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**CONWAY PLANNING BOARD**

**MINUTES**

**MAY 8, 2014**

A meeting of the Conway Planning Board was held on Thursday, May 8, 2014 beginning at 7:00 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Porter; Vice Chair, Steven Hartmann; Secretary, Martha Tobin; Eric Porter; Ray Shakir; Town Engineer, Paul DegliAngeli; and Recording Secretary, Karen Hallowell.

**ELECTION OF OFFICERS**

**Martha Tobin nominated Steven Porter, seconded by Eric Porter, as Chair. Motion carried 4-0-1 with Steven Porter abstaining.**

**Martha Tobin nominated Steven Hartmann, seconded by Eric Porter, as Vice Chair. Motion carried unanimously.**

**Steven Hartmann nominated Martha Tobin, seconded by Steven Porter, as Secretary. Motion carried 4-0-1 with Martha Tobin abstaining.**

**REVIEW AND ACCEPTANCE OF MINUTES**

**Ms. Tobin made a motion, seconded by Mr. Hartmann, to approve the Minutes of April 10, 2014 as written. Motion carried unanimously.**

**OTHER BUSINESS**

**Residences at Saco River LLC (File #FR12-09) – Request to extend conditional approval (PID 243-23):** Mark Lucy of White Mountain Survey and Engineering and Roger Williams, Project Manager, appeared before the Board.

Mr. Lucy explained that this project was approved in August of 2012 but then they went through some court challenges and it was determined that the Planning Board decision was correct. He is here today to seek an extension of the approval so he can get a DOT permit. Mr. DegliAngeli stated that they are making application for an extension within the time frame.

Mr. Hartman questioned if anything has changed. Mr. Lucy next reviewed a letter sent to Planning Director dated April 24, 2014 that listed items outstanding and things that were added and changed. Steven Porter questioned if Tom Irving was aware of the changes. Mr. DegliAngeli responded in the affirmative and reviewed information contained in the Board agenda packet.

Selectmen's Representative, Carl Thibodeau, joined meeting at 7:07 p.m.

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Mr. Hartman next asked in simple terms what has been changed. Mr. Lucy advised drainage, fencing, etc. Ms. Tobin pointed out that these are things that this Board had brought to their attention before.

Mr. Williams advised that they are looking for a twelve month extension to May 14, 2015. **Steve Porter made a motion, seconded by Ms. Tobin, to extend the conditional approval for Residences at the Saco LLC until May 14, 2015. The motion carried unanimously.**

**CMR Properties, LLC (File #FR14-02 & S14-04) – Request to amend conditional approval (PID 214-84):** Mr. Steve Porter stated that the applicant has withdrawn their request.

Mt. Washington Observatory (PID 218-55) - §123-4.A.5 (File #NA14-03): Ed Bergeron, President of the Mount Washington Observatory, appeared before the Board. This is a request to install 30 KW solar PV collectors flush on the building roof at 2779 White Mountain Highway, North Conway.

Mr. Bergeron stated that this application is for 120 modules on the Mount Washington Observatory Building and they had reviewed this with Tom Irving who suggested that they ask for a not applicable. Mr. Bergeron next distributed a copy of the proposed PV layout for 120 modules and reviewed same with the Board. Mr. Bergeron further advised that he has also spoken with Fire Chief, Pat Preece, regarding the project and he is supportive of same. Mr. Bergeron next stated that this project is similar to the installation on the Badger building; however, they are using a different company. Further, they will generate 29 kilowatts and it will save the Mount Washington Observatory about \$3,000 in electric costs.

Mr. Steve Porter asked for questions or comments from the Board; there were none.

**Ms. Tobin made a motion, seconded by Mr. Hartman, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the installation of 30 KV solar PV collectors flush on the building roof 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 unanimously.**

**North Conway Community Center – Lot Merger (PID 218-28 & 29):** It was reviewed they own both lots. Steve Porter explained that this is a formality and ties up loose ends. **Ms. Tobin made a motion, seconded by Eric Porter, to grant the lot merger requested by North Conway Community Center to merger PID 218-28 & 29 to one lot of record. Motion carried unanimously.**

**Request from the Board of Selectmen for the Planning Board to comment on an application for a building permit on a private road pursuant to NH RSA 674:41, I (d):** Mr. DegliAngeli advised that the town received a request for a building permit on a lot which fronts Henderson Road.

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Mr. DegliAngeli next reviewed a map of Henderson Road with the Board. Mr. DegliAngeli stated that Henderson Road has three sections. All of Henderson Road was previously a Class VI Road --town owned but not maintained. A developer came before the town and made application for a development and a portion of Henderson Road (from Davis Hill Road to just beyond Royal View Road) was brought up to town standard but it remains as a Class VI road and is not maintained by the town. The reason for this is that it has not been before the legislative body for a vote otherwise to date. The other portion this road (south of Royal View Road) was abandoned at town meeting in 2013 and is now a private road. A portion of the abandoned section of Henderson Road is paved but not to town standards and the rest is not paved. Mr. DegliAngeli next reviewed that the section of road where this lot is located is on the abandoned section of the road which is now a private road. It is paved but not to town standard.

Mr. DegliAngeli next explained that in order to get a building permit, you have to have a lot with 150-feet of frontage on a qualified road. The snag here for these folks is the definition of qualified. Mr. DegliAngeli next stated that you can relieve them of the obligation to build on a qualified road and reviewed a section NH RSA 674:41 with the Board. Mr. DegliAngeli next reviewed that what the Board of Selectmen is asking the Planning Board for is their recommendation. The choices can be the following: Do you want to tell them it is okay to build on a private road so long as they sign something that says we don't take care of this road and, also, emergency vehicles cannot get to the property; tell them they have to improve the road frontage; tell them they need to improve the road for a minimum of 150 feet of frontage; or tell them they need to improve the road fifty feet to the driveway and beyond and approve a hammerhead area for plowing.

Steve Porter questioned what has been the practice in the past as far as issuing permits. Mr. DegliAngeli explained we haven't and this is new waters.

Mr. Hartman questioned if they bring the road up to town standards does the town then assume responsibility for the road. Mr. DegliAngeli advised the town does not maintain the road unless and until the legislative body approves of same. Mr. DegliAngeli next gave a brief overview of town road standard requirements.

Steve Porter next questioned that if we ask the person making the request for the building permit to bring their section of the road up to standard then we are not doing something that we have not done in the past. Mr. DegliAngeli reviewed that this request is a single lot and is not a developer. Eric Porter asked if this person making the request would only have to bring the road up to standard in front of this lot. Mr. DegliAngeli reviewed the options the Board has as stated earlier. Mr. DegliAngeli next reviewed the map of the road in front of the lot requesting the building permit and advised that someone else had paved this area to use as a driveway but it is not to town standards.

Mr. Thibodeau asked about the roadway from Davis Hill to the Royal View development. Mr. DegliAngeli reviewed that this portion of road was paved to town standard by the developer, but it is not maintained by the town. The next portion of roadway is the abandoned section of road and is paved but not to town standards and is a private road.

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Mr. DegliAngeli next advised that research indicates that in the 1960's the owner of the lots in this area came before the Board of Selectmen and asked if he could subdivide. The Board of Selectmen agreed he could subdivide if he improved the road and shook hands. The area was subsequently subdivided but the road was never improved.

Steve Porter next questioned if we can fall back on the developer for Royal View to now continue with the rest of the road. Mr. DegliAngeli responded in the negative.

The Board next asked if the lot owner was present at the meeting. Mr. DegliAngeli advised that a Realtor came to the Board of Selectmen meeting and advised that the sale of the property is contingent on receiving a building permit.

Mr. Shakir stated that the road is a Class VI road and the property across from this lot is significantly developed and that it would be naïve to think that someone won't petition in the future to make this a town road.

Steve Porter stated he feels that improvements should be made in front of the property making the request for the building permit. If we don't do this and we allow one person to have a building permit then we begin to set precedent. Mr. Porter next advised that there are lots located after this lot that is owned by the town.

Mr. DegliAngeli next pointed out that this lot also has 500' of frontage and could possibly be subdivided.

Eric Porter stated that his feeling is that the person developing this lot should have to bring the road up to standard.

Dave Douglas of Thaddeus Thorne Surveys advised that he was asked to come to this meeting tonight at the request of the realtor for the property. Mr. Douglas presented an illustration of the area that he prepared and reviewed same (see attached). Mr. Douglas stated that, by his review, the property in question does have 50' of frontage on the improved section of Henderson Road. Mr. Douglas stated that he feels that if a person puts a driveway on the improved part of the road opposite to the development, then they could have access to emergency vehicles, etc. There was brief discussion of the illustration provided by Mr. Douglas with the Board.

Steve Porter suggested tabling any recommendation until the next meeting of this Board so that the members have time to think about this matter. Mr. Thibodeau stated that this may be an issue for the person selling the lot as it would be a month or so before the Planning Board and then the Board of Selectmen meet.

Mr. Thibodeau questioned if we could allow this building permit to happen with the caveat that when the remaining lots are developed that the cost to improve the road be shared by the three lots along that portion of the road. Mr. DegliAngeli responded in the negative.

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Ms. Tobin stated that she feels improvements should be made to the entire road frontage and 50' beyond. Mr. Hartmann agreed. Steve Porter also agreed and added that this will alleviate issues down the road.

Mr. Thibodeau stated that if you make this person bring their frontage and 50' beyond up to standard, then the next property will get that 50'. It was pointed out by the Board that each lot would then also have to improve their frontage plus 50' as well. Steve Porter added that this will also now set a precedent of what people have to do in the future.

There was further discussion of the road etc. Mr. Porter stated that he feels it is in the best of the Planning Board to determine that we are not asking anything out of the norm to ask the person developing the lot to bring the road up to town specs.

Mr. Thibodeau stated that the Board of Selectmen is looking for a consensus from this Board.

David Douglas next stated that he feels this Board has lost all idea of the people who own the lots in this area and that our own zoning recognizes these as lots of record. Mr. Douglas stated that the cost for road improvements will not make it a go for this person as it will cost \$350 per foot to develop. People have owned these lots for a long time and they should be represented and thought of now. Ms. Tobin questioned if Mr. Douglas is saying that we should recommend that we allow this person to build and then have them sign off if emergency vehicles etc. can't get to the lot. Mr. Douglas stated that he feels people should have the right to waive safety, etc. and build. Steve Porter stated he feels that this is not the 1960's and this Board can't just look at individual lot and we have to look at the overall picture. We have to look at the best interest of the Town of Conway. We are not here to look at financial interests and have to do what the voters have voted.

Mr. Shakir stated that he disagreed with Mr. Porter and that the paving requirement and costs amounts to a taking. Very few people can afford that or would be willing to pay for this and you are basically taking their property. These people pay taxes on the land and are prohibited from building on it.

Steve Porter disagreed and stated that we charge businesses to do this and that we have to look at it all the same. Money is not to be entered into the decision.

Mr. Thibodeau stated that he agreed with Mr. Shakir, not in the sense of a taking, but that it is putting this person in a position. How can you tell them they can't build on the property without paying the amount to improve the road.

There was further brief discussion. **The majority of the Planning Board agreed with the recommendation that the landowner bring the entire frontage up to standard by a vote of 4-1-1 with Ms. Tobin and Messrs. Porter, Hartmann and Porter in the affirmative; Mr. Shakir in the negative; and Mr. Thibodeau abstaining.** Mr. Thibodeau advised that he will carry this recommendation back to the Board of Selectmen.

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**Committee Reports:**

**Sign Advisory Committee** - Mr. Thibodeau reported the committee met on April 17, 2014 and they are making headway. The next meeting is scheduled for May 29, 2014 at 6:30 pm.

**Board Discussion:** Mr. Thibodeau referred to language about greenspace in the regulations and questioned what is the logic behind excluding wetlands and slopes in the Site Plan Review Regulations. Mr. DegliAngeli stated that his understanding is that wetlands and water bodies can't be greenspace because they don't support vegetation but he would also defer to Tom Irving on this subject. There was further brief discussion on slopes, etc. Mr. Thibodeau stated that he feels that some of what is in the code is on the prohibitive side as we have lots of slopes and if you limit this you limit what someone can do with their property. Mr. Thibodeau next stated that he would ask Tom Irving about this matter.

**Adjourn:** Ms. Tobin moved, seconded by Eric Porter, to adjourn the meeting. The motion carried unanimously. The Meeting adjourned at 8:40 pm.

Respectfully submitted,



Karen Hallowell  
Recording Secretary