

CONWAY PLANNING BOARD

MINUTES

SEPTEMBER 13, 2007

A meeting of the Conway Planning Board was held on Thursday, September 13, 2007 beginning at 7:01 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Robert Drinkhall; Selectmen's Representative, Larry Martin; Secretary, Steven Porter; Theodore Sares; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Martin, to approve the Minutes of August 23, 2007 as written. Motion carried with Mr. Sares abstaining from voting.

MEMBER RESIGNATION

Mr. Drinkhall stated that Hud Kellogg has resigned from the Board. Mr. Drinkhall read Mr. Kellogg's email. **Mr. Martin made a motion, seconded by Mr. Porter, to accept the resignation of Hud Kellogg. Motion unanimously carried.** Mr. Drinkhall read the Planning Board Bylaws regarding appointing a member. The Board agreed that an ad should run in the newspaper advertising a member and alternate positions.

OTHER BUSINESS

Peter Malia email regarding §123-4.A.5: Mr. Drinkhall read the email from Mr. Malia in regard to §123-4.A.5 (attached). Mr. Drinkhall stated that that Board has applied this section in the past and Mr. Malia has not submitted a response to date. Mr. Drinkhall stated that there is at least one applicant that would like to move forward. Mr. Porter stated at this point in time where there has been no further communication from the Town Attorney; it is not fair to applicants to wait, especially since the Board has been making this determination in year's past.

Mr. Martin stated he has gone back and forth on this subject because the email is vague. Mr. Martin questioned if this is a legal thing, has there been a court case and has there been a president set. Mr. Martin questioned if this was a speculative point of view and has there been anything definite. Mr. Martin stated based on that this Board has always operated under §123-4.A.5 and he doesn't believe there has been anything challenged. Mr. Martin stated until something comes out of the judicial system that this is not valid; the Board should continue to apply it.

Mr. Sares asked if this was from Bob Schor and the Wild Boar Tavern situation. Mr. Drinkhall answered in the affirmative. Mr. Irving stated that this particular situation has something to do with the Stonehurst Manor, but Mr. Schor's recent correspondence

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indicates the Wild Boar Tavern. Mr. Sares stated that it was the noise from the deck of the Wild Boar Tavern that had bothered him and that is what is triggering this and not a legal case. Mr. Sares stated over the years the Board has been applying this section in a certain way and the Board should continue applying it until we are told not to. Mr. Porter stated we have made judgment in the past and should move forward with it.

River Run Company, Inc (PID 218-51) – §123-4.A.5: Joe Berry and Sheila Duane of the River Run Company appeared before the Board. Mr. Berry stated that the he would like to change the use from retail/storage to a single transient lodging unit, demolish existing 1,247 square foot building and construct new building of approximately 816 square feet. Mr. Berry stated that the new structure would require less parking spaces and the neighborhood already has three-story buildings around it. Ms. Duane stated that it is a reduction of footprint by 431 square feet. Mr. Berry stated that the building would now meet the setback.

Mr. Irving stated that he could not approve as staff because there is more internal floor space. Mr. Martin asked if the new building is outside of the existing footprint as shown on the submitted sketch or is it a mistake. Mr. Berry stated that it would be within the existing footprint. Mr. Drinkhall asked for public comment; there was none.

Mr. Porter stated he was not in favor of applying §123-4.A.5 to this application because of the Board's decision regarding the Christmas Tree Shops. Mr. Porter stated that the applicant is changing it from storage to transient units. Mr. Berry stated that it is retail and storage. Mr. Porter stated that it is being changed to a town house and he has a particular issue with using this section. Mr. Berry stated that the buildings surrounding this building are all lodging units. Mr. Martin stated that he is not trying to be argumentative, but this is a different situation from the Christmas Tree Shops. Mr. Martin stated that this is not that big of a change as there are similar uses all around it. Mr. Drinkhall stated that he agrees. Mr. Martin stated that the Christmas Tree Shops did not have full conformity.

Mr. Sares made a motion, seconded by Mr. Martin, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the change of use from retail/storage to a single transient lodging unit, demolishing the existing 1,247 square foot building and constructing a new building of approximately 816 square feet is not subject to a Minor or Full Site Plan Review because it has been demonstrated that the change of use and/or physical changes to the site are insignificant relative to the existing development. Motion unanimously carried.

North Conway Public Library (PID 218-62) – §123-4.A.5.: Ed Bergeron of H.E. Bergeron and Geoff Lynn, President of North Conway Library, appeared before the Board. Mr. Bergeron stated that the applicant would like to expand the six parking space parking lot to a 12-space parking lot, which would increase the total impervious area by 1,008 square feet. Mr. Irving stated administratively he could not approve this based on a design standard as a 12-foot access aisle is being proposed and a 24-foot access aisle is

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required and greenspace is being removed. Mr. Irving asked what is the percentage of reduction in greenspace. Mr. Bergeron answered approximately 4% or 1,000 square feet. Mr. Irving stated that it would trigger a full site plan review and therefore he could not approve it.

Mr. Martin stated that he has a minor concern with the removal of greenspace, as it is not overly abundant now. Mr. Martin stated that the fact that the aisle is substandard and a waiver would be necessary he does not see this as insignificant. Mr. Sares stated when the Red Cross building burned down the Town had the opportunity for greenspace, but it was given to the North Conway Water Precinct. Mr. Sares stated that this particular property is not used as a park and to be honest it is not a very nice looking property and it is a lousy parking lot. Mr. Sares stated that he doesn't have a problem with greenspace, but since we gave up an opportunity for more greenspace why are we looking at this so closely.

Mr. Porter stated that he agrees with Mr. Martin because there are two major waivers required. Mr. Porter stated that the Town lost the opportunity with the Red Cross building, but it doesn't mean we should let it go here, too. Mr. Porter stated that it is hard to rule that it is insignificant. Mr. Porter stated if no waivers were necessary then there would be no issue. Mr. Drinkhall stated that the greenspace is going from approximately 78% to approximately 73%. Mr. Sares stated that he is a Trustee of the Conway Public Library and he would abstain from voting on this, but he is sympathetic to their position.

Mr. Drinkhall asked for public comment; Bob DiPace stated that it seems to make common sense as they are still going to have three times as much greenspace that is required. Ed Poliquin stated that his wife was on the Board of the Library and he would encourage the improvement.

Mr. Porter stated that he's not concerned with seeing more parking, but he is concerned with not meeting the regulations and making it a conforming parking lot. Mr. Porter stated that it requires a waiver and that is the issue. Mr. Martin stated based on what he is hearing they have more than adequate greenspace so why can't it be made conforming and then it would take away the concern of approving a non-conforming parking lot. Mr. Lynn stated that the parking lot works the way it is and they didn't want to expand it another 12-feet. Mr. Bergeron stated that it is a six car parking lot with 50-feet to the road. Mr. Bergeron stated that they wanted to minimize the impact on the site. Mr. Martin stated that it is a non-conforming issue and he cannot vote for it.

Mr. Martin made a motion, seconded by Mr. Porter, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the expansion of the six parking space parking lot to a 12-space parking lot with an increase of the total impervious area by 1,008 square feet is not subject to a Minor or Full Site Plan Review because it has been demonstrated that the change of use and/or physical changes to the site are insignificant relative to the existing development. Motion defeated with Mr. Sares abstaining.

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Evergreen on the Saco (PID 265-161.347) – Establish construction limits for Lot 47:

Ed Poliquin appeared before the Board. Mr. Irving stated that the applicant would like to establish construction limits for lot 47 previously approved under S04-17. Mr. Martin asked why are they doing this. Mr. Poliquin stated that it allows him to sell the site and then build the home and it precludes them from building outside of that area. Mr. Martin stated that he is selling rights. Mr. Irving answered in the affirmative. Mr. Drinkhall asked for public comment; there was none. **Mr. Sares made a motion, seconded by Mr. Porter, to acknowledge the plan to establish constructions limits for unit 47 to be recorded. Motion unanimously carried.**

Evergreen on the Saco (PID 265-161.318, .319, .321, .324, .346 & .347) – Amendment

to phasing: Ed Poliquin appeared before the Board. Mr. Poliquin stated that he would like to adjust the unit phase line previously approved under S04-17 to exclude lots 21, 24 and 46 and to include lots 18, 19 and 47 so has to not go over the 35-units where the second access would be necessary. Mr. Drinkhall asked for public comment; Bob DiPace asked what does it have to do with the second access. Mr. Irving stated that the development cannot exceed 35-units without constructing the second access. Mr. DiPace asked if phase 1 was complete. Mr. Irving stated that the original Phase I with 15 sites is complete, but the Phase I under S04-17 is not complete. **Mr. Sares made a motion, seconded by Mr. Porter, to adjust the unit phase line previously approved under S04-17 to exclude lots 21, 24 and 46 and to include lots 18, 19 and 47. Motion unanimously carried.**

Eugene Brown (PID 253-40) File #FR07-12 – Extension of Conditional Approval:

Mr. Martin made a motion, seconded by Mr. Porter, to extend the conditional approval for Eugene Brown until June 12, 2008. Motion unanimously carried.

H. Carol Lynch (PID 214-42.01) – Request for Concurrent Site Plan and

Subdivision Review: Mr. Porter made a motion, seconded by Mr. Sares, to allow a Concurrent Site Plan and Subdivision Review for PID 2214-42.01. **Motion unanimously carried.**

Conway School District BLA Conditional Approval (PID 264-56 & 57):

Mr. Sares stated that he thinks the matter is under control at this point, but when you look at the minutes of the July 26, 2007, Ms. Sell asked if the trees would remain and Mr. Seybold answered in the affirmative. Mr. Sares stated that Ms. Sell went Florida and when she returned they were removed. Mr. Sares stated it seems the situation is under control, but he doesn't like it when people say they are going to do one thing and then do something else; it's aggravating.

Committee Reports: Mr. Drinkhall stated that there was a meeting today on the bypass.

Meeting adjourned at 8:20 pm
Respectfully Submitted,

Holly L. Meserve, Planning Assistant