

CONWAY PLANNING BOARD

MINUTES

NOVEMBER 18, 1998

A meeting of the Conway Planning Board was held on Wednesday, November 18, 1998, beginning at 7:15 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chairman, Catherine Woodall; Selectmen's Representative, Paul Whetton; Vice Chairman, Charlene Browne; Robert deFeyter; Alternate, John Waterman; Town Planner, Dawn Emerson; Consultant, Glen Harbeck; and Recording Secretary, Holly Meserve.

WETLANDS PROTECTION OVERLAY DISTRICT - PUBLIC HEARING

Mr. Harbeck gave an overview of the proposed ordinance. Ms. Woodall asked for public comment; Carroll Fisher asked how the setback was determined and if it is sufficient. Mr. Harbeck stated that he was looking at the existing Shoreline Protection District. Mr. Harbeck stated that he did not think it would be fair to require a larger setback for people who are not on a great pond from those who are on a great pond. Mr. Fisher stated that there is more of a possibility of effecting a stream from the bypass than from those people who live on the lake.

Richard Cook of the Audubon Society stated that they have worked with other agencies and published a book on guidelines for buffers. Mr. Cook stated that the recommended minimum buffer is one hundred (100) feet based on research. Mr. Cook stated that the Town does need to keep an eye on water that runs off the bypass. Mr. Harbeck stated that where there is a significant drainage way there should be rip rap or drainage swails to sift out those pollutants before they enter a stream. Ms. Woodall asked if the State has anything in place. Mr. Cook stated there is give and take with the State regulations at permitting time. Mr. Cooks stated that the State looks at the best plan possible.

Mark Graffam of the Madison Planning Board stated that there was NHDOT seminar last night and they showed swails that would be a part of the Route 16 Corridor Plan. Nancy Earle stated that the Audubon Society recommends one hundred (100) feet, but is there is any information that says that fifty (50) feet is not adequate. Mr. Cook stated that fifty (50) feet is better than nothing. Mr. Harbeck stated that currently the Town has no setback requirement from wetlands.

Ms. Browne stated that the Planning Board at the last meeting adopted a one hundred (100) foot setback for the Industrial District. Ms. Browne stated that it is the land use that might be a threat and the Industrial area seems to be a sensitive area. Ms. Browne asked Mr. Cook if he had any comments or recommendations for the Industrial area. Mr. Cook stated that more is better. Ms. Browne stated that the one hundred (100) foot setback is practical because it is a sensitive area compared to other areas in Town. Mr. Cook stated that it will leave impervious surface much quicker. David Weathers stated that it should be a site by site basis. Mr. Weathers stated that it is the Conway Conservation Commission's opinion that the setbacks should be standardized.

Mr. Weathers stated that an applicant for that area will have to go through site plan review, prepare a Erosion and Sediment Plan, and apply for a Dredge and Fill Permit. Mr. Weathers stated that someone could question the difference in the setback and go through legal action. Mr. deFeyter asked Mr. Weathers if he was proposing a one hundred (100) foot setback through out the Town. Mr. Weathers stated that he is recommending that it be the same through out the Town. Mr. Weathers stated that anything is better than what we have right now. Mr. deFeyter asked which way Mr. Weathers would lean toward. Mr. Weathers stated that he is not qualified to say that.

Mr. Harbeck stated that more is better, but what we were doing through the process was looking at the Shoreline Protection District. Mr. Harbeck stated that one hundred (100) feet would be good, but the Shoreline Protection District has a fifty (50) foot setback that is working now. Mr. Harbeck stated that it

Adopted: As written - January 21, 1999
CONWAY PLANNING BOARD - NOVEMBER 18, 1998

should be consistent through out the Town and fifty (50) feet is consistent. Mr. Harbeck stated that he does have concern that we are entertaining a significant change at such a late date. Ms. Browne asked what is the significant difference between fifty (50) feet and one hundred (100) feet in regard to protection. Mr. Cook stated that it is a tough question as there are a lot of variables that impact a buffer.

Mr. Cook stated that the 100 foot setback is based on research and a minimum requirement to maintain water quality. Mr. Cook stated that the setback is going to be too much in some places and not enough in others. Mr. Fisher asked if they thought the Town would not agree with a 100 foot setback. Mr. Harbeck stated that this proposal addresses all the wetlands in the Town that are five (5) acres or better. Mr. Fishers stated that you could have a formula for what is needed as a setback based on the wetland. Mr. Harbeck stated that we need to keep it simple. Mr. Weathers stated that there are so many variables to a buffer. Mr. Weathers stated that there are erosion and sediment plans that should be followed during the construction process. Mr. Weathers stated that it is after the construction that needs to be addressed. Mr. Weathers stated that there is a potential for run-off no matter how far away you are from the wetland. Mr. Weathers stated that you are doubling the acreage of what cannot be used.

Ms. Woodall stated that she thought during construction a wetland would have to be protected. Mr. Weathers agreed and stated that nothing is suppose to leave the site. Mr. deFeyter stated that he thinks it is clear to all that there is no scientific answer. Mr. deFeyter stated that we have to decide on what makes sense and what is practical. Mr. deFeyter stated that we have a fifty (50) foot buffer around great ponds now and it makes sense to continue that through out the Town. Mr. deFeyter stated that in terms of simplicity and apparent fairness we should stay with fifty (50) feet throughout the Town.

Ms. Woodall stated that she has dealt with industry for over twenty (20) years and if there is a spill a one-hundred (100) foot buffer will protect it better than a fifty (50) foot buffer. Ms. Woodall stated that once the water is contaminated it is contaminated. Ms. Woodall stated that it takes a lot of money and time to clean it up. Ms. Woodall stated that she does not think a one hundred (100) foot setback is complicated in this area. Ms. Browne stated that materials in the industrial district can impact other areas. Ms. Browne stated that we would be doing a disservice to our community if we did not adopt a one hundred (100) foot setback.

James Hill, Sr. stated that he has not seen any description of how much land your discussing. Mr. Hill asked how much wetland is there in the Town of Conway. Mr. Briggs answered there are 142 wetlands over five (5) acres in the Town. Mr. Hill stated if it is his land the Board just can't take it. Mr. Hill asked if the quality of Conway Lake has improved. Ms. Earle stated that it certainly holds its own. Ms. Earle stated that she has copies of the testing report for Conway Lake. Mr. Hill stated that you have to measure what you pass and what you get in results and put it in some realistic numbers. Ms. Woodall asked Mr. Harbeck to explain the five (5) acre determination. Mr. Harbeck stated that the five (5) acres came about because that was the acreage unit used to create the best map that is available. Mr. Hill stated that you are taking his rights away from him and the value of his property.

Mr. Harbeck stated that it is common practice to have a minimum setback to protect the water. Mr. Harbeck stated that to conduct an inventory of every piece of soil involved in this proposal would be moot because acreage will be in the floodplain. Mr. Harbeck stated that the whole Town is not going to be developed and there is only a percentage of the Town where setbacks will come into play. Ms. Woodall stated that we also have an aquifer that runs through the Town and we really need to protect the water. Ms. Woodall stated that for a community on the whole this would be a good thing.

Mr. Waterman stated that Conway Lake has been monitored for some time and there doesn't seem to be a problem. Ms. Woodall stated that if the buffers were not there then it probably would be contaminated. Mr. Briggs stated that a fifty (50) foot buffer has worked well and asked why we don't just continue with it. Mr. Briggs stated that that is the feeling of the Conservation Commission. Mr. Fisher stated that he agrees with the one hundred (100) foot setback for the industrial zone. Ms. Earle stated that she agrees with the one hundred (100) foot setback for the industrial zone. Mr. Briggs stated that it may bring up a legal problem by having different setbacks for different zones. Ms. Woodall stated that we have different

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CONWAY PLANNING BOARD - NOVEMBER 18, 1998

regulations for different zones now. Mr. Harbeck stated that it should be included in the Master Plan and should be kept simple. Mr. deFeyter stated that there is no compelling reason for the one hundred (100) setback. Mr. deFeyter stated that he is uncomfortable going against the Conservation Commission. Mr. deFeyter made a motion, seconded by Mr. Waterman, to have a fifty (50) foot setback in the Industrial District. Motion carried with Ms. Woodall and Ms. Browne voting in the negative.

Ms. Woodall read a letter from Jim Hill, Jr. Mr. deFeyter made a motion, seconded by Mr. Waterman, to not add the amendment per Jim Hill, Jr.'s letter. Mr. Weathers stated that it should be a site by site basis as it would be easier to enforce something like that. Mr. Weathers stated that it does have its benefits. Mr. Cook stated that ecologically speaking it makes no sense. Mr. Cook stated that depending on the size of the water shed your going to get the same amount of water. Mr. deFeyter stated that if it is under five (5) acres it is not going to effect it anyway. Mr. Harbeck stated that except it is connected to a body of water. Mr. Waterman stated that it just does not seem right. Mr. Weathers stated that it should be left the way it is written. Motion carried with Ms. Woodall abstaining.

Mr. deFeyter made a motion, seconded by Mr. Waterman, to continue the public hearing on the Wetlands Protection Overlay District until December 3, 1998. Motion unanimously carried. The public hearing was closed at 9:07 p.m.

PUBLIC HEARING - SPECIAL HIGHWAY CORRIDOR DISTRICT

Ms. Emerson went through the proposed changes. Ms. Woodall asked for public comment; there was none. Mr. Whetton made a motion, seconded by Ms. Browne, to approve the Special Highway Corridor District as amended. Motion unanimously carried. Mr. deFeyter made a motion, seconded by Mr. Whetton, to continue the Public Hearing on the Special Highway Corridor until December 3, 1998. Motion unanimously carried.

Meeting adjourned at 9:52 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary