements, they will not have to deal with a special exception or violation of zoning. It is just adding land and making it more conforming. Mr. Nelson stated again, in the past they would lose their special exception. That was the way the ZBA treated it. Mr. Merhalski replied a grandfathering use cannot be abandoned or lost, unless the new use is replacing it, or it has been abandoned for more than twelve months. The board discussed this and wanted to make certain they were acting consistently and questioned if the ZBA should be on board with this. Mr. Merhalski stated if there was a condition in the decision, setbacks, traffic patterns or density of the lot then that would be correct, they would need to go back to the ZBA. Mr. Merhalski stated in this case there is no jurisdiction for the ZBA to have authority over this. The board could continue the hearing if they would like to talk with the ZBA, but he did not see any reason as the ultimate decision is the Planning Boards.

Ms. Ryerson commented that the existing campground far exceeds the allowable density. Mr. Dolan stated yes, there are 40 acres and about 100 sites. The Board questioned if TM 247 Lot 22 is being used as part of the commercial operation of the campground, is it commercial? Mr. Dolan stated TM 247 Lot 22 is servicing the campground, is under the same ownership and the operator of the campground lives there.

Mr. Merhalski commented that he was not aware of the density of the lot, noting this may now involve the ZBA. He questioned how many units were on the existing campground, as he assumed the density was far in excess due to the size of the lot. Mr. Dolan stated there were approximately 100 units on 40 acres. Mr. Merhalski then questioned how many units they were adding to it, commenting if the density increases, and they are already in violation of the Zoning Ordinance, then this would require ZBA approval. Mr. King questioned how many campsites/units were in the 2.96 acre adjusted parcel. Mr. Dolan noted 10 units. After discussing the number of units on the area to be transferred and the number of units on the campground it was determined that TM 254 Lot 24 would become more non-conforming, therefore requiring the need for ZBA approval. Mr. Merhalski apologized for the misunderstanding, noting this was not mentioned in the application and that he was not aware of the density.

It was the decision of the board to continue the hearing to August 25th. Mr. Merhalski will write a letter to the applicant so they have some means to come before the ZBA as an Administrative Decision based on the number of units for density calculations, stating they need to go to the ZBA for a variance of the density requirements. They can either appeal that decision to the ZBA or request a variance from it.

Motion: Mr. Nelson moved to continue the hearing for **The Daniel W. Watson Trust & The Eda Ann Watson Trust (247-22 & 254-24)** to August 25, 2010, seconded by Ms. Ryerson, carried unanimously.

V. Hearings

1. The Daniel W. Watson Trust & The Eda Ann Watson Trust (247-22)(23 Davis Lane)
Major 2-Lot Subdivision

It was noted this application was contingent upon the approval of the boundary line adjustment transferring 2.96 acres from Tax Map 247 Lot 22 prior to the subdivision. Therefore it was the decision of the board to continue the hearing for subdivision.

Motion: Mr. Nelson moved to continue the hearing for **The Daniel W. Watson Trust & The Eda Ann Watson Trust (247-22)** to August 25, 2010, seconded by Mr. Jensen, carried unanimously.

VI. Informal Discussions

VIII. Other Business/Correspondence

Discussion of Engineering Report for Maine PCS Site Plan Condition of Approval

The Board reviewed the Structural Analysis Report provide for SBA's Tower located on Moultonboro Neck Road, Tax Map 203 Lot 7. The report concluded the existing foundation should have the necessary capacity to support the existing and proposed loading. It was unclear if the tower would support the existing and proposed loads. The report recommended reinforcement of the tower legs at a cost of approximately \$75,000 to \$85,000. The Results section of the report indicated several sections of the tower that fail. Mr. Merhalski stated that the Police Department will not be adding their equipment to the tower. The board had required the applicant to provide an engineer study showing whether the tower would support the weight of Maine PCS equipment plus the weight of the two units for the PD. The report submitted only evaluated the Maine PCS equipment and not the two units for the town. Technically the Board's requirement for the town's two units to be included in the study was not met. It was the decision of the Board that the report did not meet their requirement to ensure that the tower is structurally sound for the proposed project, and the Town's proposed two antennas. Mr. Merhalski noted he had spoken with Peter DeMarco, agent for Maine PCS, who said that Maine PCS and SBA will submit the necessary documentation in a new report to ensure that the Board's concerns were addressed.

VII. Unfinished Business

a. Discussion of Revision of Subdivision Regulations

Board Members were provided with an amended draft copy of the Subdivision Regulations. Mr. Merhalski noted the changes that the Board had agreed upon were shown in green, changes shown in red were recommended previously by the Planner, but not yet approved by the Board and changes shown in blue were changes the Board had recommended being put in, but not yet approved.

The last item discussed on July 14th was relating to street frontage. Mr. Merhalski surveyed surrounding communities on the lake to see what their frontage requirements were. The average frontage was 115'. Meredith being 50', Center Harbor varies from 50 – 150' depending on the shape of the parcel, Laconia's depends on the district, if it is downtown, then there is an exemption, otherwise it is 100', Tuftonboro 100 - 250', Wolfeboro varies from 50 – 400' depending on the use, Alton 150' if not on town water or 75 – 100' if on town water and Gilford 100-150'. Basically the minimums are 50' or 100-150', with the exception being downtown Laconia, the riverfront commercial district.

The first change the Board agreed upon as discussed at the prior hearing was the removal of the Application for and Notice of Voluntary Merger and Table I, Minimum Lot Size Based on Soil and Slopes. Both of these do not need to be included in the Subdivision Regulations as all other applications are separate and Table I is included in the Zoning Ordinance.

The Board then reviewed the proposed changes to Sections 3.17, 3.19, 3.24 (a), 3.25, and 4.3 (A). Section 4.3(A) 2 has been broken down into two sections, therefore items 4-21 will be renumbered accordingly. Mr. Merhalski noted sections 4.3 (A) 13-21 are not new language, but were originally in Section 4.12 C-J, and just moved to become part of Section 4.3. Mr. Jensen had a question regarding 3.19 Protective Well Radius and Section 4.3 (16). First were there other restrictions that should be listed within the wellhead radius, and second regarding the Public Well, or Community Water Systems. Mr.

Jensen questioned item 18, what was meant by discretionary information checklist. Was this something the board would create or information provided by the applicant? It was the decision of the board to strike the wording “with a completed discretionary information checklist”.

The Board continued to review proposed changes to Sections 4.4, 4.7(B & C), 4.10, 4.12, 4.13, 4.14 (A,B,C,D), 5.4, 6.1 (B), 6.2 (A,B) 6.4, 9.5 and 9.6. The changes as proposed were approved by the Board.

It was noted three elected members were not able to attend the meeting this evening. As there were many changes proposed to Section VII. Design Standards For All Subdivisions, pages 16-22 and Section VIII. Special Conditions pages 22-24, the members in attendance chose not to review those sections until a time when all could be present.

The board wrapped up their discussion at this point and will continue their discussion on them again as time allows at their next regular meeting on August 11th. Mr. Merhalski noted the review of the Subdivision Regulations has taken longer than expected. Therefore they have not had the chance to discuss Site Plan Regulations, and questioned if the Board would like this item to remain on the agenda. Board members agreed to leave that item on their agenda and would begin the discussion for the revision of Site Plan Regulations as time allowed.

b. Discussion of Revision of Site Plan Regulations

IX. Committee Reports

X. Adjournment: Ms. Ryerson made the motion to adjourn at 10:03 PM, seconded by Mr. Charest, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant