

CONWAY PLANNING BOARD

MINUTES

JANUARY 29, 2004

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CONWAY PLANNING BOARD

MINUTES

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A meeting of the Conway Planning Board was held on Thursday, January 29, 2004, beginning at 7:02 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Vice Chair, Robert Drinkhall; Conrad Briggs; Martha Tobin; David Robinson; 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 January 8, 2004 as written. Motion carried with Ms. Tobin abstaining from voting.

PUBLIC HEARING – CHAPTER 88 – BUILDING CODE

A public hearing was opened at 7:02 p.m. This amendment is to see if the Town will authorize the Board of Selectmen to establish a Building Code Board of Appeals. Mr. Irving stated that the Town Manager asked that he review the Building Code Board of Appeals and under what law allowed the one that was established to be established. Mr. Irving stated that he could not find where the Town had authorized the establishment of a Building Code Board of Appeals.

Ms. Duane asked for public comment; Robert deFeyerter asked why is the Planning Board handling this when it is under the jurisdiction of the Board of Selectmen. Mr. Irving stated that the State Statute gives authority for amending the Building Code to the Planning Board.

The public hearing was closed at 7:06 p.m. Mr. Robinson asked did we ever have a Building Code Board of Appeals and, if so, what happened to them. Mr. Irving stated that there were members appointed, but they were never called upon and therefore just went away. Mr. Irving stated that the Town has never established the right to establish a Building Code Board of Appeal. **Mr. Briggs made a motion, seconded by Ms. Tobin, to recommend and post Chapter 88 to the warrant. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 147 – ZONING ORDINANCE

A public hearing was opened at 7:08 p.m. This amendment is to amend the Conway Zoning Ordinance in its entirety to reorganize its content based on zoning districts, establish districts that more clearly represent the villages, clarify overlay district designations and clarify the regulations by making minor adjustments to district boundaries and language in an effort to make the Zoning Ordinance more user friendly.

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Mr. Irving stated that the Zoning Ordinance was re-organized, as it was dysfunctional in its current form. Mr. Irving stated since the Town has progressed it has become very difficult to navigate to answer questions. Mr. Irving stated the Zoning Ordinance is now organized by district. Mr. Irving stated that there is also a land use table. Mr. Irving stated that the intent was to not make any policy changes. Mr. Irving stated that we also clarified the districts so they were more understandable. Mr. Irving stated that the ordinance now breaks down the commercial districts.

Ms. Duane asked for public comment; Catherine Woodall asked if there were any changes made to the ordinance. Mr. Irving stated that there are were no changes to the ordinance that would change a policy. Ms. Woodall stated that any changes should have been underlined and bolded so the public could see what changed. Ms. Woodall stated that she spoke to Chris Northrop today and was told that the changes should be bolded and underlined. Ms. Duane asked if Ms. Woodall had a written response from Mr. Northrop. Ms. Woodall answered in the negative.

Mr. Cooper stated that he thinks it is going to be difficult in the future to amend something. Mr. Cooper stated he could see where there may be some problems. Mr. Cooper stated, however, that the new zoning ordinance does function. Mr. Briggs stated that at least three pair of eyes has looked at this and it is much clearer. Ms. Woodall stated that she understands that it is trying to clarify, but she is having trouble finding certain items such as A-frames. Mr. Irving stated there have been no policy changes and if it was allowed before it is allowed now.

Robert deFeyter stated that a problem with the old system is that the dates sections were adopted were never added. Ms. Duane asked if he would like to see the dates in which things were enacted. Mr. deFeyter answered in the affirmative. Ms. Woodall stated that she would like another meeting in order to review the new ordinance more. Ms. Woodall stated once the Town votes on this what is in here is regulation. Ms. Duane stated that the intent was not to make any policy changes, but make it more user friendly.

The public hearing was closed at 7:45 p.m. **Mr. Drinkhall made a motion, seconded by Mr. Robinson, to continue the public hearing for Article 147-Zoning Ordinance reorganization until February 12, 2004. Motion unanimously carried.** [See motion to reconsider under Other Business].

PUBLIC HEARING – ARTICLE 147- ZONING ORDINANCE

A public hearing was opened at 7:47 p.m. This amendment is to amend the Zoning Ordinance throughout to strike all references to the Flood Hazard Analysis and Map of 1974, due to the fact that that Town is relying exclusively on the Flood Insurance Rate Map (FIRM) and Flood Insurance (FIS) of Conway issued by the Federal Emergency Management Administration.

Mr. Irving stated in 2002 FEMA adopted new mapping for the Town and reestablished the 100-year floodplain. Mr. Irving stated that the original FHAM mapping was done in

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1974. Ms. Duane asked for public comment; Randy Cooper stated that he is in favor of this change. The public hearing was closed at 7:49 p.m. **Mr. Briggs made a motion, seconded by Mr. Drinkhall to recommend and post Article 147 in regard to FIRM to the warrant. Motion unanimously carried.**

PUBLIC HEARING – ARTICLE 147-19.I. (Flags, Banners, Pennants, Etc.) – ZONING ORDINANCE

A public hearing was opened at 7:50 p.m. This amendment is to amend the definitions of flag and sign; delete the definition of bunting and amend the non-commercial signage restrictions and the flags, banners and pennants restrictions.

Ms. Duane asked for public comment; Catherine Woodall asked how it would be incorporated into the new ordinance where it references the old article number. Mr. Irving stated that it would be incorporated if the new ordinance were adopted or not. Mr. Cooper stated that it should reflect both numbering systems so there is no question. Mr. Cooper stated he is not sure you could just incorporate under the new ordinance while referring to the old ordinance.

The public hearing was closed at 7:55 p.m. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to continue the public hearing until February 12, 2004. Motion unanimously carried.**

PUBLIC HEARING – PETITIONED ARTICLE – ARTICLE 147-26.C.(3) – ZONING ORDINANCE

A public hearing was opened at 7:56 p.m. Roger Williams and Randy Cooper appeared before the Board. This is a petitioned amendment to rezone properties in North Conway from Residential/Agricultural to Highway Commercial (between Settlers Green and the Village of North Conway to the centerline of the North-South Road). Mr. Irving stated that the master plan does indicate this area to be commercial, however, we do not have any restrictions regarding setbacks in place to protect the North-South Road from signage or buildings. Mr. Irving stated that he would not recommend this change at this time.

Mr. Williams stated that they proposed this change approximately three years ago and it was recommended that they wait until the adoption of the master plan. Mr. Williams stated that this piece of property is not going to be effected by signage and the Health Club has already been dealt with. Mr. Williams stated that the State might also leave a 100-foot buffer for the Town.

Mr. Briggs stated that he is concerned with this proposal, even though it is logical to make this change, as there are a lot of commercial properties that are dormant. Mr. Briggs stated that he is against this right now without protection for the North-South Road. Mr. Cooper stated that he does have a proposal that the Board could initiate in regard to signage. Mr. Cooper submitted the proposed change to the Board. Mr. Cooper

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stated that the Planning Board could change the site plan review regulations in regard to the buffer along the North-South Road and it wouldn't require a zoning change.

Ms. Duane asked for public comment; Dot Seybold stated that it is a fairness issue as they came before the Board three years ago and was asked to wait until the Master Plan was adopted. Ms. Seybold stated with the issue over the signage on the North-South Road that took place this past year she is surprised that the Board would risk waiting for another year to put in some protection. Kenneth Vance read a prepared statement (attached).

Robert deFeyter stated that Mr. Cooper has pointed out that if the old number is designated and the new ordinance was adopted you couldn't make a change to the new. Mr. deFeyter stated the petitioned article refers to the old zoning ordinance. Mr. Cooper stated that he thought Mr. Irving's interpretation that he could make changes to the new ordinance while referring to the old ordinance was doubtful. Mr. Cooper stated with respect to the petitioned article, the current numbering system would have had to been used.

Mr. Cooper stated if the Town passes the reorganization and find that something was missed, he's not sure you can just add it back in. Mr. deFeyter stated that he agrees with Mr. Briggs and in the last few years the value of residential property has gone up tremendously and commercial property has gone down. Mr. deFeyter stated that it doesn't make any sense to take residential property which is increasing in value and rezone to commercial when it is decreasing in value. Mr. deFeyter stated that there is also a lot of commercial property that is vacant or under utilized.

Mr. deFeyter stated that this Board has addressed affordable housing and this would be a good area for affordable housing. Mr. deFeyter stated that the residential areas need to be protected. Mr. Cooper stated the buffer issue could be addressed at the Planning Board level.

Ms. Seybold stated that there is a lot of growth happening along the strip and most of the rentable spaces are rented except for a few large boxes. Ms. Seybold stated that one retail entity should not be punished because another retail entity does not know how to manage their property. Nancy Neenan stated that Pudding Hill Road is a private road and that there is going to be more cost for maintaining the road with more people getting lost. Ms. Neenan stated that she purchased that property knowing that the land was residential.

Ms. Woodall stated that there have been several site plans for retail development. Ms. Woodall stated that there is a lot of commercial development. The public hearing was closed at 8:29 p.m. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to continue until February 12, 2004. Motion unanimously carried.** Mr. Cooper asked if the Board would consider the amendment to the sign ordinance. The Board agreed to review the proposal under Other Business.

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**PUBLIC HEARING – PETITIONED ARTICLE – ARTICLE 147-15.E.1. –
ZONING ORDINANCE**

A public hearing was opened at 8:33 p.m. This is a petitioned amendment to remove the requirement for municipal water and sewer services relative to the Special Exception for 12 dwelling units per acre in the Village Commercial and Highway Commercial Districts.

Ms. Duane asked for public comment; Catherine Woodall asked why were the original restrictions placed on this use. Ms. Duane stated you would have to be able to provide a well and a septic system now. Robert deFeyter stated that it is open-ended and it could come back to bite us. Ms. Woodall stated that you have to look at the impact on the schools and the tax base as well as water and sewer. Mr. deFeyter stated that you could have a large piece densely developed residential.

Ms. Woodall stated that you have to look at the entire picture. Mr. Cooper stated that you probably should adopt some general standards that would apply to all special exceptions along with the specific standards. Ms. Duane stated that the master plan addresses that there is a need for housing. Mr. Briggs stated that this is a logical change and is desirable. Mr. Briggs stated that we are looking to put housing in certain areas. Mr. Cooper stated that it would be a perfect opportunity for a joint Planning Board and Zoning Board of Adjustment meeting. Ms. Woodall stated that she would request the Board not approve this since the Board has not looked at the whole picture of this amendment.

Ms. Duane stated that the Board reviewed the impacts of this ordinance last year when it was first proposed. The public hearing was closed at 8:54 p.m. **Ms. Tobin made a motion, seconded by Mr. Briggs, to support Article 147-15.E.1. Motion carried with Mr. Robinson voting in the negative. Mr. Drinkhall made a motion, seconded by Mr. Briggs, to recommend Article 147-15.E.1. on the warrant. Motion carried with Mr. Robinson voting in the negative.**

OTHER BUSINESS

Proposed Amendment to Article 147-13.8.6.1 – Freestanding Sign setback: Ms. Duane read proposed article 147.13.8.6.1. submitted by Randy Cooper. After a lengthy discussion the Board agreed to "...or 100 feet from the platted right-of-way of the North/South Road between the extension of Barnes Road and the center line of Depot Road...". **Ms. Duane made a motion, seconded by Ms. Tobin, to post the proposed amendment to Article 147-13.8.6.1. to a public hearing on February 12, 2004. Motion unanimously carried.**

Timberland Mall (PID 235-86) – Article 123-4.A.(4): Mr. Irving stated that Susan Derderian would like to convert the former Moe's Sub Shop into a fitness and training studio. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, that based on the provisions of §123-4. A. 5., regarding applicability, allowing the conversion of a sub shop to a fitness and tanning studio is not subject to a Site Plan Review because it**

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has not been demonstrated that the change of use and/or physical changes to the site are insignificant relative to the existing development. Motion unanimously carried.

Reconsider Motion for Article 147-Zoning Ordinance re-organization: Mr. Irving asked the Board to reconsider their motion to include any revisions that address issues raised at this hearing. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to rescind the motion to continue the public hearing for Article 147-Zoning Ordinance reorganization until February 12, 2004. Motion unanimously carried.**

Ms. Tobin made a motion, seconded by Mr. Drinkhall, to continue the public hearing for the amendment to Article 147-Zoning Ordinance reorganization with any revisions that address issues raised at this hearing until February 12, 2004. Motion unanimously carried.

Meeting adjourned at 9:35 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary