

CONWAY PLANNING BOARD

MINUTES

OCTOBER 12, 2000

A meeting of the Conway Planning Board was held on Thursday, October 12, 2000, beginning at 7:05 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; Secretary, Conrad Briggs; Robert deFeyter; John Waterman; Arthur Bergmann; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve. (Alternate Martin Frank was in the audience).

REVIEW AND ACCEPTANCE OF MINUTES

The Minutes of September 28, 2000, should be amended as follows: page 2, paragraph 1, line 4, should be added, "...in the district". Mr. deFeyter stated that "...in the district..." should mean that structures in the district are limited to 5,000 square feet, but if the structure extends outside the district, the size restriction (if any) of the adjoining district would apply to the portion of the structure in the other district. Mr. Waterman..."

Ms. Sand made a motion, seconded by Mr. Briggs, to approve the Minutes of September 28, 2000, as amended. Motion carried with Mr. Bergmann abstaining from voting and Mr. Briggs not voting.

FRONTIER VISION OPERATING PARTNERS L.P. d/b/a ADELPHIA COMMUNICATIONS – FULL SITE PLAN REVIEW CONTINUED (1999 TAX MAP 252, PARCEL 6/OLD TAX MAP 55, PARCEL 5) FILE #FR00-15

Mr. Irving stated that the he had not received any new information from the applicant at the time of the memo, however, the applicant was not able to obtain any information from the State or PSNH. Mr. Irving stated that the applicant has done the best that can be done. Mr. Irving stated that it is up to the Board if they wish to review the application tonight.

Mr. deFeyter stated that we should review the application so we can give the applicant some direction. Ms. Sand agreed. Mr. Waterman disagreed and stated that the application should be continued. Mr. Bergmann stated that he agrees with Mr. Waterman. Ms. Sand stated that this is a new district and there are some specific issues we are dealing with and she would like to hear from the applicant. Mr. Briggs stated that he would agree with Ms. Sand. Mr. Webster stated we should hear from the applicant, but the comments should remain brief.

Doug Burnell of H.E. Bergeron Civil Engineers; and Rodney King of Adelpia Communications appeared before the Board. Mr. Irving stated that the concerns were with the parking lot and the NHDOT right-of-way. Mr. Irving stated that the applicant has requested a waiver for a reduced buffer. Mr. Burnell stated that he did follow-up with the State to obtain a better design, but the State feels the right-of-way is solid and the design is pretty close. Mr. Burnell stated that this is the best there is.

Mr. Burnell stated that PSNH did not realize they were going to be impacted. Mr. Burnell stated that there is no better information then what has already been submitted. Mr. Burnell stated that the bypass is taking a corner of the property and the applicant has moved things around on the property to get them out of the buffer as much as possible. Mr. Burnell stated that they would be asking for a waiver to reduce the buffer to thirty feet. Mr. Burnell showed computer-generated views of the site from the bypass with or without vegetation.

Ms. Duane asked if there was any information regarding the parking lot location. Mr. Burnell stated that there are not many records on the parking lot. Mr. Irving stated that the town file only showed only the information necessary for the site plan exemption. Mr. Waterman asked if there was any attempt to contact neighbors. Mr. Burnell answered in the negative. Mr. Bergmann asked how long would it take the trees to

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cover the site from the bypass. Mr. deFeyter stated that the Board could require larger trees. Mr. King stated that they also have to keep a clearance for the satellite dishes. Ms. Duane stated that they have the PSNH easement as well as the nature of the business. Mr. Irving stated that it would be some time until the trees are large enough to do their job. Mr. Burnell stated that there is also some time before the bypass will be constructed. Mr. King stated if we don't do anything you would see the site from the bypass.

Mr. deFeyter stated that he could not find any building permits for the antennas and the satellite dishes. Mr. King stated if this were residential you wouldn't need a building permit for an antenna or a satellite dish. Mr. Bergmann stated that this is a business. Mr. King stated that they asked the town if a building permit was necessary when they were erecting the antennas and the satellite dishes and they told us it wasn't necessary.

Mr. Irving asked if they met the maximum lot coverage. Mr. Burnell answered in the affirmative. Mr. deFeyter stated that we should review planting more mature trees to speed up the process. Mr. deFeyter stated that there are a couple of lights at the back of the building that need to be shielded from the view of the bypass. Mr. Burnell agreed to review the lights. **Ms. Sand made a motion, seconded by Mr. Webster, to continue the full site plan review for Adelphia Communications until October 26, 2000. Motion unanimously carried.**

ROGER JONES – FULL SITE PLAN REVIEW CONTINUED (1999 TAX MAP 252, PARCEL 12/OLD TAX MAP 57, PARCEL 5) FILE #FR00-16

Edgar Allen of Thaddeus Thorne Surveys appeared before the Board. Mr. Irving stated that the applicant meets the maximum lot coverage. Mr. Irving stated that the applicant is providing 25 parking spaces and requesting a waiver for the remainder of the required parking spaces. Mr. Irving stated that there is a note on the plan regarding the connecting drive. Mr. Irving stated that there is a note on the plan regarding the height of the lighting. Mr. Irving stated that the pitch of the roof has been added to sheet A2. Mr. Irving stated that the Board should review the proposed location of the display area. After a brief discussion, the board agreed that the display area should be removed from the plans.

Mr. Irving stated that the Town engineer should review the drainage plan. Ms. Duane read a waiver request for Article 123-22.A. Ms. Duane read the requirements to grant a waiver. **Ms. Sand made a motion, seconded by Mr. deFeyter, to grant the waiver for Article 123-22.A. Motion unanimously carried.** The Board had a brief discussion regarding continuing the application or granting a conditional approval. **Mr. Bergmann made a motion, seconded by Mr. Webster, to continue the application of Roger Jones until October 26, 2000. Motion was defeated with Ms. Duane, Ms. Sand, Mr. Briggs, Mr. deFeyter, and Mr. Waterman voting in the negative and Mr. Webster and Mr. Bergmann voting in the affirmative.**

Ms. Sand made a motion, seconded by Mr. Briggs, to conditionally approve the application for Roger Jones conditionally upon removing the outdoor display area from the plans; the town engineer approval for drainage; adding the granted waivers to the plans; a performance bond for 50% of all site improvements; when the conditions have been met, the plans must be signed in-session; and this conditional approval will expire November 9, 2000. Motion carried with Mr. Bergmann voting in the negative. Ms. Duane asked for public comment; there was none.

OTHER BUSINESS

James, Sr., Barbara, James, Jr., and A. Chad Hill – Edgewater Investment/File #S97-10 - Conditional Approval: Mark Lucy of White Mountain Survey appeared before the Board on behalf of Edgewater Investment. Mr. Lucy stated on October 30, 1997 the Hill Family received a conditional approval for a 21-lot subdivision. Mr. Lucy stated that there were five conditions that needed to be met. Mr. Lucy stated that four have been met and there is a question if the fifth condition regarding rescinding the 1992 approval needs to be met.

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Mr. Irving read a letter from Town Attorney, Peter Malia. Ms. Duane asked if the Board feels that the new 1997 application would supersede the 1992 application, therefore, a formal withdrawal of the 1992 application is not necessary. Ms. Sand asked if the 1992 approval has a time limit. Mr. Irving stated that the 1992 approval has merit, but would it would be subject to any changes to the ordinance. Mr. deFeyter asked if the 1992 application was still valid. Mr. Irving answered possibly, but it would need to be reviewed. Ms. Duane asked if the Board wants a formal withdrawal. Mr. deFeyter stated that the Board should follow the advice of the Town Attorney. Ms. Sand agreed. Mr. Bergmann stated that we have had a similar situation before. Mr. Waterman, Mr. Briggs and Mr. Webster agreed with Mr. deFeyter.

After a brief discussion regarding extending the conditional approval, Mr. Briggs made a motion, seconded by Mr. Webster, to have Mr. Irving speak to the Town Attorney to see if the Board can extend a conditional approval and how an application needs to be rescinded. Motion unanimously carried.

Proposed amendment to Article 147-19.D.(1): Mr. Irving stated that Dot Seybold submitted this change to the Board and he asked if the Board wishes to put this forward for a public hearing. Mr. Irving stated that this will allow more signs. Ms. Sand stated that we should give the public the opportunity to respond. Mr. Duane, Ms. Sand, Mr. Webster, Mr. Briggs, and Mr. Waterman agreed that it should be put to a public hearing. Mr. deFeyter and Mr. Bergmann disagreed to putting the proposed amendment to a public hearing.

Proposed amendment to Article 147-10.1.: Mr. Irving stated that the proposed amendment does not create a grand fathered status. Mr. Irving stated that the amendment provides clarification. Mr. Webster stated that some people that were cited have never had a site plan review. Mr. Irving stated that they would not gain grand fathered status. **Ms. Sand made a motion, seconded by Mr. Webster, to put Article 147-10.1. to a public hearing. Motion unanimously carried.**

Sexually Oriented Business: Mr. Irving stated that he reviewed the areas that a sexually oriented business could locate if using the same ordinance proposed last year, but allowing it to be located in the entire business district. Mr. Irving presented a map of the Town showing where these businesses could locate. Ms. Duane asked if the Board wants Mr. Irving to continue with the review of this ordinance. The Board unanimously agreed to continue with the review.

Workshop: A workshop was tentatively scheduled for November 30, 2000.

Amendment to Article 147-25.A.(3).(b).: The Board agreed that it is a scrivener's error and should just be changed.

Proposed amendment to Article 123-24.: Mr. Irving stated that this amendment will make this Article consistent with the trailer article the Board wishes to take to a public hearing. Mr. Webster stated that no one meets this. Ms. Duane stated if the trailer is in a loading dock than it is not in violation. Mr. Irving stated that this will help regulate the trailers being used as containers. **Ms. Sand made a motion, seconded by Mr. Bergmann, to put Article 123-24. to a public hearing. Motion unanimously carried.**

Staff Reviews: Mr. Irving stated that staff reviews don't really afford the applicant any relief of a minor review. Mr. Irving stated that the only difference is that is before the staff and not the Planning Board. Mr. Irving stated if the applicant satisfies all the requirements then a review by the Board would not be applicable, but if they cannot satisfy the requirements then it would have to be reviewed by the Board. Mr. Irving stated that the relief to the applicant would be cost. Mr. Irving asked if this is the appropriate way to go. Mr. Irving stated staff cannot grant or reaffirm waivers.

Mr. Bergmann stated that he does not think the Board should deal with this until the Planning Board meets with the Board of Selectmen. Ms. Sand stated that there are not many applications that have come before us that wouldn't have required a site plan review by the Board. Ms. Sand stated that we need to define intensity of use. Mr. Irving stated that the Board of Selectmen have requested a joint meeting with the Planning Board on October 26, 2000 at 5:00 p.m. Mr. deFeyter stated that the Board should discuss this before they meet with the Board of Selectmen. Mr. Irving stated that this is to clarify and make Chapter 88

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and Chapter 123 consistent. After a brief discussion, the Board agreed to meet with the Board of Selectmen, but at 6:00 p.m.

Letter from Conway Police Chief: Mr. Irving read a letter from Chief Robert Mullen in regard to the Route 16 curb cuts and businesses having access onto Town road. Mr. Irving stated that we cannot require stop signs, but we can suggest applicants put them up. The Board agreed that they will consider this during site plan reviews and asked Mr. Irving to send a letter back to the Chief.

Radius: Mr. Irving stated that he asked the Town engineer about how the radius requirement was determined. Mr. Irving stated that it was a number in which to start from. Mr. Irving stated that the Town Engineer believes the requirement is adequate and each driveway is looked at on a case-by-case basis.

Poopsy Investments/99 Restaurant (1999 Tax Map 235, Parcel 19/Old Tax Map 64, Parcel 1-2) File #MR00-13 – Reconsider Approval: Mr. Bergmann asked the Board to reconsider their decision on the 99 Restaurant. Ms. Duane stated that the Board made a decision and Mr. Bergmann was not at that meeting. **Mr. Bergmann made a motion, seconded by Mr. deFeyter, to reconsider the approval of Poopsy Investments. Motion was defeated with Ms. Duane, Ms. Sand, Mr. Webster, Mr. Briggs and Mr. Waterman voting in the negative and Mr. deFeyter and Mr. Bergmann voting in the affirmative.**

Meeting adjourned at 9:55 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary