

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

Regular Meeting

August 13, 2014

Minutes

Present: Members: Josh Bartlett, Scott Bartlett, Rich Kumpf, Joanne Farnham, Kevin Quinlan, Ed Charest; Russ Wakefield (Selectmen's Representative)
Alternates: Tom Howard, Kathi Margeson

Staff Present: Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

I. Pledge of Allegiance

Mr. J. Bartlett opened the regular meeting at 7:00 PM and welcomed Kathi Margeson to the board as their newest alternate member. Mr. J. Bartlett then led the Pledge of Allegiance.

II. Approval of Minutes

Motion: Mr. S. Bartlett moved to approve the Planning Board Minutes of July 9, 2014, as written, seconded by Mr. Charest, carried unanimously with Mrs. Farnham abstaining.

III. New Submissions

1. Christopher J. Sturgeon (135-18.1) (22 Moultonboro Neck Road)
Site Plan Review

This was a request for a Site Plan Review to expand and existing auto service & repair building that will include a second story apartment. The Chair noted the request for waiver from the requirement of Section 10(A)(3) – Reference to an established USGS Benchmark. The Planner recommended that the Board accept the Site Plan application as complete (with waiver) and hold the Public Hearing.

Motion: Mrs. Farnham moved to accept the application for Site Plan Review for Christopher J. Sturgeon (135-18.1), acknowledge the receipt of the waiver for the purposes of acceptance only, and to schedule a hearing for this evening to be Hearing #1, seconded by Mr. Kumpf, carried unanimously.

IV. Boundary Line Adjustments

V. Hearings

1. Christopher J. Sturgeon (135-18.1) (22 Moultonboro Neck Road)
Site Plan Review

This was a request for a Site Plan Review to expand and existing auto service & repair building that will include a second story apartment.

Mr. Wakefield stepped down for this hearing and the Chair seated Ms. Margeson in his place with full voting privileges at this time.

Jim Hambrook presented the application for site plan review. Present this evening were Mr. & Mrs. Sturgeon. Mr. Hambrook briefly described the existing conditions of the site and the proposed 40' x 60' addition to the rear of the building. The first floor will be used for service/storage area for the existing auto repair garage and the second floor as an apartment. The ZBA recently granted a special exception for mixed use. The existing lot coverage is 24.6% and will increase slightly to 25.3%. The existing lighting is shown on the plan, parking is delineated, and there is an existing leach field and well on the property. Access to the apartment will be from inside the building. Mr. Hambrook answered any questions from the board.

Mr. Woodruff referred to his staff memo prepared on August 8th, in which he provided a brief background of the property, the reasons for staff recommendation, along with a few issues noted in the memo. He recommended approval of the site plan with the waiver requested and 4 conditions, one which has been addressed (#2). The conditions were: 1. The applicant meet all recommendations of the Fire Chief regarding Life Safety 101 prior to the issuance of the Certificate of Occupancy. 2. Proof be submitted prior to the issuance of the Certificate of Occupancy that the septic system has the capacity to serve the mixed use or that a new system be required and that the well water meet any and all regulatory thresholds that may apply for both businesses and residential use. 3. Add wording to Note 2 on the plan stating that all requirements of the original site plan shall remain in force. 4. The final plan be submitted to the Development Services Office in electronic format to include both a pdf and an acceptable cadd file format

Mr. Kumpf questioned if there was a change to the lot coverage. Mr. Woodruff noted there is only a slight increase as the area of the proposed addition is gravel, which is already considered coverage.

Ms. Margeson questioned the location of the fire lane, asking if there was adequate room for access between the end of the building and the parking space shown as space 7 on the plan. Mr. Hambrook commented that they met with the TRC and that the Fire Chief did not have a problem with accessing the building and noted that rarely there are more than 5 or 6 vehicles in the yard.

The Chair noted that the abutting leach field encroaches on the lot. Mr. Hambrook stated that it was the toe of the slope that encroaches. The lot was once owned by the abutter and the leach field and well were shared by the dwelling and the service garage. Since Mr. Sturgeon purchased the property he has installed a well and leach field on his lot, which is shown on the rear of the property.

Mr. Howard questioned if the septic system has the capacity to serve the mixed use or whether a new system will be required and whether the well water meets any and all regulatory thresholds that may apply for both businesses and residential use. Mr. Hambrook stated that they will have to have a new septic design prepared and approved in order to receive a CO on the apartment. This does not mean that it has to be installed, only that they need to prove that the lot can support a septic system with the capacity to serve the mixed use. Mr. Howard followed up with the well capacity question. Mr. Hambrook stated that the well is fine and as far as he knows there is not any required testing for a well to serve the apartment and the business. It does not rise to the level for testing.

Mr. J. Bartlett opened the hearing for public input, noting there was none he closed the public input portion of the hearing.

Motion: Mr. Charest moved to grant the waiver to not require tie-in to an established survey datum; and further moved to approve the site plan revision for Christopher J. Sturgeon (135-18.1), with the following conditions: 1. The applicant meet all recommendations of the Fire Chief regarding Life Safety 101 prior to the issuance of the Certificate of Occupancy. 2. Add wording to Note 2 on the plan stating that all requirements of the

original site plan shall remain in force. 3. The final plan be submitted to the Development Services Office in electronic format to include both a pdf and an acceptable cadd file format, seconded by Mrs. Farnham, carried unanimously.

Mr. Wakefield returned to the Board at this time with full voting privileges.

VI. Informal Discussions

VII. Unfinished Business

VIII. Other Business/Correspondence

The Chair stated the board was in receipt of a letter dated August 7, 2014 from Advanced Land Surveying Consultants, PLLC, on behalf of Jonathan T. White Realty (143-5), requesting withdrawal of their application without prejudice.

Motion: Mr. Wakefield moved to grant the request for withdrawal of the application submitted by Jonathan T. White Realty (143-5)(278 Whittier Highway) for a Family Dollar retail store, without prejudice, seconded by Mr. Charest, carried unanimously.

Mr. Woodruff stated that the Town Administrator (TA) had asked that he bring before the Board a suggestion regarding Temporary Use Permits & Bike Week. He noted that the current language (Article XI of the Moultonborough Zoning Ordinance) only allows for a maximum of three (3) consecutive days over a 30 day period may be permitted upon application to and approval by the Board of Selectmen. The TA has asked that Planning Board consider revising this allowing a once a year extension of the time limit on the Temporary Use Permits to coincide with the so-called “Bike Week” Mr. Woodruff directed members to pages 44 & 45 of the zoning ordinance, asking for their thoughts on the subject. Members were in agreement that they should revisit this section of the ordinance with a few making suggestions as well. Mr. Woodruff commented that this would require an amendment to the zoning ordinance through a warrant article to be voted on in March. If the Board wishes, there were a few other minor changes that could be discussed at the same time. These were relating to second dwellings on a lot, the limit of 20% expansion of a non-conforming structure along with a few other minor changes. Members were in agreement to take a further look at the areas noted. Mr. Woodruff noted that he would work on these areas, requesting that a subcommittee of three members be formed to work with him on them and that they will report back to the board on the meeting of September 24th.

Motion: Mrs. Farnham moved to create a subcommittee of the Planning Board to craft draft language for an amendment regarding Temporary Use Permits. Seconded by Mr. J. Bartlett.

Members Joanne, Kathi and Kevin will serve on the subcommittee to work with the Town Planner. Mr. Howard asked that the subcommittee address the question “when is a temporary use no longer a temporary use?”

The Chair called for a vote on the motion. Motion carried unanimously.

IX. Committee Reports

1. Broadband – Mr. Kumpf briefly updated the Board noting the number of submissions they have received back to date. He noted they will be collecting data for the speed test and the survey until Labor Day. They have been working on mapping out all available services so far.

2. Village Vision – The Chair stated that the committee is making progress, noting they have received ideas such as a foot path or a parallel road. The next meeting is on Tuesday, August 27th at 7 PM.

Mr. Howard commented that there were a couple of issues he would like to toss out onto the table for the Board to think about. The first was relating to their Site Plan Regulations. Section 13. C. Site Inspection, Line 2 “All site improvements shall be constructed and/or installed within a period of time mutually agreed upon by the applicant and the Planning Board, unless such time is extended by written mutual consent of the Planning Board and the applicant.” He noted that since he has been on the Board that very seldom has the Board set any timelines or heard any timelines. He noted his concern with applicants moving forward with some of their site plan and perhaps not completing all of it and continuing operation in essence having received a plan approval but not completing everything that they presented on the plan. He asked if there have been any difficulties with this, or from the enforcement perspective of how site plans are put to bed in our records, in terms of being complete. Mr. Woodruff commented that the regulations require the applicants to submit an as-built plan and must show that they’ve done all of the improvements. If an applicant has done nothing for two years from the date of approval they’ve lost their approval. However if they begin partial development it is a subjective thing as to how far they go, as to whether they’ve vested. If they’ve vested then you can’t use the two year rule anymore, but the idea of substantial completion is a term that is a bit subjective, can be applied in different degrees. He feels that this section would apply to a site plan that was only partially completed and after 2-3 years you would ask an applicant to come back to the Board with a schedule of completion for review by the Board as decide whether or not the applicant will get more time. He stated it is his interpretation that this does not apply to the time of approval. Mr. Howard commented he agrees it is an interpretation and that he interpreted it that it would happen at the time of their approval. They would say this project has a time line of “X”, if it’s not completed by “Y”, then you need to come back to the Board to revisit the timing issue and the completion of the project. You could be totally vested, 90% complete and decide they don’t want to do the rest. If there is no end date to when that completion should have happened then there’s no recourse from the Board’s position. Mr. Woodruff stated that there are two recourses. One is bringing the applicant back in for a compliance hearing and the second is the Certificate of Occupancy. So there are administrative actions that can take place or there are quasi-judicial actions that can take place by the Board. He feels that we do have safeguards in place.

Mr. Howard raised one other issue that he had, asking that the board think about it. His thoughts are regarding the diner site plan. While he had no problem with the site plan request to remove and rebuild the building, the difficulty he had in dealing with it in his mind was that it’s a grandfathered use, however they were increasing the size of the building (somewhat minimally) so there was a change in their site plan. While it’s a grandfathered use it is his feeling that when that site plan is revised, a baseline has to be set for future considerations of the next time they come in for a site plan revision and they say that they are grandfathered. What are they grandfathered for? How many parking spaces? There needs to be a baseline set at that point in time so that in 20, 30, or 40 years later we’re not working off a grandfathering from 1965. Members discussed this briefly with some saying that they have had issues around that, over what is a change use, what is a substantial expansion and at what point is a site plan revision triggered. Mr. Woodruff commented that the diner had been there forever, and didn’t have a site plan. The site plan that came in was the first one ever submitted. The site plan itself becomes the baseline for future reference.

X. Adjournment: Mrs. Farnham made the motion to adjourn at 8:13 PM, seconded by Mr. Charest, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant