

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

Work Session Minutes

August 29, 2012

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

I. Pledge of Allegiance

Mr. Howard called the work session to order at 7:00 PM.

II. Other Business/Correspondence

1. Continued review/discussion of draft Zoning Ordinance - Board members were provided with a revised copy of the proposed Draft Customary Home Occupation Language. Mr. Howard asked for input from Board members. The majority of the discussion revolved around item #9, which includes a list of such uses that shall not be considered as home occupations.

Mr. Bartlett stated that he would like to strike Machine Shops and Lawnmower Service from the list, therefore allowing those uses to be included as a home occupation. Mr. Wakefield stated that he thought Lawnmower/Tractor Sales & Service was retail and should remain in item #9. After a lengthy discussion Mr. Nelson commented that the members were losing sight of the limitations of items 2 – 8, and that they really did not need #9. Members reviewed items 2 – 8, noting that in order for an occupation to be considered, it must meet those criteria. After further discussion it was the consensus of the board to leave in item #9, striking Machine Shops, and placing “on site” prior to Auto Sales and Lawnmower/Tractor Sales.

Board members reviewed the remainder of the draft with a discussion regarding items #11 and #12. After a brief discussion on item #11, it was the decision to allow two (2) commercial vehicles on the premises.

Members questioned if a property owner had applied for and received a certificate of occupancy for a Home Occupation and were to exceed the limitations of items 2 – 8, what recourse did the town have? Language will be added to #12 stating that the permit can be revoked by the Code Enforcement Officer if he determines that the use has exceeded what was applied for and was approved with limitations as stated in the certificate issued by the CEO.

Mr. Woodruff will make the changes as discussed and provide the board with a final draft.

Mr. Howard requested that the members take a few minutes to review the Table of Permitted Uses in the Zoning Ordinance, and asked if there were any other uses that they may want to see added to the table of uses. These would not be discussed this evening it was just to get thoughts from members. Members briefly discussed Multi-Family Residential, noting there had been a lot of discussion regarding affordable housing and work force housing in the past five years.

Mr. King suggested a discussion in the future regarding light construction, such as a small contractor.

2. Discussion of Exaction Fee statutes, Subdivision Regulations, Section 7, 7.2 D., definitions and clarification of policy

Mr. Woodruff stated this discussion was a follow up to his recommendations on a recent subdivision that the Board assesses an exaction fee in which the board requested more information. The Planner was looking for input in what direction the board would like him to proceed. He noted there were three options to do. First, assess an exaction fee that is meets the “Rational Nexus” Requirement, Second, do nothing or third, create an Impact Fee Ordinance. Mr. Woodruff went onto explain the correct way of determining an exaction fee. He read sections of Chapter 17 from the New Hampshire Practice – Land Use Planning & Zoning book as well as drawing an example on the board and explaining how to calculate the “portion” amount through a formula that was fair.

Mr. Wakefield stated he was opposed to applying any exaction fees. He feels that it is unfair to require developers to pay a fee, per lot, for a subdivision if there is an intersection or project that has been identified on the Capital Improvement Plan as needing repairs or upgrades.

Board members had mixed feelings on imposing exaction fees and would like additional information regarding impact fees. Mr. Woodruff stated that you would need to create and adopt an impact fee ordinance which would be imposed upon all development in the Town in accordance with NH RSA 674:21. Mr. Wakefield commented that he would be more in favor of a fee that was assessed to all development in Town, as it would be fair to all developers, not just certain times or certain areas.

3. Discussion on Subdivision Regulations, Section VII, 7.1 E and NH RSA 674:41

Mr. Woodruff stated that Section VII, 7.1, E of the Subdivision Regulations requires that “All lots shall have frontage on a street, in accordance with RSA 674:41. This is currently in the Subdivision Regulations and he believes it should be in the Zoning Ordinance. So long as this is in the Subdivision Regulations, the Planning Board could waive this requirement, with cause, if requested. However, the Planning Board cannot waive the statute. Mr. Woodruff read a portion of the Statute ... “From and after the time when a planning board shall expressly have been granted the authority to approve or disapprove plats by a municipality, as described in RSA 674:35, no building shall be erected on any lot within any part of the municipality nor shall a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is proposed to be placed...” which has several criteria. Mr. Woodruff noted one requirement in particular, which came up at the last meeting was that the statute states ... “Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds...” He feels the Town is being exposed to a liability on more than one front. He stated even though the board could waive this, legally they can’t. This should be fixed, by removing it from the regulations and add it to the ordinance. Board members discussed this and were in agreement to remove it from the regulations, noting that any change to the regulations will require a properly noticed Public Hearing for amendments.

Motion: Mr. King made the motion to eliminate Section 7.1 E from Article VII of the Subdivision Regulations, seconded by Mr. Bartlett, carried unanimously.

III. Adjournment: Mr. Wakefield made the motion to adjourn at 9:02 PM, seconded by Mr. Bartlett, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant