

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

Regular Meeting

September 10, 2014

Minutes

Present: Members: Josh Bartlett, Scott Bartlett, Rich Kumpf, Ed Charest;
Russ Wakefield (Selectmen's Representative)
Alternate: Tom Howard
Excused: Member: Joanne Farnham, Kevin Quinlan
Alternate: 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 led the Pledge of Allegiance. He then appointed Tom Howard to sit on the board with full voting privileges in place of Joanne Farnham.

II. Approval of Minutes

Motion: Mr. S. Bartlett moved to approve the Planning Board Minutes of August 13, 2014, as amended, seconded by Mr. Charest, carried unanimously.

III. New Submissions

IV. Boundary Line Adjustments

V. Hearings

VI. Informal Discussions

VII. Unfinished Business

Discussion on short list of possible zoning amendments - The Chair noted that there was a sub-committee that had been formed. Mr. Woodruff stated for clarity that the sub-committee was put together to address only the revision of language in the Temporary Use section of the zoning ordinance (z/o). He stated that all three of the members were not able to attend this evening and have spoken with him at length. They are aware that he has provided some potential draft language for this section and they are also working on language. They have asked that this item be tabled until they are present.

The Planner noted that he has prepared a list of identified, potential zoning amendments to work on this year where there were issues or problems. Identified on the list were three, and two were added as a request from the Code Enforcement Officer. Another item is on the board's work plan, which is addressing special exceptions and adding either specific criteria to that list of special exceptions that are in the table of permitted uses, and also adding performance criteria to those specific special exceptions that might come before the Zoning Board. He stated that is a big task as they will need to go through the list and identify all of those special exceptions and identify those that have no specific criteria. The work then would begin in earnest of identifying what specific performance criteria would be required for each of those uses that could be allowed by special exception. That's the missing piece in the ordinance and is

one item on the work plan. He stated that has been preempted by the Master Plan work, vision, land use and transportation. It was his recommendation to put this off until next year and do it all as one and not piecemeal.

He had three questions for the Board; first have they identified all of the zoning changes, problems and issues that have come up during this past year. Mr. J. Bartlett commented that there seems to be an increasing sentiment in town for some sort of architectural guidance in commercial zones, specifically the village. It is the recommendation of the Planner that that type of standard be included in site plan regulations and not the zoning ordinance. If the standards were in the z/o and an applicant doesn't meet the letter of those standards they would need to go to the zoning board for a variance. He thinks that is making it too restrictive and the place for those to be is in the site review regulations, where the board would have the ability to waive all or part of those for good cause and justifications.

Mr. Woodruff had provided the Board with draft language for five potential zoning amendments, listed as Amendments 1, 2, 3, 4 & 5.

Amendment 1 was relating to Article III of the z/o. The Planner gave the back ground on how and why this amendment was proposed and that it was for clarification purposes. After a brief review of the draft changes members were in agreement with the proposed changes.

Motion: Mr. Kumpf moved to approve proposed zoning amendment 1, and vote to hold the required Public Hearing on the change as presented, to be included on the Ballot, seconded by Mr. Charest, carried unanimously.

Amendment 2 was relating to Article VII, Section D of the z/o, Nonconforming uses. The Chair gave a brief back ground on how and why this amendment was proposed. Nonconforming, single- family structures may be expanded up to twenty (20) percent of their gross habitable floor space. The Planner went on to further state that in 2012, for the 2013 Town Meeting, there were six zoning amendments that were approved by the voters. This was an amendment to prior language that dealt with nonconformities. Prior to this change the z/o didn't talk about nonconforming uses and nonconforming structures. He stated a structure could be nonconforming for two reasons; one because there's a nonconforming use in it, or two because the structure itself doesn't meet dimensional requirements such as setbacks, height of a building, not necessarily the use. The two sections were tied together. The z/o was written so that residential uses would be exempted to a certain extent because people have to live in their houses and sometimes need to expand. The twenty (20) percent rule was put in to allow expansion of a nonconforming use or structure. In 2012 the board went through the table of permitted uses and Section D was tied into this. He stated that there are nonconforming residential structures all throughout the town and anytime someone wants to expand their home they are limited to twenty (20) percent. There have been several variance applications before the ZBA in which the twenty (20) percent amounts to hardly any square footage. These expansions are within the building envelope in a manner that would conform with Today's dimensional requirements. They are not tied to a nonconforming use. This proposed change would allow a home owner to expand an area to fill in a notch, squaring off a home. Members discussed this proposed change at length, noting they felt that there still needed to be additional language for clarification purposes that you could only fill in a notch, and not expand along an entire setback. Mr. Woodruff will craft additional language for their next meeting.

Motion: Mr. Charest moved to table proposed zoning amendment 2, seconded by Mr. Howard, carried unanimously.

Amendment 3 was relating to Temporary Use and as noted prior a sub-committee was formed to work on draft language for this section. Mr. Woodruff commented that had taken the "keep it simple" method and provided the members with draft language for their review.

