

CONWAY PLANNING BOARD

MINUTES

MARCH 30, 2000

A meeting of the Conway Planning Board was held on Thursday, March 30, 2000, beginning at 7:03 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Vice Chair (Acting Chair), Sheila Duane; Selectmen's Representative, Gary Webster; Arthur Bergmann; Stacy Sand; Robert deFeyter; John Waterman; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Sand made a motion, seconded by Mr. deFeyter, to continue the Minutes of February 24, 2000 and March 16, 2000 until April 6, 2000. Motion unanimously carried.

KPT NON-REMIC LOAN, LLC/ECHO CONSULTING SERVICES, INC. – MINOR SITE PLAN REVIEW (1999 TAX MAP 265, PARCEL 144/OLD TAX MAP 34, PARCEL 56) FILE #MR00-04

Roger Grenier, Echo Consulting; and Bayard Kennett, Remax Real Estate, appeared before the Board. Mr. Grenier gave an overview of the business. Mr. Kennett gave an overview of the location. Mr. Bergmann joined the Board at this time. Ms. Sand made a motion, seconded by Mr. Webster, to accept the application of KPT Non-Remic Loan, LLC/Echo Consulting Services, Inc. for a minor site plan review as complete. Motion unanimously carried.

Mr. Irving stated that there are no proposed changes to the structure or site work. Mr. Irving stated that this would be a decrease of intensity and a less demand for parking. Mr. Irving stated that the applicant has requested three waivers, one for lighting; one for green space; and one for trees. Mr. Irving stated that the NHDOT driveway permit is pending. Mr. Grenier submitted a letter from Ken Kyle, NHDOT, dated March 27, 2000 in regard to the driveway. Mr. Irving stated that the applicant has confirmation from the Conway Village Fire District Fire Chief and Water and Sewer Superintendent.

Ms. Duane read the waiver request for Article 123-27 in regard to lighting. Mr. Kennett submitted pictures of the light poles. Mr. Kennett stated that the lighting was addressed as part of the NHDOT permit and the State is not in opposition to the spill over of light onto Route 16. Ms. Sand asked if they have spoken to the adjacent land owner in the back in regard to the lights. Mr. Kennett answered in the negative and stated that the spill over is minor. Mr. Kennett stated that the spill over is onto a parking lot next door and not onto a residential property.

Mr. deFeyter stated that the lighting issue is tied up with the tree issue. Mr. deFeyter stated that the original site plan proposed the higher lights because of the trees, but there is a considerable distance between one of the lights and the tree on the South side. Mr. deFeyter asked if there is some way to shield the pole as he thinks that would be more in line with what was originally planned. Ms. Duane stated if we lower the poles the State may put in higher lights as the existing lights light the sidewalks. Mr. deFeyter asked if we just adopted a lighting policy. Mr. Irving stated not in the right-of-way. Mr. deFeyter stated that if the lights were lowered and the State decides to put in new lights they would have to be consistent with the Town's policy.

Mr. Webster stated that the lighting policy has not been formally adopted. Mr. Webster asked if the lights meet the previously approved site plan. Mr. Irving stated that he can check. Mr. Kennett stated that he does not think there was a requirement back then. Mr. Bergmann asked if we grant the waiver then we are not bringing them into compliance. Mr. Bergmann read a policy of the Board adopted August 8, 1996 (see attached) that states we will bring sites into compliance. Mr. Bergmann stated that all non-conformities must be indicated and brought into compliance. Ms. Duane stated that either the lights will remain as they exist or we will see the big parking lights. Mr. Bergmann stated that the State hasn't said that and Ms.

**Adopted: May 11, 2000 – As Amended
CONWAY PLANNING BOARD - MARCH 30, 2000**

Duane is using that as a scare tactic. Ms. Duane stated that she is not using that as a scare tactic. Mr. Bergmann stated that he feels this needs to be in compliance. Mr. Grenier stated that he would like to replace it with two lights, remove the trees and plant shrubbery. Mr. Kennett stated that objective part of the height is impact on the abutting property, which is Route 16 and there are no lights currently. Mr. Kennett stated that the State is not opposing to the light because it does help illuminate the street.

Mr. Grenier stated that it provides safety for pedestrian traffic in front of the building. Mr. Grenier stated by eliminating the poles your eliminating safety. Mr. Waterman stated that he is concerned with granting a waiver on something that is supposed to be there. Ms. Sand stated that we have to consider the uniqueness of the site. Ms. Sand stated that these are guidelines and the reason for waivers is the uniqueness. Ms. Sand stated if the light was shining on residential property then she would be concerned. Ms. Sand stated that the tree in front of the light pole will grow. Ms. Sand stated that we have granted waivers in the past for safety.

Mr. deFeyter stated that beside from the height, we want the light contained on the property. Mr. deFeyter stated that the light is affecting the State property as well as the property in the back. Mr. Grenier stated that we will have a number of employees parking at the rear of the building. Mr. Grenier stated spill over in to an unlit parking lot is a benefit for our employees. Ms. Sand made a motion, seconded by Mr. Webster, to accept the waiver request for Article 123-27. Motion carried with Mr. deFeyter and Mr. Bergmann voting in the negative and Mr. Waterman abstaining from voting. Mr. Irving stated that the motion should have been to grant the waiver request. Ms. Sand made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-27. Motion carried with Mr. deFeyter and Mr. Bergmann voting in the negative and Mr. Waterman abstaining from voting.

Ms. Duane read a waiver request for Article 123-30.D., landscaping. Ms. Sand stated that she reviewed the original site plan and she doesn't think there is much more green space. Ms. Sand stated that they may want to extend their flower beds. Mr. Grenier stated that there would be one main entrance and they hope to add green and shrubbery around the main entrance. Ms. Sand stated that she thinks the applicant can come into compliance by adding green to the main entrance. Ms. Sand stated that she would recommend granting the waiver and ask the applicant to add more green space.

Mr. Webster asked if the applicant would be leasing the property. Mr. Grenier stated that he will be purchasing the property. Mr. deFeyter asked if the waiver request had been changed since last week from existing plantings to green space. Mr. Irving stated that after he spoke to Mr. deFeyter and another board member he suggested to the applicant that they might want to reconsider the justification. Mr. Irving stated that the waiver was faxed to him yesterday. Mr. Kennett stated that it was faxed the day before yesterday. Mr. deFeyter stated that it does not meet the 48-hour requirement.

Mr. Grenier stated that they plan on occupying five of the six buildings and stated that they will not be adding the green immediately. Ms. Duane asked that it couldn't be done before the tenant vacates. Mr. Grenier stated that they are proposing to create a garden atmosphere at the entrance. Mr. Grenier stated that they take pride in their current facility and will continue to do so. Mr. Bergmann stated if it is your intention to plant around the main entrance why is it not on the plans. Mr. Grenier stated that this is a fast moving project and it hasn't been finalized yet. Mr. Bergmann stated that it has to be on the plan if that is what you want to do. Mr. Waterman stated that he would like to see in black and white what the applicant wants to do.

Mr. Webster asked if the purchase is contingent upon site plan approval. Mr. Grenier answered in the affirmative. Ms. Sand asked if the certificate of occupancy could be contingent upon landscaping. Ms. Duane stated that the landscaping will be bonded. Mr. Irving stated that the plan can be passed. Mr. Grenier stated that we intend to grow into the space and it won't be heavily landscaped until after the tenant leaves. Ms. Sand asked if there is any way to add something such as extending the flower beds. Mr. deFeyter stated that the Board would like to see the applicant come up with something. Mr. deFeyter stated that the four parking spaces on the South end of the "Conway Bypass" might be another area to pick

Adopted: May 11, 2000 – As Amended
CONWAY PLANNING BOARD - MARCH 30, 2000

up some green space. Mr. Kennett asked if the conditional approval could be contingent upon submitting a plan with an addition 3.3 % of green space by a certain date.

Ms. Duane asked how the Board felt about that. Mr. Waterman stated that he would be in favor of that. Mr. deFeyter stated that he doesn't think we can do that as it needs to be a yes or no condition. Mr. deFeyter stated that the Board would be inclined to go along with that if the applicant deals with these issues. Mr. Bergmann stated that he agrees with Mr. deFeyter. Ms. Sand, Ms. Duane and Mr. Webster stated that they were in favor of the applicant's proposal. **Ms. Sand made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-40.D.** Mr. deFeyter stated that he thought the Board was not going to act on the waiver because the applicant was going to try to comply. Mr. Kennett stated that the applicant is still requesting both waivers.

Ms. Sand made a motion, seconded by Mr. Webster, to amend the motion to grant the waiver request under Article 123-30.B. Mr. Webster asked if the applicant would prefer to withdraw the waiver request. Mr. Grenier asked if they could receive conditional approval based on the same requirement. Mr. Irving stated that the Board could deny the waiver and have a conditional requirement that they shall come into compliance with the green space calculation. The Board had a brief discussion on whether this could be a condition or not. Ms. Duane stated if the Board denies the waiver request, the applicant is required to meet the green space calculations and that is a yes or no question.

Mr. Irving stated that this Board would have to affirm that that is not a discretionary issue. Mr. deFeyter stated that that is not at all what the State requirement says. Mr. deFeyter referred to RSA 676:4.I(1),(2), and (3). Mr. deFeyter stated that there couldn't be any judgment. Ms. Duane asked what is the judgment. Mr. deFeyter answered having to meet the green space. Mr. Bergmann stated that we are discussing landscaping. Ms. Sand stated that she has amended her motion. Motion was defeated with Mr. Webster, Ms. Sand, Mr. Bergmann, Mr. deFeyter and Mr. Waterman voting in the negative.

Mr. Grenier stated that they would like to submit a plan by May 30, 2000 showing the plantings and the green space required by the Board. Mr. Grenier asked for a conditional approval based on submitting those plans by May 30, 2000. Mr. Kennett stated that the green space deficiency is about six trees. Mr. Bergmann stated that it is about 12 trees. Mr. Irving stated that it is not a deficiency for the number of trees, but of street trees not every 50 feet, and not for the 500 square feet of disturbed area. Mr. Irving stated that the applicant would need 12 trees.

Ms. Duane read a waiver request for Article 123-30.D. Ms. Sand stated that there is one spot for compliance that you could not plant a tree and that particular location should be waived. Mr. deFeyter stated instead of a waiver, he would like to see a set of plans and then if there is a problem, a waiver could be requested. Mr. Grenier asked if it could be a conditional approval based on an acceptable plan by May 30, 2000. After a brief discussion, Mr. Grenier stated that he would withdraw the waiver request and come back with a plan for green space and trees based on conditional approval. Mr. Bergmann asked if a conditional approval is granted and the applicant brings back a plan with trees, would the sale go through to Echo. Mr. Bergmann asked how could this Board approve something if he is not sure this is going to happen. Ms. Duane stated that this is part of the process when buying a piece of commercial property.

Mr. deFeyter stated that the same scenario can be done, but he doesn't think the Board can grant a conditional approval. Ms. Sand made a motion, seconded by Mr. Webster, to grant conditional approval to KPT Non-Remic Loan, LLC/Echo Consulting Services, Inc. conditional upon submitting a plan showing a minimum of 25% green space; providing an additional 12 trees; a performance guarantee for 50% of all site improvements and \$300 per tree; and this conditional approval will expire on May 25, 2000. Ms. Duane asked for public comment; there was none. Motion carried with Mr. deFeyter and Mr. Bergmann voting in the negative.

**LINDA HILL/HAROLD WHITTAKER AND THOMAS FADDEN - BOUNDARY LINE
ADJUSTMENT (1999 TAX MAP 288, PARCEL 31.1 & 28/OLD TAX MAP 5, PARCEL 5) FILE
#S00-03**

**Adopted: May 11, 2000 – As Amended
CONWAY PLANNING BOARD - MARCH 30, 2000**

Jon Howe of Ammonoosuc Survey Company appeared before the Board. Mr. Howe stated that the Board granted a three-lot subdivision to one of the applicants last fall. Mr. Howe stated that one of the neighbors expressed interest in purchasing ten (10) acres. Ms. Sand made a motion, seconded by Mr. Webster, to accept the applicant of Linda Hill/Harold Whittaker and Thomas Fadden for a Boundary Line Adjustment as complete. Motion unanimously carried.

Mr. Irving stated that one lot will be reduced and that acreage will be added to the Hill property. Mr. Irving stated that all of the requirements have been satisfied or referred to the three-lot subdivision approved in 1999. Mr. deFeyter asked if there are any wetlands. Mr. Irving stated that a stream area is indicated, but it is not a mapped wetland for the Town of Conway. Mr. Bergmann stated that he thought this was subdivided a different way last time. The Board reviewed the plans approved in 1999.

Ms. Duane asked for public comment; William LaFontaine stated that this is on the east side of his property and stated that he would like to see the boundaries put in cement so they do not move. Mr. deFeyter asked if the Hill's would have any problem with that. Mr. Howe answered in the negative. Dave Weathers stated the property boundaries should be permanent. Mr. deFeyter asked if he had any suggestions. Mr. Weathers stated anything with a permanent corner post is a benefit. Mr. Weathers stated that he would like to see something permanent and stated that he will be doing his own at his own expense.

Mr. Waterman asked if the Board has that authority to require the boundaries to be in something permanent. Ms. Duane stated that it just makes them more difficult to move. Mr. deFeyter stated that all the property owners agree. Mr. deFeyter made a motion, seconded by Ms. Sand, to conditionally approve the Boundary Line Adjustment for Linda Hill/Harold Whitaker and Thomas Fadden conditionally upon the three westerly boundaries of the ten acre lot be set in cement. Motion unanimously carried. Mr. deFeyter made a motion, seconded by Ms. Sand, for the plans to be signed out-of-session once the conditions have been met. Motion unanimously carried.

**JUNIPER POINT REALTY TRUST - MINOR SITE PLAN REVIEW (1999 TAX MAP 218,
PARCEL 126/OLD TAX MAP 70, PARCEL 9) FILE #MR00-05**

Ms. Duane stepped down at this time. Mr. Bergmann took over as Chair. David Peterson appeared before the Board. Mr. Peterson stated that he would like to use 1,000 square feet of the second floor. Mr. Peterson stated that he has asked for a waiver for 36.4% of parking within 400 feet of the public parking. Ms. Sand made a motion, seconded by Mr. Webster, to accept the application of Juniper Point Realty Trust for a minor site plan review as complete. Motion unanimously carried.

Mr. Irving stated that this is for a renovation of an existing second floor. Mr. Irving stated that there are no proposed changes to the footprint and there is no site work proposed. Mr. Irving stated that this site was previously approved for a 116-seat restaurant with 12-seat lounge and this application will increase it to 128-seat restaurant and a 23-seat lounge. Mr. Irving stated that there is a waiver request for public parking. Mr. Irving stated that the site provides 35 parking spaces and 55 parking spaces are required.

Mr. Peterson stated he is the only person in the village who has put in parking and he cannot put in anymore because he has run out of space. Mr. Irving stated that we have received Fire Chief and North Conway Water Precinct approval. There was a brief discussion regarding handicap parking spaces. Ms. Sand asked if everything is in compliance from the last approval. Mr. Peterson answered in the affirmative. Mr. Irving stated that there are three street trees of concern. Mr. Irving stated that the bonding has been returned, but they were not 3" caliber. Mr. Peterson stated that the plans just stated mulberry and he planted the trees not the mulberry bushes. Mr. Peterson stated that he thought he was waived for the street trees for saving the lilac bushes.

Ms. Sand stated that he had a choice of planting the mulberry trees or come up with street trees. Ms. Sand stated that the applicant did what he was asked to do. Mr. Peterson stated that the last time he was here he had an abutter that disagreed with street trees because it would block his sign. Mr. Peterson stated that every time there is an abutter that wants it the other way the applicant is made to conform.

**Adopted: May 11, 2000 – As Amended
CONWAY PLANNING BOARD - MARCH 30, 2000**

Mr. Webster asked if there is a memorandum in regard to the drainage. Mr. Irving read a memorandum from Paul DegliAngeli in regard to drainage dated March 9, 2000. Mr. Irving stated that the waiver request was revised. Mr. Bergmann read the waiver request for Article 123-22.B. Ms. Sand asked how many spaces. Mr. Irving answered 20. Mr. Peterson stated that it is only an additional 6 spaces. Mr. deFeyter stated that the Board shouldn't consider this waiver since it was received today. Mr. Peterson stated that he has the original waiver request. Mr. Bergmann read the original waiver request for Article 123-22.B.

Mr. Bergmann asked where is the public parking. Mr. Peterson answered behind the Shalimar across the street. Mr. Peterson stated that there is parking on the street in front of the restaurant. Mr. Bergmann stated that we cannot allocate all the parking down town to the same parking lot. Mr. deFeyter stated that he is sympathetic to the situation, but the applicant is asking to allocate parking to a parking lot which is not owned by the Town, but leased and expected to expire soon. Mr. deFeyter stated that the lot is owned by the Catholic Church and they have been disposing of their property. Mr. deFeyter stated that the applicant is asking us to allocate parking that has been allocated over and over.

Mr. Peterson stated that he has constructed a parking lot and has a competitor that didn't have to. Mr. deFeyter stated that some members of the Board have the same concern. Mr. Peterson stated if he had left the house and asked for a waiver would it have been granted. Mr. Peterson stated that he bought the house for parking. Ms. Sand stated that she knows Ms. Meserve just started in her new position and not trying to put her on the spot, but have we started a parking survey. Ms. Meserve stated that she had only been in her new position for two weeks and answered in the negative. Ms. Sand stated that the situation being that we are conducting a survey we cannot grant the waiver because of timing. Ms. Sand stated that we shouldn't penalize the applicant when we have given waivers to everyone else. Mr. Peterson stated that he is asking for six spaces.

Mr. Webster stated that the ordinance does not allow us to credit on-street parking. Mr. Webster stated that we will keep facing this issue until the Town solves this issue. Mr. Peterson stated that he has tried and he has done quite a bit. Mr. Webster stated that we have continually granted waivers and he does not know of any we have stopped or any applicant that hasn't come in and tried to do the best they could. Mr. Bergmann asked for public comment; there was none. Ms. Sand made a motion, seconded by Mr. Webster, to approve the waiver request for Article 123-22.B or six (6) spaces. Motion carried with Mr. deFeyter voting in the negative and Mr. Bergmann abstaining from voting.

Mr. Bergmann asked if there were any other items; there was none. Ms. Sand made a motion, seconded by Mr. Webster, to approve the minor site plan review for Juniper Point Realty. Motion carried with Mr. Bergmann abstaining from voting. The plans were signed.

**DEBRA AND RICHARD HOWARD/CABERNET INN - MINOR SITE PLAN REVIEW (1999
TAX MAP 202, PARCEL 21/OLD TAX MAP 80, PARCEL 8) FILE #MR00-06**

Ms. Duane rejoined the Board at this time and assumed the position of Chair. Debra and Richard Howard appeared before the Board. Mr. Howard stated that they would like to convert the garage into an Inn room. Mr. Irving stated that there are no proposed changes to the footprint or reduction in green space. Mr. Irving stated that the owner has moved into the Inn and stated that the Board needs to determine whether to consider the owner's quarters as a residential unit or as a rental unit in regard to parking. Mr. Irving stated that this is a permitted use, setbacks are satisfied except there are two parking spaces that encroach in the front setback, but have been there for some time. Mr. Irving stated that we have Fire Chief and North Conway Water Precinct approval. Mr. Irving stated that the NHDOT driveway permit is pending. Ms. Sand made a motion, seconded by Mr. Bergmann, to accept the application of Debra and Richard Howard/Cabernet Inn for a minor site plan review as complete. Motion unanimously carried. Mr. deFeyter asked if there was a memorandum from the Public Works Director. Mr. Irving read a memorandum from Paul DegliAngeli dated March 21, 2000. Ms. Sand stated there is granite curbing. Ms. Howard stated that the granite is from the original granite foundation. Ms. Sand stated that it does serve as

Adopted: May 11, 2000 – As Amended
CONWAY PLANNING BOARD - MARCH 30, 2000

curbing. Mr. Bergmann asked if at the present time is the garage used for parking. Ms. Howard answered in the negative.

Ms. Sand stated that the plan states “proposed” septic and asked if it is there. Mr. Howard answered in the affirmative and stated that it should say “existing”. Mr. Irving stated that the Board should determine if the owner’s quarter’s is to be considered as a guest room. Mr. Bergmann stated that shouldn’t we entertain it for the simple reason if they move out it could become a rental unit. Mr. deFeyter stated if it changed it would have to come back. Mr. deFeyter stated that it either shouldn’t be counted or waiver it. Ms. Sand stated according to the Site Plan Review regulations a residential unit would require two (2) parking spaces. Mr. Irving stated that it would depend on how you treat it.

Mr. Webster stated if they decide to move out how would we ever know. Ms. Sand asked if there is any place for the applicant to put their vehicle if the Inn is full. Mr. Howard answered in the affirmative. Ms. Sand stated that we should waiver it to cover it. Mr. Waterman stated that it should be waived. Mr. deFeyter stated that there is no need, but fine with it. Mr. Bergmann stated that it should be waived. Mr. Webster stated that it should be waived. Ms. Duane read the waiver request for Article 123-22.1. Mr. Bergmann made a motion, seconded by Ms. Sand, to approve the waiver request for Article 123-22.1. Motion unanimously carried.

Mr. Bergmann made a motion, seconded by Mr. deFeyter, to conditionally approve the minor site plan application for Debra and Richard Howard/Cabernet Inn conditionally upon NHDOT driveway permit; removing the word “proposed” on anything that is existing; the plans can be signed out-of-session once the conditions have been met; and this conditional approval will expire in thirty (30) days. Motion unanimously carried.

JOHN WHITESIDES - MINOR SITE PLAN REVIEW (1999 TAX MAP 230, PARCEL 4/OLD TAX MAP 65, PARCEL 1) FILE #MR00-07

Mark Scribner, representing John Whitesides; and Howard Richardson, Harvest Christian Church, appeared before the Board. Mr. Irving read through his staff review. Mr. Waterman made a motion, seconded by Mr. Bergmann, to accept the application of John Whitesides for a minor site plan review as complete. Motion carried with Ms. Sand and Mr. deFeyter voting in the negative.

Ms. Duane read a waiver request for Article 123-22 for 19 parking spaces. Mr. Scribner stated that the only other occupied space on Sundays is Tony Lena’s and the same with nights. Ms. Duane asked if the cars on the south property line are owned by the rental company. Mr. Scribner answered in the affirmative. Ms. Duane asked where people will park who are attending the church. Mr. Scribner stated that the rental cars will be parked out back on the gravel.

Ms. Sand stated that she has a hard time with the parking spaces in front of the building. Ms. Duane asked what the ordinance says about backing out onto Route 16. Mr. Irving stated that the Zoning Board of Adjustment (ZBA) ruled that parking is not a structure, but site plan does not allow parking in the buffer which is this Board’s domain. Mr. deFeyter stated that this whole thing is a real can of worms. Mr. deFeyter stated that the site is a mess right now. Mr. Irving stated that there is an additional waiver request for the parking lot design. Mr. deFeyter stated if it conformed it would be one thing, but it is hazard back there.

Mr. Webster stated that this is an old building and there is certainly room for additional parking, but for a Church on Sunday is the owner going to be required to continue the asphalt. Mr. Webster stated that you cannot stripe gravel. Ms. Sand stated that she would entertain a waiver for gravel. Mr. deFeyter stated that we require wider parking spaces for a gravel parking lot. Ms. Duane stated that she doesn’t think there is much concern about a gravel parking lot in the back. Ms. Duane stated that that real concern is the parking in the front of the building.

Adopted: May 11, 2000 – As Amended
CONWAY PLANNING BOARD - MARCH 30, 2000

Mr. Webster stated the applicant needs to understand if the waiver is granted what we are requiring. Mr. Webster stated that we are looking at waiving a portion of snow storage and giving credit for additional parking as long as it is maintained and available. Mr. Scribner stated certainly. Mr. deFeyter stated that this has got to be one of the least attractive sites along that section and he is concerned that we are not addressing the whole site. Mr. Waterman stated that we were elected to come to some decisions. Mr. Waterman stated that he doesn't see a church going in there. Mr. Scribner stated that they could rent as retail and not be here, but they would like to see the Church.

Ms. Duane stated that we have guidelines and concerns that the potential tenants cannot address. Ms. Duane stated that there are concerns with the whole parking lot design and layout. Ms. Duane stated that as elected officials it is our job to try to work with the applicant to come into conformity. Ms. Sand stated if the applicant is interested the Board could give you input tonight that might be helpful to take back to Mr. Whitesides for compliance. Ms. Sand stated that she would consider waiving the parking if there is a good traffic flow. Mr. Webster stated that the only caution is if you are successful with some improvements, if there is another change-of-use you are looking good in the future. Mr. Webster stated they should do everything or nothing and there are some requirements that they cannot meet. Mr. Webster stated that if you are back here in six months the criteria starts over again. Mr. Webster stated that they are not trying to penalize the owner, but give the owner every opportunity to in, unless you have 100% authority.

Mr. Scribner stated that it would be too expensive for the Church and stated that the avenue is to go retail. Mr. Webster stated that he is not trying to stifle you out of renting it, but it is a technical process. Mr. deFeyter stated that he doesn't think the intent of the Board is to bring the site into full compliance. Mr. deFeyter stated that they would never meet all the requirements, but we would like to see some improvements now and make more later if they come back to the Board. Mr. deFeyter stated that the waiver areas are the areas of concern. Mr. deFeyter stated that they should address them again and see what they come up with and come back.

Ms. Duane polled the Board on the waivers. Mr. Waterman stated in good conscientious he cannot grant all of the waivers requested. Mr. deFeyter stated that he feels the same as Mr. Waterman. Mr. Bergmann stated that he would have to deny them all. Ms. Sand stated that she cannot grant all of the waiver requests. Mr. Webster stated that there as been enough discussion, the applicant should take them back to the owner and come back. Ms. Sand stated that the Board should be specific. Ms. Duane stated they should address the parking, driveway and aisle layout. Ms. Sand stated that the parking in the front of the building is not safe. Ms. Sand stated that the only one driveway is allowed unless one is an entrance and one is an exit. Ms. Sand stated that she would approve the use of gravel and the relocation of the snow storage area if there was some sort of island.

Mr. deFeyter stated that street trees are a way of dealing with parking. Mr. Webster stated it is critical to see what the State does with the driveway permit. Mr. Webster stated cleaning up the front of the property will affect the back of the property. Mr. Scribner stated that he thinks it is two lots of record. Mr. Bergmann made a motion to continue. Ms. Duane stated that we should continue the application with direction. Mr. Richardson stated that he doesn't think there is any reason to continue the application. Mr. Richardson stated that the owner wouldn't want to do all this because he can put in retail and leave everything as it is. Mr. Richardson stated that we are looking at a considerable expense.

Mr. Scribner stated that we are looking at \$50,000 in improvements, which is not worth changing it to a church. Mr. Scribner withdrew the application and thanked the Board for their consideration.

PUBLIC HEARING - ARTICLE 123-3 AND ARTICLE 123-12

A public hearing was opened at 9:49 p.m. Mr. deFeyter submitted some changes for consideration. Mr. deFeyter stated that he spoke to someone who is a condominium owner who thinks they are not getting the same treatment as any other abutter for purpose of testimony. Mr. deFeyter stated that he agrees that they may not be noticed and they have an interest. Mr. deFeyter stated that there is nothing wrong with what we

**Adopted: May 11, 2000 – As Amended
CONWAY PLANNING BOARD - MARCH 30, 2000**

have proposed, but he has had someone express concern. Ms. Duane stated that it is up to them to go to the Association and say they are not doing their job.

Ms. Sand stated that she thinks Mr. deFeyter's proposal is more confusing. Ms. Sand stated that anyone can testify if their property is affected. Mr. deFeyter stated that it is not quite that clear. Mr. deFeyter stated that he spoke to the New Hampshire Municipal Association and condominium owners do not own the land. Mr. Irving stated that the abutters, which are condominium owners have been recognized as abutters, but notification goes through their officers. Mr. deFeyter stated that it does not say that. Mr. Irving read Article 123-12.B.(2) and stated that notification is through the association.

Mr. deFeyter stated if the Board is not concerned then we can let it go. Ms. Duane polled the Board. Mr. Waterman stated to go with what is written. Mr. Bergmann stated we should follow the RSA. Ms. Sand stated she is fine with what is written. Mr. Webster stated that he is fine with what is written. Ms. Duane asked for public comment; there was none. Ms. Sand made a motion, seconded by Mr. Webster, to revise Article 123-3 in regard to the definition of abutter as proposed. Motion unanimously carried.

Mr. deFeyter stated under Article 123-12, the location of the posting needs to be specified. Mr. deFeyter made a motion, seconded by Mr. Waterman, to post the agenda at Town Hall and the Conway Post Office. Motion was defeated with Ms. Duane, Ms. Sand and Mr. Webster voting in the negative and Mr. Bergmann abstaining from voting.

Mr. deFeyter stated that we need clarification of how staff reviews will be noticed. Mr. Irving stated that he hasn't received any indication for a staff committee to be formed. Ms. Sand stated that all reviews require notice. Mr. deFeyter stated that there should be a way to put out a general notice. Mr. Webster asked how you would know what property was coming in. Mr. deFeyter stated that it is more than what has been done in the past. Ms. Sand suggested leaving it as it is now and if the process for staff reviews comes about we can change it. Mr. deFeyter made a motion to leave wording as it was originally in the first sentence. There was no second.

Mr. Webster made a motion, seconded by Mr. Bergmann, to table to another date. Motion carried with Ms. Duane and Ms. Sand voting in the negative. Ms. Sand asked what have we been doing for the past month. Ms. Sand stated that we have had this material for some time. Ms. Sand stated that this looked good at the last meeting so what is the problem with it now. Ms. Sand stated that she has a problem with putting things on hold. Mr. Bergmann stated if we don't put it on hold then we have no staff review procedures in place. Mr. Bergmann stated that it would only be for a minor or a full review.

Mr. Irving stated that you now have a conflict between the definition of an abutter and notification. Mr. Irving stated the problem being using town records. Mr. Irving stated that no town records will provide condominium association officers. Mr. Irving asked which one do we use and is what we have now an improvement. Mr. Webster made a motion, seconded by Mr. Bergmann, to withdraw the motion to continue. Motion unanimously carried.

Ms. Sand made a motion, seconded by Mr. Webster, to approve the changes to Article 123-12 by Mr. Irving and had consensus at the last meeting. Motion carried with Mr. deFeyter and Mr. Bergmann voting in the negative. Mr. Bergmann stated that he has a problem with withdrawing a motion and starting over. Mr. Irving withdrew his request for clarification. The public hearing was closed at 10:26 p.m.

PUBLIC HEARING - ARTICLE 131-3 AND ARTICLE 131-8

The public hearing was opened at 10:26 p.m. Ms. Sand made a motion, seconded by Mr. Webster, to adopt the changes to Article 131-3 the definition of abutter. Motion carried with Mr. Bergmann abstaining from voting. Ms. Sand made a motion, seconded by Mr. Webster, to adopt the changes to Article 131-8. Motion carried with Mr. deFeyter and Mr. Bergmann abstaining from voting.

OTHER BUSINESS

Letter from Martin Franke: Ms. Duane read a letter from Martin Franke expressing interest in being an alternate. The Board invited Mr. Franke to the April 27, 2000 meeting.

Bylaws: Mr. deFeyter submitted proposed changes to the Bylaws.

Meeting adjourned at 10:40 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary