

CONWAY PLANNING BOARD

MINUTES

MARCH 14, 2024

PAGES

- | | |
|---|--|
| 1 | Appointment of Alternate Member |
| 1 | Review and Acceptance of Minutes <ul style="list-style-type: none">• February 1, 2024 – Adopted as Written• February 8, 2024 – Adopted as Written• February 22, 2024 – Adopted as Written |
| 1 | Fred and Karen Johnson (File #S24-03) – 2-Unit Subdivision Review (PID 260-34) <ul style="list-style-type: none">• Conditionally Approved |
| 2 | State of New Hampshire (File #CR24-01) – Conceptual Review Continued (PID 235-93) |
| 2 | Edward Sarro Revocable Trust (File #S23-19) – 2-Lot, 2-Unit Subdivision Review Continued (PID 280-77.11) <ul style="list-style-type: none">• Conditionally Approved |
| 3 | GREP WMH II, LLC (File #FR21-15 & #S21-19) – Concurrent Full Site Plan and 3-Unit Subdivision Review Continued (PID 235-87) <ul style="list-style-type: none">• Conditionally Approved |
| 6 | Other Business <ul style="list-style-type: none">• KNCressy, LLC/Pet Rendezvous (File #NA24-04)• Leszek and Ewa Gielata (File #FR22-02) – Request to amend conditional approval• Mellow Dog, LLC (File #NA24-05)• Jan G. Filip, IV – Lot Merger (PID 218-101 & 102)• Infrastructure Review Ad-Hoc Committee Update• HOP Grant Committee• Selectmen’s Report• Issues for Consideration• Media Questions |

CONWAY PLANNING BOARD

MINUTES

MARCH 14, 2024

A meeting of the Conway Planning Board was held on Thursday, March 14, 2024, beginning at 6:00 p.m. at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Selectmen’s Representative, Steven Porter; Vice Chair, Ailie Byers; Secretary, Erik Corbett; Eliza Grant; Bill Barbin; Alternate, Ted Phillips; Town Planner, Ryan O’Connor; and Assistant Planner, Holly Whitelaw.

APPOINTMENT OF ALTERNATE MEMBER

Mr. Colbath appointed Mr. Phillips as a voting member.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Ms. Grant, to approve the minutes of February 1, 2024, February 8, 2024, and February 22, 2024, meetings as written. Motion carried, with Mr. Barbin abstaining from voting.

FRED AND KAREN JOHNSON (FILE #S24-03) – 2-UNIT LOT SUBDIVISION REVIEW (PID 260-34)

Mr. Barbin made a motion, seconded by Mr. Porter, to accept the application of Fred and Karen Johnson for a subdivision review as complete with the Staff report. Motion carried unanimously.

Wes Smith of Horizons Engineering appeared before the Board on behalf of Fred and Karen Johnson to present an application for a 2-unit subdivision. There is an existing single-family home with an approved ADU on a non-conforming lot with minimum frontage. There is one waiver request for the driveway to exceed 200 feet. They are proposing subdividing the residences into two separate units, with shared utilities and driveway. The well for the ADU would need to be moved to a conforming location.

Chair Colbath asked for Board comment; there was none.

Chair Colbath asked for public comment; there was none.

Chair Colbath closed public comment.

Mr. Smith read a waiver request for §130-3., definition of driveway.

Mr. Porter asked Town Staff if there were any issues with this request. Mr. O’Connor said it seems reasonable. Chair Colbath verified that Fire Chief approval will be a condition of approval.

Adopted: April 11, 2024 – As Written
CONWAY PLANNING BOARD – MARCH 14, 2024

Mr. Porter made a motion, seconded by Ms. Grant, to grant the waiver for §130-3, definition of driveway. Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Whitelaw reviewed the proposed conditions of approval.

Mr. Colbath made a motion, seconded by Mr. Porter, to conditionally approve the 2-unit subdivision for Fred and Karen Johnson upon Town Engineer approval; Center Conway Fire Chief approval; Conway Police Chief approval; NHDES Subdivision approval and indicating approval number on plan; indicating Center Conway Village Residential District in Plan Note #1; indicating monuments set on plan; submitting copies of all existing and proposed easements; submitting draft condominium documents to be reviewed by the Town; submitting four copies of revised plans; submitting a Mylar for recording; submitting a \$25 check made payable to the Carroll County Registry of Deeds for the L-CHIP fee; a performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; this conditional approval will expire on September 12, 2024; and condition subsequent to final approval submitting copy of recorded condominium documents within six months of final approval. Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

STATE OF NEW HAMPSHIRE (FILE #CR24-01) – CONCEPTUAL REVIEW CONTINUED (PID 235-93)

This is a conceptual review to demolish the existing buildings and construct 66 residential dwelling units in two buildings at Common Court, North Conway. This hearing was continued from January 25, 2024.

Mr. O'Connor reported the applicant has received a variance to increase the density on this lot, with the condition that the Puddin Hill parcel be reserved in conservation in the vegetated state. New Hampshire Housing and Finance Authority is working through the process of purchasing the property, and will go through the RFP process to find a developer to begin design and construction.

Mr. Porter made a motion, seconded by Ms. Byers, to conclude the design review process. Chair Colbath asked for Board comment. He noted it was nice to see the Planning Office and Zoning Board's work come to fruition on this project. **Motion carried unanimously.**

EDWARD SARRO REVOCABLE TRUST (FILE #S23-19) – 2-LOT, 2-UNIT SUBDIVISION REVIEW CONTINUED (PID 280-77.11)

Andy Fisher of Ammonoosuc Survey Company appeared before the Board representing Ed Sarro, who was in attendance. This is an application to subdivide 11.58 acres into two lots and create two residential units at 876 Eaton Road, Conway (PID 280-77.11). This hearing was continued from January 25, 2024, and re-noticed to include a 2-unit subdivision. A waiver has been requested from the street trees requirement.

Mr. Barbin made a motion, seconded by Mr. Porter, to accept the application of Edward Sarro Revocable Trust for subdivision review as complete with the Staff report. **Motion carried unanimously.**

Adopted: April 11, 2024 – As Written
CONWAY PLANNING BOARD – MARCH 14, 2024

Mr. Fisher presented the application for a two-lot, two-unit subdivision, to subdivide a 3.7-acre parcel from the main lot, with the existing house and residential space above the garage becoming two separate units. The units will share utilities and the driveway. They are waiting for State subdivision approval for the two units.

Chair Colbath asked for Board comment; there were none. Chair Colbath asked for public comment; there was none.

Chair Colbath closed public comment.

Mr. Fisher read a waiver request for §130-36.A. He explained they will be planting trees in the open space and are requesting that the existing trees count toward the street tree requirement. Ms. Grant asked to include a requirement that any trees removed in the future be replaced. Mr. Sarro agreed.

Mr. Porter made a motion, seconded by Ms. Grant, to grant the waiver for §130-36.A. Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Whitelaw reviewed the proposed conditions of approval.

Mr. Colbath made a motion, seconded by Mr. Porter, to conditionally approve the 2-lot, 2-unit subdivision for Edward Sarro Revocable Trust upon Town Engineer approval; NHDES Subdivision approval and indicating approval number on plan; adding a plan note that approved vegetation must be maintained in perpetuity; submitting four copies of revised plans; submitting a Mylar for recording; submitting a \$25 check made payable to the Carroll County Registry of Deeds for the L-CHIP fee; a performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; this conditional approval will expire on September 12, 2024; and conditions subsequent to final approval, submitting a copy of the recorded condominium documents within six months of final approval and submitting a copy of the recorded utility easement within six months of final approval. Motion carried unanimously.

GREP WMH II, LLC (FILE #FR21-15 & #S21-19) – CONCURRENT FULL SITE PLAN AND 3-UNIT SUBDIVISION REVIEW (PID 235-87)

Chris Meier of Cooper Cargill Chant and Randy Miron of Bohler Engineering appeared before the Board. This is an application to amend the conditionally approved plans by removing the proposed 2,475 square foot bank building, relocating the 5,460 square foot restaurant building from the northwest property corner to the rear of the property, relocating the 2,228 square foot drive-thru restaurant to the northwest property corner, and increasing the 5,148 square foot retail building to 6,000 square feet at 1657 White Mountain Highway, North Conway. This application was continued from January 25, 2024.

Mr. Meier reported they have worked with the tenant to address concerns expressed by the Board. They have also reviewed the request of the abutter to return the cross-cut access easement to its original position, but have determined it will not work. They have received a driveway permit from NHDOT based on the revised design.

Adopted: April 11, 2024 – As Written
CONWAY PLANNING BOARD – MARCH 14, 2024

Mr. Miron noted they eliminated 12 parking spaces and increased the greenspace. A right-turn only sign has been added and they have ensured the mechanical equipment is screened. He reviewed the aesthetic architectural changes that have been made.

Chair Colbath asked for Board comment. They agreed the design is more in alignment with the Town's architectural standards. Chair Colbath asked about the location of the parking spaces that were eliminated and Mr. Miron responded. Chair Colbath said the Board appreciated the attempt to move the cross-cut access.

Mr. O'Connor said the Town Engineer and consulting engineer feel the connecting drive in the current location does not have a significant impact on offsite traffic and they have no significant concerns. Mr. Porter asked why the access cannot be relocated to the rear of the lot. Mr. Meier said there are concerns regarding safety of pedestrians, cross-traffic through the sit-down restaurant's parking lot, and that it would cause problems for the intersection with an active road.

Chair Colbath asked for public comment.

Derek Lick of Orr & Reno, on behalf of Settlers Green, reviewed the history of the location of the connecting drive. He noted the problem has been exacerbated by locating a fast-food drive-thru next to the drive, which will cause congestion issues by drivers trying to access Route 16. By locating the access at the front of the lot, all traffic will be directed to Route 16 through his client's lot. He presented engineering plans to put the access at the back of the lot.

The history and reasons for moving this access were debated, as were the concerns. Mr. Meier noted the DOT has approved the revised plan. He added that in 2021, Mr. Barsamian was concerned that locating the access at the back was dangerous. He said they have removed arrows on the pavement that would direct traffic into Mr. Barsamian's lot and added a sign to direct traffic away from the lot.

Rob Barsamian of Settlers Green said they have no issues with the development. He provided background on the situation regarding the location of the connecting drive. He noted the DOT is not concerned about internal traffic. He said the traffic data being used by the developer is not up to date and the Board should have more accurate data before making a decision. He said they are concerned about traffic bottlenecks and safety, and are trying to protect their tenants.

Mr. Meier said the last tenant was lost due to moving the connecting driveway. A delay would likely lose this tenant as well. He said there is a relocation right, if there are problems, which can be initiated by either party; they can work with Mr. Barsamian to fix any problems that occur. Mr. Barsamian questioned whether this is enforceable.

Mr. Meier noted the Board is tasked with reviewing the site plan regulations, not be an arbiter of disputes between individuals. The Board clarified their role in discussions such as this.

Mr. O'Connor said the applicant has funds in escrow for engineering reviews. He noted this issue could be reviewed by a third-party traffic engineer to understand the impacts. The final determination could be a condition of approval, reviewed by the Town engineer. Mr. Meier said the applicant would be amenable to this being a condition of approval.

Adopted: April 11, 2024 – As Written
CONWAY PLANNING BOARD – MARCH 14, 2024

The Board asked what parameters would be used to evaluate a traffic study. Mr. O'Connor noted the DOT focused on trip counts with the current driveway, not considering the abutting driveways as exits. He said the purpose of a study would be to determine the location of the connecting drive and estimated the cost would be \$5,000.

Evan Lucy asked if the State designed the North-South Road and was told it did. He said there are a number of accidents in the village on the North-South Road, which the State designed. So, asking the State to provide traffic and safety information does not make sense. He suggested an independent party provide the information instead.

Chair Colbath said he feels this is a nuisance, not a safety issue.

Mr. Lick said he was not sure a connecting drive is required. Mr. O'Connor said the DOT permit does not mention it. Mr. Meier said this could be discussed during engineering review and they would have to ask the tenant if they require a connecting drive. The Board discussed providing good pedestrian access to the adjoining property, if the connecting drive was removed.

The Board noted the Town ordinance requires connecting drives and expressed concern that eliminating this one could set a precedent. Mr. O'Connor said further engineering review would be needed, if the Board decides to eliminate the connecting drive.

Chair Colbath closed public comment.

Mr. O'Connor and Ms. Whitelaw reviewed the proposed conditions of approval.

Mr. Colbath made a motion, seconded by Mr. Porter, to conditionally approve the concurrent full site plan and 3-unit subdivision for GREP WMH II, LLC conditionally upon Town Engineer approval; North Conway Fire Chief approval; North Conway Water Precinct water and sewer approval; NHDOT Driveway Permit and indicating permit number on plans; adding a plan note that all roof top mechanicals shall be screened; the connecting drive on the Northern side of the property be reviewed by a third-party traffic engineer to assess potential traffic conflicts. The assessment must include a review of trip counts and internal traffic flow to determine a location of the connecting drive based on traffic and pedestrian safety. The final location of the connecting drive shall be at the determination of the Town Engineer. The applicant shall submit escrow sufficient to conduct the third-party review, not to exceed \$5,000; submitting copies of recorded connecting drive easements for both connecting drives and indicating book and page on plan; \$200 for Inspection Fees; submitting a Mylar for recording; submitting a \$25 check made payable to the Carroll County Registry of Deeds for the L-CHIP fee; a performance guarantee for all on-site improvements; a performance guarantee for all off-site improvements [if necessary]; when the conditions have been met, the plans can be signed out-of-session, with an expiration date of September 12, 2024; and condition subsequent to final approval providing recording information for condominium declarations. Chair Colbath asked for Board comment. Mr. Barbin asked who will make the decision regarding the connecting drive and Mr. O'Connor clarified this. **Motion carried unanimously.**

OTHER BUSINESS

KNCRESSY, LLC/Pet Rendezvous (File #NA24-04)

Payton Cressy appeared before the Board. This is a request to install outdoor yards/fencing as an accessory use to a commercial kennel to house dogs during daytime business hours at 512 Eastman Road, Center Conway (PID 252-4). Mr. O'Connor noted this is a request for a non-applicable review.

Chair Colbath asked for Board comment and if the abutters are aware of this plan. Ms. Cressy said the commercial abutters are aware of it. She said the dogs are not housed onsite and noise is generated during playtimes, which are sporadic. She noted the abutters also generate noise and that it is a commercial district. The Board suggested adding landscaping as a noise abatement feature. They discussed methods of preventing dogs from accessing the roadway.

Chair Colbath asked for public comment. Evan Lucy said the dogs would be safer if a traffic light was installed at the end of the East Conway Road.

Chair Colbath closed public comment.

Mr. Porter made a motion, seconded by Mr. Barbin, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that installing outdoor yards/fencing as an accessory use to a commercial kennel to house dogs during daytime business hours 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.

Leszek and Ewa Gielata (File #FR22-02) – Request to amend conditional approval

Wes Smith of Horizons Engineering appeared before the Board. This is a request to amend the conditions of approval to allow demolition of the existing building prior to final approval at 656 Eastman Road, Center Conway (PID 252-14). He said Mr. Gielata believed he could demolish the existing building regardless of site plan approval, which does not appear to be the case. They believe the building is potentially hazardous.

Mr. Colbath made a motion, seconded by Ms. Byers, to amend the conditions of approval to allow demolition of the existing building prior to final approval. Chair Colbath asked for Board comment. Mr. Porter asked for input from Town Staff. Mr. O'Connor agreed it is a reasonable request. **Motion carried unanimously.**

Mellow Dog, LLC (File #NA24-05)

Lisa Horgan appeared before the Board. This is a request to utilize a credit for public parking associated with a change of use at 14 Washington Street as required by Site Plan Regulations §110-21 at 14 Washington Street, Conway (PID 265-49). Mr. O'Connor explained this is a request for a non-applicable change of use from office to retail, with a caretaker's apartment. The proposed use requires three more parking spaces than are available.

Mr. Porter made a motion, seconded by Ms. Grant, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that utilizing a credit for public parking associated with a change of use at 14 Washington Street as required by Site Plan Regulations §110-21 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. Chair Colbath asked for Board comment; there was none. Motion carried unanimously.

Jan G. Filip, IV - Lot merger (PID 218-101 & 102) – Lot Merger

Mr. Porter made a motion, seconded by Mr. Colbath, to accept the lot merger as requested. Motion carried unanimously.

Infrastructure Review Ad-Hoc Committee Update

Mr. Corbett said this committee is no longer meeting, so this item can be removed from the agenda.

HOP Grant Committee

Ms. Byers reported she and Mr. O'Connor met with the chair of the Housing Coalition. She noted all of the product from the HOP grant funding must be complete and available by July 31, 2024. The first meeting of the Committee will tentatively be held at the end of March.

Selectmen's Report

Mr. Porter said he and Mr. O'Connor have been discussing trees and the New Hampshire Electric Coop. Mr. O'Connor has drafted a letter to commercial owners along Route 16 who have been affected by the tree removal, suggesting they speak with him regarding the possible replacement of trees. Ms. Grant asked for clarification regarding the NHEC not requiring planting of street trees. Mr. Porter said the NHEC suggested the Town discuss zoning requirements with them pertaining to certain species of trees that are planted along Route 16. The NHEC admitted that perhaps communication was lacking, but said they have the legal right to remove trees within 15 feet of the power line. Mr. Porter noted that per Town counsel, the Town would probably lose, if they entered into a legal battle on this issue.

Mr. Porter explained making Route 16 through Conway a Scenic Roadway is a work in progress.

Chair Colbath asked about possibly investing in a more productive way to do remote meetings/presentations. Mr. Porter said he can discuss this with the Town Manager, once the election is past and they have a budget.

Issues for Consideration

Mr. Phillips noted that he is frustrated by the lack of handicapped parking and the location of the existing handicapped parking spots in Town. He suggested the Board address this issue.

Adopted: April 11, 2024 – As Written
CONWAY PLANNING BOARD – MARCH 14, 2024

Mr. Phillips asked if there is any type of oversight with respect to the aesthetics of signage in Town. Mr. O'Connor said signage is under the purview of the Planning Board, but signage is typically reviewed by Staff and the Zoning Officer. Mr. O'Connor noted the Board has agreed to work on signage regulations later in the year. Ms. Whitelaw added that the Board has the authority to amend the zoning ordinance to adjust what signs look like, from an architectural standpoint.

Mr. Phillips suggested moving toward requiring submission of conceptual drawings and incorporating technology to enhance public engagement with the Board.

Media Questions

Tom Eastman of the Conway Daily Sun asked if, in the Master Plan under transportation, anyone proposed extending the North-South Road through Whitaker Woods. He was told this was not considered. Chair Colbath noted this would be the opposite of preserving greenspace. Mr. Porter noted a rec path through Whitaker Woods makes sense, but not a road. The Board discussed the issues involved with a road running along the railroad tracks.

John Colbath, Conway Selectmen and resident, explained when the North-South Road was proposed, there was a proposal for it to be extended, which was extremely unpopular. Now, it is not feasible, as there is no place for it to terminate.

Mr. Eastman asked if the New Hampshire Electric Cooperative agreed to pay for new trees to replace those that were removed. Mr. Porter said they have agreed to stump the properties they massacred. He would like to see an honest, communicative effort where at least 50 percent of the trees are replaced; however, he does not see that happening.

Meeting was adjourned at 8:09 p.m.

Respectfully submitted,
Beth Haggeli