

CONWAY PLANNING BOARD

MINUTES

AUGUST 28, 2008

A meeting of the Conway Planning Board was held on Thursday, August 28, 2008 beginning at 7:02 pm at the Conway Town Office in Center Conway, NH. Those present were: Acting Chair and Selectmen's Representative, Robert Drinkhall; Theodore Sares; Patricia Sell; Dana Hylen; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

CHAIR

Ms. Sell made a motion, seconded by Mr. Sares, to appoint Mr. Drinkhall as Chair for the evening. Motion unanimously carried.

REVIEW AND ACCEPTANCE OF MINUTES

The minutes of August 14, 2008 should be amended as follows: page 1, Review and Acceptance of Minutes, line 1, should read, "...third line, should read "...that the grant ~~received by the MWVEC~~ **received by CVFD** would required ~~MWVEC CVFD~~ have water and wastewater from CVFD."; and page 3, fourth full paragraph, line 5, should read, "...and he doesn't like ~~it~~ **the way the Red Jacket reacted to that.**". **Ms. Sell made a motion, seconded by Mr. Sares, to approve the Minutes of August 14, 2008 as amended. Motion unanimously carried.**

JAMES AND LINDA DIGIANDOMENICO – FULL SITE PLAN REVIEW (PID 262-64) FILE #FR08-05

This is an application to convert a single-family home to an owner-occupied tourist home with three bedrooms. Mr. Irving stated that the applicant has withdrawn the application.

THOMAS MCKAY/CORNILA FAMILY REVOCABLE TRUST OF 2006 – BOUNDARY LINE ADJUSTMENT (PID 288-8 AND 291-2.1) FILE #S08-07

Loralie Gerard of Gerard Land Surveying Company appeared before the Board. This is an application to add 0.29 of an acre to PID 288-8 from PID 291-2.1. **Mr. Sares made a motion, seconded by Ms. Sell, to accept the application of Thomas McKay/Cornila Family Revocable Trust of 2006 for a boundary line adjustment review as complete. Motion unanimously carried.**

Mr. Drinkhall asked for board comment; there was none. Mr. Drinkhall asked for public comment; there was none. Mr. Drinkhall read the waiver request for §131-24.B, 24.D, 25.B and 25.E; and §131-37.1.A. **Ms. Sell made a motion, seconded by Mr. Hylen, to grant the waiver request for §131-24.B, 24.D, 25.B and 25.E; 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.**

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Ms. Sell made a motion, seconded by Mr. Hylan, to conditionally approve the Boundary Line Adjustment for Thomas McKay and Cornila Family Revocable Trust of 2006 conditionally upon Conway Village Fire Chief Approval; when the condition has been met, the plans can be signed out-of-session; and this conditional approval will expire on December 11, 2008. Motion unanimously carried.

**FRAM DONUTS, INC/DUNKIN DONUTS – FULL SITE PLAN REVIEW (PID 277-287)
FILE #FR08-06**

Doug Burnell of H.E. Bergeron Engineers appeared before the Board. This is an application to construct a 1,700 square foot/18-seat restaurant and associated infrastructure. **Mr. Hylan made a motion, seconded by Ms. Sell, to accept the application of Fram Donuts, Inc/Dunkin Donuts for a Full Site Plan Review as substantially complete. Motion unanimously carried.**

Ms. Sell asked if the existing driveway would be used. Mr. Burnell answered in the negative. Ms. Sell asked if the proposed driveway crosses the railroad right-of-way. Mr. Burnell stated that it is further away from the right-of-way than the existing driveway, but he is looking into the actual right-of-way width for the Conway Scenic Railroad as it crosses West Main Street.

Mr. Sares asked how close this site is to the Beep Beep. Mr. Burnell stated this site is approximately 200-feet to the gas pump islands at the Beep Beep. Mr. Sares asked if the Beep Beep would still have the café. Mr. Burnell stated the Dunkin Donuts currently at Beep Beep would cease to exist. Ms. Sell asked if the Dunkin Donuts currently at the Beep Beep was moving to this location. Mr. Irving answered in the affirmative. Mr. Drinkhall asked for public comment; there was none.

Mr. Irving recommended continuing the application to allow time for the traffic study to be prepared. Mr. Irving stated that they should also review the snowmobile traffic in this location. Ms. Sell stated that she is familiar with snowmobile traffic on the Railroad tracks at her house and it should definitely be reviewed. Mr. Sares stated there was a lot of discussion for the proposed car wash at this location and this project would make the car wash impossible on this site. Mr. Irving stated there will not be a car wash there now.

Mr. Sares made a motion, seconded by Ms. Sell, to continue the Full Site Plan Review for Fram Donuts, Inc/Dunkin Donuts until October 9, 2008 with new information to be submitted by end of business, Friday, September 26, 2008. Motion unanimously carried.

**HAROLD WHITAKER AND THOMAS FADDEN – 33-LOT SUBDIVISION
CONTINUED (PID 243-12) FILE #S08-05**

Doug Burnell of H.E. Bergeron Engineers appeared before the Board. This is an application to subdivide 81.4 acres into 33-lots with associated road and infrastructure. This application was accepted as complete on June 26, 2008.

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Mr. Burnell stated that the applicant has received a State Wetland Permit, a Site Specific Permit and a verbal indication that the State Subdivision approval would be issued. Mr. Irving stated this application only affects the first 300-feet of the roadway and the lot layout reviewed previously [under File #S07-04] has not been modified.

Mr. Irving stated that staff reviewed majority of this project previously and does not have an issue with the waiver for fees. Mr. Drinkhall asked for Board comment; there was none. Mr. Drinkhall asked for public comment; Chris Meier of Cooper Cargill Chant stated that he is here on behalf of Sharon Johnston who is an immediate abutter. Mr. Meier stated that Ms. Johnston's deck overlooks the access road and she is located 50-feet from a 33-lot subdivision. Mr. Meier stated that 33 lots equal 264 car trips per day.

Mr. Meier stated in the beginning there will be construction, and then there will be plows and buses. Mr. Meier stated that a light suburban neighborhood noise level is approximately 60-65 decibels. Mr. Meier stated that they would ask that the application have a condition that the applicant submits a plan for no sound or visual impact to Ms. Johnston. Mr. Meier stated the noise source here is much closer and the decibel level is higher than the Red Jacket. Mr. Meier stated that this project is also in a residential district where the Red Jacket is in a commercial district.

Mr. Burnell stated that the road has moved a bit further away from Ms. Johnston's property than the original application. Ms. Sell asked if the road is fifty feet from her deck or from the property line. Mr. Burnell stated that the edge of the road is 100-feet from the corner of her deck. Ms. Sell stated she would like to see Ms. Johnston's property line buffered. Ms. Sell stated that she would like to know what Ms. Johnston would like and there should be some sort of buffer with a stockade fence. Mr. Burnell stated that it is a second story deck so you would look over a fence.

Mr. Sares stated what the abutter is requesting is impossible, that a condition be made to resolve the sound issue. Mr. Sares stated that a truck gets up to 50 to 60 decibels and you are going to get that anywhere you go. Mr. Sares stated this cannot hang on the Red Jacket as there is no precedent to planning resolution. Mr. Sares stated that each case is on its own merit. Mr. Sares stated what we need to do here is not get involved with the Red Jacket, but look at how we can help Ms. Johnston.

Mr. Sares stated that the construction part is a one-time thing and when it's done it's done; that happens everywhere when there is construction. Mr. Sares stated that the issue is the on-going noise and how can we deal with it. Mr. Sares stated that he is not sure of the answer. Mr. Sares stated from a noise standpoint not sure there is much she can do as most noise is circumvented around the source, but don't want to put a wall around the deck. Mr. Sares stated there should be a combination of trees. Mr. Sares stated that he would hate to be in her spot as she has a legitimate gripe.

Ms. Sell stated that she would like to see some sort of planting buffer. Mr. Sares stated a combination of plantings, not just arborvitaes. Mr. Irving stated there is a significant area that cannot be developed because it is wetland. Mr. Irving asked what vegetation is between the

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property line and the road right-of-way. Mr. Burnell stated that it is mixed; it is a wooded swampy area. Mr. Burnell stated that most of the opening is off the deck and there is scrub brush located in that area. Mr. Burnell stated that he doesn't think there would be any headlight visual effect, but where most of the noise would be. Mr. Irving stated that usually Mother Nature will take over and could put a note on the plan that no vegetation in that area could be cut, thinned or logged. Mr. Irving stated that this would allow Mother Nature to take over.

Mr. Drinkhall asked what would Ms. Johnston like to see and what is her solution. Ms. Johnston stated when you look off the deck there is a gap and it is bare in the winter. Ms. Johnston stated that there are scrub trees, but she would like something with enough height so not to see the cars. Ms. Johnston stated that there should be something dense which does not lose its leaves in the winter. Mr. Meier stated he is suggesting a condition where the applicant comes up with a plan that is acceptable to the Board and the abutter. Mr. Sares stated that the condition is impossible as you will not be able to solve the noise problem, but could mitigate the noise.

Ms. Johnston stated that she is not asking that there be no noise, she lives on East Conway Road, she knows that is impossible, but her driveway is two-tenths of a mile long and perpendicular to East Conway Road and the proposed road is parallel to her driveway. Ms. Johnston stated that she would like to diminish the noise. Mr. Meier stated he would change his suggestion to mitigate the noise rather than solve the noise issue.

Ms. Sell stated there is an area where some small plants could go along the boundary line which would provide screening and a buffer. Ms. Sell stated that there is a narrow area along the property lines that could have plantings, but she is not sure if the Board can ask the applicant to plant vegetation on the abutter's property. **Mr. Sares made a motion, seconded by Ms. Sell, that the petitioner come back at the next meeting with a plan to work toward mitigating the sound issue.** Ms. Sell stated that she would like to include the visual impact. Mr. Sares stated he is trying to resolve issues, not cause problems, and we need to work on the gap.

Mr. Sares stated that he picked up a bit with how the Board worked with the Red Jacket and his proposal at least starts a resolution. Ms. Johnston stated the deck is not off the second floor, it is off the main floor, but there is a hill and it is about the height of a second floor level. Mr. Meier stated that headlights would be an issue and asked that the Board address the visual as well. The Board agreed to proceed with the motion as stated. **Motion unanimously carried.**

Ms. Sell made a motion to address the visual impact along Ms. Johnston's driveway and the void from the deck with appropriately attractive plantings. There was no second. After a brief discussion, **Ms. Sell made a motion, seconded by Mr. Sares, that the petitioner come back at the next meeting with a plan on how they would mitigate the visual impact. Motion unanimously carried.**

Mr. Drinkhall read the waiver request for §131-8.B.3; §131-61, Table 2, Minimum centerline off-set from adjacent intersection for three driveways off Mason Ridge Way; §131-61, Table 2, Minimum centerline off-set from adjacent intersection for Mason Ridge Way to PID 243-13; §131-61, Table 2, Approach Speed; §131-61, Table 2, Intersection and roadway grades for first

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100-feet of Mason Ridge Way; and §131-61, Table 2, Intersection and roadway grades for Mason Ridge Way and Black Brook Drive intersection.

Mr. Sares made a motion, seconded by Ms. Sell, to grant the waiver request for §131-8.B.3; §131-61, Table 2, Minimum centerline off-set from adjacent intersection for three driveways off Mason Ridge Way; §131-61, Table 2, Minimum centerline off-set from adjacent intersection for Mason Ridge Way to PID 243-13; §131-61, Table 2, Approach Speed; §131-61, Table 2, Intersection and roadway grades for first 100-feet of Mason Ridge Way; and §131-61, Table 2, Intersection and roadway grades for Mason Ridge Way and Black Brook Drive intersection. Mr. Drinkhall asked for Board comment; there was none. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Ms. Sell made a motion, seconded by Mr. Sares, to continue the subdivision review for Harold Whitaker and Thomas Fadden until September 25, 2008 with new information to be submitted by September 12, 2008. Motion unanimously carried.

OTHER BUSINESS

Discussion of increasing setbacks between commercial and residential properties: Mr. Drinkhall read a letter from Doris Rimmer dated August 18, 2008 (attached). Ms. Sell stated that the general consensus at a previous meeting was to increase the setbacks to 50-feet. Ms. Sell stated that this makes good sense and should be put before the voters. Mr. Irving asked if the increase is between commercial to residential properties or commercial to residential districts. Ms. Sell answered districts.

Mr. Irving asked if the Board would like him to provide a brief analysis of the impact. The Board agreed. Mr. Sares stated that he would like to see it depicted on a plan as he needs to see what the impact would be. Mr. Irving stated that he would prepare a map showing interface between commercial districts relative to the abutting residential districts. Mr. Irving stated with the understanding this includes the Highway Commercial as well as the Village Commercial Districts and Village Residential and Residential Agricultural Districts.

Mr. Drinkhall asked what is this going to accomplish. Ms. Sell stated that it would provide greater protection for residential properties with incompatible uses that abut each other.

Committee Reports: There were none.

Master Plan: Mr. Irving stated that the Master Plan was revised to include comments from the Town Manager and, if acceptable to the Board, he would request a public hearing on the changes. Ms. Sares referred to page 2-4 and asked if the Technology Village was already doing this on their own property. Mr. Irving stated that this is different from the Technology Village and provides for different taxes. Mr. Sares referred to item #2 on page 2-5. Mr. Irving stated this is for the school, but the Master Plan suggested including shared facilities for outside school users, but we are outside of the loop.

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Mr. Sares referred to item #3 on page 2-7 and asked if the new gym is part of the etc. Mr. Irving stated that the Recreation Committee is waiting for a report. Mr. Sares suggested removing the Skateboard Park and including the gym facility. The Board agreed.

Mr. Sares made a motion, seconded by Ms. Sell, to hold a public hearing on September 11, 2008 for the proposed changes to the Master Plan as amended. Motion unanimously carried.

Wind Mills: Mr. Hysten asked Mr. Irving if he has reviewed wind mills. Mr. Irving stated there has been a parcel in Conway that has been granted a variance for a wind turbine. Mr. Irving stated the current regulations have a structure height restriction of 55-feet and if the top of the rotor blade exceeds 55-feet it would require a variance from the Zoning Board of Adjustment. Mr. Irving stated if it is lower than 55-feet then we would treat it like an accessory structure.

Ms. Sell stated that they do produce noise. Mr. Irving stated that Senate Bill 310 before the legislature now limits the amount of regulations a Town can have in regard to wind turbines because the state is supporting these alternative energy sources. Mr. Sares asked if one turbine could help. Mr. Irving answered in the affirmative. Mr. Hysten stated there are two types of visual impacts, there is the shadowing and then there is the noise.

Mr. Hysten asked if the Town is going to have problems with the current regulations. Mr. Irving stated he doesn't know if it is going to be an issue of concern unless they exceed the height restriction. Mr. Hysten stated that it is possible to have one on the side of a hill that still meets the 55-foot restriction. Mr. Irving stated that you could have a house at that level as well. Mr. Irving stated he doesn't know if we will have ones sprouting up on every door step. Ms. Sell suggested Mr. Hysten review and bring the information back to the Board.

Meeting adjourned at 8:50 pm.

Respectfully Submitted,

Holly L. Meserve
Planning Assistant