

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

Regular Meeting

November 18, 2015

Minutes

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

I. Pledge of Allegiance

The Chairman opened the regular meeting at 7:00 PM and led the Pledge of Allegiance. He then appointed Allen Hoch to sit on the board with full voting privileges.

II. Approval of Minutes

Motion: Mr. Wakefield moved to approve the Planning Board Minutes of October 28, 2015, as corrected, seconded by Mr. Quinlan, carried unanimously.

Motion: Mr. Hoch moved to approve the Planning Board On-site Minutes of November 13, 2015, as written, seconded by Mrs. Farnham, carried unanimously.

III. Citizen's Forum

IV. Hearings

1. Continuation of Public Hearing Tevis Kraft (52-18)(929 Whittier Highway)
Minor Two Lot Subdivision

The Chair stated that this was a continued hearing for a proposed Minor Two Lot Subdivision creating one new lot of 1.97 acres, with a residual lot of 6.04 acres.

Present for the hearing this evening was Naomi Praul, Project Engineer, from Nobis Engineering, Matt Casey, from the Zarembo Group and Tevis Kraft, property owner.

Ms. Praul stated the Board had continued the hearing from October 28th as there were questions regarding the cross easement being reserved for potential future development that was at the request of the Town Planner. Ms. Praul noted the applicant had worked that out with the Town.

Chairman Bartlett stated that the requested easement area could be dealt with at such time of the development of the residual lot.

Planner Woodruff recommended the subdivision be approved with one condition being that the owner sign the plat prior to the Chairman's signature.

The Chair stated that this was an application for a minor subdivision, noting that the residual 6.04 acre +/- lot cannot be further subdivided in the future.

Motion: Mr. Wakefield moved to approve the Minor Two Lot Subdivision for Tevis Kraft, Tax Map 52, Lot 18.

The Chair asked that Mr. Wakefield hold his motion for a moment as he did not open the hearing for public input. Mr. Wakefield withdrew his motion at this time.

The Chair asked if there were any questions from the public at this time as it pertained to the minor two lot subdivision.

Joanne Coppinger asked how the cross access easement was ironed out with the Town. The Chair replied that they have chosen not to make that a requirement on the subdivision application. They will deal with it if and when a site plan development plan comes in for the residual parcel in the future.

Justin Chapman requested clarification of the Chair's response, asking if there will be a cross access easement at that time should the residual six acres be developed. The Chair stated should it come before the Planning Board as a proposed site plan development, yes they will seek that same condition at that time. Once they know what the use will be on the property. Mr. Chapman asked if the development of the 2 acres would impact how they would be able to access the residual 6 acres? Shouldn't it be planned for at this point? The Planner replied that there is an access ROW. There is an access easement from the 2 Acre lot to the residual 6 Acre lot. Ms. Praul identified the access easement area on the plat.

Abutter Lisa Randall questioned the zoning on the residual 6.04 Acre lot. It was noted that that lot is in all three zones, Residential/Agricultural, Commercial Zone A and Commercial Zone C.

Tara Shaw asked what was wrong with the lot across from Dunkin Donuts? Stating we already have a commercial area. The Chair replied that the applicants have submitted an application for this location and that is what they must act on. Ms. Shaw stated that nobody is happy in this town. Mr. Wakefield replied then they should stand up and vote in some zoning ordinance changes when proposed by the Board.

Tim Moore, 95 Bear's Nest Trail, questioned what the village district was and how was this proposal legal to be in this district? Does the town have architectural standards they must comply with for the village district? Mr. Moore stated that he was opposed to this type of construction in this area as it doesn't seem to fit. Planner Woodruff responded that the bulk of the development is the Commercial A District, and not the Village C District. It is a split zone lot and more than 4/5ths of the lot is in Commercial A District and it meets all of the requirements of that district. The Town of Moultonborough does not have any architectural standards. They have what are defined as architectural guidelines. They are not mandatory. He believes they should be. The Planning Board may waive any of its own requirements for a good cause, justified by an applicant.

Justin Chapman mentioned that perhaps part of the confusion and frustration is on the side of the citizens of the Town. They all know that there is a village district, and if they were asked where's the village nobody would have thought that it ended at the central school. Why is the board trying to make this subdivision work when everyone is alarmed that this is allowed so close to the village? He understands that it is their fault for not knowing where the zones are. He thanked the board for volunteering their time to serve on the boards and appreciate that they do. He asked if he were to start a petition to change the zoning, to expand the village district 1,000 feet to the west, and have it ready for this town meeting, would that slow this project down and allow the people of this town to actually weigh in on whether or not they think the village ends there? Or is that too late? The Chair replied that he was sorry to say that it's too late. Chairman Bartlett noted that they judge any application based on the current zoning that's in effect. The zones have been in effect since the early 2000. He further noted that based on the Village Vision Report and a number of other studies that the Master Plan is being looked at very carefully to perhaps re-identify subsequently some different size zones. The Master Plan will have a clear outline of the vision of what the village should be as we look forward ten, fifteen, twenty years. Unfortunately, since

this is the application before us, it will be judged on the zoning requirements that are in place and all the rules and regulations that pertain there too in effect as of the date of the application when it was accepted. Mr. Chapman noted Mr. Wakefield's frustration that there isn't any language regarding the ROW and there seems to be a willingness to ignore that until some future date. It seems like they are making a decision to allow this to happen and will worry about whether or not the rest of the lot can be accessed down the road. It was noted for the record that there is access for the residual portion of the lot over the proposed 1.97 Acre lot.

Jim Hoburg, 202 Lees Mill Road, started with thanking the board for their service. He then noted that he had "Googled" Dollar General to learn about them and it seems like they are a great organization. He then Googled Zaremba Dollar General, noting that it was different. He read headlines of articles that popped up from his google search. He noted several from the north east and Georgia. In his opinion Zaremba is bad news for Moultonborough, stating that people of the community hate it and that the Board needs to recognize that and not simply rationalize that they've done what the board asked them to do.

Sheryl Moore, 95 Bear's Nest Trail, asked if the land is multi-zoned, commercial, residential, what laws do they follow? She also questioned if there has been a traffic study done, noting her concerns for the safety of youths of the community being in close proximity of the school and daycare center. Planner Woodruff replied that it is a multi-zoned lot. The Moultonborough Zoning Ordinance says that you have to follow the rules and regulations in that part of the lot in that zoning district. If the rules are easier in one zone or harder in another zone in a split zone lot, other zoning ordinances talk about using the harder zoning regulations throughout the whole lot, in Moultonborough it's absolute. You have to follow the commercial rules in the commercial zones and you have to follow the residential zones in that part of the lot that's in the residential zone. There was a traffic study done and the results were given to the Planning Board members. The TRC was interested in the safety of the students and people crossing the road and have made recommendations to the Planning Board. The NH DOT has reviewed the traffic counts.

Patricia Roy commented that she didn't understand the easement. She stated that she is a school bus driver who enters and exits Blake Road daily noting that she felt this would be dangerous for the students. There is no sidewalk for the kids to walk on. This will add more traffic that will be more of a danger.

Mr. Wakefield asked that the public not take his concerns out of context here, stating that he is concerned only with the subdivision right now. The site plan is a separate application. In his mind he feels that there is a catch-22 here and one affects the other. NH DOT is telling them that they need to create an easement for the residual lot. He doesn't like that the DOT is "planning" our town. Matt Casey of the Zaremba Group clarified that the DOT has recommended the approval of the location of the access and they had to grant access to the remainder of the lot. There is an easement a portion of the lot that Dollar General will own. It will be reciprocal between the two lots. The easement will already be in the title/deed. When the residual lot is developed, the easement will already be in place.

Lindy North, 43 Greenes Basin Road noted her concern that the traffic study was done without taking into consideration what may be on the residual lot so there is potential that there could be two large commercial operations across from the school.

Kelly Marsh, 489 Whittier Highway, questioned the width of the easement from proposed Lot 18.1 to the residual Lot 18. Ms. Praul stated that it is 65 feet in width.

Paul Driscoll, 26 Shaker Jerry Road, commented that the traffic study was done not knowing what the use will be on the residual lot and questioned how could you know if it will create too much traffic? The Planner replied that the board could require another traffic study at the time of future development.

Jim Hoburg questioned who did the traffic study. Ms. Praul stated that the study was completed by VHB, a professional traffic engineering firm with an office in Bedford, NH. Mr. Hoburg then questioned the

validity of the study as it was prepared by a firm which was paid for by the applicant. The Planner replied that the he has reviewed the study as well as NH DOT. The applicant does not pay the firm to say what they want as NH DOT would not let that happen.

Justin Chapman noted that there is a police officer at the intersection 1 ½ to 2 hours a day and he does not feel that this is a healthy change. The Planner noted that the Police Chief has indicated that they still would have an officer at the intersection.

Kelly Marsh noted her concerns about the 65' ROW and the ability for a fire truck being able to maneuver onto the residual lot.

Patricia Roy asked if there will be a turning lane or sidewalk in front of the two lots? The Chair replied that there is a sidewalk on the site plan submitted for by Zaremba for the Dollar General property. There are two exits lanes (one right, one left) and one lane turning in off of Route 25. There is no turning lane on Route 25.

There being no further questions from the board or the public at this time, Mr. Bartlett closed the public hearing.

Motion: Mr. Quinlan moved to approve the Minor Two Lot Subdivision for Tevis Kraft, Tax Map 52, Lot 18 with the following conditions: 1. The owner sign the plat prior to the Chairman's signature; 2. Property bounds shall be set prior to the Chair signing the plat. 3. That the final plat be submitted to the Development Services Office in electronic format to include both a pdf and an approved cadd file format, seconded by Mrs. Farnham, Motion passed 6 to 1, with Mr. Wakefield opposing.

2. Continuation of Public Hearing Zaremba Program Development, LLC on behalf of Dollar General (52-18.1)(929 Whittier Hwy)
Site Plan Review and 2 Conditional Use Permits

The Chair stated that this was a continued hearing for a proposed site plan review for Zaremba Program Development, LLC on behalf of Dollar General for a parcel located at 929 Whittier Highway, for new lot Tax Map 52, Lot 18.1.

Matt Casey, from the Zaremba Group was present this evening. Also present was Naomi Praul from Nobis Engineering and the property owner Tevis Kraft. Ms. Praul briefly updated the board with what had happened since the last meeting on October 28th. There was a site walk on November 13th. In response to some requests that were made at the meeting on the 28th, they have revised the architectural rendering to reflect shorter cupolas, black faux windows with white mullion and black shutters. They have reduced the height of the light poles to fifteen (15) feet, increasing the number of poles to six (6), with some having double light heads on the pole. Ms. Praul provided cut sheets of the parking lot lighting. Ms. Praul explained the cut off technology which must comply with the requirements of the ordinance. There are wall pack lights on the building. They have updated the proposed bike rack so that it will now hold four bikes, expanding the gravel pad under the bike rack. There was a question regarding the stonewall along the frontage of the property. As indicated at the prior hearing there are sections of the wall that will have to be taken down in order for access and to tie down the contours to get the grade for the driveway. Any portion of the wall that is there now will either remain in place or will be reconstructed with the exception of what is needed for vehicles and pedestrians to get through.

They have received their response from NH DOT. They have evaluated all of the traffic information which was provided to them. DOT has indicated that in addition to the pavement markings and signage that had been proposed at the crosswalk location, they are also requiring a Rectangular Rapid Flashing Beacon (RRFB). Members had been provided with an illustration of a RRFB with a brief description of

the RRFB. Ms. Praul stated these will be placed at either end of the crosswalk. She went on to explain how the RRFB's work.

Ms. Praul stated the last remaining item was the Conservation Commissions concerns as noted at the prior meeting. They have responded in writing to the Con Com. These comments were provided to the members with Ms. Praul briefly highlighting their responses.

Planner Woodruff noted that in order for the board to approve the application as submitted, it would require a waiver of the required number of parking spaces. The applicant is proposing thirty (30) where thirty-five (35) are required by calculations using the table in our regulations. Staff recommends the granting of this waiver as they would like to see fewer parking spaces. A Conditional Use Permit (CUP) is needed for the front area where the leach field and sidewalk is proposed where site review regulations require a 25-foot vegetated buffer unless a CUP is granted by the Board. Staff recommend granting the CUP for reduction of the 25-foot buffer. Third a Conditional Use Permit is required by the Groundwater Protection Overlay district regulations. Staff recommend granting the CUP.

Staff recommend approval of the site plan, Conditional Use Permits and the parking requirement waiver, with the eight conditions: 1. The owner signs the plat after PB approval. 2. The plan adds two (each side) faux dormers within the first half of the roofline nearest the road frontage to break up the long (roof) line of the building to more closely look like the form and massing of village buildings to more closely identify with the vision expressed in the Master Plan and Village Vision Report. 3. The SWPPP be submitted to the Development Services Office prior to issuance of the building permit. 4. Add permit numbers to final site plan notes 5, 10 & 11 prior to the Chair signing the plans. 5. The developer install a push button activated Rectangular Rapid Flashing Beacon as a safety device for the proposed crosswalk and designed lighting per FHWA guidelines for midblock crosswalks in accordance with the directive from NHDOT. (The Board should also know that the Town would also have to sign a Maintenance Agreement with the NHDOT and recommends this be done.) 6. That the developer add 3" of construction gravel to the drive surface, grade and compact Moulton Drive from NH Rte. 25 to the culvert area. 7. Revise the site plan to relocate the access right of way stub farther away from the driveway intersection with NH Rte. 25. 8. A requirement for an annual report (July 1st) to the Development Services Offices shall be added to a storm water management agreement. Said agreement shall become part of this approval. The Planner stated that it was the decision of the Board as to how many of the conditions that they would like to place on this development application. The suggested conditions can be broken down into two categories. Category one is to do with public safety, noting there are two of them that are very important with regard to public safety and he feels without them they could deny the application. These two are numbers 5 and 6. Mr. Woodruff explained his recommendation for #6, noting the construction that will occur replacing the culvert pipes. Moulton Drive is a privately maintained road that currently is not winter maintained but there are four homes out back. The road is in poor shape today. The suggested condition is to ensure that the road doesn't get any worse. Proposed conditions #3 and #4 are to be noted and the permits submitted to become part of the file. Proposed condition #8 is for the stormwater management activity. The Planner went on to say another suggested condition that came up at the site walk from NH DOT was that the access roadway stub be moved back from the driveway intersection. There are a few conditions that have to do with public welfare and how the community feels about itself when it goes up and down the road. Does this Building fit here? That is the reason why he has recommended #2. He asked that the board deliberate on the suggested dormers as it makes the building more closely conform with the form and massing of other village buildings.

As a point of clarification, Chairman Bartlett noted that the applicant has identified the RRFB as part of the crosswalk assembly and asked if that was what they were prepared to supply. Mr. Casey stated yes. That was what was reviewed by DOT and that is what they've submitted. The Chair stated that in the detail of the RRFB there is the ability to connect it to be accessed remotely by the police. This is called "Blink Link" and would be web based. This would be in addition to the push button on each end of the crosswalk. This would be an additional measure of safety for the police officer that would be on duty at the intersection. He went on to request that the developer research the technology for remote access.

The Chair asked for questions from the Board at this time.

Mr. Wakefield commented that he would like to see the remote access ability via a hand held fob. Mr. Wakefield had a comment regarding the sheet flow onto the down grade abutting property. He noted they were not able to walk the abutting properties as they did not have permission. He asked Ms. Praul if the water was a very defined course or was it a spread. She pointed to the basic centerline of the flow, but noted that there are pockets of wetland areas that exist on all of the down grade abutting properties. Mr. Wakefield noted that he and a few others walked down Moulton Drive and it was clear that there is only a couple of inches of gravel over the culverts to be replaced. It will require additional gravel to avoid having a hump over the culvert. Mr. Wakefield voiced his concern with the suggested relocation of the access easement, noting in his opinion it is taking value out of the residual lot.

