

MINUTES OF MEETING  
CONWAY PLANNING BOARD

July 13, 2000

A meeting of the Conway Planning Board convened at 6:59 p.m. in the Meeting Room of Conway Town Hall with the following present: Sheila Duane, Stacy Sand, Conrad Briggs, Robert deFeyter, John Waterman, ~~Dick O'Brien~~, Selectmen's Representative, Mark Hounsell (sitting in for Gary Webster who chose to step down due to a conflict on the first item of the agenda); Alternate, Martin Frank (appointed to replace Arthur Bergmann who could not be present); Planning Director, Tom Irving; and Acting Recording Secretary, Gail Currier.

Chairman Duane introduced new Town Manager, Earle Sires, and welcomed him to Conway. Ms. Duane also expressed appreciation to Paul DegliAngeli for doing such a fine job as interim Town Manager.

**Approval of Minutes - Motion was made by Ms. Sand to postpone action on the Minutes of the June 22nd meeting until the next meeting since Recording Secretary, Holly Meserve, was not present.** Mr. deFeyter wished to discuss one issue with those Minutes (dealing with the North Conway Retirement Village, LLC, Page 2, 5th para., which said: "Mr. Briggs stated that we have already discussed this and we accepted it as a private road and if it became a town road it would have to be concrete.") and questioned whether this is a policy, whether it is the Board's intention that in granting the waiver for the asphalt, it was done with the understanding that if the roads are ever turned over to the Town it has to be asphalt. Ms. Duane suggested when the Minutes are approved is when that needs to be changed.

Mr. Irving stated the subdivision regulation requires that for the Town to take possession of a private road the sidewalks have to be concrete - it is a Town policy. The Town, by petition, can have a warrant article to accept a Town road without that stipulation - the Town has taken roads that did not have concrete sidewalks. Mr. deFeyter stated the problem is, to be accepted, they have to be to standards, and questioned "Did we intend to state that if in the future they want to have it taken over, it would not necessarily have to be changed to concrete?" Mr. Hounsell stated that is the consensus of his position. Mr. Briggs felt it is telling these people if it does become a Town road, it probably would have to be concrete. Mr. Irving stated they have a waiver from that component. Ms. Duane said when the waiver is granted from those road standards, you are saying you are not requiring it to be concrete, you are accepting it as asphalt. Mr. Waterman said he voted in favor of it the way it was passed and will stick with that vote.

Ms. Sands said it is her understanding that they are not required to be concrete; she does not feel it has to be removed from the Minutes. Mr. deFeyter seconded Ms.

and's motion to postpone action on the Minutes of June 22nd. **The Motion carried by unanimous vote.**

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**Public Hearing - Joan Brassill/North Conway Retirement Village, LLC - Concurrent Full Site Plan and Subdivision Review Continued:** Stephen Hallett, Seafarer Development; Charlotte Maloney, Gawron Architects; and Eric Wilhelmson, Tectonic Engineering, appeared before the Board.

Mr. Irving noted several technical issues have been resolved. The engineer concurs with the changes that have been made. The gas line question has been resolved. As regards the issue of the abutter's concerns about the retaining wall, the applicant has removed it entirely from the setback and has reduced the height to between 5.5' to 6' at maximum, and to 150' in length, and had to move the road. Mr. Irving stated the engineer has signed off that the revised road layout and all its features are acceptable. There are no outstanding issues regarding the site plan based on our previous meetings and staff meetings.

Ms. Sand asked to see new visuals. Mr. Hallett stated they have staked out the property line in 10' increments and changed some of the unit sizes of the buildings, which allowed lowering the size of the whole. They are now 20' off the property line. Ms. Maloney explained they put in trees in front, and the wall at the highest is 5.5' dropping to 3', 2', and 1'. It is 6' off the paved area, 20' back from the property line. They have added trees so it will not be visible. Mr. deFeyter asked if there is a railing along there. Ms. Maloney stated no, but they will have thorny rose bushes planted there and evergreens up against the wall.

Mr. Waterman asked to hear from the abutter's attorney, Faye Melendy. She stated they are very happy with the changes and have no objections.

**Motion was made by Mr. Waterman to accept the subdivision as presented. Seconded by Mr. Hounsell. Discussion:** Mr. Irving stated it should read "**Conditional approval based on this site plan, subject to the surety required, and that it be signed out of session.**" Messrs. Waterman and Hounsell agreed to that amendment.

Mr. deFeyter noted reference to change in the size of some units. Ms. Maloney said they reduced the size of four of the units, which is included in a memo to Mr. Irving, and Mr. Irving said they are all in compliance. Mr. Irving stated there is nothing else outstanding he is aware of.

The Chairman asked for public comment. There was none.

**The motion carried by unanimous vote.**

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At 7:20 p.m. Gary Webster resumed his position, replacing Selectman Hounsell. Mr. deFeyter stepped down and left the meeting.

**The Memorial Hospital - Full Site Review** - Ed Bergeron and Will Haskell of H.E. Bergeron Engineers, and John Newton representing The Memorial Hospital, joined the meeting. Mr. Bergeron explained that Mr. Risley of his firm had made the changes at the request of the Board, and has met with the Town Planner.

Ms. Sand asked for explanation of the differences between this plan and the previous plan. Mr. Haskell explained they received conditional approval on a plan which showed two aisles of parking and a 9600 sf building. They came back due to budgetary constraints, and removed an aisle of parking and reduced the building size to 8800 sf. Mr. Haskell noted that future parking area was shown previously as Phase II, there was a bonding issue on that and the Hospital did not want to tie that money up. They have removed Phase II and are now showing it as future parking, with the understanding that they will have to come back before the Board if they ever want to build that parking lot. Ms. Duane summarized that the change then is a decrease of 800 sf and one aisle of parking. Ms. Sand commented they are not planning on doing any tree planting in that area because it may eventually become parking.

Mr. Irving said it is a scaled down version of the previously conditionally approved site plan. He said also he wanted to remind the Board that there have been some changes to DOT's layout - even though they do have an exemption from that, it is not necessary.

Mr. Irving said there is a waiver request regarding trees, specifically the 70' limiting distance to be within the paved area or structures, and they cannot now get credit for the trees they had originally, and it does not seem prudent to plant trees that will have to come down later. They will retain existing vital trees that are already onsite, and will need a waiver for the 70' restriction.

**Motion was made by Mr. Webster to accept the application as agreed. Seconded by Mr. Briggs. The motion carried by unanimous vote.**

Mr. Irving stated the application is substantially complete.

Waiver Request under Ch. 123-30.D.3 - regarding limiting distance for tree credits. Ms. Duane read aloud the waiver request in its entirety. Mr. Irving noted 43 of the 77 trees required for the project are located within 70' of the proposed main structures or parking lot and it would be unproductive to plant trees in an area where there is planned future parking. **Motion was made by Ms. Sand to accept the waiver for 123-30.D.3 for the distance and the tree credits. Seconded by Mr. Webster.** Discussion: Mr. Irving noted the plan does not specify tree species. He explained that in order to accommodate the helicopter path there are specific height requirements. They do not

know yet which are the appropriate trees, so that is why the type is not specified; however, staff will make sure that they do meet minimum standards. **The motion carried by unanimous vote.**

Fire Chief's Report: Mr. Irving said he has verbal approval, has requested it in writing twice - that is the only outstanding issue. Ms. Duane noted nothing has changed except for a reduction in square footage. She felt it useless to review it all since there are no other changes.

Ms. Duane asked for public comment. There was none.

**Motion was made by Ms. Sand that conditional approval be granted to The Memorial Hospital plan with the condition that we receive, in writing, the Fire Chief's approval and receive bonding, and if the conditions are met, this plan may be signed out of session; conditional approval to expire 8/10/00 unless extended. Seconded by Mr. Webster. The motion carried by unanimous vote.**

Mr. Irving explained to the applicant that the Board can sign the approval whenever the surety arrives; however, if there are any problems, they would need to come to the Aug. 10th meeting to request an extension.

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**Public Hearing - Planning Board Bylaws - 3rd and final hearing. Motion was made by Mr. Webster, seconded by Mr. Briggs, and carried by unanimous vote to waive the reading of the Planning Board Bylaws.**

**Motion was made by Ms. Sand to approve the Planning Board Bylaws as written. Seconded by Mr. Briggs.** Discussion: Mr. Hounsell (who wished to make it clear he was speaking as a private citizen, not in his capacity as a Selectman) questioned under Art. IV, Officers, the mention of a Secretary; then under Art. VI there is reference to a Recording Secretary. Ms. Duane stated they do not have a Secretary because when they wrote the bylaws there was a chance they would eliminate that position. They have not done that. She explained the Recording Secretary is a Town employee, as is the Town Planner. She said if these bylaws pass, they will be electing a Secretary. It was explained that a Planning Board Secretary's function is to sign plans and summarize conditions.

Art. VIII, B - that a regular meeting may be postponed, but the Board, by Statute, is required to hold at least one meeting each month. Mr. Hounsell questioned whether that is redundant to the intent of paragraph VIII, A, which states that regular meetings shall be held at least monthly. Ms. Duane stated no, VIII, B, explains the intent of the RSA. Mr. Hounsell made reference to VIII, D, with respect to calling of a special meeting. Mr. Irving said the intent was that it was either the Chair or the Vice Chair with four other members - a total of 5 members to call a meeting.

Art. IX, D - all discussions shall be directed to the Chairman. Mr. Hounsell suggested the word "directed" should be omitted and read "through the Chair."

Art. X, Rules of Procedure: Mr. Hounsell suggested that it read "to adopt such Rules of Procedure provided that such Rules are not in conflict with these bylaws and comply with the following provisions....." Ms. Duane pointed out that Art. XI says they can suspend the bylaws. Mr. Hounsell contended that should read Suspension of Bylaws rather than Suspension of Rules.

Mr. Irving said with regard to public comment, changes can be made; however, if any substantive changes are proposed, the Board will have to post another hearing. Ms. Duane questioned how the Board feels about those issues raised by Mr. Hounsell. Mr. Irving cautioned the Board that they may not want to interpret that the bylaws can be suspended; however, they may suspend, i.e. using Roberts Rules, for a particular meeting - they have that option. He noted that may be a substantive change.

Mr. Frank asked whether the rules can be inclusive with the bylaws? Mr. Hounsell noted the sentence says these bylaws may be temporarily suspended, stating suspension of rules is common, suspension of bylaws is likely a constitutional issue. Ms. Sands stated it is inclusive of all the bylaws in that any of them can be temporarily suspended. Five people have to say what is being suspended. She said she does not see a need for change.

Mr. Irving pointed out the Board has the option of amending its bylaws at a later date, noting the Planning Board has been operating for at least a year with no formally accepted bylaws. Ms. Sand stated they were adopted years ago, but they have been operating with those that have not been amended or really brought up to date. She said it has been over a year that these changes have been floating in the air.

Mr. Frank questioned whether is it unusual to have language that bylaws would be suspended, the reason being when they are, anything can happen. Mr. Irving suggested under Suspension of Rules they need to say "these Rules of Procedure may be temporarily suspended." Ms. Sand's recommendation was the Board approve the changes we have made, and will then have working bylaws that would include a Secretary, etc., and then they can always amend a particular thing. She pointed out the Board has held three public hearings and she would like to see the bylaws in place tonight, and then take Mr. Hounsell's suggestions under consideration. Mr. Hounsell stated he thinks they have done a fine job with this, that he is not being critical, and that what Ms. Sand says makes a lot of sense. Mr. Frank questioned whether it would be easier to bring this up with any amendments at the next meeting. Mr. Irving advised that that would require redoing the rehearing process because the original posting had this language in it. **Ms. Sand's motion to approve the Planning Board Bylaws as written passed by unanimous vote.**

**Motion was made by Mr. Frank to request that staff prepare an amendment to them and then have them go for public hearing. Seconded by Ms. Sand and**

carried by unanimous vote. Mr. Irving requested that the Planning Board indicate specific changes and the desired outcome.

**Nomination for Secretary - Motion was made by Ms. Sand to nominate Robert deFeyter.** Mr. Irving reminded the Board that in the recent past there was a postponement of electing officers until they had a full Board present; however, there is nothing to preclude the Board from appointing a Secretary tonight.

**Motion was made by Mr. Waterman to wait until a full Board is present.** Ms. Duane stated due to the attendance of Mr. Bergmann she feels that might be putting it off until sometime in the distant future. Mr. Waterman suggested that being the case, then perhaps Mr. Bergmann should be relieved of his position. Mr. Irving pointed out it is an elected Board, not appointed. Ms. Duane stated we do not have an attendance policy, the RSA covers removal of a member, but has nothing to do with attendance. Mr. Irving offered to research that, but could not give an opinion on that this evening. **Motion was made by Mr. Briggs that a Secretary be appointed until such time as a full Board can be present. Seconded by Mr. Webster. The motion carried with five votes in the affirmative and Ms. Sand voting in the negative.**

Mr. Irving suggested to simplify the issue that the Board either find a second to Mr. Waterman's motion, or have someone make a motion nominating someone to the position. There was no second to Mr. Waterman's motion. **Motion was made by Ms. Sand to nominate Robert deFeyter as Secretary. Seconded by Mr. Briggs.** Ms. Sand explained that Mr. deFeyter is an active member of this Board so if he were to sign plans she would feel sure they are done right. **The motion carried with five votes in the affirmative and Mr. Frank voting in the negative.**

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Other Business:

**Dunkin' Donuts Conceptual Plan - Burr Phillips of H.E. Bergeron Engineers** appeared before the Board. Ms. Duane noted there is a Dunkin' Donuts in Meredith which is a terrific example of an attractive New England style Dunkin' Donuts which has incorporated some excellent things that would fit well within our ordinance and has a unique way of addressing the issue of roof top mechanicals. Mr. Phillips said he has discussed this with the owner, who is looking at many different options. Ms. Duane stated it seems to fit the closest to our ordinance. It was noted that particular building has clapboard siding, gable roof, mechanicals are "slid into the end" and you do not see them.

Mr. Phillips noted with the present North Conway site there is almost no green space in the front. The building is going to be razed and replaced with a new building which has a drive thru and additional green space. Mr. Phillips stated they have put the main entrance on Village Way to funnel all the traffic out of one intersection. Mr. Irving commented they are proposing to continue the sidewalks along the northern side of Village Way, and then between the property line and sidewalk is to be a grassed in area. It

ould require the authority of the Town to make any modifications to the right of way. Mr. Phillips said the curb line is the same width of pavement.

Ms. Duane pointed out because of the size of this lot there will be a substantial number of waivers required. Mr. Phillips said the biggest one is parking and pavement in the buffers - it is an improvement over what is there, but does not meet current regulations. Along Village Way there are three entrances and currently only one is allowed.

Minor waiver - Mr. Phillips noted some of the pavement flares are not 25' where the parking stalls are. There would be more lawn out front. He noted there were originally 18 parking spaces, now have 16, which would be adequate. Mr. Phillips reported he met with DOT regarding the driveway permit - they thought it was great and have no qualms about. Mr. Phillips stated they are planning to put in the 17 trees, which will be difficult. Ms. Duane advised the Board's goal is to bring back canopy trees - it would work with the ordinance, and in the future make it look a lot nicer. Mr. Phillips noted they have not yet detailed lighting.

Mr. Irving stated this is a terrific opportunity for the Board to find a way to take a substandard site that is not so attractive, and turn it into still a substandard site; however, nearer to the intent of the Masterplan and ordinances regarding character and development. He acknowledged there are some safety issues and some issues regarding waivers, but should consider whether there is a public benefit to entertain this type of development for the enhanced site versus a site that is pristine. Mr. Irving asked that the Board take into consideration not only the waivers they are giving, but what they are getting in return for them.

Ms. Duane acknowledged there are a number of waivers needed, but even though it is still not in compliance, it is a prettier non conforming lot and she would like to see it come forward. Mr. Waterman said he feels the same way. Mr. Frank said his main concern would be in setting precedent for other type projects that could be non conforming. Ms. Duane said they would have to question whether they conform to everything in our ordinances. She stated "We are not selling out." Mr. Frank agreed it is an improvement and thought the applicant should do everything they can to make sure that the architectural design is as desirable as possible. He encouraged the applicant to take a look at the one in Meredith.

Ms. Sand said she sees a lot of very positive things, i.e. ingress and egress are on Village Way which is no longer a through way. She said her concern is to make sure we get a good architectural building and as many trees as possible. Ms. Sand suggested talking to abutters to see if they have any suggestions, especially since they are talking about adding a drive thru. Mr. Phillips noted they will need a small retaining wall along Willow Place property.

Mr. Briggs felt a lot of the waivers are feasible, especially if they are improvements, also it would be nice to go along with taking a look at the one in Meredith, that waivers would be a lot more acceptable if we had an attractive building to go along with it. Mr. Webster felt the applicant should work with Town staff, noting he is not a big fan of waivers, but this Board works well and will work with the applicant when the application comes in.

Mr. Irving stated in regard to precedence of waivers, the waivers that are granted are intended to be site plan specific and based on the merits of individual cases, a certain waiver being given would only be applied if they were in identical situations.

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**Humane Society - Plan Signing** - Mr. Irving stated the requirements have been satisfied for at least two weeks. The plans were duly signed.

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**Ohlson Property/Post Office - Request for Concurrent Site Plan & Subdivision Review** - Mark Ohlson appeared before the Board requesting that the Board consider the site plan and subdivision plans for the proposed Post Office behind Acorn Laundromat concurrently, noting it is by Statute a 2-unit subdivision. Mr. Irving stated that decision is up to the Board; however, it takes less time for staff to deal with them simultaneously. He would be in favor of concurrent subdivision and site plan application.

**Motion was made by Mr. Briggs, seconded by Ms. Sand that the Planning Board deal with the site plan and subdivision review for the new Post Office at the Ohlson property concurrently. The motion carried by unanimous vote.**

Mr. Briggs reported this has been through the Conservation Commission and Wetlands Board and did require some shuffling of wetlands. Mr. Ohlson stated it has been moved many times. Conservation Commission has been satisfied and, hopefully, they have now satisfied the State. Mr. Irving reported they have received a special exception to fill in the wetland from the ZBA.

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Mr. Irving provided information on proposed amendments for the ordinances which the Board will be considering at a workshop, explaining some are minor amendments which will help to avoid a few waivers in the future, some deal with deficiencies in the ordinance. He noted the Selectmen have asked to resolve the trailer issue, for instance. These are suggestions for the Board's consideration.

At 8:35 p.m. motion was made, seconded and carried to adjourn the meeting.

Respectfully submitted,  
*Gail T. Currier*  
Gail T. Currier, Acting Recording Secretary