

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

Regular Meeting

May 11, 2011

Minutes

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

I. Pledge of Allegiance

Ms. Coppinger called the regular meeting to order at 7:00 P.M. and appointed Peter Jensen to sit on the board with full voting privileges in place of Natt King. Ms. Coppinger noted the board had received via email the news that Mr. Merhalski was resigning. The board was sorry that he was leaving and wished him well.

II. Approval of Minutes

Mr. Howard requested one revision to the minutes relative to the informal discussion with Randy Frye. Mr. Howard would like it clarified that the requirement of a 25' vegetative buffer was only for the front, along Route 25, and not a requirement for the entire parcel. The motion will be amended accordingly.

Motion: Mr. Howard moved to approve the Planning Board Minutes of April 27, 2011 as amended, seconded by Ms. Fairchild, carried unanimously with Ms. Ryerson, Mr. Maroun and Mr. Charest abstaining.

III. New Submissions

1. Izzy Atlixco, LLC d/b/a El Mariachi (44-25 & 31) (1094 Whittier Highway)
Site Plan Review

This was a request for a site plan review. The applicant is proposing to add full bar service to an existing restaurant with no change in the number of seating or no exterior site changes are proposed.

Motion: Mr. Jensen moved to accept the application for **Izzy Atlixco, LLC d/b/a El Mariachi (44-25 & 31)** 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 - Rizzo Family Trust (14-10)(40 Jones Road) Subdivision

Dave Dolan of David M. Dolan Associates, PC was present representing the applicant. Mr. Dolan referred to the amended plan which was revised to a three (3) lot subdivision, describing each of them. They have not defined the Right-of Way (ROW) width for Jones road and it will still remain a town maintained road through the fifty (50) foot ROW. They relocated the hammer-head into a portion of Lot 2. Mr. Dolan noted they submitted engineering plans by Moser Engineering. They will upgrade approximately two hundred (200) feet of Jones Road, including the hammer-head. They will need to install one culvert and need to obtain a driveway permit for the common driveway for Lots 1 & 2. All work will be completed on the road in lieu of a bond prior to the issuance of any building permits. Mr. Dolan stated they still need to provide the board with authorization for all agents of the Trust. Mr. Dolan stated that they have requested waivers for topography and an entire boundary survey for the remainder of the residual parcel.

There were no additional questions from the Board at this time. Ms. 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 Subdivision, and he reviewed it with the board and applicants agent, noting he would revise Item #16 regarding the bond and add the requirement for the receipt of all authorized signatures of the Rizzo Family Trust prior to the Chair signing the Mylar.

Motion: Mr. Maroun moved to approve the subdivision for the **Rizzo Family Trust (14-10)** subject to compliance with the Draft Notice of Decision as amended this evening, and grant the waivers as requested, seconded by Mr. Charest, carried unanimously.

2. Izzy Atlixco, LLC d/b/a El Mariachi (44-25 & 31) (1094 Whittier Highway) Site Plan Review

Dave Dolan of David M. Dolan Associates, PC presented the application for the owner, Lincoln Family Revocable Trust 2003. Ed Lincoln, Trustee, Izzy Lira and Alberto Lira were present in the audience for the hearing. Mr. Dolan briefly described the developed site, Lots 25 and 31, noting there is an existing restaurant on Lot 25. The proposed use is a seasonal restaurant, in which the Code Enforcement Officer (CEO) has required to obtain site plan approval for the increase in hours of operation and the addition of a full service bar. Mr. Dolan referred to the Planner's memo dated May 6, 2011, addressing each of the issues. Mr. Dolan noted Zoning Ordinance Issue #3, relating to the parking on Lot 31. It was stated that the CEO confirmed that it is not pre-existing grandfathered parking and the location for the five (5) spaces are within the 50-foot wetland setback. Mr. Merhalski has indicated that as a commercial lot, they would require variances to locate, and construct, the parking spaces. Mr. Dolan stated that the lot has been used as parking for many years, is grandfathered, and provided the board with copies of prior leases for the lot to be used for parking. Mr. Atlixco provided the board with a sketch of the proposed signage.

The board reviewed with Mr. Dolan each of the items in the Planners memo dated May 6th. All the items were discussed, with the applicant referred to the Code Enforcement Officer for his opinion regarding #3. Based on the information (leases) that were provided this evening they have requested a written opinion from the CEO to see if he considers the parking on Lot 31 grandfathered or not grandfathered. Mr. Dolan asked that the board continue with the review of the site plan to see if there were any other issues to be addressed. If it is the opinion of the CEO that the parking is grandfathered, the board recommended some form of treatment, swale, gravel or landscaped berm to help contain water

runoff in that area, allowing it to penetrate into the gravel. The board also recommended the installation of some type of screening of the parking area as seen from Route 25, similar to the planters that have been put in on Lot 25. The applicants were in agreement to these two recommendations.

Mr. Howard questioned how the board will limit or enforce the five (5) proposed parking spaces on Lot 31 as it is a gravel lot, what will prevent it from becoming parking for 6, 7 or 8 vehicles? Mr. Dolan stated the spaces could be stripped or roping if necessary.

There were no additional questions from the Board at this time. Ms. Coppinger asked for questions or comments from the public. Steve Schmidt questioned the parking on Lot 31, asking why the board would limit the applicant to five (5) spaces. Board members stated the number of spaces is shown on the plan, it is what the applicant has requested in the site plan review. After discussing this, Mr. Dolan will confer with the owner and determine the number of spaces based on the required 200 sq. ft. (10' x 20') to be depicted on the plan. Mr. Lincoln stated that the parking has been on Lot 31 for over 30 years.

After further discussion regarding each of the issues contained in the memo, Mr. Dolan requested a continuance of the public hearing to allow the applicant to make a decision on the number of parking spaces on Lot 31, and to receive input from the Code Enforcement Officer regarding grandfathering of the parking, and to prepare a revised plan to include the location of the propane tank, dimensions of the water and sewer lines, eliminate the loading area, add notation regarding loading times, adding one (1) parking space and any other changes as discussed this evening.

Motion: Mr. Maroun moved to continue the hearing for **Izzy Atlixco, LLC d/b/a El Mariachi (44-25 & 31)** to May 25, 2011, seconded by Mr. Jensen, carried unanimously.

The board went out of order from the agenda and took up the voluntary merger application.

Application For and Notice of Voluntary Merger for Anthony & Maureen Capobianco (129-8 & 9) was presented to the board. There was no input from the Board or public.

Motion: Mr. Charest moved to approve the Voluntary Merger for **Anthony & Maureen Capobianco (129-8 & 9)** as presented, seconded by Mr. King, carried unanimously.

VI. Informal Discussions

VII. Unfinished Business

Discussion of Revision of Site Plan Regulations

The Board discussed the last section left to be reviewed, Section 11, C. Landscaping. They reviewed the draft language prepared by Ms. Fairchild and worked from it making only minor changes. All were in agreement with the amendments. Mr. Merhalski will make the changes as discussed this evening in preparation for the scheduling of a public hearing.

Discussion of Revision of Subdivision Regulation Amendments

Following the meeting on April 27th, Mr. Merhalski further revised the Subdivision Regulations. Board members reviewed the changes. Mr. Howard suggested a few additional amendments, minor changes to Sections 4.3 (A)5, 4.13 (C) and 6.2 (B).

Mr. Howard commented that at the last meeting the board had discussed two items, 7.1 F and 7.2 (D) 2 and they were in agreement to revisit each of these items prior to the scheduling of a Public Hearing, and that they were to remain unchanged at this time. Mr. Merhalski commented that he was not present at the last hearing and had misunderstood that the board did not want to make any changes at this time and to proceed with the scheduling of a Public Hearing for the remainder of the amendments as discussed over the past 3 or 4 months. He will make the minor changes to Sections 4.3 (A)5, 4.13 (C) and 6.2 (B) as requested, and remove the proposed amendments as previously agreed to by the board at prior meetings. Mr. Howard referred to proposed legislation changes prohibiting towns from requiring developers to require sprinkler systems in single/two family dwellings. Language will be drafted and added to the boiler plate for the Notice of Decision for subdivision approvals to address developers who choose to use sprinklers at the time of subdivision approval. Any changes from that will require applicants to return to the board for approval for other options.

Board members noted their concerns with these two important issues, and would like to make certain that the two sections [7.1 F and 7.2 (D) 2] regarding dwelling units and minimum width of roadways are discussed again in the near future. Mr. Merhalski commented that the Fire Chief and Road Agent took part in the proposed amendments and encouraged the board to include them in any future discussions. All were in agreement with the amendments. Mr. Merhalski will make the changes as discussed this evening in preparation for the scheduling of a public hearing.

Mr. Merhalski questioned if the board would like to schedule the Public Hearings for the proposed changes to the Site Plan Review Regulations and Subdivision Regulations at the same meeting, or two different meetings. It was the decision of the board to schedule them on the same evening. A public notice will be prepared for both public hearings to be held on June 8, 2011.

VIII. Other Business/Correspondence

1. Ms. Fairchild requested to speak to the board regarding the recording of votes on motions. She noted her concern that the votes were not shown consistent from meeting to meeting. After thoroughly discussing this, with several suggestions the following motion was made:

Motion: Ms. Coppinger moved that the minutes record votes by name for split votes and roll call only. Seconded by Ms. Ryerson, carried unanimously.

Discussion of Town Owned Tax Deeded Parcels for Possible Sale

Mr. Merhalski stated that the Town Administrator requested if the Board has any input into the potential offering for sale of certain Tax Deeded properties. Board members were given a list of the parcels and photos of the parcels from the Town's GIS On-line mapping System. They continued this discussion to May 25th to allow members time to review the list and draft their comments on the parcels.

Discussion of Possible Projects for 2011 Work Plan

Mr. Merhalski had drafted a response memo to the Master Plan Implementation Committee regarding the Planning Board's Short Term Issues which was reviewed and approved as written.

Ms. Coppinger noted the need to continue with the review of applications and plans submitted to the Board in the absence of a planner. She and Mr. King have offered to review the plans and to prepare a memo to the Board. Members are encouraged to respond directly to only the sender of the email, making certain not to hit "reply all", and not to communicate amongst Board members regarding applications. Mr. Merhalski stated he had a boiler plate list for the Notice of Decisions and check lists for the various

applications and will forward them onto the Board. He has also offered to conduct a “crash course” on plan reading for the Board at the meeting on the 25th.

Ms. Coppinger noted that the Planning Board and public has benefited greatly from the Planner’s services and suggested they send a letter to the Board of Selectmen (BoS) in support of hiring a new Town Planner as soon as possible. Board members were in agreement with the need to replace the Planner and sending a letter to the BoS indicating the urgency. Ms. Coppinger will prepare a letter for the BoS.

Hollis Austin spoke to the Board regarding the removal of trees along Red Hill Road, Old Long Island Road and other areas in town by the Department of Public Works (DPW). It has been said that the tree removal is part of the proper maintenance of roads, but does not feel that they are considering the aesthetics of the roads. He suggested that the Planning Board, Conservation Commission and Heritage Commission get together and draft standards for rural and scenic roads in town. Mr. Merhalski commented that the concern is dealing with a Department Head and his concern should first be brought to the BoS to establish this, and it is not the jurisdiction of the Planning Board over the removal of the trees.

Zoning Board of Adjustment Draft Minutes of May 4, 2011 were noted.

IX. Committee Reports

- X. Adjournment:** Mr. Maroun made the motion to adjourn at 10:32 PM, seconded by Mr. Jensen, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant