

CONWAY PLANNING BOARD

MINUTES/WORK SESSION

JULY 20, 2000

A meeting of the Conway Planning Board was held on Thursday, July 20, 2000, beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Selectmen's Representative, Gary Webster; Vice Chair, Stacy Sand; Robert deFeyter; John Waterman; Conrad Briggs; Alternate, Martin Frank; Planning Director, Thomas Irving; Zoning Officer, Sandy Stowell; and Recording Secretary, Holly Meserve.

ORDINANCE DEFICIENCIES

Definitions: Mr. Irving reviewed memo #1. Mr. deFeyter stated according to a State Supreme Court ruling when something is not in the Town ordinances we should look at the plain and ordinary meaning of the word in the dictionary. Mr. Frank asked if we should specify a dictionary. Mr. Irving stated that he would recommend Black's Law Dictionary. Mr. deFeyter stated that Black's Law Dictionary does not cover the plain and ordinary meaning, but the legal definition. Mr. Briggs stated if the Court can use the word dictionary we should be able to use the word dictionary. Mr. Irving stated that we do not need to formalize a dictionary. Mr. deFeyter stated that we should add the court decision to the memo. The Board agreed.

§123 Article V, Figure Three: Mr. Irving reviewed memo #2. After a brief discussion, the Board agreed that it should read, **ARTICLE V: ATTACHMENTS**. The Board also agreed that this does not require a public hearing.

§ 123, Article V, Figure Three...Scales: Mr. Irving reviewed memo #3. After a brief discussion, the Board agreed to change it to the following, "Scale of **at least 1' = 40' or larger (e.g. 1''=30'; 1''=20' etc.)**". The Board also agreed that this change would require a public hearing.

Newspaper Notice Fee: Mr. Irving reviewed memo #4. Ms. Meserve stated that there was a public hearing approximately three years ago to change the fees and she believes the newspaper fee was one that was changed. The Board agreed that it should be checked to see if it was changed three years ago and also if \$30.00 will still cover the cost of noticing it in the newspaper.

Mr. deFeyter stated that we should review the fees all together as they should reflect what it costs to provide service. **Mr. deFeyter made a motion that the Board favors the staff doing a review of fees and the cost of the Planning Board process.** Ms. Sand stated that she thinks that is administrative. Mr. Briggs stated that he would rather have staff tackle more important issues. **There was no second.**

§123-21.F. reference to 131-67.C. (9): Mr. Irving reviewed memo #5. The Board agreed with the change and thought that it was administrative and did not need a public hearing.

§123-40.2. Plat Notes Required: The Board agreed with the change and thought that it was administrative and did not need a public hearing.

§123-4 Applicability: Mr. Irving reviewed memo #7. Mr. deFeyter stated that he has a problem with this. Mr. Frank asked if we really want to make this blanket exemption. Mr. deFeyter stated that the zone we have is residential/agricultural. Mr. deFeyter stated that we do not have any zoning restrictions in this zone for houses. Mr. Frank asked what do we do now. Mr. deFeyter answered nothing.

Ms. Sand stated that State touches upon aspects of agricultural. Mr. Irving read from a technical bulletin (attached). Mr. Irving stated that we could deal with them under a conceptual review instead of a site plan review. Mr. deFeyter stated that the State definition is so broad it is beyond what people think of as agricultural. Ms. Sand stated that we might run into legal problems if it is restricted. Ms. Sand stated that

**Adopted: August 10, 2000 – As Amended
CONWAY PLANNING BOARD – JULY 20, 2000**

this is a legally accepted State definition. Ms. Sand stated that you need the acreage to make it work. Ms. Sand stated what our ordinance says is that we cannot contradict the RSA.

Mr. deFeyter stated that we define what agricultural is. Ms. Sand stated that it is not exclusive of this. Ms. Duane asked where does the Board want to go with this. Ms. Duane asked how many want to go with the RSA (green book) book definition. Ms. Duane and Ms. Sand agreed. Mr. Webster stated that he is more concerned with commercial enterprises taking advantage then having a mom and pop operation. Mr. deFeyter stated that a greenhouse would fall under this definition. Mr. deFeyter stated that there is no mention of land.

Mr. Frank stated on a commercial level the way of farming is changing. Mr. Frank stated as technology increases he wonders if we should set aside and incorporate in the Master Plan and look at the whole ordinance. Mr. Frank asked what is meant by agricultural. Mr. deFeyter stated that they could have some activities that would require site plan. Mr. deFeyter stated that we should narrow the definition or drop it all together. Mr. deFeyter made a motion, seconded by Mr. Frank, to adopt 123-4.A. (3) as amended. Motion carried with Ms. Sand voting in the negative.

Trailers: Mr. Irving reviewed memo #8. Ms. Sand stated that she does not think it should be restricted to the proposed language. Ms. Sand stated if you have an unloading area on the plans it is a spot that is designated. Mr. Waterman asked about duration. Mr. deFeyter asked Ms. Stowell if she has ever cited anyone for having a trailer in a loading space. Ms. Stowell answered in the negative. Mr. deFeyter asked if any have been registered and inspected. Ms. Stowell stated that some of them were and some of them were not. Mr. deFeyter asked if they were in a loading area. Ms. Stowell stated that they are now being used as a building.

Ms. Duane stated that some of them are used as part of their business and they are trying to get away with skirting the ordinance for site plan review. Mr. Irving asked in the Town of Conway is the Town willing to permit the use of trailers for storage. Mr. Webster asked at what point in time does it become storage as we are dealing with a lot of grounded containers. Mr. Irving stated that we would treat them as any other outdoor storage. Mr. Irving stated that they must be in an approved area and to protect the abutters there would be a fence and buffered. Mr. Irving stated that it would give us the flexibility to permit and control.

Mr. Waterman asked how it would affect the tax code. Mr. Irving stated that they could be taxed. Mr. Waterman asked if they are being taxed now. Ms. Stowell answered in the negative. Mr. deFeyter stated that there was a court decision to allow taxing of these trailers in 1999 and the Town has just started to pick them up. Mr. deFeyter stated if the trailer is registered then it is not intended to stay stationary and would not be taxed. Mr. Irving asked if we are going to permit them and, if so, how will we control them. Mr. Irving stated that we do not permit them now, but we have no mechanism to control them.

Mr. Irving stated that trailers are being used for extended periods of time outside of the loading areas. Mr. Irving stated that they are not to occupy parking spaces, green space or travel aisles. Mr. Irving stated that there should be a requirement for a buffer to protect the neighbor from an obnoxious use. Ms. Sand stated that they have been moving them and there are other options. Mr. deFeyter stated that he is disappointed with the Board of Selectmen discussion, as they cannot opt to not enforce an ordinance. Mr. deFeyter stated that the issue is not when the trailers are parked in a designated loading zone. Mr. Irving stated that we need to specify what is allowed and not allowed.

Mr. deFeyter stated that if it does not say you can have a trailer then you couldn't have a trailer. Mr. deFeyter stated that it is permissive and it does not give you the right to put it in. Ms. Duane stated that we have been asked to spell it out so we can enforce it. Ms. Duane stated as it stands right now the only trailers allowed are those in designated areas. Ms. Duane stated that we should have a public hearing and see if the Town wants to go any further with this. Mr. Waterman asked if we have looked at other municipalities. Mr. Irving stated that the Office of State Planning has most of the ordinances from the State of New Hampshire on CD-ROM and when he did a search on trailers only one community came up which was Keene.

**Adopted: August 10, 2000 – As Amended
CONWAY PLANNING BOARD – JULY 20, 2000**

Mr. Frank stated that Mr. deFeyter makes a point that it is being interpreted that it is not permitted. Mr. Webster stated that most that were cited do not have loading docks, as they are truckers. Mr. Webster stated that there are policies that they need to begin, but the ones that received the letter were truckers. Mr. Webster stated until we define them we are not going to cite anyone. Mr. Frank asked if they were all registered. Mr. Webster answered in the affirmative. Ms. Stowell stated with the trucking companies they have trucks coming and out, but some are being used for storage and are there all the time.

Ms. Sand stated that the zoning officer should not have to keep an eye on if that is the same trailer. Mr. Frank stated that that brings us to option 2. **Mr. Frank made a motion to use option 2 with the added language.** Mr. Irving stated that the only place to obtain an approved area is through site plan. Mr. deFeyter stated that you can only have trailers currently, except for travel and mobile trailers, in designated areas that have an approved site plan. **Mr. Frank withdrew his motion.**

Mr. Irving stated that currently the board finds that the use of trailers for goods and materials is not a permitted use unless it is in an approved area by site plan approval. Mr. deFeyter made a motion, seconded by Ms. Sand, a motion that the Conway Planning Board has determined that trailers are not permitted anywhere with the exception of mobile homes, travel trailers and others, except in designated areas. Mr. Webster stated that we should add the word container. Motion unanimously carried. Mr. Frank made a motion, seconded by Mr. Briggs, to go with option 2 (Article 147-10.1.D.) and have Town Counsel review. Motion unanimously carried. Mr. Irving stated that we have to determine what is an approved area.

§147-19.D. (1)(b): Mr. Irving reviewed memo #9. Dot Seybold appeared before the Board. Ms. Seybold stated that when there are multiple entrances, two entrances, each entrance should be allowed a sign. Ms. Seybold stated that this has never been an issue, but it came up with Reebok and Rockport. Mr. deFeyter stated that the previous building inspector told him that there are firewalls between stores so they are considered separate buildings. Ms. Seybold stated that she did not know about that, but tenants do value their wall space. Ms. Sand made a motion, seconded by Mr. Briggs, to submit the change to the Town Counsel and then post to a public hearing. Motion carried with Mr. deFeyter voting in the negative and Mr. Waterman and Mr. Frank abstaining from voting.

OTHER BUSINESS

Citizen Design Review Committee: Mr. deFeyter stated that they are seeking to use the local North/South road to move traffic from Wal*Mart to North Conway Village. Mr. deFeyter stated that the environmental impact statement shows and what we come up with in the Master Plan in 1999 is that this is supposed to be a circular road.

Meeting adjourned at 9:30 a.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary