

CONWAY PLANNING BOARD

MINUTES

AUGUST 10, 2023

PAGES

- 1 Review and Acceptance of Minutes
 - July 13, 2023
- 1 Triple K Properties, LTD/Lloyd and Diane Drew (File #S23-10) – Boundary Line Adjustment Review (PID 202-120.01 & 123)
 - Conditionally Approved
- 2 Lucy Brook Partners, LLC (File #S23-11) – Two-Lot Subdivision Review (PID 201-1)
 - Conditionally Approved
- 3 The Residences at Saco River, LLC (File #FR23-07 & #S23-08) – Concurrent Full Site Plan and Unit Subdivision Review (PID 246-23)
- 4 SC Lookout, LLC (File #FR23-09) – Full Site Plan Review (PID 246-20 & 20.001)
 - Conditionally Approved
- 5 River Run Company, LLC (File #FR23-08 & #S23-09) – Concurrent Full Site Plan and Unit Subdivision Review (PID 215-9 & 11)
 - Continued until September 14, 2023
- 6 Other Business
 - Mark Dindforf, Saco Swift Rivers Local Advisory Committee – Saco and Swift River Corridor Management Plan
 - Motel North Conway, Inc./Ted Phillips (File #NA23-11)
 - Varahi North Conway Realty, Inc. (PID 230-119) – Request for a Concurrent site plan and subdivision review
 - Selectmen’s Report
 - Issues for Consideration
 - Media Questions

CONWAY PLANNING BOARD

MINUTES

AUGUST 10, 2023

A meeting of the Conway Planning Board was held on Thursday, August 10, 2023, beginning at 7:00 p.m. 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; Town Planner, Ryan O'Connor; and Planning Assistant, Holly Whitelaw. Alternate Ted Phillips was in attendance.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Byers made a motion, seconded by Ms. Grant, to approve the minutes of July 13, 2023, as written. Motion carried unanimously.

TRIPLE K PROPERTIES, LTD/LLOYD AND DIANE DREW (FILE #S23-10) – BOUNDARY LINE ADJUSTMENT REVIEW (PID 202-120.01 & 123)

Davis Bartlett of HEB Engineers appeared before the Board. This is an application to convey 0.07 of an acre to PID 202-120.01 (Drew) from PID 202-123 (Triple K Properties, Ltd) at 23 Longview Terrace and Intervale Crossroads, North Conway. They are requesting a boundary line adjustment for a possible future addition to a garage.

Mr. Bartlett withdrew the waiver request for §130-24.E, as all monuments have been set.

Mr. Porter made a motion, seconded by Mr. Barbin, to accept the application of Triple K Properties, LTD/Lloyd and Diane Drew for a boundary line adjustment review as complete with the staff report. Motion carried unanimously.

Chair Colbath asked for Board comment; there was none.

Mr. Colbath read a waiver request for §130-36.A, street trees, due to the existing mix of hardwood and softwood trees on both lots involved in the adjustment.

Mr. Porter made a motion, seconded by Ms. Grant, to grant the waiver for §130-36.A. Chair Colbath asked for Board discussion. The Board noted it is a very wooded area, with plenty of tree coverage. **Motion passed unanimously.**

Mr. O'Connor noted there is a small corner of the existing structure beyond the setback. Staff recommends the applicant receive an equitable waiver as a condition of approval. He noted the garage is an existing non-conforming use; there is no primary use on the property. So, if the applicant were to extend the structure, it would be an expansion of the non-conforming use and further zoning permits may be required. Mr. Bartlett said the applicant is aware of this.

Chair Colbath asked for public comment; there was none.

Adopted: September 14, 2023 – As Written
CONWAY PLANNING BOARD – AUGUST 10, 2023

Chair Colbath closed public comment.

Ms. Whitelaw read the conditions of approval.

Mr. Porter made a motion, seconded by Ms. Grant, to conditionally approved the boundary line adjustment for Triple K Properties, LTD/Lloyd and Diane Drew conditionally upon revising plans to indicate monuments set; revising waivers granted table as necessary; an approved Equitable Waiver of Dimensional Requirement is required prior to final approval [existing setback encroachment]; 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 August 8, 2024. Motion carried unanimously.

LUCY BROOK PARTNERS, LLC (FILE #S23-11) – TWO-LOT SUBDIVISION REVIEW (PID 201-1)

Davis Bartlett of HEB Engineers appeared before the Board. This is an application to subdivide 21.8 acres into two lots at 3610 West Side Road, North Conway. This will create a 1.68-acre lot with the existing farmhouse and a second lot with the remaining land (20.6 acres more or less).

Mr. Porter made a motion, seconded by Ms. Grant, to accept the application of Lucy Brook Partners for a two-lot subdivision review as complete with the staff report. Chair Colbath asked for Board discussion; there was none. **Motion carried unanimously.**

Chair Colbath asked for Board comment. The Board discussed the need to consider waivers at this time, when the future development plans are unknown. Mr. O'Connor recommended conditioning the waiver that all street tree requirements be met with any future subdivision. They discussed whether the waiver applies to both lots and Mr. Bartlett said it does. The lot with the farmhouse has existing vegetation and will not be further developed.

Chair Colbath asked for public comment; there was none.

Chair Colbath asked for Board comment; there was none.

Chair Colbath closed public comment.

Mr. Bartlett read the waiver request or §130-36.A, street trees. Given that the two-lot subdivision is part of a larger development proposed with a Town standard road, planting street trees will conflict with future development.

Mr. Colbath read a waiver request for §130-36.A. **Mr. Porter made a motion, seconded by Mr. Barbin, to grant the waiver for §130-36.A. with the condition that all street tree requirements be met with any future subdivisions.** Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Whitelaw read the conditions of approval.

Mr. Porter made a motion, seconded by Ms. Byers, to conditionally approve the two-lot subdivision conditionally upon NHDOT Driveway permit and indicate permit number on plan; NHDES Subdivision approval and indicate approval number on plan; revising waivers granted table with the condition that all street tree requirements be met with any future subdivision; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for recording; a performance guarantee for all on-site improvement [if necessary]; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on August 8, 2024. Motion carried unanimously.

THE RESIDENCES AT SACO RIVER, LLC (FILE #FR23-07 & #S23-08) – CONCURRENT FULL SITE PLAN REVIEW AND UNIT SUBDIVISION REVIEW (PID 246-23)

Mark Lucy of Horizons Engineering and Rob Barsamian of OVP Management appeared before the Board. Roger Williams of OVP Management and Derek Lick of Orr & Reno were in attendance. This is an application to reconsider condition #6 on the Notice of Decision requiring a gate at the property line of Sawmill Lane [PID 235-3] at 1552 White Mountain Highway, North Conway.

Mr. Lucy explained Mr. Barsamian has met with representatives of the mobile home park, who agree that no gate is required. The DOT would like to have two means of egress to the property.

Chair Colbath asked for Board comment; there was none.

Chair Colbath asked for public comment.

Jason Gagnon of the North Conway Water Precinct said a resident of the mobile home park reported there is a plan to install speed bumps on Sawmill Lane. The Precinct is adamantly opposed to this, as they are the entity that plows and maintains the road. They are also concerned about the increase in residential traffic, as there is already heavy commercial truck traffic on this road, which could cause safety issues.

Rob Barsamian of OVP Management explained there will be one removable speed bump before Sawmill Lane, but none on Sawmill Lane. He said they agreed to donate money toward signs and fencing for the mobile home park. He will submit a copy of the signed traffic mitigation agreement with the homeowners association that covers these issues.

Mr. Barbin made a motion, seconded by Ms. Grant, to reconsider condition #6.

Mr. Hounsell noted his frustration that the Board does not follow Robert's Rules of Order, which Chairman Colbath noted.

Mr. Lick provided context for the Board. The applicant spoke with DOT regarding the impact of the gate after the application was approved. The DOT will not allow a gate to be installed and has not granted a driveway permit for the project. The DOT indicated the project will not be approved with the gate installed, and it might not be approved at all. The developer is attempting to remove

**Adopted: September 14, 2023 – As Written
CONWAY PLANNING BOARD – AUGUST 10, 2023**

one obstacle by requesting the requirement for a gate be reconsidered. Mr. O'Connor verified it is his understanding that the gate needs to be removed before the DOT will issue the driveway permit. He recommended that if the traffic patterns at the egress points change in any way, the plans will need to be brought to the Board for discussion.

Mr. Hounsell made a motion to table this request until the NHDOT determines if a driveway permit will be issued. There was no second. Ms. Whitelaw pointed out a motion was on the table that had not been acted on.

Mr. Hounsell expressed his frustration with the actions of the DOT.

The Board expressed concern that the DOT could cause this project to be brought before the Board again. Mr. Barsamian explained they are accustomed to working with the DOT and there is mitigation that can be done. He hopes they will not have to return to the Board. He noted that Town Engineer Paul DegliAngeli supports the removal of the gate and working with the DOT.

Mr. Gagnon noted the end of Sawmill Lane is a one-vehicle width exit, especially when a truck is present, which can impede left-hand turns out of Sawmill Lane. He suggested drivers may cut through the development to avoid having to use this point of egress, if there is a truck present.

The motion to reconsider condition #6 carried, with Mr. Hounsell and Mr. Porter opposed.

Fred Smith suggested an additional lane be created next to TJ Maxx to access the housing development. Chair Colbath explained this is not an option due to the placement of the property lines, as there is not enough room. Mr. Smith asked why property could not be purchased to make room and Chair Colbath responded that if the property owner does not want to sell the property, this is not an option.

Chair Colbath closed public comment.

Ms. Byers made a motion, seconded by Mr. Barbin, to remove condition #6, indicate a gate at the property line of Sawmill Lane [PID 235-3], from the Notice of Decision dated 07/13/2023 and any future modifications to traffic flow or driveway location shall be approved by the Planning Board. Motion passed, with Mr. Hounsell present.

SC LOOKOUT, LLC (FILE #FR23-09) – FULL SITE PLAN REVIEW (PID 246-20 & 20.001)

Mark Lucy of Horizons Engineering and Rob Barsamian of OVP Management appeared before the Board. Roger Williams of OVP Management was in attendance. This is an application to construct a 2,800 square foot business service establishment with associated infrastructure at 1498 White Mountain Highway, North Conway.

Ms. Grant made a motion, seconded by Mr. Barbin, to accept the application of SC Lookout, LLC for a full site plan review as complete with the staff report. Motion carried unanimously.

**Adopted: September 14, 2023 – As Written
CONWAY PLANNING BOARD – AUGUST 10, 2023**

Mr. Lucy reviewed the site plan review criteria, including parking spaces, landscaping, and egress alterations.

Chair Colbath asked for Board comment; there was none.

Chair Colbath opened public comment; there was none.

Chair Colbath closed public comment.

Ms. Whitelaw read a waiver request for §130-29.B. The proposed greenspace rate (25.2%) is less than the current requirement of 30% and will result in a decrease from the existing rate, which is 25.6%. However, it is above the 25% requirement under which the project was originally approved. **Mr. Porter made a motion, seconded by Mr. Bardin, to grant the waiver for §130-29.B.** Chair Colbath asked for Board comment. Ms. Byers asked if parking spaces could be eliminated to meet the new rate. Mr. Lucy pointed out the requirement for 30% affects projects like this that were approved at the previous rate of 25%. He reviewed the additional plantings being proposed to mitigate this issue. He credited input from the staff for the addition of the enhanced landscaping. **Motion carried unanimously.**

Ms. Grant noted the waiver request will make a non-conforming property less conforming.

The Board discussed the impact of removing parking spaces and the need to meet the current greenspace standards.

Mr. Porter made a motion, seconded by Ms. Grant, to accept the parking standard substitution. Motion carried unanimously.

Ms. Whitelaw read the conditions of approval.

Mr. Porter made a motion, seconded by Ms. Grant, to conditionally approve the full site plan for SC Lookout, LLC conditionally upon Town Engineer approval; North Conway Water Precinct water and sewer approval; indicating NHDOT driveway permit on plan; addressing deficiency memo from Gorrill Palmer dated 8/08/2023; revising landscaping plan to include trees/plantings along the frontage and within the new island; add a supplemental plan list with latest revision date on site development plan, sheet 5 of 12; updating waiver and substitution table if 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 August 8, 2024. Motion carried unanimously.

RIVER RUN COMPANY, LLC (FILE #FR23-08 & #S23-09) – CONCURRENT FULL SITE PLAN AND UNIT SUBDIVISION REVIEW (PID 215-9 & 11)

This is an application to construct 52 residential dwelling units and the continued use of the Nereledge Inn consisting of 12 dorm-style rooms and one apartment with associated infrastructure and create a 42-unit residential subdivision at 94 & 130 River Road, North Conway.

Mr. Porter made a motion, seconded by Ms. Byers, to continue the concurrent full site plan and unit subdivision review for River Run Company, LLC until September 14, 2023, at 6:00 p.m. Motion carried unanimously.

OTHER BUSINESS

Mark Dindorf, Saco Swift Rivers Local Advisory Committee – Saco and Swift River Corridor Management Plan: Mark Dindorf and Forrest Bell of FB Environmental appeared before the Board to give an overview of the Saco and Swift River Corridor Management Plan. Mr. Dindorf described the Saco Swift Rivers Local Advisory Committee and their purpose. Per the New Hampshire Department of Environmental Services Rivers and Lakes Management Program, a corridor management plan must be updated roughly every ten years. The last update was in 1994. Ideally, the four municipalities within the Saco and Swift River corridor will adopt this as a document of reference and as part of their Master Plans, making the ordinances and protection of the river corridor more robust.

Mr. Bell noted this plan is designed to help towns manage the resources of the rivers, including flooding, recreational resources, natural habitat, and climate resiliency. They examined threats to the river that include recreational overuse, development, riverbank erosion, and flooding.

Chair Colbath thanked Mr. Dindorf and Mr. Bell for their presentation and stressed the importance of bringing the importance of the river into the public eye. Mr. Hounsell said the completion of this plan is well timed with the work the Board is doing on the Master Plan. He noted the Board needs to incorporate this work as they consider zoning ordinances. He asked if they had any suggestions what the Town can do as far as future zoning. Mr. Bell pointed out where this is referenced in the Plan. Mr. Dindorf commended the Town for its robust floodplain protections.

Chair Colbath asked for Board comment.

Ms. Grant asked about the process for updating benchmarks locally, such as 100-year flood levels. Mr. Bell noted the federal government has been slow to respond to environmental changes and recommended utilizing best-available science when establishing guidelines. Mr. Dindorf noted towns have an opportunity and an obligation to make protections more robust and should consider the wide-ranging effects of decisions made as planners.

Chair Colbath asked for public comment.

Barbara Gleason commended the gentlemen on their work and asked if the meeting was being recorded. She commented that developers need to be aware of this information. She thanked the Board for the questions they asked.

Chair Colbath asked how the Board could implement this information into the Master Plan. Mr. Bell offered to work with the Town's consultants on this process. The Board discussed ways to protect the riverbank from erosion.

**Adopted: September 14, 2023 – As Written
CONWAY PLANNING BOARD – AUGUST 10, 2023**

Motel North Conway, Inc./Ted Phillips (File #NA23-11): Ted Phillips appeared before the Board. This is a request to allow a temporary food truck at 2001 White Mountain Highway, North Conway (PID 230-121). The property has already used 12 of the allotted 14 days of their special event permit. The truck will be present on weekends from 12 to 2 p.m.

Chair Colbath asked for Board comment.

The Board discussed their authority to regulate business and that the Selectmen should be involved in addressing this. They noted an ordinance could be needed to address temporary businesses, such as food trucks, as it is becoming more of an issue.

Chair Colbath asked for public comment; there was none.

Chair Colbath closed public comment.

Mr. Barbin 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 a temporary food truck through October 31, 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, with Mr. Hounsell present.

Mr. Phillips agreed that this situation needs to change. This is time spent that could be better spent elsewhere. However, this is currently the only path forward until the issue is addressed.

Varahi North Conway Realty, Inc. (PID 230-119): This is a request for a concurrent site plan and subdivision review at 2039 White Mountain Highway, North Conway (PID 230-119). **Ms. Byers made a motion, seconded by Ms. Grant, to allow a concurrent site plan and subdivision review for Varahi North Conway Realty, Inc.** The Board discussed whether this could be handled in-house as opposed to bring brought before the Board for approval. Mr. O'Connor and Ms. Whitelaw agreed this would be appropriate. **Motion carried unanimously.**

Selectmen's Report:

Mr. Porter said the Selectmen had not met this week, so he had nothing to report. Mr. Porter said the Selectmen plan to discuss creating ordinances regarding food trucks and outdoor dining with Mr. O'Connor.

Mr. Hounsell noted the Selectmen are doing a fine job and that it is a difficult job. He said he does not feel the Board has the authority to discuss businesses, when it comes to food trucks.

Ms. Grant suggested telling the Selectmen that things would move faster for them, if the Town had an Assistant Town Planner.

Mr. Hounsell suggested extending the moratorium for another year.

**Adopted: September 14, 2023 – As Written
CONWAY PLANNING BOARD – AUGUST 10, 2023**

Issues for Consideration:

Mr. O'Connor said he has been working on a draft food truck ordinance and a mural ordinance, so would like to discuss these at the next workshop meeting. He would also like to discuss kennels and the moratorium language at the workshop meeting.

Media Questions:

Tom Eastman of the Conway Daily Sun said the Teletalk response showed overwhelming support for the food trucks. He also noted there was no vote taken during the work session regarding the moratorium. Chair Colbath clarified it was an initial conversation so that it could be posted to the agenda, so the public would have time to respond. Mr. Porter noted he wants the word to get out early enough, so residents can ask questions before it is placed on the ballot. The moratorium is being presented again to give the Town time to update the Master Plan, and update the zoning ordinances to be in line with the new Master Plan.

Meeting was adjourned at 9:39 p.m.

Respectfully Submitted,
Beth Haggeli