

CONWAY PLANNING BOARD

MINUTES

SEPTEMBER 24, 2015

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CONWAY PLANNING BOARD

MINUTES

SEPTEMBER 24, 2015

A meeting of the Conway Planning Board was held on Thursday, September 24, 2015 beginning at 7:00 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Robert Drinkhall; Selectmen's Representative, Steven Porter; Vice Chair, Steven Hartmann; Secretary, Kevin Flanagan; Ray Shakir; Alternate, Richard Vitale; Planning Director, Thomas Irving and Recording Secretary, Holly Meserve.

APPOINTMENT OF ALTERNATE MEMBER

Mr. Drinkhall appointed Mr. Vitale as a voting member.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Hartmann, to approve the Minutes of August 27, 2015 as written. Motion carried with Mr. Shakir, Mr. Porter and Mr. Drinkhall voting in the affirmative and Mr. Hartmann, Mr. Flanagan and Mr. Vitale abstaining from voting.

Mr. Porter made a motion, seconded by Mr. Flanagan, to approve the Minutes of September 10, 2015 as written. Motion unanimously carried.

MEMORIAL HOSPITAL (FILE #FR15-05) – FULL SITE PLAN REVIEW (PID 215-63)

Kenneth Costello of SMRT, Inc. appeared before the Board. This is an application to expand the existing parking area and reconstruction of affected drainage system and associated infrastructure at 3073 White Mountain Highway.

Mr. Costello stated this is to consolidate the staff parking on the west side of the building to free up spaces on the east side of the building where there is visitor parking. Mr. Costello stated there is a storage building that will be relocated as well as a drainage structure. Mr. Costello stated the existing non-permitted gravel parking area in the front will be removed and seeded to a lawn area. **Mr. Porter made a motion, seconded by Mr. Hartmann, to accept the application of Memorial Hospital for a Full Site Plan Review as complete. Motion unanimously carried.**

Mr. Irving stated most of the waivers are either extensions or carry overs from the previous application; and one of the largest waivers is a request to reaffirm the waivers granted under the previous application. Mr. Irving stated one of the new waivers is to not require granite curbing around the traffic control islands; he has no issue as long as the Town Engineer has any issues. Mr. Drinkhall asked for Board comment; Mr. Porter stated that he doesn't see reaffirming the waivers would cause an issue now.

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Mr. Drinkhall asked for public comment; there was none.

Mr. Irving read the waiver requests for §123; §123-6.B.2; §123-22.D; §123-29.B; §123-29.D.1 through D.9; and §123-30.A.3. **Mr. Porter made a motion, seconded by Mr. Drinkhall, to grant the waivers for §123; §123-6.B.2; §123-22.D; §123-29.B; §123-29.D.1 through D.9; and §123-30.A.3.** Mr. Drinkhall asked for Board comment; there was none. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. Porter made a motion, seconded by Mr. Flanagan, to conditionally approve the Full Site Plan Review for Memorial Hospital conditionally upon Town Engineer Approval; NHDOT Driveway Permit and indicate approval number on plan; indicating NHDES Alteration of Terrain Permit approval number on plan; submitting a recorded driveway cross-easement and indicate book and page on plan; that the relocation of the utility building may commence prior to final approval; 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 22, 2016. Motion unanimously carried.

IPTV-B-C42, LLC/CHARTER FOODS NORTH, LLC (FILE #FR15-06) – FULL SITE PLAN REVIEW (PID 235-8)

Huseyin Sevincgil of MHF Design Consultants, Inc. appeared before the Board. This is an application to demolish the existing 11,074 square foot retail building and construct a new 2,727 square foot/50-seat restaurant with an interactive menu-board with speakers and drive-up window and associated infrastructure at 1672 White Mountain Highway. Mr. Sevincgil stated the entire site would be redeveloped to construct a new building. **Mr. Porter made a motion, seconded by Mr. Hartmann, to accept the application of IPTV-B-C42, Inc. /Charter Foods North, LLC for a Full Site Plan Review as complete. Motion unanimously carried.**

Mr. Drinkhall asked for Board comment; Mr. Hartmann asked if there was anything that could be done to add pitched roofs. Mr. Sevincgil stated this is what Taco Bell is pushing to build, but up for suggestions. Mr. Irving stated that the Town usually strives for a New England style building with a pitched roof; and avoid warehouse style buildings.

Mr. Porter stated they should look at Home Depot, Lowe's, Shaw's and Hannaford; and asked if Taco Bell would be willing to do something similar. Mr. Sevincgil stated the architects have spoken with the Town's Planning Department and this is what Taco Bell gave them. Mr. Hartmann stated the applicant is going to see what they can get away with. Mr. Shakir stated looks utilitarian; it looks like a warehouse.

Mr. Hartmann stated it seems the building is backwards; as we are looking at the back of a building from Route 16. Mr. Hartmann asked if a false roof could be added along the whole building.

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Mr. Drinkhall asked for public comment; Nancy Freitas stated that she owns a mobile home behind this development and asked what are they going to put up for a buffer, how high will it be, and where is the drive through. Mr. Sevincgil stated the drive-thru is on the street side and there will be an 8-foot fence along the back with some trees. Ms. Freitas asked what will be between the trees and the fence. Mr. Sevincgil stated there is some drainage in that area that is required.

Don Freitas asked what will prevent the car headlights from shining into his house. Mr. Sevincgil reviewed the lighting plan; and stated there is a fence. Earl Sires asked why the drive-through was on the street side rather than on the back of the building. Mr. Irving stated the reason the site set up is this way is the zoning ordinance prohibits interactive menu-boards and speakers within 600-feet of residential properties or the residential district. Mr. Irving stated the applicant received a variance from the Zoning Board of Adjustment because they protected the residential properties.

Ms. Freitas asked how late they stay open. Mr. Sevincgil answered typically open until 1 am or 2 am. Ms. Freitas stated her bedroom is directly behind this development. Mr. Irving stated the Town of Conway does not have a provision that limits the hours of operation; the ZBA could have put a restriction on the hours, but it was not raised as a concern. Mr. Shakir stated he would rather see a wall of arborvitaes or something that would grow at least 20-feet in height, which would lessen the impact on their property significantly.

Fred Smith stated the existing dumpsters are next to the cemetery, now they will be next to his lot; why can't they remain next to the cemetery. Mr. Sevincgil stated the storm water treatment will be in that area. Mr. Drinkhall stated there is a concrete masonry unit wall around the dumpster. Mr. Irving asked if the drainage has to go in that location. Mr. Sevincgil stated based on the analysis that is where it had to go. Mr. Irving asked if they could use chambers. Mr. Sevincgil stated they are costly.

Bayard Kennett asked if the Planning Board would consider the installation faux windows; it is a kitchen and not practical. Mr. Kennett asked if a small pitched decorative roof would provide a solution. Mr. Hartmann stated faux windows would be a start. Mr. Hartmann stated the fact that they have not made any effort to conform and are unwilling to spend extra money on drainage seems they have made no effort to meet our guidelines and are trying push it through; just his opinion.

Mr. Kennett stated this is their first meeting with the Board and they are asking for your input. Mr. Kennett stated they are willing to listen to concerns of the Planning Board and of the Town; they want to be a good neighbor. Mr. Kennett stated this is the first time presenting a plan publically and making suggestions is better than criticizing them. Mr. Shakir stated he is in agreement with Mr. Kennett, but can definitely be made a lot better.

Mr. Porter stated he agrees with Mr. Kennett as well, but being the first time here doesn't mean they get the approval they want. Mr. Porter stated architecturally it needs a lot of work; we are a small community and want to promote commercial growth, but we also need to protect our citizens. Mr. Drinkhall stated he is okay with faux windows as long as they look something like the other windows; and he would like to see the roof line changed.

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Mr. Shakir asked if they could figure out a way to move the dumpster to the other side of the property. Mr. Sevincgil stated he will have to go back to Charter North Foods to see what they are willing to do. Mr. Porter stated we are looking for uniqueness here; we don't want to be standardized. Mr. Irving stated the Board is seeking the applicant to entertain a gable along the eastern elevation of the building; faux windows; relocation of the dumpster; additional vegetation for buffer along the western boundary; and to revisit the drainage. The Board concurred.

