



Town of Moultonborough

Planning Board

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Moultonborough, NH 03254

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Notice of Decision

Site Plan Review & Conditional Use Permit

Christopher J. & Deirdre Maroun

Tax Map 135 Lots 8 & 9

February 28, 2024

Applicant: Christopher J. & Deirdre Maroun
PO Box 706
Moultonborough, NH 03254

Location: 6 Playground Drive and 362 Whittier Highway (Tax Map 135 Lots 8 & 9)

On December 13, 2023, the Planning Board of the Town of Moultonborough opened a public hearing on the application of Christopher J. & Deirdre Maroun, PO Box 706, Moultonborough, NH 03254 (hereinafter referred to as the “Applicant” and/or “Owner”) for approval to construct and operate a landscaping company operations center for the lot(s) located in the Commercial Zone A, within the Groundwater Protection Overlay District.

The public hearing was continued to January 24, 2024, February 14, 2024 and February 28, 2024. The public hearing was closed on February 28, 2024. At the regularly scheduled Planning Board meeting on February 28, 2024 the Board voted by a vote of six (6) in favor (Quinlan, Annaian, Kelly, Hoch, Larson, Bartlett), and none (0) opposed, to **approve** the site plan application with one waiver related to Driveway Spacing (Site Plan Review Regulations Table T1) and a Conditional Use Permit pursuant to Zoning Article 13.9.1.2 allowing for development within the Groundwater Protection Overlay District which exceeds 15% and 2,500 square feet of impervious cover for Map 135, Lots 8 & 9 at 362 Whittier highway, located in the Commercial Zone A, within the Groundwater Protection Overlay District.

Prior to acceptance of the application as being complete, the Planning Board voted six (6) in favor (Quinlan, Annaian, Kelly, Hoch, Claypoole, Bartlett), none (0) opposed that the proposed site plan did not have the potential for Regional Impact.

On February 28, 2024, the Planning Board voted six (6) in favor (Quinlan, Annaian, Kelly, Hoch, Larson, Bartlett), and none (0) opposed, to grant the waiver related to Driveway Spacing (Site Plan Review Regulations Table T1) of the site plan regulations as the third-party engineer recommended the granting of this waiver, and based upon the applicant’s rationale that there is not another location which would meet this requirement.

At the regularly scheduled Planning Board meeting on February 28, 2024, the Board discussed the request for Site Plan Review and noted the following Findings of Fact:

- a) The proposal is reliant on the recording of a merger and a boundary line adjustment that were conditionally approved by this Board on 9/27/2023. A condition precedent of approval, requiring the recording of the merger and boundary line adjustment has been proposed.
- b) The Board determined that the third-party engineer review of the stormwater management and mitigation design had been mostly completed at this time.
- c) Adjacent Lot 7 is currently allowed to operate in accordance with the terms of a temporary special exception granted by the ZBA on 4/5/2023, in which the applicant sought permission only to use the lot for dispatching landscaping crews and associated office use. The applicant has expressed an intent to renew that temporary special exception to allow for continued use of Lot 7 while the subject site is being constructed.

The Board voted by a vote of six (6) in favor (Quinlan, Annaian, Kelly, Hoch, Larson, Bartlett), and none (0) opposed to **approve** the Conditional Use Permit pursuant to Zoning Article 13.9.1.2 allowing for development within the Groundwater Protection Overlay District which exceeds 15% and 2,500 square feet of impervious cover, subject to compliance with the following conditions:

1. Perpetually comply with Wetlands Ordinance requirements, to include continual satisfaction of the performance standards set forth in Zoning Article 13.5.
2. Construction phase and permanent erosion control and drainage features shall be installed and maintained to function as required.
3. Prior to construction, all required federal, state, and local approvals, including a town driveway permit, shall be obtained.
4. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.

The Board voted by a vote of six (6) in favor (Quinlan, Annaian, Kelly, Hoch, Larson, Bartlett), and none (0) opposed to **approve** the Site Plan to construct and operate a landscaping company operations center for the lot(s) Tax Map 135 Lots 8 & 9, subject to the following conditions:

Conditions precedent, to be completed prior to signature of final plans by the Planning Board Chairman:

1. Add the following plan notes/revisions prior to submission of final plan for Planning Board signature:
 - a. Add plan note(s) enumerating the usage policy for Playground Drive.
 - b. Obtain all required federal, state, and local approvals, and identify said approvals on plan by approval date and permit number.
 - c. Finalize and record the boundary line adjustment and merger approved by the Planning Board on 9/27/2023 and add recording information as plan notes.
 - d. Add details and specifications for underground holding tank installation for temporary storage of floor drain discharge.
 - e. Note hours of operation and number of employees.
 - f. Add cover page for all signatures, place necessary signature blocks on site plan and add blocks for initials on every plan page.
 - g. All conditions subsequent shall be included as plan notes.
 - h. Delete text which suggests specified manhole covers for the proposed floor drain holding tank are optional as at grade tank access is a specific code requirement and specify installation of an alarm with both visual and audio signals which become activated when the water level within the tanks reach eighty (80) percent of the maximum storage capacity.
2. Submit to the Land Use Department a spill prevention, control, and countermeasure plan in accordance with the requirements of Zoning Article 13.6, subject to approval by the Fire Chief.
3. All third-party review costs shall be paid in full.
4. The applicant, or his successors or assigns, shall file security with the Planning Board with surety

conditions satisfactory in an amount proposed by the applicant's engineer, subject to the approval of the Town Engineer, to guarantee proper installation and maintenance of erosion and sedimentation controls throughout the duration of construction, as well as site restoration in the event of abandonment, as well as security to provide for all necessary inspections and tests to be conducted by the Town Engineer. Said security shall be in the form of a surety bond issued by a surety company authorized to do business in New Hampshire, cash, or savings bank passbook properly endorsed to the Town, or a Letter of Credit in a form acceptable to the Town. The Planning Board may from time to time, at their discretion, and upon request by the applicant, its successors, or assigns, reduce the amount of such security to an amount sufficient to ensure that any and all remaining utility or roadway construction shall be able to be completed by the Town in the event that the developer does not complete the improvements. The security shall be approved by the Town Engineer and submitted to the Town of Moultonborough prior to the commencement of any construction activities on the project site.

5. Any remaining recommendations and revisions provided by the Town Engineer shall be addressed to the Engineer's satisfaction, and all utility and infrastructure systems shall obtain final approval of the Town Engineer.
6. Any remaining recommendations and revisions provided by the Fire Chief shall be addressed to the Chief's satisfaction, and all utility and infrastructure systems shall obtain final approval of the Fire Chief.
7. Conditions precedent to be completed by 2/28/2025.

Conditions subsequent, to be continually complied with:

8. Approved uses include personal service uses as presented to the Planning Board. The Land Use Office shall be notified of any additional changes that could constitute a change or expansion of use, as land use approvals, including site plan review, may be required.
9. All requirements of the Groundwater Protection Overlay District Ordinance shall be perpetually upheld, and the Spill Prevention Control and Countermeasure Plan shall be updated and resubmitted in conjunction with any operational or siting changes or changes to the list of substances.
10. Owner/applicant shall demonstrate the underground holding tank for temporary storage of floor drain discharge has been properly registered with the NHDES, consistent with provisions of Part Env-Wq 402.39 of the New Hampshire Code of Administrative Rules, prior to issuance of a certificate of occupancy.
11. Approved commercial uses shall not be commenced and Certificate of Occupancy shall not be issued until all proposed improvements have all been installed and operationally approved.
12. Snow shall be placed within designated snow storage areas.
13. Exterior lighting shall comply with Zoning Article 6.6.5.
14. Landscaping shall comply with Site Plan Review Sections 11.3.1 and 11.3.4.
15. All signage shall comply with Zoning Article 5 and Site Plan Review Section 11.2.
16. All construction-phase and permanent drainage structures and stormwater management facilities shall be maintained to perform as represented and intended, and reports of all annual stormwater inspections shall be submitted to the Land Use Office on or before July 1 of each year.
17. All soil, gravel and materials shall be managed and contained on site, without migration onto abutting properties or the public road system.
18. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
19. Per Site Plan Review Section 8.2, if substantial site work has not commenced or a Building Permit has not been issued or if a Building Permit has been issued but not substantially acted upon within a 2-years of the date of approval, the site plan shall lapse unless a request for extension for an additional 1-year period is obtained by the applicant, prior to the date of lapsing.

20. If, at any time, uses are abandoned in accordance with the definition of abandonment in the Zoning Ordinance, necessary approvals shall again be obtained before such uses may resume.
21. Contingent upon the applicant ensuring safety in the use of Playground Drive, including but not limited to potential closures for Rec Department events, and the applicant will work the Town to ensure the same. In the event of an issue, the Town has the right to call a compliance hearing.
22. All requirements of the site plan review, Section 11.1 shall be perpetually upheld, and the site shall be operated in the manner that ensures orderly traffic flow, eliminates intrusive elements of parking, loading, and dispatching and avoids vehicles backing up or conducting other maneuvers within the public right-of-way.

Amendments

Any modification to the approved plans and any modification of any condition of this approval, together with previous approvals unless otherwise specified in this decision, must receive the prior approval of the Planning Board, unless deemed insignificant by the Town Planner. In such case the applicant shall submit to the Planner the requested changes who shall seek Board approval of the changes. The applicant will not proceed unless the Planner first provides written approval of the requested insignificant changes.

Endorsement of Plan

Following the vote of approval by the Planning Board, and the satisfaction of all conditions precedent, the Planning Board Chairman shall sign the approved site plan, subject to conditions subsequent of this approval. The conditions subsequent of approval of this site plan review shall be placed on the final plans, and the Planning Board Chair shall sign the final plans prior to any construction commencing.

Construction Practices

All construction shall be carried out in accordance with Town of Moultonborough ordinances and the Site Plan Regulations, as well as all other pertinent rules and regulations. Additionally, all staging of materials and equipment shall be on-site, and no equipment or materials not directly used in the construction of the site shall be located on site.

Construction Requirements

- a. All construction will occur on site; no construction will occur or be staged within Moultonborough, or State of New Hampshire rights of way.
- b. Any roadways, driveways, or sidewalks damaged during construction shall be restored to their original condition by the Owner at the end of construction.
- c. All construction shall occur between the hours of 6:00 am and 9:00 pm as required by the Town of Moultonborough Unnecessary Noise Ordinance (Section 10.2(6)).
- d. The applicant shall clean construction vehicles before they exit the construction site, and clean and sweep all streets affected by their construction truck traffic as necessary.

Site Plan Regulations

The Site shall be constructed in accordance with the requirements of the Site Plan Regulations and any other applicable rules and regulations as affected by this decision.

Fire Department

All work shall comply with the requirements of the Moultonborough Fire Department as affected by this decision.

Office of the Building Inspector

All work shall comply with the requirements of the office of the Moultonborough Building Inspector as affected by this decision.

Utilities

Any utility installation shall be reviewed and approved by the Moultonborough Building Inspector prior to the issuance of a Building Permit.

Lighting

All lighting shall be in conformance with the Town of Moultonborough Zoning Ordinance and Site Plan Regulations.

Flagging of Wetlands

Flagging of the 50-foot buffer shall be required before and during any construction.

Wetlands Impacts

- a. Soil disturbance will be the minimum necessary for construction and operation through the use of BMPs.
- b. Detrimental impacts will be minimized.
- c. Temporary barriers shall be placed between wetlands and buildings to reduce litter and construction materials from entering wetlands. Barriers to be removed upon completion.
- d. Restoration activities will leave site as nearly as possible in its pre-disturbance condition.
- e. Construction work will not disturb habitat for rare, threatened, or endangered species as determined by the NH Natural Heritage Bureau.
- f. All work shall be in conformance with NH DES Permits.

Best Management Practices

Applicable industry Best Management Practices shall be employed for all construction activities on the site.

Maintenance

A signed Maintenance Agreement shall be submitted to the Land Use Office for acceptance prior to endorsement of the plans. Said Maintenance Agreement shall include schedules for cleaning of all drainage infrastructure and other similar infrastructure maintenance items to ensure their proper functioning and shall include the following:

- a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the applicant.
- b. Winter snow in excess of snow storage areas on the site shall be removed off site.
- c. Paved areas shall be swept at least twice a year to remove sand and debris. Said sand and debris shall be removed off site and properly disposed of.
- d. Where necessary, and in compliance with wetland buffer requirements, vegetation on the site shall be trimmed and maintained to ensure visibility of all signs and to ensure proper functioning of stormwater structures.
- e. Garbage and litter shall be removed in and around wetlands twice a year.
- f. Invasive species shall be removed in and around wetlands twice a year.
- g. Only native species shall be planted.
- h. A schedule for cleaning of catch basins, culverts, and other stormwater infrastructure for the site.

Signage

Any proposed signage shall be in compliance with the Town of Moultonborough Zoning Ordinance, Article 5, and shall be reviewed and approved by the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy for the site.

E-911 Numbering

The site shall conform with the Town of Moultonborough Building Numbering System Ordinance (Section 20), prior to the issuance of a Certificate of Occupancy for the site.

As-Built Plans

As-Built plans, stamped by a NH Licensed Professional Engineer, shall be submitted to the Land Use Department prior to the issuance of a Certificate of Occupancy.

Testimony and Representation at Public Meetings

All testimony and representations made by the applicant or their representatives during the Public Hearing(s) and Public Meeting(s) shall be incorporated into this approval and are part of the Notice of Decision.

Right to Amend Decision

The Planning Board reserves the right to modify or amend this approval on application of the owner, lessee, or mortgagee of the premises, or upon its own motion, as permitted by the Town of Moultonborough Site Plan Regulations, Section 6, and RSA 676:4.

Violations

Violations of any condition of this decision shall result in placement of a Stop-Work Order or a Cease and Desist Order, as appropriate, on the property by the Building Inspector and/or the Select Board, unless the violation of such condition is cured within fourteen (14) days or waived by a majority vote of the Select Board. Outstanding violations of the approved plans or conditions of approval may result in the revocation of this approval by the Planning Board under RSA 676:4-a.

Legal Fees for Review

The applicant shall pay all legal fees for the review of project documents during the permitting process, as detailed in invoices from the Town's legal counsel prior to the issuance of any Permits for the site.

Inspections

The developer shall pay all costs associated with periodic on-site inspections by the Town's Consultant Engineer during the construction phase of all drainage and stormwater protection systems prior to the building being occupied. See RSA 676:4-b, II.



Sandra M. Kelly
Chairperson
cc.

- Mario Focareto (by email only at mario@brownengineeringllc.com)
- Eric Buck (by email only at ebuck@terrainplanning.com)
- Scott Dvorak (by email only at sdvorak@moultonboroughnh.gov)
- Tom Hughes, Town Assessor (by email only at thughes@moultonboroughnh.gov)
- Map Lot Document File