

**CONWAY PLANNING BOARD  
Town Hall**

**April 2, 1998**

The Conway Planning Board met on Thursday, April 2, 1998 in the Conference Room at Town Hall. Present were Catherine Woodall (Chair), Charlene Browne, David Fitch, Bob deFeyter and Paul Whetton (Selectmen's Representative). Also present was Dawn Emerson, the Town Planner. The meeting was called to order at 7 p.m. by Catherine Woodall, presiding.

**1. MINUTES**

On a motion by Mr. Fitch, seconded by Mr. deFeyter the Board voted unanimously to table the minutes for the meeting of March 5th until the next meeting.

For the meeting of March 19th, Mr. deFeyter wished to clarify on page 9, fourth paragraph, that the road signed as the sanitary landfill was an exception. On page 3, paragraph 4 it should read Ms. Woodall.

Ms. Woodall noted that the notice of decision distributed with the minutes had handwritten comments on it that were an addition to the original notice.

On a motion by Mr. Fitch, seconded by Mr. deFeyter, the Board voted unanimously to accept the March 19th minutes as amended.

**2. PUBLIC HEARING - SUBDIVISION/LOT CONSOLIDATION - FICKE AND OTHERS**

At 7:06 p.m. Ms. Woodall opened the Public Hearing on an application by Richard, Jr. and Carolyn Ficke/George, Gary, Richard and Ronald Duquette/Keith and Elizabeth Farrar/Conway Hampshire Estates to consolidate 3 lots into two lots on County Road, Conway (Tax map 12, parcel 27-1, 2, 3.). David Douglass of Thorne Surveys represented the applicants.

Mr. Douglass explained that it was proposed to divide up an existing 2.44 acre parcel (lot 2) and divide it into two equal sections of 1.22 acres and consolidate each half with the abutting property. The two parcels created would be 2.69 acres (lot 1) and 3.02 acres (lot 3).

Mr. Whetton asked if the road name was County Road as indicated on the plat. He thought it may be "Lane" or way rather than "Road". Subsequently, Ms. Emerson established that it should be County "Drive".

There was no public comment.

On a motion by Mr. Fitch, seconded by Mr. deFeyter, the Board voted unanimously to accept the plan as presented.

On a motion by Ms. Browne, seconded by Mr. deFeyter, the Board voted unanimously to approve the plan subject to changing the name of the street from County Road to County Drive.

On a motion by Mr. deFeyter, seconded by Mr. Fitch, the Board voted unanimously to authorize the plans to be signed out of session after the change has been made.

### **3. PUBLIC HEARING - SITE PLAN REVIEW/BOUNDARY LINE ADJUSTMENT - PETERSON AND OTHERS**

At 7:19 p.m. Ms. Woodall opened the Public Hearing on an application by David Peterson and Warren and Frances Rowell to convert an existing building to a restaurant and lounge and consolidate two lots into one on Seavey Street, North Conway (Tax map 70, parcels 8 & 9). The property is located in the Village District Commercial District. David Douglass of Thorne Surveys and David Peterson represented the applicants.

Mr. Douglass reviewed the application. He said that the building on one of the lots, a former bakery, would be demolished and used for parking while the restaurant will be on the other lot. Mr. Douglass said he would be requesting waivers for three parking spaces because of the proximity to municipal parking and for 10 trees since an established growth of lilac trees would be preserved. Ms. Emerson indicated that all the permits and reviews were in order. The driveway permit, the drainage calculations and the cost estimates had all been reviewed and approved by Paul DegliAngeli.

On a motion by Mr. Whetton, seconded by Ms. Browne, the Board voted unanimously to accept the application as presented.

Mr. Fitch asked about hours of operation. Mr. Peterson responded that they would be 4 p.m. to midnight. Ms. Woodall asked about fire and water. Ms. Emerson said that the Fire Department and the Water Precinct had reviewed and approved the plans. Mr. deFeyter asked about an old foundation behind the existing garage and whether a fuel tank had been on it. Mr. Peterson said it was just a slab. Ms. Woodall asked about lighting. Mr. Peterson replied it would be located mainly on the west side to illuminate the driveway and the parking lot. There would be two shielded lights on the building facing the street. Ms. Emerson said a specification sheet on the lights to be used was included with the application. Ms. Woodall asked about snow removal. Details were included on the plat indicating that snow would be removed off the premises when need. Ms. Browne asked about the parking lot. Mr. Peterson said it would be paved. Ms. Woodall asked about

music. Mr. Peterson said not at this point. Concerning the proximity to an apartment building, Mr. Peterson said a stockade fencing would be installed and lilacs transplanted to cover it. He said part of the property is on the adjoining Landmark property and has a registered easement that covers maintenance. He said the restaurant will be a nonsmoking facility. Ms. Browne expressed further concerns about noise. Ms. Emerson said the Town did not have a noise ordinance and this was a permitted use.

A written waiver was requested from Section 123-22B to allow credit for public parking from 27% to 20%. Ms. Emerson said the waiver was for three parking spaces. She pointed out there would be some walk in traffic. Ms. Woodall said the Board could not give credit for street parking. There was also a written waiver under section 123-30D, requesting a waiver of 10 trees since the site was well lined with well established hedges of lilacs.

The application was opened up to public comment. An abutter, Mary Bell, said she lived in an adjoining apartment that was situated only a few feet from the property line. She said it had been a residential site for 60 -70 years. She was concerned about the impact that the noise and the trash resulting from the restaurant would have on her family. She had lived there for 7 years and there had been problems with skunks and raccoons in the past. She was also concerned on whether her young son would be able to gain access to the restaurant from her yard. Mr. Peterson disputed the statement about the site being residential for a long time saying he had owned the property from 1981-89 and it had been a business. He said that with the addition of the stockade fencing and the lilacs, it would be safer for her child. He added that the dumpster would be closed and it would be emptied as needed. It was not in his interests to have problems with a dumpster.

Ms. Woodall read the requirements for issuing a waiver. Mr. deFeyter made a motion, seconded by Ms. Browne, to grant a waiver for 3 parking spaces. The motion passed unanimously.

The waiver for 10 trees was discussed next. Mr. Peterson said the lilacs had been there for forty years. Board members were in favor of keeping the lilacs. Mr. Whetton asked what would happen if the lilacs were destroyed. Mr. Douglass pointed out that note 5 on the plat stated they would be maintained. Mr. Whetton made a motion, seconded by Mr. Fitch to waive the requirement for 10 trees. The motion passed unanimously.

Ms. Emerson said the applicants had provided elevations of what the restaurant would look like. In response to a question by Ms. Woodall, Mr. Peterson said that handicapped parking would be in front of the door. He said the opening would be in July.

Mr. deFeyter made a motion, seconded by Mr. Fitch, to approve the application as presented. The motion passed unanimously.

#### 4. APPOINTMENTS

Ms. Emerson said she had received a letter from David Power expressing interest in joining the Planning Board. Currently there is one position vacant for a three term. There was also a letter from Attorney Peter Hastings reviewing the statues on conflict of interest issues. Ms. Woodall said there a perceived conflict of interest in view of Mr. Power's employment by the Town. Mr Power said he had worked for the Town initially as an Assistant Zoning Officer. The position had been eliminated. More recently he had been employed to complete the E911 mapping. Mr. Power thought his experience could be useful to the Board.

There was a discussion of what period the appointment would cover. It would last to the next election after which there would be an election to fill the remainder of the term. Ms. Woodall repeated her issue of perceived conflict saying it was not a legal matter but a public relations issue. Mr. deFeyter said the issues were a little broader and alternates were also needed. He suggested advertising for volunteers for the positions. Ms. Emerson pointed out there had been advertising prior to the Annual Meeting with no success. Ms. Browne expressed concerns over a possible conflict for the Town. Mr. Fitch pointed out that he and Mr. Powers had been write in candidates at the recent elections. Had he (Mr. Fitch) chosen to take the one year term then Mr. Powers would already be on the Board. Ms. Emerson read the letter from Mr. Hastings which pointed out that there was no conflict of interest for a town employee being on the Board and that conflict of interest issues arose only when dealing with specific issues and applications when a pre stated bias or a financial interest could be shown. Mr. Hastings drew an analogy to the criteria used in selecting a juror. The procedure for filling vacancies on an elected board is covered under RSA 673:12. This issue had also been covered by a note from Mike King, the Town Clerk. Mr. Whetton said that there may be a bigger problem for the Town if Mr. Power was not appointed given his experience and willingness to serve. A comment from the audience (Mr. Bergman) said that if Mr. Power was appointed it would give the impression of "stacking the deck" in the Town's favor. Mr. deFeyter repeated his suggestion to advertise to see if anyone else was interested. Ms. Emerson expressed concerns over the Planning Board being one member short and the difficulty of getting a quorum since one member has missed several meetings.

Mr. Fitch made a motion, seconded by Mr. Whetton to appoint Mr. Power to the Board. The vote was 2-3 with Ms. Browne, Mr. deFeyter and Ms. Woodall voting against. The motion failed.

Ms. Emerson reiterated her concerns about having a full Board and did not think that readvertising would change the situation. Mr. Whetton was concerned that Mr. Power might now reject an offer to join the Board if no other candidates were found. Ms. Woodall said that Bob Barriault was willing to serve as alternate.

On a motion by Mr. deFeyter, seconded by Ms. Browne, the Board voted 3-1 with one abstention to advertise for alternates and members with a deadline of two weeks. Mr. Whetton stated his objection to the process and that Mr. Power seemed well qualified. There was some discussion about the time when Holly Meserve, the secretary, was appointed an alternate to the Board. Apparently, there had been some objection to that appointment but Ms. Emerson pointed out it was quite legal

## **5. POLICIES AND PROCEDURES**

Mr. Whetton indicated that Jac Cuddy will be the Selectmen's representative on the Planning Board with Mike Valladares as his stand in.

Mr. deFeyter said the Planning Board should have input into the evaluation of the Town Planner and the Public Works Director. Any discrepancy with the Town Manager's evaluation would be referred to the Board of Selectmen. Mr. Whetton was in favor in principle. Mr. Fitch was opposed to it. He said these employees already had a boss responsible for their performance. He said the Planning Board members only have a limited view of what they did. He thought the Board could always write letters as needed. Ms. Browne thought it could be positive. Ms. Emerson said she had no comment on the evaluation procedure but she said she was always receptive to feedback. Ms. Woodall was not sure about being part of the evaluation process. Mr. Whetton said he would discuss it with the Board. Mr. deFeyter said he wanted to bring some formality to the process.

Mr. Whetton then left the meeting. (8:40 p.m.).

Mr. deFeyter had distributed a list of issues for discussion. Ms. Browne also had listed some issues. Mr. deFeyter wanted to know what the overall goals of the Planning Board were; he wanted to know how the Board could consider the overall economic impact of their decisions on the Town and he said there was a need to look at the overall impact of an application on the Town not just on the individual application. Ms. Emerson said that past minutes and documents included vision statements and goals which may need updating. She will research and collate the information. Mr. deFeyter also wanted to know what the relationship was to the Board and other staff in Town Hall. Ms. Woodall said she had reviewed the process for doing economic studies and she was in favor of it. Mr. deFeyter said his biggest concern was the Town had the high taxes. He said there was little or no residential construction in Conway but there was in the surrounding towns and wondered what was happening to the housing stock. Ms. Woodall said that something was not right with all the high taxes and all the commercial businesses. Mr. Fitch said the Board needed to look at the long range plan (Master Plan) and take a more proactive stance in encouraging good development. Ms. Emerson suggested Tom Holmes could provide input on the economic impact on property values and taxes. She will also look at impact fees. Bike paths, roller blading, easements and similar issues pertaining to recreational opportunities and quality of life issues were discussed. Ms. Emerson recommend that the

Board develop a meeting schedule of workshops to address these kind of issues.

The time frame allowed for the Board to decide on an application was discussed. Ms. Emerson said she had 72 hours to decide if an application was complete and the Board had 30 days to call a public hearing. The clock started ticking from the time the application was submitted.

Mr. deFeyter spoke on the problems he had with acceptance of incomplete applications. He said, for example, the restaurant and the Meredith Savings Bank applications did not have driveway permits and he did not want the Board to waste time on them. Ms. Woodall said that driveway permits could be part of a conditional approval which could not be changed. Mr. deFeyter wanted to encourage conceptual reviews before coming in with an application. Ms. Woodall pointed out that applicants for large projects usually did. She also pointed out that the large projects were some of the easiest to deal with because they were usually complete, quoting Settlers Green as an example. Mr. Fitch supported the view that the initial application should be complete in order to save the Planners time. There was general agreement with this position.

Mr. deFeyter said he was uncomfortable with Paul DegliAngeli signing off on the applications. He wanted more information in the form of a note or a memo. He said there had been a sign off on the driveway requirement for the Meredith Savings Bank but no explanation provided for a deviation from the regulations. Ms. Emerson said that more details would be provided.

Ms. Woodall said that conditional approvals could not be provided for green space requirements which are subjective. Mr. deFeyter said he wanted a policy for conditional approvals. He saw no need if the applications was complete. Ms. Emerson pointed out that the performance guarantee would normally not be provided until after approval and was always a condition. Ms. Woodall said she would like to see the State sign off on driveways before the plans are approved by the Board. Ms. Woodall emphasized the need to follow written procedures.

## **6. OTHER BUSINESS**

Ms. Emerson said she would like to set up a workshop to address questions raised by the Design Review Committee on signs in the right of way for the bypass. She will research information on who regulates the different sections of the bypass and its right of way. There is a meeting on the bypass on April 14th. Subsequently, a workshop date was set for April 27th (Monday) at 6 p.m. to deal with bypass issues.

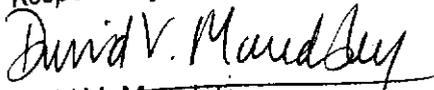
For the April 16th meeting, Ms. Emerson said there was conceptual review for the ice rink in Conway, the Conway Daily Sun have a site plan review and Walmart will be back. Ms. Woodall said she wanted a legal opinion on the ownership of the land for

Walmart. Ms. Emerson said she would follow up on it. The status of the Walmart project was reviewed. Ms. Woodall said there were lots of issues to be decided, including the agreement on the roadway, and time would be needed to review the package.

Ms. Browne made a motion to appoint Mr. deFeyter as the Planning Board's representative to the Design Review Committee for the bypass. The motion was seconded by Ms. Woodall and passed unanimously.

The meeting adjourned at 10:15 p.m.

Respectfully submitted,

  
David V. Maudsley