

CONWAY PLANNING BOARD

MINUTES

JANUARY 10, 2002

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CONWAY PLANNING BOARD

MINUTES

JANUARY 10, 2002

A meeting of the Conway Planning Board was held on Thursday, January 10, 2002, beginning at 7:07 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Selectmen's Representative, Dick O'Brien; Secretary, Conrad Briggs; Brian Glynn; Robert Drinkhall; Martha Tobin; David Robinson; Alternate, Cesare Macchionni; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Briggs made a motion, seconded by Mr. Drinkhall, to approve the Minutes of December 20, 2002 as written. Motion unanimously carried.

PUBLIC HEARING – ARTICLES 147-17 AND ARTICLE 147-17.1.A – SETBACKS AND FRONTAGE REQUIREMENTS

The public hearing was opened at 7:09 p.m. Ms. Duane asked if there were any board comments; there was none. Ms. Duane asked for public comment; there was none. The public hearing was closed at 7:11 p.m. **Mr. Briggs made a motion, seconded by Ms. Tobin, to post Articles 147-17 and 147-17.1.A. as written to the warrant. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 147-12 – BUSINESS DISTRICT

The public hearing was opened at 7:12 p.m. Ms. Duane asked if there were any board comments; there was none. Ms. Duane asked for public comment; there was none. The public hearing was closed at 7:13 p.m. **Mr. Glynn made a motion, seconded by Ms. Tobin, to post Article 147-12 as written to the warrant. Motion carried with Mr. O'Brien voting in the negative.**

PUBLIC HEARING – ARTICLE 147-14 – FLOODPLAIN CONSERVATION COMMISSION

The public hearing was opened at 7:14 p.m. Mr. Irving reviewed a few minor changes. Ms. Duane asked if there were any board comments; there was none. The public hearing was closed at 7:15 p.m. **Mr. Briggs made a motion, seconded by Mr. Glynn, to post Article 147-14 as amended to the warrant. Motion unanimously carried.**

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PUBLIC HEARING – ARTICLE 147-6 – EDGE OF WATER AND EDGE OF WETLAND

The public hearing was opened at 7:16 p.m. Ms. Duane asked if there were any board comments; there was none. The public hearing was closed at 7:17 p.m. **Ms. Tobin made a motion, seconded by Mr. Briggs, to post Article 147-6 as written to the warrant. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 147-31 – WETLAND AND WATERSHED PROTECTION DISTRICT

The public hearing was opened at 7:18 p.m. Ms. Duane asked if there were any board comments; there was none. The public hearing was closed at 7:19 p.m. **Mr. Glynn made a motion, seconded by Ms. Tobin, to post Article 147-31 as written to the warrant. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 147-19.B.(1)(g) – WINDOW SIGNS

The public hearing was opened at 7:18 p.m. Ms. Duane asked if there were any board comments; there was none. The public hearing was closed at 7:19 p.m. **Mr. Briggs made a motion, seconded by Ms. Tobin, to post Article 147-19.B.(1)(g) as written to the warrant. Motion unanimously carried.**

PUBLIC HEARING – CHAPTERS 88 & 89 – BUILDING CONSTRUCTION

The public hearing was opened at 7:20 p.m. Ms. Duane asked if there were any board comments; there was none. The public hearing was closed at 7:21 p.m. **Ms. Tobin made a motion, seconded by Mr. Drinkhall, to post Chapters 88 & 89 as written to the warrant. Motion unanimously carried.**

CONWAY SCENIC RAILROAD (PID) FILE # – MINOR SITE PLAN REVIEW CONTINUED

Ms. Duane stated due to a family emergency the applicant has requested a continuance. **Mr. Briggs made a motion, seconded by Ms. Tobin, to continue the minor site plan review for the Conway Scenic Railroad until January 24, 2002. Motion unanimously carried.**

RIVER RUN COMPANY – FULL SITE PLAN REVIEW CONTINUED (PID) FILE #

Joe Berry of River Run Company and Diane Smith of Thaddeus Thorne Surveys appeared before the Board. Ms. Duane asked if we had received revised comments from the North Conway Fire Chief regarding access to Conway Scenic Railroad. Mr. Irving answered in the affirmative. Ms. Duane asked if the applicant has received a site-specific approval from the State. Mr. Irving answered in the affirmative.

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Ms. Duane asked if the applicant had clarified the pavement phasing plans. Mr. Irving stated that the applicant is no longer proposing a phasing plan. Ms. Duane asked if the pavement would be done all at once. Mr. Irving answered in the affirmative. Ms. Duane asked if the applicant had revisited the pedestrian amenities. Mr. Irving stated that a sidewalk leads to the pedestrian tunnel.

Ms. Duane asked if the Town Engineer has approved the engineering plans. Mr. Irving answered in the affirmative. Ms. Duane asked if the enclosure of the veranda was going to be consistent with the other side of the building. Mr. Berry answered in the affirmative. Mr. Irving stated that other than the waivers the only issues are the cost estimate and the resolving the issue with the railroad property.

Ms. Duane read a waiver request for Articles 123-20.F., 123-29.A.3. and 131-67.C.8.f. Ms. Duane read the requirements to grant a waiver. **Mr. O'Brien made a motion, seconded by Mr. Briggs, to grant the waiver request for Articles 123-20.F., 123-29.A.3. and 131-67.C.8.f.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

Mr. Berry withdrew the waiver request for Article 123-25. There was a brief discussion regarding the pedestrian tunnel. Ms. Duane asked for public comment; there was none. **Mr. Briggs made a motion, seconded by Mr. Glynn, to continue the Full Site Plan Review for River Run Company until January 24, 2002. Motion unanimously carried.**

**THOMAS FADDEN AND VICKI GRAVES – 4-LOT SUBDIVISION
CONTINUED (PID) FILE #**

Edgar Allen of Thaddeus Thorne Surveys appeared before the Board. Mr. Irving stated that the applicant has requested a continuance. Ms. Duane stated that we have had no progress on this application. Mr. Irving stated that the engineering plans have been resubmitted and a list of deficiencies provided to the applicant.

Ms. Duane stated that the Board will continue the application at this time, but they don't want to continue it again. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to continue the 4-lot subdivision application for Thomas Fadden and Vicki Graves until February 14, 2002. Motion unanimously carried.**

**EDWARD GARLAND/PARIS FARMERS UNION- FULL SITE PLAN REVIEW
CONTINUED (PID) FILE #**

Edgar Allen of Thaddeus Thorne Surveys and Fred Wolfe of Paris Farmers Union appeared before the Board. Ms. Duane asked if the applicant has received a NHDOT Driveway permit. Mr. Allen submitted a copy of the NHDOT driveway permit to the Board at this time. Ms. Duane asked if we have received letters of approval from the

CONWAY PLANNING BOARD – JANUARY 10, 2002

North Conway Fire Chief and the North Conway Water Precinct. Mr. Irving answered in the affirmative.

Ms. Duane stated that the applicant has delineated the display area in the buffer on the northeast corner. Mr. Irving stated that he and the applicant respectfully disagree if the display in the front of the property was allowed in the buffer. After a brief discussion the Board agreed that the waiver was granted to display in the buffer between the two properties and not at the front of the property.

Ms. Duane stated the waiver notes on the plan need to be amended. **Mr. Briggs made a motion, seconded by Ms. Tobin, to conditionally approve the Full Site Plan for Edward Garland/Paris Farmers Union conditionally upon delineating the display area in the northeast corner (not to be in the buffer); amend waivers granted note to remove the word “calculations” from Article 123-6.B.4. & 123-29.B. and “street” from the Article 123-29.D.1 & 8; when the conditions have been met the plans can be signed out-of-session; and this conditional approval will expire on February 14, 2002.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

THOMAS HANLEY – FULL SITE PLAN REVIEW CONTINUED (PID) FILE #

Mark Lucy of White Mountain Survey Company appeared before the Board. Ms. Duane asked if the plans show underground utilities. Mr. Irving answered in the affirmative. Ms. Duane asked if the applicant has received letters of approval from the North Conway Fire Chief and the North Conway Water Precinct. Mr. Irving answered in the affirmative. Mr. Irving stated that the waiver note has been amended; the soil type has been added to the plans; the applicant has received an NHDES Septic Approval; and the note regarding the sign has been removed.

Mr. Irving stated that the applicant has received a NHDOT driveway permit, but there was a question on whether they approved the site draining into the State basin. Mr. Irving stated that he did receive a facsimile from the State approving the site draining into the State basin. Mr. Irving stated that the applicant included an 80' x 9' concrete pad for motorcycles and recently changed it to motorcycles or four (4) parking spaces. Mr. Irving stated that the concrete pad is not striped and asked if the Board was okay with the change. The Board agreed to the change.

Mr. Briggs made a motion, seconded by Mr. O'Brien, to conditionally approve the Full Site Plan Review for Thomas Hanley conditionally upon a performance guarantee for 50% of all site improvements; when the condition has been met, the plans can be signed out-of-session; and the conditional approval expires on July 11, 2002. Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

OTHER BUSINESS

Petitioned Amendment – Article 147-22.D.(1) – Highway Commercial District: **Mr. O’Brien made a motion, seconded by Mr. Briggs, to post the petitioned amendment for Article 147-22.D.(1) to a public hearing on January 24, 2002.**

Meeting adjourned at 8:18 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary

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.



TOWN OF CONWAY

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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.**

147-12. 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.

- [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.

- (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, A~~an 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.~~