

CONWAY PLANNING BOARD

MINUTES

APRIL 11, 2024

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CONWAY PLANNING BOARD

MINUTES

APRIL 11, 2024

A meeting of the Conway Planning Board was held on Thursday, April 11, 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.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Colbath, to unseal the non-public session minutes of the December 14, 2023, Planning Board meeting. Motion carried unanimously.

Mr. Porter made a motion, seconded by Mr. Colbath, to approve the minutes of the March 14, 2024, and March 28, 2024, Planning Board meetings as written. Motion carried unanimously.

APPOINTMENT OF ALTERNATE MEMBER

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

AGENDA OUT-OF-ORDER

Mr. Porter made a motion, seconded by Ms. Grant, to take JHM Conway, LLC first. Motion carried unanimously.

JHM CONWAY, LLC (FILE #DR24-01) – DESIGN REVIEW (PID 230-48, 49 & 51)

Ian MacKinnon of Jones & Beach and Andrew Dean of Cooper Cargill Chant appeared before the Board for a design review. They presented a plan to remodel the north wing and to reconstruct the south wing at the Red Jacket, and construct multi-unit residential structures with 25 apartments and 89 townhouses at 2251 White Mountain Highway, North Conway (PID 246-35). The hotel will be remodeled and rebuilt in Phase 1. The rest of the structures will be constructed in phases.

Mr. MacKinnon described the layout of the project.

Chair Colbath asked for Board comment.

The Board stressed the work done to establish the parkway designation and their reluctance to allow this to be impacted. They said these townhomes will not provide housing for locals. They stressed the iconic nature of the property and that they do not support building on the front lawn. Mr. MacKinnon said that earlier versions of this proposal were zoning compliant.

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Chair Colbath asked why so many units are proposed in this project. He recommended all buffers adjoining residential properties be at least 50 feet, as there have been complaints from abutters about noise in the past.

The Board agreed this is two developments being placed on one property and each needs to be brought to them as an individual application. This is proposed as a mixed-use development; Mr. O'Connor noted this is not expressly permitted under the zoning ordinance and would need to be explored with Town counsel.

The Board asked for clarification regarding the ownership of the townhouses and was told they would be for sale and overseen by a HOA.

Chair Colbath opened public comment.

Ray Shakir commended the Board on the work they do. He said this project is an abomination and this parcel is a focal point and the heart of North Conway. He said the developer does not care about the nature of the town. He is not in support of this project and said the overwhelming majority of residents are not in support of it.

Ryan Shepard commented on the aesthetics of this property and noted there is a lot of love for it. He understands the property owner would like to get value out of it. He questioned the rationale of building townhouses on this property and not at another location.

Robin Macomber said her parents bought the Birchmont in 1956 and the fire was devastating to her family. She was pleased when the new owners of the property decided to resurrect the name, until she saw the plan. She said using that name would be a travesty to her. She feels the attitude that the owner can do whatever they want with the property is arrogant and disrespectful. Just because something is permitted doesn't mean it's right to do. The property carries a lot of history and out of respect for the history and the people involved with it, she asked that this not happen. She said it will ruin the character and charm of the area.

Kate Soule, abutter, said her home was impacted when the hotel burned. She noted firefighters had a problem getting water up the hill to fight the fire. She said when the hotel was open, about 20 cars/day turned around in her driveway. She noted trash from the hotel blows onto her property. She noted problems with noise in the past. She mentioned the incline and asked how a bus would be able to turn in the driveway. She pointed out the congestion in this part of town.

Marge McIntyre said Mr. Patel told her and her neighbors he was going to purchase the homes in her neighborhood and bulldoze them. She thinks this proposal is terrible. She supports remodeling the hotel but not constructing anything in front of it.

Bill Angelli thanked the Board for their comments. He asked if the Town sewer system can handle this project. Mr. Porter said the North Conway Water Precinct is working at about 55% capacity, so this development will not impact that aspect. Ms. Grant noted concerns regarding stormwater runoff on the site.

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Jim LeFebvre said he worked at the hotel in the past and noted noise issues. He said while it is legal to rebuild the hotel, anything that will add 114 units will make the noise factor astronomically worse. He thanked the Board for their work.

Michael Gilmore said he has seen questionable development in the Valley in the past. He said he is appalled by the development on Route 16 and questioned the direction the Town is moving in.

Jackie Gilmore said she considers the Red Jacket the White House of North Conway and does not want to see the housing units built. She challenged the claim that this will be employee housing. She said it will destroy the flavor of the community and she is not in support of the project.

Chair Colbath closed public comment.

Mr. O'Connor said if a revised plan is presented, the Board should look closely at the compatibility of the different uses as well as the buffers between residential and commercial use. This will need to be treated like any other residential community, to ensure a family could live there safely. The site plan regulations allow for screening of conflicting uses, and he listed the issues that would need to be addressed.

The Board asked for architectural and elevations of any buildings that would be visible from Route 16 and from the overlay district.

Chair Colbath re-opened public comment.

Kate Soule asked if fire hydrants will be installed on the property. Mr. O'Connor said a review of the life/safety aspects would be part of the process. Mr. Porter noted North Conway Water Precinct would have to sign off on this development. Mr. MacKinnon said they have had preliminary discussions with the Precinct and recognize utilities will need to be studied. Mr. Porter noted the front lawn housed a septic system in the past.

Chair Colbath closed public comment.

Mr. Porter made a motion, seconded by Mr. Barbin, to conclude the design review process. Motion carried unanimously.

The Board took a five-minute recess.

AGENDA OUT-OF-ORDER

Ms. Byers made a motion, seconded by Mr. Colbath, to take Settlers R1, Inc. as the next agenda item. Motion carried unanimously.

OTHER BUSINESS

Settlers R1, Inc. (File #NA24-06) – Outdoor Dining

Michael Mitchrone of OVP Management appeared before the Board. This is to request an expansion of the outdoor dining area at Mountain Moose Asian Noodles to operate a “Beer Garden” at Settlers Green Outlet Village, Unit A28, at 2 Common Court, North Conway (PID 235-99). Mr. Mitchrone said the beer garden should have no substantial impact on the operation of the rest of the property and he believes it complies with the new ordinance.

Chair Colbath asked if the temporary fencing would be removed during the winter months to facilitate snow removal and access to the courtyard. Mr. Mitchrone said they might want to continue operation during the winter months and would have to switch to more durable fencing, if they do.

Chair Colbath asked for Board comment; there was none.

The Board received a letter from Roy Tilsley of Bernstein Shur dated April 10, 2024. Mr. O'Connor said the letter questions compliance with the outdoor dining ordinance. He believes this project does meet that intent of the ordinance. He said the applicant will need to verify that there is adequate parking onsite. He reviewed the other conditions of approval.

Chair Colbath asked for public comment; there was none.

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 the expansion of the outdoor dining area at Mountain Moose Asian Noodles to operate a "Beer Garden" 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 conditionally upon North Conway Fire Chief approval, submitting an updated liquor license for the restaurant to include the outdoor dining area, verifying sufficient parking exists to support the use, and a final inspection by the Zoning Officer is required prior to occupancy of the space. Motion carried unanimously.

BARNES DEVELOPMENT, LLC (FILE #FR23-11 & #S23-16) – CONCURRENT FULL SITE PLAN AND 40-UNIT SUBDIVISION REVIEW CONTINUED (PID 235-82)

Mark Lucy of Horizons Engineering and Rob Barsamian appeared before the Board. This is an application to construct 10 residential rental apartments and 30 residential condominium townhouses with associated infrastructure, and create a 40-unit residential subdivision on Puddin Pond Drive, North Conway (PID 235-82). This hearing was continued from September 14, 2023, and February 8, 2024.

Mr. Lucy addressed questions from the Board at a previous meeting. He identified the location of the multi-use recreational trail. He pointed out where the snowmobilers traveled this past winter, which is on private property. He said he was tasked with providing site cross-sections to see if the traffic on the North-South Road could be screened from the development.

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He proposed placing a berm within an existing woods road along the North-South Road to provide screening. He also proposed installing split-rail fencing to clarify the location of the trail.

Chair Colbath asked for Board comment. He noted this application was made before the overlay district was voted into place.

Chair Colbath asked for public comment; there was none.

Mr. Lucy explained the waiver requests.

Mr. Lucy read a waiver request for §110-20.G. **Mr. Porter made a motion, seconded by Ms. Grant, to grant the waiver request for §110-20.G. Motion carried unanimously.**

Mr. Lucy read a waiver request for §110-29. **Mr. Barbin made a motion, seconded by Mr. Porter, to grant the waiver request for §110-29.** Chair Colbath asked if they would be amenable to planting a wildlife mix next to the recreational path; Mr. Lucy said the intent is for it to be vegetated and agreed to this. Ms. Grant asked for bushes to be planted between the building and the fence, if one is erected, and Mr. Barsamian agreed. Mr. Barsamian noted the path could be widened, which the Board would be in control of. **Motion carried unanimously.**

Chair Colbath closed public comment.

Ms. Byers made a motion, seconded by Mr. Barbin, to allow the alternative parking standard. Motion carried unanimously.

Ms. Whitelaw read the conditions of approval. Mr. Lucy questioned the timing of submitting the Mylar and Mr. O'Connor clarified it.

Mr. Colbath made a motion, seconded by Mr. Porter, to conditionally approve the Concurrent Full Site Plan and Unit Subdivision for Barnes Development, LLC conditionally upon Town Engineer approval; North Conway Fire Chief approval; North Conway Water Precinct water and sewer approval; NHDES Alteration of Terrain Permit and indicating permit number on plan; adding a plan note indicating that all existing trees and shrubbery which are to remain on site shall be preserved and protected prior to site disturbance; adding to the plan a fence and vegetation along the southern setback between the multi-use trail and the structures; adding a plan note indicating conservation seed mix be planted in the multi-use trail; submitting a road name to be approved by the Town; submitting draft Condominium Declaration documents for staff approval, prior to recording; submitting draft covenant restrictions for long-term housing as specified in the Special Exception approval (Case #22-39). Effective date of restrictive covenants shall reflect the date of final Planning Board approval; updating waivers granted table as applicable; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for recording of the unit-subdivision; submitting a cost estimate to be approved by the Town; submitting a \$25 check made payable to the Carroll County Registry of Deeds for the L-CHIP fee; submitting \$200 for Inspection Fees; submitting a performance guarantee for all on-site improvements; submitting a performance guarantee for all off-site improvements [if necessary]; when the conditions have been met, the plans can be signed out-of-session; and

an expiration date of October 10, 2024; and conditions subsequent to final approval, prior to building permit issuance, the limits of disturbance must be flagged and erosion controls installed; active and substantial development shall take place within twenty-four months of final approval; all restricted long-term housing units shall be constructed prior to the issuance of building permits for buildings C6 and C7, as referenced on the Site Plan; and the parcel is subject to a recreational easement (BK 3636 PG 347). Site development shall not interfere or restrict permitted passage or modify the easement area in such ways which makes travel inaccessible. Motion carried unanimously.

1675 WMH, LLC AND DEMOULAS SUPERMARKETS, INC. (FILE #S24-04) – BOUNDARY LINE ADJUSTMENT REVIEW (PID 235-85 & 92)

Roger Williams of OVP Management appeared before the Board. This is an application to swap an equal land area of hardscape and greenspace between the two parcels at 1699 White Mountain Highway and 80 Barnes Road, North Conway (PID 235-85 & 92).

Mr. Porter made a motion, seconded by Ms. Byers, to accept the application as complete with the staff report. Motion carried unanimously.

Mr. O'Connor noted this resolves a zoning issue regarding the dumpster.

Chair Colbath asked for Board comment; there was none.

Chair Colbath asked for public comment; there was none.

Chair Colbath closed public comment.

There were no waivers.

Ms. Whitelaw read the conditions of approval.

Mr. Barbin made a motion, seconded by Mr. Colbath, to conditionally approve the boundary line adjustment for 1675 WMH, LLC and Demoulas Supermarkets, Inc. conditionally upon Town Engineer approval; North Conway Water Precinct water and sewer approval; setting or bonding the monument on the south-east corner of PID 235-85; showing the location of the connecting drive to PID 235-87 (per CCRD Book 3672 Page 448) on the plan; removing the stone base of the sculpture out of the setback; submitting an as-built plan for area behind Barley & Salt verifying setbacks; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for recording; submitting a \$25 check made payable to Carroll County Registry of Deeds for the L-CHIP fee; a performance guarantee for all site improvements [if necessary]; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval expires on October 10, 2024. Motion carried unanimously.

LOT 23 WMH, LLC (FILE #CR24-04) – CONCEPTUAL REVIEW (PID 246-35)

Mark Lucy of Horizons Engineering and Rob Barsamian appeared before the Board. This is a request for a conceptual review to construct 10 workforce housing apartments in one building at 1549 White Mountain Highway, North Conway (PID 246-35). Mr. Lucy reviewed the proposed project to construct ten 576 square foot studio apartments in a two-story building, one of which will be ADA accessible. This project will need to come before the ZBA, as they are looking to build up to 12 units per acre.

Mr. Barsamian noted they are trying to fill a housing void and acknowledged that this could be considered mixed use. They are looking for feedback on this project.

Mr. Porter said caution is needed in relation to setting precedents regarding approving mixed-use developments. Chair Colbath asked if Mr. Barsamian had a timeline for this project. Mr. Barsamian said they have no timeline; they are trying to meet an identified need. Chair Colbath suggested the Board needs to discuss the mixed-use concept and hopefully will have a clearer picture by next year.

Ms. Grant said adding mixed-use developments to certain areas does not provide the community and walkability infrastructure that make mixed use work. Mr. Barsamian said he believes Settlers fits this description. Mr. Barbin challenged the need to pause the discussion regarding mixed use. Ms. Byers noted different types of housing are needed in the community.

Mr. Barsamian said, in light of the response to the Red Jacket project, he should pause this proposal. He believes he will be able to meet the needs of the community, while being sensitive to local sentiment.

RGMZ MOUNTAIN VALLEY TRS, LLC (FILE #FR24-01) – FULL SITE PLAN REVIEW (PID 246-38)

Casey Birch of Solli Engineering appeared before the Board for a conceptual review to expand the outdoor display areas, provide additional storage areas associated with Lowe's, and provide two permanent food truck locations.

Mr. O'Connor explained that the Staff cannot recommend this application as complete. The existing condition plan utilizes an HEB plan that was used for the original development of Lowe's. So, they had to be noticed as part of the application and this has not taken place.

Mr. Colbath made a motion, seconded by Mr. Porter, to accept the application as complete. Motion defeated unanimously.

The application was changed to a conceptual review.

Mr. Birch reviewed the modifications made since the last meeting. They changed the size of an outdoor display and provided pedestrian walkways as requested. He said Lowe's was not in favor of adding additional greenspace. They did agree to close an access point, thus reducing the amount of traffic at the rear of the building.

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The Board discussed installing temporary bollards and the associated safety issues. Mr. Porter made a note of the Town ordinances limiting outdoor display space.

The Board discussed asking Lowe's to consider expanding the outdoor garden center to store materials. They asked Mr. Birch to convey their disappointment with the condition of the green space at Lowe's and their refusal to add more, and asked that they reconsider adding it.

Mr. O'Connor asked about the waiver from screening requirements and Mr. Birch clarified it.

Chair Colbath opened public comment; there was none.

Chair Colbath closed public comment.

Mr. Barbin made a motion, seconded by Mr. Porter, to continue the application to June 13, 2024 with new information received by May 14, 2024. Motion carried unanimously.

OTHER BUSINESS CONTINUED

Garg Complex, LLC (File #FR23-04) – Request to extend conditional approval (PID 265-144):

The conditions have been met; therefore, the conditional approval does not need to be extended.

HOP Grant Committee Update:

Ms. Byers stated they have not met again, so there is no update.

Selectman's Report:

Mr. Porter commended the work done by the Planning Board. He noted the community passed every Warrant Article overwhelmingly, so he feels they are on the right track.

Issues for Consideration

There were none.

Media Questions

There were no media representatives in attendance.

Meeting was adjourned at 8:53 p.m.

Respectfully submitted,
Beth Hanggeli