

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

**Regular Meeting**

**September 24, 2014**

**Minutes**

Present: Members: Rich Kumpf, Scott Bartlett, Joanne Farnham, Ed Charest;  
Russ Wakefield (Selectmen's Representative)  
Alternate: Kathi Margeson  
Excused: Members: Josh Bartlett, Kevin Quinlan  
Alternate: Tom Howard  
Staff Present: Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

**I. Pledge of Allegiance**

Mr. Kumpf opened the regular meeting at 7:00 PM and led the Pledge of Allegiance. He then appointed Kathi Margeson to sit on the board with full voting privileges in place of Josh Bartlett.

**II. Approval of Minutes**

**Motion:** Mrs. Farnham moved to approve the Planning Board Minutes of September 10, 2014, as amended, seconded by Mr. Charest, carried unanimously.

**III. New Submissions**

1. Kenneth J. Ganem Trust, Barbara T. Ganem Trust and Joe Adams Trust (90-6, 5 & 4) (191 Fox Hollow Road, Fox Hollow Road and 167 Fox Hollow Road) Boundary Line Adjustment

Mr. Hambrook stated that this was a request for a proposed Boundary Line Adjustment (BLA) conveying 0.63 acres from TM 90, Lot 5 to adjacent TM 90, Lot 4 resulting in Lot 4 area becoming 2.23 ± acres, and conveying 0.58 acres from TM 90, Lot 5 to adjacent TM 90, Lot 6 resulting in Lot 6 area becoming 1.88 ± acres, resulting in the elimination of TM 90, Lot 5. Mr. Wakefield noted the Requests for Waiver dated September 3, 2014 submitted by Hambrook Land Surveying, from Sections 4.3 (A) (2), (3), (4) and (10), relating to setback lines, location and dimensions of property lines and soils and slope information.

**Motion:** Mr. Wakefield moved to accept the application of Kenneth J. Ganem Trust, Barbara T. Ganem Trust and Joe Adams Trust (90-6, 5 & 4) (191 Fox Hollow Road, Fox Hollow Road and 167 Fox Hollow Road, 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 Mrs. Farnham, carried unanimously.

2. Robert H. and Mary H. R. Stephens (89-17) (84 Fox Hollow Road)  
Minor Three Lot Subdivision and Conditional Use Permit

This was a request for a proposed minor three lot subdivision of a 14.45 acre parcel creating two new lots of 2.19 and 2.41 acres, with a residual lot containing 9.85 acres, and a conditional use permit for the proposed driveway(s) location in the Wetland Conservation District 50 ft. buffer to larger wetlands.

**Motion:** Mr. Wakefield moved to accept the application for the Robert H. & Mary H. R. Stephens (89-17) and to schedule a Public Hearing for this evening to be Public Hearing #1, seconded by Mr. S. Bartlett, carried unanimously.

#### **IV. Boundary Line Adjustments**

1. Kenneth J. Ganem Trust, Barbara T. Ganem Trust and Joe Adams Trust (90-6, 5 & 4) (191 Fox Hollow Road, Fox Hollow Road and 167 Fox Hollow Road) Boundary Line Adjustment

Jim Hambrook of Hambrook Land Surveying presented the application for the boundary line adjustment. Mr. Hambrook briefly described the location of the lots and the development of the properties. Mr. Hambrook noted the proposal is to convey 0.63 acres from TM 90, Lot 5 to adjacent TM 90, Lot 4 resulting in Lot 4 area becoming  $2.23 \pm$  acres, and conveying 0.58 acres from TM 90, Lot 5 to adjacent TM 90, Lot 6 resulting in Lot 6 area becoming  $1.88 \pm$  acres, resulting in the elimination of TM 90, Lot 5. Mr. Hambrook noted the request for waivers from Sections 4.3 (A) (2), (3), (4) and (10), relating to setback lines, location and dimensions of property lines and soils and slope information as submitted with the application. Mr. Hambrook answered any questions from the board.

Mr. Kumpf opened the hearing for public input, it was noted there was none.

There were no further questions or comments from the Board or the public. Mr. Kumpf closed the Public Hearing.

**Motion:** Mr. Wakefield moved to approve the waivers from requirement to depict setback lines, soils & slope information, and depict the location and dimensions of property lines of the outboard lots where nothing is changing; and further moved to approve the Boundary Line Adjustment Plat for Map 90, Lot 5 & Map 90, Lots 4 & 6 at 167 & 191 Fox Hollow Road, for Barbara & Kenneth Ganem and Joe Adams which conveys an area of 0.63 acre from Tax Map 90, Lot 5 to adjacent parcel Tax Map 90, Lot 4 resulting in Lot 4 area becoming 2.23 acres, and to convey an area of 0.58 acre from Tax Map 90, Lot 5 to adjacent parcel (other side) Tax Map 90, Lot 6 resulting in Lot 6 area becoming 1.88 acres. These boundary line adjustments result in the elimination of Tax Map 90, Lot 5, with the following conditions: 1) Add Owners' signing block and signatures to the plat prior to the Chair signing. 2) The final plat be submitted to the Development Services Office in appropriate electronic format. 3) Submit executed deeds for recording with all recording costs at the time of recording the plat, seconded by Mr. S. Bartlett, carried unanimously.

#### **V. Hearings**

1. Robert H. and Mary H. R. Stephens (89-17) (84 Fox Hollow Road)  
Minor Three Lot Subdivision and Conditional Use Permit

Dan Ellis, of Ames Associates, agent for the applicants, Bob and Mary Helen, presented the applications for subdivision and conditional use permit. Mr. & Mrs. Stephens were present this evening. Mr. Ellis briefly described the current 14.45 acre lot, located on Fox Hollow Road. Approximately 480 feet of Fox Hollow Road passes through the property as a fifty (50) foot wide easement. The proposal is to create two new building lots with one residual lot with an existing residence, garage, well, and state approved septic system. Unit Density calculations were provided for the proposed lots. Proposed Lot #1 will be 2.41 acres with 1.27 total allowable units, proposed Lot #2 will be 2.19 acres with 1.20 allowable units and the residual lot will be 9.85 acres with 2.85 allowable units. The supplemental plan shows upland area for each lot that is adequate for residential building sites. They have demonstrated a possible configuration for development of the lots, showing a 4K area reserved for septic system use, a possible

house footprint and garage, with an acceptable well location. Each lot does have approximately two acres of upland area. A site specific was performed for the entire property to confirm that each proposed lot exceeds the minimum lot size requirements of the zoning ordinance. They have received state subdivision approval. They have requested a conditional use permit for access to the proposed building sites through a fifty (50) foot buffer to a wetland area. Mr. Ellis read from the zoning ordinance noting the requirement of the buffer. He referred to the enlarged portion of the plan depicting the only reasonable and feasible access to the lots from Fox Hollow Road. The proposal is for a thirty (30) foot wide shared access easement. As noted on the plan, Mr. Ellis read each of the requirements for a conditional use permit, again noting that the proposed location is the only reasonable location. Mr. Ellis provided the board with photos of the site from various locations. Mr. Ellis answered any questions from the board.

Mrs. Farnham questioned comments provided from the Conservation Commission. Mr. Kumpf read the comment from the Con Com into the record: "Based on site visit on 9/15/14, it was difficult to distinguish what is wetlands and what isn't (647 A-B-C are poorly drained soils and it seems that the proposed driveways are in the wetlands, not bordering wetlands." Mr. Ellis responded that he thought Mr. Patenaude may have been confused while on site. 647 is clearly labeled on the plan and are in the wetland areas. The proposed driveway is going in between two wetland areas. Mr. Ellis commented that he did not have the large bolder depicted on the draft plan, and that Mr. Patenaude may have had difficulty figuring out where he was. Mr. Ellis stated the driveway is not in the wetlands. If necessary, he offered to flag the proposed driveway location. Mrs. Farnham questioned what happens if there is a heavy rain or a lot of snowmelt, what is going to happen with the driveway? Mr. Ellis stated the driveway is proposed in such a way to follow as much as possible, the existing terrain. They are not altering the way water flows now. The construction of the driveway will have minimum impact and not be flooded by the wetlands. Mr. Wakefield commented the plan depicts the soils types and the topography lines.

Board members questioned the size of the lots, noting a discrepancy in the material. Mr. Ellis apologized for those discrepancies, noting they had revised the plans and did not catch all of the changes. The correct lot sizes are 2.19, 2.41 and 9.85 acres.

Ms. Margeson asked if the proposed driveway should be moved to the existing driveway for the Stephens residence, being used as the easement for the proposed new lots. Mr. Ellis replied the issue with that is that only two lots can share a driveway. Once you get to three then it becomes a different scenario of private roads and is much more major. He stated that option may be possible, but it is neither feasible nor reasonable. He also noted that that would not accomplish avoiding a buffer impact because the 50 foot buffer extends on that area as well.

Mr. Kumpf asked for input from the Planner, specifically if he was in agreement with Mr. Ellis' assessment with the confusion factor with the Conservation Commission. Mr. Woodruff commented notwithstanding the few errors in the material, this proposal has been revised a few times, which may have led to some confusion and that the information provided by the agent is accurate. Mr. Woodruff went on to state that there had been a lengthy review of the proposed minor subdivision. Noting that the "minor" meaning that these lots can no longer be subdivided again. He referred to his staff memo which noted a few issues contained in the memo, mainly noting the need for the conditional use permit for the proposed driveway. In closing he recommended the approval of the minor subdivision and conditional use permit with three conditions.

Mr. Kumpf opened the hearing for public input. Judy Ryerson, 161 Gilman Point Road, representing her husband, Keld Agnar, who is an abutter commented that they know the land very well and that they have no objection to the project. She stated that it seems to be well researched and designed and they look forward to it.

There were no further questions or comments from the Board or the public. Mr. Kumpf closed the Public Hearing.

**Motion:** Mr. Wakefield moved to approve the Three Lot Minor Subdivision Plan and Conditional Use Permit at Tax Map 89, Lot 17 for Robert and Mary Stephens, which subdivides the existing 14.45 acre Lot 17 into three lots, one new lot containing 2.41 acres, the second new lot containing 2.19 acres, and the residual lot containing 9.85 acres, with the following conditions: 1) Add Owners' signatures to the plat prior to the Chair signing. 2) The final plat be submitted to the Development Services Office in appropriate electronic format. 3) Shared access portion of the driveway should be delineated on the plat. Draft cross-access easement language should be submitted to the Planner, seconded by Mr. S. Bartlett, carried unanimously.

## VI. Informal Discussions

1. Mr. Kumpf read a memo from the Town Administrator, Carter Terenzini into the record regarding the UNH Town-Wide Meeting. It states ... "the Town Team has set 10/22 from 5:30p to 7:00+p for the Town-Wide meeting on the BRC Gym Facility Needs & Feasibility Study. I suspect there may be members of the Planning Board and those who often attend its meetings who may be interested in this. Therefore I am asking you to place an item on the PB Agenda to consider cancelling their 10/22 meeting."

Members briefly discussed the request, asking the Planner if and what was on their upcoming schedule. Mr. Woodruff noted that the deadline date for new submissions for the meeting on the 22<sup>nd</sup> is October 1<sup>st</sup>, and that no new applications have been submitted to date. Mr. Kumpf questioned rescheduling the meeting to another night in the week or to the 29<sup>th</sup>. Mr. Woodruff stated that the 29<sup>th</sup> is a work session and or a possible date for the public hearing for the proposed amendments.

**Motion:** Mr. Wakefield moved to **cancel** the October 22, 2014 Planning Board meeting. Allowing members to attend the BRC Town-Wide meeting, seconded by Mr. Charest, carried unanimously.

## VII. Unfinished Business

1. Application For and Notice of Voluntary Merger for John M. & Robin A. Kealey (219-7 & 8)(126 & 122 Black Cat Island 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 kitchen in the dwelling on 122 Black Cat Island Road has been removed.

**Motion:** Mrs. Farnham moved to approve the Voluntary Merger for John M. & Robin A. Kealey (219-7 & 8) seconded by Mr. Wakefield, carried unanimously.

2. Discussion on language for possible zoning amendments identified at 9-10-14 meeting. The three continued to this evening were proposed amendments 2, 3 & 5.

Mr. Kumpf stated the first amendment this evening was Amendment 2, relating to "D Nonconforming uses." There was a misunderstanding of what the town voted on in terms of allowing single-family structures to be expanded up to twenty (20) percent in the case of a non-conforming structure. The intent was that you could still expand into any conforming area. The Planner has suggested draft language to correct the intent.

Mr. Woodruff commented that there was discussion at the last meeting on the last paragraph of the draft language and there was some confusion. At the Boards' suggestion he added the following language "*The nonconforming portion of such addition's area footprint shall not exceed a calculation of 20% of*

*the original structure's habitable floor space, and shall not extend parallel to the applicable setback line beyond the existing nonconforming structure's exterior wall.*" After a brief review of the draft changes members were in agreement with the proposed changes.

**Motion:** Mr. S. Bartlett moved to approve proposed zoning amendment 2, 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 3 was relating to Temporary Use and as noted prior a sub-committee was formed to work on draft language for this section. Ms. Margeson stated that due to conflicting schedules the 3 members had not had the opportunity to work together and have asked for this item to be continued. She noted that the Planner had provided draft language for their review. It was suggested that the three members work on this via email, cautioning them to only correspond between the three members.

Amendment 5 was relating to limiting rental occupancy for seasonal home rentals and was discussed at the last meeting with limits based by person, by bedroom, citing septic design gallonage per bedroom. The discussion was continued to allow the Planner to research the issue further. Mr. Woodruff further researched the issues raised at the last meeting and provided draft language based on his research. He noted that "Research shows that there is no legal basis for requiring the 2 persons per bedroom limit, however research into lodging homes/seasonal rentals shows a range of maximums between 12 and 16." He commented that the number should be discussed and determined by the Board, and that Staff recommended no more than 15, and no less than 12. Members discussed the draft language with several members and a member from the public questioning how this could be enforced. It was noted that complaints could be filed with the Code Enforcement Officer. Bob Clark and Nancy Wright thought that this issue could be better addressed by requiring septic inspections or pumping of septic tanks on a regular basis. The members discussed what the maximum occupancy number should be with those ranging from the recommended 12 to 16.

**Motion:** Mr. S. Bartlett moved to approve proposed zoning amendment 5 with a maximum occupancy of 12, 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.

## **VIII. Other Business/Correspondence**

### **IX. Committee Reports**

1. Broadband – Mr. S. Bartlett briefly updated the Board noting the committee will meet tomorrow. They are in the process of completing their committee summary report, which is in draft form. It should be finalized by mid-October, for presentation to the Board of Selectmen by the end of October.

2. Mr. Woodruff noted the Lakes Region Planning Commission Executive Summary 2015 to 2020. Attached was a letter from the LRPC stating this was a draft and that on September 29, 2014 at 6:00 PM the LRPC Commissioners will be holding a public hearing to consider adoption of the plan. You may [Click here](#) to review the draft Lakes Region Plan online.

**Adjournment:** Mrs. Farnham made the motion to adjourn at 8:31 PM, seconded by Mr. Wakefield, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant