

**CONWAY PLANNING BOARD**

**MINUTES**

**SEPTEMBER 26, 2019**

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**CONWAY PLANNING BOARD**

**MINUTES**

**SEPTEMBER 26, 2019**

A meeting of the Conway Planning Board was held on Thursday, September 26, 2019 beginning at 7:02 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Hartmann; Selectmen's Representative, Steven Porter; Vice Chair, Sarah Frechette; Secretary, Benjamin Colbath; Raymond Shakir; Steven Steiner; Bill Barbin; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Colbath made a motion, seconded by Mr. Barbin, to approve the Minutes of September 12, 2019 as written. Motion carried with Ms. Frechette and Mr. Shakir abstaining from voting.**

**ALLAN BROTHERS REAL ESTATE HOLDING, LLC (FILE #S19-06) – 4-UNIT SUBDIVISION REVIEW (PID 265-199)**

Ron Briggs of Briggs Land Surveying appeared before the Board. This is an application to create a four-unit residential subdivision. Mr. Briggs reviewed the application. **Mr. Porter made a motion, seconded by Mr. Colbath, to accept the application of Allan Brothers Real Estate Holding, LLC for a unit subdivision review as complete. Motion carried unanimously.**

Mr. Irving stated the site currently has four driveways; it will be reduced to two driveways. Mr. Hartmann asked for Board comment; there was none. Mr. Hartmann asked for public comment; Tom of 196 East Main Street asked the location of the driveways to remain. Mr. Briggs explained the locations.

**Mr. Irving read a waiver request for §130-66.C.(8)(h). Mr. Porter made a motion, seconded by Mr. Steiner, to grant the waiver request for §130-66.C.(8)(h). Mr. Hartmann asked for Board comment; there was none. Motion carried unanimously.**

**Mr. Colbath made a motion, seconded by Mr. Steiner, to conditionally approve the 4-unit subdivision for Allan Brothers Real Estate Holdings, LLC conditionally upon Town Engineer approval; Conway Village Fire Chief approval; Conway Village Water and Sewer approval; indicating utilities to unit 4 on the plan; revising utility services on plan per Conway Village Fire District requirements; revising property boundary monuments on plans; 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; \$200 for Inspection Fees; a performance guarantee for all on-site improvements; a performance guarantee for all off-site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on January 23, 2020. Motion carried unanimously.**

**OTHER BUSINESS**

**Chester B. and Lydia T. Lucy Family Trust (PID 201-3 & 4) – Conditional Approval expiring (File #S19-03):** Mr. Colbath made a motion, seconded by Mr. Porter, to extend the conditional approval for Chester B. Lucy and Lydia T. Lucy Family Trust until January 23, 2020. Motion carried unanimously.

**North Conway Library/E & C Maine Realty, LLC (PID 218-62 & 63) – Proposed Field Changes (File #FR19-04):** Josh McAllister of HEB Engineers appeared before the Board. Mr. McAllister submitted copies of the original approved site plan and a site plan with the proposed changes [in file].

Mr. Irving stated there was a waiver granted for the total number of parking spaces, and the requested field changes would expand the waiver granted. Mr. Irving stated they are requesting changes to the landscaping, as several trees to be retained have been removed.

Mr. McAllister stated they are requesting to change the driveway location to be more centrally located to the doorway of Sun & Ski. Mr. McAllister stated that Sun and Ski has requested that the dumpster be moved from the corner of Pine Street and Mechanic Street to the northeast corner of the property.

Mr. McAllister stated one parking space would be eliminated if the Board allows one parking space to encroach into the buffer. Mr. McAllister stated there was a waiver request approving a buffer encroachment and this one parking space would increase the buffer infringement in excess of the original waiver request. Mr. McAllister stated there would be 53 parking spaces with one encroaching into the buffer. Mr. McAllister stated if the Board has an issue with the parking space encroaching into the buffer, they could remove that space and they would be minus two parking spaces from the original parking count.

Mr. McAllister stated the library is exploring alternative lighting utilizing solar lighting. Mr. McAllister stated they are not asking for that yet as he has not submitted those fixtures to Mr. Irving to get those approved yet. Mr. McAllister stated they are also requesting a 140 square foot patio extension in the front of the building for a possible kiosk.

Mr. Shakir asked if the abutter is ok with the buffer encroachment. Mr. Irving stated he is not sure if the abutter is aware this is happening. Mr. Shakir suggested holding off on any decision until the abutter is notified. Mr. McAllister stated there are significant changes to the landscaping, however, it still meets the regulations just in a different way from the original proposal. Mr. McAllister stated the trees along the northern boundary ended up being removed.

Ms. Frechette asked if there is a reason why you chose deciduous trees and not conifers in the replacement plantings. Mr. McAllister stated it is consistent with the trees on the remaining property. Ms. Frechette stated the conifers would provide year-round coverage. Mr. Porter asked what are the species that are being planted to replace the ones that were removed. Mr. McAllister answered maples.

**Adopted: October 24, 2019 – As Written**  
**CONWAY PLANNING BOARD – SEPTEMBER 26, 2019**

Mr. Hartmann stated in regards to the parking, he is having a hard time granting a waiver without the abutter being notified. After a brief discussion, the Board agreed that the buffer adjacent to PID 218-61 shall be maintained.

**Mr. Porter made a motion, seconded by Mr. Colbath, that these are acceptable field changes absent the encroachment into the buffer adjacent to PID 218-61.**

Mr. Hartmann asked for public comment; Erica Frieswick, Store Manager of Sun and Ski, was interested in the driveway location and the dumpster location. After a review of the changes, Ms. Frieswick stated she was ok with the proposed field changes.

Andrea Masters of the North Conway Library stated that they would like to install an informational kiosk for the pedestrians that walk by. Ms. Masters stated that it will be used to announce events and programs. After a brief discussion, Mr. Irving stated that the kiosk would need to be reviewed under the sign ordinance. Mr. Irving stated the Planning Board could approve the reduction in greenspace, but it cannot permit the kiosk. **Motion carried with Mr. Hartmann voting in the negative.**

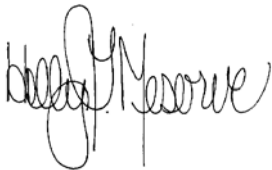
**Affordable Housing Ordinance presented by Mount Washington Valley Housing Coalition:** Victoria Laracy and Andy Dean of the Mount Washington Valley Housing Coalition appeared before the Board. George Regan of the NH Housing Finance was in attendance. The Board reviewed the attached Affordable Housing Ordinance.

Mr. Irving stated the process on who would manage and enforce the ordinance would need to be worked out. Mr. Hartmann asked for public comment; Josh McAllister stated he is a member of the Mount Washington Valley Housing Coalition, an Engineer and a resident of the Town of Conway. Mr. McAllister stated that he would implore the Board to find something other than a special exception, and consider it being an inclusion of the Residential Agricultural District. Mr. McAllister stated this is a good opportunity for the Town of Conway and it could open doors for other communities in the State.

The Board agreed to schedule another meeting to discuss this topic.

**October 10, 2019 Planning Board Meeting: Mr. Steiner made a motion, seconded by Mr. Colbath, to cancel the October 10, 2019 Planning Board Meeting. Motion carried with Mr. Barbin voting in the negative.**

Meeting adjourned at 8:28 pm.  
Respectfully submitted,



Holly L. Meserve, Planning Assistant

## Town of Conway Affordable Housing Ordinance

### Purpose and Intent:

The purpose of this ordinance is to (i) provide a mechanism to encourage the development of Affordable units for moderate and lower income households to meet the needs of the Town of Conway, (ii) foster stability within the larger community by providing opportunities for home ownership and long-term rental units, and (iii) provide for the sustainability of Affordable units in the future through the use of deed restrictions and other legal mechanisms and to further the intent of the Town of Conway to meet the requirements described under New Hampshire RSA 674.

### Authority:

This ordinance is adopted under the authority of New Hampshire RSA 674:21 and is intended as an “inclusionary zoning” provision as defined therein which states in part that inclusionary zoning shall “provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.”

### Applicability:

This ordinance shall apply to the following districts:

- (1) [Residential/Agricultural District,] [To be discussed further with Town of Conway Planning Board]
- (2) Center Conway Village Residential District,
- (3) Conway Village Residential District, and
- (4) North Conway Village Residential District.

### Density Bonus and Other Development Incentives:

Notwithstanding the minimum lot size, density requirements, frontage and road standards set forth in the zoning districts listed above as more particularly described in Chapter 190-13 through Chapter 190-16, lot size, density requirements, frontage and road standards, for Affordable units and market rate units within an affordable housing development shall be as follows:

- (i) For lots serviced by municipal water system and municipal sewerage system shall have at least one-quarter (1/4) acre for the first unit and five thousand (5,000) square feet for each additional unit on the same lot. [*instead of one-half (1/2) acre for the first unit and ten thousand (10,000) square feet for each additional unit on the same lot*] [Discussion item: floodplain and slopes: I see this mentioned in
- (ii) Lots serviced by a municipal water system shall have at least one-quarter (1/4) acre for each unit that may be located thereon; [*instead of one-half (1/2) acre for*

*each unit*]; provided the loading capacity for the septic system complies with NHDES septic standards.

- (iii) All other lots shall have at least one-half (1/2) acre for each unit that may be located thereon [*instead of one (1) acre for each unit*]; provided the loading capacity for the septic system complies with NHDES septic standards.
- (iv) All lots must front on a state or town highway with a Class I, II, III, IV or V classification, a private road, cul de sac all constructed to town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be seventy-five (75) feet [*instead of one hundred fifty (150) feet*].
- (v) Notwithstanding the definition of driveway contained in Chapter 130-3 of the Town of Conway Subdivision of Land Ordinance, up to three (3) lots [*instead of two (2) lots*] may be serviced by a single driveway. For a planned unit development serviced by municipal water and municipal sewer shall be permitted to have up to eight (8) units serviced by a single driveway. Driveways shall comply with applicable New Hampshire Department of Transportation requirements.
- (vi) No more than seventy percent (70%) [*instead of twenty-five percent (25%)*] of the lot may be covered with structures and impervious surfaces, including, without limitation, buildings, driveway and sidewalks.
- (vii) Green space shall comprise not less than thirty percent (30%) of the total lot area, exclusive of wetlands, water bodies, the one-hundred-year floodplain and slopes over twenty-five percent (25%).
- (viii) All roads shall comply with the Town of Conway Road Standards described in Chapter 130 of Town of Conway Subdivision of Land Ordinance.

At least twenty-five percent (25%) of dwelling units within the affordable housing development which uses the lot size, density requirements, frontage and road standards, as set forth above must meet the definition of Affordable units. When the number of Affordable units is calculated to a fractional number, any fraction of less than one-half shall be rounded down to the next whole number; any fraction of one-half or greater shall be rounded up to the next whole number and treated as a whole inclusionary unit For example, a three-unit development would be calculated as  $3 \times 25\% = 0.75$ , which would be rounded up to one Affordable unit. The planning board may reduce the minimum required percentage of afford able units upon demonstration by the developer that the requirement would otherwise make the development economically unviable. Mobile homes or manufactured housing as defined in RSA 674:31 are not permitted; however pre-site built units as defined in RSA 674:31-a shall be permitted.

**Plan Submission and Approval:**

Any subdivision and/or site plan submitted to the Planning Board in connection with this ordinance shall contain the following information:

- (1) The number of Affordable units created and the percentage of Affordable units relative to the percentage of market rate housing.
- (2) Descriptions of the Affordable units and the market rate units evidencing comparable number of bedrooms, bathrooms and square footages and complementary architectural styles and exterior finishes.
- (3) Any other information as required by the subdivision ordinance of the Town of Conway.

At the time of Planning Board approval, the Affordable units must be expressly designated as such and shown on a plan with a condition that they shall remain affordable in compliance with this ordinance and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same. The deed restriction will be in a form and substance as prepared and approved by the Town of Conway.

**Affordable Unit Location, Construction and Appearance:**

All Affordable units shall be dispersed throughout the project by being integrated with the market rate units such that they are distributed throughout the development and not clustered in one area of the development, as determined by the Planning Board.

All Affordable units shall be constructed concurrently with the market rate units. Progress rates for construction of Affordable units shall be the same as that of the market rate units.

Affordable units shall be constructed with complementary exterior design and materials that are used in the market rate units. Similar landscaping shall be applied to both Affordable units and the market rate units. Affordable units as well as market units may be pre-site built units as defined in RSA 674:31-a.

Interior materials and amenities in the Affordable units may be different from those used in the market rate units, provided that: the number of bedrooms shall be proportional between Affordable units and market rate units.

**Definitions:**

For purposes of this ordinance the following terms shall be defined as follows:

“Affordable unit” shall mean (i) with respect to unit ownership, the purchaser shall be an Eligible buyer (as defined below) and the initial purchase price of the Affordable unit shall be equal to the difference between the fair market value of the Affordable unit as of the time of its development and its reduced affordable sale price, which is indexed according to the qualifying income standards of the Eligible buyer but shall be no less than \$20,000, and (ii) with respect to

a rental unit, the renter shall be an Eligible renter (as defined below) and the estimated maximum affordable monthly rent as published annually by the New Hampshire Housing Finance Authority.

“Eligible buyer” is a household whose income does not exceed eighty percent (80%) of the area median income for a family of four in Carroll County as published by the United States Department of Housing and Urban Development. The Eligible buyer shall occupy the Affordable unit as its primary residence.

“Eligible renter” is a household whose income does not exceed sixty percent (60%) of the area median income for a family of three in Carroll County as published by the United States Department of Housing and Urban Development. The Eligible renter shall occupy the Affordable unit as its primary residence.

### **Restrictions on Rental:**

For a period of twenty (20) years from the date of the sale or lease of an individual unit developed pursuant to this ordinance, said unit shall not be used for short-term rentals such as, and including, without limitation, Airbnb, VRBO, HomeAway or any other similar short term rental platform. All unit leases shall be in writing and for a period of not less than six (6) months or more than twelve (12) months in any one instance. Tenants that occupy a unit for more than twelve months may continue to occupy the same unit with a written lease on a month to month basis. No tenant in an Affordable unit shall be permitted to sublease all or a portion of the Affordable unit to anyone other than an Eligible renter. The foregoing shall be included in a declaration of restrictive covenant in a form approved by the Planning Board and shall be recorded with the Carroll County Registry of Deeds.

### **Future Transactions and Ordinance Enforcement:**

Affordable units offered for sale and approved pursuant to this ordinance shall require a deed restriction or restrictive covenant and lien granted to the Town of Conway in a form approved by the Planning Board and shall be recorded with the Carroll County Registry of Deeds prior to the sale. The initial value of the lien shall be equal to the difference between the fair market value of the Affordable unit and its reduced affordable sale price, which is indexed according to the qualifying income standards but shall be no less than \$20,000. The Town of Conway’s lien is indexed over time at a rate equal to a price index identified in the restrictive covenant and lien document. Future maximum resale limits shall be calculated as the fair market value minus the adjusted lien value and a transaction administrative fee as determined by the Town of Conway. Subsequent sales prices are not limited based on income targets, but on the housing unit’s fair market value, minus the adjusted lien value. Subsequent buyer income limits are calculated based on the adjusted sales price and the prevailing financing terms. The foregoing limitations on sale shall not apply to a foreclosure by an institutional lender or a deed-in-lieu of foreclosure resulting from a mortgage with an institutional lender and upon foreclosure by an institutional lender or a deed-in-lieu of foreclosure resulting from a mortgage with an institutional lender the income qualifications and resale limitations set forth herein shall terminate with respect to the impacted unit.



Affordable units for rent shall limit annual rent increases to the percentage increase in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions as determined by the Planning Board.

This ordinance shall be enforced by the Town of Conway pursuant to Section 190.6 of the Town of Conway Zoning Ordinance. To ensure that only eligible households purchase or lease Affordable units, at least thirty (30) days prior to the purchase of an Affordable unit the following information shall be provided to a designated officer with the Town of Conway or its agent, which may be New Hampshire Housing and Finance Authority, for review and approval (i) a copy of the purchase agreement, and (ii) a certification from a third party administrator designed by the Town of Conway that the prospective purchaser or tenant, as applicable, that his/her or their family's annual income meets the standards set forth in this ordinance. [Note: NHHFA is looking into what services it can provide to alleviate the administrative process for the Town of Conway.]

To the extent there is a conflict between the provisions of this ordinance and any other ordinance of the Town of Conway, this ordinance shall govern and control. If any provision of this ordinance is held invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby and shall remain in full force and effect.