Remaining comments from the Board were limiting the time for deliveries, no overnight parking, limiting idling of trucks to five (5) minutes, installation of oil/water separators in the catch basins, no merchandise or signage outside, snow storage/removal, faux dormers, installation of gravel or performance bond in lieu of installation until such time it is determined by the Road Agent what is necessary or it being hinged to the issuance of a certificate of occupancy.

The Chair opened the hearing for Public input.

Kelly Marsh questioned the grade and slope of the sidewalk and crosswalk, noting it should be ADA compliant.

Peggy Hoburg questioned the signage on the building as well as the road sign. Ms. Praul referred to the illustrations included with her presentation. She questioned the need to reduce the required 25' vegetated buffer. It was noted this was a suggested conditional use permit in order to accommodate the Board's preference for a sidewalk on the property.

Jim Hoburg questioned who will enforce the of conditions of approval. The Chair stated any violation of conditions placed by the Board that are presented in writing to the Code Enforcement Officer (CEO) will be reviewed and dealt with administratively. The Planner noted that the nuclear option if you don't get compliance would be to bring this back to the Planning Board for a compliance hearing. The Board could revoke the site plan approval if they do not get compliance with the site plan or its conditions. The CEO does investigate all such things and this is an ongoing thing.

Joanne Coppinger commented regarding the request for the CUP for the 25' vegetated buffer. She has suggested that the Board require the vents for the septic system be remotely located and hidden. Not right up against the road as they are ugly, her concerns are aesthetics. The Planner stated that he has interpreted the zoning ordinance to allow the CUP request for the 25' vegetated buffer and noted the Board has waived the buffer on other developments and the precedence for doing this has been set.

Elizabeth Morin, 903 Whittier Highway, stated her concerns with the culverts on Moulton Drive, the sidewalk and possible water runoff contaminating her well.

Lisa Randall had a questioned regarding the site clearing, asking if they will be clearing the whole lot. If they are clearing the whole lot how will that impact the groundwater.

Cristina Ashjian noted a few points for clarification: state regulations limit truck idling to five minutes, Oil separators are presently at the site at the top of Ossipee Park Road and should be a part of the maintenance plan, and inspected, and she questioned the security lighting, asking if it will be on permanently after hours or will it be motion sensor lighting?

James Randall questioned if the residual 6.04 Acre parcel would be clear cut to make it more attractive to a potential buyer for another commercial business. Ms. Kraft replied the lot is for sale and she has no idea who will buy it, but she certainly has no plans to clear cut it at this point in time.

Tim Moore had a question regarding the pylon road sign, asking if there was a separate permit for it, asking if they could at least deny that? It was noted the sign as proposed does meet the sign ordinance.

Patricia Roy questioned who will clear the snow on the sidewalks as when there was a previous discussion about constructing sidewalks in town they were told that the town would have to buy special equipment to keep the sidewalks clear. It was noted the proposed side walk spans Dollar Generals property and is on the inside of the stone wall.

Marie Samaha, Chair of the Conservation Commission, questioned the lighting, noting she had a question regarding the lighting disturbing the wild life. What is the radius of the lighting? She also questioned which wild life map was used to verify the wild life habitat area for Berry Pond and Garland Pond. Last asking if the 18" pipe under the parking lot emptied into the detention pond or just past the building near the stonewall? Ms. Praul indicated that she had used page 22 of the maps which Ms. Samaha had provided her. And, that the 18" pipe does not go into the detention pond. This is channeling water from up gradient area, not from their site. There is an outlet at the property line with a proposed rip rap area to slow down and spread out the flow before discharging it.

Wendy Smith inquired if there had been an environmental study done. It was noted that this was not required.

Justin Chapman noted his concerns with the pylon signage. A brief discussion ensued regarding pylon signage and monument signage with the Chair asking the applicant if they had other sites with a monument type sign. Mr. Casey stated yes that they have two poles, with a stone wall or planter type option. Their concern is with sight distance, viewing and sight safety. The Board has requested a rendering or photos of monument signage verses pylon signage.

The Board also requested the applicant provide them with an architectural drawing showing dormers so that they may compare it to the drawing showing the cupolas.

Tara Shaw stated that when this project was first started she brought in a hand written petition with a lot of signatures. She has reinstated her online petition and has received about 100 more signatures. She provided the Chair with a sheet with some of the comments that have been submitted. The Chair asked if these could be submitted electronically. It was noted the prior petition was received by the Zoning Board and that this is the first submittal to the Planning Board. Chairman Bartlett replied he does appreciate the input and the board would be happy to look at the comments. Noting again, if the form, fit and function complies with the zoning regulations as they are written today, they don't have to many alternatives. Ms. Shaw went onto voice her opinion on finding individuals to fill the jobs this will provide, feeling that the state allows many to just "live off the state". She listed several area businesses and once again she asked why do we need another store in Moultonborough. The Chair replied that is not the purview of the Planning Board. The purview of the Planning Board is to interpret the zoning regulations and make sure that there's compliance for safety reasons, aesthetics as best they can, and for the overall welfare of the community. He stated that this is a viable application and doesn't know how many times he can say that. It appears on the surface to have the basic criteria for use and it is an allowable use in that zone. It's their business decision whether they want to invest in the community and hopefully have a profitable business. Ms. Shaw asked if "their say" meant nothing. They have over 300 signatures saying "Don't let them in". Chairman Bartlett replied the "Don't let them in" results in litigation.

There being no further questions from the public at this time, Mr. Bartlett closed the public input portion of the public hearing at this time, turning it back to the board for deliberation.

The Board reviewed each of the items contained in the November 13th Memorandum from Nobis Engineering, the Town Planners staff memo of November 16th, as well as items that were brought up during this evenings meeting. After a lengthy discussion it was the decision of the board to continue the hearing to December 9th, 2015 to allow the applicant to make revisions to the plan and to provide the board with further information as requested. These included addressing the gravel issue for the culverts on Moulton Drive with either a performance bond, or tying it to the issuance of the certificate of occupancy, rendering of faux dormers verses cupolas, rendering of monument signage, shifting all elements of the project an additional 25' back from Route 25, installation of oil/water separators in the catchment basins, low application rate of salt for the parking lot, ADA compliant crosswalk (NH DOT?), installation of remote access for the RRFB, and to include the following conditions: no overnight parking, limit length of truck idling to five (5) minutes, no deliveries between the hours of 7-8:30 am and 2-3:30 pm while school is in session, no display of outdoor merchandise or display racks, no outdoor signage, pole lighting to be turned on or off not more than 30 minutes prior to or past store hours, and BoS to approve ground signage or pylon signage.

Motion: Mr. Quinlan moved to table the application for Site Plan Review for Zarembo Program Development, LLC, Tax 52, Lot 18.1 and to continue the public hearing until December 9, 2105, seconded by Mrs. Farnham, carried unanimously.

V. Master Plan

VI. Other Business/Correspondence

1. The Planner noted the workshop on December 9th, starting at 6 PM. The workshop is in regards to the State's Landing Beach, Boat Ramp and Park Design project. Moving the concept plan to something that is more realistic. A more final plan design that can come back to the board for their review and a public hearing for the public. There have been approximately 104 invites mailed out, along with dozens of email invitations that included the notice, the invitation, and the latest concept plan. People that are interested and want to be stakeholders should come to the work shop on December 9th and work with the board towards a final design.

2. Planning Board 2016 Meeting Dates - The Board was provided with a draft of the 2016 meeting dates. Members reviewed the dates and the Board agreed to cancel the November 23rd meeting as shown.

Motion: Mr. Wakefield moved to approved the Planning Board 2016 meeting dates as presented, cancelling the November 23rd, 2016 meeting, seconded by Mr. Hoch, carried unanimously.

3. The Chairman noted that he provided the members with a PowerPoint presentation that both he and the Planner had presented to the Board of Selectmen last week. This was to bring the Selectmen up-to-date on the Master Plan regarding housing. The presentation was a summary of where we are, where we're heading and some of the underlining justification. The BoS has asked that they make things happen quicker, but the underpinning has to be the Master Plan and then you can start talking about changes to the zoning ordinance.

VI. Adjournment: Mrs. Farnham made the motion to adjourn at 10:38 PM, seconded by Mr. Hoch, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant