

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

2nd/Final Public Hearing

January 31, 2011

Minutes

Present: Members: Joanne Coppinger, Natt King, Jane Fairchild, Chris Maroun, Peter Jensen, Ed Charest (Selectmen's Representative) arrived at 7:22;
Alternate: Keith Nelson; Town Planner: Dan Merhalski
Excused: Member: Judy Ryerson

Ms. Coppinger called the Public Hearing to order at 6:58 PM in the Office of Development Services as noticed. Mr. King moved to convene the meeting to the Ernest Davis Meeting Room, seconded by Mr. Maroun, carried unanimously.

Ms. Coppinger reconvened the Public Hearing at 7:00 P.M. and appointed Keith Nelson to sit on the board with full voting privileges in place of Judy Ryerson. There were thirty or so members of the public in attendance for the Public Hearing.

Mr. Merhalski gave a Power Point presentation of the seven (7) proposed ordinance amendments, briefly explaining each of the proposed changes.

Ms. Coppinger stated that this was a Public Hearing to discuss the proposed amendments and that she would not entertain any questions regarding if this were a legal meeting. According to State Statute, the board is required to hold a Public Hearing for each proposed amendment. This evening was a properly noticed hearing for all seven (7) proposed amendments. The board will vote on each proposed amendment to either forward language to the Town Clerk to be included on the ballot or withdraw the proposal. The Board may only make editorial changes this evening. No substantive changes may be made.

1. Inclusion of New Table of Permitted Uses - This article will create a new Table of Permitted Uses in Article VI "Commercial Uses", which reflects the currently accepted uses and those that require Special Exception or are Not Permitted in all zoning districts, and replaces the wording in each zone currently in the ordinance. This should allow residents to more easily determine what uses are permitted, not permitted, or require Special Exception, in their zoning district. No changes to any uses are proposed.

Ms. Coppinger opened the first Public Hearing listed on the agenda, and asked the board for any comments on the proposal, the inclusion of a new table of permitted uses. It was noted there were none. Ms. Coppinger opened the hearing for public input. Hollis Austin noted his concerns with the Table of Permitted Uses. He felt that this was more governmental control, noting the problems in the Middle East. He requested the board strike "All Other Uses" from the table. Ms. Coppinger commented that the table is a list of what is already in the ordinance, and the table is formatting only. Mr. Austin asked where "All Other Uses" was currently shown in the ordinance. Mr. Merhalski noted Article VI C (1) b. xviii states "Any use not listed above if the property..." effectively says all other uses. Mr. Austin disagreed with the interpretation. There were no further comments or questions.

Motion: Mr. King moved that the Board vote to affirm the final version and to forward it to the Town Clerk, seconded by Mr. Jensen, motion carried 7 to 0 in favor.

2. Lot Coverage Correction – This proposal amends the lot coverage wording in Article VI (F)(3) to reflect changes approved at Town Meeting in 2010 to remove the words "50 percent" from the following

sentence: “Any easement for public use, such as a pathway or walkway through the lot shall not be counted in the 50 percent lot coverage calculation.” This is to incorporate the 65 percent lot coverage allowance in the Commercial C Zone, approved at last year’s Town Meeting.

Ms. Coppinger opened the second Public Hearing listed on the agenda, and asked the board for any comments on the proposal, the amendment to correct the Lot Coverage. It was noted there were none.

Ms. Coppinger opened the hearing for public input. It was noted there were none.

Motion: Mr. Jensen moved that the Board vote to affirm the final version and to forward it to the Town Clerk, seconded by Mr. King, motion carried 7 to 0 in favor.

3. Site Plan Review Thresholds –The requirements for Site Plan Review in Article VI (A)(5) will be amended to exclude all commercial uses on lots under 1 acre that develop under 200 sq. ft. of area, or for lots over 1 acre, development under 500 sq. ft. All commercial development over these thresholds will continue to require Site Plan Review.

Ms. Coppinger opened the third Public Hearing listed on the agenda, and asked the board for any comments on the proposal, site plan review thresholds. It was noted there were none.

Ms. Coppinger opened the hearing for public input. It was noted there were none.

Motion: Mr. King moved that the Board vote to affirm the final version and to forward it to the Town Clerk, seconded by Mr. Maroun, motion carried 7 to 0 in favor.

4. Revocation of Expansions into Setbacks - This article shall revoke the existing Article VII (B)(3) of the zoning ordinance allowing for expansions of primary dwelling units into the setbacks by up to 100% of the current expansion. If approved, all such expansions shall be permitted only by Variance, rather than Special Exception.

Ms. Coppinger opened the fourth Public Hearing listed on the agenda, and asked the board for any comments on the proposal, Revocation of Expansions into Setbacks. It was noted there were none.

Ms. Coppinger opened the hearing for public input. Norman Larson, architect, noted he spoke in opposition of this proposal on the 13th. Mr. Larson expressed his concerns with the proposal noting the example shown in the presentation was not a true representation of non-conforming homes, reiterating his comments made at the first public hearing. Mr. Larson asked that the board not forward this proposal to the Town Clerk as written.

Eric Taussig spoke in favor of the proposal, stating that this would level the playing field for all setbacks and recommended the board forward the proposal on to the Town Clerk.

Ken Tatro spoke in opposition to this proposal and asked that the board not forward it on.

Motion: Mr. King moved that the Board vote to affirm the final version and to forward it to the Town Clerk, seconded by Mr. Charest, motion carried 7 to 0 in favor.

5. Steep Slopes Protection Ordinance - This new Article shall apply to all development requiring a Building Permit, Subdivision Approval and/or a Site Plan Review Permit, where the proposed site disturbance is 20,000 sq.ft. in the aggregate on slopes of 15 percent or greater. No construction on slopes over 25% shall be permitted.

Ms. Coppinger opened the fifth Public Hearing listed on the agenda, and asked the board for any comments on the proposal, Steep Slopes Protection Ordinance. Mr. King commented the board had presented a similar proposal last year in which there was a lot of public input. As a result of that input it was not forwarded. Taking that information into consideration, the Conservation Commission revised the proposal and have resubmitted it the board to be included on the ballot.

Ms. Coppinger opened the hearing for public input. Marie Samaha, Chairman of the Conservation Commission spoke in favor of this proposal and recommended the board forward it on to the Town Clerk.

Motion: Mr. Maroun moved that the Board vote to affirm the final version and to forward it to the Town Clerk, seconded by Mr. Charest, motion carried 7 to 0 in favor.

6. Revision of Special Exceptions for Commercial Uses in Residential Agricultural (RA) Zoning District – This proposal will revise the criteria for granting Special Exceptions for Commercial Uses outside of the three (3) Commercial Zoning Districts. Commercial Uses wishing to be located outside of these districts will be required to meet these new standards.

Ms. Coppinger opened the sixth Public Hearing listed on the agenda, and asked the board for any comments on the proposal, Revision of Special Exceptions for Commercial Uses in Residential Agricultural (RA) Zoning District. It was noted there were none.

Ms. Coppinger opened the hearing for public input. It was noted there were none.

Motion: Mr. King moved that the Board vote to affirm the final version and to forward it to the Town Clerk, seconded by Mr. Charest, motion carried 7 to 0 in favor.

7. Signs Ordinance – This proposal amends the current Sign Ordinance (Article V (A)(4)) allowing temporary real estate signs. Changes include expanding the types of signs permitted from the current for sale only signs.

Ms. Coppinger opened the last Public Hearing listed on the agenda, and asked the board for any comments on the proposal, Signs Ordinance. She commented that the only change was the removal of language relating to sale and replaces language with any real estate sign, such as rent, lease, auction etc. There is no change to the size or number of signs allowed.

Mr. Jensen stated he was not comfortable with the proposal. While he is in favor of allowing the for lease/rent signs that will allow a property owner the right to advertise for a tenant, he is concerned the proposal includes short term rental businesses.

Ms. Fairchild commented that she was not in support of this proposal. She does not feel that it will do justice to the sign ordinance and believes it is premature for the board to wade into this as written, as it may lead to the proliferation of signs. The entire sign ordinance needs to be reviewed, not just make a few changes. There has not been a public outcry for the need to change this as proposed. She does not think it is ready and that the board should not forward it onto the Town Clerk.

Mr. Nelson stated he was in support of the proposal and commented that he both agreed and disagreed with comments made by Mr. Jensen and Ms. Fairchild. He then stated if the board did not go through with this proposal it would be preventing property owners from being able to lease or rent their homes, and taking away the owners rights.

Mr. Charest stated that he was in support of the proposal. While it does have some issues, he feels it is important to move forward. He commented he did not think that it will lead to a proliferation of signs

and if it does become an issue, they can make changes again next year when reviewing the entire sign ordinance.

