

CONWAY PLANNING BOARD

MINUTES

MARCH 19, 1998

A meeting of the Conway Planning Board was held on Thursday, March 19, 1998, beginning at 7:04 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Catherine Woodall; Selectmen's Representative, Michael Valladares; Charlene Browne; David Fitch; Bob deFeyter; Town Planner, Dawn Emerson; Code Enforcement Official, Shawn Bergeron; and Recording Secretary, Holly Meserve.

ELECTION OF OFFICERS

Ms. Browne made a motion, seconded by Mr. deFeyter, to elect Catherine Woodall as Chairman. Motion unanimously carried.

Ms. Woodall made a motion, seconded by Mr. deFeyter, to elect Charlene Browne as Vice Chairman. Motion unanimously carried.

Ms. Woodall made a motion, seconded by Mr. deFeyter, to elect Dana Hylan as Secretary. Motion unanimously carried.

ROGER AND EDWARD GARLAND - FULL SITE PLAN REVIEW (MAP 12, PARCEL 36-3&4) FILE #FR98-02

Since the representative for the applicant was not present, Ms. Browne made a motion, seconded by Mr. deFeyter, to table the Full Site Plan Review for Roger and Edward Garland until the end of the meeting. Motion unanimously carried.

WAYNE AND DEBORAH MONTGOMERY - 2-LOT SUBDIVISION CONTINUED (MAP 12, PARCEL 5B) FILE #S98-05

Since the representative for the applicant was not present, Ms. Browne made a motion, seconded by Mr. deFeyter, to table the Subdivision Review for Wayne and Deborah Montgomery until the end of the meeting. Motion unanimously carried.

AIRPORT SQUARE, LLC. - 2-UNIT SUBDIVISION (MAP 61, PARCEL 5) FILE #S98-06

Since the representative for the applicant was not present, Ms. Browne made a motion, seconded by Mr. deFeyter, to table the Subdivision Review for Airport Square, LLC. until the end of the meeting. Motion unanimously carried.

ROMAN CATHOLIC BISHOP OF MANCHESTER - 2-LOT SUBDIVISION (SHEET 3-12, PARCEL "CEMETERY") FILE #S98-07

Since the representative for the applicant was not present, Ms. Browne made a motion, seconded by Mr. deFeyter, to table the Subdivision Review for the Roman Catholic Bishop of Manchester until the end of the meeting. Motion unanimously carried.

WAL*MART - REVIEW OF CONDITIONAL APPROVAL (MAP 61, PARCEL 38-60) FILE #FR95-05

Peter Hastings joined the meeting at this time. Al Palmer of Deluca-Hoffman; Margaret Bowles, Attorney for Walmart; Tom Burrow; and Roger Dionne of the New Hampshire Department of Transportation appeared before the Board. Ms. Emerson stated that Walmart is before the Board this evening because they feel they have fulfilled all the conditions to be granted a final approval. Ms. Browne asked which

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Board members were present during the Walmart hearings. Mr. Valladares stated that he was involved in part of the hearings. Ms. Woodall stated that she was here for the full process.

Mr. Palmer submitted a handout in regards to the conditions to the Board. Mr. Palmer stated that he would like to review the conditions of approval and what they are submitting to meet the condition. Mr. deFeyter stated that under Article 131-10.B. a conditional approval is only good for thirty (30) days. Mr. deFeyter stated that the Board signed a policy in 1996 that conditional approvals will be good for three (3) years, however, this was conditionally approved before the policy. Mr. deFeyter asked if in fact the applicant still has a conditional approval. Ms. Woodall stated that this has been in litigation. Mr. Hastings stated that item #12 allowed for the conditional approval to remain good for two (2) years after the litigation. Mr. deFeyter asked about Article 131-10.B. Mr. Hastings stated that the Board granted the applicant two (2) years. Mr. deFeyter asked if Mr. Hastings was comfortable with that. Mr. Hastings answered in the affirmative.

Mr. Palmer stated that under condition #1 there have been a number of draft agreements between Walmart and the State. Mr. Palmer stated that the NHDOT has issued a driveway permit dated March 19, 1998. Mr. Palmer stated that the NHDOT is going to take over the responsibility of the improvements to Route 302 and the construction of the local North/South road. Mr. Palmer stated that in lieu of Walmart and Shaws making the improvements, both are making contributions to the State. Mr. Palmer stated that under condition #2 the wetlands permit would have been for the local North/South road which the NHDOT is resuming the responsibility for and, therefore, the NHDOT will have to obtain the wetlands permit.

Mr. Palmer stated that condition #3 has been approved. Mr. Palmer stated that condition #5 has been submitted. Mr. Palmer stated that condition #6 has been submitted and acceptable by the Town Engineer. Mr. Palmer stated that condition #7 has been covered. Mr. Palmer stated that condition #8 has been submitted. Mr. Palmer stated that condition #9 has been covered. Mr. Palmer stated that under condition #11 the approval is no longer valid. Mr. Palmer stated that condition #12 is the time limit discussed earlier. Mr. Palmer stated that the dam permit expired and under exhibit H it has been renewed.

Ms. Woodall asked about the construction of the local North/South road. Mr. Palmer stated that the NHDOT will construct the local North/South Road from Route 302 to Common Court. Mr. Palmer stated that the NHDOT has taken over the responsibility of the entire project as well as the improvements to Route 302. Ms. Woodall asked what the improvements were to Route 302. Mr. Palmer stated that the Route 16 intersection and Route 113 intersection will be upgraded. Mr. Palmer stated that the improvements on Route 302 will be temporary. Mr. Palmer stated that Mountain Valley Boulevard will be signalized.

Ms. Woodall asked about the drainage. Mr. Dionne stated that drainage will be a part of the NHDOT's project. Ms. Woodall asked what final agreement did the State come to with Walmart. Ms. Woodall stated that she has the agreement dated July 6, 1995. Ms. Emerson stated that the new agreement is the driveway permit. Mr. Palmer stated that exhibit B is a letter from the commissioner of NHDOT to the Planning Board and exhibit C is the only agreement between the State and Walmart.

Mr. Hastings stated that under condition #1 the State did not have the money to fund the local North/South road at the time of the conditional approval and the Planning Board determined it was appropriate to have the road constructed from Route 302 to Common Court. Mr. Hastings stated that the Town could not mandate the taking beyond the Fairway. Mr. Hastings stated that the Planning Board left it up to the State and Walmart to negotiate an agreement. Mr. Hastings stated that the agreement had a certain time line. Mr. Hastings stated that the agreement goes into great detail about taking the land within two (2) years and concluded in 1997.

Mr. Hastings stated that in the meantime, the money situation changed for the State. Mr. Hastings stated that the State reviewed with Walmart and Shaws and made a different agreement from the agreement submitted at the July 13, 1995 meeting which was when it was conditionally approved. Mr. Hastings stated that the change is that all the highway projects along Route 302 and Mountain Valley Boulevard up to the

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Fairway and Common Court will be done by the State of New Hampshire and not by Walmart and Shaws. Mr. Hastings stated that the Town has been noticed that the State will take over from Route 302 to the Fairway, but they have not taken it yet. Mr. Hastings stated that he does not believe the State has taken from the Fairway to Common Court yet.

Mr. Hastings stated that the Town only has a notice of intent to take the Town portion. Mr. Hastings stated that the State has apparently changed its position regarding the reconstruction of the road to the Fairway. Mr. Hastings stated that item #3 of the agreement referenced on the Notice of Decision cannot be controlled by the Town. Mr. Hastings stated that under item #7 the construction of the road is an issue up to the Fairway. Mr. Hastings stated that there is a letter to the Town from the State that they propose to construct this road in 1999. Mr. Hastings stated that Walmart will have opened its store without the road being built until the State starts its project. Mr. Hastings stated that the State will put it out to bid in 1999 and will presumably be constructed in 1999.

Mr. Hastings referred to and read the second paragraph of a letter to former Chairman, Cynthia Briggs, from the State dated January 28, 1998. Mr. Hastings stated that the Town does not have the control over Route 302 or from the Fairway north to Common Court. Mr. Hastings stated that the time line is fixed by the approval that the Town portion of the road be constructed prior to opening for business. Mr. Hastings stated that they can start construction, but a certificate of occupancy will not be issued until the road is built. Ms. Woodall stated that the condition has not been met as it was voted on at that time.

Mr. Hastings stated that he doesn't have a problem with the State taking over the responsibility, but their giving you a different time line that is fixed. Mr. Hastings stated that the question is whether or not Route 302 to the Fairway is supposed to be completed prior to occupancy. Mr. Valladares stated that the Board in 1995 assumed that the time line was accurate. Mr. Valladares stated that he doesn't think anyone anticipated it dragging on. Ms. Woodall stated that traffic was a major concern and having the road built prior to opening was a concern.

Mr. Woodall stated that traffic was a concern and that is why the Board wanted the road built. Mr. deFeyter asked what are the proposed improvements to Route 302 by Shaw's. Mr. Valladares stated that State is building the road. Mr. Palmer stated that a notice of intent has been filed. Mr. Palmer stated that the right-of-way needs to be taken from Route 302 to the Fairway. Mr. Palmer stated that Walmart cannot do the condemnation and purchase the land.

Mr. Burrow stated that the agreement referenced in the Notice of Decision was not executed, it was a draft agreement only. Mr. Palmer stated that the earliest Walmart would be open is Thanksgiving of this year. Mr. Burrow stated that the road construction would begin about four (4) months later. Mr. Palmer stated that temporary improvements would be done to the intersection of Mountain Valley Boulevard. Mr. Palmer stated that turn lanes on Route 302 would be done as originally called for. Mr. Palmer stated that temporary signals would be installed and relocated by the State when the local North/South road was built. Mr. Palmer stated that when Shaw's builds there is a second part of these improvements.

Mr. Hastings stated that other land needs to be taken and the State needs to improve from Route 302 to the Fairway and track out the original 50 foot right-of-way. Mr. Hastings stated that the right-of-way is 50 feet adjacent to the Burke property and the plans previously submitted called for a small piece of that to make approximately a 66 foot right-of-way so there will be four (4) lanes up to the site. Mr. Hastings stated that there will be a turning and through lane. Mr. Hastings stated that there will be no more taking of land except for the State and Town road way. Mr. Hastings stated that it is the State's intent to take from Route 302 to the Fairway, but right now the Town still maintains it.

Mr. Hastings stated that the bow in the road will not longer exist. Mr. Hastings stated that the State has never met a deadline. Mr. Hastings stated that the Town has no control over the State, but there was a timeline specific up to the Fairway, but not specific any further. Mr. Hastings stated that if the board accepts the new agreement, it changes the timeline. Mr. Hastings stated that the road will not be built until 1999 and possibly not until nine (9) months after the store opens. Mr. deFeyter asked if there was any

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guarantee that it will ever be built and what happens if the State changes their minds. Mr. Hastings stated that the Town would be without a road. Mr. Hastings stated that from the Minutes they referred to the agreement and even though it was never signed, they were relying on this agreement.

Ms. Bowles asked what it is that the Board is expecting under condition #1. Ms. Bowles stated that the NHDOT is going to do the work. Ms. Bowles asked what is the Board asking Walmart to do. Ms. Bowles stated that the agreement in 1995 is superseded by the new agreement and the agreement the Board relied on was never signed. Mr. Valladares stated that at that time it was the general consensus that after thirty (30) years we were going to start building some roads. Mr. Valladares stated that the State's implied actions on anything for the 9A bypass basically was never worth the paper it was written on. Mr. Valladares stated that the intent at that time was to have the road built. Mr. Valladares stated that this is not against Walmart. Mr. Valladares stated that everything the State said they were going to do they haven't.

Curt Burke stated that Walmart has already submitted a \$400,000 letter of credit to the State. Mr. Burke stated that it is a pretty good assurance that the road will be built. Mr. Dionne stated that this project is being funded by the legislature. Mr. Burrows stated that the contribution is being made for the purpose of this road. Mr. Burrows stated that funds have been released for the road and Walmart has contributed. Mr. Burrows stated that Walmart has supplied the State with plans for the local North/South Road. Mr. Burrows stated that there is more than enough money to build the road from Route 302 past the Fairway. Mr. Burrows stated that at the staff level condition #1 is no longer applicable.

Mr. Valladares stated that the Board was concerned with the alignment because B.J's was proposed across from the Mountain Valley Boulevard entrance, but without B.J's the alignment is not critical. Mr. Burrows stated that from a capacity standpoint he doesn't see an issue, especially for the short period of time. Mr. Burrows stated that improvements are being done at the intersections until the road is relocated. Ms. Browne stated that Shaw's is down the road and asked how they will be effected. Mr. Burrows stated that there are several 100 feet between Shaw's entrance and Mountain Valley Boulevard. Mr. Burrows stated that both intersections will be signalized and they will be coordinated. Mr. Burrows stated that the road would be widened to allow for a left hand turn into the Shaw's site. Mr. Burrows stated that this will work until the State improvements are completed.

Ms. Woodall asked for public comment; Arthur Bergman stated that he sat through the hearings and his opinion is that the Board was under the impression that the road would be built as far as the Fairway to deal with the traffic. Mr. Bergman stated that that is the reason for the conditional approval. Mr. Bergman stated that the State required improvements for a driveway permit and he would like to know why the State changed their minds. Mr. Bergman also asked about the impact on the private road. Ms. Woodall stated that her opinion is that we cannot impact a private road. Mr. Hastings stated that the owner of the mall, Arliss Hill, raised that issue and the court did not see importance because she has sold lots off the private road. Mr. Hastings stated that it is a non-issue because she should have thought of that before laying out the road.

Mr. Hastings stated that he does not have a problem with the State doing the work as long as the State lives up to what they say they are going to do. Mr. Hastings stated that Leon Kenison of the NHDOT does not say in his letter that it is a funded road. Mr. Hastings stated that Shaw's has not paid there lump sum to the State yet. Mr. Hastings asked if the State will continue the project if Shaw's refuses to pay the lump sum. Mr. Hastings stated that there was a good faith representation that the road was going to be built, but now it won't be built until a few months after the store is opened. Mr. Valladares stated that he doesn't see how the Town can hold Walmart hostage by the State. Mr. Hastings stated that they have changed the condition. Mr. Hastings stated that they've paid their money and they've done what they can do.

Mr. Palmer stated that a condition of the NHDOT permit was funding. Mr. Palmer stated that the letter of credit stipulates that within thirty (30) days of asking for the funds Walmart must release or the bank will have to release the funds. Mr. Palmer stated that the State is guaranteed to obtain the money. Mr. Valladares asked if the letter of credit stipulates that this money is designated for this road. Mr. Dionne stated that it is specifically addressed for the local North/South road. Mr. Burrows stated that obviously

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Walmart wants the improvements made. Mr. Hastings asked if the same conditions applied to Shaw's. Mr. Dionne stated that Shaws will not be issued a driveway permit if they do not contribute the money. Mr. Hastings asked if the State will continue with the project if Shaw's does not contribute. Mr. Dionne answered in the affirmative. Ms. Woodall asked if the letter states that. Mr. Hastings answered in the negative.

Ms. Browne asked what would be the impact of the traffic on the Town if the road is not built. Mr. Hastings stated that they are proposing the same improvements, but there would be temporary improvements for the opening year. Mr. Hastings stated that they have required certain sections to be constructed, but they are temporary improvements. Mr. Hastings stated that they are temporary improvements because they will be tearing them out when they reconstruct the road. Mr. Hastings stated that the key is signalization and turning lanes. Mr. Hastings stated that the four (4) lanes from Route 302 to the Walmart entrance will not be constructed prior to opening.

Mr. Burrows stated that there will be a right turn lane into the site. Mr. Burrows stated that any delay would be on Mountain Valley Boulevard turning left into the site. Mr. Burrows stated that the improvements would be torn out when the State does their improvements. Mr. Burrows stated that he does not see a compelling safety issue. Mr. Bergman stated that people will be able to get into the site, but they will not be able to leave the site. Mr. Burrows stated that the traffic will have to stop on Walmart property when trying to exit the site. Mr. Burke stated that Walmart has submitted a \$400,000 letter of credit and CVS has donated \$25,000. Mr. Burke stated that the State has acquired \$4 Million of condominiums at Settler's Green for the construction of the local North/South road. Mr. Burke stated that there is a \$7.5 Million showing of good faith.

Ms. Woodall stated that all the money is not building the road before Walmart opens. Ms. Woodall stated that a major concern was the road and the traffic flow. Ms. Woodall stated that there is no guarantee in writing that the road will be built. Mr. Dionne stated that their work will interfere with the State's work. Mr. Dionne stated that the delay would be a year. Mr. Valladares stated that he wished the road would be built, but the Town cannot tell the State what to do. Mr. Valladares stated that he cannot see Walmart being held hostage by it.

Bill Lehmann stated that he owns the bike shop on the private portion of Mountain Valley Boulevard. Mr. Lehmann stated that the road is there already to Common Court; its just not a straight of way. Mr. Lehmann stated that there is a road there now. Ms. Woodall stated that there is a legal issue and the conditional approval is based on certain conditions. Mr. deFeyter stated that the intent was to mesh Walmart and the road being built. Mr. Hastings stated that the State has altered the agreement, not Walmart. Mr. Hastings stated that Walmart engineered and designed the road. Mr. deFeyter asked if the Board could extend the approval until 1999 when the State builds the road. Mr. Burrows stated that Walmart is anxious to build.

Mr. Burrows stated that when this project was before the board, the State stated that there wasn't funding. Mr. Burrows stated that the intent has been met and funding for the road has been realized. Mr. Burrows stated that he believes there are no a safety issues. Mr. deFeyter asked why not a little longer until the road is built. Mr. Burrows stated that applicant is all set to go forward with the project. Ms. Browne asked the State's projections. Mr. Dionne stated that there is a ten-year plan and will be advertised in 1999 and constructed within the year. Mr. Burrows stated that the intent is to begin in the construction season of 1999.

Ms. Browne asked if there was any way to speed up the process. Mr. Dionne answered in the negative. Mr. Dionne stated that due to the grade changes in Route 302, the local road and Route 302 are being tied together. Mr. Dionne stated that the applicant has provided money to the NHDOT and splitting temporary improvements. Ms. Woodall asked if the money that is going to be used is State and Federal money and has it already been appropriate. Mr. Dionne stated that the contribution of money is in the ten year plan which is a commitment. Mr. Dionne stated that the money for Route 302 and the local north/South road has been committed.

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Mr. Valladares stated that the local North/South road is one of the first items for the bypass. Mr. Dionne stated that some money has already been spent on takings. Ms. Woodall stated that Leon Kenison stated that the drainage on Route 302 is french drains and that EPA permits would have to be obtained. Ms. Woodall asked if the State has started that project. Mr. Dionne stated that he did not know. Mr. Palmer stated that Deluca-Hoffman has provided the NHDOT with preliminary plans for Mountain Valley Boulevard as well as conceptual drawings for Route 302 and drainage plans for Route 302. Mr. Palmer stated that a portion of funding is for drainage. Ms. Woodall asked if it was for the drainage on Route 302. Mr. Palmer stated that they did go through an analysis and the pond can be enlarged to handle the drainage from Route 302. Mr. Palmer stated that the land is available.

Ms. Woodall stated that it is not the drainage plan from the conditional approval. Mr. Palmer stated that the applicant did not address the State drainage. Mr. Burrows stated that it is the same concept when B.J.'s was proposed, just on the other side of the road. Ms. Woodall asked if it is the final plan that the Board approved. Mr. Palmer answered in the affirmative and stated that there wasn't a plan at that time showing the State run off. Ms. Woodall asked if item #6 of the draft agreement dated July 6, 1995 still applied. Mr. Hastings stated that the agreement was never signed, but it was a representation from NHDOT through Walmart to the Board.

Mr. Palmer asked the Board to give the applicant an indication if the other conditions have been met. Mr. Hastings stated that the wetlands permit is needed for the southerly portion of the road. Mr. Hastings stated that the State will have to obtain the permit if they construct the road. Mr. deFeyter stated that if you cannot obtain the wetlands permit then they cannot construct the road. Mr. Hastings stated that it is a small detention pond and not a big deal. Mr. Hastings stated that condition #6 has been approved by Paul DegliAngeli and needs to be approved by the Board of Selectmen. Mr. Hastings stated that under item #7 they have submitted a check to the Town. Mr. Hastings stated under item #8 they have submitted. Mr. Hastings stated that under item #9 they have submitted a check to the Town. Mr. Bergeron stated under item #10 that they have submitted identical plans to the original plans that were approved. Mr. Hastings stated that under item #11 the first application has been revoked and under item #12 the applicant has met the two (2) year deadline.

Mr. Valladares made a motion, seconded by Mr. Fitch, that the conditions imposed by the Board on July 13, 1995 have been satisfied and the plans should be signed and recorded. Motion defeated with Ms. Woodall, Ms. Browne and Mr. deFeyter voting in the negative. Mr. Hastings stated that the Board should give the applicant some input to why they denied the full approval. Ms. Woodall stated that the road should be built prior to the store opening. Mr. Hastings stated that the portion between Route 302 and the Fairway is the section that needs to be reconstructed prior to opening. Ms. Woodall answered in the affirmative, but she is also concerned with drainage. Mr. Hastings stated that the drainage is not a part of the conditions.

Mr. deFeyter stated that the Board needs more assurance that the road will be built. Mr. deFeyter stated that he can understand the problem with Walmart, but the Board needs to ensure the construction of the road. Mr. Bergeron suggested the Board go through items 3-12 and make sure the Board is satisfied that the condition has been met. Mr. Bergeron suggested that the Board either give the NHDOT direction this evening or the Board write a letter to the NHDOT. Ms. Woodall stated that she would prefer to write a letter to the NHDOT. Mr. Bergeron asked if the letter could be created at a work session. Mr. Hastings answered in the affirmative.

Mr. Hastings suggested the Board be polled to see if items 3-12 have been met. Ms. Woodall polled the Board and the Board agreed that items 3-5 and items 7-11 have been met. The Board agreed that item #6 needed to be approved by the Board of Selectmen. Ms. Bowles stated that item #1 cannot be met until a building permit has been issued. Mr. Hastings stated that the Board needs assurance from someone that the road will be built. Mr. Hastings stated that Walmart has bonded with the State and not with the Town. Mr. Hastings stated that the Board wants something concrete on when the road will be built. Ms. Woodall stated that she would like to discuss the letter in a work session. Ms. Emerson stated that the next work session is on April 2, 1998.

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DORIS SMITH AND JOANNA S. HUNT/MEREDITH VILLAGE SAVINGS BANK - FULL SITE PLAN REVIEW CONTINUED (MAP 34, PARCEL 37) FILE #FR98-01

Dave Douglass of Thaddeus Thorne Surveys; and Peter Vrettos of Royal Design Builders appeared before the Board. Mr. Douglass gave the history of the project for the new members and stated that the Board still needed to act on four (4) waivers. Mr. Douglass stated that there was a question of greenspace in an article he read in the paper. Mr. Douglass stated when ever there were changes to the plans the greenspace was always recalculated. Mr. Douglass stated that there is a note on the plan that the applicant is committed to maintaining the landscaping.

Ms. Woodall asked if the applicant has always met the greenspace requirement. Mr. Douglass answered in the affirmative. Ms. Woodall asked if one of the trees was on State property. Mr. Douglass answered in the affirmative and stated that it always has been. Ms. Woodall asked if the tree was used in the calculations. Mr. Douglass stated that the applicant exceeds the requirement. Ms. Emerson stated that the Board needs to address the waivers. Ms. Emerson stated that the cost estimate of the site work has been approved and the bonding is in place.

Ms. Browne stated that the red oaks are too close to the sidewalk and they will most likely die. Ms. Browne stated that they will also cause problems with the sidewalk. Ms. Browne stated that she doesn't feel it is an appropriate planting. Ms. Browne stated that it should be a different species, like a honey locust. After a brief discussion, the applicant agreed to rearrange tree species and location. Mr. deFeyter asked if there was a pass through proposed between the library and the bank. Mr. Douglass answered in the negative and stated that it will probably just develop. Mr. Bergeron stated that it will probably just naturally develop. Mr. deFeyter stated that the applicant is asking for a waiver of four (4) parking spaces. Mr. deFeyter asked if the applicant needs twenty-one (21) parking spaces. Mr. Vrettos answered in the affirmative. Ms. Woodall asked if there was sufficient space to back out from the parking space next to the Greenwood entrance. Mr. Douglass answered in the affirmative.

Ms. Woodall asked for public comment; Wesley Palmer stated that this is not a safe situation. Mr. Palmer stated that it is insane to put this on the corner as it is a high traffic situation. Mr. Palmer stated that due to safety issues he encourages the Board to deny this application. Jan Weinraub stated that she cannot understand why a business would want such an unappealing location.

Marianne Putnam stated that she is the President of the Historical Society and stated that this is a way to preserve the Smith House. Ms. Putnam gave a brief history of the house. Ms. Putnam stated Meredith Village Savings Bank did a nice job with the building in Moultonborough and she believes the applicant is trying to work with the Board. Mr. Douglass stated that Shumway Marshall who lives across the street supported this project for the same reason. Mr. Douglass stated that the bank does an outstanding job preserving houses. Ms. Woodall read a letter from John Starrat, President of Meredith Village Savings Bank, dated March 5, 1998.

Ms. Emerson stated that she spoke to Roger Dionne of the NHDOT extensively in regards to this project. Ms. Emerson stated that the State has reviewed the plan that is in front of the Board and they are requesting that the arm on the corner of Route 16/Pleasant Street be moved to the other side of the sidewalk. Mr. Vrettos stated that the applicant is willing to move the arm if it is necessary. Ms. Browne stated that she would like to see signs placed on Greenwood Avenue in regards to Children Playing. Ms. Browne stated that this was a concern from a neighbor across the street. Ms. Emerson stated that if that will satisfy the neighbor the signs could be put up, but it would be the Town's responsibility and not the applicants. Mr. Palmer stated that he did not request the signs and he doesn't believe the signs will work anyway.

Ms. Woodall read the conditions to grant a waiver under Article 123-41. Ms. Woodall read a waiver request for Article 123-22.A.1. Mr. Valladares made a motion, seconded by Ms. Browne, to approve the waiver request of Article 123-22.A.1. Motion unanimously carried. Ms. Woodall read a waiver request for Article 131-67, II. Mr. Valladares made a motion, seconded by Mr. Fitch, to approve the waiver request of Article 131-67, II. Motion carried with Ms. Woodall voting in the negative.

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Ms. Woodall read a waiver request for Article . Mr. Valladares made a motion, seconded by Ms. Browne to grant the waiver request for Article . Motion carried with Ms. Woodall voting in the negative. Ms. Woodall read a waiver request for Article 131, Table II. Mr. Valladares made a motion, seconded by Mr. deFeyter, to approve the waiver request of Article 131, Table II. Motion defeated with Ms. Woodall, Ms. Browne, Mr. Fitch and Mr. deFeyter voting in the negative.

Mr. Douglass stated that Mr. DegliAngeli stated that the applicant met the requirement with the radius change. Mr. Douglass stated that because of the changes it nullifies having 150 feet. Mr. Douglass stated that the changes takes a way the need to have 150 feet because there is enough room to key up and pass. Mr. Fitch made a motion, seconded by Mr. deFeyter, to reconsider the waiver request for Article 131, Table II. Motion unanimously carried. Ms. Woodall read the waiver request for Article 131, Table II. The motion was defeated again with Ms. Woodall, Ms. Browne and Mr. deFeyter voting in the negative.

Mr. Valladares stated that the Board recommends changes, the applicant makes the changes and then the Board denies the application. Ms. Woodall stated that this is a different board. Mr. Valladares stated that the Board is suppose to represent the Town. Ms. Emerson stated that the plans have been signed by the Town Engineer, Paul DegliAngeli; the Conway Village Fire District; and myself. Mr. Douglass stated that he doesn't know what the Board is looking for. Mr. Valladares stated that another applicant will be before the Board that can meet the regulations and will probably demolish the building. Mr. Valladares stated that it is a shame to see a landmark destroyed.

Mr. Douglass asked for some direction. Mr. Fitch stated that the Board granted the first waiver for the centerline off set, but the board denied the other wavier request for the centerline offset. Ms. Emerson stated that by various people signing the plans it is showing that we support the plans and the layout. Ms. Woodall stated that there is a safety issue. Mr. deFeyter stated that he has a problem with the difference between 150 feet to 75 feet. Mr. deFeyter stated that he would like to hear the rational behind the difference. Ms. Browne stated that this is not the most safest situation and the applicant has spent a lot of time trying to preserve the building.

Mr. deFeyter made a motion, seconded by Ms. Browne, to deny the Full Site Plan application for Doris Smith and Joanna S. Hunt/Meredith Village Savings Bank. Motion carried with Mr. Valladares and Mr. Fitch voting in the negative.

ROGER AND EDWARD GARLAND - FULL SITE PLAN REVIEW CONTINUED (MAP 12, PARCEL 36-3& 4) FILE #FR98-02

Dave Douglass of Thaddeus Thorne Surveys appeared before the Board. Mr. Douglass submitted a lot merger to the Board because of the new zoning change the lots are undersized and are considered one (1) lot. Ms. Woodall signed the lot merger. Mr. Douglass stated that the applicant is proposing a new garage to house logging equipment. Mr. Douglass stated that the applicant has submitted a waiver for two (2) driveways. Mr. Douglass stated that the trees are there today.

Mr. Valladares asked if the building will be housing an office. Mr. Douglass answered in the affirmative. Mr. Valladares asked if the two (2) driveways were to separate the trucks and the cars. Mr. Douglass answered in the affirmative and stated that the waiver is for paving and two (2) driveways. Ms. Emerson referred to Article 123-21. D which allows two (2) driveways in the Industrial-1 district and this parcel is located in the Industrial-2 district.

Mr. Valladares made a motion, seconded by Ms. Browne, to accept the application of Roger and Edward Garland for a full site plan review. Motion unanimously carried. Ms. Woodall asked for public comment; there was none. Ms. Woodall read the conditions to grant a waiver under Article 123-41. Ms. Woodall read the wavier request for Article 123-23.B. Mr. Valladares made a motion, seconded by Mr. deFeyter, to approve the waiver request for Article 123-23.B. Motion unanimously carried. Ms. Woodall read the waiver request for Article 123-21.C. Mr. Valladares made a motion, seconded by Ms. Browne, to approve the waiver request for Article 123-21.C. Motion unanimously carried.

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Mr. Fitch made a motion, seconded by Mr. Valladares, to conditionally approve the Full Site Plan for Roger and Edward Garland conditionally upon a performance guarantee for 50% of all site improvements and this application will expire in three (3) years. Motion unanimously carried.

WAYNE AND DEBORAH MONTGOMERY - 2-LOT SUBDIVISION CONTINUED (MAP 12, PARCEL 5B) FILE #S98-05

Dave Douglass of Thaddeus Thorne Surveys; and Wayne Montgomery appeared before the Board. Mr. Valladares stepped down due to a conflict of interest. Mr. Douglass stated that the applicant is proposing a two (2) lot subdivision with a tail to East Conway Road in order for the back lot to have a sign. Mr. Douglass stated that the applicant had to retain an access between lots 2 and 3 in order to access the back lot if subdivided, but the applicant has no intention of using the driveway for lot 2.

Ms. Browne made a motion, seconded by Mr. deFeyter, to accept the application of Wayne Montgomery for subdivision review. Mr. Fitch stated that from the staff notes this application was accepted for review on February 19, 1998. The Board agreed and, therefore, a motion was not necessary.

Ms. Emerson stated that the access road is a paper road and if it was developed a driveway permit would be necessary. Mr. Woodall stated that the lot does not meet the three to one ratio. Mr. Douglass stated that the little strip would not meet the three to one ratio, but if you take the width and length of the whole lot it would meet the three to one ratio. Mr. Fitch stated that the ratio is a guideline and not a regulation. Ms. Woodall stated that by accepting it, it would set a precedent. Mr. Bergeron stated that he has worked with the applicant and they have applied every opportunity to try to gain a sign and it just is not possible.

Mr. Bergeron stated that the Board approved a similar lot configuration for the Bey property on Brownfield Road. Ms. Woodall stated that the Bey subdivision was for a driveway and not a sign. Mr. deFeyter asked why there couldn't be a sign to cover both lots. Mr. Bergeron stated that the Town does not allow off-premise signs. Mr. deFeyter asked if this would set a precedent along the bypass. Mr. Bergeron stated that the Board needs to look at the reality of this happening in numerous other places. Mr. deFeyter stated that he is concerned where this may lead. Mr. deFeyter asked if there was any basis to make an exception to the sign ordinance. Mr. Bergeron stated that the applicant can request a variance, but they are difficult to obtain. Mr. Bergeron stated that other than a variance would be a change to the sign ordinance.

Ms. Woodall stated that she would like to see something in the ordinance that addresses directory type signs. Ms. Emerson referenced Article 147-19.F(2). Mr. Bergeron asked where is the platted right-of-way. Ms. Emerson answered the Town road. Mr. Bergeron stated that the applicant would be asking the Town to put a sign in the Town right-of-way. Mr. Bergeron stated that it is for the specific subdivision, not another subdivision. Mr. Douglass stated that there is not a safety issue here. Ms. Woodall stated that there is no justification for it from a site plan perspective. Mr. Douglass stated that we don't need a waiver for this configuration.

Mr. deFeyter asked if there is a sign there now. Mr. Montgomery answered in the affirmative and stated that it is only 3'x1' which is not large enough to advertise what the business does. Ms. Woodall asked for public comment; there was none. Mr. Fitch stated that the Board could discuss this at a work session. Mr. Douglass asked the basis which the Board will deny it. Ms. Woodall answered under the three to one ratio. Mr. Douglass stated that the applicant meets the three to one ratio. Mr. Bergeron stated that we have reviewed this application at length and the ordinance specifically states "general". Mr. deFeyter stated that the three to one is based on a compact lot. Mr. deFeyter stated that he would like to explore this situation further.

Mr. Montgomery stated that they have spent days figuring the lot configuration and this is the best one. Ms. Woodall stated that she would like to see the Board work on the sign ordinance. Mr. Bergeron stated that even if the Board posted a change to the sign ordinance, the more restrictive regulation would apply. Ms. Emerson stated that the requirement is general and does not require a waiver. Mr. Bergeron stated that

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the Board could modify the site plan review and subdivision regulations quickly and easily to not allow flag lots or lots with tails.

Mr. Fitch made a motion, seconded by Ms. Browne, to approve the 2-lot subdivision for Wayne and Deborah Montgomery. Mr. deFeyter asked if the Board has the option to not approve. Mr. Bergeron stated that the Board could continue the application. Ms. Emerson stated that for the Board to continue the application you'd have to need additional information. Mr. Bergeron stated that procedurally the Board would have to vote. **The motion unanimously carried.** Mr. Fitch was appointed secretary. The plans were signed.

AIRPORT SQUARE, LLC. - 2-UNIT SUBDIVISION (MAP 61, PARCEL 5) FILE #S98-06

Mr. Valladares rejoined the Board at this time. Dave Douglass of Thaddeus Thorne Surveys appeared before the Board. Mr. Douglass stated that this is a financial subdivision. Mr. Douglass stated that a bank would like to finance the Rite-Aid building alone and this unit subdivision would create two (2) financial entities. Ms. Browne made a motion, seconded by Mr. Valladares, to accept the application of Airport Square, LLC, for subdivision review. Motion unanimously carried. Ms. Woodall asked for public comment; there was none.

Mr. Valladares made a motion, seconded by Ms. Browne, to approve the 2-unit subdivision for Airport Square, LLC. Motion unanimously carried. The plans were signed. (Note: eight (8) extra copies were signed for various lawyers and owners involved).

ROMAN CATHOLIC BISHOP OF MANCHESTER - 2-LOT SUBDIVISION (SHEET 3-12, PARCEL "CEMETERY") FILE #S98-07

Marty Risley of H.E.B. Civil Engineers appeared before the Board. Mr. Risley stated that the applicant is subdividing the cemetery portion of the lot off and selling the remaining four (4) acre lot. Mr. Valladares made a motion, seconded by Mr. deFeyter, to accept the application of the Roman Catholic Bishop of Manchester for subdivision review. Motion unanimously carried. Ms. Emerson stated that she did not see any problems with the application. Ms. Woodall asked if there was a driveway proposed. Mr. Risley stated that the driveway exists.

Mr. Fitch made a motion, seconded by Mr. Valladares, to approve the 2-lot subdivision for the Roman Catholic Bishop of Manchester. Motion unanimously carried. The plans were signed.

OTHER BUSINESS

Kenneth and Shirley Jones - Full Site Plan Review (Map 12, Parcel 62) File #FR97-12: Mr. Bergeron stated that the conditions for Kenneth and Shirley Jones have been met. Ms. Emerson stated that she had not had a chance to review file and asked if the Board could sign the plans out of session so she could review the file. Mr. Valladares made a motion, seconded by Mr. deFeyter, to sign the plans for Kenneth and Shirley Jones out of session. Motion unanimously carried.

Meeting adjourned at 11:12 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary