

CONWAY PLANNING BOARD

**MINUTES
WORK SESSION**

SEPTEMBER 23, 1999

A meeting of the Conway Planning Board was held on Thursday, September 23, 1999, beginning at 7:10 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; Stacy San; John Waterman; Interim Town Planner, Paul King; and Recording Secretary, Holly Meserve.

JIM SOMERVILLE, TOWN MANAGER – REVIEW OF PLANNING BUDGET

Mr. Somerville stated that it is budget time and the Town does not have a permanent town planner. Mr. Somerville submitted a copy of last year's budget and stated that he was here to answer any questions the Board may have on the line items. There was a lengthy discussion regarding the Master Plan. It was agreed that Board members would submit ideas to Mr. King regarding the Master Plan and submit those ideas to Mr. Somerville.

ED BERGERON – CHANGE-OF-USE (SHEET 3-8, MAP 44, PARCEL 1A-3)

Ed Bergeron appeared before the Board. Mr. Bergeron explained to the Board that Jackie Garland's hair salon is located in the Pepsi Corner building that is being taken by the State. Mr. Bergeron stated that she has to be out by November 1, 1999. Mr. Bergeron stated that she has an opportunity to purchase a building that was previously used for retail. Mr. Bergeron stated that the development is a condominium and she will only own the building. Mr. Bergeron stated that the parking requirement for a beauty salon is the same as the retail use. Mr. Bergeron stated that the only difference is the septic system. Mr. Bergeron stated that the beauty salon will add to the flow and she will have to add to the capacity of the septic.

Mr. Bergeron stated that this site was approved in 1985 and there are many new regulations. Ms. Sand asked the number of parking spaces available. Mr. Bergeron answered there are 49 parking spaces. Mr. deFeyter asked if the parking lot was paved. Mr. Bergeron answered in the negative. Mr. King stated that he doesn't believe pavement was required at the time this site plan was approved. Mr. King stated if you had a gravel parking lot you needed to provide wider spaces. Mr. deFeyter stated that the only problem under the regulations is the septic loading. Mr. Bergeron stated that the septic system was designed for retail/office space. Mr. Bergeron stated that the increase is for the beauty salon use which is a calculated change. Mr. deFeyter stated that this is not necessarily a reality change. Mr. Bergeron stated that that is correct.

Mr. King stated that the regulations requires the entire site to comply with today's standards. Mr. King stated that under Article 123-4.B(3) this cannot be handled under a staff review. Ms. Sand stated that this needs a minor review because the site does not fully comply. Mr. deFeyter asked if it could be considered a temporary event in regard to the septic system. Mr. Bergeron stated that the septic system needs approval from the State, but it may not need to be constructed. Mr. deFeyter asked if it is possible for the Board to do this on a temporary basis and have the site plan review follow later.

It was determined that this requires a minor review. Mr. deFeyter asked what waivers is the applicant looking at under a minor review. Mr. King answered pavement of the parking; granite curbing; landscaping; and drainage. Mr. Bergeron stated that there is no drainage now. Ms. Duane asked Mr. King his feelings. Mr. King stated that the Board is going to see a lot of others like this which simply should be dealt with on a staff basis. Mr. King stated that the Board needs to come up with an alternative to require staff reviews.

Mr. Waterman asked Mr. Bergeron on hearing the objections what does he think at this point. Mr. Bergeron stated that Ms. Garland will be a 1/5 owner. Mr. Bergeron stated that any improvements to the

site has to go to the Owner's Association for funding. Ms. Duane stated that we're saying that they will probably never sell the fifth share. Ms. Sand stated that the Board needs to be consistent. Ms. Sand stated that they are technically a change-of-use and it is not fair to the other people who have already been required to go through the same process. Mr. deFeyter stated that the Board needs to be consistent. Mr. deFeyter stated that if she purchases the building and the Owner's Association disagrees with paying for the improvements, Ms. Garland is stuck paying for the improvements herself. Mr. deFeyter stated if one person owns the property we would require them to comply because it is one owner. Mr. deFeyter stated that we are treating them differently.

Ms. Woodall stated that we need to come up with definitions. Mr. deFeyter stated that this is required to have a minor review and there is no way out of it at this time. Ms. Sand stated that we allowed Smoke and Mirrors to use their seating while going through the review process, is there a way for this applicant to do the same thing. Mr. King stated that seating is specifically addressed under temporary outdoor display of goods. Mr. King stated that the way the regulations are written now he would have to say no. Mr. King stated that either the Board has to develop a way to soften the regulations or have a process to waive the site plan review process. Ms. Woodall stated that there was a regulation in the past that allowed the Board to waive site plan review, but it did not work.

Mr. Bergeron stated that a minor site plan review requires site improvements that other owners have to participate in. Ms. Woodall stated that that could be considered a hardship which allows the Board to grant waivers. Mr. Waterman asked if the Board would be setting a precedent with granting waivers. Mr. deFeyter agreed and stated that some improvements will have to be made. Mr. deFeyter stated that the goal is to slowly bring the Town into conformity. Ms. Duane stated that it is difficult to do when you are dealing with a 1/5 owner of a condominium development.

Ms. Duane stated that a review on the building that is being occupied would be more comfortable. Ms. Duane stated that the site is not an eye sore and it is nicely done. Mr. Webster stated that the Board is locked in a box again. Ms. Woodall stated that it is definitely a problem which needs to be addressed. Ms. Sand stated that she can see waiving the pavement and the drainage has been working. Ms. Sand stated that there is a need for greenspace or landscaping. Ms. Sand stated that there is enough parking. Ms. Sand stated that the handicap access should be identified on the plan as well as the snow storage areas. Ms. Woodall agreed with Ms. Sand.

Mr. deFeyter asked if there can be changes made to the land if it is a condominium association. Mr. Bergeron stated that they will have to check. Ms. Duane suggested the applicant asking the head of the Association be present at the Planning Board meeting that this application is discussed in order to be able to answer any questions. Bill Jones of Remax Presidential stated that he has another site that is presently retail that would like to convert to a hair salon. Mr. Jones stated that he has spent six (6) years on the Planning Board in the past and the Board enforces the rules, but they also have the authority to waive the regulations. Mr. Jones stated that you currently have a site that is working. Ms. Woodall stated that she thinks that is what the Board has agreed to.

Mr. Jones stated that this is highly the best use for the site Ms. Garland is proposing as it is a horrible retail location. Ms. Woodall stated that it does need Planning Board review, but we have agreed that some items will be waived. Ms. Woodall stated that the Board will still need to address some items.

JOB DESCRIPTION – PLANNING DIRECTOR

Ms. Woodall stated that the review of all building permits has been added to the job description for the Town Planner. Ms. Woodall asked if there were any questions; there was none. The Board agreed to the wording.

CHANGE-OF-USE DISCUSSION

Ms. Sand stated that it is in the regulations what determines a change-of-use. Ms. Woodall stated that definitions can help resolve some of these situations. Ms. Sand stated that if they don't come to the Board

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then we don't address the non-conformity. Mr. deFeyter stated that you don't want to create a situation where buildings that are pre-existing are operating at a lower standard and new has to meet all the regulations. Ms. Duane stated that you need to change it so were not killing the small businesses. Ms. Duane stated that we are getting away from what this town is about. Mr. Waterman stated that he thinks this Board is granting way too many waivers and setting a precedent. Ms. Sand stated that the Board does have the ability to grant a waiver if the circumstances are right. Ms. Sand stated that we don't need to waive everything just because the applicant has submitted a waiver and she doesn't think the Board has done that. Ms. Sand stated that the Board needs to look at every situation.

Mr. deFeyter stated if the Board is granting a lot of waivers, then the regulations need to be reviewed. Mr. deFeyter stated that maybe the waivers should be tracked. Mr. deFeyter stated that he understands about small businesses, but there are some very big businesses that are coming into Town and the only way for small businesses to survive is to be attractive. Mr. Waterman stated that the only way small businesses will exist is if they become specialty stores. Mr. Waterman stated that they cannot compete with the big businesses.

Ms. Woodall stated that if a place is aesthetically pleasing, they will profit. Ms. Woodall stated that that is a proven fact in planning. Mr. King asked if the Board would like him to come up with a proposal to make modifications to the regulations. Mr. deFeyter stated that Mr. King should see what other people are doing as Article 123-4.B(3) is really getting to us. Ms. Sand stated that it is more worthwhile to research the waiver requests for the past two (2) years and see the major areas of the waiver requests. Mr. Webster stated that most waiver requests have been for paving parking areas, street trees and the scale of the plans. Ms. Sand stated that the Board needs the applicant to educate the Board about their site and let them tell us what works.

SET DATE FOR LIBRARY AND SCHOOL FOR CIP UPDATE

A workshop was set for October 14, 1999.

LETTER FROM PAUL WHETTON RE: SHEET 3-7, MAP 33, PARCEL 78

Ms. Woodall read a letter from Paul Whetton. Ms. Duane stated that he has requested Town Counsel, Peter Hastings, to be present. Ms. Duane asked if he is using him as his own Attorney or as the Town Attorney. The Board agreed that it was not appropriate to have Mr. Hastings present at the meeting. The Board agreed to write to Mr. Whetton again.

AGRICULTURAL USES – SITE PLAN REVIEW?

Mr. King asked the Board if non-residential structures used for agricultural purposes needed site plan review. Ms. Woodall stated that they are controlled by the State, similar to timber. Ms. Woodall stated that the Board can only regulate live stock. Mr. deFeyter asked if applying our site plan regulations to an agricultural building make sense. Ms. Sand stated it is agricultural and site plan review is not required.

Meeting adjourned at 10:30 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary