

CONWAY PLANNING BOARD

MINUTES

JUNE 12, 2008

A meeting of the Conway Planning Board was held on Thursday, June 12, 2008 beginning at 7:03 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Porter; Selectmen's Representative, Robert Drinkhall; Vice Chair, Martha Tobin; Theodore Sares; Patricia Sell; Dana Hysten; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Drinkhall made a motion, seconded by Mr. Sares, to approve the Minutes of May 8, 2008 as written. Motion unanimously carried.**

**CONWAY VILLAGE FIRE DISTRICT – PUBLIC HEARING – RSA 674:54 – WATER AND WASTEWATER IMPROVEMENTS**

David Mercier and Ed Rushbrook of Underwood Engineers appeared before the Board. Mr. Mercier submitted a *Project Status Update* dated June 12, 2008 to the Board (attached). Mr. Mercier stated that the project is for wastewater and water improvements. Mr. Mercier stated that the project replaces undersized water mains and makes an interconnection between Conway Village Fire District and North Conway Water Precinct. Mr. Mercier stated that there would be new sewer mains from Eastern Slope Terrace and cross the Saco River.

Mr. Mercier stated that the goal of the project is to work through the design review process, obtain approximately 45 easements from private businesses and homeowners by January and start construction in spring 2009. Mr. Mercier stated that the construction should take approximately 18 months. Mr. Mercier stated that there would be a new pump station around Lamplighters Mobile Home Park. Mr. Irving asked if they anticipate connection in spring 2010. Mr. Mercier stated it would be fall 2010 or spring 2011. Ms. Sell questioned the cost to homeowners. Mr. Mercier stated State Statute requires connection if your within 100-feet of the system.

Mr. Porter asked for public comment; Daniel Boatwright, owner of Eastern Slope Campground, stated that his property is adjacent to Lamplighter Mobile Home Park and this project would require them to dig up his driveway. Mr. Boatwright stated that his nearest building to this project is 600-feet away and the impact would be enormous to him. Mr. Mercier stated that the water line is adjacent to Route 16 on Mr. Boatwright's side of the road. Mr. Boatwright asked why there is a large hole on his side of the property. Mr. Mercier stated it would be to allow a manhole, but he could speak with the Conway Village District Commissioners.

Mr. Bergeron stated that the system was at limit capacity years ago and remains at capacity, the water main is going to be interconnected, but will the sewer be interconnected. Mr. Mercier stated that there was a significant study, but right now there is enough capacity to connect for an additional 50,000 gallons.

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Mr. Porter asked for Board comments; Ms. Sell asked if it is possible to schedule this type of work off-season for the campground owner so it wouldn't impact his business. Mr. Mercier stated it is difficult to do in the middle of a project, but we can make sure it is done in a timely fashion. Mr. Porter stated that Mr. Boatwright could go to the Conway Village Fire District. Mr. Irving asked if the days they are working on his property would there be an alternative driveway or would it be closed. Mr. Mercier stated there definitely would be effort made to make sure access was available.

Mr. Irving asked if the Board had any comments to forward to the Conway Village Fire District; there were none.

**LAMPLIGHTER MOBILE HOME PARK – 2-LOT SUBDIVISION AND BOUNDARY  
LINE ADJUSTMENT (PID 262-83, 83.032, 83.033 & 83.034) FILE #S08-03**

Mr. Porter stepped down at this time. Mr. Drinkhall was Chair for this application. Gary Beers of the Hynes Group appeared before the Board. This is an application to create a 0.27 acre lot to be conveyed to Conway Village Fire District for a quasi-municipal wastewater pumping station and to adjust the use areas for home sites 32 (262-83.032), 33 (262-83.033) and 34 (262-83.034) to correct an encroachment issue (PID 262-83). **Ms. Tobin made a motion, seconded by Ms. Sell, to accept the application of Lamplighter MHP for a Subdivision and Boundary Line Adjustment Review as complete. Motion unanimously carried.**

Mr. Drinkhall asked for Board comment; there was none. Mr. Drinkhall read the requirements to grant a waiver. Mr. Drinkhall read the waiver requests for §131-30.H and §131-37.1.A. **Mr. Sares made a motion, seconded by Ms. Tobin, to grant the waiver for §131-30.H and §131-37.1.A.** Mr. Drinkhall asked for Board comment; there was none. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. Drinkhall asked for public comment; there was none. **Ms. Tobin made a motion, seconded by Ms. Sell, to approve the Subdivision and Boundary Line Adjustment for Lamplighter MHP conditionally upon indicating NHDES Subdivision approval number on plan; a NHDOT Driveway Permit and indicating approval number on plan; submitting a Mylar; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on September 11, 2008. Motion unanimously carried.**

**MOUNT WASHINGTON VALLEY ECONOMIC COUNCIL – 17-LOT SUBDIVISION  
AND BOUNDARY LINE ADJUSTMENT (PID 262-86.2 & 265-152) FILE #S08-04**

Mr. Porter rejoined the Board at this time and resumed as Chair. Jac Cuddy of Mount Washington Valley Economic Council and Josh McAllister of H.E. Bergeron Engineers appeared before the Board. This is an application to subdivide 74± acres into 17-lots, extend Technology Lane, and construct two new roads and a boundary line adjustment to add land to Technology Lane. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, to accept the application of Mount Washington Valley Economic Council for a Subdivision and Boundary Line Adjustment Review as complete. Motion unanimously carried.**

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Mr. Porter asked for Board comment; Ms. Sell asked about a NHDOT Driveway Permit. Mr. McAllister stated that there is a scoping meeting on Monday, June 16 with the NDHOT in regard to the driveway permit. Mr. Sares asked what is going to be constructed. Mr. Cuddy answered office buildings that are in line with the Business Park Development. Mr. Porter asked for public comment; there was none.

Mr. Irving stated that he would be attending the scoping meeting as well, we just received the funding for the engineering review and the Fire Chief has concerns and has recommended that the application not be approved. Mr. Irving read a letter from Stephen Solomon, Conway Fire Chief, dated June 9, 2008. Mr. McAllister stated that he has spoken with Chief Solomon and we are going to try to coordinate meeting him in the middle. Mr. Irving stated that there may also be some wetlands that may not have been mapped. Mr. McAllister stated at the time it was tested there was no evidence of wetlands, but they will reconfirm. Mr. Irving stated that he believed it is premature for a conditional approval and he would recommend a continuation.

Mr. Cuddy stated the Fire Chief has a valid concern, but the earliest he can see any development taking place is 18-months out as we need to find the businesses and wait for those businesses in the incubator to be ready to go into their own building. Mr. Cuddy stated that they cannot move forward unless we have a subdivision approval. Mr. Cuddy stated that the Fire Chief is not looking at their time line to get to the point to develop that first lot and to be held up is injurious to us.

Ms. Sell asked if this is commercially zoned and have the setbacks been met. Mr. Irving stated that this property is not zoned commercially it is residential with a special exception for a Business Park Development, which requires 100-foot buffer around the entire property. Mr. Porter stated it would premature for a conditional approval without a NHDOT driveway permit approval. Mr. Porter stated that we should wait for the scoping meeting to see if the State will even approve what is proposed. Mr. Sares stated he would be uncomfortable granting any type of approval before the issues raised by the Chief and the NHDOT are sorted out.

**Mr. Drinkhall made a motion, seconded by Mr. Sares, to continue the Subdivision and Boundary Line Adjustment Review for Mount Washington Valley Economic Council until July 10, 2008. Motion unanimously carried.**

**PITTSFIELD AQUEDUCT COMPANY – FULL SITE PLAN REVIEW CONTINUED  
(PID 231-28) FILE #FR08-03**

Shawn Bergeron of Bergeron Technical Services and John Boisvert of Pittsfield Aqueduct Company appeared before the Board. This is an application to construct an 80,000 gallon water storage tank and chain link fence. This application was accepted as complete on May 8, 2008.

Mr. Bergeron submitted a sample of the tank color. Mr. Bergeron stated that the site has not changed in any way except for some plantings. Mr. Bergeron stated that the Pinkham's were concerned with their view to the tank so they are proposing plantings on the Pinkham property as well as showing additional plantings around the tank. Mr. Bergeron stated that they met with Mr. Pinkham and reviewed the plan.

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Mr. Irving stated as a point of clarification the plan note on the plan regarding the responsibility of landscaping only applies to the landscaping on the subject parcel. Mr. Irving stated that the plantings proposed on the Pinkham property is between the applicant and the adjacent property owner. Mr. Bergeron stated that the applicant has agreed to a maintenance plan for two years to include the plantings off-site. Ms. Sell commended the applicant for working with the abutter's.

Mr. Irving stated that there were some questions regarding Richardi Lane; it is not a town right-of-way or road and the town does not have any plans to upgrading or maintaining that road. Mr. Irving stated that the tank walls would be painted, but the dome itself would not be painted. Mr. Bergeron stated that the top is an aluminum material and would be left raw. Mr. Bergeron stated that the dome is subjected to the most abuse and it would be a matter of time that it would need to be painted. Mr. Bergeron stated leaving it raw eliminates that need.

Mr. Sares asked Mr. Boisvert if he were to make the choice from a cosmetic standpoint, what color would he recommend. Mr. Boisvert stated he thinks the green sample he provided to the Board this evening would fit better in this environment instead of the blue.

Warren Lundin stated he can see the tank from his home and he would be looking at it and asked why the dome would not be painted. Mr. Bergeron stated that the paint won't last indefinitely and would create a maintenance issue down the road. June Lundin stated that she thinks it is an eye sore for the whole community and asked why the tank could not be buried. Ms. Lundin stated that she doesn't think any amount of landscaping would take care of it. Mr. Bergeron stated that the maximum height of the tank is 23-feet and the tree growth already exists.

Ed Nester stated that he doesn't see any plantings helping him out. Mr. Boisvert stated when the project is done it is proposed to sit down with Mr. Nester to determine what the best location is to best suit him. Mr. Sares stated that they would not be on Mr. Nester's property. Mr. Boisvert stated that they could be on either property, but they wanted to see where they would best fit. Mr. Bergeron stated that the applicant would bond for additional 10 trees and then negotiate the location with the Nestor's. Mr. Irving stated subsequent to final approval 10 trees should be located on site and strategically placed subsequent to the placement of the tower. Mr. Nester stated that it does make sense, don't want to remove trees and it would be nice to plant after the tower is constructed.

Bob deFeyter asked for additional landscaping and stated that he would like to see the standard clause be part of the plan so the landscaping is replaced if it dies. Mr. Bergeron stated that the second item is already on the plan. Mr. Bergeron stated that Mr. deFeyter is not an abutter and hard to believe that this tank would be seen from his property. Mr. deFeyter stated that the tower could be seen in the winter and he is submitting this request on behalf of Anne Sutter.

Anne Marie Van Coesant stated she is not an abutter, but it is her view. Ms. Van Coesant stated that she left the last meeting thinking additional evergreens would be considered for the entire property. Ms. Van Coesant stated that she has concerns with the gate area and the driveway to the tank and that there is enough distance so that it is off the property line. Ms. Van Coesant stated that she is concerned with looking at a tank rather than a wooded lot. Ms. Van Coesant stated that the site looks more wooded now than when the electric company trims the trees as

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there is a lot more growth there now then when they do their trimming. Ms. Van Coesant stated that she would be in agreement that the placement of evergreens be contingent upon the completion of the project. Mr. Porter closed public comment.

Mr. Bergeron stated that the trees along the westerly side are being affected very minimally, so Ms. Van Coesant will not be able to look up the driveway. Mr. Bergeron stated that there are a lot of trees on the Nester property, but the tank might be visible in the winter. Mr. Bergeron stated dimensionally it is at least 240-feet from the closest edge of the tank to Ms. Van Coesant's home. Mr. Porter stated that we need to look at the site and what they do on other properties is their purview. Mr. Irving stated that the basic decision is whether the applicant has taken significant steps to mitigate any nuisance to outside properties.

Mr. Drinkhall asked if the abutters were satisfied. Mr. Porter asked for brief responses. Mr. Lundin stated that he is not satisfied with his view. Mr. deFeyter stated State law requires notifying abutters, but protection is not limited to just the abutters. Mr. deFeyter stated just because he is not an immediate abutter doesn't mean they shouldn't try to minimize the impact as it is a very large imposing structure.

Mr. Nester stated he understands that the applicant would provide 10 additional plantings, but what guarantees that they would be planted. Mr. Bergeron stated that it is on record in the minutes. Mr. Drinkhall asked if Mr. Pinkham is satisfied. Mr. Pinkham stated they are not completely satisfied, but with dealing with Mr. Bergeron, we have done the best we can do, but we are certainly not satisfied, really not happy it is going to be there, but then we accept that this arrangement has to be.

Mr. Bergeron stated that abutters have been notified and they have legally notified who was to be notified. Mr. Bergeron stated as for a large imposing structure, it's a water tank. Mr. Bergeron stated that it is smaller than most homes that could have been built there and shorter than most homes. Mr. Bergeron stated that it is not a tower and Mr. Pinkham is the abutter that is most affected by this site. Mr. Sares stated that the applicant found a site that worked for them and unfortunately it impacts people who will not benefit from the tank. Mr. Sares stated that the applicant did work with the abutters to help with the view impact and by helping the abutter it will help the non-abutters. Mr. Sares stated an abutter to an abutter is going to get the benefit.

Mr. Irving asked if it is the understanding of the board that 10 additional trees shall be located on the site in a manner that most effectively mitigates the view from the Nester property and prior to release of surety the Planning Board should determine if the tree issue has been addressed. Mr. Bergeron stated that the applicant can reach an agreement with Mr. Nester and the bonding requirement is for one year or one growing season.

Mr. Bergeron stated that they are willing to bond and plant the additional trees, but at the end of the year if they are healthy, the bond should be released. Ms. Sell stated she agrees with that as she is not sure if it is under the Board's purview when it is between the abutter and the applicant.

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Mr. Bergeron suggested showing 10 trees on the westerly side of the site on the plan and the location could be determined in the field at the time of planting. Mr. Nester stated that he would prefer 10 conifers, 6-10 feet in height.

Mr. Porter read the waiver request for §123-20.F/131-67.C.8.b; §123-20.F/131-67.C.8.f; §123-20.I; §123-21.A – E; §123-22.A – E; §123-29.D.8; and §123-30. **Mr. Drinkhall made a motion, seconded by Mr. Hylen, to grant the waiver request for §123-20.F/131-67.C.8.b; §123-20.F/131-67.C.8.f; §123-20.I; §123-21.A – E; §123-22.A – E; §123-29.D.8; and §123-30.** Mr. Porter asked for Board comment; there was none. Mr. Porter asked for public comment; there was none. **Motion unanimous carried.**

Ms. Van Coesant asked when the construction would begin and how long would it take to complete. Mr. Boisvert stated that they would begin after the Fourth of July and it would be completed on or about the first of November.

**Mr. Drinkhall made a motion, seconded by Mr. Sares, to conditionally approve the Full Site Plan for Pittsfield Aqueduct Company conditionally upon indicating 10 additional conifers along western boundary between the water tank and PID 232-8 (Nester Property) on plan; removing the connecting drive waiver request (§123-20.G); indicating street trees on the plan; inserting landscaping plan into plan set and renumbering sheets accordingly; updating supplemental plan list on cover sheet and on sheet 2; a Mylar; a performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on September 11, 2008. Motion carried with Ms. Tobin voting in the negative.**

## **OTHER BUSINESS**

**Route 112, LLC/Habitat for Humanity (PID 264-35) – §123-4.A.5 (File #NA08-06):** Shawn Bergeron of Bergeron Technical Services appeared before the Board. This is an application to convert 1,573 square feet of industrial space to retail space and allow a storage trailer. Mr. Irving stated that the storage trailer was not approved by the Zoning Board of Adjustment. Mr. Bergeron stated that he knows that it was not represented properly at the ZBA, but does it need ZBA approval. Mr. Irving stated that it is increasing the non-conforming use, which requires ZBA approval. Mr. Bergeron stated this Board could consider and require ZBA approval.

Mr. Irving stated that he is concerned with parking as the retail is going to require an additional 8 parking spaces in addition to the existing demand, as the ice cream shop would have required 6 additional parking spaces. Mr. Irving stated that perhaps this change would require a waiver for the parking. Mr. Bergeron stated what is being presented here by definition is retail, but very minimal. Mr. Bergeron stated that the hours are Friday and Saturday, which won't interfere with the machine shop.

Mr. Drinkhall stated it may be minimal as it stands now, but what if it becomes more intense. Mr. Bergeron stated that he agrees with Mr. Drinkhall. Ms. Sell stated this is for a non-profit organization. Mr. Sares stated that this has nothing to do with minimal. Mr. Porter stated he is concerned with this change. Ms. Sell asked if additional parking could be added. Mr. Bergeron

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stated that there is a lot of available area to do that. Mr. Irving stated that the Board's decision has to be based on the use, not the user. Mr. Irving suggested that this needs to have a site plan review. **Mr. Sares made a motion, seconded by Mr. Drinkhall, that converting 1,573 square feet of industrial space to retail space requires a site plan review. Motion unanimously carried.**

Mr. Bergeron asked if the Board would consider this under a Minor Site Plan Review without the surveyed property lines. The Board agreed.

**WML, LLC/Bergeron Technical Services (PID 218-128) – §123-4.A.5 (File #NA08-08):**

Shawn Bergeron of Bergeron Technical Services appeared before the Board. This is an application to convert 270 square feet of personal service to office space. Mr. Irving stated if the property owner had not already used two decisions under §123-4.A.4, this would not have been before the Board. **Mr. Drinkhall made a motion, seconded by Ms. Tobin, that the Planning Board determined that based on the provisions of §123-4. A. 5, regarding applicability, that the conversion of 270 square feet of personal service space to office space 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. Motion unanimously carried.**

**Joy Tarbell Revocable Trust (PID 202-39) – §123-4.A.5 (File #NA08-07):**

Joy Tarbell appeared before the Board. This is an application to construct a two-car garage for the residential unit. **Ms. Tobin made a motion, seconded by Mr. Drinkhall, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the construction of a two-car garage for the residential unit 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. Motion unanimously carried.**

**Eugene Brown (PID 253-40) – Conditional Approval Expiring (File #FR07-12):**

Mr. Irving stated that this conditional approval expires today, June 12<sup>th</sup>. Mr. Irving stated that the conditions have not been met, the owner has been sent a certified notice that this application is expiring and there has been no response. **Mr. Drinkhall made a motion, seconded by Mr. Sares, to deny the application of Eugene Brown as the conditions of approval have not been satisfied. Motion unanimously carried.**

**Committee Reports:** Mr. Porter stated that he has been invited to attend a Heating Workshop and he would report to the Board at the next meeting.

Ms. Sell stated that she is interested in establishing a definition for a substance abuse facility and restrict the use to a specific area. Ms. Sell stated that the Board should do their best to protect the children and make sure these types of facilities are not in close proximity to any schools or residential areas. Mr. Irving stated since the Town already has a Zoning Ordinance, the temporary zoning is not available to us. The Board agreed to discuss this issue at the June 26, 2008 Planning Board meeting.

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Ms. Sell stated that she is also interested in increasing the setback requirement for commercial properties that abut residential properties. Ms. Sell stated that she would like to increase from a 10-foot setback to a 25-foot setback. The Board agreed to discuss this issue at the June 26, 2008 Planning Board meeting.

**Master Plan:** There was no discussion.

Meeting adjourned at 9:10 pm.

Respectfully Submitted,

Holly L. Meserve  
Planning Assistant