

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

Regular Meeting

December 22, 2010

Minutes

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

Mrs. Coppinger called the regular meeting to order at 7:00 PM.

I. Pledge of Allegiance

II. Approval of Minutes

Motion: Mr. Maroun moved to approve the Planning Board Minutes of December 8, 2010, seconded by Mr. Charest, carried unanimously with Ms. Fairchild abstaining.

Motion: Mr. Charest moved to approve the Planning Board Work Session Minutes of December 13, 2010, seconded by Mr. Jensen, carried unanimously with Mr. Maroun abstaining.

III. New Submissions

1. Rizzo Family Trust (14-10)(40 Jones Road)
Subdivision

This was a request for a proposed five (5) lot subdivision with all lots having frontage and access from Jones Road, an existing town maintained road. Mrs. Coppinger noted the request for waivers dated November 30, 2010 from David M. Dolan Associates, PC.

Motion: Mr. King moved to accept the applications of the **Rizzo Family Trust (14-10)**, grant the waiver for the purposes of acceptance only and to schedule a hearing for this evening to be Hearing #1, seconded by Mr. Charest, carried unanimously

IV. Boundary Line Adjustments

V. Hearings

1. Rizzo Family Trust (14-10)(40 Jones Road)
Subdivision

Dave Dolan of David M. Dolan Associates, PC presented the application for subdivision. Tom Rizzo was present in the audience for this hearing. Mr. Dolan stated the lot is approximately 100 acres and the proposal is to create four new lots and one residual lot. The property is located on Jones Road, which is a class V town Road, gravel surface 16-18 feet in width. They have proposed a 50' right-of-way (ROW) around the existing traveled way with a proposed turn around, outside of the 50' setback from the wetland. The proposed lots are 5.45 ac, 5.44 ac, 2.81 ac, 12.22 ac (with the existing farm house) and a

residual lot of 73.22 ac +/- . Mr. Dolan stated the lot calculations were based on the Carroll County Soils mapping, and provided the board with “worst case” soils for the lots, all being greater than 1 unit. Mr. Dolan stated he had met onsite with the road agent regarding the upgrade of Jones Road, as far as the driveway for proposed lot 3. They are willing to upgrade the road, but have requested if this is needed, that they add width to the west side of Jones Road, as the ditch line is already established to the east. Mr. Dolan reviewed each of the requests for waivers and the issues included in the Town Planners memo.

Board members questioned location of the road and when the road was taken over as a town road. Mr. Rizzo stated the town took the road over in 1971 and that there was no defined location for the road.

Board members discussed the existing road, and the requirements to upgrade. Mr. Merhalski commented that he had contacted Town Counsel regarding this application, but that he had not responded back yet. He asked if the applicant is required to request that the Town accept the added width of the ROW and the added area of the turnaround to be accepted as a part of Jones Road at Town meeting, or can the ROW just be added with the consent of the Road Agent. Can the board require the applicant to improve the road to be widened prior to allowing the subdivision and require the applicant improve only a portion of the road up to the driveway for proposed Lot 3. And last, does the applicant need to do anything to the road for access to their lots, or is the existing road sufficient for subdivision approval.

Ms. Fairchild asked if a site visit was necessary to view the existing road. It was noted this was a town road and members can view the road as it is a public road. Members will go to the site on their own, prior to the next hearing.

There were no further questions from the board at this time. Mrs. Coppinger opened the hearing for public input. Mel Borrin commented that in the past when the town voted to accept roads, there were no metes and bounds, it was accepted as laid out.

Mr. King stated he felt it was necessary to continue the hearing for input from counsel regarding the road. It was the consensus of the board to approve the three waivers as requested.

Motion: Mr. King moved to continue the hearing for the **Rizzo Family Trust (14-10)** to January 12, 2011, seconded by Mr. Jensen, carried unanimously.

VI. Informal Discussions

VII. Unfinished Business

Discussion of Real Estate Signs Ordinance Amendment

Mr. Merhalski stated that he had made the revision to this section of the ordinance, Article V(A)(4), as requested at the work session and noted that he had contacted Town Counsel for his opinion regarding this proposed amendment, asking him if prohibiting signs for rent or lease was discrimination and could be a violation of equal protection as they are both real estate signs. It was Counsel’s opinion that for sale signs should not be allowed while prohibiting for lease signs, that they both should be allowed.

Board members reviewed the revised draft as amended, and it was noted it may now need to be amended based on counsel’s opinion.

Mel Borrin referred to Counsel’s opinion that a real estate sign is a real estate sign and suggested language which included signs offering properties for sale, lease, rent, public auction and fore closures. Board members discussed these types of real estate signs and reviewed the suggested language. One

concern noted was the maximum size of the sign in Commercial Zone C. Members were in agreement to limit the size of such signs to a maximum of 3 feet by 4 feet in Commercial Zones A & B, and to 1 foot by 1 ½ foot in the Residential / Agricultural Zone and Commercial Zone C, the village district.

It was the general consensus of the board to allow for rent and lease signs, and also the consensus to allow auction, bank owned or foreclosure signs as suggested.

Motion: Mr. Charest moved to authorize the Planner to draft language utilizing the suggestion made this evening in regards to inserting that wording into the sign ordinance as amended and vote to hold the required Public Hearing to be included on the Ballot, seconded by Mr. Maroun, carried unanimously 6 to 0.

Ms. Fairchild left at 8:45 PM.

Memo from Road Agent – Red Hill Road icing issue

Mr. Merhalski noted he had received a memo from the Road Agent regarding a section of roadway on Red Hill Road that is prone to icing over the roadway, rendering it dangerous for vehicular travel. Scott Kinmond was present to speak with the board regarding this issue. The board reviewed photos of the driveway and Red Hill Road, taken on December 10, 2010. Mr. Merhalski noted he had contacted counsel regarding what course of action the Planning Board may take. It was his opinion that that board should appoint the Road Agent as their agent to issue necessary orders consistent with RSA 236:13.

Motion: Mr. Jensen moved to appoint the Road Agent as their agent for all instances consistent with RSA 236:13, seconded by Mr. King, carried unanimously.

Application For and Notice of Voluntary Merger for Edward & Diane Maheux (120-67 & 68)(43 Castle Shore Road) was presented to the board. Mr. Merhalski briefly described the two lots to be merged, noting the merger would make Lot 67 become less non-conforming.

Motion: Mr. King moved to approve the Voluntary Merger for Edward & Diane Maheux (120-67 & 68) as presented, seconded by Mr. Jensen, carried unanimously.

Discussion of Special Exception Criteria

Mr. Merhalski provided the board with a draft copy of a section of the ordinance in which the Table of Permitted Uses was inserted. Board members discussed the matrix and questioned the need for the column labeled “Groundwater Protection Overlay District”. It was felt that this column was not necessary and could be addressed with wording that proposed uses must be consistent with those not prohibited by that section of the ordinance.

Board members then moved onto the draft amendments for Article VI (A)(4), reviewing the remainder of the draft. They were in agreement with changes in Section E (4, 5, 6, 7 & 8). The board then reviewed proposed Section E (9). It was noted that these were suggested uses that are not currently in the ordinance. There were questions regarding many of the suggested uses which may be able to be solved with a definition. Mr. Merhalski stated that the board has discussed working on a definition section for the entire ordinance, but noted they did not have time to work on that this evening. The proposed Zoning Amendments must be sent to the paper in order to meet the required notification for Public Hearing. It was the decision of the board to leave out item 9 at this time and to move forward with the remaining changes as agreed upon.

The next section reviewed was the criteria for a special exception. Board members were in agreement with the changes as proposed.

Motion: Mr. Jensen 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. King, carried unanimously 5 to 0.

Mr. Merhalski provided the board with a draft notice for the Public Hearings to be held on January 12, 2011 for board review. Board members discussed the time to hold the Public Hearings and their regularly scheduled meeting. It was the decision of the board to schedule the their regular meeting of January 12th from 6:00 - 7:00 PM and the start time for the Public Hearings for proposed Zoning Amendments to begin at 7:00 PM.

VIII. Other Business/Correspondence

1. Zoning Board of Adjustment Draft Minutes of December 15, 2010 were noted.
2. Selectmen's Draft Minutes of December 16, 2010 were noted.

IX. Committee Reports

- X. Adjournment:** Mr. Charest made the motion to adjourn at 9:55 PM, seconded by Mr. King, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant