

CONWAY PLANNING BOARD

MINUTES

APRIL 28, 2005

A meeting of the Conway Planning Board was held on Thursday, April 28, 2005 beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Conrad Briggs; Selectmen's Representative, Larry Martin; Sheila Duane; Martha Tobin; Steven Porter; Russell Henderson; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

NEW MEMBERS

Larry Martin swore in Martha Tobin and Russell Henderson.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Duane made a motion, seconded by Mr. Porter, to approve the Minutes of April 14, 2005 as written. Motion unanimously carried.

LETTER OF RESIGNATION

Mr. Briggs read a resignation letter from Theodore Sares. **Mr. Martin made a motion, seconded by Ms. Duane, to regrettfully accept the resignation of Theodore Sares. Motion unanimously carried.**

ELECTION OF OFFICERS

Ms. Duane made a motion, seconded by Mr. Porter, to continue the election of officers until May 12, 2005. Motion unanimously carried.

RIVER VALLEY REALTY TRUST – 27-LOT SUBDIVISION (PID 263-1) FILE #S05-09

Bob Tafuto of Ammonoosuc Survey Company appeared before the Board. This is an application to subdivide 110 acres into 27-lots with two new roads. **Ms. Duane made a motion, seconded by Ms. Tobin, to accept the application of River Valley Realty Trust for a subdivision review as complete. Motion unanimously carried.**

Mr. Henderson stated that he doesn't support the waiver request for §131-30.H., as lot #12 is an unusual shape. Mr. Henderson stated that it seems as though the applicant tried to fit in one more lot. Mr. Briggs asked for public comment; there was none.

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Mr. Briggs read the requirements to grant a waiver. Mr. Briggs read the waiver request for §131-24. **Mr. Martin made a motion, seconded by Ms. Duane, to grant the waiver for §131-24., 24.A. & 25. B. Motion unanimously carried.**

Mr. Briggs read the waiver request for Article 131-30.H. Mr. Tafuto stated the shape is to mostly give the lots the required frontage. Mr. Tafuto stated there is an existing road on lot #12 that goes through the thinnest point and can be used as a driveway. Mr. Tafuto stated that there is much more area on lot #12 than the other lots. Mr. Tafuto stated that it also sits higher making it a nice piece of land. Mr. Tafuto stated that the access already exists and he don't see how it impacts the surrounding properties negatively.

Mr. Henderson asked the distance between the narrow points. Mr. Tafuto answered 45-feet. Mr. Briggs asked for public comment; there was none. **Ms. Duane made a motion, seconded by Ms. Tobin, to grant the waiver for §131-30.H.** Mr. Martin stated he understands Mr. Henderson's concern, but he doesn't see that it would be harmful to any of the abutters. **Motion carried with Mr. Henderson voting in the negative.**

Ms. Duane made a motion, seconded by Mr. Martin, to continue the subdivision review for River Valley Realty Trust until May 12, 2005. Motion unanimously carried.

TRAFFORD'S RV – FULL SITE PLAN REVIEW (PID 260-48) FILE #FR05-09

Maureen McGlone of H.E. Bergeron Engineers and Virginia Trafford, owner, appeared before the Board. This is an application to redevelop an existing auto salvage yard into an RV sales and service facility by constructing an 80' x 200' sales office and maintenance building, moving the 40' x 50' garage to the back of the lot, and using the remainder of the lot for RV storage.

Ms. McGlone stated that the applicant is restoring some of the wetlands that were impacted. Ms. McGlone stated that due to the impact on the wetlands, a retaining wall would be constructed. **Ms. Duane made a motion, seconded by Mr. Martin, to accept the application of Trafford's RV for a full site plan review as complete. Motion unanimously carried.**

Mr. Irving stated that a legally existing non-conforming use existed on this site, and the owner's were granted a special exception to change from the existing non-conforming use to the proposed non-conforming use. Mr. Irving stated that a variance was granted to give relief from the buffer and setback restrictions.

Mr. Briggs read the waiver request for Article 123-41.A. Mr. Martin stated under "temporary" display what is to stop the display of birdbaths, lawn ornaments, etc. Mr. Irving stated the display areas are for items that they sell. Mr. Irving stated that "temporary" was intended for out on a sidewalk during business hours and take it in when they close. Mr. Martin stated it is for items their dealing with. Ms. Duane stated

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you look at the business coming in for site plan and put common sense to it. Ms Duane stated that the process is give and take.

Mr. Henderson asked what specifically was being waived under §123-41.A. Mr. Irving stated it includes all the requirements with some relief from each. Mr. Henderson stated that he was concerned with relief of the entire section. Mr. Henderson stated that some portions of the regulation can and should apply to this site. Mr. Briggs stated that he has some reservations as well. Mr. Briggs asked for public comment; there was none.

Mr. Briggs read the waiver request for §123-41. Mr. Irving read Article 123-41. Mr. Irving stated that the applicant needs significant relief from sections B, C and part of E. Mr. Briggs stated that the RVs should not be parked in the front and he would like to see the display area in the middle disappear. Ms. Duane stated if this were a car dealership the cars would be displayed on the pavement. Ms. Duane stated that this is the same situation here, but recreational vehicles. Ms. Duane stated areas are needed to display RV's for sale and storage areas for those coming in for repair.

Mr. Briggs asked if there were changes to the landscaping plan. Ms. McGlone stated that they are requesting a waiver for street trees as trees are to be 15-feet from pavement, however, that would put them in the NHDOT right-of-way.

Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver for §123-41. Mr. Henderson stated that he is concerned that the waiver request is not accurate and would prefer to see a submission indicating the particular section that they really want waived. Mr. Irving stated that the waiver should be amended to read Article 123-41.B, C, and E. Mr. Henderson stated that his intent is not to stop but not to grant a waiver if it is not necessary. **Mr. Porter withdrew his second. Ms Duane withdrew her motion.**

Mr. Porter made a motion, seconded by Ms. Duane, to grant the waiver for Article 123-41. B., C & E. Motion unanimously carried.

Mr. Briggs read the waiver request for Article 123-6.B. Ms. Duane made a motion, seconded by Mr. Martin, to grant the waiver for Article 123-6.B. Motion unanimously carried.

Mr. Briggs read the waiver request for Article 123-20.G. **Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver for Article 123-20.G.** Mr. Martin stated there is no logical reason in this case to have a connecting drive. Mr. Henderson stated he is concerned with the future use of the adjacent lot. Mr. Henderson stated not indicating a location for a future connection may have an impact in the future. Mr. Irving stated from time to time the Board has had an applicant accommodate a portion of land for a connecting drive; however, the primary intent was along the Route 16 where there is a lot of similar businesses. Ms. Duane stated a wetlands crossing would be required in this case. **Motion carried with Mr. Henderson abstaining from voting.**

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Mr. Briggs read a waiver request for §123-21.A. **Mr. Martin made a motion, seconded Ms. Duane, to grant the waiver for §123-21.A.** Mr. Martin stated from personal experience you'd be lucky to see a few cars at a time at their existing facility. Mr. Henderson asked how many employees are there. Ms. Trafford answered six, which will probably double. Mr. Henderson stated the plan indicates an employee parking area, and asked if the employees will use that area. Ms. Trafford answered in the affirmative. **Motion unanimously carried.**

Mr. Briggs read a waiver request for §123-30.A.3. **Mr. Martin made a motion, seconded by Ms. Duane, to grant the waiver request for §123-30.A.3.** Mr. Henderson asked if there was an elevation for the east side. Ms. McGlone submitted an elevation for east side. Mr. Henderson stated there is an opportunity to add additional windows on the right side of the building, which would comply with the regulation rather than waiving the regulation. The Board reviewed the floor layout. Ms. Duane suggested a faux window to meet the requirement. The applicant agreed to faux windows on the sides facing to the west and east. **Ms. Duane withdrew her second. Mr. Martin withdrew his motion.**

Ms. Duane made a motion, seconded by Mr. Porter, to continue the full site plan review for Trafford's RV until May 12, 2005. Motion unanimously carried.

WEST SIDE FOREST & DEVELOPMENT/HAROLD FISHER REVOCABLE TRUST/PETER JESSELL – SUBDIVISION/BOUNDARY LINE ADJUSTMENT REVIEW (PID 281-1 & 4/274-47) FILE #S05-10

Edgar Allen of Thaddeus Thorne Surveys appeared before the Board. This is an application to add 6.92 acres to PID 281-4 from PID 281-1 and add 5.03 acres to PID 274-47 from PID 281-1. **Ms. Duane made a motion, seconded by Mr. Martin, to accept the application of West Side Forest & Development/Harold Fisher Revocable Trust/Peter Jessell for a subdivision/ boundary line adjustment review as complete. Motion unanimously carried.**

Mr. Briggs read the waiver requests for Articles 131-24., 24.A. & 25.B; 131-24.K.; 131-24.N.; 131-24.O.; 131-24.T.; 131-24.U.; 131-24.V.; 131-26.A.; and 131-29. **Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver requests for Articles 131-24., 24.A. & 25.B; 131-24.K.; 131-24.N.; 131-24.O.; 131-24.T.; 131-24.U.; 131-24.V.; 131-26.A.; and 131-29.**

Mr. Briggs asked for public comment; John Edgerton stated in 1904 this site had access to Sargent Road and it was asked if it could be opened again, but the Town said it couldn't, as it would subdivide land. Mr. Edgerton stated in the mean time two lots were subdivided on the Morrill property with the stipulation that the road to these lots be brought up to town specification. Mr. Edgerton stated that the road has never been up to town specifications and the lots have been sold. Mr. Edgerton stated that this is a subdivision with a road between the two parcels.

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Mr. Irving read the definition of boundary line adjustment and of an abutter. Mr. Edgerton stated if there is a street between them than it is a separate lot of record. Mr. Irving stated this is not going to be a separate lot of record and cannot be sold separately. Mr. Edgerton stated nothing has been followed through with the planning of the two 800-acre lots. Mr. Irving reviewed the requirements for conforming lots. **Motion unanimously carried.**

Ms. Duane made a motion, seconded by Mr. Martin, to conditionally approve the boundary line adjustments for West Side Forest & Development/Harold Fisher Revocable Trust/Peter Jessell conditionally upon removing reference to Special Highway Corridor District; adding a supplemental plan list to Sheets 1, 2 & 3; amending the cover sheet to show latest revisions dates to Sheets 1, 2 & 3; and submitting Mylar's; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on July 28, 2005. Motion unanimously carried.

**JEANNE AND ANTHONY FRANCHI/PHILIP MCDONNELL/PATRICIA
FRANCHI – MEADOW GREEN REALTY TRUST II – 30-UNIT SUBDIVISION
(PID 219-303) FILE #S05-11**

Maureen McGlone appeared before the Board. Mr. Briggs stepped down at this time. This is an application for a 30-unit subdivision. Mr. Irving stated there are still some unresolved questions regarding the additional units on the dead end road, the applicant has not yet submitted complete engineering for the proposed subdivision design, however, there is sufficient information to act on the waiver from the 35 lot/unit restriction (§131-67.C.5.) and would recommend the Board accepting the application as substantially complete.

Mr. Martin made a motion, seconded by Mr. Porter, that the application for Jeanne And Anthony Franchi/Philip Mcdonnell/Patricia Franchi – Meadow Green Realty Trust II for a subdivision review as substantially complete. Motion unanimously carried.

Ms. Duane was appointed Chair for this application. Ms. Duane read a letter from David Power. Mr. Irving read the waiver request for §131-67.C.5. Mr. Irving stated there is in excess of 150 units. Doug Hill stated there are 160 dwellings and 172 units.

Ms. Duane asked for public comment; Cathy McClellan asked if there is a proposal for a connector. Mr. Irving stated that the specific request is a waiver request for that restriction to be relaxed. David Power stated that he strongly feels the ordinance is there for a reason and there is a purpose and meaning behind it. Mr. Power stated that the Board needs to stick by the regulation and cannot keep waiving it. Mr. Irving referred to the North Conway Fire Chief letter and stated that he is okay with this development. Mr. Irving stated that the Fire Chief's do not have authority to the regulation, but the Board can take their input into consideration.

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Doug Hill asked if the Fire Chief is aware of these standards. Mr. Irving answered in the affirmative. Ms. McClellan asked the procedure to vote on the waiver and, if accepted, how does that effect future planning. Mr. Irving stated that the decision would not be precedent setting as each situation is treated on the circumstances.

Mr. Irving stated that planning reasons for restricting dead end streets is based on the greater efficiencies gained from interconnected streets for looping services; transportation; and emergency access. Doug Hill asked the Board to deny the waiver, as this development would have a significant impact on an area already significantly over 35 units. Ms. McClellan asked if there would be any environmental impact. Mr. Irving stated that there are standards and best management practices to mitigate the negative impact.

Brenda Lyons stated there are 189 lots in this area with 91 owned by out of Towner's and some duplicate owners. Mary Power stated she lives off Artist Falls Road and on any given holiday the traffic is unbelievable. Mr. Hill stated it is irrelevant that the owners are from out of town as some are time-shares, condominiums and seasonal renters; and they can become full time.

Valerie Willman stated at 5:30 it is a zoo and adding that many more units is going to make it a mad house. Ms. Duane asked in the event that the Planning Board denies the waiver request, what happens to the existing lots that are vacant. Mr. Irving stated they are vested and can be constructed upon. Mr. Henderson stated that the ordinance as written should be upheld and the waiver should not be granted.

Mr. Martin stated there are 170 homes so someone let it happen. Mr. Martin stated there are five people out of 170 that have attended this hearing. Mr. Martin stated maybe these are the only locals, but he doesn't understand why it got to the point it got to and now we want to close the door. Mr. Martin stated he is having a tough time with it. Ms. Duane stated she is concerned with the safety. Mr. Martin stated that this is an existing condition. Mr. Henderson stated part of the reason for the regulation is to not allow a non-conforming property become more non-conforming, which is what would be allowed if the waiver were granted.

Mr. Irving read a letter from Patrick Preece. Mr. Irving stated that he does not agree with Mr. Preece's interpretation as he believes at the single point of commencement, which would be at North/South Road and Artist Falls Road. Mr. Power stated there has been a comment that it happened a long time ago, but just because it happened prior to the regulation doesn't mean we should let it continue. Mr. Power stated that it has to stop somewhere. Mr. Power stated that he is asking the Board to uphold its regulations.

Brenda Lyons asked where are the rights of this property owner. Ms. Lyons stated that denying him his rights as a member of the community is wrong and creating the inability to sell the property is wrong as well. Ms. Lyons stated we should be working together to build the community. Ms. Duane stated that the people of the Town of Conway approved the ordinances, so his rights are not being violated or taken away, but being made to

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adhere to the rules. Mary Power asked who is notified of this hearing. Mr. Irving explained the public notice process.

Mr. Irving stated there is a portion of Artist Falls Road in the 100-year floodplain and in the case of a 100-year flood it could also block that road. Mr. Henderson stated that it is irrelevant if the owners are not full time resident. Mr. Henderson stated that the applicant does have other means to address this issue by putting in another access. Mr. Porter asked where is there an opportunity to construct another access. Mr. Henderson stated he did not know, but it is an option. Mr. Martin stated he has to agree with Mr. Preece; this is a new road so it does not exceed the 35-units on a dead end street.

Ms. Duane read the waiver request for Article 131-67.C.5. **Mr. Martin made a motion, seconded by Mr. Porter, to grant the waiver request for Article 131-67.C.5. Motion carried with Ms. Tobin and Mr. Henderson voting in the negative.**

Mr. Porter made a motion, seconded by Ms. Tobin, to continue the subdivision review for Jeanne And Anthony Franchi/Philip McDonnell/Patricia Franchi – Meadow Green Realty Trust II until June 23, 2005. Motion carried with Mr. Henderson voting in the negative.

**JAMES AND LINDA DIGANDOMENICO – 15-UNIT SUBDIVISION
CONTINUED (PID 262-64) FILE #S04-27**

Edgar Allen of Thaddeus Thorne Surveys appeared before the Board and gave an update on the status of various permits. **Ms. Duane made a motion, seconded by Mr. Martin, to continue the subdivision review for James and Linda Digiandomenico until May 12, 2005.** Mr. Briggs asked for public comment there was none. **Motion unanimously carried.**

OTHER BUSINESS

Rock Development/Staples (PID 235-78) - §123-4.A.(5): Roger Williams of OVP Management, Inc. appeared before the Board. Mr. Williams stated that they would like to remove an 18' x 200' portion of the parking and replace it with Grass Pave 2, which can still be parked on if necessary.

Ms. Duane made a motion, seconded by Ms. Tobin, that based on the provisions of §123-4. A. 5., regarding applicability, that removing 18'x200' of pavement and replacing it with Grass Pave 2 material is not subject to a Minor or 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. Mr. Henderson stated his is not opposed to idea, however, the parking should remain. **Motion carried with Mr. Henderson voting in the negative.**

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Rick and Mary Brillard – Conceptual Review (PID 215-20): Shawn Bergeron of Shawn Bergeron Technical Services appeared before the Board and reviewed the proposed project.

David M. Nichols/Jean F. Nichols Rev. Trust (PID 268-102 & 127) – Lot Merger: Ms. Duane made a motion, seconded by Ms. Tobin, to approve the lot merger for David M. Nichols/Jean F. Nichols Rev. Trust. Mr. Irving stated the regulation states that lots fronting on two parallel streets are discouraged and this lot will have frontage on Brownfield Road and Davis Hill Road. **Motion unanimously carried.** The lot merger was signed.

Mark and Margaret Horan (PID 265-136) File #FR05-04 – Extension of Conditional Approval: Mr. Martin made a motion, seconded by Ms. Duane, to extend the conditional approval for Mark and Margaret Horan until May 26, 2005. **Motion unanimously carried.**

Meeting adjourned at 9:43 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary