

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

Regular Meeting

May 9, 2012

Minutes

Present: Members: Tom Howard, Chair; Judy Ryerson, Paul Punturieri, Josh Bartlett;
Russ Wakefield (Selectmen's Representative); Alternate: Keith Nelson;
Town Planner, Bruce W. Woodruff
Excused: Members: Peter Jensen, Chris Maroun; Alternate: Natt King

I. Pledge of Allegiance

Mr. Howard 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 Chris Maroun. Mr. Howard stated that Mr. Jensen was unable to attend this evening's meeting in person, stating he wanted to listen in for the meeting and was willing to participate as a voting member if needed for a quorum.

Motion: Mr. Punturieri made the Motion to call Mr. Jensen and allow him to listen in for the meeting, seconded by Mr. Wakefield, carried unanimously.

Mr. Howard contacted Mr. Jensen by phone, noting there was not an issue with a quorum and that he would be participating as a non-voting member. Mr. Nelson stated that he would be stepping down for Hearing #1, and would like the board made aware prior to making a decision regarding the new submissions for the Dion subdivision and site plan applications. Mr. Nelson stated that he was a resident of Lee's Pond; his wife is the treasurer of Lee's Pond Association, and a member of Lee's Pond Association. He stated that he did not have any preconceived notion regarding the applications, but wanted to make the Board aware and if there were any objections he would step down. There were no objections from the Board or the applicant, Mike Dion. Mr. Nelson will remain as a voting member.

III. Approval of Minutes

Motion: Mr. Wakefield moved to approve the Planning Board Minutes of April 25, 2012, as amended, seconded by Mr. Punturieri, carried unanimously with Ms. Ryerson and Mr. Nelson abstaining.

IV. New Submissions

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

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

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

Motion: Mr. Wakefield 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 #1, seconded by Mr. Bartlett, carried unanimously.

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

2. Robert L. & Helen E. White (65-5)(61/63 Sheridan Road)
Subdivision

This was a request for a proposed two lot subdivision of an 8.95 acre lot with two existing dwellings into two lots. Mr. Howard noted the request for waivers dated 19 April 2004 [*sic*] from David M. Dolan Associates, PC.

Motion: Ms. Ryerson moved to accept the application of **Robert L. & Helen E. White (65-5)**, grant the waivers for the purposes of acceptance only and to schedule a hearing for this evening to be Hearing #2, seconded by Mr. Bartlett, carried unanimously.

3. Michael D. & Bianca T. Dion (65-3)(Whittier Highway)
Subdivision

This was a request for a proposed two lot subdivision of an 11.8 acre property into two lots.

Motion: Mr. Bartlett moved to accept the application for **Michael D. & Bianca T. Dion (65-3)** and to schedule a hearing for this evening to be Hearing #3, seconded by Mr. Wakefield, carried unanimously.

4. Michael D. & Bianca T. Dion (65-3)(Whittier Highway)
Site Plan Review

This was a request for a proposed site plan review for Tax Map 65 Lot 3 for a proposed Landscape/Maintenance Contractor with on-site office; and storage of business related vehicles (plowing and landscaping) and materials / inventory (mulch, loam, sand, stone, RR ties, shrubberies, etc.) Mr. Howard noted the request for waivers dated May 2, 2012, from David M. Dolan Associates, PC.

Motion: Mr. Wakefield moved to accept the application **Michael D. & Bianca T. Dion (65-3)**, grant the waivers for the purposes of acceptance only and to schedule a hearing for this evening to be Hearing #4, seconded by Ms. Ryerson, carried unanimously.

V. Boundary Line Adjustments

VI. Hearings

1. 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. He noted that this project had been before the Board a few months ago for the same application, which was for a 21.5' x 60' addition to front of the existing building for office space. At that time board members noted that the proposed addition pushed the total square footage of the building over 6,000 square feet, therefore it would require a special exception as it exceeds the maximum footprint of 6,000 square feet for the village zone, Commercial

Zone C allowed by the Ordinance. At that time Mr. Hambrook amended the application for a 20' x 60' addition, keeping the total below 6,000 sq. ft. Subsequently his client has decided that he would like the original 21.5' x 60' area. They have received a special exception from the Zoning Board allowing a 6,090 sq. ft. footprint, and are back before the Planning Board for site plan approval.

Mr. Hambrook briefly recapped the property, noting that the property was fully developed. It is an existing auto repair garage. The addition to front of the existing building is for office space. There is no impact on lot coverage as it is already paved. Mr. Hambrook answered any questions from the board.

Mr. Howard questioned if they were requesting the same two waivers as the prior hearing. Mr. Hambrook stated yes, for the bench mark and plan scale. Mr. Howard referenced the Town Planners comments.

Mr. Howard opened the hearing for public input. Abutter Linda Belisle requested a clarification of the lighting, noting at the prior hearing there was a request for lighting on the front and rear of the building. Mr. Hambrook stated that was a request made by the Planner during the TRC meeting, but at the hearing it was the decision of the board that lighting would not be required on the rear of the building, and it is not proposed with this application.

Peggy Hoburg questioned the purpose of the square footage limitation of the building. Ms. Ryerson stated that back in 2008, while working on revising the Master Plan, it was a "quick fix" to the Zoning Ordinance to prevent big box stores from coming to Moultonborough. They set a limit of 6,000 sq. ft. in the village zone and up to 12,000 sq. ft. by special exception.

Motion: Mr. Bartlett moved to approve the waivers to not establish a datum for the vertical elevations, 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. Add a note to the plan that references the Special Exception granted by the ZBA for a building larger than 6,000 sq. ft. area; 2. Add a note to the plan stating that this use is an existing nonconforming use that may continue in the Groundwater Protection Overlay District without a conditional use permit and a SPCC Plan, but shall comply with all applicable state and federal requirements including Env-Ws 41, Best Management Practices Rules; 3. The final plat be submitted to the Development Services Office in electronic format to include both a pdf and an approved cadd file format; and the Board reserves the right to amend. Seconded by Mr. Wakefield, carried unanimously.

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

2. Robert L. & Helen E. White (65-5)(61/63 Sheridan Road)
Subdivision

Dave Dolan presented the application for a Two Lot Minor Subdivision of an 8.95 acre lot with two existing dwelling into two lots. Mr. Dolan briefly described the lot, noting that there were too existing dwellings on the lot approved by the Planning Board in 1994. The proposal is two create one lot of 6.025 acres with 55 feet of frontage on Sheridan Road and a second lot of 2.926 acres with 470 feet of frontage on Sheridan Road. Mr. Dolan stated they had received NH DES subdivision approval for the smaller lot, and that the 6.025 acre lot does not require state subdivision approval. Mr. Dolan noted they have requested waivers from to depict the entire lot 1 contours and a waiver from the requirement to depict all off-site geographic details within 200' of the entire perimeter of the property. Mr. Dolan answered any questions from the board.

Mr. Nelson questioned if there were any plans for development in the steep slopes area. Mr. Dolan stated no, there will not be any new development or driveways.

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

Mr. Howard referenced the Town Planners comments for the record.

Motion: Mr. Wakefield moved to approve the waiver from the requirement to depict the entire Lot 1 contours and the waiver from the requirement to depict all off-site geographic details within 200 ft. of the entire perimeter of the property, as requested by the applicant in the Waiver Letter dated April 19, 2004 [sic], and moved to approve subdivision for **Robert L. & Helen E. White (65-5)** (61/63 Sheridan Road) Minor Subdivision of an existing 8.95 acre parcel of land with 2 existing dwellings into two lots with one dwelling on each. One lot containing 6.025 acres with 55 ft frontage and one lot with 2.926 acres with 470 ft frontage, both on Sheridan Road located in the Residential/Agricultural zone, with no roads or utilities proposed, with the following conditions: 1. That the surveyor changes the depiction and note call-out to reflect that the boundary pins have been set. 2. That the final plat be submitted to the Development Services Office in electronic format to include both a pdf and an approved cadd file format, seconded by Mr. Punturieri, carried unanimously.

Mr. Bartlett noted for the record that the Waiver Letter dated April 19, 2004 [sic], should in fact be April 19, 2012.

3. Michael D. & Bianca T. Dion (65-3)(Whittier Highway)
Subdivision

Dave Dolan presented the application for a Two Lot Minor Subdivision of an 11.8 acre property into two lots. Mr. Dolan noted the lot was partially located in Commercial Zone A and partially within the Residential/Agricultural Zone and the proposed boundary line is to coincide with the zone line. Wetlands were delineated by Schauer Environmental Consultants. The surface elevation of Lee's Pond per NHDES is 508 feet, based on that the shore was mapped at the edge of the open water. Mr. Dolan noted unit density calculations for both Lots 1 & 2 of 3.61 and 1.74 units respectfully. The access for Lot 2 is via an easement over Lot 1. They are awaiting NH DOT curb cut, noting he has received a verbal approval for the driveway depicted on the plan. They have received NH DES subdivision approval for Lot 2, as it is subject to compliance with NH RSA 483 B, Shoreland Water Quality Protection Act (SWQPA). Mr. Dolan answered any questions from the Board.

Mr. Punturieri questioned the distance from the Lot lines to Lee's Pond. Mr. Dolan noted one was 280' ± and the other 680' ±.

Mr. Howard had a question regarding frontage, asking the planner if the proposed easement met the requirements for frontage. Mr. Woodruff stated that currently the Town has no frontage requirements for residential lots. Ms. Ryerson stated that this issue has been brought up in the past and has been ongoing for quite some time. Mr. Howard stated he brought it up for discussion purposes.

Mr. Howard opened the hearing for public input. Sally Humer questioned what would be placed on Lot 1. Mr. Howard stated that her questions would be related to the hearing for the site plan not the subdivision. Ms. Humer voiced her concerns regarding the shoreland and the marsh along Lee's Pond, noting that Lee's Pond is number two in the State for wildlife activity. Mr. Dolan stated that Lot 2 was a

residential lot and that there is no proposed development, but noted that there are many rules and regulations in place for the development within the shoreland setbacks.

Peggy Hoburg and Karin Nelson asked what the purpose of the plan was and what were they proposing? It was stated again, that the application being heard at this time was for a two lot subdivision.

Roland Young noted his concerns about cutting of trees and runoff into Lee's Pond. Mr. Nelson stated the lot was subject to the state laws on what can or cannot be done in the shoreland. Ms. Hoburg questioned where the 50' setback line was measured from. Mr. Woodruff stated that it was in accordance with NH RSA 483-B, which is measured by the high - water mark line or elevation, set by the state.

Mr. Howard closed the public input portion of the hearing at this time.

Ms. Ryerson questioned how many dwelling units could be put on proposed Lot 2. Mr. Dolan stated the Lot calculation was 1.74 units, so there could only be 1.

Mr. Howard referenced the Town Planners comments for the record.

Motion: Mr. Wakefield moved to approve the **Michael D. & Bianca T. Dion (65-3)** minor Subdivision of an existing 11.8 acre parcel of land into two lots. One lot containing 5.63 acres located entirely in the Commercial A zone, and one lot with 6.20 acres located entirely in the Residential/Agricultural zone, with a privately maintained driveway and no utilities proposed, with the following conditions: 1. That the driveway be constructed a minimum of 18 ft wide with suitable gravel material capable of supporting Town Fire apparatus ~~as per the Site Plan approval for the front lot~~. 2. That the final plat be submitted to the Development Services Office in electronic format to include both a pdf and an approved cadd file format, seconded by Mr. Nelson

There was a question raised regarding condition 1, being conditional upon the Site Plan approval for the front lot. The motion was amended to strike "~~as per the Site Plan approval for the front lot~~". Mr. Wakefield and Mr. Nelson were in agreement with the amendment.

Mr. Howard called for a vote on the motion as amended, carried unanimously.

4. Michael D. & Bianca T. Dion (65-3)(Whittier Highway)
Site Plan Review

Dave Dolan presented the application for Site Plan Review. Mike Dion was present in the audience for the hearing. Mr. Dolan stated that this was a site plan for the 5.68 acre lot (just approved by the Board for the prior application for subdivision) located entirely in Commercial Zone A. Mr. Dolan noted that a portion of the lot lies within the Groundwater Protection Overlay District, which was shown on the plan. Mr. Dolan briefly described the proposed improvements of the site included a 60' x 30' "Morton" type building for a Landscape/Maintenance Contractor with an on-site office, hours of operation, Monday through Saturday, 7 AM-5PM, with no retail use. They are proposing material storage bins for the storage of mulch, bark, stone, etc. and two pole barns. Mr. Dolan stated Mark Mosher of Mosher Engineering had prepared a Storm Water Drainage Analysis for the proposed development of the site which addressed the requirements of the stormwater management section of the Zoning Ordinance. The report submitted was designed for a 50 year storm event and provides the existing and proposed stormwater runoff computations, drainage, detention pond, and culverts for the project. Mr. Dolan noted they had received an approved NH DOT driveway permit. There will be no outside storage of fertilizers or chemicals. They have submitted a landscaping plan, and noted that they will thin the trees along Route 25. Other areas depicted on the plan included parking, sign location (request for waiver for design

submitted), approximate location of proposed septic and the paved access to Lot 2, and a future/alternate drive to access Lot 2. Mr. Dolan noted that about 3 acres of the site is located in the Groundwater Protection Overlay District, and in that area, 932 square feet of the proposed pole barns are located within the district, and they have requested a waiver from that section. Mr. Dolan noted all of the requests for waiver. Mr. Dolan answered any questions from the Board.

Mr. Punturieri questioned if there would be any hazardous materials store on site. Mr. Dolan and Mr. Dion stated no.

Ms. Ryerson spoke to the design of the building, noting the external building materials should have an appearance of natural wood. The applicant has requested a waiver from this requirement. Board members discussed this and were in agreement that other buildings in the area were of a sheet metal type, and this would be keeping a similar type. It was noted the color of the building, the distance the building was setback from the road, and the sketch of the building, showing the shorter end of the building towards the road with a porch like roof was an acceptable design for the location.

Mr. Howard asked planner to give a quick overview of the Groundwater Protection and Stormwater Management ordinances. Mr. Woodruff briefly explained the purpose is to address the runoff of a site so that it is controlled onsite, treated and filtered before leaving the site. He reviewed the analysis prepared by Moser Engineering and felt that it was good and he was comfortable with the submittal.

Mr. Howard opened the hearing for public input. Karin Nelson asked about the vegetative buffer on the rear property line, if they were leaving any trees. Mr. Dolan pointed out the area Ms. Nelson was referring to was the area along where the detention ponds are depicted for the stormwater management. It was stated that the engineer had designed the plan which includes the detention ponds, and that area of trees would need to be removed. Mr. Dolan asked that his waiver request regarding the vegetative buffer be amended to include what is necessary for the stormwater management area.

Peter Jensen questioned what was going to be stored in the pole barns located in the Groundwater Protection area. Mr. Howard commented Mr. Dolan stated it was for equipment storage only, and Mr. Nelson noted there would be no floor drains in the pole barns. Mr. Nelson noted his concerns with the items to be included in the Material Storage Bins listed as (Mulch/Bark/Stone/Etc). It was the decision of the board to strike the word ETC, note allowing any additional type of material to be stored in the bins.

Herb Farnham read into the record the Conservation Commission concerns regarding fertilizers, stormwater spillways and impervious areas. Mr. Dolan addressed each of their concerns.

Roland Young questioned if the proposed building would be visible from Lee's Pond. Paula Young noted her concerns about residents of Lee's Pond being able to see the buildings and traffic on Route 25. She stated that the trees act as a buffer to the traffic and noise from Route 25. Mr. Dolan stated that it was necessary to remove the trees in the area of the detention pond and noted it was 250 ± feet from the pond.

Peggy Hoburg questioned if they could re-design the entire stormwater management plan and move the retention ponds to the front of the buildings, making them ornamental ponds and not removing vegetation. She also questioned why they should get a waiver for the appearance of the building. It was noted the retention ponds could not be relocated to the front of the buildings as the stormwater plan that was prepared by the engineer takes into consideration the topography of the land and it is necessary to place the detention ponds on the lower portion of the site and the trees must be removed to construct the pond. It was noted the lot is located entirely in Commercial Zone A.

Peter Jensen questioned the volume of traffic or trip generations. Mr. Woodruff stated that the plan was reviewed by the TRC and sight distance was taken into consideration. Mr. Dolan stated they

have received a verbal approval from NH DOT, noting the sight distance is 350' to the west, 500 to the east and the posted speed limit drops from 45 mph down to 30 mph along that stretch of Route 25.

Abutter Bob Goffredo spoke in favor of the project and noted that Mr. Dion has another property located in Moultonborough that is maintained in a professional appearance at all times.

Herb Farnham stated that the rear portion of the lot is a heavily travelled wildlife corridor.

Mr. Howard closed the public input portion of the hearing at this time.

Mr. Bartlett, Mr. Wakefield and Ms. Ryerson commented that they were okay with the appearance of the proposed building, being a sheet metal style building.

Mr. Howard noted the four requests for waivers and recommended the board separate out their approval for the waivers from the approval for the site plan. The Board acted on each of the four waivers.

The first waiver discussed was to allow a Morton Sheet Metal Building. Board members were in agreement with the request, but it was suggested to strike "Morton" as that was a specific manufacturer and there was no need to limit the applicant to a specific building manufacturer.

Motion: Mr. Wakefield moved that the Board allow a Sheet Metal Building, seconded by Mr. Bartlett, carried unanimously.

Motion: Mr. Wakefield moved that the Board waive the requirement to submit a sign design, seconded by Mr. Punturieri, carried unanimously.

The next waiver request discussed was relating to landscaped buffers. Mr. Dolan stated that he had requested the waiver to include the proposed line along the rear property line.

Motion: Mr. Nelson moved to grant a waiver to not plant or maintain landscaped buffers from parking and access ways and not plant a buffer along the rear property line subject to maintaining the tree line from the southwest part of the detention pond to the maximum extent practical while allowing for placement of the septic system, seconded by Mr. Bartlett, carried unanimously.

Motion: Mr. Punturieri moved to grant the waiver to not draw the plan to a 1"=20' scale, rather a 1"=30' scale, seconded by Mr. Wakefield, carried unanimously.

Mr. Punturieri asked how or what the plan was for the spillage for material that is being brought in and out of trucks to the building. Mr. Dion stated that they have very little spillage, the material is a bagged product that he must store within federal requirement/guidelines.

Mr. Howard referenced the Town Planners comments for the record.

Motion: Mr. Nelson moved to approve the site plan for **Michael D. & Bianca T. Dion (65-3)** subject to the following conditions: 1. Construct any driveway to new back residential lot to an improved 18 ft. width suitable gravel material capable of supporting Town Fire apparatus 2. The annual storm water operation and maintenance inspection report submittal to ODS shall be an ON-GOING condition of approval of this site plan approval. The report shall be submitted by July 1st annually. 3. Submit the NH DOT Division III driveway permit to ODS prior to signing the Plan. 4. Submit the Sign design to ODS prior to signing the plan. 5. Septic system permit needs to be submitted to ODS prior to plan signing.

6. Strike “etc” from Material Storage Bins. 7. The final plan be submitted to the ODS in electronic format to include both a pdf and an approved cadd file format, seconded by Mr. Bartlett, carried unanimously.

The Board took a short break at this time from 9:37- 9:45.

VII. Informal Discussions

VIII. Unfinished Business

IX. Other Business/Correspondence

1. Completion of Housekeeping of Site Plan Regulations

Mr. Howard noted the next item on the agenda was “Completion of Housekeeping of Site Plan Regulations”. At the prior meeting the Board was working completing this section, but had had several questions they wanted to have answered, explained or clarified by the Town Planner, who was not able to be present that evening. Mr. Woodruff had reviewed the minutes from the meeting on April 25th and prepared a response to those questions, which was sent out via email to the members of the board. The questions and answers were: **The numbers differ in the draft Traffic Impact document when compared with Section 10.D.5 of the site plan regulations. Answer:** The numbers have been changed in the traffic study policy to reflect the 400/48 contained in site review section 10 D 5. **It appears that the planner will determine the study area and questioned what that would be based on. Answer:** The scoping of the study area for a development project, including any special areas (corridors or intersections) of concern are based on existing traffic patterns, trip generation from proposed use, amount of by-pass traffic (%) and probable trip assignment of the use. The planner has 25 years experience as a transportation planner and has numerous times met with developer’s engineers and scoped the limits of a traffic study area. **Another discrepancy between the two documents was the language “All” verses “Certain development projects” will require a study. Answer:** The language in the site review states that ALL shall be reviewed by the TRC for adequacy in providing for traffic safety, while the policy says that certain development projects will need a traffic study which is determined by the submittal of a Traffic Impact Assessment and Analysis, which is not a traffic study and may be done by a professional such as an engineer or surveyor. I see no issue with this. **Would like an explanation of Level of service (LOS) “C” and “D”. Answer:** The following section pertains to only North American highway LOS standards and it uses the letters A through F, with A being the best and F being the worst. (Letters A through F were listed in detail in the email). **Questioned if the Policy applied to the Site Plan Regulations only, or did they apply to the Subdivision Regulations too? Answer:** The subdivision regs have to be change to add this as well. **If there was a “professional” impact study person, noting that it must be clear as to who would be completing the study and what their professional background is and what is the trigger for the study? Answer:** The TIAS may be completed by the professional hired by the developer to do their site plan. It’s acceptable is dependent on the Planner and/or a Planning Board-hired consultant. The advanced study (if indicated by the TIAS), must be prepared by a certified transportation engineer or planner.

The was a lengthy discussion relating to Mr. Bartlett’s question on material expansion. Mr. Woodruff had sent the following answer to the members via email. **Question on material change in use and material expansion of use. Answer:** A development or business owner can make changes which arise naturally out of the evolution of the business (e.g. taking out old pumps and putting in more modern ones), which is not a material expansion, but can’t add on a new auto repair garage that wasn’t there, which is a material expansion. A change in use from a clothing store to a housewares store is not a material change in use, but a material change in use would be one that materially affects the surrounding neighborhood, including public facilities, such as a change to a store that sold things that required trucks to haul away the purchased goods (which then affects the type of traffic on the surrounding streets). There may be better

ways to say this, but I can't find one after spending several hours searching. The important thing is that both the Board and your staff understand this and apply it uniformly.

The Board continued with Sections 10.D.5 and 13.E and approved the proposed changes to Section 10.D.5 as amended by Mr. Woodruff and Section 13.E as written.

Mr. Howard stated that the Board approved by consensus all of the changes to the Site Plan Regulations as discussed at the prior meetings. They requested that the Planner prepare a final draft incorporating all of the changes for final review prior to the scheduling of a public hearing.

2. Housekeeping Zoning Ordinance – Not discussed this evening. Mr. Woodruff stated that he had sent out an email to the members for thought process only. And in an effort to conserve paper and ink, asked that they not print them out at this time, but look through them for thoughts and ideas at this time. This will be discussed at the meeting on May 23rd.

3. Zoning Board of Adjustment Draft Minutes of May 2, 2012 were noted.

4. Selectmen's Draft Minutes of April 19 & May 3,, 2012 were noted.

X. Committee Reports

XI. Adjournment: Mr. Bartlett made the motion to adjourn at 10:37 PM, seconded by Mr. Wakefield, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant