

CONWAY PLANNING BOARD

MINUTES

NOVEMBER 8, 2001

A meeting of the Conway Planning Board was held on Thursday, November 8, 2001 beginning at 7:05 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Selectmen's Representative, Dick O'Brien; Robert Drinkhall; Brian Glynn; Martha Tobin; David Robinson; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Drinkhall made a motion, seconded by Mr. O'Brien to approve the Minutes of October 25, 2001, as written. Motion unanimously carried.

RIVER RUN COMPANY – FULL SITE PLAN REVIEW CONTINUED (PID 218-51, 51.01 & 52) FILE #FR01-04

Ms. Duane stated that the applicant has requested a continuance of this application until December 13, 2001. **Mr. O'Brien made a motion, seconded by Ms. Tobin, to continue the application for River Run Company until December 13, 2001. Motion unanimously carried.**

THOMAS FADDEN/VICKI GRAVES – 4-LOT SUBDIVISION CONTINUED (PID 255-5.1) FILE #S01-12

Ms. Duane stated that the applicant has requested a continuance of the application until December 13, 2001. **Mr. O'Brien made a motion, seconded by Mr. Drinkhall, to continue the application of Thomas Fadden/Vicki Graves until December 13, 2001. Motion unanimously carried.**

PHILLIP AND SHIRLEY ALCOTT/SCHOONER FARE – MINOR SITE PLAN REVIEW (PID 218-113) FILE #MR01-13

Susan Bissen appeared before the Board. Ms. Duane stated that a total of fourteen (14) seats are proposed and asked if what is proposed is already there. Ms. Bissen answered in the affirmative. Ms. Duane asked if the applicant would be willing to just have the bistro tables. Ms. Bissen stated that the picnic table is so large groups can sit together.

Mr. Glynn made a motion, seconded by Mr. O'Brien, to accept the application of Phillip and Shirley Alcott/Schooner Fare for a minor site plan review as complete. Motion unanimously carried.

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Mr. Irving reviewed the staff report. Mr. Irving stated that there is ten (10) outdoor seats for the exclusive use of the restaurant with the benches being on a first come first serve basis. Mr. Irving stated that there are also a few tables that are not policed and not considered a part of the outdoor seating. Ms. Duane stated that she is concerned with the type of seating and the bistro tables are more charming. Ms. Bissen stated that there is a platform and she would be concerned with them possibly going over the edge.

Mr. Robinson asked if any of the tables were on the public sidewalk. Ms. Bissen answered in the negative. Mr. Robinson stated that he is concerned with the one table close to the door. Mr. Robinson stated that he does not see a wheelchair being able to get up there. Mr. Robinson asked if they could put items in the public right-of-way. Mr. Irving stated that the applicant has no privilege to put anything in the public right-of-way. Mr. Robinson stated that he has a concern with the clearance on the corner. Ms. Tobin asked if the applicant is required to meet ADA. Mr. Irving answered in the affirmative and the applicant has a note on the plan to that effect.

Ms. Duane stated that she still would rather see the bistro tables on the patio. Ms. Bissen stated that there are usually more than three members in a family that is why the picnic table is nice. Mr. Glynn stated if the benches along the side are removed you could have more tables. Ms. Bissen stated that she would love to have more tables, but she cannot see them to police them from inside, plus she doesn't want to police them.

Ms. Duane stated that she wants to make it more visually pleasing for the village. Ms. Duane stated that the bistro tables would be more visually pleasing, as the picnic table just doesn't fit in. Ms. Bissen asked if the picnic table would be nicer painted, as she is concerned with the legs of the chairs going off the edge. Ms. Bissen stated that she has received good responses on the picnic table from families.

Ms. Duane asked whose property are the park benches on. Mr. Irving stated that the benches are very close to the property line and probably goes over the property line. Ms. Duane stated that she still does not know which seats are being approved as the ten (10) outdoor seats. Ms. Bissen stated that the ten (10) seats would be on the raised patio.

Mr. Irving stated if you add the additional five (5) seats that are not policed by the applicant the only thing to change would be the parking waiver request. Ms. Duane stated that she is uncomfortable approving the ten (10) seats out front without counting the seats around the corner. Ms. Duane stated that she would rather see no table around the corner and the ten seats on the patio. Ms. Bissen asked if she could move the other table to in front of the patio and on her property.

Mr. Irving stated that it appears the Board would like to see the ten seats on the patio, the benches remain and the table around the corner be removed. Ms. Bissen asked the benefit of removing the table and asked if it could be added to the site plan. Mr. Irving stated that the only thing affected is the parking, which the waiver can be amended. Ms. Duane stated that she would like to look at the site again to see if it will fit. Ms. Tobin

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asked if the table is not policed then why not remove it. Ms. Bissen stated because it is there and available to the public.

Mr. Irving asked if ten seats are efficient. Ms. Bissen answered in the affirmative. Mr. Irving asked if the applicant would continue with the ten seats. Ms. Bissen answered in the affirmative. Ms. Bissen stated that she would remove the one table.

Ms. Duane read the waiver requests for Articles 123-20.G, 123-21, 123-23, 123-24, 123-27, 123-29.A.2, 123-29.B., and 123-29.D. Ms. Duane asked for board comments; there was none. **Mr. O'Brien made a motion, seconded by Mr. Drinkhall, to approve the waiver requests for Articles 123-20.G, 123-21, 123-23, 123-24, 123-27, 123-29.A.2, 123-29.B., and 123-29.D.** Ms. Duane asked for public comment; there was none. Ms. Duane asked for board comments; there was none. **Motion carried with Mr. Robinson voting in the negative.**

Mr. O'Brien made a motion, seconded by Mr. Drinkhall, to approve the minor site plan for Phillip and Shirley Alcott/Schooner Fare for ten seats outside for a total of fourteen restaurant seats. Motion carried with Mr. Glynn abstaining from voting.

**HARDWARE REALTY TRUST – MINOR SITE PLAN REVIEW (PID 219-48)
FILE #MR01-14**

Faye Melendy, applicant's Attorney, and William Bennett, applicant, appeared before the Board. Ms. Melendy stated that the applicant would like to increase the interior seats from 18 to 24. Ms. Melendy stated that there are no changes to the exterior. **Mr. Glynn made a motion, seconded by Mr. O'Brien, to accept the application of Hardware Realty Trust for a minor site plan review as complete. Motion unanimously carried.**

Mr. Irving stated that the Board needs to reaffirm the waivers. Mr. Irving stated that the parking waiver is for an additional two spaces. Ms. Duane asked for comments from the Board; there was none. Ms. Duane read the waiver requests for Articles 123-20.F.; 123-21.A & E.; 123-29.A-D.; and 123, Article V. **Mr. Glynn made a motion, seconded by Mr. O'Brien, to grant the waiver requests for Articles 123-20.F.; 123-21.A & E.; 123-29.A-D.; and 123, Article V.** Ms. Duane asked for Board comments; there was none. Ms. Duane asked for public comments; there was none. **Motion unanimously carried.**

Mr. O'Brien made a motion, seconded by Mr. Glynn, to approve the application for Hardware Realty Trust. Motion unanimously carried. The plans were signed.

RUNABOUT BAY – SUBDIVISION/LOT CONSOLIDATION REVIEW (PID 268-162.1, 162.2 & 162.3) FILE #S01-13

Mark Lucy of White Mountain Survey appeared before the Board. Mr. Lucy stated that they are consolidating three lots into two lots and a boundary line adjustment with the Town. **Mr. Glynn made a motion, seconded by Ms. Tobin, to accept the application**

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for Runabout for a Subdivision/Lot Consolidation Review as complete. Motion unanimously carried.

Mr. Irving reviewed the staff report. Mr. Irving stated that the Town of Conway is willing to take the portion of land that the applicant is giving to the Town, however, the Town gives no merits to the application. Mr. Irving stated that the Town does not endorse or have any concern with the application. Mr. Irving stated that the Town would leave it to the Board to grant or deny the application.

Mr. Irving stated that there is a concern regarding Article 131-30.F., the 3:1 ratio. Mr. Irving stated that given the odd shape of the lots, there are many ways to measure the 3:1 ratio. Mr. Irving stated neither lot seems to satisfy that requirement and the Board may want to consider a waiver. Mr. Lucy stated that he feels that Mr. Irving is interpreting the ordinance incorrectly. Mr. Lucy stated that Article 131-30.A. establishes that the width is something other than the depth. Mr. Lucy stated that lot 1 is 0.3:1 and lot 2 is 5:1, but taken together it is 2.7:1, which meets the requirements of Article 131-30.E.

Ms. Duane asked what is the purpose of the 3:1 ratio. Mr. Irving stated it is so we don't end up with deep, narrow lots. Ms. Duane asked if the lots could be further subdivided. Mr. Irving stated that lot 1 may be able to be subdivided again. Mr. Lucy stated that the slopes wouldn't allow it to be subdivided again. Mr. Irving stated that they could go for a unit subdivision.

Ms. Duane asked if the Board should require a waiver for the 3:1 ratio. Mr. Lucy stated that he has no problem with requesting a waiver for the 3:1 ratio. Mr. Glynn asked if there are any changes to the original subdivision. Mr. Lucy answered in the negative. Mr. Glynn asked if the lake frontage changed. Mr. Lucy stated that the Hill's have paid taxes on this property for three generations and this is cleaning up an issue.

Ms. Duane asked for public comment; Nancy Earle stated that it is strange to make a line in front of someone else's house so you don't own the land directly in front of you. Mrs. Earle stated if this configuration was on the original subdivision does the Board think it would have been approved. Mr. Lucy asked for a clarification of standing for Mrs. Earle. Ms. Duane asked Mrs. Earle's relationship to the application. Ms. Earle stated that she is the president of the Walker's Pond Association, which is the lake. Ms. Earle stated that they watch over the development on the lake.

Mr. Lucy stated that they watch the water quality of the lake. Mr. Lucy stated that the applicant is taking three lots and consolidating them into two. Mr. Lucy stated that they are decreasing the density. Ms. Duane asked what is the main concern.

Harold Fisher stated that they are interested in the development on the lake and that the lake is preserved. Mr. Fisher stated that Conway Lake is very special and they are concerned with the density. Mr. Fisher stated that they are also concerned with allowing more docks because there are now two lots with water frontage instead of one lot. Mr.

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Irving stated that the water frontage might have been qualified for two docks even though it was only one lot of record.

Robert Paul stated that there is more of a concern with the use of the water frontage. Mr. Paul stated that the lot consolidation might lessen the burden on that part of the lake. Ms. Paul stated that two lots would be more desirable than three lots. Mr. Paul stated that they are maintaining or reducing the number of docks.

Dr. Patricia Dick stated that they are concerned with the water quality and the use of the lake. Dr. Dick stated that deep-water moorings are proposed and this would add more traffic from the original plan. Ms. Duane asked if there was anything on moorings for this project. Mr. Irving answered in the negative and stated that it would be with the State. Dr. Dick stated that any reconfiguration that adds to that small portion of the lake would be detrimental.

Mr. Paul stated that the NH legislature is considering restrictions on moorings and that would be the best place to address their concerns. Mrs. Earle stated that they do know about the State moorings, but they are concerned with the land in front of someone else's house. Mrs. Earle stated that they cannot have a path to the lake and this could be a hardship for the owner of the house. Mr. Irving stated that that is correct and stated if the owner of the lot chooses to have a path to the beach they cannot cut on the other persons property unless it is considered for lot 2.

Mr. Glynn stated that he does not think the Board is allowing any more docks. Mr. Paul stated that the Town is being offered water frontage use for no fee. Mr. Lucy stated that there is a 119' feet of frontage for the Town. Mr. Irving stated that the Town is not paying for the land. Mr. Irving stated that the Board of Selectmen have deemed having that property is acceptable and they would take it, but they have no opinion on the application. Ms. Duane asked for any other comments; there was none.

Ms. Duane read the requirements to grant a waiver. Ms. Duane read the waiver requests for Articles 131-30.E.; 131-24.C,E,J,K,N,O,T,U & V; and 131-25.B. & F. There was no motion. Mr. Glynn asked if any of the other lots have frontage for more than one dock. Mr. Irving answered in the negative.

Ms. Duane read the waiver request for Article 131-30.E. Mr. Lucy stated that he researched previous subdivision approvals for the town in regard to the length to width ratio and two applications have been approved without waivers. **Ms. Duane made a motion, seconded by Mr. Drinkhall, to grant the waiver request for Article 131-30.E. Motion was defeated with Ms. Duane voting in the affirmative, Ms. Tobin and Mr. Robinson voting in the negative and Mr. Glynn, Mr. Drinkhall and Mr. O'Brien abstained from voting.**

Mr. Lucy stated the reason for the 3:1 ratio is to not have backs of lots that are useless. Mr. Lucy stated that these lots do not have any useless land. Ms. Tobin stated that the requirements to grant a waiver states "detrimental", plus the configuration is odd. Mr.

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Lucy stated that the regulations states “generally”. Mr. Lucy stated that these lots together do not generally exceed the requirement. Ms. Tobin stated that she misunderstood the waiver and asked for a revote.

Mr. Robinson stated that his reason for denying the waiver is because of the issue of the other property in the neighborhood. Ms. Duane and Mr. Drinkhall removed the motion and second. Mr. Irving asked if they have generally complied with the 3:1 ratio; if they have then there is no need for the waiver; and if not, then the Board needs to readdress the waiver.

Mr. Drinkhall, Ms. Tobin and Mr. Robinson stated that a waiver is necessary. Mr. O’Brien and Ms. Duane stated that they do not need a waiver. Mr. Glynn abstained. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, that the proposed lots do not satisfy the spirit and intent of Article 131-30.E. Motion carried with Mr. O’Brien and Ms. Duane voting in the negative and Mr. Glynn abstaining from voting.**

Ms. Duane read the waiver request for Article 131-30.E. **Ms. Tobin made a motion, seconded by Mr. Drinkhall, to grant the waiver request for Article 131-30. E. Motion carried with Mr. Glynn and Mr. Drinkhall abstaining from voting.**

Mr. Irving stated that the next waiver exclusively deals with the beach lot the Town owns and not the two lots owned by the applicant. Ms. Duane read a waiver request for Article 131-24.C,E,J,K,N,O,T,U & V. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to grant the waiver request for Article 131-24.C,E,J,K,N,O,T,U & V. Motion carried with Mr. Glynn abstaining from voting.** Ms. Duane read the wavier request for Article 131-25.B. & F. **Mr. O’Brien made a motion, seconded by Ms. Tobin, to grant the waiver request for Article 131-25.B. & F. Motion carried with Mr. Glynn abstaining from voting.**

Mr. Irving stated a State Subdivision approval needs to be obtained. **Ms. Tobin made a motion, seconded by Mr. Glynn, to conditionally approve the subdivision/lot consolidation for Runabout Bay conditionally upon adding the granted waivers to the plan; obtaining a State Subdivision Approval; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on December 13, 2001. Motion carried with Mr. Glynn abstaining from voting.**

DONALD AND MARILYN WHITELAW – SUBDIVISION/PHASING PLAN (PID 253-44) FILE #S01-15

Don Whitelaw and Edgar Allen of Thaddeus Thorne Surveys appeared before the Board. Mr. Irving stated that the application is complete. **Mr. Glynn made a motion, seconded by Ms. Tobin, to accept the application of Donald and Marilyn Whitelaw for subdivision/ phasing plan review as complete. Motion unanimously carried.**

Mr. Allen stated that the applicant is requesting the phasing of Marilyn Drive. Mr. Allen reviewed the time frame for completion. Mr. Irving stated that he has received response

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from the Fire Chief and he has no problem with the gate. Mr. Irving asked if the applicant is proposing a gate as there is not one on the plans. Mr. Whitelaw stated that he asked the fire chief if he would have a problem if a gate was to be installed. Mr. Irving stated that the Town doesn't necessarily want a gate. Mr. Whitelaw stated that he wouldn't propose a gate.

Ms. Duane asked for public comment; Evelyn Latham asked what type industrial business would be allowed on the industrial zoned lot. Mr. Irving stated any business allowed in the industrial zone would be allowed to set up on that lot. Mr. Whitelaw stated that they have nothing in the works for that lot at this time. Cecil Latham asked if the road could have been closed off. Mr. Irving answered in the affirmative, but the Town is not in favor because we want two accesses for emergencies.

Mr. O'Brien made a motion, seconded by Mr. Glynn, to conditionally approve the subdivision/phasing plan for Donald and Marilyn Whitelaw conditionally upon adding street names to the plans; surety for road maintenance to the Town Engineers satisfaction; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on December 13, 2001. Motion unanimously carried.

ROGER JONES – MINOR SITE PLAN (PID 252-12) FILE #MR01-15

Shawn Bergeron of Bergeron Technical Services appeared before the Board. Mr. Bergeron stated that the applicant would like to keep the vertical vinyl siding on the sides and back of the building. Mr. Bergeron stated that there was never any intent to try to hood wink the Board. Ms. Duane stated that the applicant also had a stroke three days before the original hearing so he could not be consulted.

Mr. Glynn made a motion, seconded by Mr. O'Brien, to accept the application of Roger Jones for a minor site plan review as complete. Motion unanimously carried. Mr. Irving reviewed the staff report. Ms. Duane read the waiver request for Article 123-30.A.2. **Ms. Tobin made a motion, seconded by Mr. O'Brien, to grant the waiver request for Article 123-30.A.2. Motion carried with Mr. Drinkhall voting in the negative.** There was no public in attendance.

Ms. Tobin made a motion, seconded by Mr. Robinson, to approve the waiver request for Article 123-5.A.5. Motion unanimously carried. Mr. Glynn made a motion, seconded by Mr. O'Brien to approve the minor site plan for Roger Jones. Motion carried with Mr. Drinkhall voting in the negative. Since the Board waived the requirement of plans, there were none to sign.

OTHER BUSINESS

George and Lisa Fadden/Roger and Gloria Gagne – Extension of Conditional approval (PID 254-117.1 & 117.2) File #S01-09: Mr. Drinkhall made a motion, seconded by

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Ms. Tobin, to extend the conditional approval for George and Lisa Fadden/Roger and Gloria Gagne until December 13, 2001. Motion unanimously carried.

Public Hearings: **Mr. O'Brien made a motion, seconded by Ms. Tobin, to post Articles 123-11, 123-47, 131-9 and 131-12 to a public hearing on December 13, 2001. Motion unanimously carried.**

Master Plan Spokesperson/Alternate: It was agreed that Brian Glynn and Sheila Duane would be the Master Plan Spokesperson/Alternate.

Workshops: The Board agreed to the third Thursday of the month for workshops.

Trailers: Mr. Irving stated that it was the interpretation that trailers increase in floor space, therefore, they needed site plan review. Mr. Irving stated that the Board of Selectmen had a problem with the language in the ordinance regarding enforcement so they asked for a clarification. Mr. Irving stated that the Board has three choices: not amend the ordinance, increase the intensity of the use or incorporate new standards. **Mr. Glynn made a motion, seconded by Ms. Tobin, to have Mr. Irving draft an amendment for storage trailers. Motion unanimously carried.**

Rock Development (PID 235-78): Ms. Duane stated that the Rock Development has requested an informal discussion regarding rezoning some property. **Ms. Duane made a motion, seconded by Mr. Drinkhall, to invite the Rock Development to the December 13, 2001 meeting. Motion unanimously carried.**

Meeting adjourned at 10:40 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary



TOWN OF CONWAY

P.O. Box 70 • CENTER CONWAY, NEW HAMPSHIRE 03813-0070

(603) 447-3855
FAX (603) 447-5012

MEMO

TO: Sheila Duane, Planning Board Chair
FROM: Tom Irving, Planning Director
CC: Planning Board, File
DATE: 10/11/01
RE: Amendments to §123-11.

Message:

Please consider the attached amendment. This will bring the ordinance in line with the RSA and provide for two mailing labels (one for notice of meeting and one for notice of decision).



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FAX (603) 447-5012

MEMO

TO: Sheila Duane, Planning Board Chair
FROM: Tom Irving, Planning Director
CC: Planning Board, File
DATE: 10/11/01
RE: Amendments to §123-47.

Message:

Please consider the following amendment. Currently the Site Plan Regulations do not authorize the Town's practice of holding surety for landscaping for one year (growing season). This would bring the SPRs into line with the Subdivision Regulations that do provide for holding landscaping surety for one to three years.

123-47. Bonding. The applicant shall be required to provide bonding for site improvements for any Minor Review or Major Review application in accordance with the following:

- A. Bonding shall be provided by the applicant payable to the Town in order to ensure that the applicant will complete all site work in accordance with the plans. Bonding, if called by the Town, shall be used to stabilize the site, ensure site safety and to minimize any adverse impacts on the neighborhood and Town. In the event that bonding is called by the Town, the Planning Board shall immediately schedule and hold a public hearing to consider revocation of the Site Plan Approval per the process of RSA 676:4-a. The Board shall also request that the Building Permit be suspended until the matter is resolved. No further work may proceed on the site without further Planning Board approval, nor shall any CO be issued without prior consent of the Planning Board.
- B. The amount shall be 50% of the cost of all site work. ~~The specific dollar amount, the form, and any associated agreements or stipulations shall be negotiated directly with the Board of Selectmen.~~ Appropriate bonding to cover the full costs of all landscaping shall also be posted. The form and execution of such surety shall be approved by the Board of Selectmen. The surety shall run for a term determined by the Planning Board but in no event shall it exceed three (3) years nor be less than one (1) year to ensure survival through a complete growing season.



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MEMO

TO: Sheila Duane, Planning Board Chair
FROM: Tom Irving, Planning Director
CC: Planning Board, File
DATE: 10/11/01
RE: Amendments to §131-9.

Message:

Please consider the attached amendment. This will bring the submission dates in line with the Site Plan Regulations. We addressed earlier this year and I thought the Board had adopted the revision. However, apparently there was no formal motion specific to this amendment.

131-9. Filing and submission of application.

- A. The completed application shall be filed with the Secretary or the Chairman of the Board at least ~~fifteen (15)~~ **twenty-one (21)** days prior to a scheduled public meeting of the Board. **When consideration of an application is continued and new information is required, the Board shall specify the deadline for filing this new information. In no case shall it be less than seven (7) days prior to the meeting. The deadline shall be stated in the motion to continue.**



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MEMO

TO: Sheila Duane, Planning Board Chair
FROM: Tom Irving, Planning Director
CC: Planning Board, File
DATE: 10/11/01
RE: Amendments to §131-12.

Message:

Please consider the attached amendment. This will bring the ordinance in line with the RSA and the Site Plan Regulations.