

**CONWAY PLANNING BOARD**

**MINUTES**

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CONWAY PLANNING BOARD

MINUTES

SEPTEMBER 23, 2010

A meeting of the Conway Planning Board was held on Thursday, September 23, 2010 beginning at 7:03 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Porter; Selectmen's Representative, Robert Drinkhall; Vice Chair, Martha Tobin; Steven Hartmann; Scott Lees; Alternate, Ray Shakir; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

**APPOINT ALTERNATE MEMBER**

Mr. Porter appointed Mr. Shakir as a voting member.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Drinkhall made a motion, seconded by Mr. Lees, to approve the Minutes of September 9, 2010 as written. Motion carried with Ms. Tobin and Mr. Shakir abstaining from voting.**

**MICHAEL KENT (PID 231-97) – CONCURRENT SITE PLAN AND SUBDIVISION REVIEW DEFERRED (FILE #FR10-06 AND #S10-09)**

Ron Briggs of Briggs Land Surveying appeared before the Board. This is an application to subdivide 2-acres into two-lots with the house on one lot and the garage on the other lot and to make alterations to the driveway and parking area for the garage lot with the existing equipment and storage area (PID 231-97). This application was deferred from August 26, 2010.

Mr. Briggs stated a variance was obtained from the Zoning Board of Adjustment for the lot size. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to accept the application of Michael Kent for a Concurrent Site Plan and Subdivision Review as complete. Motion carried with Mr. Lees voting in the negative.**

Mr. Shakir asked if there would be different owners of each lot. Mr. Briggs stated they would be offering both lots for sale. Mr. Shakier stated that the commercial property could impact the residential property. Mr. Porter asked for public comment; there was none.

Mr. Irving stated the applicant has requested a waiver for the buffer. Mr. Irving stated that this would be the Board's opportunity to mitigate any impact the commercial lot could have on the residential lot. Mr. Irving stated that there is also a waiver to allow the driveway of the commercial lot to run along the side buffer. Mr. Irving stated that the Town Engineer has reviewed the site and if the site is not modified he has no issue with the waivers for the driveway layout and the drainage. Mr. Irving stated, however, if the site does change, the Town Engineer would like to review those changes.

Mr. Porter read the waiver request for §123-29.A. Mr. Lees asked if this would eliminate the buffer. Mr. Irving answered in the affirmative and stated there is buffer provided on lot 2. Mr. Porter asked if this waiver is granted what is that creating. Mr. Irving stated that it means it would be adjacent to the residential property and there could be an impact with snow removal and dust. Mr. Irving stated the Board could require a vegetated screening to prevent noise, dust

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and other impacts. Ms. Tobin asked if the driveway could move. Mr. Irving answered in the affirmative, but there is a utility pole; so if the Board wants the driveway to move out of the buffer by more than a foot, the driveway would have to be moved to the North side of the utility pole. Mr. Briggs stated that the applicant would be agreeable to planting a vegetative screen along the boundary line.

Mr. Drinkhall stated that he sees a problem with snow removal and damage to those plantings. Mr. Hartmann asked if there is an issue with moving that driveway all together. Mr. Briggs stated that it could be a problem for trucks entering the site. Mr. Hartmann stated that he would be more comfortable with the driveway being moved. Mr. Shakir stated that they could move the pole and then there is no problem with moving the driveway. Mr. Briggs stated it would be easier to move the driveway as there are underground utilities.

**Mr. Drinkhall made a motion, seconded by Ms. Tobin, to grant the waiver request for §123-29.A.** Mr. Porter asked for Board comment; there was none. **Motion defeated with Ms. Tobin, Mr. Hartmann, Mr. Lees, Mr. Drinkhall and Mr. Porter voting in the negative and Mr. Shakir voting in the affirmative.** Mr. Hartmann stated the driveway just needs to be moved away from the residential house.

Mr. Irving stated the septic system on the commercial lot allegedly was not permitted. Mr. Irving stated that the applicant is requesting a waiver from providing an appropriate septic design. Mr. Briggs stated once we receive a subdivision approval number we can submit a septic design to the State. Mr. Briggs stated the applicant will be submitting a new septic design to the State; the waiver is to not install the approved septic system. Mr. Irving stated water shall not be provided to the site until a design has been provided. Mr. Briggs withdrew the waiver request for §123-35.

Mr. Porter read the waiver requests for §123-22.B; §123-27; §123-29.D.8; §123-30.A.3; §131-24.O; §131-30.H; and §131-67.C.8.F. **M. made a motion, seconded by M., to grant the waiver requests for §123-22.B; §123-27; §123-29.D.8; §123-30.A.3; §131-24.O; §131-30.H; and §131-67.C.8.F.** Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Porter read the waiver request for §123-20.E. Mr. Lees stated that the driveway should be paved since it is a commercial site. Mr. Briggs stated that it has always been this way and there hasn't been a problem. Mr. Porter stated that the Board has granted waivers for pavement before and this has always been a commercial driveway.

Mr. Porter asked for public comment; Clifford Haley stated there has been a drainage problem there in the past as Birch Hill is elevated above this property and there will be a dust problem. Mr. Haley stated that this is a residential area; there is a big apartment house across the street. Mr. Haley stated there is a bike lane in front of this property so turning in and out of this driveway could cause an issue. Mr. Haley stated that the West Side Road is already dangerous enough without adding gravel from the driveway to the roadway. Mr. Drinkhall stated there could be a paved apron. Mr. Briggs stated there will be a 25-foot paved apron.

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**Mr. Drinkhall made a motion, seconded by Mr. Porter, to grant the waiver for §123-20.E.**

Ms. Tobin asked if it would be the same use. Mr. Briggs stated the use is established, but if they want to change that use they would have to go before the Zoning Board of Adjustment to do that. Mr. Briggs stated that this is not a gravel pit, they leave in the morning and they come back at the end of the day. Mr. Briggs stated they would not be hauling gravel in and out of this site.

Gary Haley stated they should have to go by the rules; they are supposed to have a paved parking lot and a paved driveway. Mr. Gary Haley stated it would be beneficial for everyone who travels the West Side Road if it were paved. **Motion defeated with Ms. Tobin, Mr. Hartmann, Mr. Lees, Mr. Drinkhall and Mr. Porter voting in the negative and Mr. Shakir voting in the affirmative.** Mr. Irving asked if the Board wanted the driveway paved to the parking area. Mr. Porter agreed.

Mr. Irving suggested continuing the public hearing until October 28, 2010 with new materials to be submitted by October 18, 2010 so the applicant can address the relocation the driveway to just north of the utility pole, submit a copy of the septic design application to the Town, add a note to the plan that there will be no water service to the lot 1 until an approved septic system has been installed, and indicate that the relocated driveway is paved to the parking area.

**Mr. Drinkhall made a motion, seconded by Ms. Tobin, to continue the public hearing for Michael Kent until October 28, 2010 with new material to be submitted on or before October 18, 2010. Motion unanimously carried.**

Mr. Porter reopened the public hearing. Mr. Gary Haley stated that he just wanted the Board to know that he intends to appeal the Zoning Board of Adjustments decision and if not satisfactory there he will weigh his option of taking it to Court. Mr. Porter closed the public hearing. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to continue the public hearing for Michael Kent until October 28, 2010 with new material to be submitted on or before October 18, 2010. Motion unanimously carried.**

## **OTHER BUSINESS**

**Peter Edwards/Zeb's General Store (File #NA10-08) - §123-4.A.5 (PID 218-116):** Peter Edwards appeared before the Board. Mr. Edwards stated they would like to construct a 374 square foot retail addition to the second floor of Zeb's. Mr. Edwards stated that this is the only portion of the building that does not have a second story. Mr. Edwards stated that this increase in floor area is about 5% of the overall store. Ms. Tobin asked where this area is located. Mr. Edwards stated it is at the back of the building in the left hand corner.

**Mr. Drinkhall made a motion, seconded by Mr. Lees, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the construction of a 374 square foot retail space addition to the second floor over the first floor 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.**

Mr. Irving stated that the next step would be to obtain a building permit.

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**William and Marilyn Pope Revocable Trust/Shawn Taylor – Taylor Chiropractics (File #NA10-09) – §123-4.A.5 (PID 262-58):** Shawn Taylor appeared before the Board. Mr. Taylor stated that they would like to convert 2,182 square feet of retail space to office space for his chiropractic office. Mr. Taylor stated that he would like to relocate his existing chiropractic office to this space.

**Mr. Drinkhall made a motion, seconded by Mr. Hartmann, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the conversion of 2,182 square feet of retail space to office space 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.**

Mr. Irving stated that the next step would be to obtain a building permit for any interior renovations. Mr. Porter asked if there would be any changes to the exterior of the building. Mr. Taylor answered in the negative.

**Stephen Hurst/Saco River Camping Area – Discussion of Rezoning:** Stephen Hurst, owner of Saco River Camping Area, appeared before the Board. Mr. Hurst stated that he would like the Board to consider rezoning the area of his campground from Residential Agricultural to Highway Commercial. Mr. Hurst stated that campgrounds are not a permitted use in the Residential Agricultural District and this limits their use.

Mr. Hurst stated that they are bordered on the North by the former drive-in movie theater, which is commercial, on the east by Settler's Crossing, which is commercial, to the south by the Audubon Society and to the west by farmland. Mr. Hurst stated that they would like to construct infrastructure to handle more camp sites. Mr. Hurst stated that the bulk of the space would still be open and structures would be minimal, if any. Mr. Hurst stated changing the area to Highway Commercial will not allow them to construct Shaw's as there is the Floodplain Conservation Overlay District.

Mr. Lee asked how many sites are there currently. Mr. Hurst answered 144 sites and they would like to add approximately 150 more sites. Mr. Porter asked if the future sites would tie into the municipal sewer. Mr. Hurst answered in the affirmative. Mr. Irving stated the floodplain does not have a provision for septic systems, so they would have to tie into the municipal sewer.

Mr. Irving stated there would still be a number of hurdles even if this amendment passes. Mr. Irving stated if this amendment passes this site would no longer be in the Residential Agricultural District and would no longer be non-conforming. Mr. Porter asked if it would then be a conforming site. Mr. Irving stated it would be conforming to the district, but not necessary to the overlay districts.

Mr. Irving stated that Mr. Hurst is asking the Board to propose this as a Planning Board amendment and to not have to go through the petitioned article process. Mr. Hartmann asked why the Planning Board and not the Zoning Board of Adjustment. Mr. Irving stated this Board drafts zoning regulations, Town meeting adopts zoning regulations and the Zoning Board of Adjustment hears zoning appeals.

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Mr. Drinkhall stated if this amendment passes it would open this site up to other commercial uses. Mr. Irving stated if this site is rezoned to Highway Commercial then any of the uses allowed in the Highway Commercial District would be allowed here, but the overlay districts would still be in place. Mr. Irving stated this site is overlaid by the Floodplain Conservation District, which makes construction of buildings very limited.

**Mr. Drinkhall made a motion, seconded by Mr. Shakir, to consider this proposed amendment as a Planning Board amendment. Motion unanimously carried.**

**Committee Reports:** Mr. Drinkhall stated that the Board of Selectman did not want to revisit the noise ordinance nor are they in favor of a junkyard ordinance.

**October 14, 2010 Planning Board Meeting:** Mr. Drinkhall made a motion, seconded by Ms. Tobin to cancel the Planning Board meeting of October 14, 2010. Motion unanimously carried.

Meeting Adjourned at 8:07 pm.

Respectfully Submitted,



Holly L. Meserve  
Planning Assistant