

CONWAY PLANNING BOARD

MINUTES

MAY 9, 2019

PAGES

- | | |
|---|--|
| 1 | Review and Acceptance of Minutes <ul style="list-style-type: none">• April 25, 2019 – Adopted as Written |
| 1 | Other Business <ul style="list-style-type: none">• Town of Conway/One80 – Conditional approval expiring |
| 1 | Joseph and Donna Mori/Avesta Development Corp. – 4-Lot Subdivision Review (PID 279-12) File #S19-01 <ul style="list-style-type: none">• Conditionally Approved |

CONWAY PLANNING BOARD

MINUTES

MAY 9, 2019

A meeting of the Conway Planning Board was held on Thursday, May 9, 2019 beginning at 7:03 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Hartmann; Selectmen's Representative, Steven Porter; Secretary, Benjamin Colbath; Steven Steiner; Bill Barbin; Planning Director, Thomas Irving; and Executive Secretary, Krista Day.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Colbath, to approve the Minutes of April 25, 2019 as written. The motion carried (4-0-1) with Mr. Steiner abstaining.

Mr. Hartmann noted that they would be taking the agenda out of order and beginning with other business.

OTHER BUSINESS

Town of Conway/One80 – Conditional approval expiring: Allen Funk of Blue Planet Funding appeared before the Board.

Mr. Irving explained that they had received a request for a 90-day extension on the conditional approval for the Town of Conway/One80.

Mr. Steiner made a motion, seconded by Mr. Colbath, to extend the conditional approval for the Town of Conway/One80 until August 22, 2019. The motion carried (5-0-0).

JOSEPH AND DONNA MORI/AVESTA DEVELOPMENT CORP. – 4-LOT SUBDIVISION REVIEW (PID 279-12) FILE #S19-01

Josh McAllister of HEB Engineers and Patrick Hess from AVESTA appeared before the Board. This is an application to subdivide ±29 acres into four-lots with associated infrastructure. Mr. McAllister gave an overview of the project.

Mr. Porter made a motion, seconded by Mr. Steiner, to accept the application of Joseph and Donna Mori/Avesta Development Corp. for a subdivision review as complete. The motion carried unanimously.

Mr. Hartmann asked for Board comment; there were no comments.

Mr. McAllister gave a more detailed explanation of the project explaining that they were looking to subdivide into 4 lots. He noted that each of the lots would have a minimum buildable area of 8,000 square feet. He explained that the plan is to reconstruct Banfill Road to town standards including utility upgrades.

**Adopted: May 23, 2019 – As Written
CONWAY PLANNING BOARD – MAY 9, 2019**

Mr. Hartmann asked if the Town had any comment on the matter.

Mr. Irving, Town Planner, read aloud a letter from an abutter who could not attend the meeting. Letter is attached.

The letter brought up the issue that allegedly the lot was being subdivided in order to increase AVESTA's voting power to 4 in the homeowner's association. Mr. Irving informed the Board that he had run this letter by his legal contacts at the Municipal Association, and the dispute appears to be a civil matter. Mr. Irving cautioned the Board that the issues discussed in the letter were not to be reacted to by them. The statement was that the town has no interest in that suit and the issue is not in their purview.

Mr. Hartmann asked for public comment;

Don Litchko of 247 Tasker Hill Road appeared before the Board. Mr. Litchko stated that there was no denying that any decision made by the Planning Board would have an impact on the civil suit. He suggested that the Board wait to make any ruling on the matter until the suit was over as there was no urgency to make a decision.

Mr. Steiner urged those in attendance to speak on the matter.

Russ Lanoie, an abutter to the south side of the property, stated that he would like to see more detail in regards to the southern part of the project.

Peter Ames of 222 Tasker Hill Road was concerned with the impact on the road.

Vivian Mosher of 333 Tasker Hill Road was concerned by the potential impact on the road width, parking lots, and lighting for the project.

Mr. Hartmann closed public comment.

Mr. Porter asked Mr. Hess if they were in fact subdividing for the voting rights. Mr. Hess answered in the affirmative. He noted that they had tried to get the association to change their bylaws to allow for the project they intend to build, but they were not amenable to it.

Mr. Hartmann asked if subdivision is directly addressed in the covenant. Mr. McAllister answered in the affirmative and read the particular passage in their covenant aloud. This information is attached.

Mr. Hartmann stated that subdivision has been directly addressed and the proposal before them is not in opposition of the covenants or town ordinances.

**Adopted: May 23, 2019 – As Written
CONWAY PLANNING BOARD – MAY 9, 2019**

There was brief mention of the exception granted by the ZBA. Mr. Irving advised the board that the decisions by ZBA are not in the Planning Boards purview.

Mr. Hartmann opened public comment; Mr. Litchko stated that when this was first discussed, they were proposing single family dwellings. He stated that Mr. McAllister misled them.

Mr. Hartmann closed public comment.

Mr. Irving wanted to address some comments that had been made. He explained that the Board cannot wait until a suit is filed and decided because according to NH RSA 676:4, once you have accepted a completed application, the Board shall decide within 65 days.

At the request of an audience member, Mr. Irving explained what conditional approval means.

It was stated that there would be no street lighting. Any lighting on the property otherwise would be explored during site review.

It was stated that the proposed paved road would be 18 feet with 3 foot gravel shoulders. There also would be a 60 foot right of way as required by the Town of Conway.

Mr. Irving stated that after feedback from the Towns reviewing engineer, there is nothing that would preclude a conditional approval for the subdivision.

Mr. Hartmann stated that because the issue of subdivision clearly allows subdivision, he sympathizes with the abutters, however, they cannot take that into consideration.

Mr. Hartmann made a motion, seconded by Mr. Barbin, to conditionally approve the 4-lot subdivision for Joseph and Donna Mori/Avesta Housing Development Corp. conditionally upon Town Engineer approval; Conway Village Fire District water and sewer approval; NHDES Wetland approval and indicate approval number on plan; submitting a Mylar for recording; submitting a \$25 check made payable to the Carroll County Registry of Deeds for the LCHIP fee; submitting four copies of revised plans with original stamps and signatures; submitting \$200 for Inspection Fees; submitting Road Construction Inspection fees [to be determined by the Town Engineer]; a performance guarantee for all on-site improvements; a performance guarantee for all off-site improvements; This phased subdivision shall be deemed vested upon completion of phase one. When the conditions have been met, the plans can be signed out-of-session; and the conditional approval will expire on August 8, 2019. The motion carried unanimously.

Mr. Irving stated that they have the right to appeal the decision made by the Planning Board to the Carroll County Superior Court.

After a question by Mr. Litchko, Mr. Irving explained that this decision had nothing to do with changing a zoning ordinance.

Adopted: May 23, 2019 – As Written
CONWAY PLANNING BOARD – MAY 9, 2019

Meeting adjourned at 7:49 pm by the call of the Chair.

Respectfully submitted,

Krista Day
Executive Secretary

To the Conway Planning Board,

I am writing about the Application of Joseph and Donna Mori/Avesta Housing Development Corp for a 4-lot subdivision at 28 Banfill Road. I own the home at 26 Banfill Lane which abuts 28 Banfill and is also part of the existing Banfill four-lot neighborhood subdivision. I currently reside out of state and am not able to attend the May 9th Planning Board meeting.

I would like to provide context on the Avesta development, as I don't know how much they have shared with the Town.

In December, Avesta contacted me through realtor Lobin Frizzell. At this time, I was told of Avesta's plan to purchase 28 Banfill and build two or three multi-unit buildings for a combination of senior and/or workforce housing. The problem with Avesta's plan, they discovered, is that existing building covenants for the Banfill subdivision specify minimum housing size of 1,500 square feet. The Avesta plan requires units as small as 750 square feet in order to be economically viable.

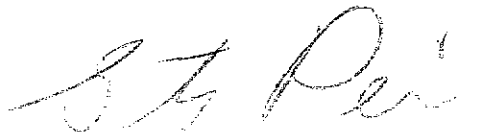
I was asked to approve an amendment to the covenants to allow the lower square footage and was sent a document requiring my signature and signatures of the other property owners in the Banfill subdivision. Changing the covenants requires majority approval from the subdivision lot owners. None of the existing subdivision owners approved these changes, and Avesta received no signatures.

In February, Avesta called a meeting with the Banfill owners. I called in, but other owners did not attend. During this meeting, Avesta explained that they planned to move forward with a new plan. By subdividing 28 Banfill Road into 4 lots, they said they will have 4 voting votes, giving them the power to override our "no" votes and change the Banfill covenants.

I want to make sure that the Town is aware that the proposed 4-lot subdivision is not necessary for developing on 28 Banfill, even for developing multi-unit buildings. The sole purpose of this sub-division is to override the votes of the current Banfill subdivision owners – all of whom already voted against changing the square footage covenants.

I am against changing the square footage requirements for Banfill and have already voted against doing so when approached originally. This subdivision plan is nothing but an attempt by Avesta to step on the rights of the existing Banfill subdivision owners.

Sincerely,



Sterling Ferrin
26 Banfill Lane
Conway