

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

Public Meeting

April 12, 2023

Minutes

Present: Members: Allen Hoch, Scott Bartlett, Norman Larson, Brendan Connolly,
John Annaian, Kevin Quinlan (Selectmen's Representative)
Alternate: Peter Claypoole
Excused: Sandra Kelly
Staff Present: Christine Marion, Interim Town Planner, Bonnie L. Whitney, Administrative Assistant

I. Call to Order: Chairman Hoch called the meeting to order at 7:00 PM.

II. Pledge of Allegiance: The Pledge of Allegiance was recited, led by Mr. Hoch. The members and staff then introduced themselves to the public. The Chair appointed Peter Claypoole to sit on the board with full voting privileges in place of Sandra Kelly.

III. Citizen's Forum – None

IV. Review/Approval of Minutes:

Motion: Mr. Bartlett made the motion to approve the Planning Board Minutes of March 22, 2023, as amended. Mr. Connolly Seconded. Motion carried unanimously.

V. New Submissions:

1. Property Owners Association at Suissevale, Inc. (122-12 & 13)
(Albert Street & Wintersport Street) - Boundary Line Adjustment

Chairman Hoch stated that this was a request for a proposed Boundary Line Adjustment (BLA). As a first order of business, Mr. Hoch asked if the proposal has the potential for regional impact. Staff recommends that the Board move to determine the proposal does not present a potential regional impact as defined in RSA 36:55.

Motion: Mr. Larson made the motion that the Board determine that the Application of Property Owners Association at Suissevale, Inc. (POASI) (122-12 & 13) did not have the potential for regional impact. Mr. Quinlan Seconded. A roll call was taken. Norman – Aye; John – Aye; Scott – Aye; Brendan – Aye; Peter – Aye; Kevin – Aye; Al – Aye. The Motion carried unanimously.

The Chair asked if there were any questions or comments from the Board as to the completeness of the application? Hearing none, he called for a motion to accept the application.

Motion: Mr. Bartlett made the motion to accept the application of Property Owners Association at Suissevale, Inc. (POASI) (122-12 & 13) (Albert Street & Wintersport Street), and to schedule a hearing for this evening to be Boundary Line Adjustment #1. Mr. Connolly Seconded. Motion carried unanimously.

Mr. John Annaian stepped down from the Board for the acceptance of the application for Big Dog Holdings, LLC. Mr. Hoch stated that in the absence of one member, Mr. Claypoole had already been seated, therefore leaving a board of six. David Frothingham, Civil Engineer, from Wilcox & Barton, Inc. representing the applicant Big Dog Holdings, LLC. confirmed that they would need a majority vote of the members present (four) if there were a vote. Mr. Richard Annaian stated that he would proceed with a board of six.

2. Big Dog Holdings LLC Richard & Ruth Annaian - Members (18-37, 39 & 40) (Whittier Hwy)
Site Plan Review

Mr. Hoch recommended that the Board move to determine if the proposal does or does not present a potential regional impact as defined in RSA 36:55.

Motion: Mr. Claypoole made the motion that the Board determines that the Application of Big Dog Holdings, LLC (18-37, 39 & 40) does not present the potential for regional impact as defined in RSA 36:55. Mr. Bartlett Seconded.

Discussion on Motion. Mr. Larson noted that he had concerns regarding an emergency situation at the site and the capacity of our Fire Department to handle it themselves, given the site's proximity to Sandwich and Tamworth. Given the comments received this evening from the Fire Chief, it indicates that he is comfortable with addressing issues on the site with the Moultonborough Department. Mr. Larson is okay with finding that it does not have a regional impact in that sense.

Vote on Motion: Motion carried unanimously.

Mr. Hoch moved onto the request for waivers as submitted by the Applicant and their effect on the completeness of the application.

Interim Planner Marion spoke to the waiver request as submitted. There was a waiver request from Section 11.3.2 (Landscape Plan). The applicant has removed the request for the landscape plan as they have provided a plan. Mr. Larson noted the landscape plan provided was a colored version of a previously submitted drawing. It does not identify what the species are, and where they are located. He noted his concerns with what has been submitted and if it meets the requirements. Mr. Larson noted his concerns with the request for waiver of a color rendering of the streetscape. There is another project in town in which the board waived the requirement of a streetscape because there was an elevation provided, and what you see now is the lack of the board making the requirement stick and actually providing something that shows the scale of the building relative to the grades. Ms. Marion noted that the color rendering is only a checklist item and not included in the regulations.

Mr. Hoch noted that a waiver request from Section 10.4.1 (On-lot sewage systems) of the site plan regulations was submitted. Ms. Marion noted that on Sheet C0.2, Note 3 under Required Permits states that the Project requires NHDEP individual sewage system disposal approval. She recommended granting this waiver as it does not affect the completeness of the application.

Mr. Hoch noted that a waiver request from Section 10.4.2 (NH Dot Driveway Permit) of the site plan regulations was submitted. Members agreed that the requirement for an amended NH DOT Driveway Permit does not affect the completeness of the application.

Motion: Mr. Hoch moved that the board finds that the application for Big Dog Holdings, LLC (18-37, 39 & 40) is substantially complete for the purpose of application acceptance. However, the board may subsequently determine during the hearing that additional information is required, at which point the board

may continue the case until such time as necessary information is provided, and to schedule a hearing for this evening to be Hearing #1. Mr. Bartlett Seconded. Motion carried unanimously.

Mr. John Annaian returned to the board at this time with full voting privileges.

VI. Boundary Line Adjustments:

1. Property Owners Association at Suissevale, Inc. (122-12 & 13) (Albert Street & Wintersport Street) - Boundary Line Adjustment

Jim Hambrook of Hambrook Land Surveying presented the application for the Applicant (POASI). Mr. Hambrook stated that this was a request for a boundary line adjustment (BLA) for the lots located in Suissevale. He noted that an application had recently been before the board for a merger of two lots and an adjustment that resulted in a two-plus acre lot and another just under an acre lot. Subsequent to that approval, the board for Suissevale had established an internal policy that at any time that a lot is subdivided, no lot can be less than 40,00 square feet (SF). Mr. Hambrook was not informed of the policy and when he prepared the BLA plan last fall, POASI did not pick up on the fact that one lot was less than 40,000 SF. It was brought to the attention of POASI that they were violating their own internal policy. Therefore, in order to correct that, they are conveying 200 SF from Lot 13 to Lot 12, resulting in Lot 13 being 40,006 SF, with a residual lot of 2.14 acres. Mr. Hambrook noted that Lot 13 still will have a unit density of 1.14 units. Mr. Hambrook answered any questions from the board.

Ms. Marion noted referred to her staff memo, adding that she had no further comments as this was a very straight forward application.

Mr. Hoch opened the public hearing for public input and noted there was none.

There were no further comments or questions from the Board.

Motion: Mr. Quinlan moved to approve the Boundary Line Adjustment for Property Owners Association at Suissevale, Inc. to convey 200 square feet portion of Lot 122/13 into Lot 122/12, subject to compliance with the following conditions:

Conditions precedent, to be completed prior to signature of final plans by the Planning Board Chairman. No site improvements or approved uses shall commence, and no building permit shall be issued until plan is signed and recorded:

1. Add the following plan notes/revisions prior to submission of final plan for Planning Board signature:
 - a. All pins to be set and identified on plan.
 - b. All conditions subsequent shall be incorporated as plan notes.
 - c. Add signature block for owner and obtain owner's signature.
2. All required federal, state, and local approvals shall be obtained, to include DES subdivision approval or confirmation from DES that such approval is not required.
3. Conditions precedent to be completed by 4/12/2025.

Conditions subsequent, to be continually complied with:

4. Approved uses: Lots may undertake uses permitted in the Residential/Agricultural Zoning District, subject to applicable application and permitting requirements.
5. All lots shall be required to perpetually comply with Wetlands Ordinance requirements, as any exemptions per Zoning Article 9.1.5 shall no longer apply.

6. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.

Mr. Larson Seconded. Motion carried unanimously.

VII. Hearings:

Mr. John Annaian stepped down from the Board for the hearing for Big Dog Holdings, LLC. Mr. Hoch reiterated that there was only a board of six. Mr. Richard Annaian stated that he would proceed with a board of six.

1. Big Dog Holdings LLC Richard & Ruth Annaian - Members (18-37, 39 & 40) (Whittier Hwy)
Site Plan Review

David Frothingham, Civil Engineer, from Wilcox & Barton, Inc. was present representing the applicant Big Dog Holdings, LLC. Present in the audience were Richard and Ruth Annaian, and John Annaian.

Mr. Frothingham provided members with copies of a revised site plan (Sheet C1.1 dated 3/15/23), a landscaping plan (Sheet C1.5 dated 3/15/23), and a memorandum dated April 10, 2023, which was a written response to the staff comments of the Site Plan review application.

Mr. Frothingham began with a general overview of the site. There are currently two parcels (Lots 39 & 40), in addition the Applicants own Lot 37. Lots 39 & 40 are proposed to be merged into a single lot. The subdivision which created the lots and which they are a part of was designed with shared driveways. Each lot, 39 & 40 share driveways with the lot to the north, and the lot to the south. Those two driveways have been developed. The proposal is to use the existing driveway to the south to enter the site. Parking for customers will be at the south end of the building. Parking for employees will be further back in the site.

The building is proposed as a 5,000 square foot (SF) garage. It is designed with six overhead doors facing to the east, and two overhead doors on the north side and south sides. On the west side of the building there is 2,000 SF of office space.

There is a gate starting in the area of the south end of the building, and the majority of the site will be fenced in with a six foot chain link fence. That portion of the site will not be assessable to the public.

Propane trucks will be parked outside of the building, and oil trucks will be parked within the garage structure when they are not in use. Just off the corner of the north end of the garage is a small above ground tank for the fueling of business vehicles. There are three underground storage tanks for a total of 45,000 gallons of storage. Each tank is 15,000 gallons. Two are for heating oil and the third is a compartment tank for diesel, kerosene, and off road diesel. There will be a small building that will house the pumps, meters and all the equipment associated with moving fuel out of the tanks and into the delivery trucks. These are underground storage tanks so delivery to those tanks is by gravity. Next there is a 30,000 gallon above ground propane tank. You continue through the site, exiting via the shared access drive on the north end of the site.

Mr. Frothingham reiterated that customers will enter and exit through the south driveway. They have provided one handicapped parking space and five regular spaces. Smaller company vehicles may use either driveway for access or egress. Deliveries to the site via large tanker trucks will have to enter using the south driveway, traverse through the site delivering fuel, and exit through the north driveway. Due to the narrowness of the lot, there isn't space to turn around a tanker truck. Therefore, the traffic pattern through the site. Mr. Frothingham noted Route 25 has travel lanes with wide shoulders with adequate space

to make safe turning movements in and out of the site. This will be further reviewed by NH DOT when obtaining the necessary amended DOT permit for the use of the site.

Mr. Frothingham gave an overview of the stormwater drainage system for the site. The site is located at the highpoint of land. It sits well up above Route 25 and the lots that surround it. The site is divided into two watersheds which splits through the building area. There are areas of the site where there is no fuel transfer, and a part of the site where there are fuel transfers. Mr. Frothingham pointed out on the plan the direction of the water which flows through a system of catch basins and is directed to either an infiltration gallery or to an infiltration basin. The other portion of the site the water is collected into two different swales and into a forebay area. Everything on the north side of the site ends up in a large stormwater pond. That pond will be lined so there is no exfiltration through it to the environment and is proposed with a trapped outlet. Instead of water from the surface dropping down into a pipe and discharging, the water is taken from the bottom of the pond, through a manhole that has a weir in it, and an orifice. Therefore, any hydrocarbons that float on the water will stay trapped in the pond and water is slowly discharged out through the swale. The pond is designed so if there were a catastrophic failure of a truck it can take all the fuel and not discharge it out of the pond. The pond will hold approximately 9,000 gallons before it exits the pond.

Mr. Frothingham noted that they have provided a stormwater management plan as part of the necessary requirements for site plan review. No Alteration of Terrain permit is necessary, noting that they will need an erosion control permit from NHDES as they are disturbing over one acre.

Discussion ensued regarding the construction, functionality, monitoring, and installation of the underground storage tanks, with Mr. Frothingham giving basic information. It was noted that all aspects of the tanks will require permitting and approvals from NH DES.

Members questioned if there would be physical barriers in place to protect the tanks and fill area. Mr. Frothingham noted there are going to be 25 safety bollards and guard rails proposed for the protection of the site.

A discussion took place regarding the vegetated buffer on the site. It was noted that they have depicted a 50-ft natural vegetated area around the site, with the exception of the two driveways. There is an area behind the detention basin where the trees will be removed. They have provided a buffer on the Applicants property to the rear (Lot 37) and will grant an easement on Lot 37 for the 50-ft buffer. It was noted that dead, diseased or dying trees will be removed from the 50-ft buffer area, and they have proposed additional plantings to the rear. Privacy slats will be installed in the chain link fence in that area as well.

Mr. Larson noted his concerns with the sizing of the pond, questioning the capacity to retain any catastrophic spill. Mr. Frothingham explained the sizing of the pond and its functionality. It was noted that the tanker trucks that make deliveries have several compartments. There would not be a total of 9,000 gallons that would leak from the trucks. Mr. Annaian noted that they would have the ability to pump fuel from the tank should there be a leak. Mr. Bartlett questioned if there was an emergency generator on site? It was noted they had not proposed an emergency generator, but they agree to that and will install one.

Members questioned how they will manage any hydrocarbons on the surface of the pond. Mr. Annaian stated that the pond will be visible, and they will perform a visual inspection. The hydrocarbons floating on the surface will be easily seen and will be cleaned up as necessary, daily, or weekly with oil absorbent pads/mats.

Mr. Quinlan questioned if there would be a fire suppression system in the garage. Mr. Annaian stated no. He has spoken with the Fire Chief and the building is sized as that it does not need a fire suppression system.

Mr. Quinlan stated that the board had been provided a memorandum dated April 10, 2023, which included a written response to the staff comments of the Site Plan review application, specifically the recommendation for a third party review of the engineering and stormwater management plan. The Applicant agrees to third party review for the stormwater management plan. The design of the bulk fuel tank and piping system will undergo a detailed engineering review by the NHDES Waste Management Division, Oil Remediation and Compliance Bureau. The town will receive a copy of this application when submitted as required by the application process. A copy of the construction approval from NHDES will be submitted to the town when it is received.

Mr. Bartlett questioned if there will be post construction inspections. It was noted that the applicant is required to complete independent yearly inspections that must be recorded and made available to NHDES. Every five years NHDES will complete an inspection.

Members questioned what fire protection measures will be in place for the fuel fill area. It was noted that there will be fire extinguishers in that area, as well as each truck carries two extinguishers.

Mr. Claypoole requested information regarding the safety system associated with the propane storage. Mr. Frothingham noted that was not his area of expertise, adding that the design is subcontracted. The system, like the others, is designed with emergency shutoffs. If something does go wrong, there is a button within reach that the operator can hit that will kill the power to any transfer pumps. This will close the valve at the tank, which will stop the flow of propane. The piping for the propane tank is above ground. They are a tight fit connector with hoses. There are pressure regulators and gauges. There are systems to shut everything down should something go wrong. Mr. Annaian stated that the propane storage is an above ground tank, all steel. Piping is a direct fit connection. There are a series of manual shutoff valves and an automatic valve.

Mr. Quinlan questioned if there would be any additional impact on the Fire Department for inspections. Mr. Annaian noted it would be minimal at the town level, there may be an annual inspection. It was noted that the state Fire Marshalls office will review the design of the propane system and will perform an inspection when the system is completed. Mr. Annaian stated that the inspections are completed by a third party annually, and they report to the state.

Mr. Larson questioned lighting on the site, asking if it could be motion activated or manual. Mr. Frothingham replied that due to the nature of the site, they are required to provide security site lighting for operating a bulk plant. They agreed that any additional exterior lighting will be motion sensor and photocell.

Mr. Hoch opened the public hearing for public input.

Brian Sanford – Chairman, Moultonborough Conservation Commission. Mr. Sanford provided written comments from the Conservation Commission (Con Com). He commented that there has been testimony this evening about the engineering controls that will be built into the system, and he is gratified that they will be there. Mr. Sanford recommended that a third party review be completed of the stormwater management plan.

Mr. Sanford stated that he came from a quality background and is accustomed to Failure Modes & Effects Analysis (FMEA) on designs. He asked if there was a design FMEA done on this project as it goes to some of the questions like “what happens when the power goes out?” “What happens when this component fails?” “Or this combination of events occurs” Catastrophic events frequently are not just a single point of failure of one component. They’re usually multiple things that line up together either by human error combined with some form component failure or other engineering failure that results in a disastrous outcome.

From a conservation perspective, the thing that they are most worried about is if there is a release coming out of the underground storage tank system that goes into the ground, could that reach the aquifer, which is not that far away. Mr. Sanford stated there were wetlands on the site that would suggest that there is ground water there. It is also down slope of the runoff that comes off the Ossipee's and it all heads towards the aquifer which is under the airport property. The Conservation Commissions concern is if there is a catastrophic release, is there a probability, or a chance, that the plume could find its way to the aquifers. If that happens it could be an extremely disruptive event for Moultonborough. From a risk management perspective, the only thing better than the engineering controls described this evening, would be to put this in a location where if there was a plume that it would not pose such a catastrophic risk to the aquifer or the drinking water of Moultonborough.

Mr. Sanford referred to the written comments provided, noting the recommendation to complete a third party engineering review, as well as to have a hydrologist view the site and provide an evaluation in the event of the release of a petroleum product into the ground, should we be very concerned about that plume reaching the aquifer.

Mr. Sanford suggested that if the board were to approve the site for a its operation, that they be specific about what types of fuels will be stored there. Mr. Hoch noted that the applicant has stated that there is no gasoline to be stored on the site. Mr. Connolly added that it is also stated on the plan the specific types of fuel to be stored on the site.

Mr. Quinlan clarified that the board was not voting whether or not they were going to have the NHDES Waste Management Division, Oil Remediation and Compliance Bureau do something. They have to do it anyway. The board will be determining if they are going to require a third party engineering review of the stormwater management plan. Mr. Frothingham added that the State of New Hampshire has minimum separation distances from various types of wells to all underground storage tanks and above ground storage tanks. They exceed all of the separation distanced. If on the very small chance that both layers of the underground storage tank cracked, and fuel were to get out, the systems that are proposed will notify the owners immediately that there is something wrong. The procedure, if it were to leak into the ground, is that the tanks are emptied, removed, and the surrounding soils are removed, and the plume is designated. Depending on the concentrations, and what is defined on how fast it is moving, that soil is removed. Often the groundwater is pumped off and run through filters to remove the fuel and remove it from the ground and remediate the site.

Mr. John Annaian noted for the record that there are no wetlands on the site. Mr. Sanford corrected his statement in that there are wetlands on the applicants abutting lot, Lot 37.

