

CONWAY PLANNING BOARD

MINUTES

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CONWAY PLANNING BOARD

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MAY 13, 2004

A meeting of the Conway Planning Board was held on Thursday, May 13, 2004, beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Sheila Duane; Selectmen's Representative, Dick O'Brien; Robert Drinkhall; Conrad Briggs; Martha Tobin; Theodore Sares; Steven Porter; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

The Minutes of April 22, 2004 should be amended as follows: page 1, first paragraph under Election of Officers, line 7 should read, "...question of hypothetical. Mr. Irving read..."; and page 5, under Committees, line 3 should read, "...it is reestablished. Mr. Martin stated that he could be the representative on the Citizen Design Review Committee. Mr. Sares opposed and stated that the representative should be held by an elected member of the Planning Board."

Mr. Drinkhall made a motion, seconded by Mr. Porter, to approve the Minutes of April 8, 2004 as written and approve the Minutes of April 22, 2004 as amended. Motion carried with Mr. O'Brien and Ms. Tobin abstaining from voting.

ELECTION OF OFFICERS

Ms. Tobin nominated Sheila Duane as Chair, seconded by Mr. Briggs. Motion was defeated with Mr. Drinkhall, Mr. O'Brien and Mr. Sares voting in the negative and Mr. Porter abstaining from voting.

Mr. O'Brien nominated Bob Drinkhall as Chair, seconded by Mr. Sares. Motion was defeated with Mr. Briggs, Ms. Tobin and Ms. Duane voting in the negative and Mr. Porter abstaining from voting.

Ms. Duane nominated Connie Briggs as Chair, seconded by Ms. Tobin. Motion carried with Mr. O'Brien and Mr. Sares voting in the negative.

Mr. Briggs nominated Ms. Tobin as Vice Chair, seconded by Ms. Duane. Motion carried with Mr. Sares voting in the negative and Ms. Tobin abstaining from voting.

Mr. Sares nominated Mr. Drinkhall as Secretary, seconded by Ms. Duane. Motion carried with Mr. Drinkhall abstaining from voting.

Mr. Briggs asked that Ms. Duane chair the meeting this evening as he is not prepared to do so. The Board agreed.

**HAROLD WHITAKER AND THOMAS FADDEN – 19-LOT SUBDIVISION/
BOUNDARY LINE ADJUSTMENT CONTINUED (PID 266-26 & 70 AND 275-18.1) FILE
#S04-07**

Doug Burnell of H.E. Bergeron appeared before the Board. This is an application to adjust the boundary line between PID 266-26 and 266-70; to merge PID 266-70 with 275-18.1; subdivide PID 275-18.1 into 19 single-family dwelling units to be serviced by 2,100 l.f. of new road off Sargent Road and White Oak Drive. The application was accepted as complete on March 25, 2004.

Mr. Burnell stated that the first hearing was continued in order to apply to the Zoning Board of Adjustment (ZBA) in regard to the buffer, however, the applicant does not need to buffer the entire length of the bypass corridor only upon development. MR. Burnell stated that the applicant has added the necessary buffer along lots 1 through 5. Mr. Burnell stated therefore the applicant did not need to apply to the ZBA.

Mr. Burnell stated that Paul DegliAngeli [Town Engineer] is requiring the applicant to resurface Sargent Road. Mr. Burnell stated that he believes this is being required because of the concern that the construction will damage the road. Mr. Burnell stated that the applicant could test the condition of the pavement prior to construction and then tests the condition after the construction to see if any damage has occurred. Mr. Burnell stated it seems unfair to require paving of the road on speculation that the road might be damaged. Mr. Irving stated that the applicant would need to discuss that type of agreement with Mr. DegliAngeli. Mr. Irving suggested the applicant obtain Mr. DegliAngeli's approval prior to gaining a conditional approval.

Ms. Duane read the requirements to grant a waiver. Ms. Duane asked for public comment; Jean Potter stated that she is concerned with safety issues with that much traffic going down Sargent Road. Ms. Potter stated that the majority of the traffic would be going down Sargent Road since only two lots would have access onto White Oak Drive. Ms. Potter asked why the access to the lots couldn't be split between the two roads. Mr. Burnell stated that there is a large wetland that cuts the entire property off from White Oak Drive. Mr. Burnell stated to gain access from White Oak Drive there would be a major wetland crossing.

Ms. Potter asked what type of housing is proposed. Mr. Burnell stated that it is restricted to one single family home per lot. Mr. Irving asked if it would be a deed restriction. Mr. Burnell stated that the regulations do not allow more than 35 units on this road. Mr. Irving stated there is a town standard that does not allow more than 35 units on a dead end street, but the standard can be waived. Mr. Irving stated there is no guarantee that there will not be a duplex or two units on a lot as the ordinances allow accessory apartments.

Mr. Sares stated that he does not see any other way in order to avoid a cul-de-sac. Allan Gould suggested that the deed restriction be a part of the approval. Mr. Burnell stated that he would check with the owner and Mr. Whitaker being in the in the audience agreed to a deed restriction. Mr. Gould asked who made the determination regarding the buffer. Mr. Irving answered that he did upon consulting with the Municipal Association Attorney.

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Mr. Gould stated those five lots will be required to have plantings. Mr. Irving answered in affirmative. Ms. Potter asked if there are any provisions for plantings for the existing homeowners. Mr. Irving answered in the negative. Ms. Potter asked if there would be a speed limit. Mr. Irving stated that the Board of Selectmen regulate speed limits and suggested contacting Mr. DegliAngeli or Earl Sires, Town Manager. Mr. Sares stated that the bypass triggers the need for a cul-de-sac, which causes a traffic pulse and higher speed. Mr. Sares encouraged Ms. Potter to address the speed limit with the Board of Selectmen.

Ms. Duane read the waiver requests for Articles 131-24.T.; 131-24.U.; and 131-30.B. **Mr. Drinkhall made a motion, seconded by Mr. Sares, to grant the waiver requests for Articles 131-24.T.; 131-24.U.; and 131-30.B. Motion unanimously carried.**

Mr. Drinkhall made a motion, seconded by Mr. Porter, to continue the subdivision review for Harold Whitaker and Thomas Fadden until May 27, 2004. Motion unanimously carried.

**NORTH CONWAY HOLDINGS INC – PEPSY CORNER – FULL SITE PLAN REVIEW
CONTINUED (PID 246-44) FILE #FR04-05**

Shawn Bergeron of Shawn Bergeron Technical Services appeared before the Board. This is an application to construct a 4,000 square foot retail/office building in addition to the existing 4,006 square foot building at 1205 Eastman Road, North Conway, NH. This application was accepted as complete on April 22, 2004.

Mr. Bergeron stated that the public hearing was continued to allow the applicant to address landscaping and window requirements. Mr. Bergeron stated that the gable end of the new building facing the Peking will meet the 5% window requirement, but they may be fake windows. Mr. Bergeron stated that a note regarding the percentage and fake windows have been added to the plan.

Mr. Bergeron reviewed the proposed landscaping. Mr. Sares asked how many new trees. Mr. Bergeron stated there are four crab apples in addition to the other proposed trees and the rest are ornamental. Ms. Duane asked if the Board is satisfied. The Board agreed.

Ms. Duane read the waiver requests for Articles 123-29.D.1. and 123-29.D.8. **Mr. Drinkhall made a motion, seconded by Mr. O'Brien, to grant the waiver requests for Articles 123-29.D.1. and 123-29.D.8. Motion unanimously carried.**

Ms. Duane asked for public comment; there was none. Mr. Irving stated that the Building Inspector has suggested two bollards to protect the existing electrical service. There were no objections from the Board. Ms. Duane asked if the items on top of the existing building would be considered roof top mechanicals. Mr. Bergeron stated that it is a vent for the dry cleaners. The Board agreed that they could be left as they are.

Mr. Briggs made a motion, seconded by Mr. Sares, to conditionally approve the full site plan for North Conway Holdings Inc conditionally upon modifying note #22 on sheet 2 to

include Architectural Elevations; remove note #7 on sheet 2; add two bollards around electrical box on existing building to the plan; 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 July 22, 2004. Motion unanimously carried.

JUNIPER POINT REALTY TRUST AND KEARSARGE INN LLC – CONCURRENT MINOR SITE PLAN AND BOUNDARY LINE ADJUSTMENT REVIEW (PID 218-126 & 127) FILE #MR04-02/S04-10

Diane Smith of Thaddeus Thorne Surveys and David Peterson, owner, appeared before the Board. This is an application for a Concurrent Minor Site Plan and Boundary Line Adjustment Review to add 540 square feet (0.01 of an acre) of land to PID 218-126 (Decades) from PID 218-127 to accommodate a 510 square foot outdoor dining deck and 40 new restaurant seats for a total of 168 restaurant seats and 23 lounge seats for Decades Steakhouse and incorporate the existing emergency decks and stairway.

Mr. Drinkhall made a motion, seconded by Mr. Sares, to accept the application of Juniper Point Realty Trust and Kearsarge Inn, LLC for a Concurrent Site Plan and Boundary Line Adjustment as complete. Motion unanimously carried.

Mr. Sares asked if the restaurant customers could use the Inn for parking. Mr. Peterson answered in the affirmative as long as it is not full and if they can find it. Mr. Briggs stated in two years the Town would most likely be losing the public parking lot. Mr. Irving stated that the master plan addresses parking and changing those standards.

Ms. Duane read the waiver requests for Articles 123-6.B.4.; 123-20.F/131-67.C.8.a/123-27.; 123-20.F/131-67.C.8.f.; 123-20.G.; 123-20.I.; 123-22.B.; 123-23.; 123-28.; 123-29.A.3. & A.4.; 123-21.A.; and 123-29.D.1. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to grant the waiver requests for Articles 123-6.B.4.; 123-20.F/131-67.C.8.a/123-27.; 123-20.F/131-67.C.8.f.; 123-20.G.; 123-20.I.; 123-22.B.; 123-23.; 123-28.; 123-29.A.3. & A.4.; 123-21.A.; and 123-29.D.1. Motion unanimously carried.**

Ms. Duane asked for public comment; there was none.

Mr. O'Brien made a motion, seconded by Mr. Drinkhall, to conditionally approve the Concurrent Minor Site Plan and Boundary Line Adjustment for Juniper Point Realty Trust conditionally upon modify the parking calculations to indicate 168 restaurant seats; removing waivers for §123-21.B. and §131-26.A. from the list on the plan; change references from a Full Site Plan to a Minor Site Plan; 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 July 22, 2004. Mr. Sares asked if we are creating any issues in the future for parking. Mr. Irving stated not any new issues and there have been waivers for a higher percentage but each time it comes up and need to address. Motion unanimously carried.

OTHER BUSINESS

Offers of Gifts of Land (PID 277-119 & 288-13): Mr. Irving stated there are a couple of parcels of land that people are offering to the Town as gifts. Mr. Irving stated that the Board of Selectmen would like the Planning Board's input. Ms. Duane asked if the lots are buildable. Mr. Irving stated most likely not but he would not be sure without a survey. Mr. O'Brien stated there may be water value.

Mr. Briggs stated in the past the Conway Conservation Commission (CCC) has voted against receiving gifts of land. Mr. Sares stated if it is just open space why would the CCC refuse. Mr. Briggs stated that there is no value to us or anyone else so why bother, plus the Town may have to pay association fees. Mr. Sares stated that he is a staunch believer of accepting open land as gifts.

Mr. Briggs made a motion, seconded by Mr. Sares, to recommend the Town accept lots identified as PID 277-119 and 288-13 as a gift. Mr. Sares asked what authority does the CCC have in this process. Mr. Briggs stated he thinks because it abuts wetlands. Mr. Sares asked about the money that is put in Current use. Mr. Briggs stated that the CCC has some ideas of what they would like to buy. **Motion unanimously carried.**

Board Comments and Questions: Mr. Sares stated that he attended some seminars on Saturday and received some good information that he will put in the FYI file. Mr. O'Brien left at this time.

Mr. Briggs stated that he would like to see the Board follow Robert's Rules of Order. Mr. Sares stated he would have agreed last week, however, on Saturday a lawyer stated not to use it. Mr. Irving stated that he would prefer the Board not hamstringing themselves to Robert's Rules.

Committee Reports: Mr. Irving stated we need to appoint a few members to committees. Mr. Sares stated that he would like to be the representative to the Citizen Design Review Committee unless there is someone else who would like to do it. **Ms. Duane nominated Mr. Sares, seconded by Mr. Drinkhall, to be the representative on the Citizen Design Review Committee. Motion unanimously carried.**

Mr. Irving stated that there needs to be a representative on the Economic Council Regional Committee. **Ms. Duane nominated Mr. Drinkhall, seconded by Mr. Sares, to be the representative on the Economic Council Regional Committee. Motion unanimously carried.** Ms. Duane stated that she would back him up if she can.

Planning Board Objectives for 2004: The Board reviewed the list provided by Mr. Irving and agreed to discuss this again at a future meeting.

Meeting adjourned at 8:35 p.m.
Respectfully Submitted,

Holly L. Meserve, Recording Secretary

TOWN OF CONWAY
NEW HAMPSHIRE

MEMO

TO: Planning Board
FROM: Earl Sires, Town Manager
DATE: April 22, 2004
RE: Offers of Gifts of Land



The Town has received two offers of gifts of land as follows:

Tax Map/Lot #288/13

Tax Map/Lot#277/119

The Conservation Commission has reviewed both offers and has recommended that the Town accept same as they provide either buffer protection and/or recreational trail value. The Board of Selectmen have also reviewed the offers from the landowners and the recommendations of the Conservation Commission and agreed to accept the parcels.

However, Town Counsel has now advised that before the Town can accept the lots, they must also be reviewed by the Planning Board and then the Board of Selectmen must hold two public hearings before accepting same.

I have attached copies of the tax maps relevant to the above referenced lots. Kindly review and provide a recommendation as to whether the Town should accept the lots.

Thank you.

FY 2004 Objectives...

- Review progress that has been made relative to the Master Plan Implementation strategy and prepare report on same.
- Explore opportunities for continued progress with Master Plan Implementation.
- Amend Zoning Ordinance:
 - **Consolidate the Wetland and Watershed Protection Overlay District and the Wetland Conservation Overlay District into a single unified overlay district** with consistent protection and use provisions. Moreover, incorporate determinants for wetland designations that are compatible with those used by other local, state and federal agencies.
 - **Remedy poorly delineated zoning district boundaries** (such as those that leave slivers of a lot in adjacent districts) by following property lines or clearly recognizable features on the ground.
 - **Explore strategies for revising signage regulations.**
 - **Incorporate language relative to fees** in accordance with the fee study prepared for the BOS which the BOS indicated they wanted the PB to address.
- Amend Subdivision Regulations:
 - **Eliminate provisions related to “Minor Subdivisions”** as that term and practice is no longer relevant to current regulatory practices and procedures.
 - **Revise the “Soils Suitability”** evaluation process so that it is consistent with the methodology used by NH DES.
 - **Revise fees** in accordance with the fee study prepared for the BOS which the BOS indicated they wanted the PB to address.
 - **Revise definition of driveway.**
 - **Eliminate “paper road” provisions.**
 - **Revise design and submission requirements** that conflict with other regulatory agencies.
- Amend Site Plan Regulations:
 - **Eliminate Minor reviews** as they only slightly differ from Full Reviews. The most significant difference is that Full Reviews require a surveyor’s certification. We could use the same standards and just waive the surveyor’s certification if warranted.
 - **Revisit parking regulations.**
 - **Revisit buffers.**
 - **Replace the word guideline with regulation relative to architecture.**
 - **Revise fees** in accordance with the fee study prepared for the BOS which the BOS indicated they wanted the PB to address.
- Other regulation amendments as proposed by the Planning Board.