Mr. King commented that he was in support of the proposal, noting there has been a lot of discussion on it and he did not feel that the board has jumped into it. Leasing and rental signs have been allowed by default for years and if this does not go forward they would not be allowed. Home owners have a right to advertise their home for sale, lease or rent.

Ms. Fairchild replied that no one was arguing that a home owner shouldn't have the right to advertise their home for lease or rent, but does not believe this proposal was ready to be forwarded on and questioned why the board couldn't postpone this for one year.

Ms. Coppinger opened the hearing for public input. Judy Ballard spoke in opposition of the proposal, stating that she did not feel the changes have been thought through and gave a few examples. One was that there is no definition of the word temporary. Mrs. Ballard urged the board not to forward the proposal onto the Town Clerk.

Eric Taussig spoke in opposition of the proposal. Mr. Taussig provided the board with a three (3) page letter explaining his reasons and argument, which included no definition of temporary and his concerns with signage of a third party broker.

Julia Velie commented that she owns rental property in Moultonborough and spoke in opposition of the proposal. Aesthetically, the proposal will allow multiple signages and she does not feel the board was ready to move forward with the proposal as written.

Ken Tatro stated that he appreciated that the board was addressing an issue that had been brought before them, but does not feel that the board is ready to move forward at this time. The proposal needs to have parameters set and does not recommend that the board forward this onto the Town Clerk.

Marion Roche read a letter into the record from Ken and Judy Taylor who opposed the proposal.

Joe Quaresima spoke in opposition of the proposal, commenting that he had picked up a few rental brochures which had approximately 185 properties in Moultonborough, which could possibly become an additional 360 plus signs in town.

Jerry Albright, a certified appraiser, commented that in his profession and from an appraiser's point of view, the sight of rental signs in a neighborhood could be considered a reason to lower values of surrounding homes.

Ken Tatro questioned if there was a permitting process which one could go through for rental signs. Mr. Merhalski noted there is, but that this section of the ordinance is dealing with signs that are allowed and are exempt from the sign permit procedures.

Tom Howard spoke in favor of the board forwarding the proposal onto the Town Clerk and does not feel that there will be a proliferation of signage in town.

Paul Sampson commented that the majority of those present this evening felt that the proposal was flawed and does not recommend that the board forward this onto the Town Clerk.

Norman Larson commented that there had been a lot of input on this proposal and ultimately it will come down to the voters. He believes that the voters should make the final decision.

Marlene Taussig commented that the ordinance should only allow for property owners to put up signage for rent/lease and not a third party broker. Mrs. Taussig agreed with Ms. Fairchild that the proposal needs further review and does not recommend that the board forward this onto the Town Clerk.

Alan Ballard recommended that the board not move forward with this at this time. It has been noted that this has not been a problem and they don't need to rush into this. The amendment needs a definition for "temporary."

Cristina Ashjian commented all of the discussion this evening was a rehash of questions and concerns from prior hearings and that the board knew of the need to review the sign ordinance in its entirety back in December. She noted that it should be tabled now and the board should look at the entire sign ordinance for next year.

There were questions and concerns of board members regarding if the proposed language were to pass, that existing non-conforming signs would be grandfathered. Mr. Nelson stated they would not be grandfathered and that there already is language in the Zoning Ordinance that states "No rights are acquired for signs not permitted due to the passage of time."

After a lengthy discussion involving input from the board and the public Mr. King stated that he was prepared to make a motion on the proposal.

Motion: Mr. King moved that the Board vote to affirm the final version and to forward it to the Town Clerk, seconded by Mr. Maroun, motion carried 5 to 2 in favor with Mr. Jensen and Ms. Fairchild opposing.

Mr. Charest commented that while he voted in favor of moving this forward it was with his recommendation that the board look at this next year to limit/reduce the size from what is now allowed.

Mr. Merhalski provided the board with draft wording of the Warrant Articles for the 2011 ballot, noting they had already been reviewed and approved by Town Counsel. The board reviewed each of the items, making only minor changes to them.

Motion: Mr. King moved to approve the language for the Warrant Articles as amended, seconded by Ms. Fairchild, carried unanimously.

Mr. Merhalski noted that there were no new submissions or scheduled hearings for the regular meeting on the 9th of February. The Board discussed the option of cancelling the meeting or taking the opportunity to continue working on revisions to their Subdivision and Site Plan Regulations.

Motion: Mr. King moved that the board hold their regular meeting on February 9, 2010, seconded by Ms. Fairchild, carried unanimously.

Adjournment: Mr. Nelson made the motion to adjourn at 10:09 PM, seconded by Ms. Fairchild, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant