

**MINUTES OF MEETING  
CONWAY PLANNING BOARD**

**April 20, 2000**

A meeting of the Conway Planning Board convened at 7:00 p.m. in the Meeting Room of Conway Town Hall with the following present: Sheila Duane, Conrad Briggs, Arthur Bergmann, John Waterman, Selectmen's Representative, Gary Webster, and Planning Director, Tom Irving.

**Approval of Minutes** - Motion by Mr. Briggs, second by Mr. Webster, and carried by unanimous vote, that the Minutes of the April 6th meeting be approved as presented.

**Public Hearing - Edward Garland/Kurt Moskowitz - Minor Site Plan Review continued:** Bayard Kennett and Kurt Moskowitz joined the meeting to discuss the continued minor site plan review to convert retail space into restaurant space. A new sketch of the site was provided and conditions addressed.

It was noted that the embankment will be done and will be bonded. Mr. Bergmann noted the State said 30' on the driveway width. Mr. Irving reported a letter had been received from the State indicating they were O.K. with as much as 36' width, 30' was not a problem, and they were even O.K. with 40'.

Mr. Bergmann said they have a building permit for demolition and they are putting up petitions, not taking them down. Mr. Irving advised they did not have a building permit that would permit any activity that would constitute a change of use. There were interior remodels which would have been permitted for any activity that would not constitute a change of use and for that reason he has no authority to refuse them. Public comment was invited. There was none.

**Motion was made by Mr. Bergmann to approve the application for Edward Garland and Kurt Moskowitz. Seconded by Mr. Webster and carried by unanimous vote. The plans were duly signed and a copy provided to the applicant.**

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**Charles S. Marshall - Appeal of Staff Decision continued.** Mr. Irving noted Mr. Marshall had contacted the Building Inspector and himself with question of whether Site Plan Review would be necessary. Mr. Irving had indicated in a letter that because there was an increase in the three dimensional envelope of the building, a minor site plan review was required and the applicant was informed of his right to appeal to the Planning Board.

Mr. Marshall explained his company is working on trucks in the former Northbound building and he feels it would be better to get the trucks out of there, partly because of storage of his antique wagons in the same building. The building he wishes to move to has a 12' door and the trucks have a 13' stack requiring that the building be raised two feet. Mr. Bergmann noted last week it was mentioned that it has already been jacked up. Mr. Marshall stated they started jacking it up two weeks ago, they have done nothing beyond that since then after receiving a letter from the Building Inspector. The building is estimated to be 17' to 18' in height overall. Mr. Marshall said he would also like to put in more windows for more light. Mr. Briggs said he understands it is a violation of the ordinance to do it, but questions whether it would be within what the ordinances are. Mr. Irving stated it would not cause there to be any nonconformity. Mr. Webster stated it is large enough now to back a tractor trailer into; however, Mr. Marshall stated the trucks they work on are 28' trailers.

Ms. Duane invited public comment. There was none.

Mr. Webster, pointing out that Mr. Irving did exactly what he had to do and understanding the situation is that he is going to put some windows in and improve the look of the building, **made a Motion that the Planning Board, as a group, waive the site plan and allow Mr. Marshall to complete the project after he gets the proper building permit. Seconded by Mr. Bergmann and carried by unanimous vote.**

Mr. Irving stated he is still going to establish the same criteria for site plan review and, as particular instances come up, the appeal process will still be available.

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**Memorial Hospital - Full Site Plan Review** to add a new emergency department and parking lot at the existing hospital and remove the existing and construct a new helipad for use in medical transportation operations (1999 Tax Map 215, Parcel 61/Old Tax Map 19, Parcel 71). Marty Risley of H.E. Bergeron Engineers, and Susan Perrault, Project Manager, joined the meeting. Mr. Risley provided a sketch of the proposed emergency department (a new addition) at the northeasterly end of the existing hospital. He explained that in conjunction with that they are proposing to add some parking and relocate the helipad (which is used on an average of 4 to 6 time a year), and is presently too close to the building for safety concerns.

The hospital owns approximately 54 acres. At the 1993 bypass hearing a map was provided showing that where the center line would come would appear to create a problem as it would come through the helipad. The hospital has been working with NH DOT and provided a letter from the State to the effect that, based on their current design and hospital design, there will not be a conflict with the future right of way. The proposed right of way as shown at the July 1993 public hearing is impacted by this proposal; however, the State has found that the right of way will be narrower, and based on current

There will not be a conflict with the future right of way. The flight path will not be over the highway nor will it interfere with lighting or signage.

**Motion was made by Mr. Webster to accept the application as complete. Carried by Mr. Briggs and carried by unanimous vote.**

Mr. Irving reviewed the checklist addressing the pending issues: Letter has been received from the Fire Chief indicating he has received the plan for emergency access; for emergency vehicles appears to be adequate.

Copies of State applications for site specific and wetland dredge and fill have been received and are pending approval of the State. Mr. Briggs stated also the Conservation Commission has accepted their wetlands request, but it has not yet been finalized by the

**Driveways and Access - no change.** Mr. Risley stated the only difference is the placement will come in on the northern entrance (presently the service entrance).

**Parking -** Ms. Duane said the only change is the parking that is being added for the addition. Mr. Risley stated they are proposing to move one parking island over two spaces to make the curve easier on the present parking lot (would lose four spaces as a result). They have also widened one spot to make it more uniform. The new parking area will have 83 spaces. Mr. Irving noted 14 ADA spaces are being provided, only 8 are required. Ms. Duane said the parking lot design meets all of our regulations; snow removal and pedestrian access are marked, and sidewalks are addressed.

**Lighting -** Mr. Irving said cut sheets have been submitted and they are in compliance with the ordinance. Mr. Risley said the poles are slightly shorter than the maximum allowed. The Public Works Director has signed off on the drainage; the engineering report was affirmative; utilities, water/sewer, and electric are underground.

**Landscaping -** Mr. Irving reported the requirements of the ordinance are satisfied. There is one portion that cannot be satisfied because there are too many trees - they have too many trees as can go on the islands.

**Architectural Design -** Plans were presented showing elevations. Architect, Frank Monahan, joined the meeting and pictures of the site were provided. Ms. Duane questioned whether there is any accommodation being made if they should find they need more beds - any accommodations of going up? Ms. Perrault stated this emergency department will last for at least 20 years.

Mr. Bergmann stated the heliport hangs over the roadway on the platted road. Ms. Duane pointed out a letter from the State states they are going to be narrowing their taking. Mr. Bergmann agreed, but stated as of today you are asking us to approve this, and this is the existing platted roadway. He stated he could not accept the fact that this

hangs into the platted roadway as it exists today. Mr. Irving stated evidence provided by DOT is that they have every intention of changing that proposed right of way. Mr. Risley stated it is not platted, it is not purchased. The State has to purchase that property from the hospital and the hospital has written indication from the State that they do not intend to take any more. He stated even if not, because that property has not been taken, the property owner has every right to use it, and the State would be putting themselves in a bad light if they did not do as they have indicated in their letter.

Mr. Bergmann contended that the regulation says you are not supposed to build in a platted right of way. Mr. Irving stated this is a proposed right of way. Mr. Risley explained a platted right of way would be like Route 16 which has been purchased by the State, it is bounded and recorded in legal documents; this is a planned right of way, has not been taken, no deeds passed, and the hospital has not yet been approached to take the land.

Ms. Duane stated the renderings meet the 5% window requirement, the exterior surface is in compliance, shields are there for roof top mechanicals. It is a flat roof.

Solid Waste and Recycling - Mr. Risley stated they will continue to use the same as are there now.

Ms. Duane noted no historic sites are effected; water and sewer are municipal and have precinct approval.

Wheelchair Access - Mr. Risley stated there is more than required. Mr. Irving said there is a specific note that they are in ADA compliance.

Ms. Duane noted safety, noise are noted. It is in compliance with all zoning. Mr. Irving stated at the last Town Meeting Memorial Hospital was exempted from certain provisions.

Bonding is not yet taken care of and would be a condition of the approval. Mr. Riving suggested, given the completeness of the application, that it be signed out of session.

Public comment was invited. There was none.

Conditions: (1) Bonding; (2) Wetlands Permit; (3) Site Specific. Timeframe - Mr. Risley requested 90 days to give time for the State to act on the wetlands permit. July 27th was agreed upon.

**Motion was made by Mr. Webster that the Board approve the application for Memorial Hospital for the emergency department addition subject to the following conditions: bonding, wetlands permit, site specific; that the applicant be given until the July 27th meeting, and that it be signed out of session. Seconded by**

**Mr. Briggs. The motion carried with 4 votes in the affirmative and Mr. Bergmann abstaining.**

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**Vivian Frost Duprey - Full Site Plan Review** - to construct a 15,000 sf animal care facility on East Main Street, Conway (1999 Tax Map 276, Parcel 1/Old Tax Map 7, Parcel 113-A. Mr. Webster excused himself from the meeting due to a conflict of interest. Representing the applicant were Roz Manwaring, David Douglass and Luigi Bartolomeow. Mr. Douglass stated they have a 24 acre lot which was originally approved for subdivision for housing in Conway Village opposite the radio station, adjacent property that went with the former Bolduc house. Access is on the east end of the property. The proposal is for a building to house the Conway Area Humane Society which would include boarding kennels, learning center, and animal shelter with 60 dog runs, and provisions for 60 to 80 cats.

Mr. Irving noted the wetlands dredge and fill has been resolved, buffer lines on the easement area have been located on the map, underground utilities noted on plan #20 - all will be placed underground, location of patron restrooms is noted, tree requirement has been resolved. Drainage plan and site specific have not yet been resolved. Mr. Douglass noted site specific is their fault, they have to make all three plans consistent. His solution is to put on the boundary of the land of disturbance with the correct square footage. He stated, Paul King, Conway Engineering Consultant, had requested some addition of drainage on the driveway - it is a small amount of water with a new drainage pool with a small flow. Mr. Douglass has now marked that on the ground and it is there for the engineer to see. Those two items are resolved, but have to be confirmed. Mr. Irving stated it is now substantially complete. He has to wait for the confirmation from our engineer. Mr. King has seen the plans, he has reviewed them, and they need changing; however, those changes are not insurmountable.

**Motion was made by Mr. Bergmann to accept the application for Vivian Frost Duprey as complete. Seconded by Mr. Briggs and carried by unanimous vote.**

**Waivers: 123-7.B.2 - Waiver of scale from 1" = 60', to 1" = 40'. Motion by Mr. Waterman, seconded by Mr. Bergmann, to accept the waiver for 123-7.B.2. Carried by unanimous vote.**

**Driveways and Access** - Mr. Irving said there is not yet a recorded easement (that is pending), and upon approval of site plan that would be executed. They have a letter from Public Service Co. of NH indicating they are in the process of getting the easement ready to execute and deliver to the Town's attorney. Width of the driveway is 20'. There is no curbing there currently, there is a sidewalk which comes to within one property, without curbing. There is a waiver request regarding curbing at the driveway entrance. Mr. Briggs felt since there is no curbing anywhere in that area it would be too strict to

request that there be curbing. **Motion was made by Mr. Briggs to accept the waiver for 123-21.I. Seconded by Mr. Waterman and carried by unanimous vote.**

Parking - 123-22 - Applicant is requesting waiver of ten parking spaces. Mr. Irving stated they are providing 50 spaces. Mr. Bartolomeow said the amount of area taken up by the dog runs is what contributes to the waiver. Ms. Duane stated you are asking for a waiver of 10, will be doing education with 30 desks in the classroom, and questioned how much of the total parking would be used all the time during regular business days. Ms. Manwaring stated 10 to 12 spaces. Ms. Duane felt it was a lot of asphalt. Mr. Briggs questioned if the use of the property changed and the waiver was accepted, whether that would leave the Town in trouble. Mr. Irving said that is possible; however, if there was a change of use it would come back for site plan review, and the issue we are trying to get to is perhaps 50 spaces is more than would be required. It was noted employee parking is in the back.

Ms. Duane felt it is an unnecessary amount of parking and was in favor of a smaller parking lot. Mr. Bartolomeow stated any future use would have to be a permitted use in the residential/agricultural zone. Mr. Douglass stated the consensus is the applicant would be glad to reduce to 30 spaces. Ms. Duane said she would like to see it marked as future parking, and put some sort of green space or trees on it, but it would be still marked on the plan. Mr. Douglass asked about snow storage there. Ms. Duane stated we would like to see trees or green space. Mr. Douglass said they could take four spaces off the south end and six off the north end leaving it for snow storage, and it would be there for future parking - it would not be paved. Mr. Douglass stated there are no trees to be planted - they have identified everything. Mr. Waterman said he preferred to see more grass. Ms. Duane reiterated they will reduce the parking, and those spaces they are reducing will be grass. Mr. Irving felt that it is an appropriate way to go and the Board would be waiving 30 spaces.

**Motion was made by Mr. Waterman for waiver of 30 parking spaces under 123-22. Seconded by Mr. Briggs.** Discussion: Mr. Bergmann reminded the Board they are setting a precedent in reducing the parking. Mr. Douglass pointed out it would be seeded and loamed, so if it really is a problem they will be back in to see the Planning Board for creating those spaces. **The motion carried with 3 votes in the affirmative and Mr. Bergmann casting a negative vote.**

Conditions: Site specific permit, wetlands permit, easement, indication on plan that the area not being used for parking be delineated, seeded and grassed. Mr. Briggs stated the culvert has been accepted by the Conservation Commission. Mr. Irving stated the regional notice was satisfied - no comments, concerns or questions were received. They have received the appropriate zoning permit from the ZBA.

Parking - Mr. Irving said the spaces are appropriately spaced, are the appropriate size, and meet the design standards. Loading is at the employee parking lot in the back. Snow removal has been addressed, as well as pedestrian access, sidewalk, access in the

c. Mr. Bergmann stated the second driveway is not going to be used. Mr. Douglass that is correct.

Drainage - is being redone. Mr. Douglass stated the drainage was basically on the small pond that has been located on the ground.

Dumpsters will be screened.

Lighting will be mounted at a height of 14' which satisfies the requirements of the finance. Mr. Bergmann expressed concern that the employee parking lot is not lit. Mr. Douglass agreed they will add a light at the end of the walkway to accommodate that.

Landscaping - Mr. Irving said they have satisfied the street tree requirement.

Architectural Design - Mr. Bartolomeow said materials comply with architectural guidelines. The building is slightly more than 200' long, they have broken the roof lines as required and have included the appropriate amount of windows. The exterior is split face masonry and clapboards; roofs are gabled and pitched, using architectural shingles; trusses are designed to hold the snow.

Air Conditioning - Mr. Bartolomeow said they would be pad mounted compressors, no mechanicals on the roof.

Water/Sewer - There is on-site water supplied by CVFD. Mr. Irving stated as to the requirement that there be a disposal plan, the precinct has agreed to take it.

Wheelchair Access - Mr. Bartolomeow said the entire building is ADA compliant.

Required plat notes are on the plans. Mr. Bergmann, referring to Note #14 (snow storage cannot destroy green space), suggested that note could be stricken completely because it is addressed in Note #7. Mr. Irving stated there is a requirement in the ordinance that trees be protected. It was agreed the applicant will strike Note #14.

Completion - Ms. Manwaring stated there is no projected date since it is all private donations.

Public comment was invited. There was none.

Conditions: (1) Site specific permit, (2) Wetlands Permit, (3) easement from PSNH, (4) changes to the plans - the area that is no longer parking needs to be noted, to be seeded and grassed, and reserved for future parking, (5) landscaping, site plan and drainage plan should be consistent in disturbed area, (6) add light on employee parking, (7) strike Note #14.

Mr. Douglass stated there will be no site specific application. Mr. Irving said he is reasonably confident that by reducing parking area "it will make it," however, that decision is up to the engineer - either it satisfies his concerns or it does not; he has no discretion on it. Mr. Douglass felt the dredge and fill permit should take 30 days, the remainder to take two weeks. Ms. Duane suggested allowing 60 days and the plans to be signed out of session.

**Motion was made by Mr. Briggs that conditional approval be granted with the conditions #1-7 that have been noted above, and that the applicant be given 60 days and the plans will be signed out of session. Seconded by Mr. Waterman. The motion carried with 3 votes in the affirmative and one negative vote being cast by Mr. Bergmann. Mr. Webster resumed his seat on the Board.**

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**James Abraham/Muddy Moose Restaurant - Full Site Plan Review** to create additional parking and increase the total number of seats to 242 at 2344 White Mountain Highway (1999 Tax Map 231, Parcel 146). Marty Risley of H.E. Bergeron Engineers represented Mr. Abraham stating the owner wants to expand the existing parking lot, doubling its size to help relieve congestion in the lot, and to provide additional seating, increasing from 129 to 242. Mr. Risley reported they have a wetlands permit application which is on the verge of being submitted to the State; there is a 30-day period for Corps of Engineers to have an opportunity to veto it. He stated there are an extraordinary number of waiver requests (most stemming from deficiencies in the prior approval) requiring quite a lot of fill, and building of a retaining wall to reduce the impact.

Mr. Irving stated the application is substantially complete. **Motion was made by Mr. Briggs, seconded by Mr. Waterman, to accept the application for James Abraham. The motion carried by unanimous vote.** As regards zoning compliance, the proposed use is permitted in the Highway Commercial District. The lot size, frontage and rear yard setbacks are satisfied. However, the building encroaches into the front and side yard setback. Mr. Irving reported that the ZBA granted an equitable waiver on 4/19/00. He pointed out that should the building be destroyed or demolished, they do not get a grandfathered status.

Mr. Irving stated the original application did not indicate a storage building, the applicant has now removed that building.

Mr. Irving stated there is a waiver request regarding length of road frontage. There was not a clear indication of what the road frontage was - it is presently there and they are in compliance. Mr. Risley felt it is redundant to add a note that says road frontage meets the requirement when it is clearly labeled what the road frontage is. Mr. Irving stated there is a requirement that indicates compliance with the ordinance based on acreage and frontage feet. Mr. Risley then referred to setback requirement, stating he felt it is a lot of duplication.

Municipal precinct boundary - because this lot was not divided by a precinct boundary Mr. Irving has requested a note stating which precinct it is in. That has been satisfied.

Proposed buildings - the storage building is no longer there so is no longer an issue.

Driveway design - the applicant has a waiver to allow the radius to be smaller than the 25' requirement.

Drainage calculations - Town Engineer has approved and Mr. Irving concurs.

Trees - 32 existing trees could not be located - some were undersize for credit. A waiver request for street trees is being sought regarding size.

Based on an amendment to the parking layout, removing one space from the center aisle and two from the back, would provide mobility for emergency vehicles. The Fire Chief concurs.

Precinct water/sewer - a letter has been received from the precinct approving this.

Wetlands application has been submitted and a letter of approval has been received from the Conservation Commission.

The applicant is requesting permission to use a scale of 1" = 20' rather than the 1" = 40' as required by regulations. Mr. Irving agreed that should be a waivable item - it could be a simple amendment to the ordinance. Ms. Duane noted the site plan was prepared with 1" = 20'. **Motion was made by Mr. Briggs, seconded by Mr. Webster, and carried by unanimous vote to grant the waiver for 123-7.B.2.**

Storm Drainage - The applicant seeks waiver for the on-site storm water detention requirement. It was Mr. Risley's contention that in this case it is counter-productive. It is located near a significant watershed, when water is detained on the site it adds to the peak. He explained by not detaining the water, it improves the situation over what the requirements call for. Mr. Briggs stated the Conservation Commission agrees with this plan. Mr. Risley said it is generally accepted on the State level.

**Motion by Mr. Briggs, second by Mr. Webster to grant a waiver for 123-28 - storm drainage.** Discussion: Mr. Bergmann stated according to 123-28 the water should be kept on the property, that if it goes off then they will have all the oil and lubricants from the parking lot going directly into the creek. Mr. Risley stated the water runs off any parking lot, water detention or not; in this case we have a buffer area that the water will drain through before it reaches the water course. Mr. Bergmann reported he had visited the site today and water was running from under the parking "like a faucet." Mr. Risley

stated those are overflow drains and will be removed; water from the existing parking lot will drain into four existing catch basins into subsurface disposals. Mr. Irving stated the Town Engineer concurs with the design. **The motion carried with 4 votes in the affirmative and Mr. Bergmann voting in the negative.**

Driveway Radius - 131-67.C.8. Mr. Risley noted the regulations call for 25' curb radius at the entrance to the driveway. The plan was approved with 10' radius on curb returns. The applicant is trying now to correct a deficiency in the original approval. Mr. Bergmann noted 20' does not seem wide enough and should be redone to at least 30'. Mr. Risley stated the driveway is 27' wide now. Mr. Bergmann contended it is still not wide enough. Mr. Irving stated the minimum requirement is 20'.

**Motion was made by Mr. Webster, seconded by Mr. Briggs, to grant a waiver for 131-67.C.** Discussion: Mr. Webster pointed out this is creating a lot more paperwork trying to cover us, to take responsibility for the errors that got by. If it is approved the way it is, he said he does not see any need to justify it, leave the driveway as it sits now with a 10' radius. If granted, it would need no further work. Mr. Webster pointed out the Muddy Moose has an approved site plan, we are correcting what another Board did.

Mr. Bergmann noted when the rest of the parking is added you are making a new parking lot, the entrance is barely big enough for this parking lot. The entry way is designed for 42 spaces, now it will be doubled. Mr. Risley stated the problem with the entrance is the congestion because of the 18' drive in front of the front door. They have added two additional handicap spaces, which are the least used in the lot. It exceeds the width standards that the Town has.

Ms. Duane agreed with Mr. Webster, stating that if it sits the way it is, it should not be an issue, but because we have the waiver in front of us it gets it out of the way. Mr. Risley said we have an existing site plan that was based on an existing approval, we should not have to go back and re-invent the front because we want to put additional parking in the back. Mr. Irving noted the existing radius does not meet the current standards - it was built in accordance with an approved plan, it is up to the Board as to whether or not that is justification. **The motion carried with Ms. Duane and Mr. Briggs voting in the affirmative, Mr. Bergmann voting in the negative, and Messrs. Webster and Waterman abstaining.** Mr. Waterman explained he abstained because he does not understand it - they are proposing 113 more seats, there will be a lot more cars in there, he does not think the access and egress is sufficient and they should be asked to change it. Mr. Risley stated the only difference is the curb radius. The driveway width exceeds the requirement in the regulation. He said the congestion is caused by people sitting and looking for a place to park. They have applied for an amended driveway permit.

123.30.D.8 - Street Trees - Mr. Risley stated there are presently 3 birch trees which are too small and too far away. The applicant has suggested adding a 4th one

rather than removing and replacing the existing three trees. They are there, and are growing, and he would like to add another tree to compensate for the undersize of the trees that are there. Ms. Duane stated when Mr. Abraham came before the Board he said he was going to go "above and beyond" what was required, and when she saw what was planted she was disappointed. Mr. Risley stated the owner wants to do something different for the lawn because of winter kill.

**Motion was made by Mr. Webster, seconded by Mr. Briggs, to grant the waiver for 123-30.D.8 - street trees - and that one more will be planted.** Discussion: Mr. Bergmann said he does not feel the waiver should be granted because they originally did not put in the proper size trees. He suggested planting them some place else on the lot. Mr. Risley stated the bond was never released on these three trees. Mr. Webster said if it has gone this long uncorrected he is for taking them out and doing it right. Mr. Risley stated they have three viable trees and it does not make sense to uproot them, they want to let them stay there and add one more. Mr. Bergmann stated the Town is holding that money and could go in and do it. Mr. Webster commented this site plan has never been satisfied.

Mr. Irving assured the Board the Town is watching the bond money now. It was his position that once spring gets here and we can determine how vital the trees are that we are holding the money for, that is the point we decide whether to use the bond money and replace them or approve what is in place, noting they will satisfy themselves in a year or two - these are undersized and they are in the wrong place. Mr. Bergmann stated it would encourage people to plant undersized in the hope they will survive and be left alone. **The motion carried with Ms. Duane and Mr. Briggs voting in the affirmative, Mr. Bergmann voting in the negative, and Messrs. Webster and Waterman abstaining.** Mr. Briggs stated the Compliance Officer has to check this stuff sooner.

123-30.D.2 - Waiver for requirement for 3" caliper to get approval for 25 undersized trees that are existing. The owner proposes planting three more than the 21 required. Mr. Risley stated in this case the trees were inspected and the bond released, they were undersize and still are; however, have survived the winter. He stated the former Code Enforcement Officer made site inspection, stated the trees were all good except for the three street trees, withheld \$1,000 in bond money for those, and released the remainder of the bond. Motion was made by Mr. Briggs to grant the waiver for trees under 123-3-D.2. There being no second the motion was not acted upon.

Mr. Webster said to legitimize these trees, in return someone in the future will assume we will continue to waive these situations. He said he does not want to see 20+ trees cut down and he would like to eliminate the waiver. A total of 62 trees is needed. The applicant has asked for credit for 42, he would then need to plant 21 more and has agreed to plant 24 more. The existing trees are 2" to 2-1/2". **Motion was made by Mr. Webster to accept the credit for trees that have previously been accepted that do not meet the minimum requirement, plus an addition of 24 more trees that will meet the requirement. Seconded by Mr. Briggs. The motion carried with four votes in the**

affirmative and Mr. Bergmann voting in the negative. Mr. Risley then withdrew his waiver request.

Number of Seats Proposed - Mr. Risley stated they have eliminated three spaces to allow access for emergency vehicles. The Fire Chief has agreed with the plan. The applicant presently has a permit for 210 seats, if he wants to increase to 233 he would have to obtain an occupancy permit. Based on the parking, letters from the Fire Chief, and letter from the water precinct, the site can satisfy this intensity of use and this number of seats. Mr. Webster contended that if expanded parking is approved, they will allow that number of people in the building anyway. Ms. Duane said the way the building sits today they can only have 210 people. Mr. Risley noted the only way to exceed that is to remodel and that would mean using the basement. Mr. Irving said we are potentially permitting a number of seats that exceeds those permitted by fire codes - control of the number is shifting from the Planning Board to the Fire Chief.

Parking Lot - Mr. Irving said aisle width and space size are in compliance; space dimensions, layout of handicap spaces, satisfies ADA requirements, aisle width satisfies the requirement for one way traffic. There is no requirement for any islands. Mr. Bergmann stated our regulations say you cannot put a parking lot in the wetlands. Mr. Irving stated they are in compliance with the site plan regarding setbacks and wetlands.

Snow Removal - Mr. Risley stated they are proposing to put the snow in 12 of the parking spaces because during the winter the deck is not used, otherwise they will have to haul it off. Also there will be a 42" high guardrail structure. Mr. Briggs requested that conditions specify that snow will not be dumped over the top of the guardrail. Mr. Irving recommended this as well.

Pedestrian Access - O.K. - there is circulation.

Lighting - Mr. Risley stated they have moved one and added two more; the light level will be very similar to what is there now, the fixtures are exactly the same.

Utilities are underground; solid waste and recycling will be enclosed with a new, improved fence; precinct water and sewer approvals have been received; plat notes are all on the plan.

Mr. Webster, noting that there is an indication the owner may expand downstairs (which will be a building permit issue), questioned whether there is any consideration for ADA there. Mr. Risley stated there is an at-grade exit available on the lower level; however, he did not feel, for the expense involved, that expansion would ever be a reality.

Public comment was invited. There was none.

Motion was made by Mr. Briggs that conditional approval be granted with the following conditions: (1) Wetlands permit, (2) bonding, (3) eliminate spaces on

the plans, (4) note on plan for removal of snow and allowing no loading of snow over the embankment, (5) modify seat count, with a timeframe of 60 days (6/15/00). Seconded by Mr. Webster. The motion carried with four votes in the affirmative and Mr. Bergmann casting a negative vote.

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The Board next discussed the issue of Guldies Restaurant - An elevation drawn by Robert deFeyter was distributed showing roof lines. Ms. Duane reported she had reviewed old Minutes and letters and had highlighted pertinent statements dealing with roof top mechanicals. A letter from the Building Inspector, received tonight, indicates that 10' of clear space all around is required for shielding, made from non combustible materials. Mr. Briggs said it appears they are not in compliance and must come up with a plan. Mr. Irving stated Guldies has requested an explanation and the package clearly shows they are not in compliance.

Mr. Webster pointed out that due to BOCA code it is not that easy; it will require major work. Ms. Duane said the Building Inspector had a book showing the exact mechanicals we are talking about; they must be shielded because that is what the architectural guidelines say. Mr. Irving stated the requirement is they should be screened from the highway; in order to satisfy that they will have to do something to their building. It becomes a more elaborate structure - that is something that should be designed into the development of the structure, not an add-on later, which is one more reason why they should have designed it with something that goes through the wall and is not visible. Mr. Waterman felt the package spells it out quite well.

Mr. Irving said the Board should adopt the policy that they are considered roof top mechanicals and, therefore, subject to the provisions of the ordinance. It was agreed Guldies should be invited in, and the next step is the applicant's step. Mr. Irving said the appropriate process would be they would be cited and the enforcement mechanism would kick in. They would have to appeal before the Board of Selectmen to take steps to remedy the situation. It was the consensus of the Board that those are the steps that should be followed and Guldies would be on the agenda for the May 11th meeting.

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Next the Board signed plans for Eaton/Wirling/Hammond. A condition on the plan was that each lot could accommodate only one residential dwelling. That note has now been added to the plan.

Echo Management Group - Conway Crossings. Conditional approval was granted for a minimum of 25% green space, they have provided 26.1%. Also they were to indicate 12 additional trees to be planted - these have been located on the site plan. Echo Management has satisfied that condition. Bonding - green space - remove asphalt and put in the grass. A \$4600 surety bond is in place, thus that condition has been satisfied.

Mr. Irving, noting planting season is here, requested clarification regarding the Board's policy as to trees that have been planted that do not meet the requirements and whether they have to be replaced with the correct size trees. It was his contention that if the trees are not the right size and are in place, the applicant has to fix it. Mr. Webster questioned whether our requirement is too extreme. Mr. Irving stated nothing is too extreme about the requirement - the applicants are too frequently not following the requirements. He said he is not in favor of removing trees because if they are there and are healthy, given a year or two they will be the right size. He suggested people be told they have to put in the right size trees and in the appropriate place - the policy he will follow is if the trees are undersize and/or in the wrong location, that must be remedied before any final approvals or return of funds is provided. All agreed. It was felt the same policy would apply to windows.

Ms. Duane felt the Board should take a position on field changes, i.e. Settlers' Green's last building as approved had three different loading dock doors; to remove two they can do it on a building permit. She felt then a window issue would be the same. It was noted the Sunoco in Conway Village never came into compliance. Ms. Duane said she would like to see things of that nature go to staff review, that the Planning Board should be involved more in long range planning, masterplan. Mr. Irving stated they are presently in the process of amending the checklist for staff review - the applicant can either bring it into compliance or go to the Planning Board. They are tightening up the ordinances and clarifying the checklist and the tools needed to be able to satisfy staff reviews.

Next the Board reviewed a letter from Steve Morrill requesting review of Article 9 of the 2000 Town Warrant and asking to be on the agenda to discuss it. Ms. Duane stated a list of the points he is referring to in the letter should be requested, to be made available one week prior to the applicant's meeting with the Board, and that Mr. Morrill could be placed on the agenda for 1/2 hour on May 2nd.

Mr. Irving distributed a package for proceeding with work on the masterplan.

**At 11:45 p.m. Motion was made by Mr. Waterman, seconded by Mr. Webster, and carried by unanimous vote to adjourn the meeting.**

Respectfully submitted,

*Gail T. Currier*

Gail T. Currier

Acting Recording Secretary