

CONWAY PLANNING BOARD

MINUTES

DECEMBER 8, 2022

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CONWAY PLANNING BOARD

MINUTES

DECEMBER 8, 2022

A meeting of the Conway Planning Board was held on Thursday, December 8, 2022 beginning at 7:00 pm at the Conway Town Office, 23 Main Street, Conway, NH. Those present were: Chair, Ben Colbath; Selectmen's Representative, Steven Porter; Vice Chair, Ailie Byers; Secretary, Erik Corbett; Eliza Grant; Bill Barbin; Mark Hounsell; Planning Director, Jamel Torres; and Town Engineer, Paul DegliAngeli. Alternates Ted Phillips and Steven Hartmann were in attendance.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Ms. Byers, to approve the minutes of October 27, 2022 – work session, October 27, 2022 – regular session, November 17, 2022 – work session and November 17, 2022 – regular session as written. Motion carried with Ms. Grant abstaining from voting.

UPPER SACO VALLEY LAND TRUST (FILE #S22-06) – TWO-LOT SUBDIVISION AND BOUNDARY LINE ADJUSTMENT REVIEW (PID 245-30 & 65)

Loralie Gerard of HEB Engineers appeared before the Board. Abby King of USVLT was in attendance. This is an application to convey ±1.25-acres of land from PID 245-30 to PID 245-65; and subdivide PID 245-65 into two-lots. This application was accepted as complete on October 27, 2022.

Mr. Torres stated the applicant has provided an environmental assessment of the property in three forms. Ms. Gerard stated an Environmental Site Assessment for Phase I was conducted on PID 265-45 on May 14, 2018 by Josh McAllister at HEB Engineers. Ms. Gerard stated they found a ground water monitoring well, but there was no data on who or why it was placed there, and there were 21 active waste generators, but they were all off-site, and they were anywhere between ¼ to ¾ of a mile away from the site. Ms. Gerard stated there was a leaky underground storage tank ½ mile from the site, but not on this site.

Ms. Gerard stated Mr. McAllister's opinion, based on the site visit and review of historic records, is that the assessment has revealed no current, historic or controlled RECs on the subject parcel. Ms. Gerard stated both the current owner nor the Town of Conway knows who installed the monitoring well. Ms. Gerard stated the Phase I environmental site assessment concludes that it has not revealed any evidence or recognizable environmental conditions in connection with the subject parcel; there is no evidence of contamination.

Ms. Gerard stated there are pictures of bottles and old cans along the old railroad bed, which is referred to as miscellaneous waste throughout the site, but not indicating that this debris contaminated the site.

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Ms. King stated the other two reports that were provided to the Board were the Upper Saco Valley Land Trust Conservation Management Plan with Baseline Conditions Report which we completed in September 2020 and is standard of all properties they take ownership of, and USVLT's Environmental Hazard Assessment which was finalized on May 20, 2019. Ms. King stated there is nothing in the report that is inconsistent with the HEB's Phase I report.

Mr. Colbath asked for Board comment; Mr. Barbin stated the mention of a ground water monitoring well on the site concerns him, and asked what are the general reasons for installing a ground water monitoring well. Ms. Gerard stated usually to monitor the ground water quality, whether for contamination or quality of the ground water. Ms. Gerard stated but the fact that no one knows who put it in and what the purpose was it is hard to speak on speculations on why it was there. Ms. Gerard stated whoever put it in apparently didn't care to take care of it or monitor it; with no records she can't speak on the purpose of it.

Mr. Hounsell asked how deep is the well. Ms. Gerard stated she has no idea. Mr. Hounsell stated someone put in a monitoring well for some reason and it would be nice to know what that reason was. Ms. Gerard stated most monitoring wells have stamped numbers, this has nothing. Ms. Hounsell asked why it is being referred to as a monitoring well if we don't know what it was put in for. Ms. Gerard stated that is how it is referred to in the report, and she did not write the report.

Mr. Barbin stated the part of the HEB report that surprises him is that it is not tagged as a potential concern. Mr. Barbin stated someone spent money on a monitoring well, didn't report it for whatever reason; that in itself could show that this lot has contamination which may make the lot unbuildable which we cannot make unbuildable lots.

Mr. Hounsell stated a month ago he asked why an organization such as this wanted to subdivide and the answer admittedly is the possibility of a developer coming in. Mr. Hounsell stated this is a unique situation and part of the Master Plan review will consider making Redstone Village a historical district; we need that conversation before implementing changes such as this.

Mr. Hounsell stated during his research he did learn that the parcel owned by the Town was taken by tax collected deed, and it was taken in 2007. Mr. Hounsell stated that piece of property is critical to any long-term build out of this lot. Mr. Hounsell stated he believes until after we have done the Master Plan update we should not do this; we need to allow the people of this neighborhood the opportunity to determine if they want to preserve the historic uniqueness of this neighborhood.

Mr. Porter stated the piece of property owned by the Town of Conway was discussed by the Board of Selectmen and the Board voted to put that property along with three others out to auction in the spring. Mr. Porter stated he sits on the Historic Committee which got its start by the people of Redstone and they chose not to pursue it because it was too cumbersome for them. Mr. Porter stated he doesn't think this Board at this time with this procedure should take that into consideration; it should be taken into consideration if and when a full site plan application comes before this Board. Mr. Porter stated this is a simple boundary line adjustment.

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Mr. Hounsell stated he would respectfully disagree, we are to be planning; on the surface what is before us may be simple, but he thinks it is alright to dig below the surface to find out exactly what we are talking about, and what we are talking about is the build out of this at some point.

Ms. Byers stated from her perspective this is an individual, the land trust, that own two pieces of properties and they are just moving the lines amongst their own pieces of property. Ms. Byers stated in terms of property rights, the land trust has the right to come before us and move lines. Ms. Byers stated they are moving inside two different parcels they have, and the biggest abutter is themselves. Ms. Byers stated this is relatively straight forward. Mr. Hounsell stated this will hurt.

Mr. Barbin stated it has not been proven to him that this is a buildable lot; someone has put in a monitoring well for the water because most likely there was a suspicion of some type of contamination. Mr. Barbin asked why else would someone put the expense into a ground water monitor. Mr. Colbath stated so no one has any history on that. Someone from the audience stated it was his understanding that years ago a hydrothermal company drilled that well to test the temperatures, it had nothing to do with water monitoring per se; just the availability of hydrothermal power.

Mr. Barbin stated if we could actually prove that, that would be great; this would be a non-issue. Ms. Gerard stated the monitoring well is not on the 10-acres that is being created. Mr. DegliAngeli stated if there was a water quality issue on that lot, which is hydraulically upgrade from all of the residential lots along the road, that problem would show up in all those wells.

Mr. Porter made a motion, seconded by Mr. Corbett, to move on to the waivers.

Mr. Colbath asked for public comment; Dino Scaletti stated he wrote a letter which was given to the Board at the last meeting; you were invited to a meeting for Habitat for Humanity and Upper Saco Valley Land Trust in Redstone. Mr. Colbath stated he was not invited to a meeting. Mr. Scaletti stated the officials of the Town of Conway were invited as stated in the December 5th letter from Habitat for Humanity to the Board.

Mr. Scaletti stated this is an important step in the process for Habitat for Humanity. Mr. Scaletti stated the reports were done for the Mount Washington Valley Housing Coalition. Mr. Scaletti stated we like our little village; it is historic and we don't want to open it up to traffic.

Jacqueline Scaletti stated at the last meeting they were told in 1979 the town discontinued that road. Ms. Scaletti asked how does the Town discontinue a road. Mr. DegliAngeli stated there would have to be an article on the warrant. Ms. Scaletti stated she did look up the 1979 warrant and there is no warrant to discontinue that road. Ms. Gerard stated the Town had a special town meeting, so it was not done at the regular town meeting.

Rodney Henry stated he has lived in Redstone for 50 years and it has always been mentioned to him that the Fletcher Granite Corporation has always maintained the mineral rights for that land. Ms. Gerard stated the quarry was taken through a foreclosure,

Dan Bailey stated when they surveyed at his property they put a marker 4-½-feet onto his land right next to his other surveyed mark; why is that. Ms. Gerard stated theirs is correct. Mr. Colbath closed public comment at 7:48 pm. **Motion carried with Mr. Hounsell voting in the negative.**

Ms. Gerard read the waiver request for §130-23. **Mr. Porter made a motion, seconded by Mr. Corbett, to grant the waiver request for §130-23.** Mr. Colbath asked for Board comment; there was none. **Motion carried with Mr. Barbin and Mr. Hounsell voting in the negative.**

Ms. Gerard read the waiver request for §130-24.E. **Mr. Porter made a motion, seconded by Ms. Byers, to grant the waiver request for §130-24.E.** Mr. Colbath asked for Board comment; there was none. **Motion carried with Mr. Barbin and Mr. Hounsell voting in the negative.**

Mr. Porter made a motion, seconded by Mr. Corbett, to conditionally approve the two-lot subdivision and boundary line adjustment for Upper Saco Valley Land Trust conditionally upon Town Engineer approval; Redstone Fire Chief approval; providing specific identification (tree species) for each of the existing street trees on the plan; updating waivers granted table [if necessary]; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for recording; when the conditions have been met, the plans can be signed out of session; and this conditional approval will expire on October 26, 2023. Motion carried with Mr. Barbin and Mr. Hounsell voting in the negative.

STANLEY SZETELA AND JOHN FINGUERRA DBA JR&S ASSOCIATES (FILE #88-21 & #89-09S) – PUBLIC HEARING – NOTICE OF REVOCATION (PID 264-8)

Stan Szetela appeared before the Board. This is a request to revoke a concurrent site plan and unit subdivision approval (File #88-21 & #89-09S) approved January 28, 1993 and October 1, 1998) for a 128-Unit Subdivision and Phase I site plan on Kancamagus Highway.

Mr. Colbath asked for Board comment; there was none. Mr. Colbath asked for public comment; there was none. **Mr. Hounsell made a motion, seconded by Mr. Porter, to revoke the Planning Board approval granted January 28, 1993 and October 1, 1998 [File #88-21 & #89-09S] for a 128-Unit Subdivision and Phase I site plan. Motion carried unanimously.**

TARBERRY COMPANY, LLC (FILE #FR22-11) – FULL SITE PLAN REVIEW (PID 218-43)

Alec Tarberry, Ace Tarberry and Sheila Duane of the Tarberry Company and Dan Lucchetti of HEB appeared before the Board. This is an application to change 6,226 square feet of retail and 1,144 square feet of support space to three separate quick service food and beverage options. **Mr. Porter made a motion, seconded by Mr. Barbin, to accept the application of Tarberry Company, LLC for a full site plan review as complete with the staff report. Motion carried unanimously.**

Mr. Tarberry and Mr. Lucchetti reviewed the application. Mr. Colbath asked for Board comment; there was none.

Mr. Colbath asked for public comment; John Colbath, citizen, stated at the previous meeting we discussed the possibility of bathrooms being included and asked if that has been taken into consideration. Mr. Alec Tarberry stated they have designed a large bathroom, the current design is five stalls for each gender, and it sounds like the town would be interested in contributing with the maintenance. Mr. Alec Tarberry stated they would be on board with making that arrangement.

Mr. John Colbath stated he thinks the Town would participate, and there is a well-informed and interested business community in North Conway who have come forward and shown how interested they are in the Village, so hopefully they will participate with maintaining these bathrooms also. Mr. Alec Tarberry stated there is already a group of folks maintaining the bathrooms at the Ski Museum. Mr. John Colbath stated we have been served notice from the Chamber that it is highly likely next year that the businesses will not participate in the maintaining of the Ski Museum bathrooms. Mr. Ben Colbath closed public comment.

Mr. Alec Tarberry read the waiver request for §110-6.B.(4). **Mr. Porter made a motion, seconded by Ms. Grant, to grant the waiver request for §110-6.B.(4).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Alec Tarberry read the waiver request for §110-20. **Mr. Porter made a motion, seconded by Ms. Grant, to grant the waiver request for §110-20.** Mr. Colbath asked for Board comment; Mr. Porter asked if you remove one entrance, as being requested by Town Staff, how do you lose parking spaces. Mr. Alec Tarberry stated it would be difficult to navigate. Mr. Porter stated he is familiar with the site, and it has never been a problem in the past; he would grant this waiver because it has never been a problem.

Mr. Corbett asked the intent of the standard. Mr. Torres stated the intent of requiring one driveway per street the parcel fronts is to limit turning movements on and off the site. Mr. Torres stated the more openings there are onto a site the more potential there is for conflicting turning movements of vehicles entering and leaving the site.

Ms. Byers asked if trucks and/or fire trucks access this area. Mr. Alec Tarberry answered in the affirmative. Mr. Colbath asked if all the curb cuts are signed with right turn only. Mr. Alec Tarberry stated he is not sure, but they should be. Mr. Alec Tarberry agreed to adding those signs. **Motion carried with Mr. Hounsell voting in the negative.**

Mr. Alec Tarberry read the waiver request for §110-21. Mr. Torres stated generally with a deficit this large staff would not support a waiver request, but in the environment such as the village with many on-street parking spaces, staff generally feels that people will utilize those on-street parking spaces as they do and have in the past. Mr. Torres stated staff is generally comfortable with their request just given the available close-by parking that people could use in addition to the parking they are providing on-site.

Mr. Porter stated we have to take this into consideration just like any other restaurant, retail store in the village; the majority of them have no parking so they don't meet the standards, but it works. Mr. Porter stated he is in favor of granting this, he doesn't think this is going to impact the site to the point where it is intolerable. Mr. Colbath stated it seems like the peak usage hours would be

better than the former tenant in that space; it might free up some spaces during the day. Mr. Colbath stated it is a product of the area, parking is always going to be an issue and we routinely have to hear parking waivers for this area. Mr. Hounsell stated he likes this project a lot and to burden it with complying with the parking standard would not be very good.

Mr. Barbin made a motion, seconded by Mr. Corbett, to grant the waiver request for §110-21. Motion carried unanimously.

Mr. Alec Tarberry read the waiver request for §110-22. **Ms. Byers made a motion, seconded by Mr. Barbin, to grant the waiver request for §110-22.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

The waiver request for §110-26 was withdrawn.

Mr. Alec Tarberry read the waiver request for §110-27. Mr. Colbath asked Mr. DegliAngeli if there has ever been a problem there. Mr. DegliAngeli stated he is wrestling with a deficient of 200 parking spaces. Mr. Colbath stated we are talking drainage now. **Mr. Barbin made a motion, seconded by Ms. Byers, to grant the waiver request for §110-27. Motion carried unanimously.**

Mr. Alec Tarberry read the waiver request for §110-29. **Mr. Porter made a motion, seconded by Ms. Grant, to grant the waiver request for §110-29.** Mr. Colbath asked for Board comment; Mr. Porter asked if the apple tree does finally die will it be replaced. Mr. Alec Tarberry answered in the affirmative. **Motion carried unanimously.**

Mr. Porter made a motion, seconded by Ms. Grant, to conditionally approve the full site plan for Tarberry Company, LLC conditionally upon Town Engineer approval; indicating the proposed total square footage of the quick service food and beverage operation use on the plans; indicating the existing and proposed building materials on the building elevations plans; indicating additional directional signage intended for vehicles leaving the site as discussed with the Planning Board on the plans; 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 [if necessary]; when the conditions have been met the plans can be signed out-of-session; and this conditional approval will expire on December 14, 2023. Motion carried unanimously.

OTHER BUSINESS

Forever Young Properties, LLC/Grand View Farm (File #NA22-14): This is a request to allow a 12' x 35' addition to the existing farm stand at 564 White Mountain Highway, Conway (PID 262-62). Jason and Paul Richardson of Grand View Farm appeared before the Board. Mr. Jason Richardson stated the existing structure is 12' x 35' and it is a moveable building on blocks. Mr. Jason Richardson stated they are looking to add 12' on the back of that building.

Mr. Colbath asked for Board comment; Ms. Byers asked if the reason it is a non-permanent structure because you're just renting the space and if they ask you to leave you can pack up and leave. Mr. Jason Richardson stated basically, yes. Ms. Grant stated she thinks it meets the criteria of non-applicable. Mr. Hounsell stated there are maybe three farm stands in town, they are unique; this is minor and we should allow them to do it.

Mr. Barbin made a motion, seconded by Mr. Porter, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that a 12'x35' addition to the existing farm stand is not subject to a 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.

FB North Conway, LLC (File #NA22-15): This is a request to reduce the restaurant approved under File #FR22-04 from an 8,726 square foot, 207-seat restaurant to a 7,020 square foot, 187-seat restaurant, to allow employee housing on the lower level of the restaurant building and to allow the existing single-family home to be converted to three apartments at 2952 White Mountain Highway, North Conway (PID 215-25).

Shawn Bergeron of Bergeron Technical Services and Staci Colbath, manager of Flatbread, appeared before the Board. Mr. Colbath stepped down at this time. Ms. Byers became Chair at this time and appointed Mr. Phillips as a voting member. Mr. Bergeron explained the project.

Ms. Byers asked for Board comment; Mr. Hounsell stated he commends them for thinking about employee facilities, and he hopes this becomes a model for others to follow.

Ms. Byers asked for public comment; Ben Colbath, speaking as a citizen, stated a lot of people were upset that the house was being removed and now it is being saved and preserved. John Colbath stated it would be a shame for the house to be removed and he commends Flatbreads for saving the house and providing housing.

Mr. Porter made a motion, seconded by Ms. Grant, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that reducing the restaurant approved under File #FR22-04 from an 8,726 square foot, 207-seat restaurant to a 7,020 square foot, 187-seat restaurant, allowing employee housing on the lower level of the restaurant building and allowing the existing single-family home to be converted to three apartments is not subject to a 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.

Mr. Colbath rejoined the meeting as Chair and Mr. Phillips stepped down at this time.

Set a public hearing for proposed and petitioned amendments for the Town Warrant: Mr. Torres stated the Board needs to set the public hearing for the proposed and petitioned amendments. **Mr. Hounsell made a motion, seconded by Mr. Porter, to hold a public hearing on proposed amendments on January 26, 2023. Motion carried unanimously.**

Mr. Porter made a motion, seconded by Ms. Grant, to hold a public hearing on petitioned amendments on January 26, 2023. Motion carried unanimously.

Selectmen's Report: Mr. Porter stated depending how the budget process moves forward, you will potentially see signs in the Village of North Conway for parking. Mr. Porter stated it has to go through the next phase which is the deliberative, and whether the budget passes.

Issues for Consideration: There was a lengthy discussion regarding the Master Plan Advisory Committee. **Mr. Hounsell made a motion, seconded by Mr. Barbin, that the advisory committee be comprised of all the members of the Planning Board and others who from time to time may be available to help.**

After a lengthy discussion, Ms. Byers stated the motion is to have the Planning Board be the advisory committee and ask for applications for additional members. Mr. Colbath and Mr. Hounsell stated that is correct. **Motion carried with Mr. Barbin, Ms. Grant, Mr. Corbett and Mr. Hounsell voting in the affirmative, Mr. Porter and Ms. Byers voting in the negative and Mr. Colbath as present.**

Mr. Hounsell made a motion, seconded by Ms. Grant, that the chairman be empowered on behalf of the Planning Board to make those additional appointments. Mr. Hounsell stated by authority of this Board you would be able to add people to this Committee as you see reflects the community. Mr. Torres asked if we need a certain number of people, and does it include alternates as well. Mr. Hounsell stated that is up to the Chairman. **Motion carried unanimously.**

Mr. Torres asked if you are including alternates on the Planning Board. Mr. Colbath stated alternates are included.

Media Questions: There were none.

Meeting adjourned at 9:46 pm.

Respectfully Submitted,

Holly L. Whitelaw
Planning Assistant