Mr. Porter made a motion, seconded by Mr. Drinkhall, to continue the Full Site Plan review for IPTV-B-C42, LLC/Charter Foods North, LLC until October 22, 2015 with the provision that new information is to be submitted no later than October 14, 2015. Motion unanimously carried.

MASTER PLAN – PUBLIC HEARING – TRAILS PLAN

This is a public hearing to incorporate a Trails Plan within the Master Plan. Mr. Irving stated this is a master plan supplement developed outside of this particular Board that was started years ago; this has relevant elements and is the back bone or a place to start for the Town of Conway Master Plan.

A public hearing was opened at 7:56 pm. Mr. Drinkhall asked for public comment; Chris Meier, a resident as well as president of the MWV Trails Association, stated he wanted to express his support as a resident and as the President. Mr. Meier stated this is a New Hampshire Non-Profit Organization that has grown to a significant group of volunteers who supports the Town's efforts to create this plan. Mr. Meier stated they intend to hire their first employee who will be writing grants. Mr. Meier stated they would like to work and support the town in this effort.

Mr. Meier stated their mission is essentially what this trails plan seems to do; build a trail network within in the Town of Conway for all uses. Mr. Meier stated it seems to be what has worked in other Town's; and the goal is to create a more comprehensive trail plan that is accessible to residents and tourists alike.

Bayard Kennett, representing the Kennett Company, stated he has read through the proposed plan and he has some concerns. Mr. Kennett stated in addition to sidewalks, recreational trails would be required in a residential subdivision at the expense of privacy for private homeowners by allowing public access on private lots which can be traversed anytime by anyone.

Mr. Kennett stated it is mandated that developers should foot the cost of the recreational trail; the Kennett Company has worked with the Town for many years with trails across their property and it has always been the agreement they would be built and maintained by the Town if we provided the trail easement. Mr. Kennett stated he can see a push back if in addition to requiring developers to give an easement the Town requires the developer to foot the cost of construction and maintenance.

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Mr. Irving stated the Master Plan is not a regulatory document; it provides the framework for where those regulations could be developed. Mr. Irving stated this Master Plan chapter indicates that trails are needed and the Town should evaluate what areas should and should not be connected. Mr. Irving stated we should compile the existing infrastructure first to be able to give more consideration of what regulations should be developed.

Mr. Shakir stated he has voiced his objection to this proposal at the last Planning Board meeting and was asked to submit his comments in writing; he has done that and copies have been sent to the other Board members. Mr. Shakir stated he has no objection to trails where appropriate, but this amounts to a taking and he strongly objects to municipalities taking anything. Mr. Shakir stated it requires developers to put trail systems in which could reduce the amount of development they are allowed; it puts easements through properties and that amounts to a taking. Mr. Shakir stated it could reduce property values of abutting properties. Mr. Shakir stated he also objects to any assessment of putting in a trail system at the taxpayers' expense; it should be constructed and maintained by private entities, not the municipality or the taxpayers.

Mr. Porter stated he grew up in this valley and wishes our forefathers had had the foresight to look into the future; this is a work in progress and if we don't do something now our grandchildren will not have the beautiful area we have now. Mr. Porter stated we need to be proactive in preventing over population and over growth; this is a viable workable plan that needs some tweaking. Mr. Porter stated a trail system would be beneficial economically and aesthetically for this valley. Mr. Shakir stated private property is paramount; you have no right to tell me that I have to put a trail on my property to connect to another property. Mr. Shakir stated effectively you are taking my property when you mandate that I cannot build the houses I want to build because the town mandates a trail system.

Mr. Drinkhall asked for further public comment; Earl Sires, resident off West Side Road, stated he would agree with the model; and a local non-profit organization is stepping forward to maintain the existing trails as well as the trails on Town property. Mr. Sires stated they will also be meeting with the snowmobile club. Mr. Sires stated there are roles for the government and roles for the developer. Mr. Sires stated you tell a developer how to develop their property all the time; not that we can't tell them to do it, but it comes down is it important to you to do it. Mr. Shakir agreed that we do that all the time, but it doesn't mean I like it or capitalize on it or want to make a bad situation worse.

Steve Swenson, who has lived in the valley for 36 years, stated he has been on a number of committees over the years where we wanted to get to places such as schools, beaches, etc. by means other than vehicles. Mr. Swenson stated we are a recreational base community and at one point we could not get to the National Forest; we are looking to prevent that in the future. Mr. Swenson stated they are looking for what is desirable, but to not take anyone's land; our community is excited about the new rail trail in Fryeburg, Maine.

Theo Stibbons, who has lived in the valley for 10 years, stated you have here an absolute gold mine. Mr. Stibbons stated we visited for the first time 15 years ago and loved it; we came back and bought property. Mr. Stibbons stated there are so many areas that could be accessed if we

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had trails; however, he agrees that taking property is an issue. Mr. Stibbons stated the Town needs to look into what can be done; but, the idea to cycle from here to Portland is wonderful. Mr. Stibbons stated we should be encouraging young people and teaching them to use a trail system, but should also be taking into account the concerns.

Larry Garland, a resident of Jackson, stated he spends a lot of time in Conway and part of the consideration when coming into town is how do I get there, where do I park. Mr. Garland stated these amenities are important to communities and he doesn't see this document as being anything other than a guideline, it gives us something to think about. Mr. Garland stated there is nothing that is being mandated; only allowed where landowner's are willing to have them. Mr. Garland stated he would like to see the Town pursue this vision, and consider these guidelines to accommodate these trails where it makes sense to do so.

Mr. Kennett stated if this simply is a guidance document that will be modified and lead to a more established plan, then the "required" language should be removed as that is not synonymous with voluntary and working together. Mr. Kennett stated he is in favor of a trail network, and the Kennett Company has participated with the Town in areas we have been approached about, but words like that are going to throw up more road blocks.

Mr. Drinkhall closed the public hearing at 8:24 pm.

Mr. Irving stated we have some work to do; it is intended as the framework for a trail system for the community, but we need to take into account the balancing between private interest and public benefit. Mr. Irving stated the Town of Conway has come up with an incentive that enhances the developer's opportunities. Mr. Shakir stated he has no objection to trails; he just wants to emphasize property rights are to be protected. Mr. Shakir stated when you put an easement on a property you are preventing someone from doing something; it absolutely has to be a voluntary cooperation and under no circumstances take private right for the public domain.

Mr. Irving stated we will need to soften the rough edges and give back to the Board next month.

OTHER BUSINESS

Hancock White Mountain, LLC (File #NA15-06): Shawn Bergeron of Bergeron Technical Services appeared before the Board. This is a request to allow additional outdoor storage at 2451 White Mountain Highway, North Conway (PID 219-228). This was previously discussed at the August 27, 2015 Planning Board Meeting.

Mr. Bergeron stated they are proposing to move the chain link fence back to the existing pavement, which would then provide an area between the property line and the relocated fence to plant a vegetated buffer. Mr. Shakir stated it looks great. Mr. Irving asked how tall the vegetation is going to be at planting; and how high is the outdoor storage along the perimeter going to be stacked. Mr. Bergeron answered the vegetation would be 5- to 6- feet in height when planted, spaced 6-feet on center; and it would be stacked two levels, eight-feet in height.

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Mr. Drinkhall asked for Board comment; there was none. Mr. Drinkhall asked for public comment; there was none. **Mr. Shakir made a motion, seconded by Mr. Porter, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that the additional outdoor storage with the understanding that the materials will not be stored outside until after the plantings have been installed 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.**

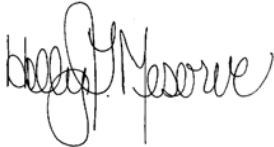
Committee Reports:

Sign Advisory Committee: The next meeting is October 1, 2015.

New Town Hall Feasibility Committee: Mr. Shakir stated when the time comes; he wishes to serve as the Planning Board representative.

The meeting adjourned at 8:46 pm.

Respectfully submitted,



Holly L. Meserve
Recording Secretary