

CONWAY PLANNING BOARD

MINUTES

APRIL 1, 1999

A meeting of the Conway Planning Board was held on Thursday, April 1, 1999, beginning at 7:02 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Catherine Woodall; Selectmen's Representative, Gary Webster; Vice Chair, Sheila Duane; Robert deFeyter; Arthur Bergmann; John Waterman; Stacy Sand; Town Planner, Dawn Emerson; and Recording Secretary, Holly Meserve. Roll call was done by Mr. Bergmann.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Sand made a motion, seconded by Mr. Bergmann, to approve the Minutes of *March 4, 1999*, as written. Motion unanimously carried. Mr. Bergmann made a motion, seconded by Ms. Sand, to table the Minutes of *March 18, 1999*, until April 15, 1999. Motion unanimously carried.

HALES HIGHLAND DEVELOPMENT CORP. - PUBLIC HEARING ON NOTICE OF REVOCATION CONTINUED (Map 11, Parcel 17) FILE #88-05

Bobby Quint, Developer; and James Shannon, Attorney for Developer, appeared before the Board. Ms. Woodall stated that the applicant is requesting an extension and read a letter from Mr. Shannon dated April 1, 1999; and a letter from Rick Sager, Attorney for the Home Owner's Association, dated April 1, 1999. Tom Murphy, homeowner in Hales Development, stated that he is curious about the authority their attorney used to agree with this extension. Mr. Murphy stated that two members of the Board of Directors are out of Town and the two here this evening were not contacted.

Herb Hall, homeowner in Hales Development, stated that their attorney did not contact him and he is against the extension. Mr. Hall stated that they have been through this several times and the Homeowner's attorney is not acting on their best benefit. Mr. Quint stated that when he started in January they ran into hurdles such as the engineering plans. Mr. Quint stated he would not have invested \$25,000 in engineering costs if he had on intention of going forward with this project.

Mr. Quint stated that he needed final approval on the cost estimate in order to go to the lenders. Mr. Quint stated that he could not close within one (1) week and that is why he is asking for an extension. Mr. Quint stated that he should be able to close in less than thirty (30) days. Mr. Quint stated that he would like permission from the Board to begin construction prior to the bond. Ms. Woodall stated that the Board cannot grant such an approval and the applicant has to have final approval before construction can begin. Ms. Emerson stated that the applicant can do work, he has to have money up for the testing, but it would be at his own risk. Mr. Quint stated that whatever money he puts in is his own and he is confident that they will close within thirty (30) days and does not mind putting up some money of his own.

Ms. Woodall asked if the water systems have been signed off on. Mr. Quint stated that they will not be signed off on until they are completed. Ms. Woodall asked about the water system plan. Mr. Quint stated that it was submitted to DES, but he doesn't know if there is an actual sign off until it is completed. Mr. deFeyter asked when the Board began this process. Ms. Woodall answered January 21, 1999. Mr. deFeyter asked if there is a problem with the sixty-five (65) days where this is not an application. Ms. Emerson answered in the negative.

Ms. Emerson stated that the Town Engineer, Paul DegliAngeli, and she support the extension. Ms. Emerson stated that the money is the only item that is outstanding. Ms. Emerson stated that the goal is to have work done by the developer and we are still moving towards that goal. Ms. Duane asked when the funding is received how long will it take to finish the project. Mr. Quint answered approximately 45 days.

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Mr. Shannon stated that the paving has to be completed by October 1, 1999. Mr. Quint stated that the drainage work and the ditch work will take approximately 35 to 40 days. Mr. Quint stated that paving will take about a weeks time. Mr. Quint stated that he wants to make sure construction is done before final pavement.

Mr. Bergmann stated that if this process was suppose to be completed by March 1, 1999 and the construction done by October 1, 1999, this will be set back two (2) months. Mr. Quint disagreed. Mr. Shannon stated that when construction activity is winding down, that is the best time to pave. Ms. Emerson stated that the Administration deadline has been moved back, but it will not effect the construction. Ms. Emerson asked when the water system will be complete. Mr. Quint stated that he will be working on everything at the same time. Mr. Shannon referred to the motion of January 21, 1999, and it refers to a deadline of October 1, 1999.

Ms. Woodall asked if Mr. Sager represents all households. Mr. Murphy stated that he is suppose to represent all twelve (12) households. Ralph Simeone, homeowner in Hales Development, stated that he is against the extension, but they don't have a choice. Mr. Simeone stated that this is the last extension. Ms. Woodall stated that the Board should continue this application until April 15, 1999, and have Town Counsel and the Homeowners Association attorney present. Mr. Shannon stated that when it comes to a closing, fourteen (14) days is not a lot of time.

Mr. deFeyter stated that he can understand the frustration of the homeowner's as well as the Board cannot see waiting another thirty (30) days. Mr. Bergmann asked what is the alternative. Mr. deFeyter stated that the Board can revoke the subdivision. Ms. Duane stated that the homeowner's asked for a revocation so they could move forward with a betterment. Mr. deFeyter asked what is the best for everyone. Ms. Emerson stated that the applicant has made a significant effort with the cost of the engineer. Ms. Duane asked if there is still going to be a new owner. Mr. Shannon stated that the deal is still on the table and the new owner is dealing with the lenders. Mr. Bergmann asked if the original participants are still involved. Mr. Shannon answered in the affirmative.

Mr. Shannon stated that the developer has been dealing with the bank since January, but they needed the final cost estimate. Mr. Shannon stated that the final cost estimate was \$100,000 over what was originally thought and the developer has been in contact with the lender. Ms. Woodall asked if the Association would be agreeable to continuing the application until May 6, 1999 and that will be the end. Mr. Simeone stated that there should be no more continuations after May 6, 1999. Mr. Simeone stated that this should be the last continuation no matter how close they are. Mr. Bergmann asked the applicant if May 6, 1999 was a realistic date. Mr. Shannon answered in the affirmative.

Ms. Sand asked if the developer comes up with the money before May 6, 1999, can he come in earlier. Ms. Woodall stated that it would have to be noticed. Ms. Sand suggested continuing the application to the next meeting [April 15, 1999] and if the money is not available, continue it until May 6, 1999. Ms. Sand stated that it may move things along faster. Mr. Shannon stated that work can be done at the developers own risk. Mr. Shannon read item #2 of the motion dated January 21, 1999. Mr. Shannon stated that once the bond is posted it satisfies the condition.

Mr. Bergmann made a motion, seconded by Mr. Webster, to continue the application for Hale Highland Development Corp. until May 6, 1999. Motion unanimously carried. Ms. Emerson stated that the phasing plans still need to be approved. Mr. deFeyter stated that he submitted questions regarding the administrative nature of the future phases and how to handle them. Mr. deFeyter stated that he asked Ms. Emerson to ask Town Counsel so we have an answer up front. Mr. Quint stated that he would like a copy of those questions and answers.

ED GARLAND/SEARS - FULL SITE PLAN REVIEW (MAP 55, PARCEL 3A) FILE #FR99-04

Ron Brooks of E.R. O'Brien Land Surveyors appeared before the Board. Ms. Woodall stated that this application does not meet zoning regulations as it shows a five (5) foot setback and not the required ten (10) foot setback. Ms. Emerson stated that it was a mistake and would just be a revision to the plan. Ms. Woodall stated that the revision will shift the plan. Mr. deFeyter stated that the Board is suppose to get information regarding the applications a week in advance.

Mr. deFeyter asked if this parcel was in the highway corridor. Ms. Emerson answered in the negative. Mr. deFeyter asked if Ms. Emerson measured it. Ms. Emerson answered in the affirmative. Mr. deFeyter stated that there are items on the checklist that don't seem complete. Mr. deFeyter stated that the plan scale is suppose to be 1" = 40'. Ms. Emerson stated that the applicant exceeds the requirement. Ms. Woodall stated that she doesn't have a problem with the scale, but a waiver should be requested.

Ms. Duane made a motion, seconded by Ms. Sand, to accept the application for Ed Garland/Sears for a Full Site Plan Review. Mr. deFeyter asked if the building elevations had been submitted. Ms. Emerson answered in the affirmative and stated that they were in the file. Ms. Sand stated that it was discussed at the last meeting the Board members would review the checklist prior to a meeting. Mr. deFeyter stated that he was in on Friday, but they were not available. Ms. Emerson stated that she was out sick on Friday. Mr. deFeyter looked through the file and stated that he does not see any elevations in the file. Ms. Emerson stated that a picture is considered an elevation.

Ms. Duane asked what is the problem. Mr. deFeyter stated that in an elevation we need the height of the building. Ms. Woodall asked for a vote on the motion. The motion was defeated with Ms. Woodall, Mr. Webster, Mr. deFeyter, Mr. Bergmann, and Mr. Waterman voting in the negative. Ms. Emerson stated that at the last meeting the Board gave the Town Planner the provision to review applications for completeness for notification. Ms. Emerson stated that a Planning Board member will have to come in to review the application and determine if the application is complete.

Mr. deFeyter stated that the first issue is to tell this gentleman what he needs to do. Ms. Emerson stated that she would like to see the Board go through the checklist. Ms. Woodall asked if Ms. Emerson time stamped the application before she reviews it. Ms. Emerson answered in the negative. Ms. Sand stated that the Board should not discuss the application unless it is accepted. Ms. Sand stated that all the information may have been submitted, but does not mean it is correct. Mr. Brooks stated that he thought that this is what the Planning Board review was for, to determine if it meets the regulations.

Ms. Woodall stated that the applicant needs to meet the zoning requirements. Mr. Brooks stated that part of the Board's job is to determine if it is correct or not correct. Mr. Webster stated that in all fairness, Ms. Emerson has reviewed this application, but we are not consultants. Mr. Webster stated that from the list on the staff notes there are a lot of things that need to be corrected, but the application is complete. Mr. Webster stated that the applicant still needs to do their homework; it is unfair to come before the Board with this many issues.

Mr. deFeyter stated that the applicant should come in for a conceptual review. Mr. deFeyter stated that a conceptual review is not required, but the Board finds them helpful. Ms. Woodall stated that the Board can review this application tonight under a conceptual review. Ms. Emerson stated that she would appreciate if the Board would review the checklist and determine which items the applicant has not provided. Mr. Bergmann stated that the Board should deny this application. Mr. deFeyter stated that the State law has changed and the Board should read RSA 676:4. Ms. Woodall stated that the applicant has to move the five (5) setback.

Ben Gutowski, owner and operator of Sears, stated that the building his store is currently located is being taken by the State and time is of the essence. Ms. Duane asked the final date of taking. Mr. Gutowski stated that it was originally June, but now it might be in September. Ms. Duane asked the construction

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time. Mr. Gutowski answered approximately three (3) months. Mr. Gutowski stated that if Mr. Brooks knows exactly what he needs to do then we can move on this. Ms. Emerson stated that the Board asks applicants to move driveways and parking. Ms. Emerson stated that the Board agreed at the last meeting that she would determine the application complete for notification. Ms. Emerson stated that it was also agreed that if a member disagreed with any items they would discuss it with her prior to the meeting.

The Board reviewed the checklist. Ms. Sand stated that the items missing are the building height and the location of the patron restrooms. Ms. Duane made a motion, seconded by Mr. Webster, to continue the application of Ed Garland/Sears until April 15, 1999. Motion unanimously carried. Mr. Brooks stated that the issue is not whether the information is correct or not correct, but if it is there. Mr. Brooks stated that the setback was an error. It was the consensus of the Board that the applicant needs a waiver for the scale.

OTHER BUSINESS

Northern Woods Property Management (Map 12, Parcel 62) - Conceptual Review: Al Landano appeared before the Board. Mr. Landano stated that there are two (2) issues regarding his final approval [File# FR97-11] that he would like to discuss with the Board. Mr. Landano stated that the State has issued a permit to allow entering and exiting out of the eastern most drive. Mr. Landano stated that he would like to change the approval by the Board to allow both instead of entrance only.

Ms. Woodall stated that the applicant was required by the State to meet the WB50 template and to move the pole. Mr. Landano stated that the State amended permit to allow entering and exiting and not having to move the pole. Ms. Emerson read the memo from Kenneth Kyle dated March 1, 1999. Ms. Emerson suggested a site walk between members of the Board, the State and the applicant. Ms. Woodall stated that the amended permit does not specify tanker trucks. Ms. Emerson stated that the memo references the original driveway permit that refers to tanker trucks.

Mr. Landano stated that Robinwood Road is a bad exit. Ms. Duane made a motion, seconded by Mr. Webster, to set up a site visit with a representative from the NHDOT, Board members and the applicant; and then decide what the Board wants to do. Mr. Landano stated that he would also like to eliminate the handicap ramp. Mr. Landano stated that his business is service oriented and conduct their business off-site. Mr. Webster asked why the applicant agreed to construct it in the first place. Mr. Landano stated that he thought it had to be there. Mr. Bergmann asked if the Board entertains changing a site plan is that setting a bad precedent. Ms. Woodall agreed.

Mr. Webster stated that the applicant needs to prove that the handicap ramp is not required. Mr. Landano stated that he will not be able to get the agency that handles ADA to write a letter. Ms. Emerson stated that she will contact the State and set up a mutual time to meet at the site.

Finder's Keepers (Map 56, Parcel 6) File #E91-59: Annaire Van Coesant appeared before the Board. Ms. Emerson stated that there was a complaint made by a neighbor that the approval granted in 1991 was being violated. Ms. Van Coesant stated that they removed the crumbled paving. Ms. Van Coesant stated that an abutter filed a complaint that they did not comply with the approval and the abutter would like them to pave. Ms. Van Coesant stated that they do not want to invest money for paving at this time and would like to operate as they currently exist. Ms. Van Coesant stated that she would like to keep the enlarged rotten rock parking and not pave it.

Mr. deFeyter stated that the front lawn is parking. Ms. Van Coesant agreed. Mr. deFeyter stated that the problem with that is it is suppose to be a home occupation. Mr. deFeyter stated that it doesn't look like a home occupation, but commercial. Ms. Van Coesant stated that they are still living there and using the same amount of space. Mr. Bergmann stated that the parking has been doubled. Ms. Van Coesant stated that the Board is asking them to comply as a business when they are a home occupation. Ms. Emerson stated that if they keep the current parking lot then they are no longer a home occupation.

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Mr. deFeyter stated that either they have to go back to what was approved in 1991 or change the parcel to commercial. Ms. Emerson stated that they would have to go through the application process to change to commercial. Ms. Van Coesant asked if you cannot have a home in a commercial zone. Ms. Emerson stated that you can have a home in the commercial zone and that you can have a mixed use.

After a brief discussion, Ms. Van Coesant was given until April 8, 1999, to determine if the site will go back to what was approved in 1991 or become commercial.

Mark Ohlson/Conway Post Office (Map 33, Parcel 34) - Conceptual Review: Mark Ohlson appeared before the Board and reviewed the proposed site plan for the new Conway Post Office.

Hill's IGA Market, Inc. (Map 7, Parcel 73A) File #MR99-01: The Board agreed the conditions had been met and the plans were signed.

Friendly's Ice Cream (Map 62, Parcel 19) File #MR99-02: The Board agreed the conditions had been met and the plans were signed.

Robert and Sara Bechtold - Lot Merger (Map 35, Parcel 12 & 13): The lot merger was signed.

Meeting adjourned at 10:12 p.m.

Respectfully Submitted,


Holly L. Meserve
Recording Secretary