

CONWAY PLANNING BOARD

MINUTES

FEBRUARY 12, 2015

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CONWAY PLANNING BOARD

MINUTES

FEBRUARY 12, 2015

A meeting of the Conway Planning Board was held on Thursday, February 12, 2015 beginning at 7:05 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Porter; Selectmen's Representative, Carl Thibodeau; Secretary, Martha Tobin; Kevin Flanagan; Ray Shakir; Planning Director, Thomas Irving and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Flanagan made a motion, seconded by Mr. Thibodeau, to approve the Minutes of January 22, 2015 as written. Motion carried with Ms. Tobin and Mr. Shakir abstaining from voting.

POOPSY INVESTMENT, INC AND BUILT ON TRUST INVESTMENTS, LLC (FILE #S15-02) – BOUNDARY LINE ADJUSTMENT REVIEW (PID 202-3 & 4)

Shawn Bergeron of Bergeron Technical Services appeared before the Board. This is an application to convey 0.52 of an acre to PID 202-4 (Built on Trust) from PID 202-3 (Poopsy) at 3358 White Mountain Highway, North Conway (PID 202-3 & 4). **Ms. Tobin made a motion, seconded by Mr. Porter, to accept the application of Poopsy Investment Inc and Built on Trust Investments, LLC for a Boundary Line Adjustment Review as complete. Motion unanimously carried.**

Mr. Porter asked for Board comment; there was none. Mr. Porter asked for public comment; there was none. Mr. Irving read the waiver request for §131-37.1.A. **Ms. Tobin made a motion, seconded by Mr. Thibodeau, to grant the waiver for §131-37.1.A.** Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Tobin made a motion, seconded by Mr. Flanagan, to conditionally approve the boundary line adjustment for Poopsy Investments, Inc and Built on Trust Investments, LLC conditionally upon North Conway Water Precinct water and sewer approval; North Conway Fire Chief approval; updating the waivers granted table on the plan; submitting a Mylar for recording; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on May 14, 2015. Motion unanimously carried.

PUBLIC HEARING – PETITIONED ZONING AMENDMENTS

§147.13.8.1.3: – This is an amendment to include 110 Barnes Road (PID 235-82) within the Highway Commercial District rather than the Residential Agricultural District. Dorthea Seybold appeared before the Board. Mr. Porter opened the public hearing at 7:12 pm.

**Adopted: March 12, 2015 – As Written
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Mr. Porter asked for Board comment; Ms. Tobin asked if the area around this property is in the Highway Commercial District. Mr. Irving stated this property touches the Highway Commercial District along its southern boundary. Mr. Porter stated he is concerned if it is rezoned, the impact it will have on the North-South Road. Ms. Tobin stated the Board has been very clear about changing the zoning for specific lots in the past without good reason.

Ms. Seybold stated that this parcel has always been used commercially. Ms. Seybold stated that the Zoning Board of Adjustment [ZBA] recently approved a further commercial use, a hotel, on that property. Ms. Seybold stated the site will be used for commercial use. Ms. Seybold stated it is a cleanup of the zoning; when we rezoned behind Staples where Home Depot is this should have been included. Ms. Seybold stated it fits in the master plan to confine commercial use along Route 16.

Ms. Seybold stated the residential use is an island and is out of place. Ms. Seybold stated the reason for the petition is basically to clean it up; it makes it easier as a developer to not have to go to the ZBA for a non-conforming use, but that is really not a concern. Ms. Seybold stated the best use of this property is to be used commercially.

Mr. Shakir stated this has been used for commercial in the past and subsequent to that commercial business, but that is no longer viable so it is reverting back to residential development or is it staying as a commercial use. Mr. Irving stated that the ZBA granted a special exception to change one non-conforming use to another non-conforming use, a hotel. Mr. Irving stated any commercial use allowed in the Highway Commercial District would be a right. Mr. Shakir stated if changed they wouldn't need anything from the ZBA; it would just be a right. Mr. Irving stated that is correct. Mr. Thibodeau asked if they have the special exception. Mr. Irving answered in the affirmative, for a hotel; if they wanted to do something else they would have to reapply to the ZBA.

Mr. Porter asked what happens if the Board does not recommend this, what effect that would have on the special exception. Mr. Irving stated the action being taken tonight will not have an effect on the approval granted. Mr. Irving stated the Board is either recommending or not recommending this article on the warrant.

Ms. Seybold stated the approval by the ZBA has been appealed by the North Conway Grand Hotel; however, they are not abutters and they are appealing the Town's decision. Ms. Seybold stated the property is not zoned commercial, but used commercially. Mr. Flanagan asked if there is any protection if it is changed to Highway Commercial. Mr. Irving stated the Board has a 100-foot buffer and setback along the North-South Road. Ms. Tobin asked if there could be a curb cut onto the North-South Road. Mr. Irving stated that is the Board of Selectmen's jurisdiction. Ms. Seybold stated the time to have asked for a curb cut onto the North-South Road was when Home Depot was being developed, and it wasn't.

The public hearing was closed at 7:26 pm. **Mr. Thibodeau made a motion, seconded by Ms. Tobin, to recommend the proposed amendment to §147.13.8.1.3 to the warrant. Motion unanimously carried (5-0-0).**

PUBLIC HEARING – ZONING AMENDMENTS PROPOSED BY THE PLANNING BOARD

§147.15.31/§147.15.3132/§147.13.1.6.15.2, 147.13.2.6.15.2, 147.13.3.6.15.2, 147.13.4.6.15.2, 147.13.5.6.12.2, 147.13.6.7.12.2, 147.13.7.6.12.2, 147.13.8.6.12.2, 147.13.10.6.12.2, 147.13.11.6.12.2, and 147.13.12.7.15.2 – This is an amendment to provide a definition of feather type flags; exclude feather type flags from the definition of flags that are permitted in the ordinance; and to include feather flags as a prohibited form of signage. Mr. Porter opened the public hearing at 7:28 pm. Mr. Porter asked for public comment; there was none. Mr. Porter closed the public hearing at 7:31 pm.

Mr. Thibodeau made a motion, seconded by Ms. Tobin, to recommend the proposed amendment to §147.15.31/§147.15.3132/§147.13.1.6.15.2, 147.13.2.6.15.2, 147.13.3.6.15.2, 147.13.4.6.15.2, 147.13.5.6.12.2, 147.13.6.7.12.2, 147.13.7.6.12.2, 147.13.8.6.12.2, 147.13.10.6.12.2, 147.13.11.6.12.2, and 147.13.12.7.15.2 to the warrant as written. Mr. Thibodeau stated that he was disappointed with some of the votes at the last meeting on articles that did not get to the warrant. Mr. Thibodeau stated the proposed articles were generated from a lot of public comment and debate. Mr. Thibodeau stated that it is the purview of this Board to post or to not post items to the warrant, but they should have been moved to the warrant to let the voters decide. **Motion carried with Mr. Flanagan and Mr. Shakir voting in the negative (3-2-0).**

OTHER BUSINESS

Committee Reports:

Sign Advisory Committee: The next meeting will be on April 2, 2015 to discuss lighting. Mr. Shakir asked if the items that were voted down at the last meeting could be reintroduced for next year's warrant. Mr. Irving answered in the affirmative. Mr. Thibodeau also read an opinion from Town Counsel regarding political signs. Tom Eastman of the Conway Daily Sun asked if any of the feather flags would be grandfathered. Mr. Porter answered in the negative; and stated they would have to be removed. Mr. Eastman asked if that is the Board's opinion or the opinion of Town Counsel. Mr. Irving stated it is the opinion of an attorney at the Local Government Center.

Meeting adjourned at 7:42 pm.
Respectfully submitted,



Holly L. Meserve, Recording Secretary

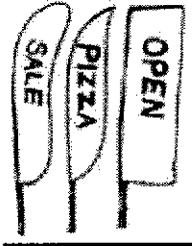
Article 2: To see if the Town will vote to adopt amendment No.1 to Chapter 147 (Zoning Ordinance): to create a definition of “feather Flag”, to exclude feather flags from the definition of flags (§147.19.31), to prohibit feather flags (amendment applies to 147.13.1.6.15.2, 147.13.2.6.15.2, 147.13.3.6.15.2, 147.13.4.6.15.2, 147.13.5.6.12.2, 147.13.6.7.12.2, 147.13.7.6.12.2, 147.13.8.6.12.2, 147.13.10.6.12.2, 147.13.11.6.12.2 and 147.13.12.7.15.2) and renumber the ordinance accordingly. **Proposed by the Planning Board. Recommended by the Planning Board** 

Amendment No. 1:

Definition of a feather flag: The purpose of this amendment is to provide a definition of feather type flags in order to distinguish them from other flags otherwise permitted in the ordinance.

147.15.31 FEATHER FLAG: “feather flag” means a vertical portable sign that contains a harpoon-style pole or staff driven into the ground for support or supported by means of an individual stand. (See Figure 2.)

Figure 2

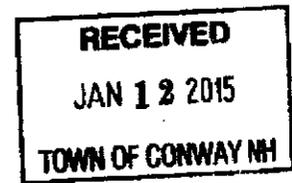


Definition of Flag: The purpose of this amendment is to exclude feather type flags from the definition of flags that are permitted in the ordinance.

147.15.3132 FLAG: A piece of flexible fabric of distinctive design which is used as a symbol of a nation, state, province, county, town or religion, or which uses color, form, graphic, symbol, or writing to communicate information of any kind to the public, whether commercial or non-commercial. **Excluded from this definition are Feather Flags as otherwise defined in the preceding subsection.**

Feather Flag prohibition: The purpose of this amendment is to include feather type flags as a prohibited form of signage. Amendment applied to 147.13.1.6.15.2, 147.13.2.6.15.2, 147.13.3.6.15.2, 147.13.4.6.15.2, 147.13.5.6.12.2, 147.13.6.7.12.2, 147.13.7.6.12.2, 147.13.8.6.12.2, 147.13.10.6.12.2, 147.13.11.6.12.2 and 147.13.12.7.15.2.

147.13.x.x.x.x Banners, **feather flags**, pennants, search lights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.



Citizen Petition

For Change to Conway Zoning Ordinance

We the undersigned registered voters of Conway, New Hampshire request that Conway Zoning Ordinance be amended to adjust the boundary of the Highway Commercial District such that the parcel of land located at 110 Barnes Road (Tax Map 235, Parcel 82) becomes part of the Highway Commercial District rather than the Residential/Agricultural District. This is consistent with the Conway Master Plan which calls for the Town "to continue to accommodate commercial, retail, service and hospitality establishments" along the Route 16 corridor from Route 302 to the southern edge of the North Conway Village and to encourage "infill" and "redevelopment of existing underutilized properties" to "reduce the potential homogenization of non-residential land uses elsewhere in Conway."

Proposed Amendment:

Existing wording to be deleted is shown in this matter: ~~to be deleted~~. New wording is shown in this manner: wording to be added.

* * *

Chapter 147.13.8.1.3

NORTH CONWAY AREA SOUTH OF NORTH CONWAY VILLAGE.

The HC District in the North Conway area south of North Conway Village shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps): commencing at the point on the thread of Kearsarge Brook 500 feet easterly of the centerline of Route 16; thence southerly parallel with and 500 feet from the centerline of Route 16 to the centerline of Locust Lane; thence easterly along the centerline of Locust Lane and continuing on the same bearing to the centerline of the North/South Road; thence southerly along the centerline of the North/South Road to a point adjacent to the southeast corner of Map 230, Parcel 51; thence westerly through the southeast corner of Map 230, Parcel 51 and continuing along the southern boundary of Map 230, Parcel 51 to a point 500 feet from the centerline of Route 16; thence southerly parallel with and 500 feet from the centerline of Route 16 to the northern boundary of Map 235, Parcel 35; thence easterly along the northern boundary of Map 235, Parcel 35 to the centerline of the North-South Road; thence southerly along the centerline of the North-South Road to a point adjacent to the southeast corner of Map 235, Parcel 35; thence westerly through the southeast corner of Map 235, Parcel 35 and continuing along the southern boundary of Map 235, Parcel 35 to a point 500 feet from the centerline of Route 16;

thence southerly parallel with and 500 feet from the centerline of Route 16 to the northerly boundary of Map 235, Parcel 78; thence easterly along the northerly boundary of Map 235, Parcel 78 to its easterly boundary, common with the westerly boundary of Map 235, Parcel 70; thence southerly along the easterly boundary of Map 235, Parcel 78 and continuing to the southerly boundary of the Puddin' Pond Drive ROW; thence in general westerly, then southerly

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southerly boundary of the Puddin' Pond Drive ROW; thence in general westerly, then southerly direction along the southerly boundary of the Puddin' Pond Drive ROW to the ~~southern boundary of the Barnes Road ROW at the southwest~~northwest corner of Map 235, Parcel 82; thence easterly ~~and following the same bearing as the southern~~along the northern boundary of Map 235, Parcel 82 to the northeast corner of Map 235, Parcel 82 and following the same bearing the Barnes Road ROW to the centerline of Map 219, Parcel 211 (former Maine Central Railroad); thence southerly along the centerline of Map 219, Parcel 211 (former Maine Central Railroad) to a point adjacent to the southwest corner of Map 252, Parcel 31;

thence northeasterly through the southwest corner Map 252, Parcel 31 to the southwest corner of Map 252, Parcel 42; thence traversing Map 252, Parcel 42 easterly in a straight line to the northwest corner of Map 252, Parcel 47; thence southerly along the western boundary of Map 252, Parcel 47 and continuing on the same bearing to the centerline of Map 219, Parcel 211 (former Maine Central Railroad); thence southeasterly along the centerline of Map 219, Parcel 211 (former Maine Central Railroad) to the centerline of East Conway Road; thence westerly along the centerline of East Conway Road and continuing on the same bearing to a point 400 feet west of the centerline of Route 302; thence northerly parallel with and 400 feet from the centerline of Route 302 to the western boundary of the proposed 9A Bypass ROW; thence southerly along the western boundary of the proposed 9A Bypass ROW to a point where an extension of the southern boundary line of Map 246, Parcel 17 intersects with the western boundary of the proposed 9A Bypass ROW; thence westerly in a straight line to the southeast corner of Map 246, Parcel 17; thence westerly along the southern boundary line of Map 246, Parcel 17 and continuing on the same bearing to the centerline of Route 16; thence northerly along the centerline of Route 16 to the intersection of the centerline of Shaws Way; thence west to a point 500 feet from the centerline of Route 16; thence northerly parallel with and 500 feet from the centerline of Route 16 to the southwestern boundary of Map 246, Parcel 20.001; thence northwesterly along the southwestern boundary of Map 246, Parcel 20.001 to the western boundary of Map 246, Parcel 22; thence northwesterly, southerly and westerly along the boundary of Map 246, Parcel 22 to the eastern shore of the Saco River; thence northerly along eastern shore of the Saco River to the centerline of Map 218, parcel 35 (Conway Scenic Railroad); thence northerly along the centerline of Map 218, parcel 35 (Conway Scenic Railroad) to the thread of Kearsarge Brook, and thence easterly along the thread of Kearsarge Brook to the point of commencement.