

**CONWAY PLANNING BOARD**

**MINUTES**

**OCTOBER 15, 1998**

A meeting of the Conway Planning Board was held on Thursday, October 15, 1998, beginning at 7:00 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; Sheila Duane; Arthur Bergmann; Robert deFeyter; John Waterman; Town Planner, Dawn Emerson; and Recording Secretary, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

Ms. Browne made a motion, seconded by Mr. Fitch, to table the Minutes of October 1, 1998, until November 5, 1998. Motion unanimously carried.

**APPOINTMENT OF ALTERNATE MEMBER TO VOTING MEMBER**

Ms. Woodall appointed Mr. Waterman as a voting member until Mr. Bergmann joins the meeting.

**THADDEUS THORNE AND KINGDON GOULD, JR./HABITAT FOR HUMANITY - 12-LOT SUBDIVISION (MAP 7, PARCEL 37) FILE #S98-17**

Edgar Allen, Thaddeus Thorne Surveys; Ted Pettingell, Habitat for Humanity; Penny Deans, Attorney for the applicant; and Peter Hastings, Town Council, appeared before the Board. Mr. deFeyter stated that he did contact Ted Pettingell of Habitat for Humanity in regard to grants and the organization. Mr. deFeyter stated that they did not discuss the application. Mr. deFeyter stated that he spoke to the Office of State Planning and he was informed that RSA 676 has been changed and became effective August 25, 1998. Mr. deFeyter stated that one change was the Board now has sixty-five (65) days to review the application from the date the Board accepts it as a complete application. Mr. deFeyter stated that this application was submitted before the change, therefore, it should go forward under the old regulations.

Mr. Bergmann joined the meeting at this time, therefore, making Mr. Waterman a non-voting member. Mr. Allen stated that the radius of the cul-de-sac was reduced from 100 feet to the town standard of 60 feet. Mr. Allen stated that they revised lots number 9, 10 and 11, and combined lot 12 with lot 7. Ms. Emerson stated that Conway Village Fire District reviewed the plans, but they need to be sent to the State. Ms. Emerson stated that the Town Engineer, Paul DegliAngeli, previously approved the drainage. Ms. Emerson stated that the water and sewer plans need to be reviewed by Mr. DegliAngeli. Ms. Emerson stated that all the lots meet the frontage requirement and the 1/2 acre requirement.

Mr. deFeyter asked if there is an easement across the drainage area on lot 7. Mr. deFeyter asked how they will access lot 7. Mr. Allen stated that there can be a common driveway between lot 5 and lot 7, or they can construct a structure over the drainage area on lot 7. Mr. deFeyter asked if there will be access off Butternut Lane. Mr. Allen answered in the negative. Ms. Woodall asked if sewer connections will be coming off the road. Mr. Allen answered in the affirmative. Mr. Bergmann asked if the abandoned swift river railroad is still a right-of-way. Mr. Allen answered in the negative. Mr. Hastings stated that the applicant has agreed to remove it from the plans.

Ms. Browne asked if there is a common drive between lot 5 and lot 7, is there a possibility for lot 7 to have two (2) dwelling units. Ms. Deans stated that only two (2) dwelling units can access one driveway. Ms. Woodall asked who they would have to get an easement from to cross over the drainage area on lot 7. Mr. Hastings stated that the drainage easement is for the benefit of the road. Ms. Woodall asked if they are planning to build over the drainage area or have a common drive. Ms. Deans stated that they are not sure yet.

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Mr. deFeyter read Article 131.30.H and stated that the side lines of lots 9, 10, and 11 do not seem to meet that regulation. Mr. Fitch stated that the Article states “generally”. Ms. Deans stated that by stating “generally” it is not a strict requirement. Ms. Deans stated that you have a strict regulation with zoning for frontage. Mr. deFeyter stated that the applicant would still have to follow the intent of Article 131.30.H. Ms. Deans stated that the applicant has followed the intent. Mr. Fitch asked Mr. Hastings to give the Board input on a strict zoning regulation and then a regulation that states “generally”. Mr. Hastings stated that the applicant has to meet the 100 foot frontage. Mr. Hastings stated that the other is discretionary on the Board. Mr. Hastings stated that for use of the land it does not necessarily have to be exact that’s why it states generally. Mr. Hastings stated that the whole lot does generally follow the intent, but when you get to the cul-de-sac you do have problems.

Mr. Hastings stated that it is discretionary on the Board’s part, but he doesn’t see any thing in regard to safety. Mr. Hastings stated that the Board would generally approve it, but it is not a given. Mr. Fitch stated that unless there was a safety problem it is a general requirement. Mr. Hastings stated that unless the lot looked ridiculous. Ms. Dean referred to Article 131.30.A. Mr. Hastings stated that lot 7 is a crazy looking lot. Mr. Hastings stated that it is not dictated by the applicant, but by the lay of the land. Mr. Hastings stated that you have existing land that has been divided over the decades. Ms. Deans stated that what was lot 12 has to be attached to something. Mr. Hastings stated that you cannot subdivide lot 7 because it does not have road frontage.

Ms. Woodall asked if the applicant would agree to a deed restriction to one house. Mr. Pettingell agreed. Ms. Emerson stated that the Board should be polled in regard to the deed restriction for one dwelling unit on lot 7. Mr. Fitch, Mr. Bergmann, Ms. Browne, and Ms. Woodall agreed to the deed restriction for one dwelling unit on lot 7. Ms. Duane and Mr. Cuddy disagreed with the deed restriction on lot 7. Mr. deFeyter abstained from voting until the rest of the issues were discussed. Mr. deFeyter asked if it is not the Board’s obligation to approve things closely to the ordinance and not help out the developer. Mr. Hastings stated that the Board is here to assist the Town and the developer meet the regulations. Mr. Hastings stated that the developer has the right to develop.

Mr. deFeyter stated that making it conforming as possible they’ve tried to revise the number of lots to make more conforming. Mr. Hastings stated that if you move the easterly line of lot 7 to make it more conforming. Mr. deFeyter answered in the affirmative, but they would lose one lot. Mr. deFeyter stated that he agrees that it is a tough piece of land. Ms. Woodall asked if this land is wooded or cleared. Mr. Allen stated that it is wooded up to the right-of-way. Ms. Woodall stated that the road needs street trees. Mr. Allen referred to note 8. Ms. Deans stated that trees will remain on the edge of the right-of-way per Town standards.

Ms. Emerson referred to Article 131.37.1(A) in regard to landscaping. Ms. Emerson stated that the applicant has already lost one lot and now the Board is asking them to lose another lot. Mr. Waterman stated that the Board is being a bit obstructionist if they ask the applicant to lose another lot. Mr. deFeyter stated that he called and spoke to the National Headquarters and asked if this charter has the right to develop. Mark Brown of Habitat for Humanity stated that they have built subdivisions throughout the country. Mr. Brown stated that they build affordable homes for people in the valley.

Ms. Woodall asked the time frame of developing these lots. Ms. Deans stated that it will take a while as they have to raise every dollar. Mr. deFeyter stated that the lots should be as conforming as possible. Mr. Fitch asked if a cul-de-sac is a curbed street or a turn around. Mr. Hastings stated that generally a cul-de-sac is part of a street, but you should speak to an engineer. Mr. Cuddy asked if the applicant will be able to keep the existing trees to meet the street tree requirement. Ms. Woodall answered in the affirmative. The Board had a lengthy discussion in regard to bonding. Ms. Woodall asked Mr. Hastings if he was comfortable with the situation. Mr. Hastings answered in the affirmative. Mr. Fitch asked if the applicant will accept the restriction of one dwelling unit on lot 7. Mr. Pettingell answered in the affirmative.

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Mr. Fitch made a motion, seconded by Mr. Cuddy, to conditionally approve the 11-lot subdivision or Thaddeus Thorne and Kingdon Gould, Jr./Habitat for Humanity based upon a Performance Guarantee for 115% of all site improvements; Town Engineer final approval of sewer and water plans; Conway Village Fire District final approval of sewer and water plans; removal of abandoned railroad easement from lots 10 and 11 on the plan; Addition of a note to locate easement to Arthur J. King on lot 7; only lots 1 and 2 can be constructed on until final completeness of the road; Add a note to the plan that the applicant must comply with Article 131.37.1.A of the Subdivision Regulations; Add a note to the plan that lot 7 can only have one (1) dwelling unit; and the applicant has two (2) years for the road and amenities to be complete. Mr. deFeyter stated that he is still concerned that lot 7 doesn't meet the 3:1 ratio and that the radius is not met. Mr. deFeyter stated that it should be reduced by one (1) lot to be more conforming. Mr. deFeyter recommended the Board vote against the subdivision and have it redesigned. Motion carried with Mr. deFeyter and Mr. Bergmann voting in the negative.

**THE MEMORIAL HOSPITAL - FULL SITE PLAN REVIEW (MAP 19, PARCEL 71) FILE #FR98-11**

Mr. Fitch stepped down at this time. Edgar Allen of Thaddeus Thorne Surveys; and David Fitch of Memorial Hospital appeared before the Board. Ms. Woodall stated that the application is complete. Mr. Cuddy made a motion, seconded by Ms. Duane, to accept the application for the Memorial Hospital for a Full Site Plan Review. Motion unanimously carried. Ms. Woodall appointed Mr. Waterman as a voting member for this application.

Mr. deFeyter asked if there is going to be more dirt placed beyond the parking lot. Mr. Fitch answered in the negative and stated that where the dirt is currently piled is not as wide as it is going to be. Mr. Allen stated that from the existing parking lot it is going to extend forty-three (43) feet. Ms. Woodall asked the height of the storage shed. Mr. Allen stated that it will be a one-story building. Mr. Bergmann asked how far is the bypass from this property. Mr. Allen stated that the bypass is beyond the property line. Mr. Cuddy asked if it is within 500 feet of the bypass. Mr. deFeyter stated from the plans it appears to be exactly 100 feet from this to the bypass.

Ms. Browne asked if the soil type is listed on the plans. Ms. Duane referred to note 8 which deals with soil type. Ms. Woodall read a waiver request for Article 123.30.1 of the Site Plan Review Regulations and the requirements to grant a waiver. Ms. Duane made a motion, seconded by Mr. deFeyter, to approve the waiver request for Article 123-30.1. Motion unanimously carried. Mr. Cuddy made a motion, seconded by Ms. Duane, to conditionally approve the application for Memorial Hospital conditionally upon a Performance Guarantee for 50% of all site improvements; and a note on the plan that the storage shed will only be one-story high. Motion unanimously carried. Mr. deFeyter made a motion, seconded by Ms. Duane, that the conditional approval for Memorial Hospital will expire in thirty (30) days. Motion unanimously carried.

**OTHER BUSINESS**

Tom Holmes, Tax Assessor: Mr. Holmes appeared before the Board to answer questions regarding taxes, impact fee development, and unit subdivisions. Ms. Emerson was directed by the Board to review the ordinance and determine if unit subdivisions are legal.

Citizen Design Review Committee (CDRC): The Board discussed issues regarding the bypass and information for Mr. deFeyter to take back to the CDRC. The Board agreed to send a letter addressed to Don Lyford, NHDOT, to the Conway Board of Selectmen and the CDRC for signatures. The letter addressed no structures in the setbacks; maintaining or planting trees in the right-of-way; not clearing the right-of-way; and trying to maintain greenspace between the local North/South Road and the bypass.

Hales Location/Expansion of the White Mountain Hotel: The Board agreed to send a letter regarding Hales Location/Expansion of the White Mountain Hotel that the Planning Board wishes to be notified because the road goes through Conway.

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Meeting adjourned at

Respectfully Submitted,

Holly L. Meserve  
Recording Secretary