

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

Work Session Minutes

December 13, 2010

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

Mrs. Coppinger opened the meeting at 7:00, noting this was a regularly scheduled work session.

I. Pledge of Allegiance

II. New Business

Planning Board 2011 Meeting Dates

The Board was provided with a draft of the 2011 meeting dates. Mr. Merhalski questioned if there were any changes the board would like to make at this time. It was noted the regular meeting of November 23rd was Thanksgiving Eve. The Board agreed to reschedule the meeting to Monday November 21st. It was the consensus of the Board to approve the 2011 meeting dates as amended.

III. Informal Discussions

IV. Zoning Ordinance

As there were several members of the public present in the audience for the discussion of the ordinance regarding Real Estate Signs, Mrs. Coppinger suggested taking up Item (d) first. Board members were okay with taking the agenda out of order. As Mrs. Coppinger was not present for the prior discussion, Mr. King chaired this discussion.

It was noted that this was a work session for proposed amendments to the Zoning Ordinance, which will require a Public Hearing, and if the board votes to recommend them to be included on the ballot, then the Town will ultimately vote on the amendments.

Discussion of Real Estate Signs Ordinance Amendment

Mr. King briefly recapped the discussion held at the meeting on the 8th. Mrs. Coppinger noted she was not present on the 8th and was not aware there was a problem with this section, that signs for sale or for lease were okay. She too suggested a smaller size for signs for lease. It was stated a normal Real Estate sign is 24" x 36". Mrs. Coppinger suggested 12" x 24" as the size for rental signs.

Board members discussed the difference between the sale, lease and rent of property as noted on the 8th. They do not want to take away an individual's right to place a sign on their property.

Mr. King noted for the record there were four pieces of correspondence regarding the proposed amendment of this section of the ordinance. There are three opposed and one who would like the elimination of all for sale signs. The letters are available in the Land Use Office for anyone who may wish to read them. Mr. King opened the hearing at this time for public input.

Joel Mudgett commented that a real estate sign is a real estate sign, and feels that there is no difference in a for sale sign or lease or rent.

Judy Ballard spoke against the sign proposal. Mrs. Ballard stated since the meeting on the 8th she had inquired with other real estate associates for their input regarding rental signs. All of them were against for rent signs for a number of reasons, such as: the potential of hundreds of signs, which would have a negative impact on neighborhoods, seasonal rental signs would become permanent, and most importantly was their concern for security.

Eric Taussig spoke against the proposed amendment. Mr. Taussig stated this section of the ordinance has existed for 17 years without an issue. The proposed change only came up after he reported the illegal signs on his street. Mr. Taussig feels temporary real estate signs are equivalent to a notice of transience, which relates to security. He suggested if this change is going to be made, that the town should view this as a source of revenue and impose an annual fee of \$25-\$50 per sign for off site advertising.

Ken Taylor spoke against the sign proposal noting that they would not be in the best interest of the town. They will be an eyesore, become permanent and raise security issues.

Alan Ballard spoke against the lease/rental signs, stating there is a big difference between a for sale sign and a short term lease/rent sign. He believes the rental signs will become permanent. They are a safety issue. Mr. Ballard referred to the Master Plan in which the voters stated that they would like to preserve the rural character of Moultonborough.

Cristina Ashjian commented that the sign ordinance did not need another band-aid. The board has been saying they will update the sign ordinance for the past five (5) years, and strongly urged the board to complete a review of the entire sign ordinance.

Mel Borrin commented that for sale signs are the greatest security risk for the 200 +/- homes for sale in Moultonborough, greater than the for rent signs. He stated that Moultonborough is the only town to have a distinction between for sale or lease signs. Mr. Borrin commented regarding the number of rental signs that people have stated may appear as a result of the proposal. 24% of one agency's listings cannot have any signs due to agreements or deed restrictions, 14% would have only one (1) sign for multiple units and another 14% of properties would only have a sign if they were looking for a lease greater than 185 days. So, the number would be far less than what has been stated. Mr. Borrin commented there are towns that do not allow any real estate signs, and that he would be okay with that.

Mr. King stated the board has heard a lot of input from the members and public, commenting that this will still go forward to the voters. Members weighed in again with their comments. Ms. Fairchild stated that she appreciated that the board had deliberated on this issue and that they had identified a number of issues. She questioned why the board was trying to "tinker" with this now. She would like to leave this alone now and have the Planning Board tackle, "in a major way" the entire sign ordinance. Board members agreed that there was no real urgency, with some members stating they had an issue with taking the rights away from individual property owners.

Mr. King asked for a consensus of the board as to whether to proceed forward at this time and provide language for an amendment. It was the consensus of the board to proceed forward with this proposal and ask the Planner to craft language for the meeting on December 22nd at which time they will take a vote to send it onto a public hearing.

Mrs. Coppinger and Mr. Nelson had proposed language which included for lease or rent, and the limitation of size for signage in different zones. Both members read their proposed language. Mr. Nelson proposed the following language:

(4) a. In commercial zones temporary real estate signs advertising the sale, lease or rent of the property on which the signs are located, not exceeding 3' x 4' in size and limited to two (2) signs per lot.

b. In zones other than commercial zones:

(i) Temporary real estate signs advertising the sales of the property on which the signs are located, not exceeding 2' x 3' in size and limited to two (2) signs per lot.

(ii) Temporary real estate signs advertising the lease or rent of the property on which the signs are located, not exceeding 12" x 18" in size and limited to two (2) signs per lot.

c. Off premises directional signs stating real estate or house for sale must comply with the 1993 policies of the Moultonborough Board of Selectmen or amendments there to and off premise directional signs stating real estate or house for lease or rent are not exempt from the sign permit procedures.

Mr. Borrin cautioned the board in regards to limitation of size of real estate signs. He feels this could be considered discrimination if they limit real estate signs. He suggested the board pick one size for all signs in the residential zone, and stated he would support that.

Mr. King requested input from the Planner, who stated that he had not encountered differentiation between for sale, rent or lease and was in new territory, and would suspect if the town were to have a suit brought against it, alleging that their rights were infringed, they could possibly have a case saying that equal protection isn't extended if it's for sale verses for rent or lease because it's still a real estate sign. The Board requested that the Town Planner confer with Town Counsel for his opinion regarding for sale, lease or rent signs Are they the same or could this proposal be considered discrimination.

Board members discussed if they had a consensus to proceed forward with the proposed amendment, noting changes could be made during the public hearing process.

Motion: Mrs. Coppinger move to authorize the Planner to revise the language as drafted and vote to hold the required Public Hearing to be included on the Ballot, seconded by Mr. Nelson, carried unanimously 6 to 0.

Mr. Nelson stated he erred by not seating Mr. Nelson as a voting member. The motion was withdrawn at this time.

Motion: Mrs. Coppinger move to authorize the Planner to revise the language as drafted and vote to hold the required Public Hearing to be included on the Ballot, seconded by Mr. Charest, carried unanimously 5 to 0.

Mrs. Coppinger appointed Keith Nelson to sit on the board with full voting privileges in place of Judy Ryerson.

Discussion of Steep Slopes Ordinance

Mr. Merhalski noted the Conservation Commission had forwarded this to the Planning Board with only two minor changes from last year's proposed Planning Board draft. The prohibition of driveways over 8-10 percent has been removed and the definition of "Extremely Steep Slope" has been added. The Board reviewed this at their work session in September. One additional change was an effective date of June 30, 2011. Board members reviewed this and were in agreement with the three changes.

Motion: Mr. King moved to accept the Final Draft Steep Slopes Ordinance and to hold the required Public Hearing to be included on the Ballot, seconded by Ms. Fairchild.

Mrs. Coppinger noted her concerns with Section VII E, which does not tell the applicant how this is demonstrated or what they need to provide to the board. Mrs. Coppinger commented this was a similar issue they dealt with in the Stormwater Management Ordinance. After reviewing the Stormwater Management Ordinance the board was in agreement to eliminate Section E and replace it with the same requirements as in the Stormwater Management Ordinance, VI A-D, to now be VII E, F, G and H.

Motion: Mr. Nelson moved to accept the Final Draft Steep Slopes Ordinance as amended and to hold the required Public Hearing to be included on the Ballot, seconded by Mr. King, carried unanimously.

Discussion of Village Center Zoning Issues

Mr. Merhalski noted this was on the work plan for this year, but has not been discussed yet. He does not feel the board would have enough time to address it properly this year and recommended they pass on it at this time.

Motion: Mrs. Coppinger moved that the board pass on the Discussion of Village Center Zoning Issues, seconded by Mr. King.

Ms. Fairchild stated that this was the most realistic route, but noted her concerns. It is similar to the sign ordinance that has been put off for 3-4 years. She urged the board to take this up early on the agenda for the upcoming year so it may be completed.

Motion carried – 6 to 0 in favor.

Discussion of Revision to Special Exception Criteria

Mr. Merhalski noted the board had a short discussion on this at their last meeting and that the board had reviewed handouts from other communities. At that meeting they asked him to create a draft table of permitted uses for Moultonborough. Mr. Merhalski provided the board with a draft table of permitted uses. The board reviewed the draft, noting these were not proposed uses, but a list of what is currently permitted, not permitted or allowed by special exception.

The board liked the table, as it was clearer for all to see what is or is not a permitted use. It was also noted that the current ordinance had many permitted uses, and that if it is not permitted, one may go through the application and hearing process with the ZBA for a special exception. The ZBA will determine, at a public hearing, if the use is permitted based on the criteria for Special Exceptions. Special Exceptions have been discussed in the past, and the board is currently working on tightening up the criteria for the granting of special exceptions. After further discussion they decided that they would like to have the table included in the zoning ordinance and requested the Planner insert the table of existing uses into the

ordinance for their review. The Board would like to make certain that it is made clear that this is not something new. The language on the ballot for the warrant article would be crafted to state this was simply to insert the table and that there are no changes to the zones themselves. The table is to clarify what is allowed.

Board members then moved onto the draft amendments for Article VI (A)(4). They questioned how the proposed uses, as shown on page 2, would fit into the table of uses. Mr. Merhalski commented that those uses are just for the residential / agricultural zone. If it is a use that is not listed as being allowed for a special exception in the R/A zone, it will be not permitted in the column on the table. It was noted the need for definitions of all things in the ordinance, which should be done in the next year.

The board started the discussion of the draft, working through Sections E (1, 2 & 3) making a few minor changes. The board was in agreement with the changes to Sections E (1, 2 & 3) as made this evening.

V. Other

VI. Adjournment: Mr. King made the motion to adjourn at 10:03 PM, seconded by Ms. Fairchild, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant