

**CONWAY PLANNING BOARD**

**MINUTES**

**JUNE 13, 2019**

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**CONWAY PLANNING BOARD**

**MINUTES**

**JUNE 13, 2019**

A meeting of the Conway Planning Board was held on Thursday, June 13, 2019 beginning at 7:00 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Hartmann; Selectmen's Representative, Steven Porter; Secretary, Benjamin Colbath; Raymond Shakir; Steven Steiner; Bill Barbin; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Colbath made a motion, seconded by Mr. Barbin, to approve the Minutes of May 23, 2019 as written. Motion carried with Mr. Shakir abstaining from voting.**

**BELLEVUE PROPERTIES, INC. – FULL SITE PLAN REVIEW CONTINUED (PID 235-98) FILE #FR19-01**

David Fenstermacher of VHB appeared before the Board. This is an application to construct a 3-story, 33-room addition; to construct a 10,260 square foot enclosed pool addition; and to construct a 2,560 square foot lobby and new porte cochere with associated infrastructure. This application was accepted as complete on January 24, 2019.

Mr. Hartmann asked for public comment; there was none. **Mr. Colbath made a motion, seconded by Mr. Porter, to continue the public hearing and further the consideration of the Full Site Plan Review for Bellevue Properties, Inc. until July 25, 2019. Motion carried unanimously.** Mr. Fenstermacher asked what is the submittal date for new information. Mr. Irving answered July 3, 2019.

**PUBLIC HEARING – TREE REMOVAL ON A SCENIC ROAD – RSA 231:158**

Steve Steiner joined the Board at this time. Valerie Hoffman, Consulting Utility Forester for Eversource, appeared before the Board. This is a public hearing for the removal of trees along designated scenic roads Crown Hill Road, Greeley Road, Gulf Road, and Leavitt Road to facilitate utility services.

Mr. Irving stated there are two places in Town that Eversource has had trees cut but the contractors did not remove the wood, and it is on Town property. Mr. Irving stated the locations are at the corner of Old Mill Road and Old Goshen Road and at 188 East Conway Road. Mr. Irving stated he is going to suggest to the Board a condition precedent to granting approval that those be removed first.

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Mr. Hartmann asked for Board comment; there was none. Mr. Hartmann opened the public hearing at 7:05 pm. Mr. Hartmann asked for public comment; Tom Deans, who lives on Potter Road, stated he learned a lesson last year, as the year before he attended a hearing where he was able to get in touch with Eversource; the arborist came out, trees were marked along Potter Road, the arborist went over all the markings with us, and it went very well.

Mr. Deans stated for those of us who live on a scenic road we love the fact that we have a tree canopy over the road, that is part of the beauty and why the roads in South Conway were dedicated as scenic roads. Mr. Deans stated he was very pleased with the way the work was done. Mr. Deans stated then this summer new crews arrived and in front of his place they were cutting down all kinds of trees. Mr. Deans stated a tree is designated by Eversource as being something 15-inches in circumference.

Mr. Deans stated what is happening is Eversource cut back 8-feet from the line, which they have the right to do. Mr. Deans stated we have trees that come very close to the road now and they are pruned up so not to interfere with the lines. Mr. Deans stated all the young trees are being cut, none of the young trees are regenerating along the scenic roads because they are being cut out to eight-feet.

Mr. Deans stated under the law the Planning Board has the right to designate trees smaller than the 15-inches in circumference for the purpose of establishing regeneration growth along the scenic roads. Mr. Deans stated the Planning Board should have a rule that allows for regeneration for some amount of trees; obviously we all want safety and we don't want our power to go off, but he fears we are going to have these big wide strips and lose the character of what the scenic roads were designated for, and that is the canopy and the nice feel of a wild New Hampshire road.

Mr. Irving stated typically we get an inventory of the actual trees Eversource is seeking approval, which he does have a list in front of him, so he is a bit surprised to hear this. Mr. Irving stated his first question is was it an Eversource crew. Mr. Deans stated it was a crew hired by Eversource. Mr. Deans stated he got that list two years ago we went over it and they were super, but there was a second crew that didn't have a list like that and just cut everything. Ms. Hoffman stated it sounds like our two different programs; hazard tree removal is one, and trimming is another.

Mr. Deans stated the trimming one has a real impact on trees, and he is not sure if we have any hearing on that. Mr. Deans stated he did not know anything about it. Mr. Deans stated the Planning Board has the right to describe a regeneration of growth plan for the scenic roads. Mr. Deans stated he would like the Planning Board to at least think about it. Mr. Deans stated as an owner along a scenic road we care deeply about the conditions of the road and want the trees up as close to the road as we can get them.

Mr. Hartmann asked if there is anything the Board can do about this. Mr. Irving stated not this evening, but there is a procedure under RSA 231:157 & 158. Mr. Irving stated the question really is whether or not the Planning Board can unilaterally do that or if we need to involve the

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Board of Selectmen in adopting and designating that additional requirement. Mr. Irving stated if it is the pleasure of the Board, he would certainly reach out to the Town Manager.

Mr. Hartmann stated he agrees with Mr. Deans; the back scenic roads have a certain character to them and the canopy over the roadway is a neat thing. Mr. Hartmann stated if they are cutting down all the small stuff it never gets to that point. Mr. Porter stated he would have to agree; he understands everyone needs power, but we have the designation in certain areas for rural scenic beauty.

Mr. Shakir stated he is neither for or against it, but he does have experience with line clearance and the specifications for line clearance is spelled out. Mr. Shakir stated the utility inspector who usually accompanies these line crews should be briefed on these specifications and be a watchdog. Mr. Shakir stated the inspector should make sure that brush is removed in a specified manner and not be overzealous, all of these are spelled out. Mr. Shakir stated if the crews are adhering to the line clearing specifications and it is backed by the Public Service Commission, then it is what it is; but if not, then the inspector should be briefed enough to tell the crews they are being overzealous.

Mr. Deans agreed and stated he read all the specs and there was a person that came out because he complained and this person told him the Town has the right to have different parameters and they can be amended by the Town. Mr. Deans stated he is not asking the Board to violate the law, but to consider adopting something that will allow for the regeneration for some number of trees along these roads.

Mr. Steiner stated he absolutely supports an amendment. Mr. Colbath stated he agrees as well. Mr. Irving stated the actual adoption is done through a Town Meeting vote, and amendments, such as you are proposing, are done through the same process.

Mr. Hartmann asked for further Board comment; there was none. Mr. Hartmann asked for further public comment; there was none. Mr. Hartmann closed the public hearing at 7:22 pm. Mr. Deans left at this time.

Mr. Irving stated it is the understanding that the only trees to be cut are those that are on the list. Ms. Hoffman answered in the affirmative and asked if the Board is not considering trimming right now, and only considering hazard trees. Mr. Irving answered in the affirmative. Ms. Hoffman asked if trimming is another public hearing. Mr. Irving after a review of the request stated they are asking for both. Mr. Irving stated evidently property owners were not consulted in regards to the trimming that is being done.

Ms. Hoffman stated they should have been; they send out a card and the homeowner has 45-days to return it. Ms. Hoffman stated if they don't receive it back, then they don't know to go to the house and consent is granted because they didn't send the card back. Ms. Hoffman stated they can sign the card and indicate that they want a meeting. Mr. Irving stated this may have occurred because people failed to make that contact, not because Eversource failed to reach out. Ms. Hoffman agreed.

**Mr. Steiner made a motion, seconded by Mr. Colbath, to grant approval conditionally for the removal of the hazardous trees with the precedent condition the wood from the corner of Old Goshen Road and Old Mill Road be removed and the wood that was left at 188 East Conway Road be removed prior to final approval, and with a subsequent condition that the utility company consult and agree with the property owners regarding any trees be cut. Motion carried unanimously carried.**

**Mr. Hartmann made a motion, seconded by Mr. Shakir, to grant approval for the removal of brush and limbs located within 8-feet to the side and 10-feet below or 15-feet above conductors.** Mr. Hartmann asked for Board comment; Mr. Hartmann asked as far as brush removal goes the removal of limbs located 8-feet to the side and 10-feet below or 15-feet above conductors, is that the complete perimeter in which they are allowed to cut. Ms. Hoffman answered in the affirmative, and stated and any tree that is dead that can fall and strike the line.

Mr. Hartmann stated it is just in those perimeters, as opposed to this is scrap, we can ground cut it. Ms. Hoffman stated that is not going to happen. Mr. Hartmann stated ideally you do operate under different perimeters on scenic roadways and they are not necessarily just ground cutting all the scrap. Ms. Hoffmann stated regeneration can grow up to 10-feet directly under the wire. **Motion carried with Mr. Barbin voting in the negative.**

**WHITESIDES REALTY, INC. – CONCURRENT FULL SITE PLAN AND UNIT SUBDIVISION REVIEW (PID 230-4) FILE #FR19-04 & #S19-02**

Josh McAllister of HEB Engineers appeared before the Board. This is an application to redevelop the site to incorporate three (3) multi-family residential buildings with a total of 34 dwelling units, to retain 9,777 square feet of the existing mixed-used commercial area and to create a four-unit subdivision with associated infrastructure. **Mr. Porter made a motion, seconded by Mr. Steiner, to accept the application of Whitesides Realty, Inc. for a concurrent full site plan and unit subdivision review as complete. Motion carried unanimously.**

Mr. McAllister reviewed the project, and stated that a special exception was granted by the Zoning Board of Adjustment to allow 12 dwelling units per acre. Mr. Hartmann asked for Board comment; Mr. Porter stated knowing the site and what it was used for is there any chance of any problems arising down the road when you put these buildings on this property.

Mr. McAllister stated working with Coleman's and a Geotechnical Engineer we conducted an extensive excavation on the property to explore the limits of the fill and the type of fill that is in that area; we have worked with a Geotechnical Engineer to provide footing types that the owner and Geotechnical Engineer are comfortable with and work within the realm of what is in the soil bed there.

Mr. Porter stated he is concerned for residents on Valley View Road as he would hate to have anything down the road not be secure enough for the next 100 years. Mr. McAllister stated the building on the back side closest to Valley View is 20-feet or more off that back slope.

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Mr. Shakir stated there is no proposal to change the building that is along Route 16. Mr. McAllister stated it is not proposed to be modified, but the frontage along Route 16 is being modified. Mr. McAllister stated we are proposing to close the middle curb cut, we are proposing to set a sidewalk back along the front of the building and then landscape the front of the building by planting ornamental and red spruce street trees to give an appealing look to the building.

Mr. Hartmann asked for public comment; Tom Eastman of the Conway Daily Sun asked the size of the back buildings. Mr. McAllister stated the buildings to the rear have a footprint of about 3,500 square feet; they are multi-story with a mix of one-, two- and three-bedroom units. Mr. Eastman asked if these are proposed as affordable. Mr. McAllister stated they are proposed as fair market rentals; they are proposed as long-term rentals with the rate to be determined.

Mr. Porter asked if they are not promoting short-term rentals. Mr. McAllister stated the intent is long-term rental and part of the special exception requires a percentage of the units to be deed restricted for rental. Mr. Hartmann asked for further public comment; there was none. Mr. Hartmann closed public comment at 7:46 pm.

Mr. Irving stated staff is recommending that the phasing plan be amended to include all the frontage and driveway improvements in Phase 1. Mr. Irving asked Mr. McAllister if that was acceptable to his client. Mr. McAllister answered in the affirmative.

Mr. McAllister read a parking substitution request under §110-43. Mr. Hartmann asked what would be required by Town standards. Mr. McAllister answered 114 parking spaces, and they are proposing 97 parking spaces. Mr. Irving asked the parking standard being used. Mr. McAllister answered ITE 2004. **Mr. Shakir made a motion, seconded by Mr. Colbath, to accept the parking substitution request under §110-43.B. Motion carried unanimously.**

Mr. McAllister read a waiver request for §110-20.C. **Mr. Colbath made a motion, seconded by Mr. Steiner, to grant the waiver for §110-20.C.** Mr. Hartmann asked for Board comment; there was none. **Motion carried unanimously.**

Mr. McAllister read a waiver request for §110-20.G. **Mr. Shakir made a motion, seconded by Mr. Barbin, to grant the waiver for §110-20.G.** Mr. Hartmann asked for Board comment; there was none. **Motion carried unanimously.**

Mr. McAllister read a waiver request for §110-29.A.(2) & (3). **Mr. Colbath made a motion, seconded by Mr. Hartmann, to grant the waiver for §110-29.A.(2) & (3).** Mr. Hartmann asked for Board comment; Mr. Shakir asked if the outdoor seating for the restaurant would be removed. Mr. Irving stated this site plan does not propose for that seating to remain. **Motion carried with Mr. Shakir and Mr. Steiner voting in the negative.**

Mr. McAllister read a waiver request for §110-29.D.(8). **Mr. Barbin made a motion, seconded by Mr. Steiner, to grant the waiver for §110-29.D.(8).** Mr. Hartmann asked for Board comment; there was none. **Motion carried with Mr. Shakir voting in the negative.**

Mr. Colbath made a motion, seconded by Mr. Steiner, to conditionally approve the concurrent full site plan and unit subdivision for Whitesides Realty, LLC conditionally upon Town Engineer Approval; North Conway Water Precinct approval; amending the phasing plan to include all frontage and driveway improvements in phase 1; NHDOT Driveway Permit and indicate permit number on plan; NHDES Alteration of Terrain approval and indicate approval number on plan; submitting a Mylar for recording; \$600 for Inspection Fees; a performance guarantee for all on-site improvements; a performance guarantee for all off-site improvements; when the conditions have been met the plans can be signed out-of-session; and this conditional approval will expire on September 12, 2019. Motion carried with Mr. Shakir voting in the negative.

#### **OTHER BUSINESS**

**Huntington Ravine Management Co., Inc./Federal Spice Corp. (PID 277-183 & 184) File #NA19-05 – §110-4.A.(5):** Shawn Bergeron of Bergeron Technical Services appeared before the Board. This is a request to increase the tasting room occupancy to 90 occupants.

Mr. Bergeron stated the tasting room presently has an occupancy permit from the Town of Conway and Conway Village Fire District for 49 occupants. Mr. Bergeron stated realistically that particular space from a life safety perspective has an occupancy load of well over 100 occupants. Mr. Bergeron stated the reason it has been limited to 49 occupants is because there is no parking on the site that specifically serves Tuckerman's.

Mr. Bergeron stated we have used ITE standards and performed an analysis of all the parking that is necessary for the two sites. Mr. Bergeron stated we are asking to use the shared parking methods for all the uses on the two sites; we have shared parking agreements in place. Mr. Hartmann asked for Board comment; Mr. Hartmann asked who owns the parking. Mr. Bergeron answered Federal Spice.

Mr. Irving stated he just want to clarify that the Board is not granting any waivers or parking substitutions, and the information provided to the Board by Mr. Bergeron is just to illustrate his point.

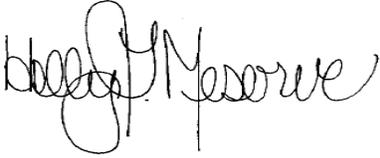
Mr. Colbath made a motion, seconded by Mr. Shakir, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that increasing the tasting room occupancy to 90 occupants is not subject to a Full Site Plan Review because it has been demonstrated that the change of use and/or physical changes to the site are insignificant relative to the existing development. Motion carried unanimously.

**Joseph and Donna Mori/Avesta Housing Development Corporation (PID 279-12) – Request for Concurrent Site Plan and Subdivision Review:** Mr. Hartmann made a motion, seconded by Mr. Colbath, to accept a Concurrent Site Plan and Subdivision application from Joseph and Donna Mori/Avesta Housing Development Corporation. Motion carried with Mr. Steiner voting in the negative.

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Meeting adjourned at 8:11 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is written in a cursive style with a large initial "H" and "M".

Holly L. Meserve  
Planning Assistant