Motion: Mr. Charest moved to table proposed zoning amendment 3, seconded by Mr. Howard, carried unanimously.

The Planner recommended that the Board work on the first three amendments and if the Board would like, take on Amendments 4 and 5 which were requested by the CEO. Mr. Woodruff commented that Amendment 4 is a proposal to add a definition of a bedroom to the General Definition Section 1503 of the z/o. Members reviewed the definition which is in accordance with the definition that is in the Building Code and Life Safety Code. Members were in agreement with the proposed language.

Motion: Mr. Wakefield moved to approve proposed zoning amendment 4, and vote to hold the required Public Hearing on the change as presented, to be included on the Ballot, seconded by Mr. S. Bartlett, carried unanimously.

Mr. Woodruff spoke about potential amendment 5, which is a suggestion from the Code Enforcement Officer resulting from several calls and complaints this year about overcrowding in seasonal home rentals that may have affected the septic systems by the lake, parking, traffic and noise of the neighborhoods where these things occur. There have been examples this year of folks renting their homes or camps to up to twenty people at a time. Staff drafted the language before you for your discussion. Staff researched the issue and found that any home with occupancy over 16 is considered lodging or rooming house and those need additional inspections and requirements for safety than ordinary homes. Additionally, Don Cahoon has found that maximum occupancy for rental housing (occupancy load per table 1004.1.1. in the IBC, Section 1004) is one occupant per 200 sq. ft. area. This is used to determine how the means and location of egress for safety purposes is designed. There was discussion on how this was important. Members stressed that this maximum would only apply to seasonal, recreational or occasional use housing that is rented on a part time basis. Several members thought that the 200 sq. ft. area per occupant standard was not right for the situation, feeling that the area used could be any room, not just bedrooms. A discussion on limiting rental occupancy by person by bedroom, citing the septic design gallonage per bedroom, ensued. Woodruff noted that it may be simpler to set a maximum number. The Board agreed that Woodruff would research the issue further and return next meeting with revised language.

VIII. Other Business/Correspondence

1. Application For and Notice of Voluntary Merger for Michael Cheney (263-65 & 263-66) (53 West Point Road). Mr. Woodruff referred to the map that was provided with the application. The map shows the two lots to be merged. Mr. Woodruff briefly explained the layout of the properties, noting that the existing dwelling on Lot 65 encroaches onto Lot 66. The merger of these two lots will make the dwelling conforming. It was noted that by statute the only role that the planning board has is to review to see if the merger would create any non-conformities, if not, then the request shall be approved by the Board.

Motion: Mr. S. Bartlett moved to approve the Voluntary Merger for **Michael Cheney (263-65 & 66)** seconded by Mr. Wakefield, carried unanimously.

IX. Committee Reports

1. Broadband – Mr. Kumpf briefly updated the Board noting the period of testing and data collection has ended. The results showed that there are not many areas of town that aren't serviced. They have identified 7 or so providers in town and will make a presentation to the BoS at a future date. They have not yet gotten to the point of making a recommendation of the money portion of it. There has been significant progress on part of the Town Planner in getting the data into the GIS map, as well as coming up with a clever way to identify the up speed and down speed in a graphical format to be overlaid as a layer on the map. Mr. Woodruff commented that the map is not complete. It is on the staff only site on the web base GIS for now. The map will tell you a lot. They are having a slight delay in getting some

updated information from the mapping people at UNH. Once that happens, Cartographics and he will work to make the map better and then it will ultimately go on the public side of the website.

2. Village Vision – The Committee is continuing to meet and is refining some of the ideas and public input. They are completing the task of putting together a mailing list which is compiled of the voters and the taxpayers. They are trying to eliminate duplicating sending a voters survey and a tax payer survey to the same address. In an effort to keep costs down, they are looking at sending one letter addressed to the “household of” and if people wish to make out four surveys they can make copies, or get copies at the library. They are looking at a web option as well. Their intent is to have the list and cover letters completed this week and get them out in the next couple of weeks. The survey is short and has basic questions. They are looking for input from the residents and taxpayers.

3. Mr. Howard asked to revisit the planner’s earlier reference to the criteria in drafting specific performance criteria for the uses in our table that require a special exception. He commented that he would like to see this as an agenda item on a future agenda so that the board can take a formal action to say that this is something we are going to address next year, if that is the decision. He agrees that this is too large of a project to undertake at this point in time in the year, and should be done all at once. But, his fear is, as it did this year, that it would get into the organizational meeting next year and get bumped down to the third or fourth most important and doesn’t get done again. He feels this is critical as this is what they told the voters. If they went to keeping special exceptions that they would be sure there were criteria and they have not completed that yet.

Motion: Mr. Howard moved that the performance criteria for the uses in the table that require a special exception in our zoning ordinance be placed as an agenda item Within the next 60 days. Seconded by Mr. Charest, carried unanimously.

X. Adjournment: Mr. Bartlett made the motion to adjourn at 8:39 PM, seconded by Mr. Charest, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant