

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

**Organizational Meeting and Regular Meeting**

**March 23, 2016**

**Minutes**

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

**I. Pledge of Allegiance**

As senior member, Mrs. Farnham called the annual organizational meeting to order at 7:01 P.M. with the members then introducing themselves.

**II. 2016 Board Organization – Election of Officers and Review of Policies and By-Laws**

Mrs. Farnham stated that this was their annual organizational meeting to elect their Officers and review their Policies and By-laws. Mrs. Farnham called for nominations for Chairman.

**Motion:** Mr. Quinlan moved to nominate Scott Bartlett as Chairman, seconded by Mr. Wakefield.

There being no further nominations for Chair, Mrs. Farnham called for a vote on the motion on the floor. The motion was unanimous.

Chairman Bartlett then opened the floor for nomination for Vice-Chair.

**Motion:** Mr. Wakefield moved to nominate Rich Kumpf as Vice-Chairman, seconded by Mr. Quinlan.

There being no further nominations for Vice-Chair, Chairman Bartlett called for a vote on the Motion on the floor. The motion was unanimous.

The Chairman continued with the organizational meeting. Planner Woodruff stated that there were various committee's that the Planning Board needed to appoint a Planning Board member to be the representative. Mr. Bartlett is currently the representative on the Conservation Commission and he volunteered to remain on the Conservation Commission. Mrs. Farnham is currently the representative to the Capital Improvements Program Committee (CIPC) and she volunteered to remain on the CIPC. Mr. Quinlan is currently the representative on the Master Plan Steering Committee (MPSC) and he volunteered to remain on the MPSC. It was noted that the Master Plan Implementation Committee (MPIC) was currently in hibernation, noting they may be needed again once the new chapters are adopted.

Board members had been provided with a copy of their policies which were approved in 2015. Mr. Bartlett asked if anyone had any comments. Mr. Larson referred to Section VIII. A. Conflict of Interest. He stated that in his profession he deals with many clients that may come before the board at various times, asking if the board had any concerns with him sitting as a voting members on such applications. The Planner commented that the statute was clear regarding this, and that ultimately it was up to the individual member if he or she should step down for a particular hearing.

There was no further discussion or changes made to the policies.

**Motion:** Mr. Bartlett moved to approve the Policies of the Moultonborough Planning Board as written (dated 4/22/15), seconded by Mr. Quinlan, carried unanimously.

The Chair welcomed Norman Larson and Rich Thorman to the board. He then stated that he had written a letter of appreciation to Mr. Charest for his service on the board. Mr. Bartlett read the letter into the record.

### **III. Approval of Minutes**

**Motion:** Mrs. Farnham moved to approve the Planning Board Minutes of March 9, 2016, as written, seconded by Mr. Hoch, carried unanimously.

**Motion:** Mrs. Farnham moved to approve the Planning Board Work Session Minutes of March 15, 2016, as corrected, seconded by Mr. Quinlan, carried unanimously.

### **IV. Citizen's Forum**

#### **V. New Submissions**

##### **1. MBDonahue Revocable Trust (128 - 4 & 15) (Olympia Street and Conte Drive) Boundary Line Adjustment**

The Chair stated that this was a request for a boundary line adjustment and asked the Planner if the application was in order for acceptance and scheduling of a public hearing by the board for this evening.

The Planner referred to his staff memo stating that the boundary line adjustment (new lot line) results in no zoning nonconformities as to setbacks since there are no existing buildings on either lot. This action results in the net reduction in nonconformities from one to zero, and therefore does not require any ZBA action. He noted that the applicant has requested waivers as outlined in their waiver request letter, dated February 19, 2016, from several requirements for subdivision plats. The waivers from having to depict wetlands, topo, soils and slopes calculations, and off-site geographic facts appear to be reasonable given the fact that the two lots are lots of record and are not now being created by subdividing. The Planner has recommended that the Board accept the boundary line application as complete (with waivers) and hold the Public Hearing.

Mr. Larson noted his concern with waiver request. It is his understanding the reason for the requirements for a wetlands delineation and soils and slope information is that it protects the town from developing in areas that should not be encouraged because of poor soils conditions. He questioned if the application was complete. The Planner replied that it has been the Boards' practice to accept the application, accept the waivers conditionally to hear about them. The Planner recommends that you grant the waivers as these two lots already exist. They are lots of record, where one is very small and is going to get a lot larger, and the non-conformity is getting less. The other lot is large and when it gives up land to the small lot, you will have two more nearly conforming lots. You cannot take away the fact that the lots already exist. There are two lots of record which may be developed, and the reason for seeking the calculations for soils and slope is moot.

**Motion:** Mrs. Farnham moved to accept the application of the MBDonahue Revocable Trust (128-4 & 5) (Olympia Street and Conte Drive), grant the waivers from Section 4.3 A (3), (5), (10) and (12), for the purposes of acceptance only and to schedule a hearing for this

evening to be Boundary Line Adjustment #1, seconded by Mr. Kumpf, carried unanimously.

2. Henry Z. Hardaway Jr. and Henry Z. Hardaway Jr. & Maureen R. Hardaway (128-40 & 41) (Casanna Street, Wintersport Street and Jungfrau Street) – Boundary Line Adjustment

The Chair stated that this was a request for a boundary line adjustment and noted the waiver request letter, dated December 17, 2015, from Section 4.3 A (3), (4), (5) and (11) of the Subdivision regulations to not depict wetlands, topo, soils & slopes info, setbacks, sewer & water lines, complete parcel boundaries, or prepare unit density sheets, and that the application was in order for acceptance and scheduling of a public hearing by the board for this evening. The Planner has recommended that the Board accept the boundary line application as complete (with waiver) and hold the Public Hearing.

**Motion:** Mr. Wakefield moved to accept the application of Henry Z. Hardaway Jr. and Henry Z. Hardaway Jr. & Maureen R. Hardaway (128-40 & 41)(Casanna Street, Wintersport Street and Jungfrau Street), grant the waivers from Section 4.3 A (3), (4), (5) and (11), for the purposes of acceptance only and to schedule a hearing for this evening to be Boundary Line Adjustment #2, seconded by Mrs. Farnham, carried unanimously.

## VI. Boundary Line Adjustments

1. MBDonahue Revocable Trust (128 - 4 & 15) (Olympia Street and Conte Drive)  
Boundary Line Adjustment

David M. Dolan of David M. Dolan Associates, PC presented the application for the boundary line adjustment. Mr. Dolan stated that the properties are both located in and were created as part of the “Suissevale” subdivision, in 1967. Tax Map 128 Lot 4 consists of what were originally eight separate “Suissevale” lots which are now merged as one lot having total area of approximately 2.13 acres, and road frontage on Olympia Street (247.94’) Conte Drive (221.19’) and Governor Wentworth Highway (290.65’). Tax Map 128 Lot 15 consists of a single original “Suissevale” lot having a total area of 11,505 square feet, and road frontage on Olympia Street (79.02’).

The properties are zoned for single family residential use, with individual on-site sewage disposal systems, but are undeveloped at this time. Community water service is located along Olympia Street, and is available to both properties.

As the lots were created prior to the current Zoning Ordinance Minimum Lot Size Requirements based on soils and slopes, and are therefore ‘grandfathered’ as to the soils and slopes lot size requirements.

The application is for the transfer of 40,400 square feet of land from Tax Map 128 Lot 4 to Tax Map 128 Lot 15. Both properties are existing lots of record and no new lots are being created. Mr. Dolan answered any questions from the board.

The Chair asked the Planner for his input on the proposed boundary line adjustment. Mr. Woodruff had nothing to add to his staff memo recommendations.

Mrs. Farnham questioned where they would access the lots. Mr. Dolan replied the access to Lot 4 is contemplated off from Olympia and post boundary line adjustment given the most desirable building area on Lot 15, the access would be off of Conte Drive.

Mr. Larson comment was in regards to his prior comment regarding wetlands. While he doesn’t need to see soils and slope and wetland delineation per say, but the thing he would like to be is confident

that the lot that is getting smaller is not becoming the kind of lot that is eligible to be developed, even though it has no good soils, and no good wetlands. He was wondering in the absence of an actual wetlands delineation can the board ask that the owner agree that no future waiver from the requirements of complying with the requirements of setbacks from wetlands and from soils and slope for getting a septic system on the property will be asked for.

There were no further questions from the Board. The Chair opened the hearing for public input, it was noted there was none. There being no questions or comments from the Board or the public, the Chair closed the Public Hearing.

**Motion:** Mr. Quinlan moved to approve the Boundary Line Adjustment Plat for Tax Map 128, Lot 41 and parcel Tax Map 128, Lot 40 at Casanna Street, Wintersport Street and Jungfrau Street, respectively, for Henry Z. Hardaway Jr. and Henry Z. Hardaway Jr. & Maureen R. Hardaway which conveys an area of 0.380 acre from Tax Map 128, Lot 41 to adjacent parcel Tax Map 128, Lot 40 resulting in Lot 41 area becoming 1.683 acres +/-, and Tax Map 128, Lot 40 area becoming 1.087 acres., with the following conditions: 1. Add a note that requires moving the shed out of the right-of-way at such time as a building permit for Lot 41 is applied for; 2. Set the new boundary pins prior to the Chair signing the plat; 3. Add Owners' signatures to the plat; 4. Add the surveyor's seal and signature to the recordable Mylar prior to the Chair signing; 5. The final plat be submitted to the Development Services Office in appropriate electronic format. 6. Submit executed deeds for recording with all recording costs at the time of recording the plat, seconded by Mrs. Farnham, carried unanimously.

2. Henry Z. Hardaway Jr. and Henry Z. Hardaway Jr. & Maureen R. Hardaway (128-40 & 41) (Casanna Street, Wintersport Street and Jungfrau Street) – Boundary Line Adjustment

David M. Dolan of David M. Dolan Associates, PC presented the application for the boundary line adjustment. Mr. Dolan stated that the properties are both located in and were created as part of the "Suissevale" subdivision, in 1967. Tax Map 128 Lot 41 consists of what were once several separate "Suissevale" lots which were merged and re-subdivided in 1990 into a lot having a total area of approximately 2.07 acres, and road frontage on Casanna Street (396.35') and Jungfrau Street (323.68'), although the Jungfrau Street is unimproved along the frontage of Lot 41. Tax Map 128 Lot 40 consists of three original "Suissevale" lots merged to have a total area of 30,775 square feet. Lot 40 has improved road frontage on Casanna Street (approximately 60'), and road frontage both Wintersport and Jungfrau Streets, only a portion of which is along an improved portion of those streets.

The properties are zoned for single family residential use, with individual on-site sewage disposal systems, but are undeveloped at this time. Community water service is located along Casanna Street, and is available to both properties.

As the lots were created prior to the current Zoning Ordinance Minimum Lot Size Requirements based on soils and slopes, and are therefore 'grandfathered' as to the soils and slopes lot size requirements.

The application is for the transfer of 16,565 square feet of land from Tax Map 128 Lot 41 to Tax Map 128 Lot 40. Both properties are existing lots of record and no new lots are being created. Tax Map 128 Lot 40 is presently non-conforming as follows: Existing Non-conformities: 1. Lot Area of 30,775 Square Feet; (40,000 required).

The proposed Boundary Line Adjustment would eliminate the aforesaid non-conformity by increasing the size of Tax Map 128 Lot 40 to "... no less than 40,000 square feet ..." as required per the

Moultonborough Zoning Ordinance (Article III Paragraph A), and result in no increase in net density. Mr. Dolan answered any questions from the board.

The Chair asked the Planner for his input on the proposed boundary line adjustment. Mr. Woodruff had nothing to add to his staff memo recommendations.

There were no further questions from the Board. The Chair opened the hearing for public input, it was noted there was none. There being no questions or comments from the Board or the public, the Chair closed the Public Hearing.

**Motion:** Mr. Quinlan moved to approve the Boundary Line Adjustment Plat for Tax Map 128, Lot 41 and parcel Tax Map 128, Lot 40 at Casanna Street, Wintersport Street and Jungfrau Street, respectively, for Henry Z. Hardaway Jr. and Henry Z. Hardaway Jr. & Maureen R. Hardaway which conveys an area of 0.380 acre from Tax Map 128, Lot 41 to adjacent parcel Tax Map 128, Lot 40 resulting in Lot 41 area, becoming 1.683 acres +/-, and Tax Map 128, Lot 40 area becoming 1.087 acres., with the following conditions: 1. Add a note that requires moving the shed out of the right-of-way at such time as a building permit for Lot 41 is applied for; 2. Set the new boundary pins prior to the Chair signing the plat; 3. Add Owners' signatures to the plat; 4. Add the surveyor's seal and signature to the recordable Mylar prior to the Chair signing; 5. The final plat be submitted to the Development Services Office in appropriate electronic format; 6. Submit executed deeds for recording with all recording costs at the time of recording the plat, seconded by Mrs. Farnham, carried unanimously.

## **VII. Hearings**

## **VIII. Planner Comments**

The Planner noted that next week is a "5<sup>th</sup> Wednesday" and that the Board has scheduled a work session beginning at 6 PM. There will be continuing discussions on the following Master Plan Chapters, the Vision Chapter, the Land Use Chapter and a first review of the Transportation Chapter.

The Chair noted that this will be the Planner's last official meeting.

## **IX. Other Business/Correspondence**

Review of the following draft amendments to the Zoning Ordinance:

**A. The Draft Village Plan Alternative Subdivision Overlay District draft was discussed by the Board. The Planner stated that at their last meeting on March 9<sup>th</sup>, the Board had completed their review of the remainder of the document, as well as revisiting a few sections previously discussed. The Planner made the changes as requested by the Board on March 9<sup>th</sup>. Discussion ensued regarding minimum lot area. The Chair suggested language change to section IV.B, striking "existing land use regulations" and adding "this article and the underlying zoning ordinance requirements". Members were in agreement with this change. There being no further changes to the draft VPA, the Chair called for a motion to accept the document, with the changes noted, and move it forward for public hearing.**

**Motion:** Mr. Quinlan move to accept, with modifications, the Village Plan Alternative Subdivision Overlay District dated March 16, 2016 and post for Public Hearing on November 9, 2016, seconded by Mrs. Farnham, carried unanimously 7 to 0.

**B. Accessory Dwelling Units** – The Chair stated that he has had a few discussions with the Planner on this draft, receiving some clarification. A few members attended the ADU workshop, hosted by Plan NH, held on March 17<sup>th</sup>. At their prior meeting, the Board had asked that the Planner obtain a legal opinion on language contained in the statute regarding limitation on the size. The Planner replied that after several emails with Town Counsel, he got a legal opinion that the draft before the Board is in line with the statute that was signed by the Governor.

A discussion ensued regarding if the description for Rental Unit should be added back into the document. After a lengthy discussion it was the decision of the Board to reinsert into the Definitions, B. “Rental Unit” means non ownership including long term lease ownership. Additionally, on page 3 Additional requirements. B adding “Only one unit can be used for rental occupancy” to the existing sentence. For consistency in the document the reference to Accessory dwelling residence will be changed to be Accessory dwelling unit. There was a brief discussion regarding the maximum size an ADU, with no changes made to the draft.

There being no further changes to the draft ADU, the Chair called for a motion to accept the document, with the changes noted, and move it forward for public hearing.

**Motion:** Mr. Quinlan move to authorize the Planner to revise the language as amended and vote to hold the required Public Hearing on November 9, 2016, seconded by Mr. Wakefield, carried unanimously 7 to 0.

The Chairman noted that the Board will begin a review of the Mixed Use draft ordinance at their meeting on April 13<sup>th</sup>.

A procedural question was asked regarding what takes place after the Public Hearing on November 9<sup>th</sup>. It was noted that after the required Public Hearings a vote would be taken to forward the proposed amendment(s) on to the Board of Selectmen to be included on the ballot as a warrant article to be voted on in March of 2017.

Mrs. Farnham noted her concerns with the recently approved hot dog vending cart to be placed next to the Country Store. The Planner commented that this was a use granted by the ZBA and if she wished she may appeal that decision. It was approved as a limited temporary use special exception. The town does not have a hawkers & peddlers license and this is the only avenue someone has if they want to do things like this in Moultonborough. The ZBA granted an approval with conditions. If they violate the conditions the approval may be rescinded. If Mrs. Farnham feels she has a good enough case to appeal, and that she has standing, it is her right. She may appeal to the ZBA, asking for a motion for rehearing. If the ZBA denies her request, she may take it to the Superior Court, where they may throw it out if she doesn't have standing.

**X. Adjournment:** Mr. Quinlan made the motion to adjourn at 8:54 PM, Seconded by Mrs. Farnham, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant