

CONWAY PLANNING BOARD

SITE WALK

MAY 25, 2000

A site walk was held on Thursday, May 25, 2000, beginning at 4:00 p.m. at the former drive-in theater on Route 16, North Conway. Those present were: Chair, Sheila Duane; Vice Chair, Stacy Sand; Robert deFeyter; John Waterman; Conrad Briggs; Martin Frank; Planning Director, Thomas Irving; Stephen Hallett, Seafarer Development; Eric Wilhelmson, Tectonic Engineering; and Charlotte Maloney, Gawron Architects.

CONWAY PLANNING BOARD

MINUTES

MAY 25, 2000

A meeting of the Conway Planning Board was held on Thursday, May 25, 2000, beginning at 7:02 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Selectmen’s Representative, Mark Hounsell; Vice Chair, Stacy Sand; Robert deFeyter; John Waterman; Conrad Briggs; Alternate, Martin Frank; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Sand made a motion, seconded by Mr. Waterman, to approve the Minutes of October 28, 1999 as written. Motion carried with Mr. Hounsell abstaining from voting.

Mr. Briggs made a motion, seconded by Ms. Sand, to approve the Minutes of May 11, 2000 as written. Motion carried with Mr. Hounsell and Mr. deFeyter abstaining from voting.

APPOINTMENT OF ALTERNATE MEMBER

Mr. Frank was appointed a voting member for the evening.

JOAN BRASSILL/NORTH CONWAY RETIREMENT VILLAGE, LLC. – CONCURRENT SITE PLAN AND SUBDIVISION REVIEW (1999 TAX MAP 246, PARCEL 23/OLD TAX MAP 60, PARCEL 2) FILE #FR00-06 AND S00-05

Stephen Hallett, Seafarer Development; Stan Gawron, Gawron Architects; Charlotte Maloney, Gawron Architects; Eric Wilhelmson, Tectonic Engineering; and Paul King, Town Engineering Consultant appeared before the Board. Mr. Hallett that this is a 17.1-acre lot, which was formerly the drive-in theater. Mr. Hallett stated that they are proposing an early-American theme retirement village. Mr. Hallett submitted a binder of information to all Board members. Mr. Hallett reviewed the binder of information.

Mr. Irving reviewed the Planners’ package. Mr. Irving stated that there is a memo in the file from the Town Engineer regarding the Town driveway permit. Mr. Irving reviewed the waiver requests. Mr. deFeyter stated when the applicant was before the Board last year for a conceptual review there was a question on density. Mr. deFeyter asked Mr. Irving if he could explain how the issue of density was addressed. Mr. Irving stated the applicant reduced the number of units to meet the density requirement. Mr. deFeyter asked if there are a total number of 64 units. Mr. Irving agreed and stated the applicant meets the density requirement exactly.

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Ms. Sand made a motion, seconded by Mr. Briggs, to accept the application of Joan Brassill/North Conway Retirement Village, LLC as complete for a concurrent site plan and subdivision review. Motion unanimously carried. Ms. Duane read a waiver request for Article 123-7.B.(2) regarding the scale of the plan. Ms. Duane read the requirements to grant a waiver. Mr. Briggs made a motion, seconded by Mr. Hounsell, to approve the waiver request for Article 123-7.B. Motion unanimously carried.

Ms. Duane asked if there were any questions regarding driveways and vehicular access. Mr. deFeyter stated that the Board should consider some of the things that may help the Town before granting waivers such as the sign. Mr. Hallett stated that they intend to dress up the campground sign and their sign. Mr. Hallett stated that the height of the sign is not critical to this development. Mr. Hallett stated that he hopes to work something out with the campground to combine our signs. Mr. deFeyter asked if the applicant would commit to putting in a sign that meets today's regulations. Mr. Hallett answered in the affirmative.

Ms. Duane read a waiver request for Article 123-21.G. Ms. Sand stated that her concern is that the driveway is going to be so close to mall driveway. Ms. Sand stated that this is not the safest situation. Ms. Sand stated a connecting roadway would allow them to go up to the light. Mr. Hallett stated that he thinks that would make it a worse situation because you would be crossing an area where vehicles are trying to exit. Mr. Irving stated that you would be putting traffic into a parking lot, therefore, you would be intensifying the situation. Mr. Irving stated that you would be passing by a dozen rows of cars. Ms. Sand stated making a left hand turn is going to be difficult.

Mr. Briggs stated that he thinks the southerly curb cut of the mall will be disappearing with the upgrade of Route 16. Mr. deFeyter disagreed and stated that this is a concern of his as well. Mr. deFeyter stated that the southern end is typically turning right and this needs to be addressed. Mr. Waterman stated that this is a development for people 55 and older. Ms. Duane stated in the event that this waiver does not pass, where would they be required to have this connecting drive. Mr. Irving stated the applicant would need the new property owner's permission and an easement drawn up. Ms. Duane stated that she thought Town Counsel told the Board once that we couldn't mandate a connecting drive because it would be considered a taking.

Mr. Irving stated that there are two accesses to this parcel. Mr. Irving stated that there is Sawmill Lane. Mr. Hounsell stated that this is a different type of use then we normally think about for a connecting drive. Mr. Hounsell asked is there enough of a difference to make this a valid waiver. Mr. Irving stated connecting drives are typically used to provide common service roads and reduce the number of curb cuts on the main road. Mr. Irving stated this is not going from a commercial site to commercial site except for the campground. Mr. Irving stated that he could see the campground using it. Mr. Hallett stated the campground patrons would be hauling trailers and big rigs.

Mr. Hounsell stated that he does not know if the connecting drive is a win-win situation. Mr. Waterman asked about going by Ames and up to the lights. Ms. Duane stated you are asking the abutting property owner to be a part of this project. Ms. Duane stated the applicant can ask the abutter, but she doesn't think the Board can mandate it. Mr. Irving stated you would be encumbering an abutter. Mr. deFeyter stated that we cannot mandate a connecting drive, but we can mandate them to plat one. Mr. deFeyter stated that this would reserve the land in case they want to do this in the future. Mr. Irving stated if the abutting property redevelops it would be there.

Mr. Hallett stated that he is not sure where you would plat it as this is a parking lot. Ms. Sand suggested the north side of Ames up to the light and suggested maybe restricting the hours of use. Mr. Hallett stated that we do have Sawmill Lane. Mr. Irving asked if there are physical characters of the lot that would preclude incorporating a connecting drive curb flares. Mr. Wilhelmson stated he did not think there was enough room to accommodate the design requirements for a connecting drive. Mr. King stated that we could require them to dedicate something in case it can be done in the future. Mr. Briggs made a motion, seconded by Mr. Hounsell, to approve the waiver request for Article 123-21.G. Motion carried with Mr. deFeyter voting in the negative and Mr. Waterman and Mr. Frank abstaining from voting.

Ms. Duane asked if there were any other questions on driveways and vehicular access. Mr. deFeyter asked if Mr. Irving could explain the difference between a driveway and a street. Mr. Irving stated that a street is

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built to Town standards and a driveway serves a terminal point. Mr. deFeyter asked if they are using driveways because there is not enough space for streets. Ms. Maloney stated that we are trying to create a cluster feeling and not a suburban feeling. Mr. deFeyter stated that it is a village concept. Ms. Maloney agreed. Mr. deFeyter asked if Mr. Irving had any problems with this. Mr. Irving answered in the negative and stated that this is being promoted in many municipalities.

Ms. Duane asked if there were any questions regarding parking. Ms. Duane asked if this meets the required number of spaces. Mr. Irving answered in the affirmative. Ms. Duane asked if there is any on-street parking. Mr. Hallett answered in the negative and stated that there is some visitor parking. Ms. Duane asked if the parking lot design meets are standards. Mr. Irving answered in the affirmative. Ms. Duane asked about the loading area. Mr. Irving stated they have off-street loading behind the Inn. Ms. Duane asked about snow removal. Mr. Irving stated that it has been indicated on the plans and there is a note for removal. Mr. deFeyter asked if snow is going to be stored in parking spaces. Mr. Hallett answered in the affirmative and stated that they exceed the number of spaces required.

Ms. Duane asked if there were any questions on pedestrian access and circulation. Ms. Duane stated the Board discussed sidewalks at the site walk. Mr. Hallett stated that they would review enlarging the right-of-way to include the sidewalk. Mr. deFeyter stated the applicant might want to provide pedestrian access to the mall. Mr. Hallett stated that they would review that. Ms. Duane asked if there were any questions regarding lighting. Mr. Frank asked about the bulbs. Ms. Maloney stated that they are using a metal halide, which is the truest color. Ms. Maloney stated that the bulb would not protrude too much so the light goes where it is supposed.

Ms. Duane asked if there were any questions regarding storm drainage. Mr. King stated that the applicant has made different revisions to support everything they have submitted. Ms. Duane asked if the drainage is adequate. Mr. King answered in the affirmative. Ms. Duane asked if there were any questions regarding utilities. Ms. Duane asked if the utilities were underground. Mr. Hallett answered in the affirmative. Mr. Hounsell asked if the Fire Chief has been notified. Mr. Hallett answered in the affirmative.

Ms. Duane asked if there were any questions regarding landscaping. Ms. Duane read a waiver request for Article 123-30.D.(1). Ms. Maloney stated that there are 479 trees and shrubs and that does not include landscaping around the individual cottages. Ms. Maloney stated for a beautiful place to live you need a lot of green. Ms. Maloney stated that this does not include the existing trees that will be left alone. Ms. Maloney stated if we met the requirement we wouldn't have any lawn. Ms. Duane asked if there were any further questions by the Board; there was none. Ms. Sand made a motion, seconded by Mr. Briggs, to approve the waiver request for Article 123-30.D.(1). Motion unanimously carried.

Ms. Duane asked if there were any questions regarding Architectural Design. Mr. Gawron reviewed the cottages and the Inn. Ms. Duane asked if the cottages would have central air conditioning. Mr. Gawron answered in the negative. Ms. Duane asked the location of the chillers for the Inn. Mr. Hallett stated that the chillers for the Inn are shown on sheet C-102. Ms. Duane stated that it is a requirement that the chillers not be visible. Mr. Hallett stated that they do not want them visible either. Ms. Duane asked if the Inn has a commercial kitchen. Mr. Hallett answered in the affirmative. Ms. Duane asked the location of the hood vents. Mr. Hallett stated that they are not that far along in the project. Ms. Duane stated that they would need to be shielded. Mr. Hallett stated that they want them to be shielded as well.

Ms. Duane asked if the location of the patron restrooms. Ms. Maloney stated that there is a note on sheet L-100. Mr. deFeyter stated that the location of the patron restrooms is usually on the plans. Ms. Maloney stated that it is not totally designed yet, but patron restrooms will be available. Mr. deFeyter stated that he was fine with that and it should be left as it is. Ms. Duane asked if there were any questions regarding solid waste. Ms. Duane asked how the cottages would dispose of their trash. Ms. Maloney stated that there would be curbside pickup. Ms. Duane stated that historical sites are not applicable. Ms. Duane stated that municipal water and sewer service the site. Ms. Duane asked about handicap access. Mr. Hallett stated that the project is ADA compliant. Ms. Maloney stated that all sidewalks are wheelchair accessible. Ms. Maloney reviewed the community gardens and the recreational areas.

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Ms. Duane asked if there were any questions regarding floodplain construction. Mr. Irving stated that the applicant has received a special exception from the Zoning Board of Adjustment to place some fill in the floodplain. Ms. Duane asked if there were any questions regarding the site construction standards. Mr. King stated that there are three items we have asked for and they will be included in the next revision. Ms. Duane asked if there were any questions regarding nuisance, public health and safety; temporary outdoor display of goods; or the plat notes; there were none.

Ms. Duane asked if there were any other questions from the Board. Mr. deFeyter asked if the applicant was going to try to construct this all at once or in phases. Mr. Hallett stated that it depends on marketing. Mr. Hallett stated that the infrastructure would be all done at the same time. Mr. Hallett stated that they project a total build out in twenty-four months.

Ms. Duane asked for public comment; Russ Seybold of the Conway Scenic Railroad asked if all disposals would be over by the Inn. Mr. Hallett answered in the affirmative. Mr. Seybold asked if the nearest thing to the railroad is the cottage. Ms. Maloney answered in the affirmative. Mr. Seybold asked what it is the distance. Ms. Maloney answered 45 feet. Mr. Seybold asked the height of the building. Ms. Maloney answered 1-1/2 stories. Mr. Seybold asked if the drainage in that area has been addressed. Mr. King answered in the affirmative and stated that it is all internal. Mr. Seybold asked if there were any drainage components along the back of the property adjacent to the railroad. Mr. King answered in the negative. Mr. Seybold asked if the existing trees were to remain. Ms. Maloney answered in the affirmative. Mr. King stated that there is one filtration basin on the other side of the proposed road from the railroad, but it does not go toward the railroad.

Mr. Seybold stated that he wants to inform the applicant that this is an active railroad and they do blow the whistle. Mr. Seybold stated that it is also a snow mobile corridor in the winter. Mr. Briggs stated about ¾ of the trees will remain, but a few will go. John McClure, owner of the Campground, asked if they would be able to see the cottages. Ms. Maloney stated that you have to look up to this site from the campground. Ms. Maloney stated that this site is approximately 15 feet above the campground property. Ms. Maloney stated that there are existing trees and they shouldn't be able to see the cottages. Mr. McClure asked if there would be any type of fence. Mr. Hallett stated that they did not want to put up a fence for aesthetic reasons. Mr. McClure asked during construction would RV's have a right-of-way. Mr. Hallett answered in the affirmative. Ms. Duane asked if there was any other public comment; there was none. Ms. Duane closed the public comment at this time.

Ms. Duane opened the Subdivision Review. Mr. Irving stated that the condominium documents are with the Town Attorney and are also being reviewed by the Attorney General's office. Mr. Irving stated that Town Counsel is reviewing the documents to make sure the Town's interest is satisfied. Mr. Irving reviewed the waiver requests. Mr. Irving asked if the bench marks would be installed. Mr. King answered in the affirmative after the conditional approval. Ms. Duane read a waiver request for Article 131-67.C.(3). Mr. deFeyter stated that he is concerned with the sidewalk at the cul-de-sac being close to the road. Mr. deFeyter stated that the applicant should review it to see what can be done.

Ms. Sand stated that this is strictly for residents and it is not going through to another neighborhood. Ms. Sand stated that there is not a lot of traffic and she doesn't foresee a lot of traffic there. Mr. King stated that they have kept the sidewalk out of the right-of-way and they should keep the sidewalk at the cul-de-sac, but out of the right-of-way. Mr. King stated that we do not support the second part of the waiver. Mr. Hounsell asked if there are two waivers. Mr. King stated that there are two parts to the waiver. Mr. King stated that we would like to see the sidewalk out of the right-of-way. Mr. Hounsell made a motion, seconded by Mr. deFeyter, to divide the waiver into two parts. Motion unanimously carried.

Mr. Frank made a motion, seconded by Mr. deFeyter, to approve the waiver request for Article 131-67.C.(3) to allow the sidewalk next to the cul-de-sac. Mr. Hounsell asked what is the rationale for this again. Mr. King stated throughout the whole project the sidewalks are just outside of the right-of-way. Mr. King stated to maximize the snow storage and so future maintenance will still be the developer's responsibility and not the Town's responsibility, the sidewalk should be out of the right-of-way. Mr. King stated that the only one section by the cul-de-sac has been dropped down and he didn't think it would be

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right for the Town to have to maintain it. Mr. Hallett stated that he does not have a problem with that and withdrew the second part of the waiver request. Mr. Hounsell withdrew his motion and Mr. deFeyter withdrew his second.

Ms. Duane read a waiver request for Article 131-66 for Hickory Lane. Mr. Briggs made a motion, seconded by Ms. Sand, to approve the waiver request for Article 131-66 (Hickory Lane). Motion unanimously carried. Ms. Duane read a waiver request for Article 131-66 (Winterberry Lane). Mr. deFeyter asked if the waiver request was necessary. Mr. Irving stated that we wanted to make sure the bases were covered. Mr. Briggs made a motion, seconded by Mr. deFeyter, to approve the waiver request for Article 131-66 (Winterberry Lane). Motion unanimously carried. Ms. Duane read a waiver request for Article 131-66 (Dogwood Circle). Ms. Sand made a motion, seconded by Mr. Briggs, to approve the waiver request for Article 131-66 (Dogwood Circle). Motion unanimously carried.

Ms. Duane read a waiver request for Article 131-67.A.(1). Ms. Sand asked Mr. King if he had any problems with this waiver request. Mr. King answered in the negative. Mr. deFeyter made a motion, seconded by Ms. Sand, to approve the waiver request for Article 131-67.A.(1). Motion unanimously carried. Ms. Duane asked if there were any other questions from the Board; there was one. Ms. Duane asked if there were any other issues under the subdivision; there was none.

Ms. Sand reviewed the following concerns that still need to be addressed: The sidewalk at the cul-de-sac needs to meet the ten (10) foot setback; the sidewalk on Briallia Drive needs to be entirely out of the right-of-way or entirely within the right-of-way; need to provide bench mark elevations; address providing a sidewalk from the development to the Hamlin Green property; provide utility design details specifically underground gas detail and timber guard rail; provide a construction cost estimate; provide surety once cost estimate is approved; condominium documents to be reviewed by Town Counsel; granite bounds to be included in cost estimate and can be installed as part of conditional approval; and any signage change will conform to the regulations.

Ms. Sand made a motion, seconded by Mr. deFeyter, to continue the Concurrent Site Plan and Subdivision Review for Joan Brassill/North Conway Retirement Village, LLC until June 8, 2000. Motion unanimously carried.

OTHER BUSINESS

Appeal from Administrative Decision/Erick Ness: Erick Ness appeared before the Board to appeal an administrative decision per attached letter dated 5/13/2000. Ms. Duane stated that the question is whether or not the proposed project requires a full or minor review. Ms. Duane stated that the Town says that it is required a full review. Mr. Ness stated that a building permit was issued in 1995 for a residential trailer and assembly hall, but that they could not occupy the assembly hall. Mr. Ness stated that Shawn Bergeron [former building inspector] said he could not renew the building permit because it needed a review from the Planning Board. Mr. Ness stated that Dawn Emerson [former Town Planner] stated that it was less than 1,000 square feet, therefore, it was a minor review.

Mr. Irving stated that the ordinance does not give him any leeway. Mr. Irving reviewed his letter dated May 10, 2000. Mr. Irving stated that the building and the parking exceed 1,000 square feet. Mr. Irving reviewed the criteria's for a review under Article 123-4.D.(1). Mr. deFeyter stated that there really isn't much difference between a minor review and a full review. Mr. Ness stated that there is a difference in expense. Ms. Sand stated that you have already had the engineering done. Ms. Sand stated that you have most of it done. Mr. Irving stated on two counts it is required for a full review.

Mr. Hounsell stated he wishes he could see it another way, but it is the law. Ms. Duane stated that he has most of the work done. Mr. Irving stated that the package just needs to be put together. Ms. Duane polled the Board to see how many Board members thought this project needed a full review; it was unanimous that it requires a full review.

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Guldies/Roof Top Mechanicals (1999 Tax Map 230, Parcel 52/Old Tax Map 65, Parcel 33): Ms. Duane stated that the Board members have received a package regarding this topic and they have heard both sides of the case (see attached memo dated 5/18/2000). Ms. Duane stated that we need to determine if the roof top mechanicals need to be covered. Mr. Irving stated that he informed the applicant of meeting this evening [Robert Roy and Ed Lebonville were in the audience] and the result of the Gibson Center project [in regard to covering their roof top mechanicals].

Mr. Hounsell asked if a Town official told the applicants that the roof top mechanicals did not need to be covered. Ms. Duane stated from her research no they did not. Mr. Hounsell asked if there is an ordinance that says they need to be shielded. Ms. Duane answered in the affirmative and stated under Architectural Guidelines (Article 12-30.1). Mr. Briggs stated that it appears there is a solution and one that is financially reasonable. Mr. Hounsell asked if the Architectural Guidelines were a part of the ordinance. Ms. Duane stated they are a part of the Site Plan Review Regulations. Mr. Hounsell asked if it becomes an area of opinion. Mr. Irving stated that it is explicit in the ordinance under Article 123-30.1., "...all roof top mechanical units shall... not be visible from street level...".

Mr. Hounsell asked if there are any other projects in Town where this situation has come up. Ms. Duane stated that another restaurant shielded them on three sides. Mr. Irving stated that the Gibson Center has also found a solution to cover their roof top mechanicals. Mr. Hounsell asked if there are any others that have not been covered. Ms. Duane stated there has been no other reviews where this would have been required. Mr. Briggs made a motion, seconded by Mr. Frank, to stay by the prior decision that the roof top mechanicals need to be covered before a final certificate of occupancy is issued. Motion carried with Mr. Hounsell voting in the negative.

James Abraham/Muddy Moose Restaurant (1999 Tax Map 231, Parcel 146/Old Tax 66, Parcel 13): James Abraham and Marty Risley of H.E.B. Civil Engineers appeared before the Board. Mr. Risley stated that Mr. Abraham has a conditional approval and he has met all of the conditions except one. Mr. Risley stated that the applicant would like to ask the Board to extend the expiration date. Mr. Risley stated that the Army Corp. of Engineers has reviewed the wetland plans and they had a question. Mr. Risley stated that the issue should be resolved by next week. Ms. Sand made a motion, seconded by Mr. deFeyter, to extend the conditional approval granted to James Abraham/Muddy Moose Restaurant [File #FR00-05] until July 19, 2000 and once the conditions have been met the plans can be signed out-of-session. Motion unanimously carried.

Agricultural Uses: Mr. Irving read from the Planning Board minutes dated September 23, 1999 on page 3 regarding agricultural uses. Mr. Irving stated if that is still the consensus of the Board he would like to see a motion that that is indeed the interpretation. Mr. deFeyter stated that this did come up even previous to that and we used the definition of agricultural in the zoning ordinance. Mr. Briggs made a motion, seconded by Mr. Hounsell, to exempt agricultural uses from site plan review and to have staff prepare an amendment to the site plan review regulations to exempt agricultural uses from site plan review. Motion unanimously carried.

Book Stores/Refreshments: Mr. Irving stated that there is a book store that would like to add refreshments as an accessory use. Mr. Irving asked if this would require site plan review. Mr. Hounsell asked if they would be charging for the refreshments. Mr. Irving answered in the affirmative. Ms. Sand asked if the health laws permit this. Mr. Irving answered in the affirmative. Mr. deFeyter stated if they are serving beverages they should have public restrooms. Ms. Duane stated that that is regulated by the State. Mr. deFeyter stated that we have our own regulations.

Mr. Hounsell stated if it is for a fee then it is a restaurant. Mr. deFeyter stated if we allow them to do that and then they start serving peanuts then there is no review if they become a restaurant. Mr. Irving stated that this would be accessory to the book store. Mr. Irving stated we can limit it to 25% of the facility and over that percentage would be a change-of-use. Mr. Hounsell asked why limit it to a bookstore, what if an antique store wanted to do this. Mr. deFeyter asked if we know the State's position. Ms. Duane stated that they have different determinations. Mr. Irving stated that the question is whether this is accessory to the business or a change-of-use. Mr. deFeyter stated that we should find out the State's categories.

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Mr. Frank stated that we should find out how it is handled else where. Mr. Irving stated that he did speak to the Office of State Planning and they thought it sounded accessory. Mr. Irving stated that he asked them how will we know if it changes and they did not know. Mr. Briggs made a motion that it would be accessory if not more than 10% of the square footage. There was no second. It was unanimous that this would need site plan review. Mr. Hounsell left at this time.

Bylaws: The Board reviewed the bylaws and agreed to the attached changes. The first reading of the bylaws will be on June 8, 2000.

Paul Whetton (1999 Tax Map, Parcel /Old Tax Map 33, Parcel 78) File #MR99-11: Mr. Irving submitted a memo to the Board dated May 17, 2000. Mr. deFeyter stated that we should take it from where it is now and document it. Mr. Irving agreed. The Board unanimously agreed to send a letter to Mr. Whetton to that effect.

Construction Changes: Mr. Irving submitted a letter dated 5/18/2000 to the Board regarding construction changes. Mr. deFeyter asked if there could be discussion. Ms. Duane answered in the negative and stated that it is a new practice here at Town Hall and the memo is to make the Board aware of that. Ms. Sand stated that the Board should be informed of the changes. Mr. deFeyter agreed.

Meeting adjourned at 11:15 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary