

CONWAY PLANNING BOARD

MINUTES

AUGUST 6, 1998

A meeting of the Conway Planning Board was held on Thursday, August 6, 1998, beginning at 7:01 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chairman, Catherine Woodall; Selectmen's Representative, Jac Cuddy; Vice Chairman, Charlene Browne; David Fitch; Robert deFeyter; Sheila Duane; John Waterman; Town Planner, Dawn Emerson; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Fitch made a motion, seconded by Mr. Cuddy, to approve the Minutes of June 25, 1998, as written. Motion unanimously carried.

Mr. Cuddy made a motion, seconded by Mr. Fitch, to approve the Minutes of July 2, 1998, as written. Motion unanimously carried.

Mr. Cuddy made a motion, seconded by Mr. Fitch, to approve the Minutes of July 16, 1998, as written. Motion unanimously carried.

Ms. Browne joined the meeting at this time. Ms. Woodall appointed Ms. Duane and Mr. Waterman as voting members.

GREEN HILL MEADOWS/MICHAEL VALLADARES - 2-LOT SUBDIVISION (MAP 21, PARCEL 10) FILE #S98-14

David Douglass of Thaddeus Thorne Surveys appeared before the Board. Mr. Douglass stated that the applicant wishes to subdivide 73± acres into two (2) lots. Mr. Cuddy made a motion, seconded by Mr. deFeyter, to accept the application of Green Hill Meadows/Michael Valladares for subdivision review. Motion unanimously carried. Ms. Emerson stated that there was a waiver request for the scale of the plan. Ms. Woodall asked for Board comments; there was none. Ms. Woodall asked for public comment; there was none.

Ms. Woodall read the waiver request for Article 123-25 of the Site Plan Review Regulations. Ms. Woodall read the conditions to grant a waiver under Article 123-41 of the Site Plan Review Regulations. Mr. Cuddy made a motion, seconded by Mr. deFeyter to approve the waiver request for Article 123-25. Motion unanimously carried. Mr. deFeyter made a motion, seconded by Mr. Cuddy, to approve the two-lot subdivision for Green Hill Meadows/ Michael Valladares. Motion unanimously carried. Mr. Fitch was appointed secretary. The plans were signed.

ROMAN CATHOLIC BISHOP OF MANCHESTER/GEORGE TOLLEY - FULL SITE PLAN REVIEW CONTINUED (MAP 62, PARCEL 9) FILE #FR98-09

Doug Burnell of H.E.Bergeron Civil Engineers; and Michael Tolley, applicant, appeared before the Board. Mr. Burnell stated that at the last meeting there were five (5) outstanding items. Mr. Burnell stated that the bonding has not yet been submitted, but the cost estimate has been approved. Mr. Burnell stated that the New Hampshire Department of Transportation driveway permit is still pending. Mr. Burnell stated that the fencing requested by the Conway Scenic Railroad has been added to the plans. Mr. Burnell stated that the materials on the architectural elevation have been changed.

Mr. Burnell stated that the applicant is requesting a waiver for the three (3) street trees; and for the width of the driveway. Mr. deFeyter stated that there was an issue with the walkway. Ms. Emerson stated that the walkway is represented on the plans. Mr. Burnell stated that street trees interferes with the sign setback.

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Mr. Burnell stated that the trees will block the sign. Mr. Burnell stated that there are a lot of mature trees remaining and the State may end up taking them anyway.

Ms. Browne suggested cutting the pine trees to add the street trees. Mr. Burnell stated that he doesn't see why you would want to cut mature trees. Ms. Woodall stated that they need to be back thirty-five (35) feet. Mr. Burnell stated that you would have to cut mature trees to plant the three (3) street trees. Ms. Woodall asked for public comment; Robert Benson of McDonald's Restaurant stated that when McDonald's added their PlayPlace the Board allowed them to put street trees back so they would be away from the sign.

Mr. Cuddy stated that he has a hard time understanding the reasoning behind cutting down healthy trees to plant other trees. Mr. Cuddy stated that there is a natural row of trees and it doesn't make sense to cut them down. Ms. Browne stated that the problem with pines is that your naturally going to lose the lower limbs and they can look scraggly. Mr. Cuddy stated that he can understand that, but it is difficult to see the reason to cut down existing, healthy trees. Ms. Browne stated that the long term effect is to make continuity with the boulevard.

Mr. Cuddy stated that there is a cemetery with a natural border and it continues to McDonald's. Ms. Duane stated that she can understand why the Board wants street trees, but it is hard to justify cutting down existing trees. Ms. Browne suggested that they substitute low shrubs for the street trees. Ms. Woodall stated that azaleas are low and they would add some color. Mr. Burnell stated that the shrubs would have to be low enough to see the sign. Mr. deFeyter asked if the existing trees die do they have to be replaced. Mr. Fitch stated that the applicant is required to have a landscaping plan and the existing trees will have to remain. Mr. Waterman stated that the Board should not be limiting it to this particular development, but it should be for all. Ms. Woodall stated that when they come in they do. Mr. Waterman stated that the Board does not know how much the State is going to take. Mr. Waterman stated that they shouldn't have to cut existing trees.

Mr. Cuddy stated that the strip is developed and your not going to create a canopy effect. Mr. Cuddy stated that it makes sense not to cut the trees. Mr. Fitch stated that he is in favor of the waiver. Mr. deFeyter stated that he is in favor of the waiver if the existing tree area is to remain. Ms. Browne stated that she would like to see the applicant plant low shrubs along the street area to provide continuity to the strip. Mr. Benson stated that McDonald's made the same suggestion, but was told it was a regulation. Mr. Tolley asked if a lawn would be okay. Ms. Browne answered in the affirmative and stated that shrubs would be nice also. Mr. Tolley stated that that would be fine as long as they do not interfere with the sign or visibility.

Ms. Woodall read the waiver request for Article 123-30.D(8) of the Site Plan Review Regulations. Ms. Woodall read the conditions to grant a waiver under Article 123-41 of the Site Plan Review Regulations. Mr. Cuddy made a motion, seconded by Mr. deFeyter, to approve the waiver request for Article 123-30.D(8). Motion unanimously carried.

Ms. Woodall read the waiver request for Article 123-21.F of the Site Plan Review Regulations. Ms. Woodall asked if this was a request from the State. Mr. Burnell answered in the affirmative and stated that thirty (30) feet is the State's minimum. Mr. Cuddy asked if it will be striped. Mr. Burnell stated that there will be a lane for in and out and the out will be a little wider. Ms. Woodall asked if there will be a separation between the in and out. Mr. Burnell answered in the affirmative. Mr. Fitch asked if there was a written request from the State for the width of the driveway. Mr. Cuddy stated that there have been two instances that the State has encouraged a wider curb cut. Mr. Fitch stated that if it is not going to be marked then it does it have to be wider. Mr. Burnell stated that the State agrees.

Ms. Emerson stated that the State can require a fifty (50) foot curb cut, but the Town can be more restrictive. Ms. Emerson stated that the Town allows a maximum curb cut of twenty-six (26) feet. Mr. Burnell stated that the State would be happier with thirty (30) feet. Mr. Cuddy stated that it would be nice for it to be aligned with Barnes Road. Mr. Burnell stated that Barnes Road is forty (40) feet. Mr. deFeyter

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stated that he would not like to see it aligned with Barnes Road because he doesn't want people to think it is a continuation of the road.

Ms. Woodall asked for public comment; Mr. Benson asked what is going to be done with the light. Mr. Burnell stated that it is going to be a working light. Mr. Benson stated that a working light will screw up the traffic pattern worse than it is now. Mr. Benson stated that it is going to create more of a traffic problem with the light. Ms. Woodall asked if the State has addressed the light. Mr. Cuddy stated that he believes that the State will signalize that intersection. Mr. Cuddy stated that when the local road is constructed people will not use Barnes Road. Mr. Cuddy stated that he would rather wait and see what they are going to need. Mr. Cuddy stated that it doesn't make sense to have stacking traffic. Mr. Cuddy stated four (4) feet is not going to make a difference.

Mr. deFeyter stated that the Town has a regulation of twenty-six (26) feet and if the State minimum is thirty (30) feet then the Town should change their regulations. Mr. Tolley stated that he has a 104-room property in Portland and there is not much stacking at all. Ms. Woodall asked why the applicant needs a thirty (30) foot curb cut. Mr. Tolley stated that if there is car turning left then a car can still turn right. Mr. Cuddy asked if there was a banquet room. Mr. Tolley stated that there is only a function room. Ms. Browne made a motion, seconded by Ms. Duane, to approve the waiver request of Article 123-30.D(8). Motion defeated with Ms. Woodall, Mr. Cuddy, Mr. Fitch, Mr. deFeyter, and Mr. Waterman voting in the negative.

Mr. Fitch stated that he would like to see a letter from the State to back up the width of the curb cut. Mr. Waterman stated that the size of the curb cut should be based on something. The outstanding items are a Performance Guarantee for 50% of all site improvements and a NHDOT driveway permit. Mr. Cuddy made a motion, seconded by Mr. deFeyter, to continue the application of the Roman Catholic Bishop of Manchester/George Tolley for a full site plan review until August 20, 1998. Motion unanimously carried.

**CONWAY HAMPSHIRE ESTATES/MARBLECON TRUST - BOUNDARY LINE ADJUSTMENT
(MAP 12, PARCEL 27-5 & 16) FILE #S98-15**

David Douglass of Thaddeus Thorne Surveys appeared before the Board. Mr. Cuddy made a motion, seconded by Ms. Browne, to accept the application of Conway Hampshire Estates/Marblecon Trust for a Subdivision/Boundary Line Adjustment Review. Motion unanimously carried. There being no questions from the Board, Ms. Woodall asked for public comment.

Eugene Eishant stated that he is the President of the Association and there are covenants. Mr. Eishant stated that this has not been brought before the Association to be reviewed. Mr. Eishant stated that he only knew about it because he was an abutter and was notified through the Town. Mr. Eishant stated that he would like the Board to deter their decision until after the Association's meeting in September. Mr. Eishant stated that there is a problem with the Recreation area that Roy Ward messed up on. Mr. Eishant stated that people cannot get a clear right-of-way to their property which includes lot 5. Mr. Eishant stated that he would advise the Board to hold any action on the application until the Association can review it.

William LeBlanc, applicant, stated that the Town just recently took lot 2 and combined with two (2) other existing lots and the Association did not vote on it. Mr. LeBlanc stated that he is the Secretary of the Association. Mr. LeBlanc stated that it was originally two (2) lots. Ms. Emerson stated that she can appreciate the concerns of the abutter, but deeds are not under the purview of this Board. Ms. Emerson stated that it is a civil matter. Ms. Woodall stated that she would like a legal opinion from Town Counsel, Peter Hastings, even though it is a civil matter.

Mr. Cuddy stated that the discussion between the Association and the applicant is not pertinent to use and we cannot be held liable for a civil matter. Mr. Cuddy stated that this is a legal boundary line adjustment. Mr. Cuddy stated that were not responsible for the Association, but for the land use. Mr. Cuddy stated that if it is part of a recorded deed then we do need to be careful. Mr. LeBlanc stated that the Association votes on building plans; there is nothing about subdividing your property. Mr. Douglass stated that this is a

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simple transaction for a complicated history. Mr. Douglass stated that this will be helpful for the Association because it will get away from the problems.

Dennis Wagner stated that he owns lot 6 and this seems to meet the Town's guidelines. Mr. Wagner stated that it does not effect his boundaries and he doesn't see a problem with it. Mr. Eishant stated that lots do not have cleared deeds and that is what we have to clear up. Mr. Fitch made a motion, seconded by Ms. Duane, to approve the Boundary Line Adjustment for Conway Hampshire Estates/Marblecon Trust. Motion carried with Ms. Woodall abstaining.

**JOANNA S. HUNT/SACO RYAN LLB - MINOR SITE PLAN REVIEW (MAP 34, PARCEL 37)
FILE #MR98-05**

Dr. Robert Rose and Dr. Frank Hubbell, applicants, appeared before the Board. Dr. Hubbell stated that they are proposing to move the handicap ramp and add three (3) feet to the building. Ms. Browne made a motion, seconded by Mr. Cuddy, to accept the application of Joanna S. Hunt/Saco Ryan LLB for a Minor Site Plan Review. Motion unanimously carried.

