

**CONWAY PLANNING BOARD**

**MINUTES**

**APRIL 27, 2023**

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## CONWAY PLANNING BOARD

### MINUTES

APRIL 27, 2023

A meeting of the Conway Planning Board was held on Thursday, April 27, 2023 beginning at 6:00 pm at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Selectmen's Representative, Steven Porter; Vice Chair, Ailie Byers; Secretary, Erik Corbett; Bill Barbin; Eliza Grant; Mark Hounsell; Planning Director, Jamel Torres; and Planning Assistant, Holly Whitelaw. Alternate Ted Phillips was in attendance.

#### ELECTION OF OFFICERS

**Ms. Byers nominated, seconded by Mr. Hounsell, Mr. Colbath as Chair. Motion carried with Mr. Colbath voting as present.**

**Mr. Colbath nominated, seconded by Ms. Grant, Ms. Byers as Vice Chair. Motion carried with Ms. Byers voting as present.**

**Mr. Colbath nominated, seconded by Mr. Hounsell, Mr. Corbett as Secretary. Motion carried with Mr. Corbett voting as present.**

**Mr. Hounsell made a motion, seconded by Mr. Barbin, to adopt Roberts Rules of Order as parliamentary rules for the conduction of meetings.** Mr. Colbath asked for Board comment; Mr. Hounsell stated in the few occasions that things get emotional this helps keep temperatures down and do business in an appropriate manner. **Motion defeated with Mr. Hounsell and Mr. Barbin voting in the affirmative, Ms. Byers and Mr. Porter voting in the negative and Ms. Grant, Mr. Corbett and Mr. Colbath voting as present.**

**Mr. Hounsell made a motion, seconded by Mr. Barbin, to not allow zoom meetings for members who cannot attend.** Mr. Hounsell stated we have alternates who are faithful in their attendance. Mr. Hounsell stated if you're not present you are not getting the full impact of testimonies of a hearing. Mr. Hounsell stated he thinks it is better practice that we use alternates for those who cannot come to the meeting.

Mr. Colbath stated we do have alternates and there is a reason we have them. Mr. Colbath stated we have had decent success with zoom, but there are times when we didn't. Mr. Porter stated when dealing with covid the State implemented using zoom so people could attend meetings, but that has gone by the wayside. Mr. Porter stated if you cannot make a meeting we do have alternates. Mr. Barbin stated he agrees with Mr. Hounsell and Mr. Porter.

Ms. Byers stated she does have a job that takes her away. Ms. Byers stated to be the best member that she can she has always come before the meetings to review the plans and notes ahead of time. Ms. Byers stated we could also get into a situation again through no fault of Mr. Corbett's where there is a failure of a system where he is not able to attend and would potentially seem he is being penalized if the elevator fails.

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Mr. Hounsell stated if the Board had adopted Robert’s Rules of Order the rules could be suspended. Ms. Grant stated she trusts someone intermittently using zoom and she doesn’t mind that privilege being available if it is used reasonably. **Motion carried with Mr. Hounsell, Mr. Barbin, Mr. Porter and Mr. Colbath voting in the affirmative and Ms. Byers, Ms. Grant and Mr. Corbett voting in the negative.**

**REVIEW AND ACCEPTANCE OF MINUTES**

The minutes of April 13, 2023 will be addressed at the next meeting.

**GARG COMPLEX, LLC (FILE #FR23-04) – FULL SITE PLAN REVIEW (PID 265-144)**

Mark Lucy and Don Bouchard of Horizons Engineering appeared before the Board. Pankaj and Neha Garg were in attendance. This is an application to redevelop the site into a caretaker’s unit, 24-residential dwelling units, and commercial floor space at 15 Washington Street, Conway (PID 265-144). Mr. Lucy gave an overview of the project. **Mr. Barbin made a motion, seconded by Mr. Hounsell, to accept the application of Garg Complex, LLC for a full site plan review with the staff report as complete. Motion carried unanimously.**

Mr. Lucy reviewed the project with the Board. Tony Fallon, Architect, reviewed the building elevations. There are a few dormers being added to the building.

Mr. Colbath asked for Board comment; Mr. Colbath asked if the lighting is in compliance with our ordinance. Mr. Bouchard answered in the affirmative. Mr. Torres stated the plans he has indicates light trespasses off the site, but it is pretty close. Mr. Colbath asked if they would need a waiver. Mr. Torres answered in the affirmative. Mr. Bouchard stated we have an updated plan [dated 04/25/23] and showed the Board. Mr. Torres asked if the new plans meet the other two issues in the staff report. Mr. Bouchard answered in the affirmative.

Ms. Byers asked why are there 56 storage units when there are 24 residential units. Mr. Fallon stated it is a separate operation, it is not meant for each of the units. Ms. Byers asked what do you get access to with driveway 3. Mr. Garg answered storage units. Ms. Byers asked if that is the only access point for the storage units. Mr. Garg answered in the negative and stated they can be accessed by driveways 1 and 3 as well. Mr. Bouchard stated driveway 3 is also an alternate access for fire access.

Ms. Grant stated she doesn’t believe this is going to need a ton of parking where they are studio apartments and asked could we be turning some of the pavement into greenspace. Mr. Lucy stated we have the specter of the NHDOT potentially doing something to this parcel, so at this time there are no plans to carve out some of the pavement to return it to greenspace. After a brief discussion, the Board and the applicant agreed to a plan note on the plan indicating that the buffer areas on the property shall remain the same if their site is modified as a result of any future road construction project adjacent to the site.

Ms. Byers asked about drainage. Mr. Lucy stated it is going to drain on site now as NHDOT has lifted the right to drain into their system.

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**Mr. Hounsell made a motion, seconded by Ms. Grant, to grant the parking substitution under §110-43.B.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Lucy withdrew the waiver request for §110-20.F./§130-66.C.8.(a).

Mr. Lucy read a waiver request for §110-20.F./§130-66.C.8.(b). **Mr. Barbin made a motion, seconded by Mr. Hounsell, to grant the waiver request for §110-20.F./§130-66.C.8.(b).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Lucy read a waiver request for §110-20.F./§130-66.C.8.(c). **Mr. Barbin made a motion, seconded by Ms. Grant, to grant the waiver request for §110-20.F./§130-66.C.8.(c).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Lucy read a waiver request for §110-20.F./§130-66.C.8.(f). **Ms. Grant made a motion, seconded by Mr. Corbett, to grant the waiver request for §110-20.F./§130-66.C.8.(f).** Mr. Colbath asked for Board comment; there was none. **Motion carried with Mr. Hounsell voting in the negative.**

Mr. Lucy withdrew the waiver request for §110-27.

Mr. Lucy read a waiver request for §110-28. **Mr. Barbin made a motion, seconded by Mr. Hounsell, to grant the waiver request for §110-28.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Lucy read a waiver request for §110-29.A.(4). **Mr. Barbin made a motion, seconded by Ms. Grant, to grant the waiver request for §110-29.A.(4).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Lucy read a waiver request for §110-29.D.(5). **Mr. Hounsell made a motion, seconded by Mr. Colbath, to grant the waiver request for §110-29.D.(5).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Lucy read a waiver request for §110-29.D.(8). **Mr. Colbath made a motion, seconded by Ms. Grant, to grant the waiver request for §110-29.D.(8).** Mr. Colbath asked for Board comment; Ms. Grant stated she would prefer to see more trees than arborvitaes. Mr. Lucy stated 16 street trees are required and 21 exist. **Motion carried unanimously.**

Mr. Lucy read a waiver request for §110-30.A.(1). **Mr. Barbin made a motion, seconded by Ms. Byers, to grant the waiver request for §110-30.A.(1).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Lucy read a waiver request for §110-20.C. **Mr. Hounsell made a motion, seconded by Mr. Corbett, to grant the waiver request for §110-20.C.** Mr. Colbath asked for Board comment; Ms. Byers stated she is ok with driveway #2. Ms. Grant stated driveway #2 makes sense, but she would prefer one driveway. Ms. Grant stated she doesn't see a reason to retain driveway #3. Mr. Colbath stated it doesn't have a clear purpose. Ms. Byers stated it is for the storage.

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Mr. Barbin stated it is a complex building to begin with and then it has massive basement spaces at two different grades. Mr. Barbin stated it is a really good access for a fire truck out there. **Motion carried with Ms. Byers abstaining from voting.**

Mr. Lucy read a waiver request for §110-29.A.(3). **Mr. Barbin made a motion, seconded by Mr. Porter, to grant the waiver request for §110-29.A.(3).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

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

**Ms. Byers made a motion, seconded by Ms. Grant, to grant a conditional approval to Garg Complex, LLC conditionally upon Town Engineer approval; Conway Village Fire Chief approval; Conway Village Fire District water and sewer approval; NHDOT Driveway permit and indicating permit number on plan; providing calculations to ensure the landscaping standards set forth in §110-22.F. in the Site Plan Review Ordinance are satisfied; providing additional information to ensure lighting standards set forth in §110-26.B., C. & D. in the Site Plan Review Ordinance are satisfied; coordinating with Town Engineer in regards to the required on-site drainage for the site; revising the parking matrix on the plans to ensure the correct number of proposed parking spaces are provided; providing painted pedestrian crosswalks across each of the proposed driveways along Washington Street; adding a plan note indicating that the buffer areas on the property shall remain the same if their site is modified as a result of any future road construction project adjacent to the site; updating waivers granted table on plan as necessary; 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 April 25, 2024. Motion carried unanimously.**

**RTL, LLC (FILE #S23-06) – 10-UNIT SUBDIVISION REVIEW (PID 219-106 & 106.1)**

Josh McAllister of HEB Engineers and Doug Mullen appeared before the Board. This is an application to create a 10-unit residential subdivision on Skimobile Road, North Conway (PID 219-106 & 106.1). **Mr. Porter made a motion, seconded by Ms. Byers, to accept the application of RTL, LLC for a unit subdivision review with staff report as complete. Motion carried unanimously**

Mr. Colbath asked for Board comment; Mr. Colbath asked if they would provide a plan note regarding the vegetation west of the driveway. The Board and the applicant agreed to a plan note that indicates no vegetation located west of the proposed driveway shall be cut or removed from the site.

Mr. McAllister read the waiver request for §130-66.C.8.(f). **Mr. Barbin made a motion, seconded by Ms. Byers, to grant the waiver for §130-66.C.8.(f).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

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

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**Mr. Barbin made a motion, seconded by Ms. Byers, to approve the lot merger with a condition that written consent from all mortgagees be submitted. Motion carried unanimously.**

**Mr. Barbin made a motion, seconded by Ms. Byers, to conditionally approve the unit subdivision for RTL, LLC conditionally upon North Conway Fire Chief approval; adding a note to the subdivision and site layout plans that states that no vegetation located west of the proposed driveway shall be cut or removed from the site; submitting a lot merger form with original signatures; submitting written verification from all mortgagees that they consent to the lot merger; submitting a road name to be approved by the Town; indicating a street sign on plan pursuant to §130-45.; updating waivers granted table on plan as necessary; 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 April 25, 2024. Motion carried unanimously.**

**MAJM HOLDINGS, LLC (FILE #FR23-03 & #S23-04) – CONCURRENT FULL SITE PLAN AND 12-UNIT SUBDIVISION REVIEW CONTINUED (PID 235-77)**

This is an application to demolish two existing motel buildings and a maintenance building at the rear of the site, construct a 20,715 (footprint) square foot, 3-story, 97-room hotel with 8 residential units, and construct a 1,500 square foot residential unit with associated infrastructure; and create three (3) commercial units and nine (9) residential units at 1769 White Mountain Highway, North Conway (PID 235-77). This hearing was continued from March 23, 2023. This was withdrawn by the applicant.

**SETTLERS R2, INC. (FILE #FR22-09) – FULL SITE PLAN REVIEW REHEARING (PID 235-89 & 89.002)**

This is a rehearing granted to Bellevue Properties, Inc. to change the use of Building G from retail to retail and restaurant/lounge at 39 Common Court, North Conway.

**Ms. Byers made a motion, seconded by Mr. Porter, to accept the withdrawal of Settlers R2, Inc.’s conditionally-approved site plan review application for restaurant use for Building G and that any and all approvals for same be deemed revoked. Motion carried unanimously.**

**OTHER BUSINESS**

**Jan G. Filip IV/603 Street Eats (File #NA23-07):** Mike Simoni of 603 Street Eats appeared before the Board. This is a request to allow an additional food trailer for a temporary time of May to November at 36 Kearsarge Road, North Conway (PID 218-102).

Mr. Simoni stated he would like to have two trucks on the site with a couple of picnic tables in between. Mr. Colbath asked if there would be bathrooms available. Mr. Simoni stated a bathroom would be available, and it will be fenced in. Ms. Grant asked if there would be trash bins. Mr. Simoni stated there would be a dumpster tucked in the back.

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Mr. Colbath asked for public comment; Alec Tarberry of the Tarberry Company stated we have some properties in the neighborhood and on behalf of the businesses that rent space in our properties we have concerns. Mr. Tarberry stated a lot of people don't like using porta potties so the customers end up spilling over to the neighboring businesses and using their restrooms. Mr. Tarberry stated there is a lot of expense that food trucks get to bypass and it seems unfair that they don't have to go through the process of the notifying abutters and showing parking.

Mr. Colbath stated a food truck ordinance has been on our radar for a while, we just haven't worked on one as of yet. Ms. Grant stated what we are voting on is that this does not require a site plan review, and it is hard to say that a temporary structure with an end date within the year is something that would be subject to site plan review. Ms. Grant stated if there is a huge problem and they want to come back next year we are going to take that into consideration.

Sheila Duane stated she works in the village and it looks like a new power pole is being installed for overhead lines. Mr. Simoni stated there is one being installed tomorrow in the exact same location of the one that was there before. Ms. Duane stated there are other restaurants in the village that pay rent and have other charges to operate their business and food trucks fly under the radar. Ms. Duane stated representing those businesses with overhead costs in the village, who have bathrooms and provide employee parking we would like the Board to consider when looking at expanding the use that the Board keep it to one truck.

Jim McQueen stated it is nice to have someone come into Town and do something that doesn't hurt anything. Mr. McQueen stated people like to eat on the fly; this is a good idea.

**Mr. Barbin 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 an additional food trailer for a temporary time of May to November 2023 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.**

**Appointment of Alternates: Mr. Porter nominated, seconded by Mr. Barbin, Ted Phillips as an alternate to a one-year term. Motion carried unanimously.**

**Mr. Porter nominated, seconded by Ms. Grant, Sarah Frechette as an alternate to a one-year term. Motion carried unanimously.**

**Mr. Hounsell nominated, seconded by Mr. Porter, Debra Haynes as an alternate to a one-year term. Motion carried unanimously.**

Mr. Porter stated Steven Steiner has requested to be an alternate. There was no motion.

**Selectmen's Report:** Mr. Porter stated with the recount the reorganization meeting will be next week. Mr. Porter thanked David Weathers for his service. Mr. Colbath asked that Mr. Porter let the Board of Selectmen know that we have broached a housing committee.

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**Issues for Consideration:** Mr. Torres stated that staff has requested that the May 25, 2023 Planning Board meeting be canceled. **Mr. Colbath made a motion, seconded by Mr. Hounsell, to cancel the May 25, 2023 Planning Board meeting. Motion carried unanimously.**

**Media Questions:** There was no media in attendance.

Meeting adjourned at 9:52 pm.

Respectfully Submitted,

Holly L. Whitelaw  
Planning Assistant