

CONWAY PLANNING BOARD

MINUTES

DECEMBER 13, 2001

A meeting of the Conway Planning Board was held on Thursday, December 13, 2001, beginning at 5:39 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Secretary, Conrad Briggs; Brian Glynn; Robert Drinkhall; Martha Tobin; David Robinson; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

ROCK DEVELOPMENT – DISCUSSION REGARDING REZONING OF PROPERTY

Dot Seybold appeared before the Board. Ms. Seybold reviewed a map of the area she wishes to see rezoned from residential/agricultural to highway commercial (PID 235-78). Ms. Seybold stated that she wanted to find out where the planning board was in the Master Plan process and if this piece of property had been discussed or considered for a zoning change. Ms. Seybold stated that it is a natural progression of commercial development in that area. Ms. Duane stated that the Board has not reviewed any land use issues at this time.

Mr. Irving stated that the consultant is reviewing the economic background of the community at this time. Ms. Seybold stated that there has been support to change the zoning in this area, but not before the Master Plan. Ms. Duane asked when would we see this type of change suggested in the Master Plan. Mr. Irving answered at the tail end of the process, possibly at the next Town Meeting.

Ms. Seybold stated that she can submit a petitioned article, but she wants to be prepared for all the issues. Ms. Seybold stated that it is difficult without the support of the Planning Board and the only reason there was no support in the past is because the Master Plan wasn't complete. Ms. Seybold stated that she doesn't think we wait since development in that area is inevitable.

Ms. Duane asked if they have looked at residential development. Ms. Seybold stated that it is not viable, plus they have no interest in that. Ms. Seybold stated that it would have to be an intense residential development to make it profitable. Ms. Duane asked about a mixed use. Ms. Seybold stated when zoning was originally contemplated there was no discussion of a local north/south road.

Ms. Seybold stated that something is going to happen on that piece of land. Mr. Glynn asked how many residential units would be necessary to make it viable for you. Ms. Seybold stated that it would have to be a tight cluster similar to Saco Woods. Mr. Glynn asked how many acres is this piece of property. Mr. Irving answered approximately 21 acres. Mr. Glynn asked what Ms. Seybold sees as its future use. Ms. Seybold answered retail with a single tenant or multiple tenants. Ms. Seybold stated that commercial is the natural use for that property.

Ms. Glynn asked if it could be commercial with residential overhead. Ms. Seybold stated that that type of development is nice for the village, but not suitable for this area. Ms. Seybold stated

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that we should keep the village where it is, as they don't want to take the shops out of the village. Mr. Briggs stated that there are a lot of places on Route 16 that are empty right now. Mr. Briggs stated that unless you have an area of commercial that can be changed to residential, he would vote against this proposal at this time.

Mr. Irving stated that there is a significant amount of vacant or not constructed retail space. Mr. Irving stated that it is appropriate to look where to reduce the commercial zone and increase it some place else. Ms. Seybold stated that she is doing this now because there is discussion regarding a technology village on a pristine piece of residential property. Ms. Duane stated that they are looking at the economic diversification and there is no way to hurt the Town.

Ms. Seybold stated that the technology village and the proposed location is wrong. Ms. Seybold stated that the argument is that there is a lot of vacant commercial area, then why are they not using that area. Ms. Seybold stated that it is unfair as that is commercial development doing business in the residential zone. Ms. Seybold stated that there are other properties including residential that is more suitable. Ms. Seybold stated that she doesn't like to see one argument used for one commercial development and not be used for another commercial development. Ms. Seybold stated that this looks like spot zoning for residential.

Ms. Duane stated that they want to see some residences in the Town. Ms. Seybold stated that they are not in the residential business. Ms. Seybold stated that this not a natural residential area and not really suitable for residential development. Ms. Duane asked for public comment; Doris Rimmer stated if the road is accepted as a town road it will push the setbacks so they are right on top of the Village of North Conway. Conrad Desjardins asked what is the difference between now and when they proposed Home Depot six months ago. Ms. Duane stated that the process allows for anyone to approach the Planning Board to have the property changes. Ms. Seybold thanked the Board for their time.

KENNETH DONABEDIAN – EXPIRED CONDITIONAL APPROVAL – FILE #FR95-07

Mr. Irving stated that the conditions for the application submitted by Kenneth Donabedian to relocate the existing building including the store, dwelling unit and parking from the upper to lower portion of the lot have not been satisfied and the conditional approval has expired. **Mr. Briggs made a motion, seconded by Ms. Tobin, to deny the application without prejudice due to not satisfying the conditions of approval. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 123-11 – PUBLIC NOTICES

The public hearing was opened at 6:21 p.m. Mr. Irving reviewed the attached changes and stated that that this change brings us in compliance with the State Statutes. There being no public in attendance, the public hearing was closed at 6:24 p.m. **Mr. Glynn made a motion, seconded by Mr. Drinkhall, to amend Article 123-11 as proposed. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 123-47 – BONDING

The public hearing was opened at 6:24 p.m. Mr. Irving reviewed the attached changes. There being no public in attendance, the public hearing was closed at 6:25 p.m. **Mr. Briggs made a motion, seconded by Mr. Glynn, to amend Article 123-47 as proposed. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 131-9 – FILING AND SUBMISSION OF APPLICATIONS

The public hearing was opened at 6:25 p.m. Mr. Irving reviewed the attached changes. There being no public in attendance, the public hearing was closed at 6:27 p.m. **Ms. Tobin made a motion, seconded by Mr. Robinson, to amend Article 131-9 as proposed. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 131-12 – NOTICES

The public hearing was opened at 6:27 p.m. Mr. Irving reviewed the attached changes. There being no public in attendance, the public hearing was closed at 6:28 p.m. **Mr. Robinson made a motion, seconded by Ms. Tobin, to amend Article 131-12 as proposed. Motion unanimously carried.**

PUBLIC INFORMATION MEETING – ARTICLES 147-17 AND 147-12

Article 147-17 – Setbacks and Planned Unit Development (PUDs) and wetland setbacks: Mr. Irving read the proposed changes. Mr. Irving stated that this would require you to be able access your property from the area the applicant uses for road frontage. **Mr. Glynn made a motion, seconded by Mr. Drinkhall, to send Article 147-17 to a public hearing on January 10, 2002. Motion unanimously carried.**

Article 147-12 – Gas Stations in Village Commercial District: Ms. Duane stated with the new local north/south road coming through North Conway Village didn't want to see another gas station. Mr. Irving stated that the highway commercial district is vehicle oriented where the village commercial district is pedestrian oriented. **Mr. Briggs made a motion, seconded by Mr. Glynn, to send Article 147-12 to a public hearing on January 10, 2002. Motion unanimously carried.**

SET PUBLIC HEARING DATE FOR PROPOSED AMENDMENTS

Mr. Briggs made a motion, seconded by Mr. Drinkhall, to send the proposed changes to Articles 147-14 Floodplain Conservation District; 147-6 edge of water and edge of wetland definitions; 147-31 wetland and watershed protection district; 147-19.B.(1)(g) window signs; and Chapter 88 building construction to a public hearing on January 10, 2002. Motion unanimously carried.

PROPOSED AMENDMENT – ARTICLE 123-23 – STORAGE TRAILERS

Ms. Duane stated that Article 123-23 should be sent to a public information meeting first and it should be held on its own. **Ms. Duane made a motion, seconded by Mr. Briggs, to hold a public information meeting on Article 123-23 on January 3, 2001 at 6:30 p.m. at the Conway Town Hall. Motion unanimously carried.**

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Drinkhall made a motion, seconded by Mr. Glynn, to approve the Minutes of November 8, 2001 as written. Motion unanimously carried.

Mr. Briggs made a motion, seconded by Mr. Glynn, to approve the Minutes of November 15, 2001 as written. Motion unanimously carried.

CONWAY SCENIC RAILROAD – MINOR SITE PLAN REVIEW (PID 218-35) FILE #MR01-15

Mr. Irving stated that the applicant has requested a continuance. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to continue the minor site plan review for the Conway Scenic Railroad until January 10, 2002.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

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

Mr. Irving stated that the applicant has requested a continuance. **Mr. Drinkhall made a motion, seconded by Mr. Glynn, to continue the full site plan review for the River Run Company until January 10, 2002.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

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

Mr. Irving stated that we have received a letter from the applicant waiving the 65-day requirement. Mr. Irving stated that the applicant has requested a continuance. **Mr. Briggs made a motion, seconded by Ms. Tobin, to continue the application for Thomas Fadden and Vicki Graves until January 10, 2002.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

GERALD BLAKE/CHARLES ROBBINS – FULL SITE PLAN REVIEW (PID 246-51) FILE #FR01-10

Chuck Robbins and Chris Jacobs appeared before the Board. Mr. Robbins reviewed the project. **Mr. Glynn made a motion, seconded by Mr. Drinkhall, to accept the application of Gerald**

Blake/Charles Robbins for a full site plan review as complete. Motion unanimously carried.

Ms. Duane asked about the sign. Mr. Robbins stated that it would be an externally lit sign. Ms. Duane stated that the signs are usually capable of being internally lit, but without the lights. Mr. Robbins stated that he does need that type of sign for the price signs, but he is willing to look into doing something creative with the rest of the sign. Mr. Glynn stated that wood sign would be nice. Mr. Robbins stated that he would look into that.

Mr. Irving reviewed the staff report and stated that he has no objections to the waiver requests. Mr. Glynn stated that the building could be another color other than white or gray. Ms. Duane read a waiver request for Article 123-30.A.3. Ms. Duane read the requirements to grant a waiver. **Mr. Briggs made a motion, seconded by Mr. Glynn, to approve the waiver request for Article 123-30.A.3.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

Ms. Duane read a waiver request for Article 123-20.G. **Mr. Briggs made a motion, seconded by Ms. Tobin, to grant the waiver request for Article 123-20.G.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.** Ms. Duane asked if the canopy is the same as the building. Mr. Robbins answered in the affirmative. Mr. Irving asked if it had a horizontal fascia. Mr. Robbins stated that it is aluminum baked in white. Mr. Irving stated that it has to look like wood.

Ms. Duane asked if there was any public comment; Bill Lehmann reviewed the plans and was all set. **Mr. Briggs made a motion, seconded by Mr. Glynn, to conditionally approve the full site plan for Gerald Blake/Charles Robbins conditionally upon adding the appropriate architectural surface for the canopy fascia; a NHDOT driveway permit; satisfy staff requested revisions to drainage; a performance bond for 50% of all site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on January 24, 2001.** Motion unanimously carried.

EDWARD GARLAND/PARIS FARMERS UNION – FULL SITE PLAN REVIEW (PID 246-2 & 4) FILE #FR01-11

Edgar Allen of Thaddeus Thorne Surveys and Fred Wolfe of Paris Farmers Union appeared before the Board. Mr. Allen reviewed the project. **Mr. Glynn made a motion, seconded by Mr. Briggs, to accept the application of Edward Garland/Paris Farmers Union for a full site plan review as complete. Motion unanimously carried.**

Ms. Duane asked what is meant by seasonal display. Mr. Allen answered trees and shrubs. Ms. Duane asked about display on the front lawn. Mr. Allen stated that there would be no display on the front lawn. Mr. Irving stated that this business has been in existence for fifteen years and they have made substantial improvements by increasing the greenspace, adding parking and the driveway just recently being improved by the State. Mr. Irving stated that he has no issues with the waivers except the one for the State driveway permit. Mr. Allen withdrew the waiver request for the State driveway permit.

Mr. Glynn asked if there could be shrubbery or a flowering tree on the front lawn. Mr. Wolfe stated that they are going to plant a flowering crab tree. Ms. Duane read a waiver request for Article 123-6 and 123-27. Mr. Irving stated that there is no need for drainage calculations. **Mr. Glynn made a motion, seconded by Mr. Briggs, to grant the waiver request for Article 123-6 and 123-27. Motion unanimously carried.**

Ms. Duane read the waiver requests for Articles 123-6.A. and 123-30; 123-20.E; 123-20.F and 131-67.C.8(a),(b),(e), & (f); 123-21.A; 123-22.A; 123-29.A.(2) & (3); 123-6.B.4. and 123-29.B.; 123-29.D.(1) & (8); 123-30.A.2 & 3; and 123-41.A – F. **Mr. Briggs made a motion, seconded by Mr. Robinson, to grant the waiver requests for Articles 123-6.A. and 123-30; 123-20.E; 123-20.F and 131-67.C.8(a),(b),(e), & (f); 123-21.A; 123-22.A; 123-29.A.(2) & (3); 123-6.B.4. and 123-29.B.; 123-29.D.(1) & (8); 123-30.A.2 & 3; and 123-41.A – F.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

Mr. Irving stated that the applicant still needs a NHDOT driveway permit; delineate a display area in the northeast corner; make amendments to the waiver note; obtain North Conway Fire Chief approval; and obtain North Conway Water Precinct approval. **Mr. Briggs made a motion, seconded by Mr. Glynn, to continue the application for Edward Garland/Paris Farmer's Union until January 10, 2002. Motion unanimously carried.**

THOMAS HANELY – FULL SITE PLAN REVIEW (PID 202-181) FILE #FR01-12

Thomas and Karen Hanley, applicants, and Mark Lucy of White Mountain Survey Company appeared before the Board. Mr. Lucy stated that the applicant would like to convert an existing residence into a restaurant, lounge and managers quarters. **Mr. Glynn made a motion, seconded by Ms. Tobin, to accept the application of Thomas Hanley for a full site plan review as complete. Motion unanimously carried.**

Mr. Irving reviewed the staff report. Mr. Lucy stated in regard to the underground utilities they are not responsible for service from pole 23 and the overhead utilities over White Mountain Highway exist. Mr. Lucy stated that the applicant is exercising his rights to maintain what he has.

Mr. Briggs stated that none of the paving has been done so it should be required to be underground. Ms. Duane stated that she would like to see it underground. Ms. Tobin stated that we have to start somewhere. Mr. Lucy withdrew the waiver request for underground utilities on behalf of the owners. Ms. Duane asked about exiting onto Neighbor's Row. Mr. Lucy stated that there is a slope issue plus it would eliminate four parking spaces. The Board reviewed the architectural drawings.

Mr. Irving stated that the following items are still needed: show underground electric on the plans; North Conway Fire Chief approval; North Conway Water Precinct Approval; a performance guarantee for 50% of all site improvements; amend the waivers granted note on the plan; add the soil type to the plans; NHDES septic approval; NHDOT driveway permit; permission to drain into the State basin; and remove the note regarding the sign.

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Ms. Duane read a waiver request for Article 123-20.G. **Mr. Briggs made a motion, seconded by Mr. Glynn, to grant the waiver request for Article 123-20.G. Motion unanimously carried. Mr. Briggs made a motion, seconded by Mr. Drinkhall, to continue the Thomas Haley full site plan review until January 10, 2002.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

POLIQUIN, CARRIER & RICE ASSOCIATES/OLD MILL ESTATES – SUBDIVISION REVIEW (PID 268-105/106/117) FILE #S01-16

Mark Lucy of White Mountain Survey Company appeared before the Board. Mr. Lucy stated that this is an administrative issue; instead of 28, 2-bedroom units the applicant would like 28, 3-bedroom units. Mr. Lucy stated that the State would allow 3-bedroom units on the same number of wells. Mr. Lucy stated that they have received State approval for 28, 3-bedroom units. Mr. Lucy stated that they submitted the same plans to the State as to the Planning Board. Mr. Irving stated that we don't regulate the number of bedrooms.

Mr. Drinkhall made a motion, seconded by Mr. Glynn, to accept the application of Poliquin, Carrier & Rice for subdivision review as complete. Motion unanimously carried. Mr. Irving stated the driveway waiver request needs to be reaffirmed by the Board. Ms. Duane read the waiver request for Article 131-66. **Mr. Briggs made a motion, seconded by Mr. Glynn, to grant the waiver request for Article 131-66. Motion unanimously carried.**

Ms. Duane asked if there were any other concerns; there was none. **Mr. Glynn made a motion, seconded by Ms. Tobin, to approve the subdivision application for Poliquin, Carrier & Rice Associates.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

OTHER BUSINESS

Phyllis Wagstaff – Underground Utilities: The Board agreed to discuss this at the December 20, 2001 meeting.

Lot Merger – Francis and Kelly Defeo: The Board signed a lot merger to combine lots 283-28 and 284-23.

Lot Merger – William and Judith Wilbur: The Board signed a lot merger to combine lots 280-40 and 41.

December 20, 2001 Agenda: The Board agreed to discuss the technology village; amendments to the subdivision regulations; the creation of a historic district; and Phyllis Wagstaff.

Meeting adjourned at 9:09 p.m.
Respectfully Submitted,

Holly L. Meserve, Recording Secretary

O.V.P.

MANAGEMENT

INC.

13 Settlers' Green

North Conway

NH 03860

December 6, 2001

DEC 10 2001

TO: Town of Conway Planning Board

FR: Dot Seybold 

RE: Zoning Change

Thank you for allowing me some time to meet with you next week to discuss the zoning change.

As you know, this property sits between the railroad tracks, the North South Local Road, Route 16 and the planned Conway Bypass. The heart of the commercial road system for the Town of Conway runs close to this parcel. In addition, from Dunkin Donuts to Settlers' Green there are approximately 100 commercial businesses located within a stones throw of this property. A recent meeting with the Town of Conway Selectmen revealed that some of their members already think this property IS zoned commercial and in fact plan for an exit from the North South Road to Barnes Road once the NS Road is complete.

There are no reasonable expectations that this property could be used for either residential or agricultural development.

Attached is a copy of the language we recommend for the zoning change. It was written by Mark Lucy of White Mountain Survey and is a legal description of the property and the change.

I look forward to seeing you on the 13th.

cc: Tom Irving
Mark Lucy
Earl Sires

(603) 356-7031

Fax (603) 356-9098

dmsovp@ncia.net



Article _____: To see if the Town will amend the Town of Conway Zoning Ordinance to change the Highway Commercial District on the easterly side of Route 16 by specifically:

- a Amending 147-22 (C)(3) to read as follows.

From the junction of Routes 16 and 302, the Highway Commercial District shall extend northerly three thousand two hundred fifty (3,250') feet to the southern boundary of the right-of-way of the Barnes Road, (extending back easterly from the center line of Route 16/302 to the center line of the Maine Central Railroad tracks), **and from thence northerly to the northern boundary of Tax Map 235 Parcel 78 (extending back easterly to the eastern boundary of Tax Map 235 Parcel 78)**; and from thence northerly to the southern boundary of the Fox Ridge Property, Tax Map 235 Parcel 35 (extending back easterly five hundred (500') feet from the center line of Route 16/302; and from thence northerly to the northern boundary of Tax Map 235 Parcel 35 (extending back easterly from the center line of Route 16 to the center line of the Maine Central Railroad tracks); and from thence northerly to southern boundary of the Red Jacket property Tax Map 230 Parcel 51 (extending back from the Center line of Route 16/302 five hundred (500'); and from thence northerly to the northern boundary of the right of way known as Locust Lane (extending back easterly from the center line of Route 16/302 to the center line of the Maine Central Railroad tracks); and thence northerly to Artist Falls Brook, the District shall extend back easterly five hundred (500') feet from the center line of Route 16/302.

DEC 10 2001

O.V.P.
I) GEMENT
INC.

13 Settlers' Green
North Conway
NH 03860

October 31, 2001

Mr. Tom Irving
Town of Conway
Post Office Box 70
Center Conway, NH 03813

REC'D
NOV - 5 2001
TOWN OF CONWAY

Dear Tom:



The developers of the Rock Development property located on Barnes Road would like to have an informal discussion with the Planning Board regarding a zoning change. As you are aware, the property is primarily zoned residential, though surrounded by commercial property and commercial uses, roads, railroad tracks and other non-residential uses. We feel such a zoning change would be consistent with the natural growth of the town and will, no doubt, be one of the first changes recommended by the master plan consultants. We hope that the Board will give us a fair hearing on why we believe it should be done now, and not wait for the master plan to be completed.

Please let me know when it would be most convenient to meet with the Planning Board. We are prepared to make our presentation.

Thank you for your help. Please contact me at 356-7031, extension 11 if you have any questions.

(603) 356-7031
Fax (603) 356-9098
dmsovp@ncia.net

Sincerely,

Dot Seybold
Dot Seybold

DEC 13, 2001

Amended
12/13/01

123-11. Public Notice. Public notice pursuant to RSA 676:4,I(d) shall be required for Site Plan Reviews. The Public Notice shall identify the property owner, the location, and a general description of the proposal.

A. Public notice shall be required for the following:

1. design review meetings;
2. meetings at which an application is considered for acceptance; and
3. meetings at which a public hearing is conducted.

B. Public notice shall be mailed to the applicant, holders of conservation, preservation or agricultural preservation restrictions, the applicant's authorized representative, and each abutter at least 10 days prior to the meeting for which the notice is required. Such notification shall be mailed by certified mail.

1. Using the Abutters List form provided by the Town, the applicant shall prepare a current list of abutters no sooner than 5 days prior to the submission the application. In the case of an abutting property being under condominium or other collective form of ownership, the term abutter means the officers of the collective or association. It shall be the Applicant's responsibility to ensure that the names and addresses regarding officers of a collective or association noticed under this article are current and complete. In the case of an abutting property being in another municipality it shall be the Applicant's responsibility to ensure that the names and addresses regarding those properties are current and complete; and
2. The applicant shall provide an adhesive mailing labels for each party on the Abutters List, including the applicant and authorized representative.

C. Public notice shall be posted at Town Hall and one other public place at least 10 days prior to the meeting.

D. Public notice shall be published in a newspaper of general circulation. This notice shall be sent to the newspaper at least 10 days prior to the meeting.

E. Continuation of a meeting or public hearing shall not require new public notice provided that, at the prior hearing, the Board shall state the location, date, time at which the continued session will resume, and deadlines for the submission of new or updated materials.



TOWN OF CONWAY

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

(603) 447-3855

FAX (603) 447-5012

Amendments
12/13/01

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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Amendments
12/13/01

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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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*Amended
12/13/01*

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.

131-12. Notices.

Amended
12/13/01

~~A. Notice of the submission of a preliminary layout or a completed application shall be given by the Board, to the abutters and the applicant by certified mail, return receipt requested, mailed at least ten (10) days prior to the submission, and to the public at the same time by posting in at least two (2) public places in the town or publication in a newspaper of general circulation. The notice shall give the date, time and place of the Board meeting at which the application or other item(s) will be formally submitted to the Board and shall identify the applicant and location of the proposed subdivision.~~

~~B. For any public hearing on the completed application, the same notice as required for notice of submission of the completed application shall be given. If the notice of public hearing has been included in the notice of submission or any prior notice, additional notice of the public hearing is not required, nor shall additional notice be required of an adjourned session of a hearing with proper notice of the date, time and place of the adjourned session was made known at the prior hearing. Public notice shall be mailed to the applicant, holders of conservation, preservation or agricultural preservation restrictions, the applicant's authorized representative, and each abutter at least 10 days prior to the meeting for which the notice is required. Such notification shall be mailed by certified mail.~~

1. Using the Abutters List form provided by the Town, the applicant shall prepare a current list of abutters no sooner than 5 days prior to the submission the application. In the case of an abutting property being under condominium or other collective form of ownership, the term abutter means the officers of the collective or association. It shall be the Applicant's responsibility to ensure that the names and addresses regarding officers of a collective or association noticed under this article are current and complete. In the case of an abutting property being in another municipality it shall be the Applicant's responsibility to ensure that the names and addresses regarding those properties are current and complete; and
2. The applicant shall provide an adhesive mailing label for each party on the Abutters List, including the applicant and authorized representative.

C. Public notice shall be posted at Town Hall and one other public place at least 10 days prior to the meeting.

D. Public notice shall be published in a newspaper of general circulation. This notice shall be sent to the newspaper at least 10 days prior to the meeting.

E. Continuation of a meeting or public hearing shall not require new public notice provided that, at the prior hearing, the Board shall state the location, date, time at which the continued session will resume, and deadlines for the submission of new or updated materials.



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MEMO

TO: Sheila Duane, Planning Board Chair
FROM: Tom Irving, Planning Director
CC: Planning Board, File
DATE: 09/03/01
RE: Amendment to §147-17.

Message:

Please consider the attached amendment to the Zoning Ordinance regarding setbacks and Planned Unit Developments (PUDS). The problem was that there is no provision for zero-lot-line subdivisions although they have, prior to my arrival, been routinely approved by the Planning Board. This amendment provides for such "zero-lot-line subdivisions" while maintaining building separations and setbacks from abutting properties.

I recommend that the Board add this to its amendments to be considered for the 2002 Warrant.



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MEMO

TO: Sheila Duane, Planning Board Chair
FROM: Tom Irving, Planning Director
CC: Planning Board, File
DATE: 10/12/01
RE: Amendment to §147-17.1.A

Message:

Please consider the following amendment to the Zoning Ordinance regarding road frontage. The problem is that the ordinance fails to address controlled access highways such as the North-South Local Road and the Rte 16 By-Pass. It could be argued that these roads constitute frontage even though there may be no access privileges. If that argument prevailed, odd shaped or land locked lots could result. This amendment limits qualified frontage to those highways and roads that can be legitimately accessed. I recommend that the Board add this to its amendments to be considered for the 2002 Warrant.

147-17.1. Frontage Requirements.

- A. All lots must front on a state or town highway with a Class I, II, III, IV or V classification, a private road constructed to town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage the lot must have access rights to the subject highway or road on which the frontage is being claimed.

147-17 Setbacks.

A. In the Business Districts, the following shall apply:

- (1) In the Conway Village Commercial and North Conway Village Commercial Districts, the minimum front setback shall be five feet and the minimum side or back setback shall be 10 feet.
- (2) In all other areas of the Business District, the minimum front setback shall be 25 feet and the minimum side or back setback shall be 10 feet.
- (3) Within the Industrial-1 District, the minimum front setback shall be 25 feet and the minimum side or back setback shall be 10 feet. Where the Industrial-1 District borders the Residential/Agricultural District, a 25-foot setback shall be required for that portion of the Industrial lot abutting the Residential/Agricultural lot.
- (4) Within the Industrial-2 District, the minimum front setback shall be 50' and the minimum side or back setback shall be 30'. Where the Industrial-2 District borders the Residential/Agricultural District, or an industrial lot borders an existing residential use or borders an approved residential subdivision, a 50' setback shall be required for that portion of the Industrial lot.

B. In all other Districts, the minimum front setback shall be 25 feet and the minimum side or back setback shall be 15 feet.

C. In all districts, there shall be a minimum setback of seventy-five (75) feet of any building or structure from the mean high-water mark of all watercourses, excepting seasonal streams for which a twenty-five foot setback shall be the minimum, notwithstanding the setback requirements set forth in 147-11.1.F. The requirements set forth herein shall not apply to fire ponds, swimming pools and other such man-made water bodies.

D. In all districts, wetland setbacks shall be in accordance with §147-11.1. and §147-13 ~~there shall be a minimum setback of seventy five (75) feet of any building or structure from the edge of all wetland areas greater than five (5) contiguous acres. A seventy five (75) foot setback shall also apply to any wetland areas, regardless of size, abutting a year round water body or water course. Nothing in this paragraph shall supersede the setback requirements set forth in 147-11.1.F for Great Ponds nor shall the requirements of this paragraph apply to fire ponds, swimming pools and other such man-made water bodies.~~

~~E. The provisions of Paragraphs C and D, above shall apply to water bodies, watercourses and wetlands as identified on the map entitled: "Town of Conway, New Hampshire, Wetlands Composite Map, prepared by Complex Systems, University of New Hampshire, January 1997".~~

E. Within planned unit developments (PUDs) and similar cluster developments, zero lot line unit subdivisions are permitted provided that all buildings are separated by a distance of at least twice the side and rear yard setback for the applicable zoning district and that all structures are setback from the abutting properties in accordance with the provisions of Subsections A and B above. Subsections C and D (above) apply to PUDs and similar cluster developments.

147-12. Business District.

- A. Permitted uses. Any lot may be used for any uses permitted in the Residential/Agricultural District, except as limited in Sections (1), (2) and (3) below, and also for private schools, daycare centers, institutions, duly approved mobile home parks as provided in 147-18, restaurants, hotels, motels, retail stores, offices, signs as provided in 147-19, wholesale and light industry, ~~garage and filling stations~~ or other business use whose operation and appearance is compatible and not offensive or injurious or a nuisance to its neighborhood. Excavation, gas stations or automotive service stations shall be permitted in the Highway Commercial District, but shall be prohibited in the Village Commercial District. Temporary events, such as carnivals, circuses and fairs, not exceeding fourteen (14) days in duration are permitted. For the purpose of this subsection, a hotel or motel must consist of five (5) or more double-occupancy sleeping units and may have accessory facilities that provide for recreation such as tennis, golf and skiing. Minimum lot size within this district for keeping domestic farm animals shall be one (1) acre.

147-14. Floodplain Conservation District.

A. The purpose of this district is to promote and protect the health, safety and general welfare of the town by providing reasonable regulations governing development and use of the floodplain.

B. The Floodplain Conservation District is hereby determined to be those areas identified and delineated as a floodplain with a one-percent-or-greater chance of flooding in any given year, which is designated as ~~Zone A and A-1-99~~ on the Flood Insurance Rate Map (**FIRM**) and **Flood Insurance Study (FIS)** of Conway issued by the Federal Insurance **Emergency Management** Administration as **amended from time to time** and/or on the Flood Hazard Analysis Map (**FHAM**) of 1974, prepared by the United States Department of Agriculture Soil Conservation Service, whichever delineates the higher flood level.

In cases where the floodplain boundary is disputed, a plan prepared and certified by a surveyor licensed by the State of New Hampshire, that clearly represents the floodplain boundary may supersede the boundary represented on the FIRM and/or FHAM. This in no way provides any relief from any other local, state or federal requirement or regulation.

C. The following uses shall be permitted within the Floodplain Conservation District to the extent that they are not prohibited by any other ordinance, and provided that they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream, drainage ditch or any other drainage facility or system, nor for any use in the floodway, raise the level of the one-hundred-year floodwaters.

(1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

(2) Residential accessory uses, such as lawns, gardens, parking areas and play areas.

(3) Sealed public water supplies.

D. Special Exceptions.

(1) Special exceptions may be granted by the Zoning Board of Adjustment for the following uses within the floodplain, except those areas within the floodway, unless expressly allowed in the floodway hereunder, as defined herein:

(a) Uses, but not structures, compatible to open space.

(b) Limited agricultural extraction of sand, gravel and other materials for noncommercial use.

(c) Boat landings and boat access areas within the floodway.

(d) Railroads, streets, driveways, bridges, utility, transmission lines and pipelines.

(e) Storage yards for equipment, machinery or materials accessory to adjacent permitted uses.

- (f) Fill or materials to be deposited in the floodplain may be allowed by special exception, provided that the fill or materials are shown to have some beneficial purpose and the amount thereof is not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials. Such fill or other materials shall be protected against erosion by riprap, vegetation cover or bulkheading.
- (g) Municipal and school district facilities.
- (h) Agricultural buildings that do not require septic systems.
- (i) The construction or maintenance of farm, forest or recreational service roads.
- (j) River or floodway maintenance.
- (k) In the area around Pequawket Pond between the one-hundred-year and the ten-year-flood level [464.6 feet to 461.5 feet], as shown on the maps described herein, development, substantial improvements and building, provided that it is serviced by precinct water and sewerage and the lowest floor is above the one-hundred-year-flood level.
- (l) Signs for permitted uses and existing nonconforming uses as provided in 147-4, provided that the signs meet the minimum standards and intent for signs in 147-19.
- (m) Accessory industrial-commercial uses limited to loading areas, parking areas and aircraft landing strips.
- (n) Heliports, as a private/business accessory use, will be allowed in the Floodplain Conservation District only by a special exception granted by the Zoning Board of Adjustment. The requirement for a special exception to be granted under this section shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (less than 7 days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board the following conditions must be met:
 - [a] The use of the site for a heliport shall not be offensive to the character of the neighborhood;
 - [b] The use of the site for a heliport shall not cause any diminution of property values of abutting properties. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a credible source that is knowledgeable of land evaluation and property values.
 - [c] Any site being considered to contain a heliport must be, at a minimum, five (5) acres in size.

- [d] Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA suggested dimensions and requirements.
 - [e] Previous to zoning board considering any application for a special exception for this land use, all Federal and State approvals, which are required, must be obtained by the applicant with copies of these approvals submitted as part of the request for special exception.
 - [f] A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.
- (2) No special exceptions shall be granted, however, until the following conditions are met:
- (a) All development and substantial improvements shall comply with the minimum standards of the regulations of the National Flood Insurance Program contained in 44 CFR 60.3 and 44 CFR 60.6 (Code of Federal Regulations), as amended.
 - (b) New and replacement water supply, replacement septic systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters.
 - (c) All fill, new construction, substantial improvements and other development within the floodway shall be prohibited unless the applicant's New Hampshire registered engineer can show the activity would not result in any increase in flood hazard within the Town of Conway.
 - (d) The granting of the special exception would not violate the general spirit of the ordinance nor would it create a public health or safety hazard.

E. Special provisions.

- (1) There shall be no expansion of present nonconforming buildings or pre-existing septic systems in the floodplain, provided that this shall not prohibit the maintenance, repair and/or correction of such pre-existing septic systems, which malfunction. There shall be no allowance of a new septic system in the floodplain.
- (2) Existing nonconforming buildings within this district, which have been substantially damaged may be repaired within one year, provided that they comply with the minimum standards of the regulations of the National Flood Insurance Program (See definition of substantial damage in Section 147-6). Buildings not rebuilt to such standards shall be removed completely.
- (3) Changes to watercourse.

- (a) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the NHDES Wetlands Board and submit copies of such notification to the Board of Selectmen, in addition to the copies required by RSA 483-A:1b. Further the applicant shall be required to submit copies of said notification to those adjacent towns as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Board.
 - (b) Along watercourses with a designated Regularly Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from Federal, State or other sources as criteria for requiring that development meet the floodway requirements of this section.
 - (c) Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within zones A1-30 and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (4) All developments which are floodproofed shall be certified by a New Hampshire registered professional engineer or architect that the flood-proofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.
 - (5) Where the Floodplain Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.
 - (6) Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector certification provided by a registered professional engineer assuring that the flood-carrying capacity of the watercourse has been maintained.
 - (7) In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from a federal, state or other source as criteria for requiring that development meets the floodway requirements of this section.
 - (a) In special flood hazard areas, the Building Inspector shall determine the one-hundred-year-flood elevation in the following order of precedence according to the data available:
 - (b) In Zones ~~A1-30~~ **AE** and AH, refer to the elevation provided in the community's Flood Insurance Study and accompanying FIRM or FHAM.
 - (c) In ~~unnumbered~~ A Zones, the Building Inspector shall obtain, review and reasonably utilize any one-hundred-year-flood elevation data available from federal, state, development proposals submitted to the community (for example subdivisions, site approvals, etc.) or other sources.

- (d) In Zone AO, the one-hundred-year-flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or, if no depth number is specified on the FIRM, at least two (2) feet.
- (8) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (9) The Building Inspector shall maintain for public inspection and furnish upon request any certification of floodproofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved structures and include whether or not such structures contain a basement, and if the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.
- (10) Excavation shall be prohibited in the Floodplain Conservation District.

F. Variances.

- (a) A variance is a relaxation or setting aside in a specific case, of certain specified terms of this ordinance. In accordance with RSA 674:33, I(b), the applicant shall have the burden of showing, in addition to the usual variance standards under state law:
 - [1] That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
 - [2] That, if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
 - [3] That the variance is necessary, considering the flood hazard, to afford relief.
- (b) The ZBA shall notify the applicant in writing that:
 - [1] The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - [2] Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

The community shall: [1] maintain a record of all variance actions, including their justification for their issuance; and [2] report such variances issued in its annual or biannual report submitted to FEMA's Federal Insurance Administrator.

The ZBA may approve, approve with conditions, or deny applications for variances following the procedures in this ordinance.

Amendments to 147-6

EDGE OF WATER – edge of the water shall be determined by the normal high water mark, defined herein.

EDGE OF WETLAND – edge of the wetland shall be determined by the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.

147-31. Wetland and Watershed Protection District Boundaries.

- A. The Wetland and Watershed Protection District shall be comprised of all land within one hundred (100) feet from the edge of:
- (1) all water bodies, excluding:
 - (a) Great Ponds, which are covered under the Shoreline Protection District. (See 147-30 above); and
 - (b) certain man-made water bodies, such as fire ponds, agricultural/ irrigation ponds, sedimentation/detention basins, and septage lagoons.
 - (2) all year round watercourses
 - (3) all wetland areas ~~greater than five (5)~~ **of three (3) or more contiguous acres**, excluding
 - (a) constructed or legally altered wetlands not part of a wetland mitigation plan, and
 - (b) vegetated swales and roadside ditches
 - (4) all other wetland areas as shown on the Town of Conway 1997 Wetlands Composite Map abutting a water body or year round watercourse, regardless of the wetland acreage involved.
 - (5) **All perennial water courses and hydric areas depicted as having poorly or very poorly drained soils according to the Soils Survey of Carroll County, New Hampshire (approved in 1973, and issued in 1977).**

~~B. Said water bodies, watercourses and wetlands referenced in paragraphs (1) through (4) above shall be only those identified on the map entitled: "Town of Conway, New Hampshire, Wetlands Composite Map, prepared by Complex Systems, University of New Hampshire, January 1997".~~

~~C. Key Word Definitions~~

- ~~(1) A "watercourse" shall be as defined in Section 147-6.~~
- ~~(2) The "edge of the water" shall be determined by the normal high water mark, defined herein under Section 147-6.~~
- ~~(3) The "edge of the wetland" shall be determined by the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.~~
- ~~(4) A "wetland" shall be as defined in section 147-6.~~
- ~~(5) "Buffers/Wetland" shall be as defined in section 147-6.~~

~~D. B. Use of Mapped Wetland Information Contained in the Town 1997 Wetlands Composite Map~~

~~The Town of Conway 1997 Wetlands Composite Map shall be employed for general planning and permitting purposes with regard to the review of development proposals. Such mapping may prove helpful, for example, in determining whether a particular land parcel is likely to contain or abut wetlands of greater than five (5) acres in size. However, due to map scale (1" = 2000") and level of detail, it is recognized that the 1997 Wetlands Composite Map may indicate the presence of a wetland where no wetland is actually present, and it may fail to indicate the presence of a wetland where a wetland is actually present. Any question as to the accuracy or application of the 1997 Wetlands Composite Map **or the Soil Survey of Carroll County, New Hampshire** to a particular parcel or tract of land **may be resolved with a plan certified by a wetland or soil scientist licensed by the State of New Hampshire that delineates the wetlands** shall be determined through on-site verification by in accordance with paragraph B. (3) above the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.~~

147-19. Signs.

B. (1) (g) window signs which are affixed to the interior of the window, not to cover more than 50% of any window ~~the total window area which is available to the use which is advertising the product or service directly inside the window(s).~~

CHAPTER 88

BUILDING CONSTRUCTION

ARTICLE I

Building Heights

~~Building Heights shall conform to the provisions of Chapter 147:17.2 of the Conway Zoning Ordinance. [Adopted 3/75, Amended 3/94]~~

ARTICLE II

~~Permits; Changes of Use; Certificates~~

88-1. Legislative intent. This article is adopted pursuant to RSA 31:39 674:51 and RSA 674:52 for the purposes of better regulating and promoting the general health and welfare of the public and of the occupants and users of the buildings and other structures in the Town of Conway, New Hampshire, as well as better ordering the public's prudential affairs.

88-2. Adoption of building code.

1. The BOCA National Building Code (1996 edition) is hereby adopted as the building code for the Town of Conway for the control of buildings and structures that are within BOCA Use Groups A, B, E, F, H, I, M, R1, R2 and R3. Each and all of the regulations, provisions, penalties, conditions and terms of said BOCA National Building Code are hereby referred to, adopted and made part hereof as if fully set out in this ordinance, with the additions, insertion, deletions and changes, if any, prescribed in Section 88-2.3 of this ordinance.
2. Additions, insertions and changes. The following BOCA Code sections are hereby revised:

Section 101.1 Title These regulations shall be known as the Building Code of the Town of Conway hereinafter referred to as "this code."

Section 112.3.1 Fee schedule. A fee for each plan examination, building permit and inspection shall be paid in accordance with Section 88-6 of this Chapter.

Section 116.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall be guilty of a misdemeanor by a fine in accordance with Section 88-10 of this chapter, or imprisonment not exceeding fourteen (14) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offence.

Section 117.2 Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such

work as that person is directed to perform to remove a violation or unsafe condition shall be liable to a fine in accordance with 88-10 of this chapter.

Section 2701.1 Scope. The provisions of this chapter shall control the design and construction of all new installations of electrical conductors, equipment and systems in buildings or structures; and all alterations to existing wiring systems therein to ensure safety. All such installations shall conform to the edition of the NFPA 70, "National Electrical Code" that is currently being enforced by the State of New Hampshire, Electricians Licensing Board.

Section 2901.1 Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings, shall comply with the requirements of the BOCA National Building Code currently being enforced by the State of New Hampshire, Licensing Board.

Section 3408.2 Applicability. Structures existing prior to March 11, 1986, in which there is work involving additions, alterations or changes of occupancy, shall be made to conform to the requirements of this section or the provisions of Sections 3403.0 through 3407.0.

The provisions in Sections 3408.2.1 through 3408.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Use Groups A, B, E, F, M, R, and S. These provisions shall not apply to buildings with occupancies in Use Group H or I.

88-3. Building permit required; certificate of occupancy. [Amended 3/88]

1. A. No building or other structure shall be constructed, altered or moved until a written building permit has been issued by the Selectmen ~~for said town~~ or their agent when the construction or alteration to take place is of the following types:
 1. ~~(1)~~ **Structural.** All structural changes, additions and/or alterations to a building or other structure shall require a building permit. Furthermore, all changes, additions and/or alterations ~~which that~~ may affect the structural capacity of an existing building or other structure shall require a building permit.
 2. ~~(2)~~ **Footprint expansion.** All expansions of the existing footprint ~~(as defined in Chapter 147-6)~~ of a building shall require a building permit. ~~The "existing footprint" is defined as the existing exterior dimensions of a building or other structure in plain plan view. Included in these dimensions shall be all appurtenant structures such as decks, greenhouses and bay windows.~~
 3. ~~(3)~~ **Assessor's use.**
 1. (a) All residential home improvements to a building or other structure costing in excess of one thousand five hundred dollars (\$1500) per structure per year shall require a building permit. If labor is to be done by the owner, then the value of the improvement shall be determined by doubling the value of the materials used.

2. (b) All improvements to a commercial structure, regardless of what value, shall require a building permit.
4. ~~(4) Moving Buildings. Whenever a building or other structure is to be moved, a building permit shall be required. Reference is made to Chapter 142 of the Code of the Town of Conway for further requirements to move a building or other structure. Compliance with Chapter 142 of the Code of the Town of Conway is required to move a structure.~~
2. ~~B.~~ A certificate of occupancy/compliance is required by the Town of Conway after completion of work under all commercial non-residential or multifamily building permits. A certificate of occupancy/compliance may be issued by the Town of Conway as requested after completion of work under a one or two family residential building permit.

88-4. 88-2.1. Registration of contractors. [Amended 3/88]

1. ~~A.~~ All contractors shall be registered prior to working on any project in the Town of Conway. A registration may be applied for at the town offices and will be issued by the Selectmen or their duly appointed agent. There shall be no fee for this registration.
2. ~~B.~~ Upon obtaining a registration from the Town of Conway, the contractor accepts the responsibility for obtaining and keeping current all building permits required by the town. Should a contractor violate this section of the Code of the Town of Conway, the penalties shall be as follows:
 1. ~~(1)~~ First offense: one hundred dollars (\$100).
 2. ~~(2)~~ Second offense: five hundred dollars (\$500).
 3. ~~(3)~~ Further offenses: The contractor is prohibited from obtaining building permits directly or as an agent or owner for a period of six (6) months and shall pay a fine of one thousand dollars (\$1000).
3. ~~C.~~ Any person who violates this section and wishes to appeal the penalties may do so by appearing before the Board of Selectmen.

- 88-5. 88-3. Requirements for change of use. [Amended 3/88] Compliance with Town Codes.**
Prior to issuing a building permit, applications shall be reviewed by the Selectmen or their agent to ensure compliance with applicable codes. Whenever a change in the nature of an existing business use of any land or building, or whenever a new use of any land is to be established, or a non-business use of any land or building is to be changed to any business use or home occupation, an approved zoning permit or Planning Board approval, if appropriate, is required. No new use or change of use may take place until a written application has been filed and approved by the Selectmen or their agent, or by the Planning Board. All applications requiring Planning Board approval shall be reviewed by the Selectmen or their agent to ensure zoning compliance, but a separate zoning permit shall not be required. All applications shall be reviewed by the Selectmen or their agent to determine whether Planning Board approval is necessary. If planning Board approval is not necessary,

a separate zoning permit is required. If Planning Board approval is required, a separate zoning permit shall not be required and the applicant shall proceed to the Planning Board for the necessary approvals.

88-6. 88-4. Fees. [~~Amended 3/87~~]

1. ~~A.~~ A nonrefundable fee shall be paid to the town with each application for a building permit as follows:

1. ~~One or two family~~ One or two family residential structures: twenty dollars (\$20).

~~(2) Utility and miscellaneous construction:~~

~~(a) Fifteen thousand dollars (\$15,000) or less valuation: twenty dollars (\$20).~~

~~(b) Each one thousand dollars (\$1000) or fraction thereof of valuation more than fifteen thousand dollars (\$15,000): twenty dollars (\$20) plus four dollars (\$4) per thousand or fraction thereof.~~

2. ~~(3) All other construction: Each one thousand dollars (\$1000) or fraction thereof of valuation: four dollars (\$4). Twenty dollars (\$20) plus four dollars (\$4) per thousand for each thousand over fifteen thousand dollars (\$15,000).~~

2. Words and phrases hereunder shall be deemed to have the same meaning and definitions as set forth in the BOCA Code adopted in this chapter by the Town as Town Code Chapter 89. Dollars per square foot (\$/SF) are to be based on current mean construction cost data for 1987, and repairs and remodeling \$/SF shall be based on general estimated practice.

3. In all cases estimates shall at least meet valuations represented in the latest edition of the Marshall Valuation Service (Marshall and Swift, LP.) on file in the Assessor's office.

~~C. Valuation per building classification shall be included with determined from the following rates:~~

Classification	Rate (\$ per SF)
Assembly buildings	\$55.00
Business buildings	60.00
Educational buildings	65.00
Factory and industrial buildings	30.00
Institutional buildings	80.00
Mercantile buildings	35.00
Residential, multifamily buildings	45.00
Residential, motel/hotel buildings	50.00
Storage buildings	25.00
Utility and miscellaneous buildings	15.00
Repair and remodeling	25.00

4. ~~D.~~ Notwithstanding any other enforcement action available to the Town, Aan applicant filing an application late may be required to shall pay an additional penalty fee of ten

dollars (\$10) for each day between the date construction began and the date the application was filed that it is late.

5. A nonrefundable fee of fifteen (15) dollars shall be paid to the Town with each application for a zoning permit.

~~E. A nonrefundable fee of fifteen (15) dollars shall be paid to the town with each application for a zoning permit or change of use permit as follows:~~

~~(1) Each application: fifteen dollars (\$15).~~

~~(2) For each abutter to be notified: two dollars (\$2).~~

88-7. 88-5. Application for permits.

1. ~~A.~~ Each application for a building permit and application for a zoning permit or change of use shall be in writing, signed by the owner of the property to be built upon, on forms to be supplied by the Town. These forms shall be filled out in sufficient detail to show conformance with this Article and all applicable state and Town of Conway rules, regulations and ordinances. Copies of the original forms to be used hereunder have been filed by the Selectmen with the Town Clerk of Conway with a copy of this Article prior to its adoption.

2. ~~B.~~ In addition to the application forms, all applicants for a building permit for a commercial or multifamily (three or more unit buildings) project shall be required to submit architectural/structural plans conforming to the BOCA Code as part of their submission. The applicant shall submit one copy of these plans to the town's Town's Building Inspector and one copy to the Fire Chief having jurisdiction ~~covering that construction site.~~

88-8. 88-6. Expiration of permits. Any building permit shall expire upon completion of the proposed project as may be indicated on the form or at the end of one (1) year, whichever time shall arrive earlier. All building permits issued by the town prior to the date of adoption of this Article shall remain valid no longer than one (1) year after the effective date of this Article.

88-9. 88-7. Amendment of application forms. The Selectmen shall be authorized to amend the forms to be used hereunder from time to time, provided that at least two (2) public hearings shall be held, with each hearing having published notices therefore at least two (2) weeks prior to such hearing; after the second hearing, the Selectmen shall vote to adopt amended forms, record the amended forms with the Town Clerk of Conway, and thereafter the same shall be valid and enforceable. In the notice of the second hearing, the entire proposed amendment shall be published and no substantive ~~only nonsubstantive~~ changes may be made after the second hearing.

88-10. 88-8. Violations and penalties. Any violation of any provision of this Article or the forms promulgated hereunder shall be punished on conviction by a fine of up to \$100 per day pursuant to RSA 676:17 ~~not more than one hundred dollars (\$100), plus costs, to be paid~~

~~over on collection to the use of the town.~~ The Town town may also enforce this chapter and the regulations hereunder by injunction, restraining order or other appropriate action.

88-11. ~~88-9.~~ Applicability; when effective. This chapter shall apply throughout the Town of Conway and shall take effect when adopted at any duly warned town meeting.

88-12. Inconsistent Ordinances. In the event that the requirements of this chapter are in conflict with other codes, the more stringent shall apply.

88-13. Saving clause. Nothing in this ordinance or in the building code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

88-14. ~~88-10.~~ Amendment of chapter. This chapter may also be amended in accordance with RSA 675:3 the usual manner by majority vote of the town at any town meeting for which the warrant gives notice of the proposed change. This shall not be deemed to limit the authority of the Selectmen to adopt and/or amend forms consistent with the powers and procedures hereunder established ~~or as may be amended at any such town meeting.~~

Proposed amendment to §123-23:

~~§123-23. **Loading Facilities.** All non-residential sites shall provide off-street loading facilities. These facilities shall be located and designed to minimize traffic flow disruptions of entering and exiting vehicles, and so that delivery vehicles can be parked completely out of the right-of-way.~~

1. All non-residential sites shall provide off-street loading facilities. These facilities shall be located and designed to minimize traffic flow disruptions of entering and exiting vehicles, and so that delivery vehicles can be parked completely out of the right-of-way.
2. Outside facilities for trailers, vehicles or other portable structures (including containers) used for storage or warehousing of goods or material shall be screened from sight from abutting properties and streets by means of an opaque or vegetated buffer. The facility and buffer shall be represented on an approved site plan.

For construction projects having a valid Building Permit, a trailer located on the site for the lesser of one (1) year or the life of the building permit, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created, is not subject to this subsection.

Summary of Chapter 123-23 Amendment.

The Problem

Currently, the ordinance does not explicitly address trailers that are used for storage and warehousing goods. The Board of Selectmen (BOS) were not compelled by the Planning Board's interpretation of the site plan regulations that deemed trailers as an increased intensity of use and therefore subject to the Site Plan Review Regulations (§123). As such, they were unwilling to enforce that interpretation and requested that the Planning Board (PB) adopt amendments that clearly address storage trailers.

The Solution

Staff prepared amendments to address the BOS's concerns in late 2000. However, the PB did not adopt those amendments and instead tabled the issue in December 2000. The PB then reopened discussions by forming an Ordinance Amendment Committee that reviewed the issue. That committee forwarded recommendations to the PB in September, 2001. However, those recommendations created an administrative burden and did not satisfy the PB. The PB then requested that staff consider the recommendations made by the Committee and deliberations over the past two years and draft an amendment that would resolve the issue.

The attached amendment resolves the issues by providing for such uses while protecting the interests of the community.

Fiscal impact

The proposed amendments provides the requested clarification and sets standards for use of trailers and similar devices while creating no new fiscal burden because this reaffirms the PB's current interpretation of the existing ordinance.



November 9, 2001

David Pandora
Building Inspector
Town of Conway

Dear David:

This letter is to inform you, that the Wagstaff Project On Grove St, in North Conway, cannot have an underground service. The reason for this is; that the pole that serves that property is the same pole that the new primary underground and conduits to get under the tracks and new north/south road will be placed. The pole will have conduits on it for NHEC, Verizon and Adelphia. The addition of another set of conduits for the service to this property; is unpractical and unsafe, from a working point of view.

I hope you will allow the existing overhead service to remain, with just a conductor change to accommodate the new larger service.

Please feel free to call me at 603-356-5794 ext. 204 with any questions or concerns you may have regarding this.

Thank you in advance for your time, regarding this matter.

Sincerely,

Lawrence L. Martin

Lawrence L. Martin
Field Planner
New Hampshire Electric Co-op

**AMENDMENTS TO ZONING ORDINANCE,
HISTORIC DISTRICT ORDINANCE
AND/OR BUILDING CODE**

DATE	ACTION	RSA
December 10, 2001	First day to submit petitioned amendments to Zoning Ordinance, Historic District Ordinance or Building Code.	675:4, I
January 9, 2002	Last day to accept petitioned amendments to Zoning Ordinance, Historic District Ordinance or Building Code ¹ .	675:4, I
January 10, 2002	Planning Board meeting: Schedule first public hearing on petitioned amendments for January 24, 2002.	N/A
January 13, 2002	Post and publish notice for first public hearing on amendments.	675:7
January 24, 2002	Planning Board meeting: First public hearing on amendments. Schedule second public hearing if necessary for February 7, 2002.	N/A
January 27, 2002	Post and publish notice for second public hearing on amendments.	675:7
February 7, 2002	Planning Board meeting: Second public hearing on amendments.	N/A
March 5, 2002	Last day to file official copy of final amendment proposals with Clerk's office.	675:3, V
April 2, 2002	Last day to submit Zoning Ordinance Protest Petition to require two-thirds (2/3) vote.	675:5
April 9, 2002	Town Meeting	

¹ The Planning Board at its first regular meeting following this petition period shall set the date for the public hearing for each petitioned amendment. Notice shall be given per 675:7, which requires publication and posting at least ten days prior to the hearing. After public hearing, the Planning Board shall vote to determine the final form of the amendment. If the proposal is substantively altered by the Planning Board after public hearing, then an additional public hearing shall be held at least 14 days after the first public hearing with the same notice per 675:7.