

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

Regular Meeting

December 11, 2013

Minutes

Present: Members: Tom Howard, Peter Jensen, Josh Bartlett, Paul Punturieri, Bob Goffredo;
Russ Wakefield (Selectmen's Representative)
Alternates: Natt King, Joanne Farnham
Excused: Member: Judy Ryerson
Alternate: Keith Nelson
Staff Present: Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

I. Pledge of Allegiance

Mr. Howard opened the regular meeting at 7:00 PM and led the Pledge of Allegiance. He then appointed Natt King to sit on the board with full voting privileges in place of Judy Ryerson.

II. Approval of Minutes

Motion: Mr. Punturieri moved to approve the Planning Board Minutes of November 13, 2013, as amended, seconded by Mr. King, carried unanimously.

III. New Submissions

1. R.M. Hammond Trust, Robert M. Hammond, Trustee (23-14)
(1173/1195 Whittier Highway) Site Plan Amendment

This was a request for a site plan amendment to an existing site plan to allow an increase in the size of outside storage and display area.

Motion: Mr. Jensen moved to accept the application of **R.M. Hammond Trust, Robert M. Hammond, Trustee (23-14)** and to schedule a hearing for this evening to be Hearing #1, seconded by Mr. King, carried unanimously.

2. Broadway Realty Trust, George DeFelice II, Trustee and Michael J. & Sandra L. McManus (120-24 & 120-25)(52 & 44 Snowy Street) Boundary Line Adjustment

This was a request for a proposed Boundary Line Adjustment (BLA) conveying 5,132 square feet from TM 120, Lot 25 to TM 120, Lot 24 resulting in Lot 25 area becoming 62,064 sq. ft. and Lot 24 area becoming 25,132 sq. ft. Mr. Howard noted the Requests for Waiver dated November 19, 2013 from David M. Dolan Associates, PC, from Sections 4.3 (A) (3), (5), (10) and (12), relating to wetlands, topography and soils and slope information, and off site geographic facts within 200 feet of the property.

Motion: Mr. King moved to accept the application of **Broadway Realty Trust, George DeFelice II, Trustee and Michael J. & Sandra L. McManus (120-24 & 120-25)**, grant the waivers for the purposes of acceptance only and to schedule a hearing for this evening to be Boundary Line Adjustment #1, seconded by Mr. Bartlett, carried unanimously.

IV. Boundary Line Adjustments

1. Broadway Realty Trust, George DeFelice II, Trustee and Michael J. & Sandra L. McManus (120-24 & 120-25)(52 & 44 Snowy Street) Boundary Line Adjustment

Dave Dolan, of David M. Dolan Associates, PC presented the application for the BLA, briefly describing the location of the lots and the development of the properties. Mr. Dolan noted the area to be transferred from the McManus Lot to the Broadway Realty Trust Lot. The proposal is to convey 5,132 sq. ft. from TM 120, Lot 25 to TM 120, Lot 24, resulting in lots of 62,064 sq. ft. and 25,132 sq. ft. respectfully. The proposed lot line adjustment will eliminate the encroachment of the driveway and non-conformity on Lot 24. Mr. Dolan noted the request for waivers as depicted in his letter noting that both Lots 24 and 25 are fully developed. Mr. Dolan answered any questions from the board.

Mr. Howard opened the hearing for public input. There were no questions or comments from the Board or the public.

Motion: Mr. King moved to approve the waivers from the requirement to depict 2 & 5-ft. contours, for depicting wetlands, for depicting off-site geographic facts within 200 ft., and for determining and calculating soils and slopes; and further moved to approve the Boundary Line Adjustment Plat for Map 120, Lot 25 & Map 120, Lot 24 at 52 Snowy Street & 44 Snowy Street, respectfully, for Broadway Realty Trust, George DeFelice II, Trustee and Michael J. & Sandra L. McManus, which conveys an area of 5,132 sq. ft. from Tax Map 120, Lot 25 to adjacent parcel Tax Map 120, Lot 24 resulting in Lot 25 area becoming 62,064 sq., ft., and Lot 24 area becoming 25,132 sq. ft., with the following conditions: 1. Add an intent of plan note to the plat. 2. Add Owners' signatures to the plat. 3. The final plat be submitted to the Development Services Office in appropriate electronic format. 4. Submit executed deeds for recording with all recording costs at the time of recording the plat, seconded by Mr. Jensen, carried unanimously.

V. Hearings

1. R.M. Hammond Trust, Robert M. Hammond, Trustee (23-14) (1173/1195 Whittier Highway) Site Plan Amendment

Jane Hammond addressed the Board at this time, noting she had submitted a letter with their application asking that Mr. King not sit on the board while the board reviewed their application. She requested that Mr. King step down from the board for her hearing for site plan review. Mr. Howard stated that Mr. King was seated as an Alternate member of the board this evening and it was the individual board members decision as to whether or not he recuses himself. Mr. King did not see a reason why he should step down and chose to remain seated.

Joanne Coppinger presented the application for site plan amendment. She noted the proposed changes to the plan shown on the plat. Areas highlighted in orange were the subject of review for tonight. Those are the areas for proposed expansion or new storage areas. The site plan amendment came about as a result of bark mulch being stored on the site in an area that was not approved for storage or display. The Hammond's were asked to revise their site plan to accommodate that storage area. As a result of that request they looked at the entire site and have proposed other additional storage areas which maximize the plan to fifty percent (50%) lot coverage. Ms. Coppinger noted the changes to the plan included the new and expanded areas for materials & equipment sales, storage & handling, and the depiction of parking spaces on the plan. These have been shown now so that in the future, if there were new tenants they may not be required to return for another amendment. Note #7 has been revised to reflect that, noting it is understood that any new tenant would still need to apply for a new certificate of occupancy for said space.

This is a multi-tenant property with apartments above the commercial space, as well as R.M. Hammond Excavation in the shop with a residential apartment above. Ms. Coppinger noted it was important for the board to remember that the remainder of the site was grandfathered, and only the area shown in orange was what they were reviewing this evening. She referred to Note #8 on the plan, and that the site lies within the Groundwater Protection Overlay District. The expanded material storage areas are subject to the provisions of the Groundwater Protection Overlay District. Ms. Coppinger provided with the application, her letter of November 13, 2013, summarizing why it did not apply to this particular application. She briefly reviewed the letter and noted all the material storage areas shown on the site are clean earthen materials, clean landscaped materials or things associated with the excavation or landscaping businesses.

Mr. Howard asked the Planner to give the historical perspective of what was grandfathered on the site plan. Mr. Woodruff noted the applicant was before the board for three reasons. Reason one was that they were not in compliance with the approved 2010 site plan on record. The other two reasons were to show all of the things that could happen on the site, and in doing so they had to prove there was enough parking which is why they are showing the delineated parking. Through a series of special exceptions over the years, they have got to the point where they are approved for mixed use. Subsequent to that, the zone changed in that area to Zone B, which allows mixed use as a special exception. They are grandfathered to be a mixed use and this plan memorializes what is out there and recognizes that this is a mixed use development. The applicants have recognized that the certificate of occupancy process is a good one and that any new tenants that comes into this mixed use will have to go through the CO process which will be the trigger to determine if they meet the requirements of the plan or if they would then have to come back before the planning board for another amendment. The third thing is they want to show that there are other areas where material storage could happen and make that area memorialized as well if it were approved by the board. They are exempt or grandfathered from the Ground Water Overlay Protection District standards on everything but the new stuff they are proposing. The three areas they are proposing are subject to the Ground Water Overlay Protection District performance standards and criteria. The applicants engineer (Ms. Coppinger) has provided the board with a letter explaining why she believes that there is not much that should be done, and the remainder of the site is grandfathered.

Ms. Coppinger provided board members two handouts for reference, one from NH DES, 2009, Best Management Practices (BPM'S) for Groundwater Protection and another which explained ways in which Groudwater may become contaminated.

Mr. Howard questioned what the total new area was. Ms. Coppinger did not know the total of all of the area, but note the "big" area was roughly 5, 000 sq. ft.

Mr. Punturieri questioned what types of material would be stored. Ms. Coppinger stated landscaping materials or earthen materials such as loam, mulch, stone and stone dust. Mrs. Hammond added that pink granite rock will be stored as well.

There was a lengthy discussion regarding the Ground Water Protection Ordinance, Article VIII of the Zoning Ordinance. There were questions as to whether there was a need for a stormwater management plan. Ms. Coppinger explained her argument as contained in her letter. The board then discussed if there was a need for a Conditional Use Permit (CUP). Mr. Woodruff stated that was the decision of the board. The majority of the board felt that if there were no hazardous materials to be stored there they would not need CUP. Mr. Howard referred to Note #8 on the plan, commenting that control measures are not shown on the plan, only stated in the Note. Members discussed this and they would like to see the erosion control measures being permanent (berms) and shown on the plan as agreed to.

Mr. Howard read the Conservation Commission Comments into the record, noting their concerns were being addressed as part of the board's discussion.

Mr. King questioned if a site walk would be appropriate to see where the berms would be going. Members discussed this and were comfortable with making it a condition that the Engineer add the locations of the berm to the plan which is to be reviewed by staff, subject to the Chairs review prior to the Chair signing the plan.

Members discussed Note #8 on the plan and agreed they would like the verbiage expanded in regards to the storage of hazardous materials. Through discussion the applicant agreed that they would not store any hazardous materials on the entire site, not just the proposed locations, with the exception of the existing contained diesel fuel tank which is grandfathered. Ms. Coppinger will amend Note #8.

Mr. Howard opened the hearing for public input. There were no questions or comments from the Board or the public.

Motion: Mr. Jensen moved to approve the site plan amendment for the **R. M. Hammond Trust, Robert M. Hammond, Trustee (23-14)** to increase the outside storage and display area subject to the following conditions: 1. Add the property addresses to the title block on the plan. 2. Add surveyor and engineer stamps and signature to the plan. 3. Add Owners' signatures to the plat. 4. The final plan be submitted to the ODS in electronic format to include both a pdf and an approved cadd file format. 5. Strike the word "expand" from the last sentence in Note #8 and add with the exception of the existing diesel fuel tank. 6. Add hash marks to the plan indicating location of berm to be built for containment of runoff, to be reviewed and approved by staff prior to the Chair signing the plan, seconded by Mr. Bartlett, carried unanimously.

VI. Informal Discussions

VII. Unfinished Business

VIII. Other Business/Correspondence

1. Mr. Howard noted that the Board was in receipt of an e-mail from Scott Bartlett expressing his interest to serve as an Alternate Member of the Planning Board. Mr. Bartlett was present this evening.

Motion: Mr. Wakefield moved to appoint Scott Bartlett as an Alternate Member of the Planning Board for a two-year term ending in March 2015, seconded by Mr. Bartlett, carried unanimously.

2. There was a brief discussion about the Code Enforcement being on the right track for the enforcement of non-compliant site plans.

The board took a five minute break at this time from 8:22-8:27 PM.

3. Initial discussion of proposed Subdivision Regulation changes – Mr. Howard stated the board was looking at proposed changes to the Subdivision Regulations, asking Mr. Woodruff to give an overview of what the changes include. Mr. Woodruff commented that after town meeting last year, the town had voted to approve six zoning amendments they had sent to town meeting. Those changes affected site review regulations and subdivision regulations in certain places. The site plan regulations were worked on in June and were updated and now are getting to the changes in the subdivision regulations. Suggested changes are shown in red, and he will identify if the suggested change is a zoning amendment required change, a change mandated by a statute or something that he has suggested for good planning practice.

Mr. Howard noted the process beyond this, if the board were to come to a consensus on the changes presented, they would then schedule a public hearing and voting on them subsequent to the public hearing.

Mr. Woodruff went through the proposed changes and gave a brief synopsis of each with some being approved as proposed and others with minor changes. It was the consensus of the board to approve the changes to the subdivision regulations as amended this evening.

Mr. Woodruff asked the members if they wanted to set a date this evening for the public hearing. It was noted that this could be done on the same evening as a regular meeting. After a brief discussion it was the decision of those present to schedule the public hearing for the first meeting in January.

Motion: Mr. King moved to schedule the Public Hearing for Amendments to the Subdivision Regulations for Wednesday, January 8, 2014, seconded by Mr. Bartlett, carried unanimously.

IX. Committee Reports

X. Adjournment: Mr. King made the motion to adjourn at 9:00 PM, seconded by Mr. Punturieri, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant