

CONWAY PLANNING BOARD

MINUTES

JANUARY 6, 2000

A meeting of the Conway Planning Board was held on Thursday, January 6, 2000, beginning at 7:00 p.m. at the Conway Town Office, Center Conway, NH. Those present were: Chair, Catherine Woodall; Selectmen's Representative, Gary Webster; Vice Chair, Sheila Duane; Stacy Sand; Arthur Bergmann; John Waterman; Planning Director, Thomas Irving; Interim Town Planner, Paul King; and Recording Secretary, Holly Meserve.

The Minutes of December 2, 1999 should be amended as follows: page 2, paragraph 2, line 4, should read, "... was not recommended ..."; page 3, paragraph 3, line 2, should read, "... Wiggin stated that they went ..."; page 3, paragraph 3, line 4, should read, "... used that road when it was ..."; page 3, paragraph 4, line 1, should read, "... Risley, The Village at Cedar Creek Homeowners Association President, stated ..."; page 4, paragraph 1, line 5, should read, "... about it and was told by Mr. King there is nothing ..."; and page 4, paragraph 7, line 5, should read, "... what the point of ...".

Ms. Sand made a motion, seconded by Ms. Duane, to approve the Minutes of December 2, 1999, as amended. Motion carried with Mr. Webster abstaining from voting.

Ms. Duane made a motion, seconded by Mr. Bergmann, to postpone the Minutes of December 16, 1999. Motion was defeated with Ms. Duane, Ms. Sand and Mr. Waterman voting in the negative. After a brief discussion, the Board agreed to address the December 16, 1999 Minutes later in the meeting.

Ms. Sand made a motion, seconded by Ms. Duane, to have Memorial Hospital taken out of order and addressed at this time. Mr. Bergmann stated that Memorial Hospital is on the agenda under other business for a conceptual review. Mr. Bergmann stated that it should not go before the other applicants. Mr. Irving stated that the reason for the request is there an immediate time restraint. Mr. Irving stated that the Board could no longer proceed on this request after 8:00 p.m. this evening because of the notification deadline with the newspaper. Mr. Irving stated that Memorial Hospital is asking for five minutes.

Ms. Woodall asked how long the hospital has been planning this addition. Ms. Duane stated that the Board needs to proceed on the motion to bring them forward before asking any questions. Mr. Irving stated that the time line for this amendment requires notification in tomorrow's newspaper. **Motion carried with Mr. Bergmann and Ms. Woodall voting in the negative.**

Randy Cooper appeared before the Board. Ms. Woodall asked when the hospital first started planning the change to the hospital. Mr. Cooper answered earlier this year and this fall. Ms. Woodall asked the time frame for the expansion. Gary Parquette stated that the theoretical plan was about a year and a half ago. Mr. Cooper reviewed the attached time frame. Mr. Cooper stated that a couple of years ago the hospital site was changed to commercial to make it a conforming site and then the Special Highway Corridor District was adopted. Mr. Cooper stated that the Special Highway Corridor District would prohibit the expansion.

Ms. Woodall stated that the Board's last meeting is on January 13, 2000 and we would have to call a special meeting. Mr. Cooper stated that we are asking very clearly for some help. Ms. Duane asked what this addition will specifically be used for. Mr. Parquette answered oncology and cardiac rehab service. Ms. Duane asked if this service is deemed necessary for our expanding population. Mr. Parquette stated that the service is offered currently, but we are undersized. Ms. Duane asked the next closest facility. Mr. Parquette answered Portland or Hanover.

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Ms. Sand asked what are you specifically asking to be amended. Mr. Cooper answered that the hospital not be subject to the overlay district. Mr. Cooper stated that there is a letter from Peter Hastings (attached) that he agrees this is not spot zoning. Mr. Cooper stated that this district makes it impossible to do anything else to the hospital. Ms. Woodall stated that she does not know if we can do this on such haste. Ms. Woodall stated that we don't have to put this before the voters this year and can have another meeting. Mr. Bergmann stated that this has to be done before the election.

Ms. Duane stated that Mr. Hastings doesn't see any problem with it. Ms. Duane stated that if the Board brings this to a public hearing on January 18, 2000, there are no ramifications as that would be the day to decide. Mr. Irving stated that you would just provide the Board an opportunity to consider the zoning change. Ms. Woodall asked Mr. Irving if he will have time to review the proposal. Mr. Irving stated between now and then he would.

Ms. Sand asked if they could go before the Zoning Board of Adjustment for a Special Exception. Mr. Cooper stated that there is no Special Exception for this and it would have to be a variance. Ms. Duane stated that if Mr. Irving feels he has enough time to review this then the Board should send it to a public hearing on January 18, 1999. Ms. Sand made a motion, seconded by Ms. Duane, to hold a public hearing on January 18, 2000 at 7:00 p.m. Motion carried with Ms. Woodall abstaining from voting.

Ms. Sand made a motion, seconded by Ms. Duane, to approve the Minutes of December 9, 1999, as written. Motion carried with Mr. Webster and Mr. Bergmann abstaining from voting.

The Minutes of December 16, 1999, should be amended as follows: page 2, paragraph 3, line 1, should read, "...does not affect this..."; page 2, paragraph 6, line 3, should be added, "...comes in. Ms. Woodall stated that these studies show the least impact is in the industrial zone and the most in the residential and then the commercial. Mr. Bergeron stated..."; page 3, paragraph 1, line 6, should be added, "...of business. Ms. Woodall stated that these types of businesses will have the least impact on the Industrial-2 district."; page 3, paragraph 5, line 3, should read, "...already anyway much like Route 1 in Saugus. Dennis Wagner..."; page 4, paragraph 2, line 6, should be added, "...are there. Ms. Woodall stated that there are 800 to 900 acres industrially zoned in that area." Ms. Woodall..."; page 4, paragraph 3, line 2, should read, "...that's limited. Steve..."; page 4, paragraph 4, line 3, should read be added, "...show that. Ms. Woodall stated that we are trying to zone secondary effects of these businesses. Mr. Wagner..."; page 4, paragraph 8, line 3, should be added, "...Conway. Ms. Woodall stated that the Highway Commercial District was looked at and 400 feet deep and the industrial district is 1,200 feet deep. Mr. King..."page 5, paragraph 7, line 3, should read, "...rewritten. Ms. Woodall asked that if..."; and page 6, paragraph 2, line 5, should read, "...increase expenditure on the landfill...".

Mr. Waterman made a motion, seconded by Ms. Woodall, to approve the Minutes of December 16, 1999, as amended. Motion was defeated with Ms. Duane and Ms. Sand voting in the negative and Mr. Webster and Mr. Bergmann abstaining from voting.

Steve LaFrance of Provan & Lauber and Daren Leavitt of Badger Realty appeared before the Board. Mr. LaFrance stated that this is a change-of-use. Mr. LaFrance stated that a portion of the building has been vacant for one year. Mr. LaFrance stated that this application is to change space from a vacant use to a retail use. Mr. LaFrance stated that there will be no other modifications with the exception of the relocation of the dumpster. Ms. Duane made a motion, seconded by Ms. Sand, to accept the application of M & P Partners LTD Partnership as complete for a minor site plan review. Motion unanimously carried.

Mr. Bergmann stated that there are four items not yet submitted. Mr. King stated that there is a revised planner package for this evening. Mr. King stated that item #1 was submitted by fax and is in the file. Mr.

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King stated that the applicant still needs to obtain a State driveway permit and supply a cost estimate. Mr. King stated that the green space calculations were received and the site is just over 25%. Mr. LaFrance stated that the brick walkways were included in the green space calculation so there may be less than 25%.

Mr. Irving stated that the first waiver being requested by the applicant is for the two driveways. Mr. Irving stated that if you remove the northern driveway you would render the bank drive-thru useless. Mr. Irving stated that he would recommend the Board granting the waiver. Ms. Sand stated that the alternative would be to make the driveways one-way. Mr. Bergmann asked if there are any easements for parking on this site. Mr. LaFrance answered in the affirmative. Mr. Bergmann stated that it needs to be on the plans. Mr. King stated that reservation and easement is the same thing.

Mr. Bergmann read Mr. Irving's recommendations for waivers on parking. Mr. Bergmann stated that our regulations state that it is the total square footage. Mr. Bergmann stated that the regulations do not set aside parking calculations for storage and mechanical space. Mr. King stated that we are having discussions on two waivers. Ms. Woodall stated that the Board will discuss them in order. Ms. Woodall asked for public comment; Joe Berry stated that there is an existing right-of-way from this property to Pine Street. Ms. Woodall asked if it is an easement. Mr. Berry stated that the site plan identifies it as a right-of-way. Mr. Bergmann stated that it has to be on the plans. Mr. Irving stated if it is an easement it would have to be on the plans. Mr. King asked if it is on this property. Mr. Berry stated that the right-of-way is over the church property.

Ms. Woodall read the waiver request for Article 123-21.C, parking. **Mr. Bergmann made a motion, seconded by Ms. Duane, to approve the waiver request for Article 123-21.C.** Ms. Sand stated that she would be more in favor of the waiver if there were "Do Not Enter" signs on the northern driveway. Mr. Irving suggested "Exit Only" signs. The Board and the applicant agreed to the "Exit Only" signs. Ms. Woodall read the conditions to grant a waiver under Article 123-40. **The motion unanimously carried.**

Mr. Irving stated that the next waiver request is for granite curbing. Mr. Irving stated that he does not support this waiver request as the 12 feet of curbing would protect the edge. Mr. Irving stated that curbing should be added from the sidewalk to the drip line of the large tree. Ms. Woodall read the waiver request for Article 123-21.I. Ms. Sand stated that she agrees with Mr. Irving. Ms. Sand stated that the existing green space is not very green despite it being winter. Mr. Bergmann made a motion, seconded by Ms. Duane, to approve the waiver request for Article 123-21.I. Motion was unanimously defeated. Ms. Woodall stated that the waiver request for Article 123-21.I. was denied to protect the green space and define the driveway.

Ms. Woodall read a waiver request for Article 123-30.A. Mr. Bergmann stated that this parking lot has been here for ages. Mr. Bergmann stated that the applicant is not changing the building and the parking should be left as it is. Ms. Sand stated to eliminate parking spaces when the applicant is requesting a waiver on parking is contradicting. Ms. Woodall stated that the parking is already existing. Mr. Bergmann made a motion, seconded by Ms. Duane, to approve the waiver request for Article 123-30.A. Motion unanimously carried.

Mr. Irving stated that the light fixtures around the perimeter of the property do not exceed 20 feet, but there are two poles that do. Mr. Irving stated that these lights should be removed and he does not recommend the waiver request. Mr. Waterman asked if by removing these lights it would be a hardship to the owner. Mr. LaFrance stated that they are floodlights for the parking lot. Mr. Waterman asked if these lights can be seen from the street. Mr. Irving stated that one may be visible from the street, but they are both behind the building. Mr. Bergmann stated that he is more concerned with the residential area. Mr. Waterman stated that there is a buffer.

Mr. Leavitt stated that the NHCOOP owns the lights, not the owner of the property. Mr. Bergmann asked if the NHCOOP could lower the lights. Mr. Leavitt stated that he did not know. Mr. Webster stated that the lot is used a lot in the summer and he would hate to see the parking area dark at night. Mr. Webster stated, however, that these lights should come into compliance. Ms. Sand, Mr. Waterman, Mr. Bergmann and Ms. Woodall all agreed that the applicant should see if the lights can be lowered. Ms. Duane stated

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that if the lights are lowered she wants to make sure there are no dark spots, still lights the parking lot and not the neighbors' property. Mr. LaFrance stated that he will check with the NHCOOP.

Ms. Woodall read a waiver request for Article 123-30.D, street trees. Mr. King stated that the Board can grant a waiver with conditions under Article 123.41.A(4). **Ms. Sand made a motion, seconded by Ms. Duane, to approve the waiver request for Article 123-30.D on the condition that three of the five trees required are planted.** Mr. Bergmann asked what is Article 123-41.B referring to. Mr. King stated that it would be like using the ITE shared parking standards instead of our parking calculations. Ms. Woodall read the justification of the condition. **Motion unanimously carried.**

Mr. Irving stated that the next waiver is on the parking calculations. Mr. Bergmann stated that parking calculations are done on the footprint of the building and not what is just being used. Mr. Bergmann stated that everyone needs to be treated the same way. Mr. Bergmann stated that he would rather waiver parking spaces than do this. Ms. Sand stated that the applicant should recalculate the square footage. Mr. Bergmann asked if the square footage calculation includes the bank. Mr. LaFrance answered in the affirmative. Ms. Woodall polled the Board to see if the square footage should be recalculated; it was unanimous to have the square footage recalculated.

There was a brief discussion on the possibility of a conditional approval. Mr. Bergmann made a motion to continue the application of M & P Partners LTD Partnership until January 13, 2000. Mr. King stated that the lighting situation is straight forward; either it is in compliance or it is not. Mr. King stated that the applicant needs to tell you the number of parking spaces. Mr. Bergmann stated that Mr. Irving is the Town Planner and asked what is his opinion. Mr. Irving stated that the applicant can correct the parking calculations and give you an answer now. Mr. LaFrance stated that there is 21,194 square feet. Mr. LaFrance stated that the bank is 4,300 square feet which requires 18 parking spaces. Mr. LaFrance stated that the retail is 16,894 square feet, which will require 85 parking spaces. Mr. LaFrance stated that 103 parking spaces are required and there are 74 parking spaces.

Ms. Sand stated that the applicant also needs to recalculate the green space and submit a waiver. Ms. Duane stated that the January 13, 2000 meeting is already full. Mr. Bergmann made a motion to amend his motion to continue the application of M & P Partners LTD Partnership until January 18, 2000. After a brief discussion, Mr. Bergmann withdrew his motion. Mr. Bergmann stated that he objects to writing waivers at the meeting. Mr. Webster stated that there was a site plan for this site approving 85 parking spaces and asked why this site was not striped for 85 parking spaces. Mr. LaFrance stated that some of the parking spaces are reserved for the Hoffman property. Mr. Webster stated that we need actual numbers. Mr. Webster stated that the applicant should also look at the loading and outdoors displays.

Mr. Irving read from the ordinance on conditional approvals and stated that the lighting would either be in compliance or not in compliance. Mr. Bergmann made a motion, seconded by Ms. Duane, to continue the application of M & P Partners LTD Partnership until January 18, 2000. **Motion unanimously carried.**

Lloyd Helm of Peterson Petroleum and Shawn Bergeron of Shawn Bergeron Technical Services appeared before the Board. Ms. Sand made a motion, seconded by Mr. Bergmann, to accept the application of Peterson Petroleum as complete for a Minor Site Plan Review. **Motion unanimously carried.**

Mr. Bergeron stated that this is the identical application for a project that was conditionally approved in September, 1999. Mr. Bergeron stated that the applicant did not get their bonding in on time and the conditional approval expired. Ms. Woodall read a waiver request for Article 123-30.B. **Ms. Duane made a motion, seconded by Mr. Bergmann, to approve the waiver request for Article 123-30.B.** Ms. Woodall asked for public comment; there was none. **Motion unanimously carried.**

Ms. Woodall read a waiver request for Article 123-21.C. **Ms. Duane made a motion, seconded by Mr. Bergmann, to approve the waiver request for Article 123-21.C.** Ms. Woodall asked if the curb cut is

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being reduced. Mr. Bergeron answered in the affirmative. Mr. Bergmann stated that a curb cut is not being eliminated. Mr. Bergeron agreed. **Motion unanimously carried.** Mr. Bergeron stated that the applicant does have a bond. Mr. Bergmann asked why there is a discrepancy on the amount from the first application. Mr. Bergeron stated that the applicant has an actual quote from a contractor for this application rather than an estimate.

Ms. Woodall asked if there was suppose to be a light on the westerly side of the building. Mr. Bergeron stated that is was not a requirement, but an item for the owner to consider. Mr. Bergmann made a motion, seconded by Ms. Duane, to finally approve the Minor Site Plan for Peterson Petroleum. Motion unanimously carried. The plans were signed.

Mr. Bergmann stepped down and appeared before the Board. Joe Berry was invited to sit at the table by the Board. Mr. Bergmann stated that someone owes Mr. Berry an apology because this has nothing to do with Mr. Berry. Mr. Bergmann stated that the only thing on the agenda is whether he has a right to appeal. Ms. Duane stated that the Board has addressed whether you have a right to appeal or not by allowing you to be here. Ms. Duane stated that this is Mr. Berry's project and it makes sense why he would want to be here. Mr. Bergmann stated that the we are only here to determine if this would be a staff review or a minor review. Ms. Sand stated that essentially no review was made. Ms. Sand stated that Mr. Bergmann is questioning Mr. King's decision for no decision. Ms. Sand stated that she thinks it is important for Mr. Berry to be here for background information.

Mr. Bergmann stated that the reason for his appeal is because the Board received a letter from Paul King addressed to Joe Berry. Mr. Bergmann read the letter. Mr. Bergmann stated that Mr. King's decision was that site plan review was not necessary. Mr. Bergmann stated that he is objecting to that decision. Mr. Bergmann stated that there are certain criteria's that have to be met for a staff review. Ms. Sand stated that Mr. King did not do a staff review. Ms. Sand stated that there was no site plan review. Ms. Woodall asked Mr. Bergmann if his objection was to no review. Mr. Bergmann answered in the affirmative.

Mr. King stated that there is no standing at this time. Mr. King stated that the appeal was asked under Article 123-4.B. Mr. King stated that this is not applicable. Mr. King stated if it was applicable there is not much merits to it. Mr. King stated that Mr. Bergmann makes the point that it is a change-of-use from retail to a restaurant, but in 1992 the Planning Board approved a mall designation for this building. Mr. King stated that you cannot look at this as a retail use, but exclusively as a mall. Mr. King stated that the only judgment call was whether the new use was consistent with a mall. Mr. King stated that a pizza place is standard in a mall. Mr. King stated that he feels his decision was appropriate.

Mr. King stated that the Planning Board should also look at the bureaucratic implications of this appeal. Mr. King stated that every change in a mall would need a site plan review and this is not something that has been done in the past. Ms. Woodall asked if in 1992 this building was given a mall designation. Mr. King answered in the affirmative. Mr. Bergmann stated that there is nothing in the site plan regulations for a mall. Mr. Bergmann stated that there is only a definition of a mall, which this building does not meet.

The Board asked for the file on this property. Mr. King read a portion of the plan indicating that it was a mall. Mr. Bergmann stated that that is a proposed plan and asked if it was approved. Ms. Duane stated that it was approved on July 30, 1992. Mr. Bergmann stated that it was approved with conditions. Mr. King stated that there is not a definition of a mall in the site plan regulations. Mr. Bergmann stated that it could never have been designated as a mall if it was not defined. Mr. King stated that there may have been an appropriate definition in 1992 when it was voted on and affirmatively. Mr. King referred to Article 123-22.

Mr. Bergmann stated that there is nothing that states that a mall does not have to follow site plan regulations. Mr. Bergmann stated that Mr. King's decision that this did not need site plan review is wrong. Mr. King stated that a mall has to 100% come before site plan approval. Mr. King stated that a mall application was submitted in 1992 and it complied with the regulations. Mr. King stated that it is in effect and has to be adhered to. Mr. Bergmann stated that the only thing that should be taken into consideration is

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that the Town Attorney said that if it intensifies the use, parking, septic, etc., then it is subject to change-of-use regulations. Mr. Bergmann stated that a ladies dress shop does not have the same implications as a pizza shop. Mr. Bergmann stated that a minor review is necessary.

Ms. Duane asked if it is a change-of-use if it is a mall. Ms. Duane stated if it went from a mall to something else then it would be considered a change-of-use. Ms. Sand stated that there have been a number of changes in the Mountain Valley Mall that have not come before the Planning Board. Ms. Sand stated that if the footprint expanded it would be required, but this is the same footprint. Ms. Sand stated that we have to consider it as a single entity. Ms. Woodall stated that the site plan regulations state a change-of-use requires site plan review. Ms. Woodall stated that the problem is whether or not this is a mall or not a mall. Ms. Woodall stated that the Board should decide if there is any greater impact to this site. Ms. Woodall stated that if there is not a greater impact on the parking then would say for the time being to leave it be. Ms. Woodall stated that we need to deal with this issue.

Ms. Duane stated that if were going to act on the appeal then we should just act on the appeal and not look at the parking. Ms. Duane stated that we cannot give it a small review. Ms. Duane stated that we have to either agree or not agree with the appeal. Mr. Bergmann stated that he agrees that the Board needs to decide if the appeal can go forward. Mr. Bergmann read a quote by Mr. Hastings in the Conway Daily Sun regarding change-of-use. Mr. Irving stated that what we are looking for here is what is a mall and what are the regulations. Mr. Irving stated that he would like for future reference when we have a mall designation what does that constitute.

Ms. Woodall asked how Mr. Irving handled mall designations in the past. Mr. Bergmann stated that the Board is here to accept this appeal or not accept this appeal. Mr. Irving stated that a mall when designed and approved for a building takes into consideration the demands for a mall. Mr. Irving stated that internal modifications are not usually reviewed with the same intensity of the mall. Mr. Irving stated that if it is external then it would require site plan review. Ms. Sand stated that we need to come up with a definition of a mall. Ms. Sand stated that we are opening a can of worms if we require the Tarberry building to be reviewed under site plan review. Ms. Sand stated that she is against the appeal.

Mr. King stated that it is great to work on a definition for a mall, but it has already been defined as a mall. Mr. Webster stated that there is some merit to Mr. Bergmann's challenge. Mr. Webster stated that it has charged us to look ahead and review what is inside those larger buildings. Mr. Waterman stated that we do need to re-write a mall designation and he is against the appeal. Mr. Webster stated that Mr. Bergmann has made a good point. Mr. Webster stated to back track would be counter productive and we need to look ahead. Mr. Webster stated that the requirement needs to be reviewed.

Mr. Bergmann stated that his appeal was not meant to stifle Mr. Berry's plans, but so far it has held him back since November 30, 1999. Mr. Bergmann stated that after the decision there is a 30-day appeal period and he cannot do anything until that appeal period is over. Mr. Bergmann stated that he cannot believe the Planning Board doesn't see merit to this appeal. Mr. Bergmann stated that we could have heard the application tonight and been done with it. Mr. Bergmann stated that this is an increase on traffic, septic loading even though they are on-line and there is a concern to our regulations. Mr. Bergmann stated that it is in black and white that this needs a review.

Mr. Berry stated that he would be able to go forward subject to what could be appealed based on our own judgment. Mr. Berry stated that the missing link here is we went through a full review and everything looked at was for a mall designation. Mr. Berry stated that it was looked at for the most intense use. Mr. Berry stated that we are properly approved as a mall and have a right to change uses. Ms. Woodall stated that since the plans say it is a mall designation I have mixed emotions on this with some places not complying and nothing is being done about it.

Mr. Berry stated that this has been a good process and out of it you are going to review a mall designation. Mr. Berry stated that he is not interested in going through a process that is not necessary. Mr. Berry stated that if the appeal is denied, Mr. Bergmann's concern is still addressed by looking at a mall designation. **Ms. Duane made a motion, seconded by Ms. Sand, to dismiss the appeal of Arthur Bergmann. Ms.**

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Sand stated that she would reemphasize Mr. King's point that the basis of appeal is based on a staff review and there was no staff review. Ms. Sand stated that there was a staff decision, but not a staff review.
Motion unanimously carried.

Mr. King stated that the Board should give their reasons for dismissing the appeal. Ms. Sand stated that all Mr. King's reasons are valid and we don't have valid regulations of internal changes of a mall. Ms. Sand stated that there was a staff decision and not a staff review. Mr. Waterman stated that he agrees with what went forward this evening. Ms. Woodall stated that it says it has a mall designation on the plans. Ms. Duane stated that it has a mall designation. Mr. Webster stated that there is documentation that supports Mr. Berry's position.

Mr. Bergmann stated that he is extremely distressed that the Town Attorney ruled on change-of-use and were being told that the Tarberry Building has a mall designation. Mr. Bergmann stated that it is a conditional approval and not a final approval. Mr. Bergmann stated that Mr. King's letter states that he cannot find a final approval. Mr. Bergmann stated that he finds it deplorable that the Planning Board does not follow the regulations of the Town. Mr. Bergmann stated that it is not the outcome, but how we go about it. Mr. Bergmann stated that this should have been a minor review. Mr. Bergmann stated that he has argued that for months. Mr. Bergmann stated that he has been called names for months in this Town and in the newspapers for months in this town.

Ms. Woodall stated that the Board gave their reason for doing this and we know we have a problem. Ms. Woodall stated that we are making it a priority. Mr. Bergmann stated that he either has to say he is wrong, which he is not, or appeal to the Supreme Court. Ms. Duane stated that he could let it go.

Mr. Bergmann rejoined the Board at this time. Mr. Irving stated that a Special Exception was granted under Article 147-11.B(3) to allow a private education facility on the former Ken's Store site on Birch Hill Road. Mr. Irving stated that the reason we are before the Board is that the special exception requires a site plan approval or a site plan exemption. Mr. Irving stated that site plan exemptions are no longer allowed. Mr. Irving stated that this needs a site plan approval. Mr. Irving stated that staff has reviewed the proposed use and this can be satisfied by a staff review.

Mr. Irving stated that because of the archaic language he is asking that the Planning Board authorize staff review and if it cannot be satisfied it would need a minor review. Mr. Irving stated that the applicant has agreed to correct any deficiencies. Ms. Sand stated that we should go through the requirements for a staff review. Ms. Sand asked if there will be any changes to the building or the parking. Mr. Irving stated that there is going to be a wheel chair ramp to satisfy the regulations of the ordinance. Ms. Sand stated that this will not have as much use as a convenience store. Ms. Sand stated that this is less than 200 square feet. Ms. Sand stated that there is not an increase in floor space and the site has not been before the Planning Board in the last year.

Ms. Duane made a motion, seconded by Ms. Sand, to grant Berlin City Bank a staff review. Mr. Bergmann stated that what is the feedback of the neighbors. Mr. Webster stated that residents of Birch Hill are concerned with parking. Mr. Webster stated that there should be no parking on the curb and the parking should be contained on the site. Mr. Irving stated that the parking requirements will need to be satisfied. Ms. Woodall asked if there was any way for citizen input. Mr. Irving stated that the regulation does not allow for that under a staff review. **Motion carried with Mr. Bergmann voting in the negative.**

Mr. Bergmann stated that he is against this as it is a change-of-use that does not have to come before the Board. Mr. Bergmann stated that he didn't realize this was before the ZBA as he does not read those notices. Mr. Bergmann stated that you can give objections under a site plan.

Meeting adjourned at 10:28 p.m.

Respectfully Submitted,

Holly L. Meserve, Recording Secretary

