

CONWAY PLANNING BOARD

MINUTES

MARCH 4, 1999

A meeting of the Conway Planning Board was held on Thursday, March 4, 1999, 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; Sheila Duane; Arthur Bergmann; Alternate, John Waterman; Town Planner, Dawn Emerson; and Recording Secretary, Holly Meserve.

**APPOINTMENT OF ALTERNATE TO VOTING MEMBER**

Ms. Woodall appointed Alternate, Mr. Waterman to a voting member.

**HALE HIGHLAND DEVELOPMENT CORP. - NOTICE OF REVOCATION CONTINUED (MAP 11, PARCEL 16 & 17) FILE #88-05**

Robert Quint and Attorney James Shannon appeared before the Board. Ms. Woodall read a letter from Richard Sager, Attorney for the Homeowner's Association, in regard to the request to continue. Ms. Woodall stated that the applicant is asking for an extension. Mr. Quint stated that he received a completed set of plans from the engineer yesterday and the Town Engineer, Paul DegliAngeli, just received a copy of the plans. Mr. Quint stated that the engineer had to do more work than originally thought. Ms. Woodall read a letter from Holden Engineering.

Ms. Woodall stated that there were questions on the water system and asked if anything had been resolved in regard to the water system. Mr. Quint stated that Mr. DegliAngeli received the plans yesterday and he has spoken to the N.H. Department of Environmental Services. Ms. Woodall asked for public comment; there was none. Mr. Bergmann made a motion, seconded by Ms. Duane, to continue the application for Hales Highland Development Corp. until April 1, 1999. Motion unanimously carried.

**EASTERN SLOPE INN ASSOCIATES - FULL SITE PLAN REVIEW CONTINUED (MAP 69, PARCEL 15) FILE #FR98-12**

Joe Berry, applicant; and Diane Smith, Thaddeus Thorne Surveys, appeared before the Board. Ms. Emerson stated that the drainage has been approved. Ms. Emerson stated that a waiver request for the driveway width has been submitted. Ms. Emerson stated that two (2) additional notes have been added to the plans; the parking substitution and the phasing of the parking. Mr. Bergmann asked how this project will effect the public parking. Mr. Berry stated that hopefully it is going to encourage parking. Mr. Bergmann asked if this was municipal parking. Mr. Berry answered in the negative.

Ms. Woodall read the waiver request for Article 123-21.F. of the site plan review regulations and Article 131-67. of the subdivision regulations. Mr. Waterman asked what has been the experience in the past with this parking lot. Mr. Berry stated that it has not been used a lot. Ms. Woodall read the requirements to grant a waiver. Mr. Bergmann stated that there is not a lot of visibility coming out of the driveway as the trestle is in the way. Mr. Bergmann stated that he has a problem with making the width of the driveway smaller. Ms. Duane stated that they are not making it smaller; it is as it exists today. Ms. Emerson stated that the driveway cut exists today and this will improve it and it will be paved. Ms. Emerson stated that it will be widened to the extent that it can. Ms. Emerson stated that the New Hampshire Department of Transportation (NHDOT) has approved their driveway permit.

Mr. Cuddy stated that there is ISTE A money that the Town will be receiving that will widen the road in this area including the trestle. Mr. Waterman asked if this was passed before the local police. Ms.

Emerson answered in the affirmative as to safety. Ms. Emerson read the driveway permit issued by NHDOT. Ms. Woodall asked for public comment; Attorney Ed McBurney stated that there was no waiver request on file yesterday and it should have been filed a while ago. Mr. McBurney stated that the frontage on River Road is only nineteen (19) feet wide and then with curbing it is going to reduce the width. Mr. McBurney stated that the standards were developed for a reason and nineteen (19) feet is just not enough space.

Ms. Woodall stated that if the waiver is not granted than the applicant cannot use his land. Mr. McBurney stated that the applicant has a grandfathered access to use for sixty-seven (67) spaces, not one-hundred (100) spaces. Mr. McBurney stated that if you have to come back to the Planning Board then you have to conform to today's standards. Mr. McBurney stated that the grandfathered use can remain forever, but it is not allowed to increase unless the applicant meets the current standards. Ms. Woodall read the requirements to grant a waiver.

Ms. Woodall stated that the State has reviewed the permit, but not for safety. Ms. Smith stated that the State does review the permit for safety. Ms. Browne asked if the Town Engineer has reviewed the driveway. Ms. Emerson stated that the Town Engineer does not review the driveway as this is a State road. Ms. Browne stated that the Town can make regulations that are stricter than the State's regulations. Ms. Browne asked if the driveway cut meets the Town standards. Ms. Duane stated that the applicant cannot meet the standards as he only has nineteen (19) feet. Mr. Berry stated that the Board was looking to the State to review the driveway for safety issues. Mr. Berry stated that when he received the permit the Board felt the State had reviewed the driveway for safety. Mr. Berry stated that now the Board is discussing a waiver for the width. Mr. Berry stated that he has made an offer for the property abutting the driveway and negotiations are ongoing, but right now he can only offer nineteen (19) feet.

Mr. Berry stated that he plans to widen the driveway to its full potential and pave it. Mr. Berry stated that nineteen (19) feet is ample for two (2) cars to pass by. Mr. Waterman asked when the existing trestle would be widened. Mr. Cuddy stated that the Town has ISTEA money for widening River Road and the trestle within the next couple of years. Mr. Waterman asked when would be the earliest time that the parking lot would be utilized to its full extent. Mr. Berry stated that it will be gradually and stated that it had a little more use this summer. Mr. Berry stated that when the tunnel is complete there will be an increase, but he doesn't think it will ever used to its capacity. Mr. Waterman stated that the widening of River Road and the completion of the parking lot may be completed at the same time. Mr. Berry stated that there is a sidewalk plan through the trestle.

Ms. Woodall asked for public comment; there was none. Mr. Cuddy stated that if the applicant has the opportunity to purchase the abutting property, is the intent to widen the driveway to meet Town Standards. Mr. Berry stated that that is the intent. Ms. Emerson stated that staff supports the waiver. Ms. Duane made a motion, seconded by Mr. Cuddy, to grant the waiver request for Article 123-21.F. and Article 131-67. Motion carried with Mr. Bergmann voting in the negative.

Ms. Woodall asked about the easement. Mr. Berry stated that it has been drafted and he is hoping to have the investors approve the easement and have it signed within the next month. Ms. Woodall asked if there were any other comments from the Board; there was none. Ms. Woodall asked if there was any public comment; there was none. Ms. Woodall stated that the applicant needs a signed easement and bonding. Mr. Bergmann stated that the Board wouldn't grant another applicant a conditional approval without a signed easement. Ms. Emerson stated that a conditional approval was granted based on an easement, but the condition could not be met before the expiration date and they had to come back before the Board.

Mr. Berry stated that he expects to be able to provide a signed easement and he would like to request a conditional approval on the easement and consider not having approval without it. Mr. Berry stated that he would like to have six (6) months to meet the requirements. Ms. Duane made a motion, seconded by Mr. Cuddy, to conditionally approve the Full Site Plan application for Eastern Slope Inn Associates conditionally upon a performance guarantee for 50% of all site improvements; and a signed easement

between the applicant and the Conway Scenic Railroad. Motion was defeated with Ms. Woodall, Ms. Browne, and Mr. Bergmann voting in the negative.

Mr. Berry stated that we have been through this process before where a document can be handled administratively. Mr. Berry stated that he doesn't understand the difficulty in granting a conditional approval this evening and it is still his request. Mr. Cuddy stated that this is the last time this Board meets and the applicant is going to have to go through the same process with a new Board. Mr. Cuddy stated that there is no guarantee that this application will be approved. Mr. Cuddy stated that it is in fairness to the applicant who has been before the Board. Mr. Berry stated that he has received no opposition from the owners of the Conway Scenic Railroad in regard to the easement. Mr. Berry stated that the owners have other matters to deal with and just haven't addressed the issue of the easement.

Mr. Cuddy stated that the parties involved in signing the easement are out of Town. Ms. Woodall asked if the Conway Scenic Railroad changes hands how will it effect the easement. Mr. Berry stated that it could effect it positively or negatively. Mr. Bergmann made a motion, seconded by Ms. Browne, to continue the Full Site Plan Review for Eastern Slope Inn Associates until April 15, 1999. Motion carried with Ms. Duane and Mr. Cuddy voting in the negative.

**HILL'S IGA MARKET, INC. - MINOR SITE PLAN REVIEW CONTINUED (MAP 7, PARCEL 73A) FILE #MR99-01**

Diane Smith, Thaddeus Thorne Surveys; and Jim Keenan, Keenan & Associates, appeared before the Board. Ms. Emerson stated that this application has not been deemed complete by the Board. Ms. Emerson stated that the application is complete. Mr. Cuddy made a motion, seconded by Ms. Duane, to accept the application of Hill's IGA Market, Inc. for a Minor Site Plan Review. Motion unanimously carried.

Ms. Emerson stated that the Board was concerned with the rear entrance and the Conway Police Department has submitted a memo that there is not a concern. Ms. Emerson stated that the handicap parking spaces will be signed and painted. Mr. Keenan stated that all three (3) dumpsters will be screened. Ms. Emerson stated that there has been discussion on this application previously and the only issue is bonding unless there are comments by the Board or the public. Ms. Woodall asked for public comment; there was none.

Ms. Emerson stated that one outstanding item was the greenspace calculations which have now been provided and a waiver has been requested. Mr. Keenan stated that when this site was developed there were no greenspace requirements. Ms. Browne asked if the applicant could plant some shrubs. Mr. Keenan stated that he does not have a problem with that. Ms. Smith stated that most of them will be planted in the State's right-of-way. Mr. Bergmann asked if the applicant was eliminating any greenspace. Mr. Keenan answered in the negative. Mr. Bergmann stated that the applicant does not have any other land to provide any more greenspace.

Ms. Woodall read a waiver request for Article 123-30.B of the Site Plan Review regulations. Ms. Woodall read the requirements to grant a waiver. Mr. Bergmann made a motion, seconded by Ms. Browne, to grant the waiver for Article 123-30.B. Motion unanimously carried. Mr. Bergmann made a motion, seconded by Ms. Browne, to conditionally approve the application for Hill's IGA Market, Inc., conditionally upon a performance guarantee for 50% of all site improvements; this conditional approval has an expiration date of April 1, 1999; and the plans can be signed out of session once the condition has been met. Motion unanimously carried.

**ROMAN CATHOLIC BISHOP OF MANCHESTER/JOHN AND MARIE BOUCHARD - FULL SITE PLAN REVIEW CONTINUED (MAP 73, PARCEL 12-15/12A) FILE #FR99-01**

Marty Risley of H.E. Bergeron Civil Engineers appeared before the Board. Ms. Woodall stated that the applicant needed a site specific permit from the State of New Hampshire. Mr. Risley stated that there were two (2) outstanding items; the site specific permit and the question raised about bonding. Mr. Risley stated that the applicant is looking for a two (2) step conditional approval; sixty (60) days for the site specific permit and three (3) years to provide bonding. Mr. Risley stated that the applicant is not looking to construct for another three (3) years.

Mr. Risley stated that the sidewalks were added to the plans and the State asked for a dry well at the bottom of the detention pond; which has been added. Ms. Woodall asked the time frame on the site specific permit. Mr. Risley stated that he would like sixty (60) days. Ms. Woodall asked why the applicant cannot bond the project. Mr. Risley stated that the applicant can bond the project, but it will be tying up a lot of money for a long period of time. Ms. Duane asked if the applicant can request a waiver in regard to bonding. Ms. Woodall answered in the negative because it is an RSA. Ms. Emerson stated that the Board can waive the requirement for a bond, but she would not recommend it. Ms. Woodall stated that she spoke to Town Counsel, Peter Hastings, and the Board cannot phase the bonding. Mr. Risley requested a conditional approval based on bonding and the site specific permit.

Ms. Duane stated that the Board earlier this evening denied a conditional approval based on an easement. Ms. Woodall stated that this is a State entity and not a private individual. Mr. Cuddy stated that if the applicant does not meet the conditions within ninety (90) days, they will have to ask for a continuance or come back before the Board. Mr. Cuddy stated that there is no difference between meeting the requirements within ninety (90) days. Mr. Cuddy stated that if you have a conditional approval, you have to meet those conditions. Ms. Woodall asked for public comment; there was none.

Mr. Bergmann made a motion, seconded by Ms. Browne, to conditionally approve the Full Site Plan for the Roman Catholic Bishop of Manchester/John and Marie Bouchard conditionally upon a Site Specific permit; and a performance guarantee for 50% of all site improvements. Motion was defeated with Mr. Cuddy, Ms. Duane and Mr. Waterman voting in the negative. Mr. Risley asked why the motion was defeated. Ms. Woodall stated that those who voted for the conditional approval felt the conditions were administratively in nature and those who voted against it do not. Mr. Risley asked if the Board was making a policy that they are no longer granting conditional approvals. Mr. Risley stated that he does not know how this can be any simpler.

Mr. Cuddy stated that they are showing consistency. Mr. Cuddy stated that the Board just had a vote on the same situation. Ms. Woodall stated that it is not the same situation. Ms. Woodall stated that the application before was between two (2) private individuals and this is between a State agency. Ms. Woodall stated that either the applicant does what the State wants or the applicant does not receive their permit. Ms. Browne made a motion, seconded by Mr. Bergmann, to continue the Full Site plan Review for the Roman Catholic Bishop of Manchester/John and Marie Bouchard until April 15, 1999. Motion unanimously carried.

**JAMES GORE REVOCABLE TRUST - FULL SITE PLAN REVIEW (MAP 66, PARCEL 42-2) FILE #FR99-02**

Ward Walker, applicant; and Diane Smith, Thaddeus Thorne Surveys, appeared before the Board. Ms. Emerson stated that the application is complete. Mr. Bergmann made a motion, seconded by Mr. Cuddy, to accept the application for James Gore Revocable Trust for a Full Site Plan Review. Motion unanimously carried. Ms. Smith stated that the applicant is proposing an 8,000 square foot warehouse that will have access onto Locust Lane as well as to the abutting property. Ms. Smith stated that there is no water proposed for this building. Ms. Woodall asked about a sprinkler system. Ms. Smith stated that the building is small enough that it does not need a sprinkler system.

Ms. Woodall asked if the applicant has approval from the North Conway Fire Department. Ms. Emerson read a letter from Wayne Derouin, Fire Chief of the North Conway Fire Department. Mr. Walker stated that the delivery trucks will access the building through D.J. Furniture and the access on Locust Lane will be for employees. Mr. Bergmann asked what "license to use" meant on the connecting driveway with D.J.'s Furniture. Ms. Woodall stated that it is permission to use which is fine because the applicant owns both parcels. Ms. Woodall stated that this is not an easement agreement

David Wooster, abutter, stated that he is concerned more with the road. Mr. Wooster stated that he would respectfully ask that the road be moved further away from his property. Mr. Wooster stated that Locust Lane is narrow and two (2) tractor trailer trucks cannot pass each other. George Gunther, abutter, stated that the building will be thirty (30) feet off the corner of his building, but the applicant has assured him that he will leave a lot of trees as a buffer. Mr. Cuddy stated that this parcel of land falls between districts. Ms. Smith stated that 60% of the lot is in the Highway Commercial District which allows the entire parcel to be developed commercially.

Ms. Meserve stated that she spoke to Paul Ronty of the Red Jacket in regard to this application. Ms. Meserve stated that Mr. Ronty has spoken to the manager of D.J.'s Furniture and he agrees with the project, but would prefer that there be no driveway access onto Locust Lane if there does not have to be one. Ms. Woodall asked if the applicant has to have an access. Ms. Emerson stated that the applicant could move the driveway five (5) to ten (10) feet to the east or eliminate it, but the Fire Chief would have to review the plans again. Ms. Woodall asked if the use was commercial or industrial. Ms. Emerson answered commercial. Ms. Woodall stated that it would fall under the architectural guidelines. Ms. Smith stated that the building will have a metal roof and clapboard siding.

The Board and the applicant reviewed some other layout options and the applicant agreed to review the suggestions. Mr. Cuddy made a motion, seconded by Ms. Duane, to continue the Full Site Plan Review for James Gore Revocable Trust until April 15, 1999. Motion unanimously carried.

**C.N. BROWN, CO. - FULL SITE PLAN REVIEW (MAP 69, PARCEL 19) FILE #FR99-03**

Charlie Sheehan, applicant; and Diane Smith, Thaddeus Thorne Surveys, appeared before the Board. Mr. Sheehan stated that they will remove the existing service station and on the same footprint rebuild with a canopy over the gas pumps. Ms. Woodall asked if the application is complete. Ms. Emerson answered in the affirmative. Mr. Cuddy made a motion, seconded by Ms. Duane, to accept the application of C.N. Brown, Co. for a Full Site Plan Review. Motion unanimously carried.

Ms. Browne stated that there was an issue with the sign. Mr. Bergmann stated that the Board does not review signs. Ms. Browne asked if the sign was a part of the architecture. Ms. Woodall stated that the signs have to meet the current regulations. Ms. Browne stated that if the signs are a part of the architecture, then the Board can review them. Ms. Emerson stated that signs are addressed under the zoning ordinance. Ms. Duane stated that she would suggest clapboard and shingles for the building so that it does not look contiguous.

Ms. Woodall asked about the drainage. Ms. Emerson stated that the Town Engineer, Paul DegliAngeli, did review the drainage, but she does not have anything in writing from him. Ms. Woodall stated that the applicant is asking for a waiver on the drainage calculations, but the Board cannot act on it at this time. Ms. Emerson stated that the applicant is requesting two (2) other waivers. Mr. Bergmann asked if there is parking for the employees. Ms. Emerson stated that the parking is determined on the square footage of the building which includes employees.

Ms. Smith stated that the State has reviewed the driveway and so far they have asked for two (2) signs for left and right hand turns only. The Board reviewed the proposed lighting. Ms. Woodall read a waiver request for Article 123-30.D(8) of the site plan review regulations. Ms. Woodall asked for public comment; Glen Saunders asked what is happening on the property line. Ms. Smith stated that nothing has

changed. Ms. Emerson stated that water pools in the parking lot and asked which property it was on. Mr. Saunders answered both. Ms. Emerson asked Mr. Saunders if he has a water problem on his lot. Mr. Saunders answered in the negative and stated that it drains over the embankment.

The Board suggested adding window boxes. Mr. Sheehan agreed. Ms. Emerson stated that the applicant should add the window boxes to the elevation plans, therefore, making them binding. Ms. Woodall read the requirements to grant a waiver. Ms. Duane made a motion, seconded by Mr. Cuddy, to approve the waiver request for Article 123-30.D(8). Motion unanimously carried. Ms. Woodall read a waiver request for Article 123-30.B. Mr. Cuddy made a motion, seconded by Ms. Duane, to approve the waiver request for Article 123-30.B. Motion unanimously carried.

Ms. Emerson stated that the outstanding items are the State driveway permit; action on the waiver request for drainage; new elevations showing the window boxes; and a performance guarantee for 50% of all site improvements. Mr. Bergmann made a motion, seconded by Ms. Duane, to continue the Full Site Plan Review for C.N. Brown, Co., until April 15, 1999. Motion unanimously carried.

**FRIENDLY'S ICE CREAM - MINOR SITE PLAN REVIEW (MAP 62, PARCEL 19) FILE #MR99-02**

Mike Przybylowicz of Friendly's; and Bob Boyton, Manager, appeared before the Board. Mr. Przybylowicz stated that they are proposing a 396 square foot addition and twenty-two (22) new seats. Mr. Bergmann asked if the application was complete. Ms. Emerson answered in the affirmative. Mr. Bergmann made a motion, seconded by Mr. Cuddy, to accept the application of Friendly's Ice Cream for a minor site plan review. Motion unanimously carried.

Ms. Emerson stated that the current parking meets the requirements for the total square footage of the building. Ms. Emerson read a memo from the Town Engineer, Paul DegliAngeli, recommending the Board grant the waiver for the drainage calculations. Ms. Emerson stated that the site meets the greenspace calculations and the applicant is proposing street trees. Ms. Emerson stated that the applicant will have to provide a performance guarantee. Ms. Woodall read the waiver request for Article 123-28. Mr. Cuddy made a motion, seconded by Ms. Browne, to approve the waiver request for Article 123-28. Ms. Woodall read the requirements to grant a waiver. Motion unanimously carried.

Mr. Bergmann asked if this project will eliminate the employee parking on the lawn. Mr. Boyton stated that they were not suppose to be parking on the lawn. Mr. Bergmann asked if the dumpsters will be enclosed. Mr. Przybylowicz answered in the affirmative. Mr. Cuddy made a motion, seconded by Mr. Bergmann, to conditionally approve the application for Friendly's Ice Cream conditionally upon screening of the dumpsters being added to the plans; a performance guarantee for 50% of all site improvements; and this conditional approval will expire on April 1, 1999. Motion unanimously carried.

**PUBLIC HEARING - WETLAND AND WATERSHED PROTECTION CHAPTER - MASTER PLAN**

A public hearing was opened at 10:19 p.m. Ms. Woodall asked for public comment; there was none. Ms. Browne made a motion, seconded by Mr. Bergmann, to accept the Wetland and Watershed Protection Chapter as a part of the Conway Master Plan. Motion carried with Mr. Cuddy abstaining from voting. The public hearing was closed at 10:22 p.m.

**PUBLIC HEARING - TRANSPORTATION POLICY - MASTER PLAN**

A public hearing was opened at 10:23 p.m. Ms. Woodall asked for public comment; Gary Webster stated that he has a problem with a comment made by Glen Harbeck in regard to all hell will break loose if the Special Highway Corridor District ordinance is not passed. Ms. Browne and Ms. Woodall both stated that it will. Mr. Webster asked if there is a problem with waiting a year in order to clean it up. Ms. Browne

stated that this will just go into the Master Plan to give an overall guideline. Ms. Woodall stated that this is a concept. Ms. Emerson stated that this is a 20-year plan that will support the concept.

Mr. Webster stated that this is not an all lose-lose situation. Ms. Browne stated that it is because another strip will be developed. Ms. Browne stated that developers can go through site plan review now. Mr. Webster stated that he doesn't see anyone breaking down the doors. Ms. Woodall stated that once a site plan is approved it is grandfathered. Ms. Woodall stated that the developer does not have to do any work for four (4) years, but once they do their vested.

Mr. Cuddy stated that the public hearing this evening is so the Transportation Policy will be a part of the Master Plan. Mr. Webster stated that the Board is using scare tactics and asked why all the sudden this is a concern. Mr. Cuddy stated that the Board of Selectmen voted against the ordinance because it is more restrictive than it should be, but in the last 20 years the corridor has not been designated and it is now. Mr. Cuddy stated that we want to make sure we don't have strip malls growing up along the bypass as it is suppose to be a greenway and prevent strip malls. Mr. Webster stated that he has sat here for three hours and thirty-two minutes to try and understand and help, but he still cannot recommend the adoption of the ordinance.

Ms. Browne made a motion, seconded by Ms. Duane, to accept the Transportation Policy as a part of the Conway Master Plan. Motion carried with Mr. Cuddy abstaining from voting. The public hearing was closed at 10:34 p.m. Mr. Bergmann left at this time.

#### **OTHER BUSINESS**

Douglas Stockbridge/Shaw's (Map 11, Parcel 57-1) File #FR97-01 - Plan Signing: Gregg Mikolaities, Appledore Engineering; Jim Carroll, Shaw's; Buzz Coleman and Bruce Know, A.J. Coleman & Sons, appeared before the Board. The Board and the applicant reviewed the conditions. Mr. Mikolaities stated that you will be able to see the roof top mechanicals for approximately 2.7 seconds going North on Shaw's Way. Mr. Mikolaities recommended a picket fence around the mechanicals so they will be hidden from that section. After a brief discussion, the Board agreed that the intent of the regulation was met and that the applicant did not have to put up a fence or any other type of material to hide them.

Mr. Cuddy made a motion, seconded by Ms. Duane, that all the conditions for Douglas Stockbridge/Shaw's, File #FR97-01, have been met. Motion unanimously carried. The plans were signed.

Lot Merger - Sandra J. Steele (Map 8, Parcel 33F & 33J): The Board signed the lot merger.

Meeting adjourned at 11:00 p.m.

Respectfully Submitted,

  
Holly L. Meserve  
Recording Secretary