There being no additional comments from the public, Mr. Hoch closed the public input portion of the hearing. Mr. Hoch read of a letter of support dated April 12, 2023, into the record, from Steven and Robin Webster, owners of 1241 Whittier Highway.

Mr. Bartlett commented that in acknowledging the Conservation Commissions recommendations that a hydrology study be conducted and asked how the board felt about that. Mr. Hoch noted that he had a conversation with the engineer that he will be suggesting retaining to complete the third party review, and he did not recommend a hydrogeological study at this time. It may come up in the future as he gets into the review, but from a quick overview to obtain an estimate of the stormwater management engineering review, at this time he did not think it was needed. Mr. Connolly commented that the stormwater management will handle a lot of the surface concerns that the board has. This is a very highly regulated industry with stop factors in place to help deal with many of those concerns.

Motion: Mr. Hoch moved that the stormwater management plan be sent out for third party review at the applicant's expense. Seconded by Mr. Larson. Motion carried unanimously.

Mr. Annaian requested permission to allow pre-construction on the site prior to obtaining site plan approval. He has received an Intent to Cut, and his logger would like to cut the trees, and stump & grub the site. Members discussed this briefly. Ms. Marion referred to Section 6.1.6 of the zoning ordinance which reads as follows: *“All lots in the commercial zones and other commercial lots shall require Planning Board approval before tree cutting or topographical changes can be made. Trees may be removed without Planning Board approval which are a danger to persons or property, or which are dead or diseased.”* Members stated that erosion control measures be utilized, and best management practices should be used. It was noted that the board was not in any way approving the site plan application at this time, only their approval for the logger to cut the site in accordance with the site plan that was presented this evening.

Motion: Mr. Larson moved to grant permission for the applicant’s agent to cut and stump in the area designated on the site plan provided (C1.1) with the exception of those areas of the designated setback provided on the drawing, using erosion controls and best management practices. Mr. Quinlan Seconded. Motion carried unanimously.

Mr. Hoch stated that he had previously received an escrow estimate of \$5,000 for the third party review.

Motion: Mr. Connolly moved that the board require the stormwater management plan be sent out for third party review at the applicant’s expense, and to continue the public hearing for Big Dog Holdings, LLC (18-37, 39 & 40) to May 10, 2023. Mr. Claypoole Seconded. Motion carried unanimously.

Mr. John Annaian returned to the board at this time with full voting privileges.

VIII. Other Business/Correspondence:

Mr. Hoch noted that the Land Use Office had received correspondence earlier today (4/12/23) from Timothy Berquist of TimBer Property Consulting regarding the Toy Box III property (TM 142 Lot 2). Members were provided with the narrative submitted by Mr. Berquist. He was contacted by Mr. Beane of Bluewater Construction requesting that he review the landscape plan that was designed for the site to ensure that the plants chosen would provide the necessary screening, were aesthetically appealing and would do well in the location they would be planted in. Mr. Berquist has reviewed the landscape plan and has recommended changes and additions to the landscape plan. The number of plants is not changing, only the species. The recommended species would survive better in the locations as depicted in the handout. Discussion ensued regarding the request. Interim Planner Marion commented that the board may consider this request and require a site plan amendment. Members commented that the underlying objective is to get the correct plantings in the correct location so that they will survive and grow properly. After conversation, it was the consensus of the board to approve the recommended change to the types of species for the landscape plan for Toy Box III. Mr. Hoch polled the board. A roll call was taken. Norman – Aye; John – Aye; Scott – Aye; Brendan – Aye; Peter – Aye; Kevin – Aye; Al – Aye.

IX. Committee Reports: – None

X. Project Updates: – None

XI. Adjournment: Mr. Quinlan made the motion to adjourn. Mr. Claypoole Seconded. The Motion carried unanimously, and the Board adjourned at 9:28.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant