

CONWAY PLANNING BOARD

MINUTES

JANUARY 24, 2013

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CONWAY PLANNING BOARD

MINUTES

JANUARY 24, 2013

A meeting of the Conway Planning Board was held on Thursday, January 24, 2013 beginning at 7:03 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Porter; Selectmen's Representative, Mary Seavey; Vice Chair, Martha Tobin; Steven Hartmann; Kevin Flanagan; Eric Porter; Alternate, Ray Shakir; Planning Director, Thomas Irving and Recording Secretary, Holly Meserve.

APPOINTMENT OF ALTERNATE MEMBERS

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

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Tobin made a motion, seconded by Mr. Shakir, to approve the Minutes of December 13, 2012 as written. Motion unanimously carried.

PUBLIC HEARING – PROPOSED ZONING AMENDMENT – PETITIONED ARTICLE

§147.13.7.5 – North Conway Village Commercial District: This is a proposed amendment to amend the structure height in the North Conway Village Commercial District to no more than thirty (30) feet for properties west of Route 16 and to amend the building height in the North Conway Village District to not more than twenty-five (25) feet for properties west of Route 16.

Mr. Irving stated that this is a petitioned article and the Board cannot modify the article. Mr. Irving stated that the Board needs to vote whether to recommend or not recommend. Mr. Flanagan joined the Board at this time. Mr. Hartmann asked how does this effect existing structures; if a structure burns down, will they be grandfathered. Mr. Irving stated unless you knowingly or willingly abandon the nonconformity you would be able to maintain the height. Ms. Seavey asked if this could be amended at the deliberative portion of Town Meeting. Mr. Irving answered in the negative. Mr. Steve Porter opened the public hearing at 7:08 pm.

Mr. Steve Porter asked for public comment; Russ Seybold stated that he works at the railroad station and he did not sign the petition that was brought to him. Mr. Seybold stated that he believes it is proper to control the ways things are developed, but not with a specific project in mind. Mr. Seybold stated that he recognizes that this seems to have been the way this petition was developed. Mr. Seybold stated he supports the project being proposed and not the petition. Mr. Seybold stated that this is not the proper way to present things.

Kim Beals stated that she signed the petition and she is not against anything other than building heights that are allowed in the North Conway Village District. Ms. Beals stated this petition will hopefully help to build and enhance the regulations we have not and protect the views. Ms. Beals stated she would like to help the Community Center and would like to see the Town get

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involved in the height restrictions in the village. Ms. Beals stated it is about the height of the building and how it will impact the views and the vistas; it is not a win or lose situation, it is let's work as a community so it will work for all of us. Ms. Beals stated that the petitioned article just addresses the westerly views, but would like to see it be the easterly views of the village as well. Ms. Beals stated that this is not about a project, but the height of buildings.

Mr. Steve Porter asked if there was any other public comment; there was none. Mr. Steve Porter closed the public comment at 7:11 pm.

Ms. Seavey stated that she thinks it is a great idea, but doesn't think it was totally thought out. Ms. Seavey stated that it should have included the east side as well. Mr. Irving stated the issue raised is the view sheds and they should be protected. Mr. Irving stated that the Board should review the regulations and protect them. Mr. Steve Porter stated this is an honest attempt to protect the integrity of the village as the scenic views are important.

Ms. Tobin made a motion, seconded by Mr. Steve Porter, to recommend the proposed petitioned amendment to §147.13.7.5 to the warrant as written. Motion defeated with Ms. Tobin, Mr. Eric Porter and Mr. Steve Porter voting in favor and Ms. Seavey, Mr. Hartmann, Mr. Flanagan and Mr. Shakir voting in the negative (3-4-0).

Ms. Tobin stated that she is sorry that we cannot be united one way or the other on this. Mr. Hartmann stated he would have no problem if it had covered both sides of the street. Mr. Shakir stated that he thinks we have a reasonable height restriction and don't think it needs to be more stringent. Ms. Seavey stated that she would support it if it protected the entire village, if it had protected both sides. Mr. Steve Porter stated that this is a stepping stone and hard to move forward when the Board won't support a small step.

NORTHWAY BANK (PID 202-13) – FULL SITE PLAN REVIEW (FILE #FR13-01)

Mark Lucy of White Mountain Survey and Engineering, Jim Keenan of Keenan & Associates and John Stratton of Northway Bank appeared before the Board. This is an application to convert 18,893 square feet of office space to 16,393 square feet of office space plus 2,500 square feet of retail banking office and construct a driveway thru window and associated infrastructure.

Mr. Lucy reviewed the site plan. **Mr. Flanagan made a motion, seconded by Mr. Steve Porter, to accept the application of Northway Bank for a Full Site Plan Review as complete. Motion unanimously carried.**

Mr. Shakir stated that some employees are complaining that there are damp and mold issues in the existing structure due to runoff from the site to the north into this building. Mr. Shakir asked if this will be addressed. Mr. Lucy asked if this Board addressed the interior of buildings or just the exterior. Mr. Irving answered just the exterior; the other would be the responsibility of the health inspector. Mr. Lucy stated there is some remediation action taking place that is not part of the site plan review application.

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Mr. Flanagan asked if there would be a light at the entrance as it is difficult to see the entrance of this site. Mr. Lucy stated there is a light proposed that will serve to light the entrance, but it cannot be put any closer to the right-of-way as you would have light spilling onto property that is not the banks. Mr. Irving stated that they are entitled to have enter and exit signs. Mr. Steve Porter asked for public comment; there were none.

Mr. Irving read a waiver request for §123-20.F/§131-67.C.8.f; §123-20.G; §123-21.A.2.c; §123-29.A.2, A.3 & A.4; and §123-29.D.8. **Ms. Tobin made a motion, seconded by Mr. Flanagan, to grant the waiver request for §123-20.F/§131-67.C.8.f; §123-20.G; §123-21.A.2.c; §123-29.A.2, A.3 & A.4; and §123-29.D.8.** Mr. Steve Porter asked for Board comment; Mr. Hartmann asked why going with the 56 parking spaces as it is tough to find parking during the day. Mr. Lucy stated that the regulations allow for alternative standards. Mr. Hartmann asked what your reason is. Mr. Lucy stated that the parking spaces are already there. Mr. Hartmann asked what the applicant's reason for asking for the reduction in parking spaces. Mr. Lucy stated parking has a lot to do with human nature, some may have parked in areas that are not parking spaces; people will park off the side of the road even when there are parking spaces available.

Mr. Hartmann stated that it doesn't make sense to not provide the parking and expressed frustration that the applicant was not answering the question being asked. Mr. Hartmann stated that he would like to remove the question.

Mr. Shakir asked for the reasoning for not providing a connecting drive to the property to the north. Mr. Irving stated staff reviewed and given the layout of Adventure Suites it would have to go through the existing building, remove a building or it would have to go across country and down a steep slope. Mr. Shakir stated that that makes sense. **Motion carried with Mr. Hartmann voting in the negative.** Mr. Steve Porter asked for public comment; there was none.

Ms. Tobin made a motion, seconded by Mr. Hartmann, to conditionally approve the Full Site Plan for Northway Bank conditionally upon providing a recorded cross-easement for the shared driveway with PID 202-12 and indicating book and page on plan; demonstrating compliance with §123-26, lighting; submitting four copies of revised sets (three to remain with the Town); a performance guarantee for site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on April 25, 2013. Motion unanimously carried.

WALMART REAL ESTATE BUSINESS TRUST (CARROLL COUNTY LEASING AND STATE OF NH) (PID 246-62, 246-61 & 235-55) – FULL SITE PLAN REVIEW (FILE #FR12-06) CONTINUED

John Sokul, Jr of Hinckley, Allen and Snyder, and Steve DeCoursey of Bohler Engineering appeared before the Board. This is an application to construct a 52,994 square foot retail expansion to the existing Wal-Mart. This hearing was continued from June 28, 2012; July 26, 2012; September 13, 2012; and September 27, 2012; November 8, 2012; and December 13, 2012.

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Mr. Sokul stated that a conceptual approval for the off-site improvements was granted by the NHDOT and the Board of Selectmen. Mr. Sokul stated that they are back before the Board to walk through the proposed changes to the site plan. Mr. DeCoursey reviewed the revisions to the site plan. Mr. Hartmann asked if there are any plans to do anything to the exterior of the existing building. Mr. Sokul stated there would not be any major changes to the existing building.

Mr. Irving read a statement in regards to the requested waivers [attached]. Mr. Hartmann asked if there are any other alternatives for snow storage. Mr. Irving stated that our regulations require that it not be stored on parking spaces. Mr. Sokul stated that they may be short a few times of the year, but the rest of the year there will be more than enough parking. Mr. Irving stated that he would like to see them explore the grass pave option. The Board agreed that they would like them to look at that option. Mr. Irving stated that waivers would still be required, but maybe to a lesser degree if these options are taken into consideration.

Mr. Irving stated the Town Engineer has not completed his review and the Town is considering a change in the pedestrian route. Mr. Irving read a letter from Sharon Barber. Mr. Irving stated that Ms. Barber's request would have to go to the Board of Selectmen and he has forwarded her letter to them.

Mr. Steve Porter asked for public comment; Bayard Kennett, representing his client Carroll County Leasing Corporation, the Chick's property, stated that it seems what happens with snow storage at other facilities around this particular project is they pile snow in existing parking spaces and then immediately haul it away. Mr. Kennett stated if Wal-Mart has a successful business and concerned about heavy traffic times being interfered with snow that they too would make arrangements to haul it away. Mr. Kennett stated that he thinks it is unnecessary to put it in areas that cannot be accessed by heavy equipment. Mr. Kennett stated that he is not questioning the need for snow storage, but most haul it away and not by adding additional piles to their property.

Ms. Tobin made a motion, seconded by Mr. Hartmann, to continue the Full Site Plan review for Wal-Mart Real Estate Business Trust until February 28, 2013 with new information to be submitted by end of business February 12, 2013. Motion unanimously carried.

Mr. Sokul stated that he wanted to ask the board to address the waiver requests for §123-20.F/§131-67.C.8.b and §123-20.F/§131-67.C.8.c. **Mr. Hartmann made a motion, seconded by Mr. Eric Porter to reconsider the motion to continue. Motion carried with Ms. Tobin voting in the negative.** Mr. Hartmann withdrew his second and Ms. Tobin withdrew her motion to continue.

Mr. Irving read the waiver request for §123-20.F/§131-67.C.8.b. **Mr. Hartmann made a motion, seconded by Mr. Flanagan, to grant the waiver for §123-20.F/§131-67.C.8.b.** Mr. Steve Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Irving read the waiver request for §123-20.F/§131-67.C.8.c. **Mr. Flanagan made a motion, seconded by Mr. Hartmann, to grant the waiver for §123-20.F/§131-67.C.8.c.** Mr. Steve Porter asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Tobin made a motion, seconded by Mr. Hartmann, to continue the Full Site Plan review for Wal-Mart Real Estate Business Trust until February 28, 2013 with new information to be submitted by end of business February 12, 2013. Motion unanimously carried.

OTHER BUSINESS

Bellevue Properties/North Conway Grand (PID 235-98) - §123-4.A.5 (#NA12-14)

Continued: Susan Lautenschlager, Hotel Manager, and Michael Davie, lighting consultant, appeared before the Board. This is a request to allow changes to the existing lighting fixtures. Ms. Lautenschlager stated that the existing lights are 9,000 lumens per fixtures and the new lights would have 2,900 lumens per fixture.

Mr. Flanagan made a motion, seconded by Mr. Shakir, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the changes to the existing lighting fixtures 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 carried with Ms. Tobin and Mr. Flanagan voting in the negative.

William Greene (PID 260-13) - §123-4.A.5 (#NA13-01): This is a request to enclose a carport. Mr. Irving stated that they were before the Board in November requesting to construct the carport, now they would like to enclose it to make it a garage.

Ms. Tobin made a motion, seconded by Mr. Shakir, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the enclosure of a carport 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.

Balsam Ridge Lodge (PID 251-157) – Request to extend conditional approval (File #FR12-01): Mark Lucy appeared before the Board. Mr. Lucy stated the owners were in hopes to have this project permitted and then put it on the market; the property has been on the market, but has not moved yet. Mr. Lucy stated that they would like to request a 12-month extension. Mr. Lucy stated that the site plan review regulations have not changed and he believes this is a reasonable request.

Mr. Hartmann asked if there is a reason why the conditions have not been met. Mr. Lucy stated one of the conditions is bonding. Mr. Lucy stated you usually are not going to put up a bond until you are about to start. Mr. Hartmann stated that the property needs the improvements.

Ms. Tobin made a motion, seconded by Mr. Shakir, to extend the conditional approval for Balsam Ridge Lodge until January 23, 2014. Motion unanimously carried.

Fandangle's LTD (PID 246-42) – Conditional approval expiring (File #FR12-08): Michael Milazzo of Milazzo & Associates appeared before the Board. **Ms. Tobin made a motion, seconded by Mr. Hartmann, to extend the conditional approval for Fandangle's LTD until January 23, 2014. Motion unanimously carried.**

Requesting a recommendation regarding easement across PID 218-32 to access PID 218-28: Burr Phillips of Civil Solutions appeared before the Board. Mr. Irving stated that the Board of Selectmen is considering an easement across a portion of Town property that is owned jointly with the North Conway Country Club to benefit the North Conway Community Center. **Mr. Hartmann made a motion, seconded by Mr. Eric Porter, to recommend that the Board of Selectmen grant the requested easement. Motion unanimously carried.**

Mount Washington Valley Habitat for Humanity (PID 277-283) – Request for a Concurrent Site Plan and Subdivision Review: Burr Phillips of Civil Solutions appeared before the Board. **Ms. Tobin made a motion, seconded by Mr. Steve Porter, to accept the request for a concurrent site plan and subdivision review for Mount Washington Valley Habitat for Humanity. Motion unanimously carried.**

Request for a recommendation regarding Town's acquisition of lands pursuant to the Transvale Acres buyout program: Mr. Irving stated that the Board of Selectmen is looking at buying interest in land in Transvale Acres and needs this Board's recommendation of whether or not they should acquire said lands. Mr. Shakir asked if there are any strings attached to the money. Mr. Irving stated that it becomes Town property; believe there would be little or no cost to the Town. **Ms. Tobin made a motion, seconded by Mr. Eric Porter, to recommend that the BOS accept the subject parcels. Motion carried with Ms. Seavey abstaining from voting.**

Committee Reports: There was none.

Meeting adjourned at 8:50 p.m.

Respectfully submitted,



Holly L. Meserve
Recording Secretary

Notes re: Parking Waiver (§123-21.(A)), Landscaping Waiver (§123-29) and Traffic Control Island Waiver (§123-22.(D))

The areas being considered for the "Snow Storage" waiver occupies 68 parking spaces that would be needed during the busy shopping season from late November through December when we often experience significant snow events. This puts additional demand on the rest of the available parking.

The applicant is also seeking a waiver to defer construction of 114 (banked) parking spaces as such 182 of the proposed parking spaces in addition to the 5 spaces indicated in the waiver request will not be readily available. As such, they are seeking at least initial relieve for 187 of the parking spaces prescribed by §23-21. (A).

Considering that the applicant will have some difficulty satisfying §123-43. A.2 and especially "d. strict compliance with the regulations would cause a hardship to the applicant solely because of the unique physical characteristics of the site (financial hardship shall not be considered)" I suggest that rather than pursuing the waiver they consider a substitution with an "Alternative Standard" pursuant to §123-21.2 and/or §123-43. B. That analysis could demonstrate that an alternative standard justifies fewer parking spaces than 1 per 200 s.f. of gross area.

The applicant is also seeking relief from the landscaping requirements. They argue that there is not sufficient green space area to support the required number of trees. This is largely due to the large disturbed area relative to providing only the minimum (25.1%) area of green space. Furthermore the applicant is seeking relief from the Traffic control Island requirement (§123-22.D). Perhaps the requested relief can be mitigated by means other than the waivers as requested.

For instance if rather than granting the waivers as requested the applicant might consider using "GrassPave" if and when the "banked parking" is developed and GrassPave 30,000 s.f. of the 217 space northern parking lot. Then the amount of "disturbed area would be decreased by approximately 50,000 s.f., the green space would increase by that same 50,000 s.f. (to 32%) and the number of required trees would be reduced by approximately 100. With 100 fewer trees to plan in the original 25.1 % of green space, more qualified trees can be accommodated. There could still be overflow parking available in that 217 space lot if it is not occupied by snow.

Still another benefit to this approach is that there would be 50,000 square feed of pervious surface that can lesson the amount of storm water run-off. That must be treated.

In short less pavement, more green pace and more qualified trees could result in a win-win solution that yields a more environmentally sensitive development that suits the needs of the applicant.

General notes/questions regarding the pending items:

RE: WALMART
SUBMITTED BY TOM IRVING 01/24/13