

**MINUTES OF MEETING  
CONWAY PLANNING BOARD  
October 21, 1999**

A meeting of the Conway Planning Board was held in the Conference Room of Town Hall at 7:00 p.m. with the following present: Chairman, Catherine Woodall; Sheila Duane, Gary Webster, Stacy Sand, John Waterman, Arthur Bergmann, Robert deFeyer, Dawn Emerson, and Acting Recording Secretary, Gail Currier.

Motion was made by Ms. Duane, seconded by Mr. Webster and carried by unanimous vote that action on the Minutes of the October 14th meeting would be taken on October 28th since some had not had an opportunity to review them.

**Pirates Cove of North Conway, Inc. - 2-Unit Subdivision** - 2001 White Mountain Highway, North Conway (Map 64, Parcel 31). Mark Woglom, representing Pirates Cove, stated they are creating a 2-unit subdivision. A condominium document had been prepared and was distributed which describing the condominium concept as it pertains to Pirates Cove. Concern centered around how green space would work. Excluded the miniature golf course. Mr. Woglom stated in figuring the green space the golf course and limited common area were removed, resulting in 68,300 s.f. of greenspace. Total area is 237,689 sq. ft. or 5.45 acres. Areas designated as A & B on the plans were 21,000 s.f. and 31,000 s.f. respectively. Greenspace totals 29% of the total lot excluding the golf course.

Mr. Woglom explained "condominium" as a three-dimensional object - unit #1 consisting of the hotel building, unit #2 comprises the boathouse building. There is one lot, two condominium units. The two unit owners have the same interest in that land. It is one site plan, which the Planning Board has already approved. He stated they will have an ownership interest in all of the land as long as it stays a condominium in the fashion it is proposed. He noted the easement agreement disappeared between Chelsea's and Pirates Cove.

Ms. Woodall questioned snow storage notation and the absence of Exhibit A, and read aloud a fax received from Atty. Hastings. Stacey Sand noted three corners on the south property line need to be set and the applicant needs to cover cost of legal review of condominium documents. It was noted that "Exhibit A" is the plan.

**Motion was made by Stacey Sand to accept the subdivision application for Pirates Cove as complete. Seconded by Ms. Duane and carried with six affirmative votes and an abstention by Mr. deFeyer.**

Mr. deFeyer said it is a lot that is grandfathered in the sense that some of the property is in the business district and some is in the residential district. Ms. Woodall stated both condos are in the commercial zone. Ms. Duane stated prior to Pirates Cove it was a bed and breakfast, it is grandfathered. Mr. Woglom stated it is still one lot. Mr. deFeyer stated it is advertised as a subdivision and it was explained that that is how condos are to be handled.

**Motion was made Ms. Duane to grant conditional approval to Pirates Cove based on placement of three corners of the south property line, payment for legal review of condo documents, conditions noted in Peter Hastings' letter of review, and that documents would be signed within 30 days or at the first meeting in November and could be signed out of session. Seconded by John Waterman. The motion carried with six affirmative votes and an abstention by Arthur Bergmann.**

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**Roy Knight and Sharon Keith - 2-lot subdivision with a proposed paper road to create adequate frontage.** Edgar Allen of Thorne Surveys represented the applicants for the 2-lot subdivision. He stated that basically the same plan had been presented to the Planning Board in August, but it was ruled that the applicant had to go through the ZBA who then denied it. They have now resubmitted for the two-lot subdivision owned by a father and son. A driveway is to be created between the lots and a cul-de-sac to meet lot requirements. They are requesting waiver for road construction standards.

**Motion was made by Ms. Duane to accept the application for a 2-lot subdivision for Knight and Keith. Seconded by Gary Webster and carried by unanimous vote.**

Mr. Allen explained the driveway comes in off Stark Road and splits at the cul-de-sac. Mr. deFeyter noted this would actually be a waiver of the construction standards for the cul-de-sac and the road out to Stark Road, allowing just the driveway to exist. He had asked Mr. King if this had been done in the past and was told it has.

Mr. Bergmann said it is his understanding that the paper roadway came about because that is the only way this could be done. The ZBA denied because there was not enough road frontage. Mr. Allen said the cul-de-sac as drawn does meet the road frontage requirements. Ms. Duane said because it did not meet the road frontage standards the only way was to put in the cul-de-sac. Mr. deFeyter stated the only way they can get two lots is to put a cul-de-sac in - the issue here is whether to waive the requirement. It has been done in the past, do we want to do it again?

Ms. Woodall opened the meeting for public comment. There was none. Ms. Woodall read aloud from the Waiver Request Form: Ch. 131-43E - Road Construction Standards - justification for granting of waiver - "This site is proposed for two lots only with no further subdivision proposed and the existing driveway will service both lots."

**Motion was made by Ms. Duane to grant the waiver of 131-43E, Road Construction Standards. Seconded by Ms. Sand.**

Comments: Mr. Bergmann stated it had been denied under Ch. 147-17, B, 1, and wished to know if this plan is entirely different from that which went to the ZBA. Mr. Allen assured him it was. Ms. Sand noted the cul-de-sac is technically a "road on paper." Ms. Woodall stated there is adequate frontage for the cul-de-sac. She questioned whether there are deed restrictions. Mr. Allen stated none at this time and if so, they would have to come back before the Planning Board. Mr. Bergmann stated if they do not build the cul-de-sac then they do not have the frontage. He was told that is correct. It was noted there is only one house proposed at present, in fact, the applicant cannot get a building permit for the other house because they do not have subdivision approval. Ms. Duane pointed out the land is safe forever. Mr. Allen said it is just a driveway and will remain so.

**Motion to waive road standards passed with five votes in the affirmative and Ms. Woodall and Mr. Bergmann voting in the negative.** It was Ms. Woodall's opinion that to approve would be circumventing the ZBA, thus she had voted against the motion.

It was noted a letter has been received from Conway Village Fire District stating there are no concerns. A driveway permit has been issued. Mr. Allen stated waiving of his request under Ch. 131-43E negates the second request (Ch. 131-26), which was for the drainage for the road.

Mr. deFeyter pointed out the paper road will still need a name. The owner has requested it be known as "Knight Lane." Ms. Emerson stated the applicant must first check with 911 before the name can be accepted.

**Motion was made by Ms. Duane that conditional approval be granted for the subdivision for Roy Knight, conditions being that the plans are drawn up with the name on the plans and the name checked, that the monuments are placed between roads 1 & 2 and that the applicant has until November 4th to meet those conditions. Seconded by Ms. Sand. The motion carried with 5 votes in the affirmative, Mr. Bergmann voting in the negative, and Ms. Woodall abstaining.**

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**RJ Realty Trust - Combing Attractions - Minor Review for very small change of use.** William Jones represented RJ Realty Trust. Also present were the owner of the adjacent restaurant, Thomas Kugal, and shop proprietor, Wendy Howard. It was explained that presently the front portion of the first floor of the Lake Street building across from Conway Pawn Shop has been retail, but that portion has been vacated. The rear portion of the first floor is a personal service establishment (Combing Attractions). The proposal is only to change the use so that all of the first floor is the personal service establishment.

**Motion was made by Ms. Duane to accept the application of RJ Realty Trust. Seconded by Mr. Webster. Carried by unanimous vote.**

Comments: Ms. Sand stated there is curbing on Lake Street across the street and felt it should be included here. She stated also, in order to waive handicap access documentation would be needed which states that it is not required by the ADA. Mr. Jones stated it is not a question of waiving it, it is a question as to whether there is enough room. He noted formerly that building was a hardware store. The type of use that will be there is a personal service establishment, by appointment only. If anyone were to need those services, they would go to their home and provide them. Mr. Webster stated that is an acceptable ADA practice. Ms. Sand stated that without some documentation this Board cannot officially waive that requirement. It was noted also there are two bathrooms and they are on municipal water and sewer. There is no dumpster on site and none necessary.

Mr. deFeyter noted the post office will go in behind there and there are a lot of concerns with Selectmen as to Lake Street. Mr. Webster acknowledged there are some concerns about mail trucks and increase of traffic that would occur. Mr. deFeyter stated there is question as to whether it should become one way; there is little traffic on it now, but if the post office is put in it will be a problem. Mr. deFeyter felt this Board needs to deal with the post office and what is going to happen there. Mr. Webster stated it is not fair to burden this applicant with a potential post office that may never be built. The one that will have to deal with it is the post office.

Ms. Sand agreed with him; however, she noted she almost got hit there two days ago when viewing the site and feels it is a legitimate concern. Ms. Duane said when the retail was in the front they shared the rear parking lot; if this were to have remained retail space they could not change it anyway. He stated we cannot say their parking is inadequate when there is nothing that they can do about it. She suggested the Board should just act on the waivers. Ms. Sand felt the applicant could be advised of something that would make it safer. Ms. Duane stated that does not do anything for the parking lot. It was noted there are five employees, however, they are not all there at any one time.

Mr. Kugel noted while parking is a problem, having just one business there will have less impact. Combing Attractions has been there for years, they get along well, there are no negative factors in her taking over the entire downstairs. He would prefer dealing with just one business owner there since they end up using his parking lot also.

Mr. deFeyter said this Board has an obligation to assure safe use. He questioned whether it is possible to do parallel parking. Mr. Jones stated no. Ms. Duane pointed out when the Board considered the Whetton property on Washington Street (where they back out onto a much more heavily used road) this concern about that was not brought up. Mr. deFeyter stated the State was concerned about that. Ms. Duane said the neighbor (next to Combing Attractions) has no complaints; if there were complaints or problems we would have people here stating their opposition to this project.

Ms. Sand felt the amount of parking spaces should either be reduced or they should come up with an angling so it is easier to see when backing out. Ms. Duane stated if the parking is angled they will still have to back out. Ms. Sand felt if they angled toward the east and only had four spaces instead of six it might work. Mr. Jones said the parking area is 63' long, 2-car depth.

Wendy Howard stated in all the years she has been there they have never had even a fender bender; the parking has been more than adequate. They have a controlled situation because they operate by appointment. There is less traffic flow than any retail spot. Employees park behind each other and conserve spots. The neighbor (a restaurant) has let them use some of his parking when necessary. They have never had a problem.

Ms. Woodall polled the Board: Mr. Webster stated he has no problem with it. Ms. Duane agreed. Mr. Bergmann said he has a problem because we have to consider the post office, stating they have already been here. Ms. Duane pointed out there is no building permit to them. Ms. Sand would like the applicant to consider reconfiguring the parking because of the way it is built. She is not concerned about the number of spaces as much as with people being able to see when backing out. Mr. Waterman is in favor of granting approval. Mr. deFeyter wanted to see what can be done with the parking, that other possibilities should be looked at. He stated it is a problem now and could be a bigger problem later. Ms. Woodall stated she

could see in the future it could be a problem, but must tonight deal with what is here. She questioned Mr. Jones as to whether angling would help - 4 parking spaces angled. Ms. Howard stated she cannot see any problem at all, there has never been any problems or complaints and she would hate to lose some spaces.

Ms. Woodall read aloud the requests for waiver under Ch. 123-21-Driveway, 123-22A-Parking, 123-23 A,D & E-small parking lot in rear, and 123-30-Landscaping. **Motion was made by Ms. Duane to accept waiver of 123-22A. Seconded by Mr. Webster.**

Comments: Ms. Sand would like to wait on voting on the waiver until it is decided whether they are going to waive the parking lot design because that will effect how many spaces are approved. **Second and motion were withdrawn.**

**Motion was made by Ms. Duane to accept the wavier of 123-23, A, D & E. Seconded by Mr. Webster.** Mr. Jones stated the parking spaces are 9 feet. Ms. Woodall stated they can only do what they can do when there is limited space to park. The building has been used for retail, now would be a hair dressing salon. She said in the future when the post office comes in there may have to be other ways to deal with that.

Ms. Duane suggested to address the issue of angled parking, they have six spaces shown, and if they angled parking they could lose one space. Ms. Howard pointed out there will also be a front entrance with village parking. Mr. Kugel felt angled parking makes no sense, they would be facing the wrong direction to be leaving. He stated this is an existing building in Conway Village - you are asking to have nothing happen there; we want businesses working well in this village. This is a little parking lot that works. Ms. Duane commented there is on street parking there, there are three churches there, plenty of parking.

Mr. Bergmann suggested cutting it to the end four spaces; that if 14 spaces are waived, those last four would be easier to get in and out of. Ms. Sand stated that would be acceptable. Mr. Jones and Ms. Howard agreed. Mr. deFeyter preferred parallel parking; was told there is no room there, also there are "no parking" signs there. Mr. Bergmann wished to get rid of the two parking spots closest to the building.

**The motion carried by unanimous vote. [Design on the exemption would waive one more parking space.]**

**Motion was made by Ms. Sand to accept waiver of 123-22A. Seconded by Ms. Duane. The motion carried by unanimous vote.** Mr. Bergmann noted that they are waiving fourteen (14) spaces with the understanding that the first two are being taken out.

**Motion was made by Ms. Sand to accept waiver for 123-21 - Driveway. Seconded by Mr. Bergmann. The motion carried by unanimous vote.**

**Motion was made by Ms. Sand for waiver of 123-30 - Landscaping for the site. Seconded by Ms. Duane.** It was noted the building encroaches into the buffer zone and does not allow for planting of street trees. Mr. deFeyter questioned what would be done with the space for moving the parking lot back. It was decided that would be needed for snow removal. **The motion carried by unanimous vote.**

123-36 - Wheelchair Access - It was noted that handicap access is not able to be utilized - there are two granite steps to the walkway and a step into the building. Mr. Waterman questioned why they cannot have handicap access in the front by putting a small ramp there. Mr. Jones stated a contractor, Russell Kennett, has inspected the area and states it is not long enough to meet the grade. He also measured in the back and there is not enough room either front or back.

Mr. Webster stated that 123-36 stated it is the applicant's responsibility and there is a statement in the record that they will "accommodate handicapped persons" by either going to their homes or assisting clients coming into the salon. It was his opinion that adding a ramp in the front would be a nightmare. Ms. Woodall noted this is a business that deals by appointment only - they are not denying clients. Mr. Bergmann argued that the law says adequate provisions shall be made, etc.... Mr. Webster stated it puts the onus on the applicant to make the services available. Mr. Bergmann stated it does not give the Planning Board a method by which to waive it. Mr. deFeyter stated they could provide a lift, but at great expense;

however, he does not feel it is something the Planning Board can deal with at this point. It is a federal requirement and not this Board's purview to waive it.

Mr. deFeyter stated the applicant should go back and see if there is a way around the ADA requirements. Ms. Duane pointed out Mr. Jones has already researched this and a contractor says there is no way around it. Mr. Webster suggested a letter from the contractor stating that. Mr. deFeyter stated we are not design people and not in a position to waive that requirement. Ms. Sand stated regulations say that the applicant needs to document. Ms. Woodall suggested notation be put on the plan. Mr. Waterman still felt a small ramp should be able to be built on the front. Mr. deFeyter stated a ramp could be built, but ADA has certain requirements and even though a ramp is built it may not meet the requirements. Mr. Bergmann stated it needs to be sent back for more research.

Kathleen Szekeley, an employee of Combing Attractions, stated they always offer to go to people's homes or go out and help them into the building from their cars - no one has been denied if they want services there. Mr. Waterman agreed if that statement is incorporated into the Site Plan he would be O.K. with that. Ms. Sand noted the public has a right to access that business, if they are willing to go to the client that is giving access to that business. Mr. Bergmann stated if we accept the waiver, the applicant does not have to put anything on the plan. Ms. Duane pointed out if the note as suggested is put on the plan, the Planning Board would not have to grant a waiver. **The second and the motion were withdrawn.**

**Motion was made by Ms. Duane to grant conditional approval to RJ Realty Trust with the condition that they bring in new plans with the parking lot reconfiguration and a note on the plan stating that they will make it as handicap accessible as possible, otherwise will be willing to fulfill the requirement of the customers, going to their homes if necessary, that the applicant has until November 4th, or if they can get it in sooner she would sign the plans out of session. Seconded by Ms. Sand. The motion carried with six votes in the affirmative and Mr. deFeyter abstaining.**

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**Roman Catholic Bishop of Manchester/B & B Realty, LLC - Minor Review for a change of use from a parish center to engineering offices.** Doug Burnell of HEB Engineers represented the applicant explaining they are proposing to change from a parish center of the Catholic Church into businesses offices.

**Motion was made by Ms. Duane to accept the Site Plan of Our Lady of the Mountains Roman Catholic Bishop of Manchester. Seconded by Ms. Sand. The motion carried by unanimous vote.**

It was noted that parking is currently leased to the Town of Conway for municipal parking. HEB Engineering would be picking up that lease, therefore, there is no problem with parking. Mr. deFeyter stated they had required a platted pass through for the Gibson Center, so must do the same with this. Ms. Duane said she had thought when they put that reserved right of way there it was over what is now the pedestrian walkway. Mr. deFeyter stated they need to put access on the other side so that it matches up - they need a platted right of way on both ends. Upon review of the Gibson Center plans Ms. Duane found it does in fact go through the cedar hedge, and felt the answer is to match it up on the other side.

123-21I - Driveway - no granite curbing. [Waiver justification: The Main Street frontage has granite curbing, but the common entrance driveway has none. The driveway functions successfully and safely without curbing.] Ms. Sand said curbing that is near the building itself is not granite and is breaking up, showing wear and tear. She felt granite curbing on the driveway is important.

**Motion was made by Ms. Duane to accept the waiver of 123-21I. Seconded by Ms. Sand.** Ms. Sand stated the reason for granite curbing is traffic control as well as wear and tear and appearance. It would be consistent with the rest of the neighborhood. Ms. Duane questioned whether that also includes the parking lot area. Ms. Emerson stated just the driveway - the requirement for curbing is the radius of the driveway, not the length of the driveway. Ms. Duane said it is her understanding that when granite curbing is required it is just for the turn of the driveway. Mr. deFeyter stated the requirement is granite curbing for the whole driveway. Waiver is for just the radius/entrance. **The motion was defeated by unanimous vote.**

Ed Bergeron said the situation is working fine the way it is, if there is an improvement to be made by installing curbing they will install it, but he sees no improvement in this case. It does not enhance drainage or traffic flow. Ms. Sand stated it accomplishes consistency of how this Board votes - it was required of the neighbors. Mr. Bergeron stated this has worked this way for sixteen years. Ms. Sand stated they have required neighbors to put it all along Grove Street. Ms. Emerson stated that situation served a purpose because of drainage. It was noted also the Board did not require granite curbing recently with the Whetton property in Conway Village. Mr. deFeyer expressed disagreement and requested that this be revisited at the next meeting.

**Motion was made by Ms. Sand to accept the waiver for 123-23A establishing a one-way aisle that is less than 18'. Seconded by Mr. Webster. The motion carried by unanimous vote.**

123-30A - Landscaping - Mr. Burnell stated his request is specifically for the two street trees - buffer areas, noting there is existing paving there. Mr. deFeyer questioned what the construction shed behind the handicapped space is for. Mr. Burnell stated it is for equipment. Mr. deFeyer questioned how they would get to that. Mr. Burnell stated they would back into the space next to the handicap space. Ms. Woodall read aloud the waiver for 123-30A. [Justification: The northerly edge of the parking lot was paved to the 5' buffer line in effect when it was built in 1986, not to the current 10' buffer line. We are proposing to restripe the parking in front of the office building such that the portion within the current buffer will be part of the clearance area around a handicap parking lot.]

**Motion was made by Ms. Sand to accept the waiver for 123-30A - encroachment on the buffer. Seconded by Ms. Duane and carried by unanimous vote.**

**Motion was made by Ms. Duane to accept the waiver for 123-30D - street trees required for landscaping requirement. Seconded by Mr. Waterman.** [Waiver Justification: The existing shrubs planted either side of the entrance driveway at Main Street allow for visibility of the existing information booth, on-site, and Pinkham Real Estate signs. Given the narrowness (50') of the subject frontage, there is physically not enough room for street trees.]

Discussion: Ms. Sand noted justification for the waiver is not appropriate, the purpose of street trees is to have shade trees along our streets and the fact that it blocks the view of an information center and a sign is not appropriate here. Mr. Waterman stated there is presently a large tree there. He thinks granting the waiver is permissible. Ms. Duane agreed. It was noted there is an 8" and a 12" maple tree behind the information booth, and Gibson Center street trees. Mr. Burnell stated there is not a lot of room there, other people's stuff is all in place. Ms. Duane did not feel it necessary to rip out existing shrubs to put in a tree. **The motion carried with four votes in the affirmative, Ms. Sand and Mr. Bergmann voting in the negative, and Ms. Woodall abstaining.**

It was reported that letters from North Conway Water Precinct addressing fire, water and sewer have been received and water/sewer revision has been duly noted on the plan as requested. Ms. Sand questioned whether there is a State driveway permit. It was noted the permit has existed since 1985. Ms. Woodall stated if the use is changed, they are supposed to apply for a new driveway permit. Ms. Emerson stated this Board has historically asked for this.

Design Standards in compliance: 123-27 - Lights - Mr. Bergmann questioned height. Mr. Burnell stated the area light in the middle of the municipal parking lot is 27' high. Ms. Duane suggested that is that high so that one fixture can do the job of what would otherwise be done by many. She suggested leaving the light post there with no waiver being required since it is existing.

Restrooms - Mr. Burnell reported there are many restrooms inside the building, including handicap accessible. Mr. deFeyer requested that there be notation on the plan depicting restroom locations.

Solid Waste - It is the intent to keep trash and recyclables inside the building.

Mr. Bergmann questioned snow storage noted on the plan. Mr. Burnell stated that road is plowed by the Town of Conway and snow storage is at First Bridge off River road. He will remove the snow storage by the fence.

Platted Access - The Board agreed to 20' platted access. Ms. Woodall said the access is to be platted at the existing opening.

Motion was made by Ms. Duane to grant conditional approval on the condition that they plat the reserved access on both the north and south portions of the property to match up with the Gibson Center reserved access, and to create one in a reasonable place facing the Bellini property; change the snow storage area (remove reference from plan); apply for a driveway permit. Ms. Sand noted condition has to be on the approval of a driveway permit. Mr. deFeyer noted the Board has rejected the granite curbing waiver. Ms. Duane withdrew her motion.

**Motion was then made by Ms. Duane to continue this application to November 4, 1999. Seconded by Ms. Sand and carried by unanimous vote.**

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William Jones returned to the meeting with revised plans for Combing Attractions as required, to include a statement as follows: " The policy of Combing Attractions is to service all clients on premises or offer to accommodate them in their homes. Combing Attractions will make every effort to uphold this policy."

**Motion was made by Ms. Duane to approve the Site Plan for RJ Realty Trust. Seconded by Ms. Sand. The motion carried with five votes in the affirmative and Messrs. deFeyer and Waterman abstaining.**

Chairman Woodall reminded the Board that a workshop meeting is to be held on October 28th to review definitions in the Zoning Ordinance and members are requested to write up their zoning issues and bring them in. Also to be discussed is Paul King's presentation of pros and cons of the SantaMaria property.

**Wal-Mart** - The Board reviewed Staff Review by Paul King reporting that Wal-Mart is modifying the approved detention basin by changing from a cedar fence baffle to an aggregate berm, based upon a request from NHDES. Ms. Woodall suggested members inspect the site prior to next week's meeting. Mr. Waterman questioned the detention pond being built by the State across from Wal-Mart and why it is not fenced in as was required of Wal-Mart.

Ms. Sand questioned whether Wal-Mart has been issued an Occupancy Permit. Ms. Emerson suggested they must have a conditional one. Ms. Duane stated they can open on a conditional Occupancy Permit, usually granted with a completion date. Ms. Sand stated her reason for bringing this up was because she wants to know if these things are going to be done before they open their doors.

Motion was made by Ms. Duane, seconded by Mr. Bergmann and carried by unanimous vote, that the meeting be adjourned at 10:15 p.m.

Respectfully submitted,

Gail T. Currier  
Acting Recording Secretary