

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

Regular Meeting

October 13, 2010

Minutes

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

Mrs. Coppinger called the regular meeting to order at 7:00 PM and appointed Keith Nelson to sit on the board with full voting privileges in place of Jane Fairchild.

I. Pledge of Allegiance

II. Approval of Minutes

Mrs. Coppinger requested amendments to the September 22nd minutes, page 4, regarding Hearing number 2. Mrs. Coppinger provided alternate wording regarding the vegetative buffer to remain unaltered.

Motion: Mr. King moved to approve the Planning Board Minutes of September 22, 2010, as amended, seconded by Mr. Charest, carried unanimously with Mr. Nelson abstaining.

Ms. Ryerson questioned if the board had adjourned prior to Ms. Fairchild's comment on page 5. If so, did the comment need to be included in the minutes. The tape will be reviewed and if necessary the Minutes will be amended to reflect the correct order of the motion, vote and comment according.

Motion: Mr. King moved to approve the Planning Board Work Session Minutes of September 29, 2010, as amended, seconded by Mr. Jensen, carried unanimously with Mr. Nelson abstaining.

III. New Submissions

Mrs. Coppinger and Mr. Nelson stepped down from the board at this time.

1. Roundabout Now, LLC (103-7)(512 Whittier Highway)
Site Plan Review

Mr. King stated this was a new submission for site plan review and that the application appears substantially complete for acceptance.

Motion: Mr. Jensen moved to accept the application for **Roundabout Now, LLC (103-7)** for site plan review and to schedule a hearing for this evening to be Hearing #2, seconded by Mr. Charest, carried unanimously.

IV. Boundary Line Adjustments

V. Hearings

1. Continuation of Public Hearing - Morrill Homes of Wolfeboro (152-18)(Severance & Caverly Road) Subdivision Amendment

Mr. King noted a letter dated October 1, 2010 from Jennifer Haskell, Esquire, Agent for Peter Morrill, requesting a continuance to November 10, 2010.

Motion: Mr. Charest moved to continue the hearing for **Morrill Homes of Wolfeboro (152-18)** to November 10, 2010, seconded by Mr. Jensen, carried unanimously.

2. Roundabout Now, LLC (103-7)(512 Whittier Highway) Site Plan Review

Jim Hambrook, agent for the applicant presented the application for site plan review. Mr. Hambrook stated this was a site plan review for the renovation work that is happening, noting there was no specific request for the use of the property. There are no tenants at this time. The site is fully developed, building, parking, signage and lighting. The proposal is to remove the existing porch on the front of the building and three porticos to be added. Mr. Hambrook provided a photo of the building from the 1930's and stated that they wish to restore the look of the building as shown in the photo. The existing lot coverage is 16,711 s.f. or 50%, and after the proposed changes the coverage will be 16,499 s.f. or 49.4%. The change is an addition being added to the back of the building along with the relocation of a portion of the building. Other changes include the removal of a stairway, a deck addition, rebuilding of a deck, and a small driveway addition. The changes do not affect the lot coverage as the building addition is to be located in an area that is now paved. Mr. Hambrook went onto describe the existing curbing and parking. There are eleven parking spaces. Mr. Hambrook stated they have received approval for a new septic design. They have not submitted a landscaping plan. They are proposing landscaping to the island, which is located in the State's ROW. The existing use was a gift shop on the first floor and two second floor apartments.

Mr. Nelson stated for clarification what they wish to do is continue the retail use and the two upstairs apartments. Mr. Nelson stated he saw the building as a landmark in Town and would like to restore the building. They do not have any tenants at this time, therefore are requesting site plan approval for the retail space and the two apartments, which includes constructing a hallway on the rear of the building for access to a stairway up to the apartments. The dormers will be extended to allow for egress of the apartments. A new well will need to be drilled, possibly install the new septic and Geothermal heating to be added. Mr. Nelson understands they will need to come back to the board if they make any changes.

Mr. King questioned the Planner if there were Zoning issues with the site. Mr. Merhalski stated his memo was based on his review as if this were a new site. It was his understanding that it was a new site and not a continued use. In speaking with the Code Enforcement Officer (CEO) it was determined the parking was pre-existing for commercial and the site had been used commercially up until just prior to the purchase of the property. This brought into question some of the zoning pre-existing uses. Mr. Merhalski has been working with the CEO to obtain additional information to determine what the uses were, was it commercial and two apartments? Based on whether or not those existing uses continue and were not abandoned at anytime, will impact part of his comments in his memo. He was still waiting for a definitive yes or no, stating the CEO was checking on this and if he says based on what he has, that it's pre-existing and the apartments were a grandfathered pre-existing use, the commercial is a grandfathered pre-existing use, then the multi-use itself will therefore be pre-existing.

Mr. Nelson presented the board with a copy of a letter from Callum Grant (POA for Mrs. Brown, the prior owner) dated November 9, 2009 and a reply from the CEO. The CEO's response of November

20, 2009 states the apartments were and are an approved use. Secondly Mr. Nelson presented the board with a copy of a letter dated August 25 2009 from the CEO to Mr. Randy Hilman. This letter states the building has two apartments and a gift shop, and an attachment listing items which would need to be completed to comply with code. Last was a letter dated October 6, 2010, which was an error in the date and should have been October 6, 2009, from Verne & Wayne Richardson. They state in the letter the uses of the property over the years and that it was their understanding that the property should have been “grandfathered in” as a business with apartments above it. Mr. Nelson stated that he had contacted Mr. Grant who said after Mrs. Brown became ill, he and his wife continued to sell merchandise one or two days a week as their schedules would permit and that Mrs. Brown had stayed in an apartment until she became ill and started using a portion downstairs as an apartment.

Mr. King questioned if this information was just submitted to the planner. Mr. Merhalski stated yes, that he had not seen any of these and that they had not been forwarded to him from the CEO. Clearly they address the issue. Based on the receipt of this information and the determination of the CEO, it is a pre-existing non-conforming use. The apartments upstairs, the mixed used and the commercial retail space downstairs.

Ms. Ryerson requested clarification of the issue regarding mixed use. After a discussion regarding this it was noted that this was now not pertinent to this application as the mixed use was grandfathered, but noting this discussion should be taken up again at a work session.

Mr. Merhalski reviewed his memo dated October 6, 2010 noting several items that are now not applicable as the use of the site is grandfathered for the two apartments and a retail gift shop.

One item noted was that there was no floor elevations included in the application packet. Mr. Hambrook stated he provided floor elevations. This term has been discussed recently and should be clarified to require elevations or building designs. Mr. Merhalski was looking for an elevation of the building as viewed from the back completed by an architect or engineer. The board discussed this and it was the consensus that they were not requiring an architect or engineered plan, only a computer generated rear elevation rendering similar to the drawing presented for the front of the building.

The board discussed the remaining issues as noted in the Planners memo, questioning if a landscaping buffer from the abutting property would be required. It was noted that the abutting commercial property was required to provide screening from the abutting residence. It was the consensus of the board to require screening along the south side of the three parking spaces facing towards the abutting residence.

Mr. Charest noted his concerns regarding fire access around the rear of the building and questioned if there were any comments from the Fire Chief. It was noted that the Chief had no responded with any comments. Mr. Charest will speak with the Fire Chief regarding traffic going around the building and ask that he respond with his comments.

The board discussed drainage on the site, with Mr. Hambrook stating there are no proposed changes to the site or the drainage. Mr. King suggested an on-site visit to view the property.

There were no additional questions from the Board at this time. Mr. King asked for questions or comments from the public.

Abutter Stacey Hough questioned lighting on the rear of the building, screening, and the location of the driveway in the rear and if the trees were to remain in the rear. Mr. Hambrook stated the location of the driveway is correct, the trees are to remain and there is no proposed lighting on the rear of the building.

Stan Balise questioned how many parking spaces were need for a mixed commercial and residential use. Mr. Nelson stated there are thirteen parking spaces, which includes two spaces under the building for tenants of the apartments.

Bret Balise spoke to the drainage, noting the drainage goes from their site across Route 25, which is partially open, under Route 25 and into a closed drainage system.

Stacey Hough commented that it was stated that there was going to be two decks added to the rear of the building for the use by the tenants of the apartments and questioned if there was to be any lighting. Mr. Nelson agreed that for safety purposes there should be lighting. Lighting will be added to the plan. Mr. Hambrook stated there is a note on the plan stating that the lighting will be compliant with the zoning ordinance.

There were no additional comments or questions from the Board or public at this time.

Mr. Merhalski commented that the applicant was going to provide new information regarding the water flow and drainage for the next hearing and asked the board if they wished to schedule the on-site. Mr. King would like to schedule the site visit.

Motion: Mr. Charest moved to schedule an on-site visit for Tuesday, October 19, 2010 at 4:00 PM, seconded by Mr. Jensen, carried unanimously.

Motion: Mr. Jensen moved to continue the hearing for **Roundabout Now, LLC (103-7)** to October 27, 2010, seconded by Mr. Charest, carried unanimously.

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

VI. Informal Discussions

Dave Wakefield requested to speak to the board on behalf of Camp Tecumseh, Tax Map 212 Lot 1. Mr. Wakefield submitted a letter requesting permission to begin construction on the proposed sports building to be located on Camp Tecumseh property. They have received a conditional approval from the Zoning Board and have made application to the Planning Board for Site Plan Review, with a public hearing scheduled for October 27th. Mrs. Coppinger stated the board does not legally have the authority to grant such a request without holding a public hearing, nor can they approve a site plan without a properly noticed public hearing. Mr. Merhalski commented that the town cannot authorize something that statute does not allow without permit. Therefore legally the board cannot approve the request to allow Mr. Wakefield to begin construction as requested.

Motion: Mr. Jensen moved that the board not act on the request submitted by Dave Wakefield on behalf of Camp Tecumseh as it would be contrary to State law. Seconded by Mr. King, carried unanimously.

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

VII. Unfinished Business

1. Mr. Merhalski noted a letter dated October 12, 2010 from Rich Casella. Mr. Casella has requested a change to a prior informal amendment to his site plan. He had originally requested to move a building four (4) feet in from the property line. This was not a written request, and is now requesting in writing for an additional foot, or a total of five (5) feet from the sideline, and fifty-eight (58) feet from the wetlands.

Motion: Mrs. Coppinger moved that this request be handled administratively and allow Mr. Casella's request for the new dimensions. Seconded by Mr. King, carried unanimously.

2. Mr. Merhalski noted a letter dated October 12, 2010 from Eric Taussig. The letter is addressing a traffic concern at the intersection of Route 25 and Moultonboro Neck Road, Aubuchon Hardware and Murphy's. Mr. Merhalski stated the board does not have any jurisdiction to do anything at this time. If either property should come in for site plan the board could then look at traffic patterns. It was noted that there is a small parcel located in the west corner of the Aubuchon parking lot. It appears that Mr. Taussig would like the Planning Board to petition the NH DOT to change the entrances. The board may send a letter to NH DOT requesting they address the issue. It is a decision of the board if they wish to send the letter. The board discussed this and was in agreement to send a letter to Mr. Taussig acknowledging a need, but that it is out of the board's hands at this time. Mrs. Coppinger will draft a letter to Mr. Taussig and forward it to Mr. Merhalski for review stating they recognize the situation and that it is out the Board's hands, identify the Lamprey parcel and should either property come in for site plan the board will review the traffic patterns at that time.

3. Mrs. Coppinger noted she had drafted the letter to the Board of Selectmen requesting a joint meeting to discuss the zoning ordinance enforcement procedures. There were no changes made to the draft.

Motion: Mr. King moved to authorize the letter to be sent to the Board of Selectmen as written, seconded by Mr. Nelson, carried unanimously.

4. a. Discussion of Revision of Subdivision Regulations

Discussion of Revision of Subdivision Regulations

Mr. Merhalski updated the Board regarding additional information requested from Scott Kinmond regarding compaction and guardrails. He has been in contact with Scott and has been going back and forth. Mr. Kinmond would like to have the NH DOT roadway regulations for guardrails and street standards, but they have not decided whether to include just a reference to those or include all 400 pages within the regulations or condense those down.

The second item was regarding the frontage issue. Mr. Merhalski noted they had received an opinion from Town Counsel regarding whether an easement constituted frontage per RSA 674:41. Essentially he said an easement by itself cannot constitute frontage, but if an easement is set to become a street then it would meet the requirement for frontage. Mr. Nelson commented that the opinion went on to say "sufficient for vehicular traffic." The board discussed this noting they could request further clarification from counsel. Mr. Nelson commented they had received a written opinion from Attorney Paul Sanderson of LGC, which also is not clear.

Issues discussed involved dwelling units, frontage and street. The board discussed at length easements and right-of-ways. The board was in agreement that there is a need for the definition of a dwelling unit.

Mr. Merhalski questioned if all members were in agreement that a lot needs to have frontage on a street. Board members were in agreement with this. Mr. Merhalski read a section from "A Hard Road to Travel" that refers to RSA 674:41 which does not define a street. This must be done at the local level.

The board reviewed the proposed language to be added to the subdivision regulations, Section 7.1 (E), stating "All lots shall have frontage on a street, in accordance with RSA 674:41." It was noted this will be language in the subdivision regulations and can be waived by the board.

Motion: Mrs. Coppinger moved to approve the draft language as written for Section 7.1(E) of the Draft Subdivision Regulations stating “All lots shall have frontage on a street, in accordance with RSA 674:41.” Seconded by Mr. Jensen, carried unanimously.

Mrs. Coppinger has suggested that the Planner draft language to be included which will define a street.

- b. Discussion of Revision of Site Plan Regulations
- c. Discussion of Special Exception Criteria – Zoning Ordinance

VIII. Other Business/Correspondence

1. NH OEP Annual Fall Planning & Zoning Conference will be held on Saturday, November 13, 2010.
2. Zoning Board of Adjustment Draft Minutes of October 6, 2010 were noted.
3. Selectmen’s Draft Minutes of September 30 & October 7, 2010 were noted.

IX. Committee Reports

- X. Adjournment:** Mr. Charest made the motion to adjourn at 9:58 PM, seconded by Mr. Jensen, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant