

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

Regular Meeting

March 14, 2012

Minutes

Present: Members: Joanne Coppinger, Tom Howard, Peter Jensen,
Ed Charest (Selectmen's Representative); Town Planner, Bruce W. Woodruff
Alternate: Keith Nelson
Excused: Member: Chris Maroun, Judy Ryerson, Natt King

I. Pledge of Allegiance

Ms. Coppinger called the regular meeting to order at 7:00 P.M. and appointed Keith Nelson to sit on the board with full voting privileges in place of Judy Ryerson.

II. Approval of Minutes

Ms. Coppinger noted the need to correct the last sentence of paragraph one, under Discussion of Access Management "Board members requested Mr. Woodruff craft and ~~purpose~~ *propose* a ~~and~~ definition section."

Motion: Mr. Jensen moved to approve the Planning Board Minutes of February 22, 2012, as amended, seconded by Mr. Nelson, carried unanimously with Mr. Charest abstaining.

Motion: Mr. Jensen moved to approve the Planning Board Work Session Minutes of February 29, 2012, as written, seconded by Mr. Nelson, carried unanimously with Mr. Charest abstaining.

III. New Submissions

1. Erris 2, LLC (52-27)(967 Whittier Highway)
Site Plan

This was a request for a site plan review. The applicant is requesting a change of use of the rear building to auto service & repair. Ms. Coppinger noted the request for waivers dated February 16, 2012, from Hambrook Land Surveying.

Mr. Howard noted a letter in the members file from Attorney Christopher Meier. The letter dated March 14, 2012, was a letter of objection from abutters Linda and Ingrid Ratsep regarding the acceptance of the application for Erris 2, LLC. Board members took a few moments to read the letter and to refer to the plan.

Town Planner, Bruce Woodruff addressed the acceptance of the application. He noted the application was for the revision to an already approved site plan in the village zone, Zone C, to allow a change of use for the existing commercial structure located at the rear of the lot, to auto service and repair. Mr. Woodruff stated the building was originally constructed to be for auto service and repair.

Board members discussed the abutter's objections, noting the easement language was now on the plan and not applicable. Mr. Nelson commented that he felt the applicant should allow a square footage amount for an easement area to be accounted for in the total lot coverage. Jim Hambrook, surveyor/agent figured quick calculations, using a 14' x 50' gravel area would increase the lot coverage approximately 1%, therefore addressing the second objection.

Board members discussed the easement language contained on the plan, noting that it did not contain any specifics as to width or location, it provided for right to travel over the land, but not in any defined location. Mr. Woodruff stated that he believes that this is a civil issue between the parties as to whether the right-of-way is specifically defined or not, and did not believe that the Planning Board has the authority to depict something that is clearly not defined. Mr. Nelson agreed with this comment, noting that he felt the need for some allowance for potential lot coverage.

Attorney Meier stated the Board's "back of the napkin" calculation didn't appropriately approximate what the right-of-way (ROW) may ever be. The ROW accesses a large parcel and stated the 14' driveway would not approximate what the driveway ever would be. Mr. Meier argued that it is a 50' ROW, as it is a subdivdable parcel, and a 50' ROW is required for any access to that parcel and if they do take the civil route, and seek to obtain the ROW they think that exists, that would throw off the lot calculations and make it so that the site plan would not work under the regulations. Mr. Meier stated that this was not just a change in use. They are changing the coverage, putting a building connector, adding a leach field under the only location that they determined could work for even a 20' ROW, and installing a 1000 gallon buried propane tank. Mr. Meier feels they need to work out between the two abutters what the ROW is prior to the Planning Board allowing any changes to the lot.

Board members felt that this was a civil matter and that the application was complete for acceptance by the board.

Motion: Mr. Nelson moved to accept the application for **Erris 2, LLC (52-27)**, grant the waivers for the purposes of acceptance only and to schedule a hearing for this evening to be Hearing #1, seconded by Mr. Jensen, carried unanimously.

2. Verne L. & Elaine M. Richardson (44-30)(1110 Whittier Highway)
Site Plan

Mr. Nelson abstained from any discussion or vote regarding the application for Tax Map 44-30.

This was a request for a site plan review. The applicant is proposing a 21.5 ft. x 60' ft. building addition. Ms. Coppinger noted the request for waivers dated February 16, 2012, from Hambrook Land Surveying.

Motion: Mr. Charest moved to accept the application for **Verne L. & Elaine M. Richardson (44-30)**, grant the waivers for the purposes of acceptance only and to schedule a hearing for this evening to be Hearing #2, seconded by Mr. Jensen, carried unanimously.

IV. **Boundary Line Adjustments**

V. **Hearings**

1. Erris 2, LLC (52-27)(967 Whittier Highway)
Site Plan

Jim Hambrook presented the application for Site Plan. Richard Murphy, owner, was present in the audience for the hearing. Mr. Hambrook briefly described the property, noting the property was fully developed. They are requesting a change of use of the rear building, which was previously used for automotive service, currently used for storage, and also has an approval for a teen center. Also proposed was a 24' x 31' connector between the two buildings that would service as a waiting area for car repair, a bathroom area, and storage for the store. Other improvements were an increase in gravel area, replacement leach field, removing existing propane tanks and replace with a 1000 gallon buried tank, business sign for face of rear building, street sign portion now stating 'ATM' to be changed, enclosed dumpster pad and the addition of the allowance of square footage amount for an easement area to be accounted for in the total lot coverage. Mr. Hambrook noted that using a 14' x 50' gravel area would increase the lot coverage approximately 1%, therefore increasing total lot coverage from 58.7% to 59.7%. They have received an approved driveway permit from NHDOT, requiring that the road frontage be closed up, reducing each to 25'. They will install a low barrier, approximately 8" in height, which will be located in the States ROW, and will not be a site improvement. Mr. Hambrook spoke again to the ROW, noting it was created in 1947, and that the Planning Board has approved two other site plans with the exact language. They have not platted the location, as they don't have a location. They have placed it in the most logical location. The ROW is only a right of access to the property and cannot morph into a 50' ROW. The ROW is for reasonable access for residential use, meandering through the property. It is noted on the plan and they are not restricting access for the abutters. Mr. Hambrook answered any questions from the board.

Mr. Jensen questioned if this parcel was on top of the aquifer, if it was located in the ground water protection district? Mr. Woodruff stated he was not certain, but would check. Mr. Jensen stated if it was, then he had other questions.

Mr. Jensen questioned if the language on the plan regarding the ROW was the entire language for the easement? Mr. Hambrook stated yes. Mr. Jensen questioned if the owner of the parcel could depict the easement or was it something that should be discussed by both parties. The abutter's today could drive across the property wherever they could to access the existing woods road. They have that right to now.

Mr. Howard questioned if the proposed building connector created a single building, and if so, then the building would require a special exception as it exceeds the maximum footprint of 6,000 square feet for the village zone. Board members reviewed this section of the ordinance. Mr. Hambrook stated they could revise the connector, and not have them connected. Mr. Woodruff will get an answer from the Code Enforcement Officer (CEO) as to what the required separation distance needs to be between the buildings, or go to the ZBA for a special exception. The applicant chose to amend the size of the addition and not connect the two buildings. They will check with the CEO for the code requirement of the separation distance required between the two buildings and amend the plan accordingly, making this a moot point.

Mr. Woodruff stated that almost the entire village Zone C is located in the groundwater protection area. Mr. Jensen then questioned if the proposed change of use brought the entire site into question? Board members discussed this, with differing opinions in reviewing the regulations. As the applicant will be returning to the board with a revised plan to address the connector, Mr. Jensen requested the plan be revisited again by the TRC, applying the entire ground water protection act.

Ms. Coppinger opened the hearing for public input. Cristina Ashjian noted the Heritage Commission would be meeting on the 19th, and questioned the location of the proposed dumpster in location to the abutting Heritage Commission property. Ms. Ashjian asked if Mr. Murphy would grant permission for the Heritage Commission to enter his property to see where the property lines are in regard to the property next door, and buffering and screening issues. Mr. Murphy noted the lines are marked. Ms. Ashjian questioned if there was going to be a tenant running the auto business, or was it another Murphy

business? Mr. Murphy stated it would be a tenant, Matt Burns. Mr. Burns was present and introduced himself to the board. He gave a brief history of his background in auto repair and his qualifications.

Attorney Christopher Meier stated that he had made his comments during the acceptance of the application as being complete, but reiterated his comments. He stated that his clients were interested in making sure that their rights to access their property are protected, and making sure that what rights they believe they have to access their property are protected. Attorney Meier commented that there apparently was a disagreement as to what those rights may be and therefore their objection stands. They believe the town's regulations state, to have a complete and acceptable site plan application, it needs to show the location of the ROW. There is a deeded ROW, it is not on the plan presented, and therefore causes them great concern, and is in contravention to the letter and the spirit of the ordinance, so their objection stands. Ms. Coppinger objected to one statement made by Attorney Meier, commenting that the deeded ROW is shown on the plan, in the language on the plan. Mr. Nelson asked Attorney Meier if he agreed that the Planning Board could waive that regulation. Attorney Meier did not know the answer to the question.

Mr. Murphy asked if there were any other concerns of the board, so that they may address them this evening or be prepared for the continued hearing.

Mr. Woodruff noted the comment from the TRC notes regarding where practical (on pavement), add the striping of traffic flow arrows onto the plan because of increased on-site vehicle traffic.

Motion: Mr. Nelson moved to continue the hearing for **Erris 2, LLC (52-27)** to March 28, 2012, seconded by Mr. Charest, carried unanimously.

2. Verne L. & Elaine M. Richardson (44-30)(1110 Whittier Highway)
Site Plan

Mr. Nelson stepped down from the Board at this time.

Jim Hambrook presented the application for Site Plan. Mr. Hambrook briefly described the property, noting the property was fully developed. It is an existing auto repair garage. They are requesting a 21.5' x 60' addition to front of the existing building for office space. There is no impact on lot coverage as it is already paved. They are not proposing anything beyond the addition with the exception requested from the TRC meeting. It was requested that they add a wall pack light to the front a rear of the building for security. Mr. Hambrook answered any questions from the board.

Mr. Howard stated the 1 ½ addition feet, above 20 feet, pushes the total square footage of the building over 6,000 square feet, and noted this would be the same issue as the prior application, that the building would be over 6,000 square feet in the village Zone C. Mr. Hambrook indicated that they would amend the plan for a 20' x 60' addition.

Mr. Howard questioned what effect increasing the square footage of the building would have upon the parking that is required? Mr. Woodruff stated that there is no parking standard for this yet and the Zoning Ordinance states that "adequate" parking shall be provided. Therefore it is up to the board to determine this in looking at the plan and the planned use of the lot. It appeared to him that no additional parking would be required, but noted that it was up to the board to determine if adequate parking is there for the addition.

Ms. Coppinger opened the hearing for public input. Abutter Linda Belisle questioned where the wall pack lights were to be installed. Mr. Hambrook stated the TRC has requested one on the Route 25 side of the building and another on the rear of the building. Ms. Belisle objected to the light on the rear facing her property. Board members discussed the type of lighting, being fully shielded and compliant

with the ordinance. Mr. Hambrook stated the applicant did not propose the light, it was requested by the TRC for security and they would prefer not to put lighting on the rear of the building.

Ms. Coppinger referred to the TRC notes, and questioned if the applicant was willing to revise the plan to add a cross-access easement (between the adjacent parcels) note to the plan. Mr. Hambrook gave a brief history of the abutting property and stated the current owners (Mr. Richardson & Mr. Morrison) have agreed to a cross-access easement, and if one of the properties was sold, they will revisit it and block it off if they then determine they want to.

Motion: Mr. Jensen moved to approve the waivers to not establish a datum for the vertical elevations, and to waive the requirement to draw the plan at a 1"=20' scale, and to approve the Revision to the Approved Site Plan for **Verne L. & Elaine M. Richardson (44-30)** as presented with the following conditions: 1. Revise the final plan to add a cross-access easement (between the adjacent parcels) note to the plan. 2. Revise the plan to add a wall-pack lighting fixture on the front of the new addition and also an additional one to the rear of the existing building for security reasons. 3. Revise the final plan to add "and follow Best Management Practices applicable" to note 5. 4. The final plat be submitted to the Development Services Office in electronic format to include both a pdf and a cadd file format such as .dwg or .dxf. 5. Revise addition to be 20' x 60', seconded by Mr. Charest

Discussion on motion: Mr. Howard noted Mr. Hambrook's comment about the cross-access easement and blocking it off. Mr. Hambrook stated that if one of the properties sold, they reserve the right to revisit that and could put a fence up between the properties. Mr. Howard commented that he thought the purpose of the cross-access easement was so that in the future this was a step towards access management. Mr. Woodruff noted this was for a couple of reasons one is that the two lots were not always going to be owned by family members or folks who got along, neighbors don't always get along. Mr. Woodruff stated that the way the lot is configured, it requires traffic to sometimes swing over the property line and should be a concern of the board. Mr. Hambrook disagreed with the statement regarding the traffic swinging over the property line. He stated there is plenty of room to access the garage without going over the property line. The reason it is not blocked is for the convenience for plowing. Mr. Hambrook stated he misunderstood this issue when they discussed it before. It was his understanding that as it was an open boundary that they wanted to make certain that both parties acknowledge it was such.

Mr. Howard commented since this request was derived from the cross-access easement for purposes of access management on Route 25, and that both properties already have approved access points he did not have a concern with it being blocked off at sometime in the future. Mr. Woodruff commented that in a perfect world if this site plan came before the board as presented, they would never approve the pavement between the two businesses, there are setback requirements. He has a concern about people/abutters that will feud. It was the decision of the board to show a note on the plan to show the general location. Mr. Howard commented that the intention of the TRC was that this become a permanent cross-access easement and the ability to close it off in the future would not be available. This was not the choice of the applicant. The board cannot mandate that the abutter maintain such easement.

Mr. Jensen amended his motion to remove the reference to the lighting being optional. Ms. Coppinger noted that the wording of the motion prevents the easement from being closed off. After further discussion Mr. Jensen withdrew his motion.

Motion: Ms. Coppinger moved to approve the waivers to not establish a datum for the vertical elevations, and to waive the requirement to draw the plan at a 1"=20' scale, and to approve the Revision to the Approved Site Plan for **Verne L. & Elaine M. Richardson (44-30)** as presented with the following conditions: 1.

Revise the plan to add a wall-pack lighting fixture on the front of the new addition. 2. Revise the final plan to add “and follow Best Management Practices applicable” to note #5. 3. The final plat be submitted to the Development Services Office in electronic format to include both a pdf and a cadd file format such as .dwg or .dxf. 4. The proposed addition be 20’ x 60’ as opposed to 21.5’ x 60’, seconded by Mr. Charest, carried unanimously.

Mr. Nelson returned to the board at this time with full voting privileges.

VI. Informal Discussions

VII. Unfinished Business

VIII. Other Business/Correspondence

Housekeeping Zoning Ordinance Mr. Woodruff commented that he did not have an entire Zoning Ordinance packet with housekeeping changes, but did provide the Shoreland Water Quality Protection changes. Mr. Woodruff stated he had taken the old Comprehensive Shoreland Protection Act document, prior to June, 2011, along with the States changes effective 2013, and reviewed the part of the Ordinance that referenced the shoreland protection act, now known as the **Shoreland Water Quality Protection Act (SWQPA)**. Mr. Woodruff made the changes that would be necessary for Town Meeting 2013. These changes were reviewed by the Board, which include changing the title citation from CSPA to SWQPA, Comprehensive Shoreland Protection Act to Shoreland Water Quality Protection Act, and other minor changes.

Mr. Howard noted the states ordinance would be coming less restrictive, where the town may not want it to be. One example was how the measurement of shorefrontage is done, and that might affect any of the town’s regulations, as the SWQPA changed the definition of the measurement of shorefront, which differs from the town.

Joe Skiffington spoke with the board regarding this issue, and noted he wanted to make sure the board was aware of a few things. Mr. Skiffington stated he was involved in the 2008 and 2011 regulations and will be a part of the 2014 change. Many of the towns on the lake think that the 2011 regulations are too lenient, they started off a little too restrictive, swung to being too lenient. Alton’s conservation commission is considering putting together a focus group on tightening up the regulations, Wolfeboro has already gone back to the 2008 regulations, and Gilford’s conservation commission is considering putting together a focus group of people to consider tightening up the regulations, not necessarily going back to 2008, but finding something in the middle. Mr. Skiffington pointed out the changes that people are concerned about that are making the law to lenient, was the three point scoring system, permit by notification for structures up to 900 square feet, building within the waterfront buffer if you already have something in that area, no limit on impervious surfaces provided you put in a storm water runoff system, unaltered changes, unaltered areas reduced, and other miscellaneous changes. He stated that there were other towns considering their own set of regulations that would be somewhere in between ’08 and ’11. The board discussed this concern with Mr. Howard noting his concern that the town needs to have something stricter than what is now in place. Mr. Skiffington suggested the 2004 language which was a balance between ’08 and ’11. He also suggested lake wide regulations, lake by lake as opposed to community regulations.

Mr. Howard and Mr. Skiffington will work with John Goodhue from Gilford, speaking with him and finding ideas that are kicking around. Mr. Howard will report back to the Planning Board.

Appointment of Alternates - Ms. Coppinger noted the board was in receipt of a letter of interest to serve as an Alternate to the Planning Board from Natt King.

Motion: Mr. Howard moved to appoint Natt King as an Alternate Member of the

Planning Board for a three-year term, seconded by Mr. Charest, carried Unanimously.

Mr. Nelson stated that his term for Alternate Member was expiring this month and stated that he would be willing to serve another term as an Alternate Member of the Planning Board.

Motion: Mr. Howard moved to appoint Keith Nelson as an Alternate Member of the Planning Board for a two-year term, seconded by Mr. Charest, carried Unanimously.

Mr. Charest took the opportunity to thank Ms. Coppinger for her years of service on the board, noting that they will miss her presence on the Board, and wished her the best of luck in her future endeavors, and hoped that she will always be able to look back fondly on her time with the Planning Board.

Mr. Charest left for the evening at 9:45 pm. Due to the time Mr. Woodruff asked members if they wanted to work on the Site Plan Regulations. Members agreed to start with them and work until 10:00 pm.

Housekeeping of Site Plan Regulations

Board members were provided with a “Working Draft” copy of the Site Plan Review Regulations which were dated **June 2012 Proposed (working draft)**. The board reviewed Sections 1-6 of the handout with Mr. Woodruff pointing out the changes.

Motion: Mr. Jensen moved that the Board accept the changes to Section 4 of the Site Plan Regulations as written and move them forward to Public Hearing, seconded by Mr. Howard, carried unanimously.

Two minor changes were made to Section 5. A., changing therein to herein and striking the word at from the last sentence.

Motion: Mr. Jensen moved that the Board accept the changes to Section 5.A. of the Site Plan Regulations as amended and move them forward to Public Hearing, seconded by Mr. Howard, carried unanimously.

Motion: Mr. Jensen moved that the Board accept the changes to Section 5.B. of the Site Plan Regulations and move them forward to Public Hearing, seconded by Mr. Howard, carried unanimously.

Motion: Mr. Jensen moved that the Board accept the changes to Section 5.D. of the Site Plan Regulations as written and move them forward to Public Hearing, seconded by Mr. Howard, carried unanimously.

The Board reviewed Section 7.A & B with a few questions raised with the language. All were not in agreement with the draft or thoughts and members felt this should be revisited. They asked that Mr. Woodruff re-work the wording of the proposed language.

The Board will continue working on the remainder of the changes at the next meeting as time allows.

1. Board Members were provided with information of an upcoming NH Housing Finance Authority (NHHFA) Planning Grant Opportunity.

2. Board Members were provided with an updated 2012 Planning Board Work Plan.

3. Selectmen's Draft Minutes of March 8, 2012 were noted.

IX. Committee Reports

X. Adjournment: Mr. Nelson made the motion to adjourn at 10:02 PM, seconded by Mr. Jensen, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant