

CONWAY PLANNING BOARD

MINUTES

JUNE 8, 2000

A meeting of the Conway Planning Board was held on Thursday, June 8, 2000, beginning at 7:05 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Selectmen's Representatives, Mark Hounsell and Gary Webster; Vice Chair, Stacy Sand; Robert deFeyter; Conrad Briggs; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Hounsell joined the board at this time and Mr. Webster stepped down. The Minutes of May 25, 2000 were amended as follows: page 2, paragraph 6, line 4, "...abutter. Mr. deFeyter stated that according to the Town Attorney we cannot mandate..."; page 2, paragraph 7, line 3, "...there are physical characteristics of the lot that would preclude incorporating a connecting drive with curb..."; page 6, under Guiltiest, the word "covered" should be changed to "shielded"; page 6, Agricultural Uses, line 3, should read, "...this came up previously to..."; and page 7, Paul Whetton, line 2, should read, "...should establish how the property is being used now and document...".

Mr. Briggs made a motion, seconded by Mr. deFeyter, to approve the Minutes of May 25, 2000, as amended. Motion unanimously carried.

AMENDMENT TO THE AGENDA

Mr. Irving stated that the Board has received a request from the Conway Area Humane Society to extend their conditional approval. Mr. Irving stated that this item should be added to the agenda under Other Business. The Board agreed to amend the agenda.

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

Stephen Hallett, Seafarer Development; Charlotte Maloney, Gawron Architects; and Eric Wilhelmson, Tectonic Engineering, appeared before the Board. Ms. Duane reviewed the outstanding items. Ms. Duane asked if the sidewalk at the cul-de-sac now meets the ten-foot setback. Mr. Wilhelmson stated that the sidewalk is now out of the right-of-way. Ms. Duane asked if the sidewalk on Briallia Drive is completely out of or completely in the right-of-way. Mr. Hallett stated that the sidewalk is now entirely out of the right-of-way.

Mr. deFeyter asked what does the Town require for sidewalk material. Mr. Irving stated that sidewalks need to be paved and has to match any existing sidewalks. Mr. Wilhelmson stated that the sidewalk is asphalt from Route 16 down the driveway and then it turns to concrete. Mr. deFeyter asked if it should be the same. Mr. Hallett stated that it is not required. Mr. deFeyter asked if this meets our standards. Mr. Irving stated that it does not defy any of our standards.

Ms. Duane asked if benchmark elevations have been provided. Mr. Wilhelmson answered in the affirmative and stated they are located on sheet C-105. Mr. Hounsell asked if the Town Engineer has reviewed these plans. Mr. Irving answered in the negative. Ms. Duane asked if the sidewalk issue to the Hamlin Green property has been addressed. Mr. Wilhelmson answered in the affirmative and stated that it is on sheet C-105. Ms. Duane asked if the design details for the underground gas detail and timber guardrails have been provided. Mr. Wilhelmson answered in the affirmative and stated that the timber guardrail detail is located on sheet 109 and the gas detail is located on sheet 111.

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Ms. Duane asked if a construction cost estimate has been provided. Mr. Wilhelmson submitted a cost estimate to the Board at this time. Ms. Duane asked if Town Counsel has reviewed the condominium documents. Mr. Irving stated that we have received a facsimile from Town Counsel requesting a few changes to the condominium documents. Mr. Hallett submitted signed condominium documents. Mr. Wilhelmson stated that the change has been noted on sheet C-101 [under the green space calculations]. Mr. Irving stated any changes to the right-of-way and common areas have to have Planning Board approval.

Ms. Duane asked if the granite bounds were included in the cost estimate. Mr. Wilhelmson answered in the affirmative. Ms. Duane asked if any signage changes would conform to the regulations. Mr. Wilhelmson stated there is a note regarding signage on sheet 102. Mr. deFeyter stated that he did speak to Don Lyford with the New Hampshire Department of Transportation. Mr. deFeyter stated that the State does plan on putting in sidewalks with the expansion of Route 16. Mr. deFeyter stated that the current State plans do not call for closing the southerly Ames entrance, but making it a right turn only. Mr. Briggs asked if the camping area is willing to bring their sign into compliance. Mr. Hallett stated that he will talk to them, but he cannot guarantee anything.

Ms. Duane asked for public comment; Faye Melendy stated that she is representing Mr. and Mrs. McClure who own the campground. Ms. Melendy stated that she would like to address item #10 under the supplemental notes on sheet C-101. Ms. Melendy stated that the note states that the approval is contingent upon easement rights from the McClure's. Ms. Melendy stated that the easement rights would not be granted. Mr. Hallett stated that that was the intent, but if not granted then we can put in an ugly retaining wall. Ms. Melendy stated that we are talking about an area with large, mature trees. Ms. Melendy stated that they are concerned that this would greatly jeopardize these trees.

Mr. Hallett stated that he did send a letter to the McClure's asking to speak to them regarding this issue, but they have never contacted him. Mr. Hallett stated they were planning on putting in tree wells. Ms. Melendy showed the area that would need fill and stated that the McClure's do not want to put the trees at risk, so they will not be granting an easement. Ms. Melendy stated that the alternative is to put in a retaining wall. Ms. Melendy stated if that is the case then they should provide additional information and there should be an agreement from the Board that a retaining wall is a structure and should not be built in the setback. Mr. deFeyter stated that the Board did conduct a site walk there last week and asked if this is the area that used to be a road. Mr. Hallett answered in the affirmative.

Mrs. McClure stated that this is a 390-foot area and this will ruin the trees. Mr. Hounsell stated that he hopes Mr. Hallett's comment in regard to building an "ugly" retaining wall was only out of frustration. Mr. Hallett stated that he thinks any retaining wall is ugly, but they will construct one out of nice materials. Mrs. McClure stated that she and her husband bought the property on April 24, 2000 and they have a huge sewer project going on at this time. Mrs. McClure stated that it is just she and her husband who run the business. Mrs. McClure stated that they did receive Mr. Hallett's letter, but they have not had a chance to address it because they are working the business. Mrs. McClure stated they are always there if he had stopped by they would have been available.

Ms. Maloney stated that she thought the trees would be lost as well, but we can build tree wells if we had to and if any trees were lost, we would have planted mature white pines. Mrs. McClure asked how this would benefit them. Ms. Maloney stated that they have the right to grant the easement or not. Ms. Melendy stated that she would like a clarification that according to the ordinance a retaining wall is a structure and it would have to be constructed outside of the setback. Mr. Irving read the definition of a structure from the Zoning ordinance. Ms. Melendy stated that you require a buffer area, but you can put a retaining wall in the setback and not be out of compliance. Mr. Irving stated that it would not be out of compliance. Ms. Melendy stated that the abutter could object to the retaining wall.

Ms. Melendy stated that the McClure's are not here to oppose this project, but to protect their property from impact. Ms. Melendy stated that she would request when the Board is making their determination that they keep that in mind. Mr. Hounsell stated that we should know how high the retaining wall will be and how it would look from the campground. Ms. Maloney stated that that is a reasonable request. Ms. McClure stated that they need the mature trees. Mr. deFeyter stated that everyone has a common interest in

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keeping the trees and there is a requirement that all trees be maintained and if any die they have to be replaced. Ms. McClure stated that you couldn't replace a 150-year-old tree. Ms. Sand asked isn't going to be harder to keep the trees with the retaining wall. Mr. Hallett stated that it is more difficult with the tree wells and it may be easier with the retaining wall. Ms. Duane asked what would be the height of the retaining wall. Mr. Hounsell stated that he thought it would be approximately eight to ten feet high. Mr. Wilhelmson stated that it would be approximately ten feet high. Ms. Duane asked how it would be constructed. Mr. Hallett stated that it would have to be from his property.

Mr. Hounsell stated that root systems do not know boundaries. Mr. deFeyter stated that they will have to work this out and he would like to see the most attractive solution. Mr. deFeyter stated that he would like to see the trees remain, but there are options on both sides. Mr. Irving asked if there are any other concerns other than the ones being addressed. Ms. Duane asked if the McClure's had any other questions. Mr. McClure stated that he is still concerned with all the traffic coming out of this road and how it will affect them. Mr. McClure stated that there is a solution as they have access to Sawmill Lane. Ms. Duane stated that the Board couldn't tell one group of people that they can only go one-way and another group of people can go both ways.

Mr. deFeyter stated that he shares Mr. McClure's concern, but he spoke to the State and they did not think going out the other way would be an aid. Mr. deFeyter stated the applicant has supplied a traffic study and they don't generate that much traffic. Mr. McClure stated that they would have visitors. Ms. Sand stated if they want to go north they will probably use Sawmill Lane. Mr. Irving asked if there were any other outstanding items that need to be addressed; there were none. Mr. Briggs made a motion, seconded by Mr. Hounsell, to continue the concurrent Full Site plan and Subdivision Review for Joan Brassill/North Conway Retirement Village LLC until June 22, 2000. Motion unanimously carried. Mr. Hounsell left at this time and Mr. Webster joined the Board at this time.

**SUSAN BARTON/PETER DONOHOE AND M. LYNN LYMAN – MINOR SITE PLAN REVIEW
(1999 TAX MAP 218, PARCEL 104/OLD TAX MAP 70, PARCEL 47) FILE #MR00-09**

Peter Donohoe appeared before the Board. Mr. Donohoe stated that he would like to change the use from a beauty salon to an office. Mr. Irving reviewed the staff report (attached), the waiver requests and the Engineer's report. Mr. Irving read a letter of support from abutter, Kenneth Lydecker, dated June 2, 2000. Mr. deFeyter asked if the size of the building was 1,652 square feet. Mr. Irving stated that there was a discrepancy on the size from a 1983 application, but the applicant has provided us with a real estate listing showing the building as 1,652 square feet.

Mr. deFeyter asked if we need a waiver request for the width of the driveway. Mr. Irving stated that it refers to aisles between parking spaces. Mr. Irving stated that he would like the Board to make this determination. Mr. Briggs made a motion, seconded by Ms. Sand, that Article 123-23.A. is the requirement for two sets of parking. Motion unanimously carried.

Ms. Sand asked if this would be a billing office for the oil service. Mr. Donohoe stated that that would be the principle use. Ms. Sand asked the need for a loading area. Mr. Donohoe stated that it is required to meet the requirements of a minor site plan review. Ms. Sand asked if this would be for oil trucks. Mr. Webster made a motion, seconded by Ms. Sand, to accept the application of Susan Barton/Peter Donohoe and M. Lynn Lyman as complete for a minor site plan review. Motion unanimously carried.

Mr. Briggs stated that it should be noted that oil trucks would not be there on a long-term basis. Mr. Donohoe asked how you would define "long-term". Mr. Briggs answered not overnight. Ms. Duane stated that their primary facility is on Pine Street. Mr. deFeyter asked if this would be a sales office. Mr. Donohoe answered in the affirmative, but the propane truck drivers may stop occasionally for dispatch questions.

Ms. Duane asked if there were any questions regarding parking. Ms. Duane read a waiver request for Article 123-21.G. Ms. Duane read the requirements to grant a waiver. Ms. Sand made a motion, seconded by Mr. Briggs, to grant the waiver request for Article 123-21.G. Motion unanimously carried. Ms. Duane

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stated that seven parking spaces are required. Mr. Irving stated that the loading area could be used as a parking space. Mr. deFeyter asked if we have done that in the past. Mr. Irving stated that typically loading areas are over parking spaces. Ms. Duane asked if there were any questions regarding pedestrian amenities; there were none. Ms. Duane asked if there were any questions regarding lighting. Mr. deFeyter asked if there is just one light. Mr. Donohoe answered in the affirmative and stated that this is a daytime use. Ms. Sand asked how is the visibility in the back parking lot at night. Mr. Donohoe stated that he did not know as no provisions have been made.

Ms. Duane asked if there were any questions regarding storm drainage. Mr. Irving stated that the applicant would need to speak with the Engineer as it needs some work. Ms. Duane asked if there were any questions regarding utilities; there were none. Ms. Duane asked if there were any questions regarding landscaping. Ms. Duane read a waiver for Article 123-30.A.(2) and (4). Mr. deFeyter stated that the driveway is in excess of 20 feet. Ms. Duane stated that it is 20 feet using the buffer. Mr. Donohoe agreed. Ms. Sand made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-30.A.(2) and (4). Motion unanimously carried. Ms. Duane read a waiver request for Article 123-30.D.(8). Mr. Briggs made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-30.D.(8). Motion unanimously carried.

Ms. Duane asked if there were any questions regarding architectural design. Ms. Duane stated there are no changes to the building. Ms. Duane asked if there would be a dumpster. Mr. Donohoe answered in the negative. Ms. Duane asked if there were any questions regarding wheelchair access. Mr. Irving stated that the site is ADA compliant based on the ADA pamphlet. Ms. Sand stated that the applicant should consider adding a ramp. Mr. Donohoe stated that he would consider it.

Ms. Duane read a waiver request for Article 123-40.2.C. Mr. Irving asked the Board to clarify the interpretation of maximum length vehicles. Ms. Sand stated that it is the maximum length vehicle that will use the site. Mr. Irving stated that the waiver is not necessary. Ms. Duane asked if there are any other questions; there were none. There was a brief discussion regarding granite curbing and it was determined that in the past the Planning Board has gone with what is in the neighborhood. Ms. Sand made a motion to continue the minor site plan review for Susan Barton/Peter Donohoe and M. Lynn Lyman until June 22, 2000. There was no second.

After a brief discussion, Mr. Briggs made a motion, seconded by Mr. Webster to conditionally approve the minor site plan for Susan Barton/Peter Donohoe and M. Lynn Lyman conditionally upon indicating the loading area as parking space #7 on the plans; drainage approval; Fire Chief approval; and a performance guarantee for 50% of all site improvements. Motion carried with Ms. Sand and Mr. deFeyter voting in the negative.

HARDWARE REALTY TRUST – MINOR SITE PLAN REVIEW (1999 TAX MAP 218, PARCEL 48/ OLD TAX MAP 69, PARCEL 12) FILE #MR00-10

John Keeney, owner of the property; and Fay Melendy, Melendy and Lee, P.A., appeared before the Board. Ms. Melendy stated that the owner would like to add to the services provided the opportunity to serve coffee and fruit drinks. Ms. Melendy stated that this is a small change as it would be counter space and a couple of tables. Ms. Melendy stated that the overall space of the store is 2,100 square feet and they are using a small portion in front for an accessory use. Ms. Melendy stated that this will be a bookstore, but they would like to add an accessory use of coffee and fruit drinks. Mr. Irving reviewed the staff report (attached).

Mr. Briggs made a motion, seconded by Mr. Webster, to accept the application of Hardware Realty Trust as complete for a minor site plan review. Motion unanimously carried. Mr. deFeyter stated that the Planning Board determined that this is not an accessory use that is why you are before the Board. Ms. Melendy stated that the purpose of this business is to sell books, not to become a coffee shop. Ms. Sand asked the square footage of the coffee area. Ms. Melendy answered 15 feet by 30 feet. Mr. deFeyter asked how many businesses are located in the building. Mr. Keeney answered six businesses. Mr. deFeyter stated that public restrooms are required. Ms. Melendy stated because of the use there would be a public restroom.

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Ms. Sand asked what happened to the proposed addition indicated on the plans. Mr. Keeney stated that it was never built. Ms. Sand stated that it should be removed from the plans. Mr. Irving agreed. Ms. Sand stated that she is not opposed to the addition being crossed out and having the applicant initial the plans. Mr. deFeyter asked if the applicant would be obtaining an “F” permit from the State. Ms. Melendy stated that she did not know what permit the applicant needed to obtain, but they would obtain the necessary State permits.

Ms. Duane read a waiver request for Article 123-22.A. and 123-22.E. Ms. Duane read the reasons to grant a waiver. **Mr. Webster made a motion, seconded by Mr. Briggs, to grant the waiver request for Article 123-22.A and E.** Ms. Sand asked if the waiver request should indicate the number of parking spaces being waived. After a brief discussion, it was determined that 18 parking spaces were being waived. **Motion unanimously carried.** Ms. Duane asked if there were any questions regarding loading. Ms. Duane asked if this was a common loading area. Ms. Melendy answered in the affirmative. Ms. Duane asked if there were any questions regarding snow removal. Mr. Irving stated that there is a note attached to the plan regarding snow removal.

Ms. Duane asked if there were any questions regarding pedestrian access; there were none. Ms. Duane asked if there were any questions regarding lighting. Mr. Keeney stated there is lighting on the building. Ms. Duane asked if there were any questions regarding utilities; there were none. Ms. Duane asked if there were any questions regarding landscaping. Ms. Duane read a waiver request for Article 123-30.A. through D. Ms. Sand stated that someone has made an effort to add planters along the building. Ms. Sand stated they look nice and she would encourage that it continue. Ms. Sand made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-30.A. through D. Motion unanimously carried.

Ms. Duane asked if there were any questions regarding architectural design. Ms. Duane stated that the building exists and is not changing. Ms. Duane read a waiver request for Chapter 123, Article V, Figure Two, Part 5 regarding “all setbacks labeled”. Ms. Duane made a motion, seconded by Mr. deFeyter, to grant the waiver request for Chapter 123, Article V, Figure Two, Part 5 regarding “all setbacks labeled”. Motion unanimously carried. Ms. Duane asked if there were going to be any display of outdoor goods. Ms. Melendy stated that it is not anticipated. Mr. deFeyter asked if the coffee service would be indoors only. Ms. Melendy answered in the affirmative. Ms. Duane asked if there were any questions regarding the plat notes. Mr. Irving stated they are listed on the addendum.

Ms. Sand asked if there was a town memo regarding the driveway. Mr. Irving read a memo dated June 2, 2000, from Paul DegliAngeli regarding the driveway and drainage. Ms. Melendy stated that the plan is to only use the front portion and to serve coffee and fruit drinks. Ms. Sand made a motion, seconded by Mr. Webster, to finally approve the minor site plan for Hardware Realty Trust. Motion unanimously carried. The plans were signed.

PUBLIC HEARING – CHAPTER 131 – SUBDIVISION REGULATIONS

A public hearing was opened at 9:37 p.m. Ms. Duane read the attached proposed changes to Article 131-18. Ms. Sand made a motion, seconded by Mr. deFeyter, to approve the proposed changes to Article 131-18. Motion unanimously carried. There was no public in attendance. The public hearing was closed at 9:39 p.m.

FIRST READING OF THE AMENDED PLANNING BOARD BYLAWS

Mr. deFeyter made a motion, seconded by Mr. Briggs, to dispense reading the bylaws since they were posted and to revise any reference to Chairman to Chair. Motion unanimously carried. It was determined that Article XII was eliminated from the posted copy. Ms. Duane read Article XII. Mr. deFeyter made a motion, seconded by Mr. Briggs, to adopt the first reading of the bylaws as amended. Motion unanimously carried.

**VIVIAN DUPREY FROST/CONWAY AREA HUMANE SOCIETY – EXTENSION OF
CONDITIONAL APPROVAL (1999 TAX MAP 276, PARCEL 1/OLD TAX MAP 7. PARCEL 113-
A) FILE #FR00-04**

Mr. Irving read a letter from Dave Douglass dated June 6, 2000 asking for an extension of conditional approval. Ms. Sand made a motion, seconded by Mr. deFeyter, to extend the conditional approval for Vivian Frost Duprey/Conway Area Humane Society until August 25, 2000. Motion unanimously carried.

Meeting adjourned at 9:50 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary