

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

Meeting Minutes

July 26, 2023

Present: Members: Sandra Kelly, Scott Bartlett, Brendan Connolly, John Annaian,
Peter Claypoole, Norman Larson, Kevin Quinlan (Selectmen's Representative)
Alternate: Allen Hoch (Arrived at 7:38 PM)
Staff Present: Dari Sassan, Town Planner; Bonnie L. Whitney, Administrative Assistant,
Clayton Titus, Administrative Assistant

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

II. Pledge of Allegiance: The Pledge of Allegiance was recited, led by Ms. Kelly. The members and staff then introduced themselves to the public.

III. Election of Officers

Mr. Sassan stated as discussed at a prior meeting, there was a question regarding the procedure for the election of officers, specifically the voting that took place by secret ballot at the meeting on June 14, 2023. Mr. Sassan stated it was the decision of the board to have an open vote when all elected members were present. He noted that at the meeting held on June 14, 2023, motions were made, nominating Mr. Bartlett and Ms. Kelly for Chairperson and Mr. Claypoole and Mr. Bartlett for Vice-Chairperson and that the Board could vote on those nominations. It was the decision of the board to vote by a show of hands.

By a show of hands, Ms. Kelly was elected as Chairperson by a vote of four (4) in favor (Peter, Sandra, Norman, John) and three (3) in favor (Brendan, Scott, Kevin) for Mr. Bartlett.

By a show of hands, Mr. Claypoole was elected as Vice Chairperson by a vote of four (4) in favor (Peter, Sandra, Scott, John) and three (3) in favor (Brendan, Norman, Kevin) for Mr. Bartlett.

IV. Review/Approval of Minutes:

Motion: Mr. Bartlett made the motion to approve the Planning Board Minutes of June 28, 2023, as amended. Mr. Connolly Seconded. Motion carried with Mr. Larson abstaining.

V. Citizens Forum - None

VI. New Submissions - None

VII. Boundary Line Adjustment - None

VIII. Hearings - None

IX. Other Business/Correspondence:

1. **Voluntary Merger** – David L. Goolgasian, Jr. (64 – 5 & 6) (126 Bears Nest Trail)

Chairman Kelly noted that the Board was in receipt of an Application for and Notice of Voluntary Merger of Tax Map 64 Lots 5 and 6, as submitted by David L. Goolgasian, Jr.

Mr. Sassan referred to his staff memo prepared July 25, 2023, noting comments and recommendation.

Motion: Mr. Connolly made the motion that the Board determines that the Application of David L. Goolgasian, Jr. (64-5 & 6) does not present a potential regional impact as defined in RSA 36:55. Mr. Claypoole Seconded. Motion carried unanimously.

Motion: Mr. Quinlan moved to approve proposed voluntary lot merger of Tax Map 64 Lots 5 and 6, as requested by David L. Goolgasian, Jr. subject to the following conditions: 1) Applicant shall comply with all requirements of RSA 674:39-a. 2) No more than one unit suitable for use or occupancy as a dwelling unit shall exist on the lot unless necessary approvals are obtained, and to inform the applicant that this merger will be regarded by the Land Use Office as an overt action on the part of the landowner to treat the entire area of the merged lots as a single lot, thus eliminating the possibility of performing a lot restoration pursuant to RSA 674:39-aa. Mr. Larson Seconded. The Motion carried unanimously.

2. Voluntary Merger – Guarnieri Irrevocable Trust of 2010 (98-28 & 98-40) (43 Interlaken Street)

Chairman Kelly noted that the Board was in receipt of an Application for and Notice of Voluntary Merger of Tax Map 98-28 and 98-40, as submitted by John A. Jr. & Sharyn Guarnieri Trustees.

Mr. Sassan referred to his staff memo prepared July 25, 2023, noting comments and recommendation.

Motion: Mr. Connolly made the motion that the Board determines that the Application of Guarnieri Irrevocable Trust of 2010 (98-28 & 98-40) does not present a potential regional impact as defined in RSA 36:55. Mr. Annaian Seconded. Motion carried unanimously.

Motion: Mr. Quinlan moved to approve the proposed voluntary lot merger of Tax Map 98-28 and 98-40, as requested by John A. Jr. & Sharyn Guarnieri Trustees, subject to the following conditions: 1) Applicant shall comply with all requirements of RSA 674:39-a. 2) No more than one unit suitable for use or occupancy as a dwelling unit shall exist on the lot unless necessary approvals are obtained. 3) Compliance with Groundwater Protection Ordinance requirements shall be perpetually maintained, and to inform the applicant that this merger will be regarded by the Land Use Office as an overt action on the part of the landowner to treat the entire area of the merged lots as a single lot, thus eliminating the possibility of performing a lot restoration pursuant to RSA 674:39-aa. In addition, although the resultant lot will be less than 5 acres, the lot will not be exempt from the Wetlands Ordinance because this merger represents the “creation” of a lot after 1/3/2008. Mr. Annaian Seconded. The Motion carried unanimously.

3. Voluntary Merger – Patrick O’Brien and Elana Cortez Rev Trust (98-12 & 121-172) (Locarno St)

Chairman Kelly noted that the Board was in receipt of an Application for and Notice of Voluntary Merger of Tax Map 98-12 and 121-172, as submitted by Patrick O’Brien and Elana Cortez, Trustees.

Mr. Sassan referred to his staff memo prepared July 25, 2023, noting comments and recommendation.

Motion: Mr. Connolly made the motion that the Board determines that the Application of Patrick O’Brien and Elana Cortez Rev Trust (98-12 & 121-172) does not present a potential regional impact as defined in RSA 36:55. Mr. Annaian Seconded. Motion carried unanimously.

Motion: Mr. Quinlan moved to approve the proposed voluntary lot merger of Tax Map 98-12 and 121-172, as requested by Patrick O’Brien and Elana Cortez, Trustees, subject to the following conditions: 1) Applicant shall comply with all requirements of RSA 674:39-a. 2) No more than one unit suitable for use or occupancy as a dwelling unit shall exist on the lot unless necessary approvals are obtained. 3) Compliance with Groundwater Protection Ordinance requirements shall be perpetually maintained, and to inform the applicant that this merger will be regarded by the Land Use Office as an overt action on the part of the landowner to treat the entire area of the merged lots as a single lot, thus eliminating the possibility of performing a lot restoration pursuant to RSA 674:39-aa. In addition, although the resultant lot will be less than 5 acres, the lot will not be exempt from the Wetlands Ordinance because this merger represents the “creation” of a lot after 1/3/2008. Mr. Bartlett Seconded. The Motion carried unanimously.

Planner Sassan noted that there were a few members present in the audience for who were present for the matter that Mr. Titus was present to speak to.

4. Mr. Titus stated that the Code Enforcement Office was in receipt of a building permit application to erect a wildlife observation structure. The structure is for the purpose of viewing wildlife. Mr. Titus referred to the Zoning Ordinance (“the Ordinance”) with respect to use that most fit this proposal would be Recreation Use Outdoor – low impact, which does call out wildlife watching specifically.

The issue is that based on the wording of the Ordinance, this would require site plan review. This seems as though that would not have been the intention of the document, therefore they are looking for input from the Board for a determination on the Land Use Departments conclusion that was arrived at based on Article 3.0 General Provisions where it states, “All uses other than one and two family residential or agricultural shall follow the requirements of commercial uses.” As the proposed use is not under the guise of one and two family residential or agricultural, it would seem that means it is beholden to any of the requirements for commercial uses, including site plan approval.

Mr. Titus noted that Article 6.4 mentions commercial use within the Residential/Agricultural Zone and states that it would require a Special Exception. Members questioned whether this was a commercial use.

Jeffrey Coombs, applicant for the wildlife observation structure and owner of the property stated that the structure was a glorified, permanent tree stand. Not to be used for hunting, just for wildlife observation. It will be set on an old log landing, miles up in the Ossipee Mountains, to be used by his family for wildlife observation. There will be no plumbing and no electricity. It is not a residence or lived in. Simply a deck to observe the wildlife. Mr. Coombs noted the structure was several miles from the closest abutter.

Mr. Sassan stated the purpose of this discussion was to get feedback from the Board. It is a decision that will be made in the Land Use Office as to whether it requires site plan review or not. Ultimately it is the Selectboard who enforce the Ordinance, and the Land Use Office decision on whether this needs site plan review or not is done so under the authority granted to the Land Use Office by the Selectboard. The Planning Board will not be granting anything this evening. The discussion is not particularly related to this case. This case is why it comes up.

Mr. Sassan spoke to uses that may take place on land, and what may be considered a primary use on the land. It seems that requiring site plan review for someone to build a wildlife observation structure on their land is both overkill and is a mismatch. This is not what site plan is meant to evaluate.

Staff were looking for feedback from the Board that could help in both this particular decision and maybe making future decisions and potentially proposing some zoning amendments that would get what they are actually requiring site plan review for.

Discussion ensued with members offering their comments and concerns. In general, staff need to continue to look through the regulations, as well as past decisions, and have discussion with Counsel to make a decision regarding the application as submitted.

5. **Lady Slipper Lane** – Discussion regarding eliminating shared driveway.

Mr. Sassan noted that at the last meeting he put forth a potential motion regarding this issue. The Board had indicated that they wanted something substantive before deciding. He has done additional research and has had a conversation with Counsel. They came to an initial plan that they would seek to have the Board make a motion tonight and then call for a compliance hearing. The suggested motion at the last hearing would have been approved contingent upon provision of satisfactory information such as drainage information and some sort of documentation of such that could be recorded with the Registry of Deeds.

In discussing that compliance hearing, they did not want the Board to make a decision this evening outside of a noticed hearing, then notice a compliance hearing where anyone potentially opposed to this configuration (it seems unlikely anyone would) may show up only to discover that the decision had already been made. It makes sense to notice a hearing at which the board will vote whether to allow that new configuration, and then potentially include in its motion a subsequent compliance hearing. Mr. Sassan recommended that the Board make its decision in a noticed hearing where abutters will receive notices and staff will work with the parties of the two lots involved at the end of the road to figure out noticing, fees, etc.

Members noted they had been concerned that abutters and other property owners of the subdivision had the opportunity to speak one way or the other. They felt this could be done in one hearing.

Members would like to have a plan that will demonstrate that the drainage scheme was appropriate and could handle any proposed changes to the topography. That would be more than an administrative task as to deciding that and it should come before the board. Mr. Sassan will work with counsel to determine if this can be done in a single meeting, and with the property owner to provide something.

After a lengthy discussion, Mr. Sassan noted that the board had two options, one go with the subdivision plan as originally approved, or come in for an amendment to the subdivision.

The board felt this would require an amendment to the original subdivision approval. Staff will work with the applicant regarding any necessary waivers. It was noted that the next meeting that could potentially be met was September 13, 2023, with a deadline for submitting a complete application being August 16, 2023.

6. Discussion on Zoning Amendments – Due to the time spent on the prior issues, no discussion took place on the proposed zoning amendments.

Mr. Sassan noted that there were no continued hearings or new submissions for the August 9th meeting and the deadline for the August 23rd meeting was tomorrow and staff was not aware of any applications to be submitted. Therefore, the Board could utilize the next meeting as a work session only. Members agreed to utilize the meeting on August 9, 2023, for a work session only.

Mr. Bartlet commented that the Board had identified specific things that members had agreed to review. These included review of setbacks, personal and professional services, accessory dwellings, certificates, and regulations. He asked if these were what was included in the Planners latest July 24, 2023, memorandum. Mr. Sassan replied that the board had previously spoken about finding potential amendments that could quickly be addressed with actual language that would go directly in the zoning amendment. Yes, the other things that Mr. Bartlet mentioned still remain, the items highlighted in blue the items that he was able to put language that would potentially go directly into the zoning ordinance.

X. Committee Reports - None

XI. Project Updates - None

XII. Adjournment: Mr. Larson made the motion to adjourn. Mr. Annaian Seconded. The Motion carried unanimously, and the Board adjourned at 8:38 PM.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant