

CONWAY PLANNING BOARD

MINUTES

OCTOBER 22, 2020

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CONWAY PLANNING BOARD

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OCTOBER 22, 2020

A meeting of the Conway Planning Board was held on Thursday, October 22, 2020 beginning at 7:00 pm at the Conway Village Fire Station, 97 Main Street, Conway, NH. Those present were: Chair, Steven Hartmann; Selectmen's Representative, Steven Porter; Vice Chair, Benjamin Colbath; Bill Barbin; Ailie Byers [via telephone]; Earl Sires; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Colbath, to approve the Minutes of October 8, 2020 as written. Motion carried unanimously.

CONWAY AFFORDABLE HOUSING PROJECT, LLC (PID 283-39) – 2-LOT SUBDIVISION REVIEW (FILE #S20-16)

Loralie Gerard of Horizons Engineering appeared before the Board. This is an application to subdivide 3.23 acres into two-lots of 2.13 acres and 1.10 acres. Ms. Gerard stated that this is the former Thaddeus Thorne Survey Company building. **Mr. Porter made a motion, seconded by Mr. Colbath, to accept the application of Conway Affordable Housing Project, LLC for a two-lot subdivision review as complete. Motion carried unanimously.**

Ms. Gerard reviewed the plans with the Board. Mr. Hartmann asked for Board comment; Mr. Porter asked about the name, and if this was, in fact, for affordable housing. Ms. Gerard stated it is just the name of the LLC.

Mr. Hartmann asked for public comment; Rich Samia asked what the project is. Ms. Gerard stated it is a simple two-lot subdivision, and the existing office building was converted to a single-family home.

Ms. Gerard read a waiver request for §130-36.A. **Mr. Barbin made a motion, seconded by Mr. Hartmann, to grant the waiver request for §130-36.A.** Mr. Hartmann asked for Board comment; there was none. **Motion carried unanimously .**

Mr. Colbath made a motion, seconded by Mr. Sires, to conditionally approve the two-lot subdivision for Conway Affordable Housing Project, LLC conditionally upon Town Engineer approval; Center Conway Fire Chief approval; Conway Police Chief approval; NHDES Subdivision approval and indicating approval number on plan; a performance guarantee for monuments to be set or set monuments; submitting four copies of revised plans with original stamps and signatures; 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 January 28, 2021. Motion carried unanimously.

OTHER BUSINESS

Proposed Zoning Amendments: Ailie Byers joined via telephone at this time. Mr. Irving reviewed the attached memo regarding zoning amendments to §190-13.B.(4)(a), older home conversions; and §190-13.K. to remove Kennels as an allowed use in the residential agricultural district.

Mr. Porter made a motion, seconded by Mr. Colbath, to post the proposed amendments to §190-13.B.(4)(a) and §190-13.K. to a public hearing on January 28, 2021. Motion carried unanimously.

Short-Term Rental Committee Recommendation: Tom Reed was in attendance. Mr. Irving stated the Planning could propose these amendments as their own, the Board could modify them and then propose them as their own, or the Board could choose to do nothing with them.

Mr. Irving stated if the Board chooses to do nothing with them the committee would still have the opportunity to make the recommendations to the Board of Selectmen and the Board of Selectmen could post them to the warrant after the Planning Board has a public hearing on them and provides a recommendation for or against.

Mr. Colbath stated the recommendations to him don't seem complete. Mr. Colbath asked if there is time for the committee to hammer out more concrete amendments. Mr. Irving stated he does not know if the committee is going to give any more recommendations for zoning amendments or site plan review amendments, but they are continuing to work on the licensing ordinance itself with the intention of getting it on the 2021 warrant.

Mr. Porter stated the Short-Term Rental Committee is an advisory Board that has been tasked with coming up with licensing and regulation formats to present to the Board of Selectmen to put on the Town Warrant. Mr. Porter stated not as a Selectmen, but as a Planning Board member, he would be uncomfortable adopting this. Mr. Colbath stated he agrees. Mr. Porter stated without any further information regarding zoning changes, it would not be wise for this to be adopted.

Mr. Sires stated it comes down to the number of short-term rentals; there is a saturation of them and there is a concern with their growth. Mr. Sires stated in the current form he does not believe the voters would support these recommendations. Mr. Sires stated item #1 is really not that controversial, pretty straight forward; but, items #2 and #3, if they were modified would be more acceptable.

Mr. Sires stated he would be more acceptable to item #2 if there was a maximum number set on the number of available licenses; set a maximum of what currently exists and then over a period of time bring the maximum down a bit. Mr. Sires stated any time there are more active short-term rentals than licenses a new license cannot be issued. Mr. Sires stated slowly bring the number down where the Town feels it is more acceptable by integrating some type of a cap, one that was brought down year-by-year.

Adopted: November 12, 2020 – As Written
CONWAY PLANNING BOARD – OCTOBER 22, 2020

Mr. Sires stated in regard to item #3 he suggested just exempting the smaller properties, not the larger ones. Mr. Sires stated it appears the larger, 4-plus bedroom, properties have more issues with health and safety, parking, nuisance, etc., and he thinks the voters would be more comfortable supporting something like this if they knew we were looking at the larger properties and requiring site plan review of those properties.

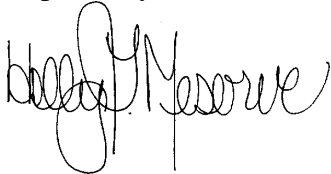
Mr. Sires stated with some fixes it could be something voters could get behind and that he could support, but the way it is currently proposed he doesn't believe there is enough information or regulation in place for people to be comfortable with it.

Mr. Irving reviewed the attached conditional use permit. The Board agreed to continue the discussion at their next meeting.

Proposed change to Accessory Dwelling Units: Mr. Irving stated there are provisions in any district to have an accessory dwelling unit and one of the requirements is that one of the units has to be owner-occupied. Mr. Irving suggested removing the requirement that one of the units be owner-occupied to try to increase the housing stock. Mr. Irving stated the accessory dwelling unit provisions already preclude those units, either one, from turning into short-term rentals. The Board agreed to consider this amendment at their next meeting.

Meeting adjourned at 7:35 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is written in a cursive, flowing style.

Holly L. Meserve
Planning Assistant

MEMO

TO: Planning Board
FROM: Tom Irving, Planning Director
CC: File
DATE: 10/15/20
RE: Zoning Amendments

Message:

Please review the following draft amendments: the first is a housekeeping matter to make the "Older Home" provision in the RA district consistent with that in the other districts.

The other is to repeal the Special Exception in the R/A district which was been found to be problematic at the ZBA hearings when it was last addressed.

If it is the pleasure of the Board, you might want to consider proposing these amendments for the 2021 Town Warrant.

§190-13 B. Lot size and density.

(4) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same ~~conforming~~ lot, provided that:

- [1] Substantially all of the structure was constructed prior to 1930.
- [2] ~~Modification of the interior does not exceed four units~~ The total number of dwelling units on the site does not exceed four (4).
- [3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.
- [4] ~~3~~ No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.
- [5] ~~4~~ Adequate area is available for parking ~~and sewage disposal~~ outside the setback and buffer areas.
- [6] ~~5~~ Accessory structures must have at least 300 square feet of living occupiable space per unit suitable for conversion to a dwelling unit ~~and not conflict with the purpose and intent of this section.~~
- [7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited.
- [8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board time of application to ensure compliance with the requirements for this special exception.

190-13 K.

(11) Reserved. Kennels. ~~A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:~~

~~(a) The minimum lot size is two acres.~~

~~(b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights of way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.~~

~~(c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board of Adjustment. This plan must be approved by the Board as a condition of the special exception approval, if granted.~~

~~(d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.~~

§ 190-13 Residential/Agricultural (RA) District.

L. Conditional Use Permits (CUPs)

To preserve the traditional character of residential neighborhoods that can be negatively impacted by Short Term Rentals and to help preserve the quality and quantity of the housing stock for year-round residential use, in accordance with the provisions of RSA 674:21 I. (i) Short Term Rentals are permitted in the zoning district by a Conditional Use Permit (CUP).

- (1) Conditional use permits for Short Term Rentals shall be administered by the Board of Selectmen or their designee, the Administrator).
- (2) Application forms and fees shall be established and amended from time to time by the Board of Selectmen.
- (3) The following conditions must be satisfied prior to issuance of the Conditional Use Permit:
 - (a) Onsite parking shall be provided at a rate of at least 2 spaces plus one space for each bedroom over three. Such parking spaces shall not be within 15 feet of any road right of way.
 - (b) Onsite solid waste facilities shall be provided for both recycling and disposal as necessary to serve the site. All such facilities shall be screened from sight from abutting properties and streets by means of a fenced or landscaped enclosure. In all cases, facilities shall be selected and operated to minimize windblown litter and animal problems. Such facilities shall not be located in front, rear, or side setbacks.
 - (c) On site snow storage areas that do not encroach into adjacent properties or any road right of way shall be provided.
 - (d) The applicant shall submit a scaled site plan demonstrating compliance with the forgoing conditions.
 - (e) A valid Town of Conway Short Term Rental License must be obtained prior operation of the Short Term Rental.
- (4) Upon receipt of an application for a Short Term Rental Conditional Use Permit, the Administrator shall review the application for completeness and if it is complete forward the application to the Conway Planning Board, who shall place the application on the available agenda.
- (5) The Planning Board shall review the application and shall provide the Administrator with written comments on the application. The Planning Board is not required to hold a public hearing.
- (6) Upon receipt of the Planning Board's written comments, the Administrator will either approve or deny the application. If the Administrator does not incorporate the Planning Board's comments directly into their decision, then the Administrator shall set forth their findings and decisions on the Planning Board's comments pursuant to RSA 674:21, II.
- (7) Within 30 days of the date of the Administrator's decision to approve or deny an application for a Short Term Rental Conditional Use Permit, an aggrieved party may file an appeal in writing with the Board of Selectmen, requesting that the Selectmen reconsider the decision and setting forth the reasons why reconsideration would be appropriate. If such an appeal is

timely filed by an aggrieved party, the Selectmen shall schedule the appeal for a public hearing within 45 days upon receipt pursuant to RSA Chapter 43.

- (8) Revocation of Conditional Use Permit; Fines and Penalties
 - (a) Approvals may be revoked for failure to comply with this Ordinance or with any conditions of approval imposed as part of the Conditional Use Permit. The first violation of this Ordinance (or a Condition of Approval) may result in a warning; the second violation may result in a civil penalty of \$275; and the third violation will result in a revocation of the Conditional Use Permit. If a revocation occurs, the owner may not apply for reinstatement for a period of three months.
 - (b) Using a dwelling unit for Short Term Rentals without a valid Conditional Use Permit will subject the property owner to fines and penalties outlined in RSA 676:17.
- (9) Reports of Nuisances or Other Dangers to the Public Health
 - (a) Nuisances or any other dangers to the public health reported by lodgers or abutters may require an inspection pursuant to RSA 147:3.