

CONWAY PLANNING BOARD

MINUTES

NOVEMBER 13, 2014

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CONWAY PLANNING BOARD

MINUTES

NOVEMBER 13, 2014

A meeting of the Conway Planning Board was held on Thursday, November 13, 2014 beginning at 7:13 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Porter; Selectmen's Representative, Carl Thibodeau; Vice Chair, Steven Hartmann; Secretary, Martha Tobin; Kevin Flanagan; Ray Shakir; Town Planner, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Tobin made a motion, seconded by Mr. Flanagan, to approve the Minutes of October 9, 2014 as written. Motion carried with Mr. Hartmann abstaining from voting.

CHARLES SUTTON MARSHALL REVOCABLE TRUST OF 1993/J. CHRISTOPHER, S. PITKIN AND J. STEPHANIE MARSHALL/JUSTIN AND JULIE HUSSEY (PID 250-106, 154 & 155) FILE #S14-11

Kevin Tilton of HEB Engineers appeared before the Board. This is an application to ~~evenly swap~~ convey 0.71 of an acre to PID 250-154 (Hussey) from PID 250-106 (Marshall) and convey 0.73 of an acre to PID 250-106 (Marshall) from PID 250-154 (Hussey) ~~between PID 250-106 (Marshall) and PID 250-154 (Hussey)~~ and merge PID 250-106 and PID 250-155 into one-lot of record at 1158 West Side Road, Conway (PID 250-106, 154 & 155).

Ms. Tobin made a motion, seconded by Mr. Porter, to accept the application of Charles Sutton Marshall Revocable Trust of 1993/J. Christopher, S. Pitkin and J. Stephanie Marshall/Justin and Julie Hussey for a Boundary Line Adjustment and Lot Merger review as complete. Motion unanimously carried.

Mr. Irving stated that the Marshall Lot will be losing some frontage and will not meet the frontage requirement, but as long as the land is conveyed to the Town there is no zoning violation. Mr. Tilton stated there is an RSA that allows the lot to be non-conforming if it is owned by a Town; this also cleans up an access issue and an area of contention.

Mr. Porter asked for Board comment; there was none. Mr. Porter asked for public comment; there was none.

Mr. Irving read a waiver request for §131-37.1.A. **Mr. Hartmann made a motion, seconded by Ms. Tobin, to grant the waiver request for §131-37.1.A.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

**Adopted: December 11, 2014 – As Written
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Mr. Flanagan made a motion, seconded by Ms. Tobin, to conditionally approve the boundary line adjustment and lot merger for Charles Sutton Marshall Revocable Trust of 1993/J. Christopher, S. Pitkin and J. Stephanie Marshall/Justin and Julie Hussey conditionally upon Conway Village Fire Chief approval; submitting a Mylar; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on February 12, 2015. Motion unanimously carried.

BARBARA IORFINO – FULL SITE PLAN REVIEW CONTINUED (PID 215-31) FILE #FR14-05

Shawn Bergeron of Bergeron Technical Services appeared before the Board. This is an application to construct a 5,894 square foot office building and associated infrastructure on White Mountain Highway. This application was accepted at the October 9, 2014 meeting.

Mr. Bergeron stated the primary reason to continue the public hearing for four weeks was there was a question from an abutter regarding the northern property line. Mr. Bergeron stated that the abutters had until Monday to provide any new information; to the best of his knowledge nothing has been submitted to the Town by the abutter. Mr. Bergeron stated that he had the line resurveyed and confirmed our work. Ms. Tobin stated the Board continued the application to allow the abutter's time to survey the property line, but nothing has been submitted.

Mr. Irving read the justifications to grant a waiver. Mr. Porter read a waiver request for §123-20.G. **Mr. Thibodeau made a motion, seconded by Mr. Hartmann, to grant the waiver request for §123-20.G.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Irving read a waiver request for §123-21.A (stacked parking). **Mr. Hartmann made a motion, seconded by Mr. Thibodeau, to grant the waiver request for §123-21.A (stacked parking).** Mr. Porter asked for Board comment; Mr. Shakir asked if the parking lot had expanded from the original proposal. Mr. Bergeron answered in the affirmative and stated that they carried the retaining wall and edge of parking in the westerly direction adding three additional parking spaces from last month. Mr. Shakir asked the height of the retaining wall. Mr. Bergeron answered 20-feet. Mr. Hartmann stated if the connecting drive was eliminated the parking requirements would be met; and it seems the connecting drive is not necessary. Mr. Porter asked for public comment; there was none. **Motion unanimously carried.**

Some Board members thought they were acting on the waiver for the number of parking spaces, not the stacked parking so **Mr. Hartmann made a motion, seconded by Mr. Porter, to reconsider the waiver request for §123-21.A. (stacked parking). Motion unanimously carried.** **Mr. Flanagan made a motion, seconded by Mr. Thibodeau, to grant the waiver request for §123-21.A (stacked parking). Motion unanimously carried.**

Mr. Irving read a waiver request for §123-21.A (number of parking spaces). **Mr. Thibodeau made a motion, seconded by Mr. Flanagan, to grant the waiver request for §123-21.A (number of parking spaces).** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

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Mr. Porter read a waiver request for §123-28. **Mr. Thibodeau made a motion, seconded by Mr. Shakir, to grant the waiver request for §123-28.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Porter asked for public comment; Trish Mansur submitted a letter to the Board from herself and Elaine DiRusso dated November 13, 2014 (attached). Ms. Mansur thanked Mr. Bergeron for his help and thanked the Board for looking into the issue. Ms. Mansur stated that they truly believed that was their property. Ms. Mansur asked the Board to consider their requests.

Mr. Irving asked Mr. Bergeron if there have been any changes to the landscaping. Mr. Bergeron stated they still show the privacy fence, but there is no reason why they cannot replace the fence with soft woods, arborvitae or eastern hemlock; they can be planted 5-7' on center, 5-feet in height and planted from the front setback and buffer line the full length of the building until the breaking slope along the northern property boundary. Mr. Bergeron stated that they will likely be staggered as well.

Mr. Irving referring to Ms. Mansur and Ms. DiRusso's letter dated 11/13/14 stated that the Town does not have an ordinance regarding concern #1. Mr. Porter stated that he does not believe this Board can impose that restriction. Mr. Shakir stated that he does not believe construction scheduling is in our purview. Mr. Irving stated we don't have an ordinance for that. Mr. Porter stated the Town does not have a noise ordinance. Mr. Hartmann stated that we can ask them to consider it. Mr. Bergeron stated that he would pass the request onto the owner.

Ms. Mansur stated that they are asking for consideration during construction as it is our lively hood and our home. Mr. Hartmann stated that we understand, but we don't have any regulations that allow us to enforce request #1.

Mr. Irving stated in regards to concern #2 they have been moved. Mr. Hartmann asked about the lighting. Mr. Bergeron stated the wall pack by the exit door will be on a motion sensor. Mr. Irving stated concern #3 has been addressed; concern #4 has been addressed; concern #5 is outside of this Board's purview; and concern #6 is a site development standard. Mr. Bergeron stated there will be safety fencing along the property line, but won't necessarily cut the noise.

Mr. Porter asked for Board comment; there was none. Mr. Porter asked for public comment; there was none.

Ms. Tobin made a motion, seconded by Mr. Flanagan, to conditionally approve the Full Site Plan for Barbara Iorfino conditionally upon revising the landscaping as discussed at this meeting; submitting a recorded cross-easement for the connecting drive benefiting PID 215-30; demonstrating compliance with §123-26, Lighting; a NHDOT driveway permit and indicating the approval number on the plan; Town Engineer's approval; updating waivers granted table as necessary; 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 May 14, 2015. Motion unanimously carried.

**FANDANGLE’S LTD/CONWAY HOSPITALITY, LLC – FULL SITE PLAN REVIEW
(PID 246-42) FILE #FR14-06**

Burr Phillips of Civil Solutions appeared before the Board. This is an application to construct a 42,146 square foot, 4-story, 80-room hotel with a 4,324 square foot restaurant/lounge with 117 restaurant seats and 14 lounge seats and associated infrastructure at 1439 White Mountain Highway, North Conway (PID 246-42). **Ms. Tobin made a motion, seconded by Mr. Hartmann, to accept the application of Fandangle’s LTD/Conway Hospitality, LLC for a Full Site Plan Review as complete. Motion unanimously carried.**

Mr. Shakir stated that he is assuming the accesses to the adjacent properties are from the back of the property. Mr. Phillips stated that they are stubbing the access drive to the mall at the property line; we are asking for a waiver for connecting drives to the car wash and the bank.

Mr. Shakir asked what they have for signage. Mr. Phillips stated that they are reusing the Fandangle’s sign. Mr. Irving stated there are three grandfathered freestanding signs; but signage is not under this Board.

Mr. Hartmann stated the Board asked for a berm on the original proposal. Mr. Phillips stated that the grade of the property is 3-feet below Route 16. Mr. Hartmann stated that the building is higher. Mr. Hartmann stated that the Board wanted to soften the view coming down the hill. Mr. Porter stated with the building lowered and with the landscaping it should be buffered. Mr. Hartmann asked why there is a guard rail between the car wash and this property. Mr. Phillips stated that there is a four to five foot retaining wall between the properties; it is a timber guardrail with a single rail and a smaller rail below. Mr. Porter asked for public comment; there was none.

Mr. Irving read a waiver request for §123-20.F/§131-67.C.8.b. **Mr. Hartmann made a motion, seconded by Ms. Tobin, to grant the waiver request for §123-20.F/§131-67.C.8.b.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Irving read a waiver request for §123-20.F/§131-67.C.8.i. **Mr. Thibodeau made a motion, seconded by Mr. Hartmann, to grant the waiver request for §123-20.F/§131-67.C.8.i.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Porter read a waiver request for §123-20.G. **Mr. Thibodeau made a motion, seconded by Ms. Tobin, to grant the waiver request for §123-20.G.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Irving read a waiver request for §123-22.A. **Mr. Thibodeau made a motion, seconded by Ms. Tobin, to grant the waiver request for §123-22.A.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

**Adopted: December 11, 2014 – As Written
CONWAY PLANNING BOARD – NOVEMBER 13, 2014**

Mr. Irving read a waiver request for §123-26.5. **Mr. Thibodeau made a motion, seconded by Mr. Hartmann, to grant the waiver request for §123-26.5.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Irving read a waiver request for §123-29.D.8. **Mr. Hartmann made a motion, seconded by Ms. Tobin, to grant the waiver request for §123-29.D.8.** Mr. Porter asked for public comment; there was none. Mr. Porter asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Irving read a waiver request for §123-42.D. **Ms. Tobin made a motion, seconded by Mr. Flanagan, to grant the waiver request for §123-42.D.** Mr. Porter asked for Board comment; Mr. Thibodeau asked if they will haul snow every storm. Mr. Phillips answered in the affirmative. Mr. Porter asked for public comment; there was none. **Motion carried with Mr. Hartmann voting in the negative.**

Mr. Porter asked for Board comment; there was none. **Ms. Tobin made a motion, seconded by Mr. Hartmann, to conditionally approve the Full Site Plan for Fandangle's LTD/Conway Hospitality, LLC conditionally upon addressing the deficiency list dated 11/16/14; Town Engineer Approval; North Conway Water Precinct approval; indicate NHDOT driveway permit number on plan; a NH Alteration of Terrain permit and indicating permit number on plan; 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 November 12, 2015.** Motion unanimously carried.

**RICHARD GIRARDIN – TWO-LOT SUBDIVISION REVIEW (PID 231-117)
FILE #S14-12**

Wes Smith of Thaddeus Thorne Surveys appeared before the Board. This is an application to subdivide ±6.0 acres into two-lots of 2.63 acres and 3.45 acres at 2185 West Side Road, North Conway (PID 231-117). **Mr. Porter made a motion, seconded by Ms. Tobin, to accept the application of Richard Girardin for a Two-Lot Subdivision Review as complete.** Motion unanimously carried.

Mr. Porter asked for Board comment; there was none. Mr. Porter asked for public comment; there was no public in attendance.

Ms. Tobin made a motion, seconded by Mr. Flanagan, to conditionally approve the subdivision for Richard Girardin conditionally upon submitting a recorded driveway and utility easement and indicating the book and page on the plan; submitting a NHDES Subdivision approval and indicating approval number on plan; submitting a DHS-FEMA LOMA approval and indicating approval number on plan; North Conway Fire Chief approval; Conway Police Chief approval; submitting a Mylar; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on May 14, 2015. Motion unanimously carried.

**Adopted: December 11, 2014 – As Written
CONWAY PLANNING BOARD – NOVEMBER 13, 2014**

**ROBERT NELSON – CONCURRENT FULL SITE PLAN AND TWO-LOT
SUBDIVISION REVIEW (PID 265-157) FILE #S14-12**

Wes Smith of Thaddeus Thorne Surveys appeared before the Board. This is an application to subdivide ±6.0 acres into two-lots of 2.63 acres and 3.45 acres at 2185 West Side Road, North Conway (PID 231-117). Mr. Irving stated that the applicant has requested the Board defer the application until December 11, 2014. **Ms. Tobin made a motion, seconded by Mr. Thibodeau, to defer consideration of Robert Nelson’s application. Motion unanimously carried.**

OTHER BUSINESS

Committee Reports:

Sign Advisory Committee – Mr. Irving submitted the attached proposed changes. Mr. Thibodeau reviewed them with the Board. It was agreed to put the proposed changes on the December 11, 2014 meeting agenda.

2015 Planning Board Dates: Ms. Tobin made a motion, seconded by Mr. Hartmann, to approve the 2015 Planning Board dates and submittal deadlines. Motion unanimously carried.

Noise Ordinance: Mr. Flanagan asked Mr. Irving if he had any information regarding a noise ordinance. Mr. Irving stated that he has not found anything other than the policing powers of the Board of Selectmen (BOS). Mr. Irving stated that this Board could recommend to the BOS, but a general noise ordinance outside of site plan or zoning is under the general policing of the BOS. Mr. Hartmann stated the Planning Board should ask the BOS if they are willing to look into that. Mr. Thibodeau stated that he will relay that to the Board.

Meeting adjourned at 9:00 pm.

Respectfully submitted,



Holly L. Meserve
Recording Secretary

November 13, 2014

Steven Porter, Chair and Planning Board Members
Town Hall, Center Conway, NH
1634 East Main Street
Center Conway, New Hampshire 03813-0070

Re: Public Hearing for White Mountain Highway North Conway NH PID 215-31
Full Site Plan Review to construct a 5,894 Sq Foot Building and associated
infrastructure.

Dear Chairman and Board Members,

We would like to request that the approval be subject to the following requests regarding the proposed plan for the property mentioned above, abutting the Wyatt House Country Inn, located at 3046 White Mountain Highway, North Conway NH, 03860.

As a Bed and Breakfast business in the town of North Conway NH for the past 27 years, we would like to request that commercial and neighborly consideration be made for the following to prevent or reduce nuisance to our business and guests during the construction period:

1. Site clearing and/or construction of the property not begin prior to 8am daily.
2. Location of air conditioning compressors to be at the furthest distance possible from the buildings referred to as Angels Wing and the Cottage, specifically the windows and decks due to noise and vibration which would negatively impact our business.
3. Trees on the property line abutting the Inn remain in place to screen the visual impact of the building and to aid in noise reduction.
4. Consideration is given to the location of area light fixtures in relation to the property line and the buildings referred to as Angels Wing and the Cottage, specifically the windows and decks.
5. Consideration is given to the location of construction vehicles and materials in relationship to our property and business.
6. We would like to request the use of a temporary fence designed specifically to reduce the construction noise which will negatively impact our business.

We appreciate your consideration from the Town of Conway, NH Planning Board Members and the Applicant for these requests.

Elaine DiRusso, Patricia (Trish) Mansur
Wyatt House Country Inn
3046 White Mountain Highway
North Conway NH 03860



Amendment 1. Proposed amendments to business signs over doorways:

The purpose of this amendment is to permit doorway signage to project up to 90 degrees form the wall, the intent is to make them more visible to pedestrian traffic.

Amendment applies to 147.13.1.6.10.4, 147.13.2.6.10.4, 147.13.3.6.10.4, 147.13.4.6.10.4, 147.13.5.6.7.4, 147.13.6.7.7.4, 147.13.7.6.7.4, 147.13.8.6.7.4, 147.13.10.6.7.4, 147.13.11.6.7.4 and 147.13.12.7.10.4.

147.13.x.x.x.x Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.

Amendment 2. Proposed Amendments to Subdivision Real Estate Signs:

The purpose of this amendment is to provide developers and owners of properties within a subdivision to post a real estate sign at the entrances to the subdivision. Only one such sign may be located at each entrance and the sign is neither subject to setback requirements nor requires a town sign permit. As such signs would usually be located on common lands installing and maintaining such signs shall be at the discretion of the subdivision developer or owners association (as applicable).

Amendment applied to all Districts: 147-13.1.6.10.13, 147-13.2.6.10.13, 147-13.3.6.10.13, 147-13.4.6.10.13, 147-13.5.6.7.14, 147-13.6.7.7.14, 147-13.7.6.7.14, 147-13.8.6.7.14, 147-13.10.6.7.13, 147-13.11.6.7.13, 147-13.12.7.10.13,

147.x.x.x.x.x One (1) real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed tweive (12) square feet, and not to exceed eight (8) feet in height nor six (6) feet in width.

Amendment 3. Proposed amendments to increase permitted size (from 12 square feet to 32 square feet) of election signs that are permitted during the 14 week election period:

Amendment applied to 147.13.1.6.10.8, 147.13.2.6.10.8, 147.13.3.6.10.8, 147.13.4.6.10.8, 147.13.5.6.7.9, 147.13.6.7.7.9, 147.13.7.6.7.9, 147.13.8.6.7.9, 147.13.10.6.7.8, 147.13.11.6.7.8 and 147.13.12.7.10.8.

147.13.x.x.x.x Signs with a message area of 32 square feet or less for a government election, with time limits as specified in State law, or if no State law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.

Amendment 4. Proposed amendments to clarify current interpretation of regulations pertaining to election signs:

Amendment applied to 147.13.1.6.11.5, 147.13.2.6.11.5, 147.13.3.6.11.5, 147.13.4.6.11.5, 147.13.5.6.8.5, 147.13.6.7.8.5, 147.13.7.6.8.5, 147.13.8.6.8.5, 147.13.10.6.8.5, 147.13.11.6.8.5 and 147.13.12.7.11.5.

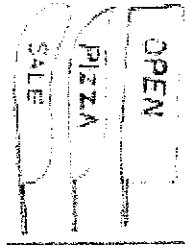
147.13.x.x.x.x Signs, which convey only a non-commercial message, including but not limited to ideological, political, social, cultural, or religious message, with a message area of 12 square feet or less.

Amendment 5. Proposed amendments to definition of a feather flag:

The purpose of this amendment is to provide a definition of feather type flags in order to distinguish them from other flags otherwise permitted in the ordinance.

147.15.30 FEATHER FLAG: "feather flag" means a vertical portable sign that contains a harpoon-style pole or staff driven into the ground for support or supported by means of an individual stand. (See Figure 2.)

Figure 2



Amendment 6. Proposed amendments to definition of a flag:

The purpose of this amendment is to exclude feather type flags from the definition of flags that are permitted in the ordinance.

147.15.31~~32~~ FLAG: A piece of flexible fabric of distinctive design which is used as a symbol of a nation, state, province, county, town or religion, or which uses color, form, graphic, symbol, or writing to communicate information of any kind to the public, whether commercial or non-commercial. Excluded from this definition are Feather Flags as otherwise defined in the preceding subsection.

Amendment 7. Proposed amendments to prohibit feather flags:

The purpose of this amendment is to include feather type flags as a prohibited form of signage.

Amendment applied to 147.13.1.6.15.2, 147.13.2.6.15.2, 147.13.3.6.15.2, 147.13.4.6.15.2, 147.13.5.6.12.2, 147.13.6.7.12.2, 147.13.7.6.12.2, 147.13.8.6.12.2, 147.13.10.6.12.2, 147.13.11.6.12.2 and 147.13.12.7.15.2.

147.13.x.x.x x Banners, feather flags, pennants, search lights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

Amendment 8. Proposed amendments to sign measurement:

The purpose of this amendment is to increase potential sign dimensions by changing the way signs are measured.

147.15.96 SIGN MESSAGE AREA - The total area used to display a sign's message including all lettering, designs, symbols, logos, ~~together with~~⁸ but not including any support framework or bracing which is incidental to the sign and which is not designed to attract attention. Where the message area consists of letters, symbols, logos or devices affixed to the surface of a wall, building, awning, or window, or freestanding sign the message area shall be measured by the sum of not more than three (3) contiguous rectangles, a single, continuous, rectangular perimeter drawn to enclose the extreme limits of the sign elements including appendages. The message area of one side of a double-faced sign shall be regarded as the total message area of the sign. For double-faced signs, each face must be attached directly to the other.
