Minutes

Present: Members: Scott Bartlett, Allen Hoch, Amy Lindamood, Sandra Kelly, Brie Stephens, Kevin Quinlan (Selectmen’s Representative)
Alternate: Brett Balise
Excused: Member: Norman Larson
Staff Present: Town Planner, Bruce Woodruff; Administrative Assistant, Bonnie L. Whitney

I. Call to Order – Chairman Bartlett opened the regular meeting at 7:00 PM.

II. Pledge of Allegiance – The Chair led the Pledge of Allegiance. Following the Pledge, the members introduced themselves to the public. The Chair appointed Brett Balise to sit on the board with full voting privileges in place of member Norman Larson.

III. Review/Approval of Minutes

Motion: Mr. Hoch moved to approve the Planning Board Minutes of November 13, 2019 as written, seconded by Mrs. Kelly. 7 – Ayes (Bartlett, Hoch, Lindamood, Kelly, Stephens, Balise, Quinlan), 0 -Nays, 0 - Abstentions. The motion carried.

IV. Citizen’s Forum - None

V. New Submissions

1. ACT Five Properties LLC (23-37) (1180 & 1190 Whittier Highway)
   Site Plan Amendment

   Chairman Bartlett stated that this was a request for a proposed site plan amendment, asking Planner Woodruff if the application was ready for acceptance for the purposes of scheduling a public hearing?

   Planner Woodruff stated yes, adding it is a minor amendment to a previously approved site plan that proposes a change in use, depicts existing conditions and the addition of eight (8) parking spaces and a 14’ x 22’ vehicle display area. He noted the change of use is from contractor storage in one of the units to vehicle repair, sales and service.

   Motion: Mr. Quinlan moved to accept the application for ACT Five Properties LLC (23-37) as complete, and to schedule a hearing for this evening to be Hearing #1. Seconded by Ms. Lindamood, carried unanimously.

2. Davisson Farm, LLC (166-33) (276 Moultonboro Neck Road)
   More Than One Dwelling on A Lot

   The Chair stated that this was an application for More Than One Dwelling on a Lot, asking Planner Woodruff if the application was ready for acceptance for the purposes of scheduling a public hearing?
Planner Woodruff indicated that he had reviewed the material and that the application was in order for acceptance and scheduling of a public hearing by the board for this evening. He noted the singular thing which needs to be proven by the applicant is that they have the proper unit density and that they meet all other aspects of dimensional requirements in zoning.

**Motion:** Mr. Hoch moved to accept the application of Davisson Farm, LLC (166-33) as complete, and to schedule a hearing for this evening to be Hearing #2, Seconded by Mrs. Kelly, carried unanimously.

**VI. Boundary Line Adjustments** - None

**VII. Hearings**

Chairman Bartlett asked if the Board would object in taking the agenda out of order? He would like to hold the public hearing for the proposed zoning amendments first. There were no objections to the request.

1. **Public Hearings – 2020 Proposed Zoning Amendments**

Chairman Bartlett stated that this was a Public Hearing for the Proposed Zoning Amendments, giving a brief protocol for this evening’s public hearing. Members of the public where provided with copies of the proposed amendment.

The Chair opened the Public Hearing for the proposed amendments stating it involved two proposed zoning amendments for the 2020 ballot noting that this proposal will amend Zoning Ordinance Article XV: Definitions, Section 1503 General Definitions, R. Recreation use outdoor- High Impact and Recreational use outdoor- Low Impact by replacing the current definitions with the proposed language.

Planner Woodruff explained the reason for the proposed change to the definitions is that the two definitions that are currently in the zoning ordinance definitions section for both Recreation use outdoor – High Impact and Recreational use outdoor – Low Impact are essentially the same. These should be two different definitions. Mr. Woodruff stated this proposal is a fix and he read the following proposed language into the record.

**Recreation Use Outdoor- high impact:** A building or designated area dedicated to specific leisure activities which can be expected to produce increased levels of traffic, parking, noise, lighting, runoff, and other impacts on abutters and natural resources. Specifically, but not limited to, facilities which produce any of the following conditions: Unwanted sound not occurring in the natural environment., increase traffic over existing levels, use nighttime lighting, have parking areas for 6 or more vehicles, contain impervious surfaces which may increase stormwater runoff over existing levels, increase drainage to wetlands or water bodies, or carry the potential to otherwise negatively impact the local ecology (environment, flora and fauna) or quality of life of town residents. Examples are athletic fields and courts, commercial beaches, miniature golf, skateboard parks, recreation centers, off-road vehicle parks, motorized vehicle racing facilities, and golf courses.

**Recreation Use Outdoor- low impact:** A building or designated area dedicated to specific leisure activities which does not produce unwanted sound not occurring in the natural environment, does not increase traffic, does not use nighttime lighting, does not have parking areas for 6 or more vehicles, does not contain impervious surfaces which may increase stormwater runoff over existing levels, or increase drainage to wetlands or water bodies, or does not otherwise negatively impact the local ecology (environment, flora and fauna) or quality of life of town residents. Examples include trails for hiking, biking, cross-country or backcountry skiing, snowshoeing, wildlife watching, nature studies, disc golf, small docks or piers for fishing, kayaking, non-motorized boating, passive outdoor recreational activities and areas dedicated to hunting game, fishing, and trapping.
The Chair stated for clarification purposes, the need is to be able to categorize an application that might arrive for the Land Use Department to look at. Planner Woodruff replied correct, and the reason to get the definitions right is for the administratively use in determining what notch to place an outdoor recreational use. Specifically, because the table of principal and accessory uses says that high-impact use needs to go for further review to the zoning board for a special exception and then on to the planning board for site plan review. The low-impact recreational use is permitted by right.

The Chair asked for board comments. Board members agreed with the proposed language as written, and there were no further comments or questions.

The Chair opened the hearing for public comment. Dave Dolan questioned where a seasonal summer camp would fall. Planner Woodruff responded that is not in the table, and most likely if someone were to request that today, it would be classified as a Recreation Use Outdoor- high impact. Needing to go to the zoning board of adjustment for a special exception. If granted, then to the planning board for site plan.

There being no further public comments, the Chair closed the public hearing for the proposed Zoning Amendment as presented and called for a motion.

**Motion:** Mr. Hoch moved that the Board accept the language as presented for the proposed Zoning Amendment and to forward it to the Town Clerk for posting on the ballot. Seconded by Ms. Lindamood, 7 in favor (Bartlett, Hoch, Lindamood, Kelly, Stephens, Balise, Quinlan), 0 abstentions. Motion carried.

2. **ACT Five Properties LLC (23-37) (1180 & 1190 Whittier Highway)**
   Site Plan Amendment

Chairman Bartlett stated that this was a request for a proposed site plan amendment.

Dave Dolan, of David M. Dolan Associates, PC, agent for the applicant, was present this evening representing the applicant. Mr. Dolan briefly described the location of the site. This property was before the Board in 2015 with the former owner also for a site plan amendment. This was to construct the building at the rear of the property (#1190-2) for a storage building. The site plan has been updated to show the improvements which include that building (#1190) and the driveway around the south end. At that time, they had shown on the plan a proposed infiltration trench 2’ in width on three sides of the building. There are no drip edges on the north or south side of the building, therefore the infiltration trench was only constructed on the rear of the building and is approximately 6’ wide.

Mr. Dolan stated the proposal is a change in use of Building #1180. Half of the building is going from contractor storage to automotive repair restoration. In order to accommodate that they proposed eleven (11) parking spaces. They are reclaiming what has become an overgrown gravel area. They have proposed two parking spaces to the north side of Building #1180 and a proposed vehicle display area adjacent to the driveway.

The amendment will reflect existing and proposed conditions. The proposal is to increase the parking area behind building #1180 to accommodate the proposed use of that building as an auto service/repair shop. Also requested is the addition of a 14’ x 22’ Vehicle display area. Mr. Dolan noted the display area is not so much for sales. The use is for repair and restoration and not a dealer. If it’s sales, it would be incidental.

Mr. Dolan noted there is an existing septic system onsite. There is a table on the plan which notes that the proposed use will not increase the loading above what was already approved. Parking
requirements are shown on the plan. They have received an amended NHDOT driveway permit for the use. As requested by the Planner, the NHDOT permit number will be added to the plan. Mr. Dolan answered any questions from the Board.

The Chair asked the Planner if he had any input on the application. Planner Woodruff noted he had no questions or comments at this time, adding he had several recommendations for approval with conditions if the board should approve the site plan amendment.

The Chair asked for board comments. Mrs. Kelly noted the Conservation Commissions comments relating to the parking and the comment that overtime the property has been developed in stages without a stormwater management system. Mrs. Kelly asked if the board can or should address that at this point? Mr. Dolan noted the impervious area increases 1,023 SF. He has been at the site when it has been raining, explaining the direction of flow. There doesn’t appear to be a problem with runoff. There is a significant area that’s vegetated between the upper and lower portion of the property, which will remain vegetated. Mr. Doan noted the total cumulative increase including the 2015 approval and current is 2,020 SF which is less than the 2,500 SF threshold.

Mr. Hoch noted the areas depicted on the plan as snow storage are next to wetlands, questioning the impact that pushing contaminated snow into that area would have? Mr. Dolan noted there is another area which they can designate as snow storage.

Planner Woodruff briefly spoke regarding this stating the two previous applications were reviewed and approved by the board and are grandfathered. He does not feel that the proposed 1,023 SF rises to the level of triggering a stormwater management review.

Mr. Quinlan referred to the comments of the Fire Chief and Code Enforcement Officer noting no issues. He questioned if the Chief and CEO understand that this request was for a body shop with spray booths and things of that nature? Specifically, the fire chief for safety and storage of combustible materials and fire suppression in the spray booths, Similarly with the CEO, and the capture of the water that’s typically used and contaminated. Mr. Dolan commented the water does not drain outside of the building. Mr. Quinlan questioned if there was a TRC for this application. Planner Woodruff replied there was not. Mr. Quinlan requested that as part of any approval, that it be subject to additional written review and requirements from the Fire Chief and Code Enforcement Officer based on additional information regarding the use as an autobody/ rust repair business, and does the proposal meet fire and safety requirements prior to the chairman signing the site plan.

Chairman Bartlett questioned what would be displayed in the 14’ x 22’ Vehicle display area? A lengthy discussion ensued regarding what could or could not be displayed in that area with the board agreeing upon a condition that the display area was for repaired vehicles only. Not wrecked vehicles, or not to become a sales area.

The Chair opened the hearing for public comment.

Brian Sanford, Chairman of the Conservation Commission noted the comments of the Con Com regarding the stormwater management plan. While no plan was required for each stage, the cumulative total presents a different picture. They suggested it would be prudent to do a site visit to look at how storm water is being managed on the site to ensure that the overall plan is effective on an ongoing basis. He noted another concern was the nature of the business and wanted assurance that oils and other contaminants used in auto repair are properly contained and will not wind up in the stormwater runoff.

There being no further questions or comments from the public, the Chair closed the public input portion of the hearing.
Planner Woodruff recommended approval of the minor amendment to an existing approved site plan with the following conditions: 1) Add Owner’s signature to plan prior to Chair signing; 2) The amended NHDOT driveway permit number be added to the plan note prior to the Chair signing; 3) The elimination of the Vehicle display area from the plan; 4) “No more than six (6) vehicles be stored outside (not including vehicle display area) awaiting repair or pickup by customers at any given time; 5) That the plan be revised to add an infiltration trench along the lowest elevation edge of the parking lot, utilizing Best Management Practices.

There was board discussion regarding the conditions suggested by Planner Woodruff as well the Conservation Commissions suggestion requiring a stormwater management plan. Mr. Woodruff noted that the Board cannot retroactively require that of an applicant.

Hearing no further comments or questions, the Chair called for a motion. A motion was made by Mr. Quinlan, seconded by Ms. Lindamood. There was discussion on the motion, which was amended as follows:

Motion: Mr. Quinlan moved to approve the site plan amendment for ACT Five Properties, LLC Tax Map 23, Lot 37 as amended, subject to the following conditions: 1) Add the amended NHDOT permit number to plan prior to the Chair signing; 2) The Owner’s signature shall be added to the final plan prior to the Chair signing; 3) The vehicle display area note amended to read “a maximum of two vehicles” prior to the Chair signing; 4) Add note to plan “No more than six (6) vehicles be stored outside (not including vehicle display area) awaiting repair or pickup by customers at any given time” prior to the Chair signing; 5) Subject to additional written review and comment from the Fire Chief and Code Enforcement Officer based on additional information regarding the use as an autobody/rust repair business prior to the Chair signing; 6) The installation of an infiltration trench, using Best Management Practices, along the east side of the edge of the eleven (11) parking spaces; 7) Add note to plan limiting the type of vehicles to be displayed in the “display area” are to be repaired vehicles only. Seconded by Ms. Lindamood, carried unanimously.

3. Davisson Farm, LLC (166-33) (276 Moultonboro Neck Road)

More Than One Dwelling on A Lot

Justin Passay, ESQ. of Donahue, Tucker & Ciandella, PLLC, agent for Davisson Farm, LLC presented the application for More Than One Dwelling on a Lot. Present in the audience was Bob Ciardi, the principal of the LLC, and Dave Dolan, of David M. Dolan Associates, PC.

Mr. Passay stated the application is for an additional dwelling unit on the property. Mr. Passay noted as Planner Woodruff had pointed out earlier, this is a fairly standard and narrow review by the Planning Board. The question is whether there is sufficient density as defined by Article III of the zoning ordinance, are the slopes and soil type satisfied per the regulations.

Mr. Passay gave a brief overview of the project. He noted that Mr. Ciardi and his family purchased the property last summer. Since that time, they have done a lot of work to it. This will be a phased project. The first phase is working on the large garage/warehouse. Next, they will move onto the barn portion and ultimately to the residential cape.

Mr. Ciardi plans to store vehicles in the back garage. In the garage is a loft which he hopes to improve. In discussion and design concept with the Code Enforcement Officer and Planner Woodruff they arrived at a strategy where they are seeking approval for a second dwelling unit. What they’re talking about is a small space in the garage to be used for a “hangout session”.
The lot is 17.36 +/- acres. The proposal is for the construction of a studio apartment within an existing garage/workshop on a developed lot that has an existing 4-bedroom dwelling; resulting in two separate dwellings on the property. They have received NH DES approval for construction of an individual sewage disposal system (eCA2019110110) for a 4-bedroom residence and a 1-bedroom studio apartment with garage/workshop at 225 GPD for a total flow of 825 GPD. Mr. Passay noted the unit density calculations for the property are 10.10 units. Mr. Passay answered any questions from the board.

Planner Woodruff noted that Mr. Dolan had provided documentation that the soils/slopes unit density calculations show that the applicant’s property has more than enough unit density for the Board to approve the application for two dwelling units on a lot, and the application shows that the structure with the dwelling unit will be contained in meets zoning dimensional requirements with the equitable waiver that was approved by the Zoning Board of Adjustment.

The Chair asked for board comments. Mrs. Kelly stated that the Conservation Commission was not informed of this until some time after the entire septic system was approved and installed. She expressed her concerns regarding the location of the septic leach field being located in hydric soils. There was a brief discussion regarding the timing of the application to NH DES for the septic system as well as the submittal of the application to the Planning Board. It was noted the application was submitted to the Land Use Department on November 12, 2019, comment sheet was provided to the Conservation Commission on November 13, 2019, with a response received back on December 3, 2019. NH DES Approval for Operation was dated November 13, 2109.

Chairman Bartlett made a comment regarding the GIS Hydric maps, stating they are not a precise representation of the soils. They are a general representation. Planner Woodruff added that he does not know what the soils are like on the level of determining what types of soils are on site and the precision level that is needed for septic design. The septic designer is the one who designs it and knows what the soils are at that level of precision. The GIS layer is a level of precision a lot like taking a photograph from a satellite. You can’t see one pixel. You can see a lot of pixels. So, the precision is not there. It’s a generalization of areas of hydric soils. It is not a high intensity soil survey, or an actual survey done by a soil or a wetlands scientist in order to prepare a septic design. Septic designs are prepared by certified septic designers, which go to the state, and do not come to the town.

Dave Dolan spoke to the septic design. Mr. Dolan stated he is a land surveyor and a licensed septic designer. Earlier in the summer, they did submit a septic system design that was approved by the state which shows the extent of the hydric soils based on onsite survey work. When it was originally approved it did not include a second dwelling. It was based on a garage. Subsequently when it was brought to their attention that they wanted approval for the property for a second dwelling, they resubmitted a design stating it was for two dwellings. The numbers did not change for the GPD. It is oversized for the use. The system is approved and installed in place.

The Chair opened the hearing for public comment.

Brian Sanford, Chairman of the Conservation Commission noted the original concerns of the Con Com is with the process. The sequential order does not make sense. He still believes that there would have been a better location on the site for the system.

Attorney Passay replied while they appreciated the comments and the discussion about the procedure in place, he noted pursuant to the Town’s application for permission to have a second dwelling unit, they need to have a certified and approved septic plan in place before filing. So, in order to be before the board this evening, they needed to have the plan in place.

There being no further questions or comments from the Board or the public, the Chair closed the Public Hearing.
Motion: Mr. Quinlan moved to approve the request for More Than One Dwelling on a Lot for Davisson Farm, LLC, Tax Map 166, Lot 33, 276 Moultonboro Neck Road as presented. Seconded by Mr. Balise, carried unanimously.

VIII. Other Business/Correspondence

1. Mark McConkey, agent for OM Moultonborough Realty Trust, Tax Map 142 Lot 1, requested to speak with the Board on an informal basis. Mr. McConkey stated that he was before the Board on March 22, 2017 to represent his client Kaushik Patel, Trustee of the OM Moultonborough Realty Trust, 268 Whittier Highway. The Board conditionally approved a site plan amendment for the construction of a two-bedroom apartment inside the existing structure for the property. To date the conditions have not been met. Mr. McConkey requested the Planning Board allow him to come forward with a plan at a future date.

Planner Woodruff stated that in accordance with Section 8.2 of the Site Plan Regulations, the approval had lapsed some nine (9) months ago. Mr. Woodruff made the comment that the apartment is already there and that someone is living in it. He noted the board had two options. They could agree with the request and vote to vacate the lapse of approval, giving the applicant some amount of time to meet the conditions of approval or require they start the process over. Either way, there is still the fact someone is living there. Members reviewed their approval of March 2017. The conditions of approval were: 1) The apartment be for the use of the manager or an employee only of All Day Convenience and not a rental unit for use by the general public; 2) The receipt of an amended NH DOT driveway permit; 3) Review and approval of the unit by the Fire Chief and/or Code Enforcement Officer prior to the issuance of an Occupancy Permit; 4) The owner’s signature block and signatures shall be added to the final plan prior to the Chair signing the plan; 5) The final plan shall be submitted to the Development Services Office in electronic format to include a pdf and an appropriate cadd file format.

Chairman Bartlett noted that the conditions of approval were not met and that the site plan is not signed. In addition, no permits (i.e. building, electric, plumbing, mechanical) have been applied for or issued by the Code and Compliance office.

Members noted their concerns with life safety, but also noted their concerns with requiring someone to vacate the property in the cold months.

After discussing the two options as stated by the Planner with Mr. McConkey it was the decision of the board to vacate the lapse in time to a date certain to allow his client time to complete the conditions of approval.

Motion: Mr. Quinlan moved to vacate the lapse in approval until January 15, 2020 subject to an inspection by Steve Zalewski, Code Enforcement Officer (CEO) and Dave Bengtson, Fire Chief, within seven (7) days of the date of this letter, and to obtain all necessary local, state and federal permits for the construction of the two-bedroom apartment inside the existing structure. Seconded by Ms. Lindamood, carried unanimously.

IX. Committee Reports

1. Chairman Bartlett noted Board letter dated November 21, 2019 to the Select Board regarding the French-Taylor Home and Associated Property. As an update to that property the Select Board has allowed the property to be listed by a commercial real estate agent.

2. Ms. Lindamood stated the Milfoil is current working on new contract reviews. Also noted was the request amount for the budgeting of the removal for milfoil is down. It appears that progress is being made in the removal and management of milfoil.
3. Chairman Bartlett updated briefly the activity of Septic Study Task Group and the Land Use Task Group. The LUTG is soliciting public input on possible zoning amendments for additional nodes. The Septic Health Task Group is working on a proposed health ordinance and is currently under review by their group.

4. Planner Woodruff provided members with a draft 2020 Work Plan. He asked members to review the draft and be prepared to discuss it at their next meeting. Chairman Bartlett questioned if the Planner could provide a year end 2019 Work Plan final version. Mr. Woodruff stated yes.

5. Mr. Hoch stated he almost finished with the reformatting of the zoning ordinance. He questioned if the changes would require a public hearing. Planner Woodruff noted if the changes are only scriveners’ errors and renumbering, it does not need to go to the voters.

6. Cristina Ashjian noted that on January 21, 2020 there will be a meeting of the project moving forward from the First Impressions Team. These would include projects they’ve identified, which may include gateways.

X. Projects Updates - None

XI. Adjournment: Ms. Lindamood made the motion to adjourn at 8:45 PM, Seconded by Mr. Balise, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant