

CONWAY PLANNING BOARD

MINUTES

NOVEMBER 8, 2018

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Properties, LLC/Town of Conway – Concurrent Full Site
Plan and Boundary Line Adjustment Review
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CONWAY PLANNING BOARD

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A meeting of the Conway Planning Board was held on Thursday, November 8, 2018 beginning at 7:00 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Hartmann; Selectmen's Representative, Steven Porter; Vice Chair, Michael Fougere; Raymond Shakir; Steven Steiner; Benjamin Colbath; Planning Director, Thomas Irving and Acting Recording Secretary, Jackie White.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Steiner made a motion, seconded by Mr. Shakir, to approve the Minutes of October 25, 2018 as written. Motion carried unanimously.

THE ROCK DEVELOPMENT, LLC/BARNES DEVELOPMENT, LLC/1675 WMH, LLC/SETTLERS' R2, INC/13 GREEN STREET PROPERTIES, LLC/ TOWN OF CONWAY CONTINUED – CONCURRENT FULL SITE PLAN AND BOUNDARY LINE ADJUSTMENT REVIEW 2-LOT SUBDIVISION REVIEW CONTINUED (PID 235-78.01, 82, 85, 89, 90 & 92) FILE #FR18-05 & #S18-09

Mr. Irving stated Mr. Jim Rines is here on behalf of Mark Lucy of White Mountain Survey and Engineering. Derek Lick, Attorney with Sulloway & Hollis; and Keith Wehmeyer, Lisa Green, and Rob Barsamian of OVP Management were in attendance.

This is an application for a series of boundary line adjustments to create three parcels and the elimination of McMillan Lane (pursuant to 2017 Warrant Article 27) to be replaced by the extension of Barnes Road to Common Court; and to construct an additional 74,491 square feet of retail space, business service establishment and personal service establishment with associated infrastructure at Barnes Road, 110 Barnes Road, 1675 White Mountain Highway, 25 Settlers Green Drive, McMillan Lane and 24 McMillan Lane, North Conway. This hearing was accepted as substantially complete on September 27, 2018.

Mr. Irving stated that the principal element that the Board was waiting on from the last meeting was to address the waiver request regarding the width of the right-of-way; they are proposing a 60-foot right-of-way as opposed to a 66-foot right-of-way. Mr. Irving stated that the Board was waiting to get input from the Town Engineer, who has provided a list of issues to White Mountain Survey.

Mr. Rines stated that they did respond to the list of issues. Mr. Irving read an email [in file] from the Town Engineer dated November 7, 2018 indicating that they had satisfactorily responded to his review and he had no objection to the waiver for a 60-foot right-of-way. Mr. Irving stated that he supports the Town Engineer and staff's recommendation to the Board is to give consideration to the right-of-way waiver request. Mr. Irving suggested opening the public hearing to see if there is anymore public testimony to take.

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Mr. Hartmann opened the public hearing and asked for public comment; Nanci Neenan, a Pudding Pond Drive resident, stated that she requested for the Board to not grant final approval until she has something in writing as to what is going to be done to help alleviate the traffic going up her road that has no outlet. Ms. Neenan stated the only place for people to turn around will be in her driveway.

Mr. Shakir asked Ms. Neenan what can be done in the long term to appease her. Ms. Neenan stated that she has asked for security cameras. Ms. Neenan stated that she would like this in writing and to-date she has not received anything. Mr. Colbath asked to Ms. Neenan if she has received anything in writing. Ms. Neenan stated she received an email this morning asking her to get estimates for the security cameras.

Mr. Barsamian stated he has spoken with Ms. Neenan and visited her property. Mr. Barsamian stated they would be more than happy to do some fencing and had asked Ms. Neenan to put what else she would like in writing. Mr. Barsamian stated he received an email today from Ms. Neenan requesting some fencing, security cameras, and an ease of pain payment of \$10,000.00.

Mr. Barsamian stated he has no issue with the fencing and security cameras, and has asked Ms. Neenan to put together some quotes for security cameras. Mr. Barsamian stated the first two requests he is okay with, but he is not a big fan of the third request. Ms. Neenan stated she put the third request in to get their attention, and she figured getting two out of the three requests would work for her. Mr. Hartmann stated we now have Mr. Barsamian on public record stating that he would be willing to work with Ms. Neenan.

Mr. Hartmann asked if there was any further public comment; there was none. Mr. Hartmann closed the public hearing. Mr. Irving read the requested waiver for §130-66.A(1). **Mr. Steiner made a motion, seconded by Mr. Colbath to grant the waiver for §130-66.A(1).** Mr. Hartmann asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Irving stated in regards to the discussion of security cameras and other off-site improvements on adjacent properties, the Board does not have the authority to enforce such off-site improvements. Mr. Irving stated both parties are encouraged to work together by this Board.

Mr. Irving asked if the Board was interested in contemplating a conditional approval this evening. Mr. Irving stated conditional approvals are granted with the understanding that the applicant accepts those conditions at their own peril, and that if they fail to satisfy those conditions the application is denied. Mr. Irving stated with respect to conditions subsequent to final approval if they are not satisfied that is grounds for revocation of the approval.

Mr. Irving asked the applicant if they understood and agreed that failure to satisfy the conditions precedent was grounds for denial and failure to satisfy the conditions subsequent was grounds for revocation. Mr. Derek Lick, Attorney representing Settlers Green responded in the affirmative.

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Mr. Irving read the proposed conditions of approval. Mr. Irving asked Mr. Derek Lick, Attorney representing Settlers Green, if his client understands this and agrees to the conditions as read. Mr. Lick answered in the affirmative and stated his client understands and agrees to the conditions as read.

Mr. Porter made a motion, seconded by Mr. Steiner, to conditionally approve the Concurrent Site Plan and Boundary Line Adjustment for The Rock Development, LLC/Barnes Development, LLC/1675 WMH, LLC/Setters' R2, Inc/13 Green Street Properties, LLC/Town Of Conway conditionally upon (precedent to final approval) the plans shall be amended to incorporate the items contained in the James F. Rines letter dated November 7, 2018, and said revisions must be submitted to the Town on or before January 8, 2019; Town Engineer Approval including on-site improvements, Barnes Road improvements, Barnes Road extension improvements, improvements to the North-South Road/Route 302 (Eastman Road) intersection and improvements to Route 16 intersections;

providing and showing easements (Recreation Path, Drainage, Construction, Utilities and Maintenance) as prescribed by the Town Engineer on plan and add CCRD Book and Page for each recorded easement to notes; providing cross-easements for all shared driveways and parking benefiting and/or encumbering all properties involved with the application (i.e. Map 235, Parcels 85, 89 and 92). Note cross-easements on plan with CCRD Book and Page numbers;

North Conway Fire Chief approval; North Conway Water Precinct water and sewer approval; the applicant shall prepare a NHDOT Driveway permit application for the Town to submit to NHDOT, upon issuance of the DOT Driveway permit the Permit Number shall be added to the Site Plan; NHDES Alteration of Terrain permit and indicate permit number on plan; the resolution in the Town's favor of current litigation regarding abandonment of McMillan Lane; payment of all supplemental review fees incurred to date for Planning Department Review - \$600 (10 hours @ \$60/hour) and for Engineering Review - \$700 (7 hours @ \$100/hour);

submitting four copies [three copies to remain with the Town] of revised plan sets with original stamps and signatures; submitting a Mylar(s) for Recording; submitting \$10,000 for supplemental review fees to be held in escrow (unused portion to be returned to applicant); submitting \$20,000 for Inspection Fees to be held in escrow (unused portion to be returned to applicant); a performance guarantee (surety) for all on-site improvements; a performance guarantee (surety) for all off-site improvements (exclusive of Common Court/North-South Road round-about); when the conditions have been met the plans can be signed out-of-session; and this conditional approval will expire on November 14, 2019;

and (conditions subsequent to final approval) Town Engineer approval of proposed round-about design to replace the existing Common Court/North-South Road intersection and submission of a performance guarantee (surety) for same prior to issuance of a building permit for either Building O or Building P; Barnes Road improvements and the proposed extension of Barnes Road must be substantially complete and open to public use prior to closure of McMillan Lane; Planning Board approval of a site plan for proposed

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maintenance facility site; Maintenance facility site must be substantially complete prior to issuance of any Certificate of Occupancy; and proposed round-about must be substantially complete and open to public use prior to issuance of any Certificate of Occupancy.

Mr. Hartmann asked if there was any Board comment; Mr. Steiner asked if work on Eastman Road has to be done. Mr. Irving answered in the affirmative and stated that the intersection of North-South Road and Eastman Road was part of the traffic scoping that NHDOT required.
Motion carried unanimously.

OTHER BUSINESS

Bellis Bennett Properties, LLC (File #NA18-08) – §110-4.A.(5): Ian Leavitt of Revision Energy appeared before the Board. This is a request to allow the installation of roof top solar panels at 80 Kearsarge Road, North Conway (PID 219-38). Mr. Hartman asked if any trees were going to be cut down. Mr. Leavitt answered in the negative.

Mr. Colbath made a motion, seconded by Mr. Steiner, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that the installation of roof top solar panels 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 carried unanimously.

Phoenix Realty Trust, LLC (File #NA18-09) - §110-4.A.(5): Rick Maitland appeared before the Board. This is a request to enclose ≈650 square feet of floor area of existing open floor area at 252 West Main Street (PID 277-299).

Mr. Steiner made a motion, seconded by Mr. Colbath, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that the enclosure of ≈650 square feet of floor area of existing open floor area 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 carried unanimously.

ADC Funding Trust (File #NA18-10) – §110-4.A.(5): Josh McAllister of HEB Engineers appeared before the Board. This is a request to install an accessory solar field at 987 East Main Street, Center Conway (PID 261-52).

Mr. Irving asked how much area is being disturbed for the driveway. Mr. McAllister answered 269 square feet of wetland, overall less than 1000 square feet will be disturbed. A brief discussion regarding the installation followed. Mr. Colbath asked if the solar field would be visible from Route 302. Mr. McAllister answered in the negative.

Mr. Steiner made a motion, seconded by Mr. Colbath, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that the installation of an accessory solar field is not subject to a Minor or Full Site Plan Review because it has

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been demonstrated that the change of use and/or physical changes to the site are insignificant relative to the existing development. Motion carried unanimously.

Mr. Irving stated he attended Solar Sessions in Concord, their recommendation is to not adopt their model ordinance. They suggested that it is best to pick the portions of the model ordinance that best suites our ordinances. Mr. Irving states he will be working on a proposal for the Board to review, not in time for the 2019 Town Meeting.

North Conway Library/E & C Maine Realty, LLC (File #FR18-04) – Request to extend conditional approval (PID 218-62 & 63): Josh McAllister of HEB Engineers appeared before the Board. Mr. McAllister stated they are hoping for a six-month extension.

Mr. Steiner made a motion, seconded by Mr. Fougere, to extend the conditional approval for North Conway Library/E & C Maine Realty, LLC until June 13, 2019. Motion carried unanimously.

Site Plan Review Regulations Amendment/Flush Mounted Solar Panels: Mr. Irving asked if the Board would like to entertain an amendment to their site plan review regulations that flush mounted solar panels on roofs could be handled administratively. The Board agreed. Mr. Irving stated he would prepare an amendment for the Board to consider.

Proposed Zoning Amendments: Mr. Irving submitted proposed amendments (attached) to the Zoning Ordinance to consider at the next meeting.

Mr. Irving stated currently there are special exceptions for additional signage that have to go the Zoning Board of Adjustment. Mr. Irving stated the ZBA concurs with Staff's interpretation to deal with these administratively, and this will be for special exceptions where the standards for granting the special exception are clearly laid out.

Mr. Irving stated the second amendment is to strengthen the language to clarify that Accessory Apartments, also known as Accessory Dwelling Units, or ADUs although they are permitted for year-round housing, we want to clarify they are not for short term rentals. Mr. Irving stated we want to clarify that neither the primary home nor the accessory apartment will be used for short term rentals.

Meeting adjourned at 7:41 pm.

Respectfully submitted,

Jackie White
Acting Recording Secretary