Mr. deFeyter asked what happened to the sidewalk. Mr. Hubbell stated that it was the handicap ramp. Mr. deFeyter asked if there is an architectural elevation of the handicap ramp. Dr. Hubbell stated that it will blend with the rest of the building. Mr. Fitch stated that the handicap ramp is located in the snow storage area. Mr. Fitch asked if there was curbing on this lot. Dr. Hubbell answered in the affirmative. Ms. Emerson stated that there is curbing only on the radius. Ms. Emerson stated in regards to the walkway the Board can discuss pedestrian walkways, but it is not a requirement.

Ms. Woodall asked for public comment; there was none. Mr. deFeyter stated that the handicap ramp should be the same color as the house. Mr. Cuddy made a motion, seconded by Mr. deFeyter, to approve the Minor Site Plan for Joanna S. Hunt/Saco Ryan LLB with the note that the handicap ramp will blend with the porch. Motion carried with Mr. Fitch abstaining. The plans were signed.

OTHER BUSINESS

Stan Szetela/Swift River Ridge - Extension of Approval (Map 7, Parcel 33) File #87-64: Ms. Emerson stated that the permits are in hand and we're down to the drainage calculations. Ms. Emerson stated that the plans were dropped off yesterday afternoon and Paul DegliAngeli, Town Engineer, has not had time to review them. Mr. deFeyter made a motion, seconded by Mr. Fitch, to extend the approval for Stan Szetela/Swift River Ridge until October 1, 1998. Motion unanimously carried.

Robert Bollinger/8-Lot Subdivision (Map 15, Parcel 20A) File #S96-07: Ms. Emerson stated that the road [Carol Ann Way] and drainage have not been constructed to Town specifications and there is not enough bonding left for the Town to correct the work. Ms. Emerson stated that either the applicant needs to submit a check for \$7,296 to bring the surety up so the Town can do this work if the applicant does not or the Board needs to revoke the subdivision approval.

Robert Bollinger stated that he was not aware of this situation and stated that he and the Town agreed upon a sum that would do the work. Mr. Bollinger stated that the original amount is over and above the site work as it included retainage and an engineer to oversee the project. Mr. Bollinger stated that the Town was to only pay for services rendered. Ms. Emerson stated that the project was started and it was not built to Town specification. Ms. Emerson stated that either the money needs to be supplied or the subdivision approval revoked so that the applicant is not selling lots on an inadequate road. It was agreed by the Board, Ms. Emerson and the applicant that they would have Mr. DegliAngeli attend a meeting to discuss this project.

Dana Hylen/Letter of Resignation: Ms. Woodall read a letter of resignation from Dana Hylen. Mr. Cuddy made a motion, seconded by Mr. deFeyter, to accept the resignation of Dana Hylen with regrets. Motion unanimously carried.

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James and Terry Abraham - Plan Signing (Map 66, Parcel 13) File #FR98-08: The Board agreed that all the conditions had been met. Mr. Cuddy made a motion, seconded by Mr. deFeyter, to grant final approval to James and Terry Abraham. Motion unanimously carried. The plans were signed.

Appoint Board Member: Mr. Cuddy nominated Sheila Duane as a Board Member. Nomination carried with Mr. Waterman abstaining.

Sign Ordinance - Article 14-19.C(5): The following amendment was suggested to the Board by Ms. Emerson:

- (5) If the application is approved, the Zoning Officer shall issue an approval for the erection of a [the] sign. [~~Upon completion of construction, the applicant shall certify in writing that each sign conforms to the approved application, and shall provide two photographs of each completed sign, one showing the general location and one showing the basic design and structure. Failure to provide this documentation to the Zoning Officer within two weeks of sign installation shall be sufficient cause to levy a \$10.00 per day fine until it is provided, with the daily fine to begin at the end of the two week period.~~] **The sign permit is valid for one (1) year from the date of approval. If the sign is not erected within the one (1) year, the permit shall expire.**

Mr. deFeyter made a motion, seconded by Mr. Cuddy, to post the proposed amendment to Article 14-19.C(5) for a public hearing on August 20, 1998. Motion unanimously carried.

Meeting adjourned at 9:42 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary