

**CONWAY PLANNING BOARD**

**MINUTES**

**JUNE 27, 2002**

**PAGES**

Review and Acceptance of Minutes

- June 13, 2002 – Adopted as Written

Wal-Mart Real Estate Business – Full Site Plan Review  
Continued (PID 246-62) File #FR02-07

- Conditionally Approved

Fram Real Estate – Full Site Plan Review Continued  
(PID 235-33) File #FR02-06

- Continued until July 11, 2002

T. Paul and Loretta L. Matsubara – Full Site Plan Review  
Continued (PID 277-287) File #FR02-08

- Conditionally Approved

The Denise F. Broughton Revocable Trust – Full Site Plan  
Review Continued (PID 202-16) File #FR02-09

- Continued until July 25, 2002

Harold Whitaker and Thomas Fadden – 6-Lot Subdivision  
(PID 263-76) File #S02-06

- Continued until July 25, 2002

Phillip and Muriel Ayres – 2-lot Subdivision (PID 258-34)  
File #S02-07

- Approved; Plans Signed

**CONWAY PLANNING BOARD**

**MINUTES**

**JUNE 27, 2002**

A meeting of the Conway Planning Board was held on Thursday, June 27, 2002 beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Selectmen's Representative, Dick O'Brien; Vice Chair, Robert Drinkhall; Secretary, Conrad Briggs; Brian Glynn; David Robinson; Martha Tobin; and Recording Secretary, Holly Meserve,

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Drinkhall made a motion, seconded by Mr. O'Brien, to approve the Minutes of June 13, 2002 as written. Motion carried with Ms. Tobin abstaining from voting.**

**WAL-MART REAL ESTATE BUSINESS – FULL SITE PLAN REVIEW CONTINUED  
(PID 246-62) FILE #FR02-07**

Phil Hastings, Wal-Mart Legal Council, Harry Pike, Store Manager, and John Earl, Engineer with Provan & Lauber appeared before the Board. Mr. Hastings reviewed the application. Mr. Glynn joined the Board at this time.

Ms. Duane asked if the garden center expansion would look the same as the existing garden center. Mr. Hastings stated to expand a structure in the Special Highway Corridor District would require a variance. Ms. Duane stated that she does not like the chain link fence and asked how it was going to be screened. Mr. Hastings stated that there are 25 juniper trees proposed to be planted in front of the chain link fence. Ms. Tobin stated it would take five years for the trees to screen the fence.

Ms. Duane stated that she would like to see it look like the front of the building. Mr. Hastings stated that that would be an expansion of a structure in the Special Highway Corridor District. Ms. Duane stated that the Planning Board could reduce the setback in the Special Highway Corridor District. Mr. Hastings agreed and stated that they are asking it to be reduced to 39 feet.

Mr. Glynn asked how many entrances there will be into the new garden center. Mr. Pike stated that there will be two emergency fire exits and the only access will be through the interior. Mr. Glynn suggested a wooden fence for a PVC fence, something other than a chain link fence. Mr. Pike stated that they have to consider security. Mr. Hastings stated that he could work with Thomas Irving in regard to alternative fencing. Ms. Duane stated that she would prefer not to see a chain link fence. Mr. Hastings stated that alternative fencing could be a part of a conditional approval. Ms. Duane stated that a condition could be for the plans to be signed in-session with the fencing to be approved by the Board.

**Adopted: As Written – July 11, 2002**  
**CONWAY PLANNING BOARD – JUNE 27, 2002**

Ms. Duane asked if there were any questions regarding the other storage area. Mr. Briggs stated that he would like to see some more plantings on the east side to shield it from the bypass. Mr. Hastings reviewed the landscaping plan. Ms. Duane stated that she would also like to see some short, wide evergreen shrubs. Mr. Briggs stated he would like to see what is on the west side of the property planted on the east side.

Ms. Duane asked for public comment; Chuck Robinson stated that he has an approval for a gas station a few lots down from Wal-Mart, which has not be constructed yet. Mr. Robinson stated that the original application provided 548 parking spaces and that is being reduced to 524 parking spaces. Mr. Robinson stated that this is also an additional 12,000 square feet in the Special Highway Corridor District where only 5,000 square feet is allowed.

Mr. Robinson stated that he does not believe the applicant has 25% greenspace. Mr. Robinson stated that he believes they only have 23.5% greenspace. Mr. Robinson stated that the traffic islands are not the correct size. Mr. Robinson stated if the Planning Board grants this approval the applicant will next be applying to add a gas station. Mr. Robinson stated that Wal-Mart sells gas close to cost, which will affect the other gas businesses. Mr. Robinson stated that he is not trying to crush these guys, but he wouldn't have come here if he thought all the rules could be waived or obtain variances. Mr. Robinson stated that the whole Wal-Mart project was not built the way it was supposed to be built, such as the traffic islands, and the Town doesn't require as-builts. Ms. Duane stated that the Board relies on Town Staff and staff says they are okay.

Mr. Hastings stated that they are providing 16 more parking spaces than is required by the ordinance. Mr. Hastings stated that we have implemented an alternative-parking standard. Mr. Hastings stated what we have done is balanced the need for adequate parking with the Town's desire for greenspace and landscaping. Mr. Hastings stated as for the concern with a gas station; he does not know what the applicant's plan is for that. Mr. Robinson stated they are already 95,000 square feet over the allowed building size and if the Board allows them to keep going when are they going to stop. Mr. Robinson stated that the people in Town would like the same treatment.

Mr. Briggs stated that he is concerned with the traffic islands and whether or not they are the correct size or if they have been decreased. Mr. Briggs stated that he is also concerned if the greenspace is less then 25%. Mr. Hastings stated that he has no indication that the traffic islands are too small and he has reviewed this with Mr. Irving and there has been no concern.

Ms. Duane read the requirements to grant a waiver. Ms. Duane read the waiver requests for Articles 123-6.A. Soil Types and Boundaries; 123-6.A. Large Trees; 123-6.B.2. Scale; and 123-20.G. Connecting Drives. Ms. Duane asked if a connecting drive could be reserved on the site plan. Mr. Hastings stated if it was to be opened up it would take up greenspace. Mr. O'Brien stated that it may reduce greenspace, but it would take vehicles of the main road. Mr. Hastings asked for guidance on the location of a connecting drive. Ms. Duane suggested anywhere on the northeast corner of the property. **Mr. O'Brien made a motion, seconded by Mr. Briggs, to grant the waiver request for Article 123-20.G. Motion unanimously defeated.**

**Adopted: As Written – July 11, 2002**

**CONWAY PLANNING BOARD – JUNE 27, 2002**

Ms. Duane read a waiver request for Articles 131-67.C.8.b.; 123-27 and 131-67.C.8.a.; 123-29.D. for 63 trees; and 123-29.A.1. Mr. Hastings stated that the original approval needed 523 trees. Mr. Hastings stated that the applicant is asking to provide 460. Ms. Duane asked what is the bottom line on the buffer from 100 feet to 25 feet. Mr. Hastings stated the buffer is now 100 feet and when the store was built the buffer was 25 feet. Mr. Hastings stated that they are asking the buffer to be reduced to 39 feet.

Mr. Briggs stated that he is unclear on this waiver and asked if the applicant's property goes to the proposed highway. Mr. Hastings answered in the affirmative and stated that the 25-foot buffer was consistent with the setback. Mr. Hastings stated there was a zoning change that increased the buffer to 100 feet in the Special Highway Corridor District. Mr. Hastings stated that we already had improvements on the site when the buffer changed and the proposed improvements do not encroach into the 25-foot setback.

**Mr. Briggs made a motion, seconded by Mr. Drinkhall, to grant the waivers for Articles 123-6.A. Soil Types and Boundaries; 123-6.A. Large Trees; 123-6.B.2. Scale; Articles 131-67.C.8.b.; 123-27 and 131-67.C.8.a.; 123-29.D. for 63 trees; and 123-29.A.1. Ms. Duane asked for public comment; there was none. Motion unanimously carried.**

Mr. O'Brien asked the total number of parking spaces required. Mr. Hastings answered 524. Mr. O'Brien asked how many parking spaces is the applicant providing. Mr. Hastings answered 549. Mr. O'Brien stated if a gas station does go in it will hurt a lot of businesses in Town. Mr. Briggs stated that it would increase the need for greenspace and they don't have any. Mr. Briggs stated that they are maxed out for the use on this property.

Mr. Robinson asked the Board to check the greenspace and stated that he has counted and there are not 548 parking spaces. Mr. Robinson stated that he agrees with Mr. O'Brien and Mr. Briggs, but they have the right to request a variance. Mr. Robinson stated that this opens the door for more development in an area that only allows 5,000 square feet.

**Mr. Briggs made a motion, seconded by Mr. Glynn, to conditionally approve the application for Wal-Mart Real Estate Business conditionally upon Renumber the sheets; Add missing abutters and uses to plan; Add outdoor display area to plans (no greater than 1000 square feet and must include the soda machines); Remove reference to "survey sheet 3" from landscape plan; Update granted waivers to the plans if necessary; Submit a letter from DES regarding compliance with the Site Specific Permit; Each Surveyor and Engineer stamp has to have an original signature; Acceptance of the fence by the Planning Board; Add a reserved area to the plan for a connecting drive; Recheck the greenspace calculations; A performance guarantee for 50% of site improvements and 100% of landscaping (including remedial plantings) pursuant to §123-47; Submit Mylar originals of all plans to be recorded; The landscaping must be installed prior to use or occupancy of the expanded area; and The plans can be signed in-session when the conditions have been met.** Mr. Hastings asked if the reserved area still count as greenspace. Ms. Duane answered in the affirmative. **Motion unanimously carried.**

**FRAM REAL ESTATE – FULL SITE PLAN REVIEW CONTINUED (PID 235-33) FILE #FR02-06**

**Mr. Briggs made a motion, seconded by Ms. Tobin, to continue the full site plan review for Fram Real Estate until July 11, 2002. Motion unanimously carried.**

**T. PAUL AND LORETTA L. MATSUBARA – FULL SITE PLAN REVIEW CONTINUED (PID 277-287) FILE #FR02-08**

Andrew Manning and Burr Phillips of H.E. Bergeron Civil Engineers appeared before the Board. Ms. Duane read a memo from Paul DegliAngeli, Town Engineer, responding to the Board's questions from the last meeting. Ms. Duane read a letter from Andrew Manning of H.E. Bergeron addressed to Board members addressing James Porter's letter. Mr. Briggs asked if there has been any change to the plans since the last meeting. Mr. Manning answered in the negative.

Ms. Tobin stated that she was not at the last meeting and asked if the proposed use is permitted based on the zone. Ms. Duane answered in the affirmative and stated that this is zoned Highway Commercial and not residential. Mr. Glynn asked if architectural elevations had been submitted. Mr. Manning answered in the affirmative and stated that they are on 8-1/2 x 11 sheets. Mr. Manning stated that the proposal submitted is to utilize a textured block wall, as they wanted to stay away from wood because of moisture. Mr. Manning stated that wood is not a really good use at this site. Mr. Manning stated that they are proposing a natural color textured block with a painted metal roof.

Ms. Duane asked if it had a pitched roof. Mr. Manning answered in the affirmative and stated that it is a 6:12 pitch. Mr. Manning stated that there are additional windows along the wash tunnel and a colored band to break up the monotony of the wall. Ms. Duane asked if it was split face block like Wal-Mart. Mr. Manning answered in the affirmative.

Mr. Briggs stated that he is comfortable that Mr. Irving, Mr. DegliAngeli, Conway Village Fire District and H.E. Bergeron have answered all questions. Ms. Duane asked about lighting. Mr. Manning stated that the lights are on vacuum islands would be directed toward the building. Ms. Duane asked if the Board was satisfied with the elevations. Mr. Glynn stated that there should be more detail. Mr. Briggs suggested part of conditional approval.

There was discussion regarding the fence along the abutter's property line. Mr. Manning stated that the owner has agreed to put up a fence if that was the abutter's sole concern. Mr. Phillips stated that that offer still stands.

Ms. Duane asked for public comment; James Porter stated that they did not answer his questions properly. Mr. Porter stated that there have been two major accidents at that corner. Mr. Porter stated that his main concern is the hazardous materials. Ms. Duane stated that the New Hampshire Department of Environmental Services has reviewed and approved this application. Mr. Porter asked if anyone from the State has conducted a site visit. Ms. Duane stated that she

**Adopted: As Written – July 11, 2002**

**CONWAY PLANNING BOARD – JUNE 27, 2002**

did not know. Mr. Porter stated that the Planning Board is supposed to protect the health of the Town of Conway.

Mr. Porter stated that he is concerned that this application is being pushed through without a traffic or chemical study. Ms. Duane stated that the applicant has been through the necessary permit procedures from the State and the Town Engineer has stated that a traffic study is not necessary.

Mr. Porter stated that all he is asking of the Town of Conway is to look to see if there is going to be an issue with hazardous materials. Mr. Porter stated that it should be looked into a little more. Mr. Porter stated that he disagrees with the Town Engineer, as a traffic study should be conducted. Mr. Porter stated that he wished the Planning Board would allow for a little more homework.

Ms. Duane asked the Board if they felt a traffic study is necessary. Mr. Drinkhall stated that he concurs with Mr. Briggs; Mr. Glynn stated that he concurs with Mr. Briggs; Mr. Robinson stated that a traffic study is not needed; and Ms. Tobin stated that she was not here for the first meeting. Mr. Porter asked if the Board had any concerns with hazardous materials. Ms. Duane stated that NHDES issues the permits and the regulations require a permit from the State. Ms. Duane stated if there were any red flags the State would have pointed them out.

Bob Gillis, owner of the other car wash in Town, stated that the water carried out onto West Main Street could cause a problem. Mr. Gillis stated that there is 325 feet in the front area before hitting the road and on his site he has two hard left turns and then a gradual turn and he has had to go out onto Route 16 and put down rock salt because of ice buildup. Mr. Gillis stated that in regard to noise he has a 15-horse power fan, but they do come larger.

Richard Collins stated that the applicant still has not addressed the fence and asked the Board why they won't require a fence between his property and the applicant's. Ms. Duane stated that we don't require fences. Mr. Manning stated that the offer for the fence still stands. Mr. Manning suggested a four-foot stockade fence. Mr. Glynn suggested an six-foot stockade fence. Mr. Collins asked for an eight-foot stockade fence. Mr. Manning stated that he is concerned with an eight-foot fence in regard to safety.

Mr. Collins stated that the applicant's representative came to his house and asked if we had any problems with the project. Mr. Collins stated that he didn't have any problems as long as there was a fence. Mr. Collins stated that they did not have a problem with that and now I have to fight. Mr. Collins stated that it would have been nice to have been brought into the process earlier. Ms. Duane reviewed the notifying process. A 6'x75' fence was agreed upon. Ms. Collins asked for an explanation on the dry wells. Mr. Manning stated that they look like catch basins with a cemented cover. Mr. Manning stated that there are no openings. Ms. Collins asked if there should be a concern with children falling in. Mr. Manning answered in the negative.

Mr. Porter asked if there is a build up of chemicals in the water treated swales. Mr. Manning stated that they do require maintenance and would be cleaned out on an annual basis as well as the dry wells. Mr. Porter asked if the chemicals would be dissipated into the ground water. Mr.

**Adopted: As Written – July 11, 2002**

**CONWAY PLANNING BOARD – JUNE 27, 2002**

Manning stated chemicals will not be in the run-off from the pavement. Mr. Manning stated that the chemicals are collected in the car wash facility. Mr. Manning stated at the end of the process they do not anticipate any chemicals getting into the ground water.

Mr. Porter asked where the discharges from the car wash goes. Mr. Manning stated that it goes to a holding tank on the site and then discharged through a closed pipe sewer system and piped to Conway Village Fire District. Mr. Porter asked if this process goes over a drainage ditch. Mr. Manning answered in the negative. Ms. Duane asked for further public comment; there was none. Ms. Duane closed public comment.

Ms. Duane read waiver requests for Article 123-20.I.; 123-21.A.; 123-25.; 123-29.A. (1),(2) & (3); 123-29.D.8; and 123-20.G. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to grant the waiver requests for Articles 123-20.I.; 123-21.A.; 123-25.; 123-29.A. (1),(2) & (3); 123-29.D.8; and 123-20.G. Motion carried with Ms. Tobin abstaining from voting.**

**Mr. Briggs made a motion, seconded by Mr. Drinkhall, to conditionally approve the full site plan for T. Paul and Loretta L. Matsubara conditionally upon submitting architectural drawings to be approved by the Planning Board; adding a 6' x 75' fence along the eastern boundary; submitting a Mylar original of each sheet to be recorded; a performance guarantee for 50% of all site improvements and 100% of landscaping; when the conditions have been met, the plans can be signed in-session; and this conditional approval is to expire on July 25, 2002. Motion carried with Ms. Tobin abstaining from voting.**

**THE DENISE F. BROUGHTON REVOCABLE LIVING TRUST – FULL SITE PLAN REVIEW (PID 202-16) FILE #FR02-09**

Shawn Bergeron of Shawn Bergeron Technical Services appeared before the Board. Mr. Bergeron stated that he has asked for one continuance, he still needs to wrap up some minor issues and would like to ask for another continuance. **Mr. Glynn made a motion, seconded by Mr. Briggs, to continue the full site plan review for The Denise F. Broughton Revocable Living Trust until July 25, 2002. Motion unanimously carried.**

**HAROLD WHITAKER AND THOMAS FADDEN – 6-LOT SUBDIVISION (PID 263-76) FILE #S02-06**

Bob Defuto of Ammonoosuc Survey Company appeared before the Board. **Ms. Tobin made a motion, seconded by Mr. O'Brien, to accept the application for Harold Whitaker and Thomas Fadden for subdivision review as complete. Motion unanimously carried.**

Mr. DeFuto explained the application. Ms. Duane asked if there were any public comment; Bobby Quint, owner of Hales Estates, stated that he questions the validity of putting numerous driveways onto their road. Ms. Duane asked if the easements were noted and located on the plan. Mr. Quint stated that the applicant has a deeded right-of-way. Mr. Quint stated that Grandview Road is a private road and the right-of-way was intended for a future subdivision, not intended for many driveways. Mr. Quint stated that that is the way he interprets his deed.

**Adopted: As Written – July 11, 2002**

**CONWAY PLANNING BOARD – JUNE 27, 2002**

Mr. Defuto read a portion of the deed. Mr. Quint stated that there is no question that they can run utilities, but they have one right-of-way. It was determined that the Quint's own the road and the land under it. Mr. Glynn stated that the two parties need to come to an agreement. **Mr. Briggs made a motion, seconded by Ms. Tobin, to continue the subdivision review for Harold Whitaker and Thomas Fadden until July 25, 2002. Motion unanimously carried.**

**PHILLIP AND MURIEL AYRES – 2-LOT SUBDIVISION (PID 258-34) FILE #S02-07**

Edgar Allan of Thaddeus Thorne Surveys appeared before the Board. **Ms. Tobin made a motion, seconded by Mr. Robinson, to accept the application for Phillip and Muriel Ayres for subdivision review as complete. Motion unanimously carried.** Mr. Allan explained the application.

Ms. Duane read the waiver requests for Articles 131-24.E.; 131-40.O & P; and 131-24.T. **Mr. Drinkhall made a motion, seconded by Mr. Glynn, to approve the waiver requests for Articles 131-24.E.; 131-40.O & P; and 131-24.T. Motion unanimously carried.** Ms. Duane asked for public comment; there was none.

**Ms. Tobin made a motion, seconded by Mr. Drinkhall, to approve the 2-lot subdivision for Phillip and Muriel Ayres. Motion unanimously carried.** The plans were signed. Mr. Allen was given two signed plans.

Meeting adjourned at 9:25 p.m.

Respectfully Submitted,

Holly L. Meserve  
Recording Secretary