

**CONWAY PLANNING BOARD**

**MINUTES**

**JANUARY 9, 2003**

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CONWAY PLANNING BOARD

MINUTES

JANUARY 9, 2003

A meeting of the Conway Planning Board was held on Thursday, January 9, 2003 beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Vice Chair, Robert Drinkhall; Secretary, Conrad Briggs; Brian Glynn; Martha Tobin; David Robinson; Alternate, Cesare Macchionni; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Drinkhall made a motion, seconded by Mr. Glynn, to approve the Minutes of November 7, 2002 as written. Motion carried with Ms. Tobin abstaining from voting.**

The Minutes of November 14, 2002 should be amended as follows: page 4, Conway Daily Sun, line one, "Mr. Drinkhall stated that the dumpsters..."; line 2, "...not finished. Ms. Duane stated that the doors had not been finished either. The Board...". **Mr. Glynn made a motion, seconded by Mr. Briggs, to approve the Minutes of November 14, 2002 as amended. Motion unanimously carried.**

**Mr. Briggs made a motion, seconded by Mr. Glynn, to approve the Minutes of November 22, 2002 as written. Motion carried with Ms. Tobin abstaining from voting.**

The Minutes of December 5, 2002 should be amended as follows: page 2, fourth paragraph, line 4, should read, "...add to the amendment that metal halide or halogen...". **Ms. Tobin made a motion, seconded by Mr. Drinkhall, to approve the Minutes of December 5, 2002 as amended. Motion unanimously carried.**

The Minutes of December 12, 2002 should be amended as follows: any reference to Village of Kearsarge should be Village at Kearsarge. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to approve the Minutes of December 12, 2002 as amended. Motion unanimously carried.**

**Mr. Briggs made a motion, seconded by Mr. Drinkhall, to approve the Minutes of December 19, 2002 as written. Motion carried with Ms. Tobin abstaining.**

**DARRELL AND ELAINE UMLAH – SUBDIVISION REVIEW (PID 203-29) FILE #S03-01**

Mr. Irving stated that the applicant has requested a continuance. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to continue the subdivision review for Darrell and Elaine Umlah until February 13, 2003. Motion unanimously carried.**

**STEPHEN AND OLGA MORRILL ET AL AND RUSSELL AND BRENDA CANAVARI  
– BOUNDARY LINE ADJUSTMENT (274-8 AND 260-58) FILE #S03-04**

Bob Tafuto of Ammonoosuc Survey Company appeared before the Board. **Mr. Briggs made a motion, seconded by Mr. Glynn, to accept the application of Stephen and Olga Morrill and Russell and Brenda Canavari for subdivision review as complete. Motion unanimously carried.**

Mr. Irving stated that staff has no issues with the requested waivers. Mr. Tafuto explained the application to the Board. Ms. Duane read the requirements to grant a waiver. Ms. Duane read waiver requests for Articles 131-24.E., 131-24.J. & 29. 131-24.K., 131-24.N., 131-24.O., 131-24.T., 131-24.U., 131-24.V., 131-25.B., 131-25.U., 131-26.A, 131-29., and 131-37.1.A.

Ms. Duane asked for public comment; there was none. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to grant the waiver requests for Articles 131-24.E., 131-24.J. & 29. 131-24.K., 131-24.N., 131-24.O., 131-24.T., 131-24.U., 131-24.V., 131-25.B., 131-25.U., 131-26.A, 131-29., and 131-37.1.A. Motion unanimously carried.**

Ms. Duane asked for public comment; there was none. **Ms. Tobin made a motion, seconded by Mr. Glynn, to conditionally approve the subdivision application for Stephen and Olga Morrill and Russell and Brenda Canavari conditionally upon submitting a Mylar plan; when the condition has been met, the plans can be signed out-of-session; and this conditional approval will expire on March 27, 2003. Motion unanimously carried.**

**CONWAY PUBLIC LIBRARY – CONCEPTUAL REVIEW**

The Library expansion was reviewed and there was a concern regarding the loss of a parking space and snow storage. **Mr. Briggs made a motion, seconded by Mr. Glynn, wishing the library well with their project. Motion unanimously carried.**

**FURBUSH REALTY LLC – MINOR SITE PLAN REVIEW (PID 235-37) FILE #MR03-01**

Mr. Briggs stepped down at this time. Richard Furbush appeared before the Board. Ms. Duane appointed Mr. Macchionni as a voting member. Mr. Irving stated that the applicant's agent has requested a continuance, however, the application is complete. **Mr. Glynn made a motion, seconded by Ms. Tobin, to accept the application of Furbush Realty LLC for a minor site plan review as complete. Motion unanimously carried.**

Ms. Duane asked for public comment; there was none. **Mr. Robinson made a motion, seconded by Mr. Glynn, to continue the minor site plan review for Furbush Realty LLC until January 23, 2003. Motion unanimously carried.**

**IVY LORD REVOCABLE LIVING TRUST – 2-LOT SUBDIVISION (PID 234-4) FILE #S03-02**

Bob Tafuto of Ammonoosuc Survey Company appeared before the Board. **Mr. Glynn made a motion, seconded by Ms. Tobin, to accept the application for Ivy Lord for a 2-Lot Subdivision as complete. Motion unanimously carried.** Mr. Tafuto reviewed the application.

Mr. Irving stated that staff has no issues with the requested waivers. Ms. Duane asked for public comment; Jim Hartigan of Cedar Creek asked what the lots can be used for. Mr. Irving answered whatever is allowed in the residential/agricultural district, but most likely will be used for a single-family home. Mr. Hartigan asked if the larger lot can be used for more than a single-family home. Mr. Irving stated that apartments would be allowed on the larger lot. Mr. Hartigan asked the setback requirements. Mr. Irving answered 25-feet from the road right-of-way and 15-feet from the rear and side setbacks.

Mr. Briggs rejoined the Board and Mr. Macchionni became a non-voting member at this time. Ms. Duane read the waiver requests for Articles 131-24.E., 131-24.O., 131-24.T., 131-26.A., and 131-37.1.A. **Mr. Briggs made a motion, seconded by Mr. Glynn, to grant the waivers for Articles 131-24.E., 131-24.O., 131-24.T., 131-26.A., and 131-37.1.A. Ms. Duane asked for public comment; there was none. Motion unanimously carried.**

**Mr. Robinson made a motion, seconded by Mr. Drinkhall, to conditionally approve the 2-lot subdivision application for Ivy Lord Revocable Living Trust conditionally upon submitting a \$50.00 Engineering Review Fee; submitting a Mylar; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on March 27, 2003. Motion unanimously carried.**

**BELLEVUE PROPERTIES, INC. – FULL SITE PLAN REVIEW (PID 235-97 & 98) FILE #FR03-01**

Mark Lucy of White Mountain Survey appeared before the Board and explained the application. Mr. Irving stated that the application is complete. **Mr. Glynn made a motion, seconded by Ms. Tobin, to accept the application of Bellevue Properties, Inc. for a full site plan review as complete. Motion unanimously carried.** Mr. Irving stated that staff has no issues with the requested waivers.

Ms. Duane suggested removing the three trees on the island to help with snow removal. Mr. Lucy agreed to remove the two existing trees and relocate the third tree. Ms. Tobin asked what would happen with the existing pool. Mr. Lucy stated that it would remain. Ms. Duane stated that the last island in the parking lot has a lot of dead trees and they need to be replaced. Mr. Lucy stated that he would let the applicant know.

Ms. Duane asked for public comment; there was none. Ms. Duane read the requirements to grant a waiver. Ms. Duane read the waiver requests for Articles 123-6.B.2., 123-21.A., 123-29.A.2. & A.3. and 123-29.D.1. **Mr. Briggs made a motion, seconded by Mr. Glynn, to grant the**

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**waiver requests for Articles 123-6.B.2., 123-21.A., 123-29.A.2. & A.3. and 123-29.D.1.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

**Ms. Tobin made a motion, seconded by Mr. Drinkhall, to conditionally approve the full site plan for Bellevue Properties, Inc., conditionally upon submitting a \$150 Engineering Review Fee; submitting a Mylar; relocate tree in island per discussion; a performance guarantee for all site improvement; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on March 27, 2003.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

**ROBERT AND LYNN LEIN AND WILLIAM HORTON – 2-LOT SUBDIVISION (PID 265-65) FILE #S03-03**

Doug Burnell of H.E.B. Civil Engineers and Robert and Lynn Lein appeared before the Board. Mr. Burnell explained the application. Mr. Irving stated that the application was complete. **Mr. Glynn made a motion, seconded by Ms. Tobin, to accept the application for Robert and Lynn Lein and William Horton for a 2-Lot Subdivision as complete. Motion unanimously carried.**

Mr. Irving stated that staff has no issues with the requested waivers. Ms. Duane asked for public comment; there was none. Ms. Duane read waiver requests for Articles 131-24.O. & P and 131-24.K., T., U., and V. **Mr. Briggs made a motion, seconded by Mr. Glynn, to grant the waiver requests for Articles 131-24.O. & P and 131-24.K., T., U., and V.** Ms. Duane asked for public comment; there was none. **Motion unanimously carried.**

Mr. Irving stated that Mr. Burnell has submitted new plans showing the location of the street trees. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, to conditionally approve the 2-lot subdivision for Robert and Lynn Lein and William Horton conditionally upon submitting a \$50.00 Engineering Review Fee; submit a Mylar; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on March 27, 2003. Motion unanimously carried.**

**PUBLIC HEARING – ARTICLE 131-68.I. – AS BUILT PLANS**

A public hearing was opened at 8:03 p.m. Mr. Irving stated that this gives the similar standards to those in the site plan review regulations. Ms. Duane asked for Board comments; there was none. Ms. Duane asked for public comments; there was none. Mr. Irving read the amendment. The public hearing was closed at 8:06 p.m. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to adopt the changes to Article 131-68.I. Motion unanimously carried.**

**PUBLIC HEARING – ARTICLE 123-4. – SMALL UNDERTAKINGS**

A public hearing was opened at 8:07 p.m. Mr. Irving read the amendment. Mr. Irving stated that the change is intended for those situations where it is obvious that a waiver would be granted. Ms. Duane asked for public comment; there was none. The public hearing was closed at 8:09

p.m. **Mr. Briggs made a motion, seconded by Mr. Glynn, to adopt the changes to Article 123-4. Motion unanimously carried.**

#### **OTHER BUSINESS**

**Lickety Splitz (PID 230-13):** Barry Lightbown appeared before the Board. Mr. Lightbown stated that they would like to add a play set to their ice cream shop property without going through a site plan review. Mr. Irving stated that the Board needs to determine if a play set is considered an outdoor commercial amusement or just a play set. **Mr. Briggs made a motion, seconded by Mr. Drinkhall, that the play set is an acceptable field change. Motion unanimously carried.**

**Article 147-19 – Petitioned Article:** Ms. Tobin made a motion, seconded by Mr. Drinkhall, to post the Petitioned Article for Article 147-19.D.1.(b) to a public hearing on January 30, 2003. Motion unanimously carried.

**Public Information Meeting – Article 147-15 – Accessory Dwellings:** Ms. Duane stated that the requirement to submit a lease has been removed and a section regarding inspections have been added to comply with the codes. Mr. Glynn stated that the public sentiment is against this amendment and should not be put on the ballot this March as it may impede future efforts.

Mr. Irving stated that he is concerned with the safety issue. Ms. Duane stated that section (e) could be simplified to require an inspection by the Town Building Inspector. Mr. Irving asked if would we have to hire another building inspector. Ms. Duane answered in the negative and stated that the inspection would already be paid for by the applicant. Mr. Irving stated that there will have to be an inspection at the end of the project to verify it was constructed appropriately. Mr. Irving suggested an amendment to Chapter 88. Ms. Duane stated that David Pandora didn't have a problem going this route. Ms. Duane stated that she would like to see it go to a public hearing.

Ms. Duane asked for public comment; Bayard Kennett asked if section (b) allows the conversion of an attached garage to an apartment. Ms. Duane answered in the affirmative. Mr. Kennett stated that many older homes with attached garages are barns and not sure how to convert a barn door to an entrance. Mr. Kennett stated that the architectural standard may be too stringent. Ms. Duane stated that this is an issue of aesthetics and trying to maintain the look of a single-family home.

Catherine Woodall asked what the Board had in mind for the fee. Ms. Duane stated that she needs to review that with staff. Ms. Woodall asked if it would cover the cost of the inspection. Ms. Duane answered in the affirmative. Ms. Woodall stated then it will be a substantial fee. Ms. Duane stated that she will need to review the fee with staff.

Charlene Browne stated that there are three different proposals and each has a very different impact, therefore, there should be three separate warrant articles. Mr. Irving stated that there will be three different warrant articles. Ms. Woodall asked if this is only for senior citizens. Ms.

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Duane answered in the negative. Ms. Woodall stated that the preamble should be removed. The Board agreed.

Mr. Briggs stated that this needs to be pulled together and a special meeting held. The Board agreed to have a public information meeting on January 16, 2003 at 7:00 p.m. at the Conway Town Office.

**Public Information Meeting – Article 147-15.E.(2) – Workforce Housing:** Ms. Duane asked for public comment; Charlene Browne asked if there were any issues with greenspace or view sheds. Mr. Irving stated that three or more units would require site plan review, but it is not required for a duplex. Janice Crawford stated that our workforce has grown by 21.9% and we have the second highest migration in Carroll County. Ms. Crawford stated that we are the fastest growing Town in Carroll County and we will need workforce housing.

Bayard Kennett stated that the concerns regarding view sheds, aesthetics and greenspace are valid, but the overriding concern has to be affordability and capability, such as whether water and sewer are available. Mr. Kennett stated that this desired density is for the existing village structures, but there are concerns with parking, greenspace and setbacks. Mr. Kennett stated that the villages can have a greater housing. Mr. Kennett stated anything we can do to improve the utilities in our villages instead of moving out into the suburbs would be best. Mr. Kennett stated that he thinks it can work if we put ordinance together.

Catherine Woodall asked how will it be enforced. Ms. Duane stated that they need to make a change in that section. Ms. Browne stated that she would like to see a build out to see what this would look like and what the impact might be and prove that it would work. Ms. Browne stated that this is a major issue that will have a major impact on the Town. Ms. Browne stated that this is a study within itself.

Mr. Robinson stated that he thinks the master plan has addressed some of these issues. Ms. Woodall stated that the master plan doesn't enforce, you need an ordinance to enforce. Ms. Woodall stated that there is no size limit in section (2) and there are no restrictions. Ms. Duane read an email from Robert Barriault. Ms. Browne asked why this is going under a special exception and not its own ordinance. Mr. Irving stated that we should have a high-density zone. Ms. Browne stated that it seems dangerous to put under a special exception. Ms. Woodall stated that it is actually one ordinance with three different fields. Ms. Woodall stated that this would allow twelve units anywhere in Town.

**Mr. Drinkhall made a motion, seconded by Mr. Glynn, to continue the public information meeting on Article 147-15.E.(2) until January 16, 2003. Motion unanimously carried.**

**Mountain Valley Mall (PID 246-48.2 & 49) – Lot Merger:** Mr. Irving stated that this is to remedy an error in 2000. Mr. Irving stated that the Board merged three lots instead of two. **Mr. Glynn made a motion, seconded by Mr. Briggs, to rescind the lot merger dated June 22, 2000 merging lots 246-48.2, 49 & 50. Motion unanimously carried. Mr. Briggs made a motion, seconded by Mr. Drinkhall, to merge lots 246-48.2 & 49. Motion unanimously carried.**

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**Irene Pfeferstein and Maxine Cheek (PID 275-43, 43.001 & 43.002) – Lot Merger:** Mr. Briggs made a motion, seconded by Ms. Tobin, to merge lots 275-43, 43.001 & 43.002. Motion unanimously carried.

**Café Noche (PID 276-292) File #FR02-11 – Field Change:** Mr. Briggs made a motion, seconded by Mr. Drinkhall, that the changes to the building architecture are an acceptable field change. Motion unanimously carried.

**Set Public Hearing Date:** Ms. Tobin made a motion, seconded by Mr. Glynn, to post Article 147-7 to a public hearing on January 30, 2003. Motion unanimously carried.

Mr. Drinkhall made a motion, seconded by Mr. Glynn, to post Article 147-11.3 to a public hearing on January 30, 2003. Motion unanimously carried.

Mr. Glynn made a motion, seconded by Ms. Tobin, to post Article 147-13.1.B.(4) to a public hearing on January 30, 2003. Motion unanimously carried.

Ms. Tobin made a motion, seconded by Mr. Drinkhall, to post Article 147-11 to a public hearing on January 30, 2003. Motion unanimously carried.

Mr. Briggs made a motion, seconded by Mr. Robinson, to post Article 147-14 to a public hearing on January 30, 2003. Motion unanimously carried.

Mr. Drinkhall made a motion, seconded by Ms. Tobin, to post Article 147-19 to a public hearing on January 30, 2003. Motion unanimously carried.

**Citizen Design Review Committee:** The Conway Conservation Commission needs to forward an access plan for lands to the Planning Board as soon as possible for the master plan.

Meeting adjourned at 9:30 p.m.

Respectfully Submitted,

Holly L. Meserve  
Recording Secretary



January 9, 2003


Chairman, Conway Planning Board  
1634 East Main Street  
Center Conway, NH 03813

Dear Ms. Duane:

We would appreciate it if we could consider moving the Conway Public Library to an earlier appointment on the agenda for tonight's meeting.

Thank you for your kind consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Margaret Marschner".

Margaret Marschner  
Librarian

131-68. I. As-Builts Plans

1. In order to ensure the proper construction of development streets, As-Built drawings shall be presented to the Selectmen or their designee for their review prior to final draw down of the surety for the project. These drawings must be maintained on a daily basis and will be inspected weekly.
2. Except for those referred to above, the Planning Board does not require as-built subdivision plans, nor will it stamp and sign such plans. The only as-built subdivision plans which the Board will stamp and sign is the plan showing the location of structures on condominium property. Such plans shall:
  - (a) Be certified to be correct and stamped by a N.H. Licensed Land Surveyor;
  - (b) Be accompanied by Certificates of Occupancy, if applicable;
  - (c) Clearly identify in the title block exactly what the as-built plan is approving; and
  - (d) Have the following plat note printed on each sheet, "These as-built plans are pursuant to, and without modification of, the original Planning Board approval."

**123-4. Applicability.** There are three possible applications of this code to development of a non-residential or multi-family site to be determined by the designee of the Board:

- The code is NOT APPLICABLE;
- The Planning Board provides a MINOR REVIEW; or
- The Planning Board provides a FULL REVIEW.

The following criteria specify the level of review necessary for a proposal to develop a commercial or multi-family site:

- A. Not Applicable. The determination of "not applicable" by the designee of the Board shall mean that no site plan review approval is necessary, although other types of approvals or permits may be necessary per other municipal codes and an application shall be kept on file. The Site Plan Review Regulations shall be deemed not applicable for the following:
1. Temporary events which require no permanent alterations to the site and which function safely within the approved configuration of the site as determined by designee of the Board; or
  2. Special events approved by the Board of Selectmen.
  3. Agricultural buildings as defined in the Town of Conway Zoning Ordinance (§147-6 Definitions).
  4. Small undertakings where it is demonstrated that:
    - (a) All proposed changes to the structure and/or site conform to all other applicable codes and reasonably conform to the site design standards of this Chapter;
    - (b) Proposed changes do not increase the intensity of use on the site beyond the service capacity of existing on-site infrastructure (including but not limited to parking, traffic generation and septic loading);
    - (c) Any net reduction in greenspace on the lot is less than or equal to 200 square feet;
    - (d) Any increase in structure floor space is less than or equal to 100 square feet; and
    - (e) This subsection (§123-4. A. 4.) shall not be applied more than twice before a Minor or Major Review by the Planning Board is required so that cumulative impacts can be evaluated in a public forum.
- B. Minor Review. A Minor Review by the Planning Board shall be required for any development that does not qualify to be "not applicable" or "full review."
- C. Full Review. A Full Review by the Planning Board shall be required for the following:
1. Establishment of non-residential use where no non-residential use currently exists;
  2. Establishment of multi-family use where no multi-family use currently exists;
  3. Reduction in greenspace on the lot exceeds 1,000 square feet; or
  4. The increase in structure floor space exceeds 1,000 square feet or 25% of existing floor space, whichever is more restrictive.



# TOWN OF CONWAY

1634 EAST MAIN ST. • CTR. CONWAY, NEW HAMPSHIRE 03813

(603) 447-3855

FAX (603) 447-5012

**From:** Bob Barriault <bobsandy@ncia.net>  
**To:** Tom Irving <tirving@conwaynh.org>  
**Sent:** Thursday, January 09, 2003 4:12 PM  
**Subject:** Planning Board meeting

Tom,

As a follow-up to my earlier e-mail, something has come up and I will not be able to attend the Planning Board meeting this evening. My principal interest in attending was to participate in the public information discussion on the amending of Article 147-15 of the Zoning ordinance. I have some serious reservations regarding the proposal for the high density development exception to provide workforce housing. I feel the intent is commendable but the plan is flawed.

As stated by others, I do not feel that the town administration should be involved in property management and enforcement of rental contracts.

Secondly, the reported rental in the area of \$1000/month is totally unrealistic to be considered affordable workforce housing for the typical worker in the valley. I looked up the HUD fair market rent for 2002 for Carroll County for 2 bed- room existing housing. The figure was \$694/month. Even Nashua with the highest rental, listed at \$897/month. I don't know how current these figures are or whether they apply to subsidized rentals. Someone should be able to check this out.

The bottom line is that I feel we should not be rushing into something that hasn't been adequately researched to see if it will accomplish the intended goal. Bob Barriault

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TOWN OF CONWAY

TO TOM IRVING

I WOULD LIKE TO REQUEST A HEARING- AT  
THE NEXT MEETING JAN 9 2003

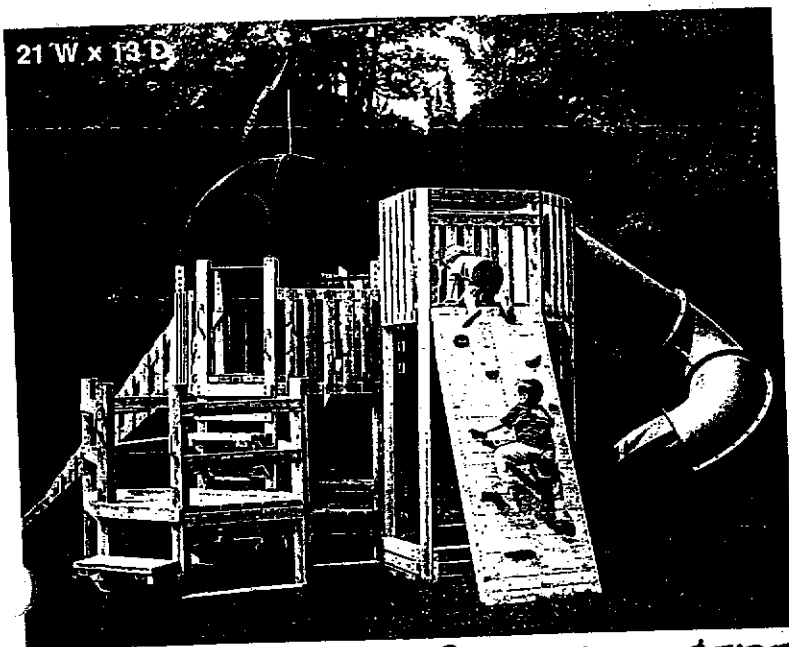
I WOULD LIKE TO ADDRESS PUTTING A PLAY SET  
ON THE PROPERTY AT LICKETY SPLITZ ICE CREAM  
PARLOR AT 2252 MOUNT WASHINGTON HWY FOR  
OUR CUSTOMERS.

I HAVE ENCLOSED A PICTURE OF THE PLAY SET  
TO BE USED,

THANK YOU

BARRY LIGHTBOWN

LICKETY - SPLITZ LLC



Gazebo Gym #2 - \$5135

Petition for Zoning Amendments

The undersigned, being twenty-five or more registered voters in the Town of Conway, New Hampshire, hereby petition pursuant to the provisions of the RSA 675:4 that the following article to amend the Conway Zoning Ordinance be submitted to the voters of the Town of Conway at the annual meeting to be held in April 2003.:

Article \_\_\_\_: To see if the Town will amend the Town of Conway Zoning Ordinance section 147-19D1(b) Wall Signs, to increase the maximum height of wall signs by specifically:

Amending 147-19, D, 1, (b), first paragraph, to read as follows (*italics equals changed section*):

Wall Sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall, which is common to both the interior and the exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Section 147-19, L(3):

Signature:	Printed Name:
1. <u>James M. Buehler</u>	<u>James M. Buehler</u>
2. <u>Russell Boisvert</u>	<u>Russell Boisvert</u>
3. <u>Douglas M. Hall</u>	<u>Douglas M. Hall</u>
4. <u>Dorthea M. Seibold</u>	<u>Dorthea M. Seibold</u>
5. <u>Roger Garcano Jr</u>	<u>ROGER GARCANO JR</u>
6. <u>Susan L. Dowd</u>	<u>Susan L. Dowd</u>
7. <u>Roger A. Jones</u>	<u>ROGER A. JONES</u>
8. <u>Beth Scribner</u>	<u>Beth Scribner</u>
9. <u>Mark Scribner</u>	<u>MARK SCRIBNER</u>
10. <u>Russ Seibold</u>	<u>RUSS SEIBOLD</u>

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TOWN OF CONWAY

- |     |                          |                          |
|-----|--------------------------|--------------------------|
| 11. | <u>Lisa Huntress</u>     | <u>Lisa Huntress</u>     |
| 12. | <u>Jim Embury</u>        | <u>ROBERT BERNHARDT</u>  |
| 13. | <u>John Cuddy</u>        | <u>JOHN CUDDY</u>        |
| 14. | <u>Jeff Mills</u>        | <u>TODD MILLER</u>       |
| 15. | <u>James Poquette</u>    | <u>GARY R. POQUETTE</u>  |
| 16. | <u>Wanda Poquette</u>    | <u>Linda Poquette</u>    |
| 17. | <u>Penny Kittle</u>      | <u>Penny Kittle</u>      |
| 18. | <u>Ben Williams</u>      | <u>BEN WILLIAMS</u>      |
| 19. | <u>Bayard Kennett</u>    | <u>BAYARD KENNETT</u>    |
| 20. | <u>Patrice Kittle</u>    | <u>Patrice Kittle</u>    |
| 21. | <u>Glenn Merrill</u>     | <u>Glenn Merrill</u>     |
| 22. | <u>Nicole Sawyer</u>     | <u>Nicole Sawyer</u>     |
| 23. | <u>Rebecca Heatley</u>   | <u>Rebecca Heatley</u>   |
| 24. | <u>Joette Fabbr</u>      | <u>Joette Fabbr</u>      |
| 25. | <u>Patti Prevatt</u>     | <u>PATTI PREVATT</u>     |
| 26. | <u>Curtis Hodgdon</u>    | <u>CURTIS HODGDON</u>    |
| 27. | <u>Scott Leavitt</u>     | <u>SCOTT LEAVITT</u>     |
| 28. | <u>Wayne L. Hartford</u> | <u>WAYNE L. HARTFORD</u> |
| 29. | <u>Adam Eastman</u>      | <u>ADAM EASTMAN</u>      |
| 30. | <u>_____</u>             | <u>_____</u>             |
| 31. | <u>_____</u>             | <u>_____</u>             |
| 32. | <u>_____</u>             | <u>_____</u>             |
| 33. | <u>_____</u>             | <u>_____</u>             |
| 34. | <u>_____</u>             | <u>_____</u>             |
| 35. | <u>_____</u>             | <u>_____</u>             |

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Please see other side.

- > 3. ~~In order to help provide affordable year-round rental housing and to provide an opportunity for supplemental income to senior citizens and other home owners who might otherwise find it difficult to remain in their homes due to the increasing costs of home ownership,~~ the Zoning Board of Adjustment may grant a special exception by application for one
  - > accessory apartment to be allowed as an accessory use to an owner
  - > occupied single family dwelling, on any size lot (provided that where
  - > precinct water and sewer are not available, appropriate permits shall be
  - > obtained from the New Hampshire Department of Environmental Services for

1/9/03

> additional septic loading), subject to the following conditions.

- >
- > a. The property owner must occupy either the principal or accessory
  - > unit. At no time are both the principal unit and accessory unit to be
  - > rented.
- >
- > b. Attached accessory apartments shall occupy a maximum of 800sq.ft. and
  - > a minimum of 300 sq.ft.. The outward appearance of a residence
  - > containing an attached accessory apartment shall conform to that of a
  - > single family residence with only one main entrance on the front or
  - > street side of the structure. Additional entrances shall be designed to
  - > ensure compatibility with the goal of retaining the appearance of a
  - > single family residence.
- >
- > c. Detached accessory apartments shall occupy a maximum of 800 sq.ft. and a minimum of 300 sq.ft.
- >
- > d. A one time application with fee for review is required to be completed prior to submission to the Town of Conway.
- >
- > e. Prior to the Zoning Board of Adjustment granting the special
  - > exception a written statement must be provided to the Zoning Board of
  - > Adjustment. This statement must be prepared and signed by a licensed
  - > Architect, Engineer or Certified Building Inspector and must state that
  - > the accessory apartment as proposed fully complies with the 2000
  - > International Residential Code, the 2000 NFPA 101 " Life Safety" Code
  - > and the plumbing and electrical codes as currently adopted and enforced
  - > by the State of New Hampshire.
- >
- > f. Submission of architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application.



## **§ 676:4-a. Revocation of Recorded Approval.**

I. A subdivision plat, street plat, site plan or other approval which has been filed with the appropriate recording official under RSA 674:37 may not be revoked, in whole or in part, by the planning board, except pursuant to this section, and only under the following circumstances:

(a) At the request of, or by agreement with, the applicant or the applicant's successor in interest.

(b) When the applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans or specifications upon which the approval was based, or has materially violated any requirement or condition of such approval.

(c) When the applicant or successor in interest to the applicant has failed to perform any condition of the approval within a reasonable time specified in the approval, or, if no such time is specified, within the time periods specified in RSA 674:39.

(d) When the time periods specified in RSA 674:39 have elapsed without any vesting of rights as set forth therein, and the plat, plan or other approval no longer conforms to applicable ordinances or regulations.

(e) When the applicant or successor in interest to the applicant has failed to provide for the continuation of adequate security as provided by RSA 674:36, III(b) and 674:44, III(d) until such time as the work secured thereby has been completed.

II. Prior to recording any revocation under this section, the planning board shall give notice, as provided by RSA 676:4, I(d), to the public, the applicant or the applicant's successor in interest, and all abutters and holders of conservation, preservation, or agricultural preservation restrictions. The notice shall include the board's reasons for the revocation. A hearing with notice as provided in RSA 676:4, I(d) shall be held at the request of any party receiving such notice, submitted within 30 days of receiving such notice, or if the planning board determines to hold a hearing.

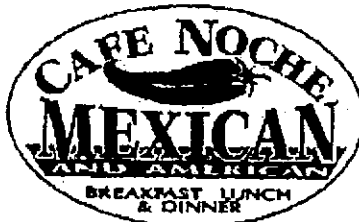
III. A declaration of revocation, dated and endorsed in writing by the planning board, and containing reference to the recording information for the plat, plan or other approval being revoked, shall be filed for recording with the register of deeds, no sooner than 30 days after written notification of the revocation is served on the applicant or the applicant's successor in interest, in person or by certified mail, or 30 days after any public hearing, whichever is later. If only part of an approval is revoked, that portion of land subject to revocation shall be clearly identified in the declaration. The declaration shall be recorded under the same name or names as was the original approval, as well as the names of subsequent owners, if any, of the land or part thereof subject to revocation, as identified by the municipality.

IV. A revocation under this section may be appealed pursuant to RSA 677:15. Nothing in this section shall affect the municipality's ability, either before or after such a revocation, to pursue

other remedies or penalties as set forth in RSA 676:15-17.

### History

**Source.** 1991, 237:1, eff. Aug. 9, 1991. 1997, 142:5, eff. Aug. 8, 1997.



147 Main Street, Conway Village  
447-5050

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DEC 21 2002

TOWN OF CONWAY

Dec. 19, 2002

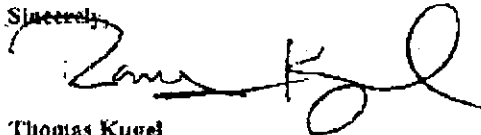
Town of Conway

Tom Irving,

I was very disappointed to receive your letter and to read about the motion taken by the planning board. I have built in good faith what I said I would. I have heard only grand reviews from all passing by in the village. I am very proud of what we have built in Conway Village as are the property owners around me. Everyday while I am working, countless people tell me how nice the building is and what an improvement it is and that they are pleased to see continued pride and investment in their village. The changes we made to the west gable, we consider an improvement and had no idea that it would not easily be considered an acceptable field change.

I request a meeting with the planning board on Jan. 9th to further discuss this issue. I would like to extend an invitation to all the planning board members to come down to Cafe Noche at their convenience and see for themselves. I believe they will see we have built a fine building that will be an asset to the village for years to come, and will see that the changes we made are a minor improvement, and in no way can be construed as "an applicant that thinks they can build what ever they want."

Sincerely,



Thomas Kugel  
Owner, Cafe Noche



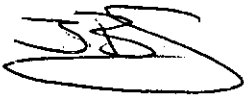
# TOWN OF CONWAY

1634 EAST MAIN ST. • CTR. CONWAY, NEW HAMPSHIRE 03813

(603) 447-3855

FAX (603) 447-5012

## MEMO

TO: Sheila Duane, Planning Board Chair  
FROM: Tom Irving, Planning Director   
CC: Planning Board, ES, File  
DATE: 12/26/02  
RE: Zoning Amendments for 2003 Town Warrant

### Message:

Please find the following comments and recommendations regarding amendments being considered for the 2003 Town warrant.

#### §147-7. Enforcement; violations and penalties.

- This amendment more accurately reiterates the authority granted by the RSAs.
- No additional fiscal burden is placed on the Town.
- Administrative efficiencies are gained.

I recommend that the Planning Board hold a public hearing on January 30, 2003 regarding this proposed Amendment (attached).

#### §147-11. Residential/Agricultural District.

- This amendment clarifies the ordinance by removing useless language.
- There is no change in the permitted uses
- No additional fiscal burden is placed on the Town.
- Administrative efficiencies are gained.

I recommend that the Planning Board hold a public hearing on January 30, 2003 regarding this proposed Amendment (attached).

#### §147-11.3. Village Residential District.

- This amendment clarifies the ordinance by removing useless language.
- There is no change in the permitted uses
- No additional fiscal burden is placed on the Town.
- Administrative efficiencies are gained.

I recommend that the Planning Board hold a public hearing on January 30, 2003 regarding this proposed Amendment (attached).

§ 147-13.1.B.(4) Groundwater protection Overlay District.

- This amendment clarifies the ordinance by removing reference to a particular fee that is already legitimately set by the Board of Selectmen.
- The Town's fiscal burden is reduced.
- Administrative efficiencies are gained.
- Recommended by the Board of Selectmen.

I recommend that the Planning Board hold a public hearing on January 30, 2003 regarding this proposed Amendment (attached).

§147-14. Floodplain Conservation District.

- This amendment clarifies the ordinance by removing ambiguous language.
- There is no change in the permitted uses
- No additional fiscal burden is placed on the Town.
- Administrative efficiencies are gained.

I recommend that the Planning Board hold a public hearing on January 30, 2003 regarding this proposed Amendment (attached).

§147-15. E. Work Force Housing (12 units/acre) (with companion amendments to §147-6 & 11)

- This amendment increases the density from less than 4 units/acre to 12 units/acre.
- There is no assurance that this will reduce the cost of housing.
- The proposal increases life safety risks if applied to two unit residential structures.
- Additional fiscal burden may be placed on the Town for enforcement.
- Absent a clear implementation strategy, administrative inefficiencies may result.

I recommend that the Planning Board not send this amendment to a public hearing, until such time as, the outstanding concerns and issues are resolved.

§147-15. E. Accessory Apartments (with companion amendments to §147-6 & 11)

- This amendment increases the density in all applicable districts.
- The proposal may increase life safety risks if applied to two unit residential structures.
- Additional fiscal burden may be placed on the Town for enforcement.
- Absent a clear implementation strategy, administrative inefficiencies may result.

I recommend that the Planning Board not send this amendment to a public hearing until such time as the outstanding concerns and issues are resolved; especially, establishing building inspections for two unit residential structures.

§147-19. Floodplain Conservation District.

- This amendment helps to reduce light pollution.
- There sign lighting is further restricted.
- No additional fiscal burden is placed on the Town.
- Administrative efficiency is not impacted.

I recommend that the Planning Board hold a public hearing on January 30, 2003 regarding this proposed Amendment (attached).

## 147-7. Enforcement; violations and penalties.

### C. Violations and penalties.

- (1) Any violation of any provision of this chapter or the forms promulgated hereunder shall be punishable by a fine of not more than one hundred dollars (\$100) for each day such violation continues after the date on which the violator receives written notice from the town that he/she is in violation of this chapter, plus costs and attorney's fees as may be legally allowed, to be paid over on collection to the use of the town. The town may also enforce this chapter and the regulations hereunder by injunction, restraining order or other appropriate action. In alternative and/or cumulatively, a violator of this chapter may be assessed penalties, costs and attorney's fees as otherwise allowed pursuant to RSA 676:17, as amended, with the town to have such further rights to enjoin or otherwise act in accordance with RSA 676:17. (a) and (b). Pursuant to RSA 676:17, any person who violates any of the provisions of NH RSA Title LXIV, "Planning and Zoning" or any Town of Conway ordinance, code or regulation adopted under said title, or any provision or specification of any application, plat, or plan approved by or any requirement or condition of a permit or decision issued by, any authorized local official or land use board:
  - (a) Shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.
  - (b) Shall be subject to a civil penalty not to exceed the maximum allowable under RSA 676:17 for each day such violation is found to continue after the conviction date or after the date on which the violator receives written notice of the violation from the town, whichever is earlier.
  - (c) The town may also recover its costs and reasonable attorney's fees actually expended in pursuing the legal action, as well as seek reimbursement for the expenditure of public funds, if it is found to be a prevailing party in the action, pursuant to RSA 676:17 II and RSA 676:17 III.
- (2) Pursuant to RSA 676:17-a, "Cease and Desist Orders", the building inspector, code enforcement officer, or other designated officer of the Board of Selectmen, may issue a cease and desist order against any violation set forth in paragraph (1) above.
- (3) Pursuant to RSA 676-17-b "Local Land Use Citations" the building inspector, code enforcement officer or other designated officer of the Board of Selectmen may choose to charge the offense as a violation and issue a Local Land Use Citation and seek a civil penalty as set forth in RSA 676:17, I(b). The prosecuting official may also serve additional local land use citations, without giving additional written notice or appeal opportunity, if the facts or circumstances constituting the violation continue beyond the date or dates of any prior citation, pursuant to RSA 676-17-b VII.

**147-11. Residential/Agricultural District.**

A. Permitted Uses.

- (1) Any lot may be used for a residential structure, ~~with or without home~~ occupations as provided herein, ~~including owner-occupied tourist homes~~ or lodging houses or boardinghouses or rooming houses, apartments, mobile homes as provided in 147-18, condominiums, signs as provided in 147-19, churches, hospitals with or without their usual and customary accessory uses, agricultural uses, including timber removal, and businesses which are intended to board domestic farm animals. Municipal services are permitted, provided that they are not offensive to the character of the neighborhood.

**147-11.3. Village Residential District.**

**A. Permitted Uses.**

- (1) Any lot may be used for a residential structure, ~~with or without home~~ occupations as provided within 147-11, including owner-occupied tourist homes or lodging houses or boardinghouses or rooming houses, apartments, condominiums and signs as provided in 147-19. Domestic animals, (but not farm animals), which are pets owned by the occupant may be kept on any lot within this district.



**147-13.1.B. Groundwater Protection Overlay District.**

- (4) Permits. Any change in land use within the protective radius shall require a permit from the Zoning Officer. The Zoning Officer shall require: a completed change of use application;and a survey of the entire protective radius area at a scale of 1"=20' showing all natural and manmade features;~~and an application fee of \$25.~~ The Zoning Officer shall forward a copy of the application to the municipal entity owning the well for review and comments. The municipal entity shall have one week to comment, and the Zoning Officer shall not issue an approval for the change of use until the comment period has expired.

#### 147-14 Floodplain Conservation District.

- A. The purpose of this district is to promote and protect the health, safety and general welfare of the town by providing reasonable regulations governing development and use of the floodplain.
- B. The Floodplain Conservation District is hereby determined to be those areas identified and delineated as a floodplain with a one-percent-or-greater chance of flooding in any given year, which is designated as Zone A and A 1-99 on the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) of Conway issued by the Federal Insurance Emergency Management Administration as amended from time to time and/or on the Flood Hazard Analysis Map (FHAM) of 1974, prepared by the United States Department of Agriculture Soil Conservation Service, whichever delineates the higher flood level.

In cases where the floodplain boundary is disputed, a plan prepared and certified by a surveyor licensed by the State of New Hampshire, that clearly represents the floodplain boundary may supersede the boundary represented on the FHAM.

- C. The following uses shall be permitted within the Floodplain Conservation District to the extent that they are not prohibited by any other ordinance, and provided that they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream, drainage ditch or any other drainage facility or system, nor for any use in the floodway, raise the level of the one-hundred-year floodwaters.

(1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

(2) Residential accessory uses, such as lawns, gardens, parking areas and play areas.

(3) Sealed public water supplies.

D. Special Exceptions.

(1) Special exceptions may be granted by the Zoning Board of Adjustment for the following uses within the floodplain, except those areas within the floodway, unless expressly allowed in the floodway hereunder, as defined herein:

(a) Uses, but not structures, compatible to open space.

(b) Limited agricultural extraction of sand, gravel and other materials for noncommercial use.

(c) Boat landings and boat access areas within the floodway.

(d) Railroads, streets, driveways, bridges, utility, transmission lines and pipelines.

(e) Storage yards for equipment, machinery or materials accessory to adjacent permitted uses.

(f) Fill or materials to be deposited in the floodplain may be allowed by special exception, provided that the ~~fill or materials are shown to have some beneficial purpose~~ is consistent with the permitted uses represented in subsection §147-14.C and the amount thereof is not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials. Such fill or other materials shall be protected against erosion by riprap, vegetation cover or bulkheading.

(g) Municipal and school district facilities.

(h) Agricultural buildings that do not require septic systems.

(i) The construction or maintenance of farm, forest or recreational service roads.

(j) River or floodway maintenance.

## 147-19. Signs

G. Design Standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

- (1) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources A light source shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are it is not visible at any point along the property boundary, nor shall it- they in any way be distracting to vehicular traffic.
- (2) Neon. Neon lighting shall be prohibited.
- (3) [deleted 3/9/93]
- (4) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
- (5) Flashing/Blinking. Flashing, blinking, alternating type, or digital type lighting shall be prohibited, except that alternating time/temperature signs shall be permitted.
- (6) Structural Supports and Base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100 percent of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
- (7) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
- (8) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.