

CONWAY PLANNING BOARD

MINUTES

OCTOBER 24, 2002

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A meeting of the Conway Planning Board was held on Thursday, October 24, 2002 beginning at 7:06 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Vice Chair, Robert Drinkhall; Secretary, Conrad Briggs; Brian Glynn; David Robinson; Martha Tobin; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Drinkhall made a motion, seconded by Mr. Glynn, to approve the Minutes of October 10, 2002 as written. Motion carried with Ms. Tobin abstaining from voting.

BRADFORD OIL COMPANY/BEEP BEEP DELI – FULL SITE PLAN REVIEW CONTINUED (PID 227-221) FILE #FR02-12

Mr. Irving stated that the applicant has requested a continuance. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to continue the full site plan review for Bradford Oil Company/Beep Beep Deli until November 14, 2002. Motion unanimously carried.**

ALTON W. SEAVEY, JR. – 2-LOT SUBDIVISION (PID 203-11) FILE #S02-11

Doug Burnell of H.E. Bergeron Civil Engineers appeared before the Board; Alton Seavey and John Jones were in the audience. Mr. Burnell reviewed the plans and stated that there is an old right-of-way that was in place prior to Crown Ridge Road. Mr. Burnell stated that there is an agreement to have a more formal right-of-way that goes onto the current Town road. Mr. Burnell stated that the existing house meets the minimum lot size requirement.

Mr. Irving stated that he recommends accepting the application as complete. **Mr. Briggs made a motion, seconded by Mr. Robinson, to accept the application of Alton W. Seavey, Jr. for subdivision review as complete. Motion unanimously carried.** Mr. Irving stated that he has no issues with the requested waivers.

Ms. Tobin asked how many units are proposed. Mr. Burnell stated they are limited to two units, but there are no plans at this time for more than one unit. Ms. Duane asked for public comment; Gerard Moran stated that he is affected by the right-of-way off Crown Ridge Road. Mr. Moran stated that he is certainly not an obstructionist and commend the aspects of this application, but he is concerned with the visual effect. Mr. Moran stated that the driveway would be 100 feet from his deck. Mr. Moran stated that John Jones has

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assured him that he would keep to the minimum standard for a driveway. Mr. Moran asked what is the Town requirement for a driveway to access two properties.

Mr. Irving stated that it would have to be a minimum of ten-feet wide and a maximum of eighteen feet wide. Mr. Irving stated that there is a requirement for a 15-foot paved radius and a 15-foot paved apron is required, but the rest can remain gravel. Mr. Jones stated there is a twelve to eighteen-foot existing gravel driveway that will remain as to not take down any more trees. Ms. Duane stated that this Board does not govern how many trees may be taken down. Mr. Jones stated that it is his intention to keep it as unobtrusive as possible.

Mr. Glynn asked if it will be paved or gravel. Mr. Jones stated that he would like to pave it in a few years. Mr. Moran asked about utilities. Mr. Irving stated that they would have to be underground, which is indicated on the plans within the right-of-way. Mr. Moran asked in the event Mr. Jones does not purchase the property and someone else purchases the property what is the protection from someone else putting in ten units. Mr. Irving stated that the approval runs with the land and the right-of-way restriction only allows a maximum of two units. Mr. Irving stated we don't require a minimum amount of trees for a residential subdivision.

Mr. Moran stated this is a large area with trails that many people have had access to; are there any provisions in the Town to allow continued access. Mr. Irving stated that it would clearly be a civil matter. Mr. Jones stated that he does not have any intention to stop the use of the trails, but they will not allow snowmobiles or ATVs. Mr. Jones stated that he would like to expand the trails.

Ms. Duane read the requirements to grant a waiver. Ms. Duane read a waiver request for Articles 131-24.N. & O and 131-26.A.(3) & (4) and Articles 131-24.T. and 131-27.1.A. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to grant the waiver request for Articles 131-24.N.& O. and 131-26.A(3) & (4) and 131-24.T. and 131-27.1.A.** Ms. Duane asked for discussion; there was none. Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

Mr. Briggs made a motion, seconded by Ms. Tobin, to conditionally approve the 2-lot subdivision for Alton W. Seavey, Jr. conditionally upon a performance guarantee for 115% of all site improvements; State of New Hampshire Subdivision Approval; when the conditions have been met, the plans can be signed out-of-session; and the conditional approval will expire on December 12, 2002. Ms. Duane asked for discussion; there was none. **Motion unanimously carried.**

OTHER BUSINESS

Inglewood Country Estates Subdivision (PID 250-106 through 153): Bradford Ingalls, owner; Earle Mcletchie, Attorney for owner; and Peter Malia, Town Council appeared before the Board and Paul DegliAngeli, Town Engineer, was in the audience.

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Mr. Mcletchie stated that a broker in regard to the status of the subdivision contacted the Town, but the owner hasn't had it listed nor is he planning on selling it.

Mr. Mcletchie stated that this subdivision was approved on October 17, 1974 and there were not a lot of regulations for roads. Mr. Mcletchie stated that this property is approximately 50 acres with very good views for accessing and exiting this property. Mr. Mcletchie stated that the minimum lot size at that time was a half an acre and there was no requirement for bonding. Mr. Mcletchie stated that the owner did spend a lot of money starting the development.

Mr. Mcletchie stated that fill was brought in, stonewalls were built, and underground piping for the water system was installed for approximately half the project. Mr. Mcletchie stated that there should be nothing wrong with this project. Mr. Mcletchie stated that this should be a valid subdivision under RSA 674:39, vesting. Mr. Mcletchie stated Mr. Ingalls' rights are vested as he has put money into the signs, water system, electrical and has paid a total of \$125,000 in taxes since 1974. Mr. Mcletchie stated that he has spent \$36,000 on this project, which is equivalent to \$350,000 today.

Ms. Duane asked if we are discussing vesting for this project. Mr. Mcletchie answered in the affirmative. Mr. Mcletchie stated that Mr. Ingalls complained about the taxes and he received an abatement. Mr. Mcletchie stated that Mr. Ingalls looked at putting in a modular home, making it an office and selling modular homes, but he decided against it. Mr. Mcletchie stated that in regard to future plans, Mr. Ingalls is concerned with it becoming a gravel pit.

Mr. Mcletchie stated that there has been fill placed, trees taken down, embankments and ditches constructed, and 18" culverts installed. Mr. Mcletchie stated that they are looking at maybe merging some lots or doing boundary line adjustments to create two lots instead of three. Mr. Mcletchie stated that they would improve the road if it sells. Mr. Briggs stated we need to know if the subdivision is vested. Mr. Malia stated if this subdivision is vested then it can be developed without regard to today's standards. Mr. Malia stated that we need to track down the exact amount of money spent on this project.

Mr. Ingalls stated that he has some significant information on who worked on the project and amounts paid. Mr. Glynn stated that this information could be disclosed in a different forum. Mr. Irving stated that Mr. Ingalls should provide Mr. Malia with an itemized cost that was put into this project.

Mr. DegliAngeli stated vesting might be a moot point because we are not going to issue a building permit until we get septic designs and the density is limited to the soil type and how it handles disposal. Mr. DegliAngeli asked what have we gained in vesting if they are proposing to redo the lot lines. Mr. DegliAngeli stated if the road is brought up to today's standards, what are we vesting. Mr. DegliAngeli stated that the water system pipes have been in for 28 years and will need substantial testing. Mr. DegliAngeli stated that staff could better spend their time on what has to be done to make building their

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viable. Mr. DegliAngeli questioned if they would be able to obtain NHDES Septic approvals because of all the rotten rock.

Mr. Irving stated under RSA 676:4-a.1.(a) there are three options available. Mr. Ingalls stated that there have been some comments made without having all the facts as Alex Chapman designed the septic systems and worked with the State. Mr. Ingalls stated that the State did an on-site inspection and the percolation test was excellent.

Mr. Briggs made a motion, seconded by Mr. Drinkhall, that Town Council and Town Staff determine if this subdivision is vested and bring it back to the Planning Board. Motion unanimously carried. Mr. Mcletchie stated that he would like to know opinion and be notified of any meetings with the Planning Board.

John Jones/Alton Seavey Subdivision (PID 203-11): Mr. Jones stated that they have to put up bonding and they may not build for five years. After a brief discussion, it was determined that Mr. Jones could submit an application to the Board at a later date and ask to waiver the bonding.

Meeting adjourned at 8:40 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary



TOWN OF CONWAY

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MEMO

TO: Sheila Duane, Planning Board Chair
FROM: Tom Irving, Planning Director 
CC: Planning Board, ES, DP, PD, File
DATE: 07/17/02
RE: Ingalwood Country Estates Subdivision (PID 250-106 through 153)

Message:

I recently received an inquiry from a prospective buyer and a realtor regarding the status of the Inglewood Country Estates Subdivision on West Side Road. While researching that question, I discovered a problem regarding the validity of the subdivision. Based on a review of the Town's records (including the Planning and Zoning Files as well as, the minutes for the Planning Board and Board of Selectmen) it appears that this subdivision is not vested and gains no protection pursuant to RSA 674:39 (Four-Year Exemption). Due to changes in the Town's regulations since 1974, that approval is no longer valid in that subsequent changes in the Town's Subdivision Regulations and Zoning Ordinance do apply to any further development of this subdivision. The Town is therefore precluded from issuing any building permits or authorizing development of the lots within the Inglewood Country Estates Subdivision.

In order to protect the Town and potential buyers of those lots the Planning Board could revoke the subdivision pursuant to the provisions of RSA 676:4-a. Besides revocation, other possible remedies include:

1. The property owner demonstrates to the Board's satisfaction that the subdivision is vested.
2. The property owner pursuant to the provisions of RSA 676:4-a.I.(a) request (or agree to) revoke the subdivision.
3. The property owner (or his duly authorized agent) submit a new subdivision application for approval by the Planning Board. Upon approval by the Planning Board, that subdivision will effectively supersede the old defunct approval.

I recommend that the property owner be invited to meet with the Planning Board and discuss which remedy the Board will employ.

Aug 20, 2002

To - Mr. Thomas Irving - Planning Director

As you requested; this FAX will confirm our phone conversation on Aug 20, 2002.

I would be pleased to meet with the Planning Board as suggested in your letter.

I will be traveling on business during Aug 22 which is the date which you suggested.

I am requesting another date, this will also make it possible for me to put together my documents.

The date of Sept 26, 2002 which you mentioned would be agreeable with me, I trust that it will also be agreeable with the Board.

Thank you, and I look forward to our meeting on Sept 26.

Sincerely,
W. Ingalls

RECEIVED

AUG 20 2002

TOWN OF CONWAY