

CONWAY PLANNING BOARD

MINUTES

MARCH 11, 2004

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CONWAY PLANNING BOARD

MINUTES

MARCH 11, 2004

A meeting of Conway Planning Board was held on Thursday, March 11, 2004 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, Brian Glynn; Conrad Briggs; Martha Tobin; David Robinson; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Drinkhall made a motion, seconded by Ms. Tobin, to approve the Minutes of February 26, 2004 as written. Motion unanimously carried.

THE KENNETT COMPANY/PROPOSED HIGH SCHOOL ACCESS ROAD – 2-LOT SUBDIVISION CONTINUED (PID262-71) FILE #S04-03

Ms. Duane read a letter from the applicant requesting a continuance to March 25, 2004. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to continue The Kennett Company/Proposed High School Access Road application until March 25, 2004. Motion unanimously carried.**

THORNTON INVESTMENT PROPERTIES, INC. – FULL SITE PLAN REVIEW CONTINUED (PID 265-198) FILE #FR04-03

Shawn Bergeron of Bergeron Technical Services appeared before the Board. Mr. Irving stated that the waiver request for drainage should be withdrawn. Ms. Duane stated that she did review the site today and have some concerns with the access off River Street. Ms. Duane stated that there has been a concern with traffic affecting the neighbors. Ms. Duane stated that it is a very quiet neighborhood on a dead end street. Ms. Duane stated that she is not concerned with the type of development, but with the traffic. Ms. Duane asked if there is any way to contain the project completely on the site.

Mr. Bergeron stated that this was three parcels and could have had up to two units on each. Mr. Bergeron stated that it is possible that these will not be occupied seven days a week year round. Ms. Duane asked for public comment; Randy Davidson stated that he couldn't imagine high-end people purchasing this property for a high-end amount with all the cables from the tower. Mr. Davidson stated that he thought the cables were going to go away. Mr. Davidson stated that he couldn't imagine someone wanting to purchase land that is not going to allow vegetation due to the copper wires that are under the ground.

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Wendy Olson stated that this is a quiet neighborhood and by increasing traffic she is concerned with the safety of her children. Suzanne Russell of 60 River Street stated many condominiums are rented out for the weekend. Jane Chintala stated that she is concerned with what this development will do to the neighborhood. Ms. Chintala stated that her concern is how these two communities will be joined. Ms. Chintala stated that it is the use of the neighborhood for transients, which should have access from a major road not a quiet neighborhood road. Ms. Chintala stated that it is not the development of the property, but the access to it from our neighborhood.

Katherine Thompson of 199 East Main Street stated that she purchased her property with the understanding that this would be a quiet area. Ms. Thompson stated that she has just moved here from Boston and this should be investigated more before it goes through. Ms. Duane read the petition from the residents of River Road dated July 26, 2003.

Luigi Bartolomeo stated that this is dead end spur off a dead street. Mr. Bartolomeo stated that he supports the site plan, however, he does not live on that street. Cynthia Nichols stated that she agrees with her neighbors. Ms. Nichols stated that they do not want these four units to have access off River Street. Ms. Nichols stated if they want access to River Street it should be for single-family dwellings.

Mr. Briggs stated that he is torn and in order to grant a waiver the item being waived cannot be injurious to other parties. Mr. Briggs stated that he does not know if he can deny any the waiver requested. Mr. Irving stated that there is no restriction prohibiting the curb cut on River Street. Mr. Irving read Article 123-23 and stated he doesn't know if the Board can legitimately deny this application based the curb cut on River Street.

Ms. Duane stated that the role of the Planning Board needs to be reviewed and the whole neighborhood is not happy with the proposed curb cut. Ms. Duane stated that there is an opportunity here to protect the residents and the developer to be able to maximize his land. Ms. Duane stated that she did walk the property and have concerns with people coming in on Friday night into this quiet, quiet neighborhood.

Mr. Bergeron stated that this plan has been here numerous times. Mr. Bergeron stated that the first proposal had all eight townhouses having access off River Street, however, the developer has cut that by half with only four having access off River Street now. Mr. Bergeron stated that the applicant has received Police Department approval. Mr. Bergeron stated that he does not know who will be purchasing these units, but most of them will likely not be full-time residents.

Mr. Bergeron stated that the applicant has the right to have an access onto River Street. Mr. Bergeron stated that this property was for sale for a long time and the applicant moved here from Michigan and purchased it. Mr. Bergeron stated that he is asking for the Board to proceed with this application. Mr. Bergeron withdrew the waiver request for §123-20.F./131-67.C.8.a./123-27.

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Paul Olson stated in regards to the waivers the applicant knew the rules of the game when he applied for the approval. Mr. Olson stated that he knows the applicant has a right to have an access onto River Street however if there is no project then there is no access onto River Street. Mr. Olson suggested not granting any of the waiver requests. Mr. Olson stated that his house is worth what its worth because of the neighborhood that it is in. Mr. Olson stated to put this type of development in this neighborhood would not be good. Mr. Olson asked the possibility of a traffic study. Mr. Irving stated that the Board has requested traffic studies in the past for large projects, however, never for residential.

Mr. Irving stated that there is nothing proposed today that this Board has not approved in the past. Mr. Bergeron stated that we have all heard about impact on property value, but we don't have any evidence that this project would affect property values. Mr. Bergeron stated what we have are the people's feelings. Mr. Bergeron stated the only item being presented is the love of one's neighborhood, but no hard evidence.

Mr. Olson asked if the residents of the neighborhood could request a continuance in order to provide that information and persuade the Board that this will have an impact on the neighborhood. Mr. Olson stated that the notice in the paper only mentioned 196 East Main Street and not River Street. Mr. Olson stated that he does not feel the neighbors have been given enough time. Mr. Bergeron stated that the legal address of this property is 196 East Main Street. Mr. Bergeron reviewed the abutters on River Street that were notified. Mr. Bergeron stated that the first notices for these hearings were sent out the first of February.

Mr. Olson stated that there seems to be a gray area in regard to notification, as it did not say River Street. Ms. Tobin stated that she does not know how the Board can ignore a neighborhood. Mr. Glynn stated that it is a tough situation. Mr. Glynn stated that the applicant would have had the right to construct two-single family homes with accessory apartments. Mr. Olson asked for a continuance so the neighbors could consult legal counsel and their own Engineer. Mr. Olson stated if the driveway is removed from River Street, then the neighbors go away.

Mr. Bergeron stated that he would like the Board to act on this application tonight. Mr. Robinson stated that part of the issue is the tower. Mr. Robinson stated that the tower takes up so much of the property and a lot of land that is not usable. Mr. Irving stated if all eight townhouses were accessed from Route 113 then the Board would have to waive more of the requirements.

Mr. Drinkhall stated that he sympathies with the neighborhood, but he doesn't see any where in the regulations where the Board could deny this application. Mr. Irving stated that there are waivers, but not for access onto River Street. Mr. Bartolomeo stated that the neighbors feel they were affected if all eight had access from River Street, however, the applicant has modified the plans to have only four accessed from River Street. Mr. Bartolomeo stated that there has been some give and take, but it appears the neighbors want all or nothing.

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Mr. Briggs stated, for the record, Mr. Bartolomeo has designed the proposed buildings for this site. Mr. Drinkhall asked if it was ever determined if driving under the cables is acceptable. Mr. Bergeron stated he does not know, however, the applicant does not wish to pursue that option. Mr. Bergeron stated that the applicant feels he has given what he can. Mr. Davidson stated that the property values would probably go down with this type of development. Mr. Bergeron stated that there is a lot of feeling from the neighbors, however, no solid evidence. Mr. Bergeron asked Ms. Tobin if she feels the neighbors have had enough time to review this application. Ms. Tobin answered in the negative.

Mr. Irving stated there was a question traffic and economic impact. Mr. Robinson asked how is fourteen units allowed. Mr. Irving reviewed the density requirements. Mr. Glynn asked if the site is at its maximum. Mr. Bergeron stated there might be enough for one more dwelling unit.

Ms. Tobin made a motion, seconded by Mr. O'Brien, to continue the application for Thornton Investment Properties, Inc. until March 25, 2004 in order to find out the impact on the neighborhood property values as well as the traffic impact on River Street. Mr. Bergeron stated that the applicant has met the requirements and asked if the Board is requesting a traffic study and appraisals from the neighbors. Mr. Irving stated that the Board could only request that type of information from the applicant. Mr. Irving reviewed the 65-day requirement to act on an application with the Board.

Mr. Glynn asked if there were a way to reconfigure the parking and go under the wires, would the applicant be willing to do this. Mr. Drinkhall stated that he doesn't see how the Board could deny this application, however he does want to be able to help the neighborhood. Mr. Drinkhall stated the only way to do that would be for Mr. Bergeron to go back to the applicant. Mr. Bergeron asked if the motion is asking for post- and pre-development appraisals of every property on River Street. Ms. Tobin answered if that is what it is going to take for the applicant to listen to the neighborhood.

Mr. Bergeron stated that he would go back to the applicant begrudgingly and explore both options. Mr. Bartolomeo stated in a case of George Aldoupolis vs. Town of Conway Mr. Aldoupolis wanted to put in a pool hall on Kearsarge Road; the abutter's presented information in regard to the diminution in value of there homes, but the Court slapped the Board's hand stating that property value is tough to prove. **Motion carried with Mr. Briggs voting in the negative.**

**THORNTON INVESTMENT PROPERTIES, INC. – 15-UNIT SUBDIVISION
REVIEW (PID 265-198) FILE #S04-06**

Shawn Bergeron of Bergeron Technical Services appeared before the Board. This is an application for a 15-Unit Subdivision; six condominiums, eight townhouses and the tower. **Mr. Glynn made a motion, seconded by Mr. Drinkhall, to accept the application of Thornton Investment Properties, Inc. as complete. Motion unanimously carried.**

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Mr. Briggs made a motion, seconded by Mr. O'Brien, to continue until March 25, 2004. Motion unanimously carried.

**HAROLD AND CYNTHIA GILMORE – SUBDIVISION/LOT CONSOLIDATION
REVIEW (PID 243-3) FILE #S04-04**

Diane Smith of Thaddeus Thorne Surveys appeared before the Board. This is an application to amend File #S03-17 to reduce the number of lots from eight to six; to relocate the driveway servicing lot 3; and seek a waiver from the road standards pursuant to §131-43.E. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to accept the application of Harold and Cynthia Gilmore for a Subdivision Review as complete. Motion unanimously carried.**

Ms. Duane read the requirements to grant a waiver. Ms. Duane read the waiver requests for Articles 131-24.T. and 131-43.E. **Mr. Briggs made a motion, seconded by Mr. Glynn, to grant the waiver requests for Articles 131-24.T. and 131-43.E. Motion unanimously carried.** Ms. Duane asked for public comment; there was none.

Mr. Briggs made a motion, seconded by Mr. Drinkhall, to conditionally approve the subdivision/lot consolidation for Harold and Cynthia Gilmore conditionally upon Fire Chief approval; Town Engineer drainage approval; submission and approval by the Town of revised detail/cross sections for culverts & details for driveways to lots 2 and 3 and improvements to proposed paper road as it leaves the cul-de-sac; submit a Mylar; and this conditional approval expires on June 10, 2004. Motion unanimously carried.

**ERIC AND KATHERINE MARTIN/BROWN-MARTIN REALTY TRUST – 2-
LOT SUBDIVISION (PID 203-67) FILE #S04-05**

Bob Tafuto of Ammonoosuc Survey Company appeared before the Board. This is an application to subdivide 4.68 acres into two-lots. **Mr. Briggs made a motion, seconded by Ms. Tobin, to accept the application of Eric and Katherine Martin/Brown-Martin Realty Trust for a Subdivision Review as complete. Motion unanimously carried.**

Mr. Briggs asked for an explanation of the waiver for the number of units on a dead end road. Mr. Irving stated that Crown Ridge Road is a dead end road and the Town only allows 35 units on a dead end road. Mr. Irving stated that the town is making progress in regard to having the fire access for Crown Ridge Development improved and maintained.

Ms. Duane read the waiver requests for Articles 123-24.O.; 131-24.T.; 131-26.A.5.; 131-37.1.A.; and 131-67.C.5. **Mr. Drinkhall made a motion, seconded by Mr. Glynn, to grant the waiver requests for Articles 123-24.O.; 131-24.T.; 131-26.A.5.; 131-37.1.A.; and 131-67.C.5. Motion unanimously carried.** Ms. Duane asked for public comment; there was none.

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Mr. Glynn made a motion, seconded by Mr. Drinkhall, to conditionally approve the 2-Lot subdivision for Eric and Katherine Martin/Brown-Martin Realty Trust conditionally upon adding §131-24.T. to note #12; submitting a Mylar; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval expires on June 10, 2004. Motion unanimously carried.

DONALD SMITH – MINOR SITE PLAN REVIEW (PID 235-41) FILE #MR04-01

Michael Norman of Provan & Lorber, Inc. and Bob Tinsley of D'Angelo appeared before the Board. This is an application to renovate the existing building (formerly Dunkin Donuts) to a D'Angelo Sandwich Shop and add 150 square foot refrigeration unit. **Mr. Briggs made a motion, seconded by Ms. Tobin to accept the application of Donald Smith for a minor site plan as complete. Motion unanimously carried.**

Mr. Irving stated that the Town Engineer has suggested a sloped granite curb along the front of the property. Mr. Irving stated with this suggestion a waiver would be necessary to allow 17-foot parking space depth. Mr. Irving stated that the front or back end of the car could hang over the sloped granite curbing still providing an adequate access aisle, but prevent vehicles from parking on the greenspace.

Mr. Glynn asked that the applicant consider reducing the size of the sign or eliminating the internally lit portion of the sign. Mr. Norman stated that the sign exists and with the additional trees the site will be less visible. Mr. Irving asked if they would be willing to not use the internally lit. Mr. Norman stated that he would respectfully ask that the applicant be allowed to use the existing sign. Mr. Tinsley stated that he would review all his options.

Ms. Duane asked if there are any proposed changes to the exterior building. Mr. Norman stated that the band around the top of the building would be painted green. Ms. Duane asked for public comment; Bruce Munroe asked if there would be access onto Village Way. Mr. Norman answered in the affirmative.

Kenneth Vance of the Village of North Conway read a statement (attached). Mr. Irving stated that he would deliver the message to the Town Manager for the Board of Selectmen's consideration in regard to the Route 16 curb cuts. Mr. O'Brien stated that he could take the concern to the Board of Selectmen. Mr. Irving asked Mr. Vance if he had a problem with proposed site plan. Mr. Vance stated that he has no problems with the proposed site plan. Mr. Tinsley stated that the Route 16 access being so close to the Village Way entrance would be cause for concern in regard to safety.

Ms. Duane read the waiver requests for Articles 123-20.F./131-67.C.8.b.; 123-20.F./131-67.C.8.f.; 123-22.C.; 123-29.A.2.; 123-29.A.3.; 123-29.D.2.; 123-29.D.8.; and 123-30.A.1., A.2. and A.3. **Mr. Drinkhall made a motion, seconded by Mr. O'Brien, to grant the waiver requests for Articles 123-20.F./131-67.C.8.b.; 123-20.F./131-67.C.8.f.; 123-22.C.; 123-29.A.2.; 123-29.A.3.; 123-29.D.2.; 123-29.D.8.; and 123-30.A.1., A.2. and A.3. Motion unanimously carried.**

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Mr. Briggs made a motion, seconded by Mr. Drinkhall, to conditionally approve the Minor Site Plan for Donald Smith conditionally upon North Conway Fire Chief Approval; North Conway Water Precinct and Sewer Approval; Satisfy items in Town Engineer's memorandum dated March 9, 2004; Add the number of seats (34) to the plan; Submit a Mylar; A performance when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on June 10, 2004.

**JAN AND CHARLESS FILIP/GOLDEN GABLES INN – FULL SITE PLAN
REVIEW (PID 235-15) FILE #FR04-04**

Jan Filip appeared before the Board. This is an application to demolish an existing 10-unit, 1-story structure and replace it with a new 28-unit, 2-story structure with parking lot improvements. **Mr. Glynn made a motion, seconded by Ms. Tobin, to accept the application of Jan and Charless Filip for a Full Site Plan as complete. Motion unanimously carried.**

Ms. Duane read waiver requests for Articles 123-20.C.; 123-20.F./131-67.C.8.b.; 123-20.F./131-67.C.8.f.; 123-20.I.; 123-22.A.; 123-29.A.2. & A.3.; 123-29.D.8.; and 123-30.A.3. **Mr. Briggs made a motion, seconded by Mr. Glynn, to grant the waiver requests for Articles 123-20.C.; 123-20.F./131-67.C.8.b.; 123-20.F./131-67.C.8.f.; 123-20.I.; 123-22.A.; 123-29.A.2. & A.3.; 123-29.D.8.; and 123-30.A.3. Motion unanimously carried.** Ms. Duane asked for public comment; there was none.

Mr. Drinkhall made a motion, seconded by Ms. Tobin, to conditionally approve the Full Site Plan for Jan and Charless Filip conditionally upon North Conway Fire Chief approval; NHDOT Driveway Permit; Submit a Mylar; A performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on June 10, 2004. Motion unanimously carried.

OTHER BUSINESS

Article 36 on the Warrant – §123-30: Mr. Briggs stated that the proposed warrant article is trying to take away the power of the Planning Board inappropriately according to the NH Municipal Association. Mr. Briggs stated that §123-30 was designed to avoid monotonous style structures, exposed roof mechanicals, etc. Mr. Briggs stated that the Board has recently adopted a Master Plan and should not be taking a step backwards. Mr. Briggs asked, as a Board, to disapprove article 36.

Mr. O'Brien stated applicants bring in a plan that meets all the specifications, but the Board doesn't like it. Mr. O'Brien stated that a lot of this Town is not New England Style. Mr. O'Brien stated that the Board is here to address waivers, plus §123-30 are guidelines and not regulations and that is why he proposed this article. Mr. Glynn stated that he agrees with Mr. Briggs and should vote against Article 36.

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Mr. O'Brien stated that these were suppose to be guidelines and not etched in stone. Ms. Duane stated that this helps administrator what the Town of Conway wants and they wanted architectural guidelines to control the appearance of development. Ms. Duane stated that they also help with assisting with an application. Ms. Duane stated that they put out what the people want. Mr. Drinkhall stated that it is a regulation. Mr. Briggs stated when the Master Plan was adopted it was based on the rules and regulations as laid out and he doesn't want to see them weakened.

Ms. Duane stated that she agrees with Mr. Briggs. Mr. Drinkhall stated that he agrees with Mr. Briggs. Mr. Robinson stated people visit our Town to see small town and New England character. Mr. O'Brien stated that New England is a white house with blue or black trim and shutters.

Ms. Duane made a motion, seconded by Mr. Drinkhall, that the Planning Board not support proposed warrant article 36. Motion carried with Mr. O'Brien voting in the negative.

Bellevue Properties, Inc. (PID 235/97 & 98) File #FR03-01 – Extension of Conditional Approval: Mr. Glynn made a motion, seconded by Mr. O'Brien, to extend the conditional approval for Bellevue Properties, Inc. until January 10, 2006. Motion unanimously carried.

Site Plan Amendment/§123-29.A: Mr. Irving stated that there was a concern raised on the impact of the North South Road in regard to the proposed petitioned article to rezone some residential/agricultural land to commercial land. Mr. Irving stated that the proposed amendment would increase the buffer from 25-feet to 100-feet from Barnes Road to Artist Falls Road. Mr. Irving stated that the NHDOT may be providing 100-feet along the southern portion. Mr. Irving asked the Board to review the proposed changes and determine if the Board would like to have a public hearing on April 8, 2004. Mr. Irving stated that this buffer would increase in situations where the Highway Commercial District abuts the Residential District.

Meeting adjourned at 9:36 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary

My name is Kenneth J. Vance and I am a resident of The Village at North Conway and a member of their board of directors...

While these comments do not directly relate to D'Angelos use of this property they do apply to the property itself.

We, The Village at North Conway, feel strongly that the direct entrance and exit to both this property and Western Tool Supply off of Route 16 should NOT be closed by the New Hampshire Department of Transportation thus making Village Way their only means of entrance and exit.

"We" think that this is an over zealous interpretation of only one source, it is a NO source from 16.

It is our understanding that they (NHDOT) contemplated something similar involving Echo Acres Road and pressure forced them to reconsider that decision and it was abandoned.

We feel that this is a much more dangerous condition than Echo Acres.

If not in its entirety, Village Way is mainly a private Road and not designed for this amount or size of traffic and could result in a serious and hazardous situation.

We feel that the Planning Board and Town should do everything within their power and influence so as to get NHDOT to withdraw this portion of *their* project.

Thank you.