

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

Regular Meeting

August 11, 2010

Minutes

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

Mrs. Coppinger called the regular meeting to order at 7:02 P.M. and appointed Keith Nelson to sit on the board with full voting privileges in place of Natt King.

I. Pledge of Allegiance

II. Approval of Minutes

Mr. Nelson & Mrs. Coppinger both noted the need for two minor editorial changes. One on page 1, crating should be creating and the second on page 3, access should be excess.

Motion: Mr. Jensen moved to approve the Planning Board Minutes of July 28, 2010, as corrected, seconded by Mr. Nelson, carried unanimously with Ms. Fairchild abstaining.

III. New Submissions

1. Wynne Sharples Ballinger Trust & Eaglet Family Partnership (84-1 & 83-1)
Conditional Use Permit (Singing Eagle Road)

This was a request for Conditional Use Permit.

Motion: Ms. Fairchild moved to accept the application of The **Wynne Sharples Ballinger Trust & Eaglet Family Partnership (84-1 & 83-1)** and to schedule a hearing for this evening to be Hearing #1, seconded by Mr. Jensen, carried unanimously.

IV. Boundary Line Adjustments

V. Hearings

1. Wynne Sharples Ballinger Trust & Eaglet Family Partnership (84-1 & 83-1)
Conditional Use Permit (Singing Eagle Road)

Agent, Frank Yerkes of Yerkes Surveying Consultants, was present representing the applicants. Mr. Yerkes stated this was a request for Conditional Use Permit and gave a brief background on the property. There are two lots which share a common driveway over Tax Map 84 Lot 1. The owners wish to separate the common drive. The proposal is to construct a gravel driveway to replace the existing driveway and culvert crossing. There are two (2) wetland crossings associated with the new driveway.

The old culvert and driveway will be removed and reclaimed. Mr. Yerkes stated they have submitted a wetlands application to the state and that it was brought to his attention that the project would require Town approval as well. Therefore they are coming before the Board for a Conditional Use Permit for the impact of the driveway crossings in the 50' wetlands buffer.

Mr. Yerkes submitted revised plans to the board that addressed the concerns noted in the Town Planners memo dated August 5, 2010. It was noted Peter Shauer, Certified Wetland Scientist completed the wetland mapping on the site and the proposed location of the new driveway has the least impact to the jurisdictional wetlands. Mr. Yerkes noted in speaking with the NH DES they were pleased that the proposal included the removal of the wetland crossing near the lake. The proposal shows the restoration of that area, and noted it will include a foot bridge.

Mr. Nelson noted the need for an easement for the driveway crossing over the Ballinger lot. Mr. Yerkes stated that would be completed by the attorneys.

The board discussed placing a condition of approval restricting paving the driveway. Mr. Yerkes stated his client had no intention of paving the driveway, but would not want to speak on his behalf and agree to this restriction. The board discussed this and was in agreement that they would not add the restriction that the driveway cannot be paved to their approval.

It was noted the Board's purview for this application was limited only to the impacts in the 50' wetland buffer as a conditional use, according to Article IX of the Zoning Ordinance. The Ordinance allows for construction of roads and driveways with issuance of a Conditional Use Permit by the Planning Board. There are five (5) criteria in the ordinance that need to be met. The board reviewed each of the criteria and felt the proposal met the criteria for the granting of the permit.

There were no additional questions from the Board at this time. Mrs. Coppinger asked for questions or comments from the public. It was noted there were none.

Mr. Merhalski had prepared a draft Notice of Decision for the Conditional Use Permit. Mr. Merhalski reviewed the Notice with the applicant and board.

Motion: Mr. Charest moved to approve the Conditional Use Permit for The **Wynne Sharples Ballinger Trust & Eaglet Family Partnership (84-1 & 83-1)** subject to compliance with the Draft Notice of Decision as set forth this evening. seconded by Ms. Ryerson, carried unanimously.

VI. Informal Discussions

Bruce Bezanson – Harilla Landing Yacht Club (288-8) It was noted Mr. Bezanson had contacted the Land Use Office and asked to be removed from the agenda for this evening.

VII. Unfinished Business

Zoning Violation Memos – Mr. Merhalski updated the Board regarding the progress he and Don Cahoon, Code Enforcement Officer (CEO) have made, noting they are continuing the process of inspections and research. Attached were Zoning Violation memos of three business locations: Dixon's Campground, Wild Meadow Canoe and the Moultonborough Historical Society. The Board discussed each of these items.

Pinewoods Campground – Dixon Campground (213-17) – Mr. Merhalski stated he had researched the file and visited the site with CEO. He found there was substantial work that had occurred on the site since his

last site visit in July of 2009. There were eight (8) conditions of approval identified in the Notice of Decision, and three (3) conditions from the ZBA. Many of which appeared to be in compliance. There are changes required to be made the plan that still need to be completed and a revised plan submitted to the Board for endorsement. It was noted the berm is not complete, but appears to be still under construction and that the trees have not been planted. Mr. Merhalski stated that based on the status and results of the site visit that a compliance hearing may not be necessary and recommended the remaining items be noted in a letter to Mr. Dixon, giving a time frame to allow for the outstanding items to be completed, and a revised plan submitted to the Board. The Board discussed these items and questioned the date of approval, noting site plan approvals expire in one year unless the project is substantially completed. It was noted the Board's conditional approval was June 10, 2009. It was the consensus of the Board to direct the Planner to send a letter to Mr. Dixon listing the remaining outstanding items, giving him ninety (90) days to complete them and submit and revised plan or "as-built" plan to the board.

Wild Meadow Canoe (169-66 & 170-1) – Mr. Merhalski stated he had researched the file and visited the site with CEO. They found that Wild Meadow is storing canoes and trailers outside of the permitted areas on the Site Plan. However, the CEO does not consider the storage racks as structures and therefore the structural setback for the two lots are not being violated and is a Planning Board Notice of Decision violation. The Planner recommended that a letter be sent to the Whalen's notifying them that they are out of compliance with the terms of the Planning Board's approvals for the storage/display area, and must either receive approval or remove the canoes and trailers to areas approved on the Site Plan in March 1999 and the June 22, 2002 Compliance Hearing. It was the consensus of the Board to direct the Planner to send a letter to the owners notifying them they are out of compliance and that they must submit an application for Site Plan Review within thirty (30) days depicting the storage/display area for both properties. The letter should include language that failure to comply will result in the PB calling a Compliance Hearing and assessing fines of \$275 for the first offense, and \$550 for subsequent offenses, with each day that a violation continues constituting a separate offense from a date thirty (30) days from the date of the letter being sent.

Historical Society (52-24) – Ms. Ryerson and Mr. Nelson did not participate in the discussion regarding the Historical Society. Mr. Merhalski stated that he had researched the file and found that the Board had initially met with Stewart Lamprey in July 2006 to discuss a notice from the CEO regarding tree cutting. At that meeting they agreed to submit a plan indicating the area cut and locating the proposed stone wall. In August 2007, Natt King presented the Board with a sketch. There was no action taken at that time. Based on the research, and the fact that the site work proposed has been completed, it was the recommendation of the Planner that the Board contact the Historical Society to request an informal discussion for approval of the cutting and stone wall, after the fact. At the informal, if the Board so chooses, it should grant the request with a formal vote and notice of approval to the Historical Society.

a. Discussion of Revision of Subdivision Regulations

Mr. Merhalski stated following the meeting on July 28th, he amended the Subdivision Regulations to include the changes from their discussion. The items agreed to by the Board at the previous meetings were indicated in green, the Board's Recommended Edits still to be discussed were in blue, and his previously recommended changes still to be discussed were in red. The bulk of the material still needing to be discussed revolved around the issue of frontage.

Mrs. Coppinger noted she was not present at the last meeting and had a few changes/suggestions that she would like the board to consider. Her first suggestion was that all references to a land surveyor should be consistent and changed to licensed land surveyor. New Hampshire Department of Public Works and Highways is now the New Hampshire Department of Transportation and the New Hampshire Water Supply and Pollution Control Commission is now New Hampshire Department of Environmental

Services. The Board agreed to these suggestions as noted. The Board made various changes and agreed to the wording of certain elements to sections 3.19, 4.3 A 11, 4.10 and 6.1 E.

Next there was a discussion revolving around the issue of frontage, Section 7.1 E. There were questions regarding to the definition of “street” and RSA 674:41. After a lengthy discussion, reviewing the statute and Chapter 7 of “A Hard Road to Travel: New Hampshire Law of Local Highways, Streets and Trails”, published by LGC 2004, the Board was not in agreement if an easement that had been depicted on a plan approved by the board constituted frontage. The question was asked if this was an area in which the Board should seek an opinion from Town Counsel or the LGC. It was the decision of the Board to direct the Planner to contact LGC and Town Counsel for a legal opinion regarding whether an easement constitutes frontage per the RSA.

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 25th.

b. Discussion of Revision of Site Plan Regulations

VIII. Other Business/Correspondence

1. Zoning Board of Adjustment Draft Minutes of August 4, 2010 were noted.
2. Selectmen’s Draft Minutes of August 5, 2010 were noted.

IX. Committee Reports

- X. Adjournment:** Ms. Fairchild made the motion to adjourn at 9:48 PM, seconded by Ms. Ryerson, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant