

**CONWAY PLANNING BOARD
MINUTES
OCTOBER 12, 2023**

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CONWAY PLANNING BOARD

MINUTES

OCTOBER 12, 2023

A meeting of the Conway Planning Board was held on Thursday, October 12, 2023, beginning at 6:05 pm at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Vice Chair, Ailie Byers; Secretary, Erik Corbett; Eliza Grant; Mark Hounsell; Alternate, Debra Haynes; Town Planner, Ryan O'Connor; and Planning Assistant, Holly Whitelaw.

The late start was due to traffic issues in town.

REVIEW AND ACCEPTANCE OF MINUTES

The minutes of September 28, 2023, will be reviewed at the next meeting.

APPOINTMENT OF ALTERNATE MEMBER

Chair Colbath appointed Ms. Haynes as a voting member.

ROGER AND KRISTYNA DESCHAMBEAULT (FILE #S23-17) – 2-LOT SUBDIVISION REVIEW (PID 242-3)

Ron Briggs of Briggs Land Surveying appeared before the Board. This is an application to subdivide a 3.9-acre lot into two lots at 2272 East Conway Road, Center Conway. Mr. Briggs described the project to the Board. One lot has an existing home; the other is a vacant lot. The appropriate permits have been issued and there are no waivers requested.

Ms. Grant made a motion, seconded by Ms. Byers, to accept the application of Roger and Krystyna Deschambeault for a 2-lot subdivision review as complete with the staff report dated 09/29/23. Motion carried unanimously.

Mr. Colbath asked for Board comment. The Board discussed the location of the existing water line.

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

Mr. O'Connor reviewed the conditions of approval.

Mr. Hounsell made a motion, seconded by Mr. Corbett, to conditionally approve the 2-lot subdivision for Roger and Krystyna Deschambeault upon Town Engineer approval; NHDOT driveway permit for existing driveway and indicating permit number on plan; NHDES subdivision approval and indicating approval number on plan; NHDES septic system approval for each parcel and indicating approval numbers on plan; submitting four copies of revised plans; submitting a mylar for recording; submitting a check for \$25 made payable to Carroll County Registry of Deeds for the L-CHIP fee; submitting a cost estimate

for monuments to be set to be approved by the Town; a performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; the conditional approval will expire on April 11, 2024; and a condition subsequent to final approval prior to a building permit issuance, the subdivision shall be flagged indicating parcel and Wetland and Watershed Overlay District boundaries. Motion carried unanimously.

SKATE PARK DISCUSSION

The Board noted that a skate park is an amenity that other Towns have and that Conway should consider.

Harrison Kanzler and Caren Peare appeared before the Board to discuss the Kevin Peare Memorial Skate Park and its mission. Ms. Peare noted a skate park has been on the Master Plan since 1994. There are no parks in town that allow skateboarding. Ms. Peare presented the design and explained the benefits this park would provide to the youth of Conway as well as of surrounding towns.

Chair Colbath asked for Board comment.

The Board expressed their support for this project, noting that Town zoning requirements need to be met. They discussed the ease of maintenance, as the structures will be constructed of cement as opposed to wood. It will be located next to the rec path and a right-of-way, so there will be adequate patrol potential and commercial activity. The Board noted that skateboarding is an Olympic sport and that the park fits into the Town theme of creating a place where families can thrive.

The Board requested that Town Planner O'Connor review the park plans and then return to the Board with his recommendation.

Chair Colbath asked for public comment.

Greg Mossman, member of the skate park board, reiterated that a skate park has been in the Recreation Chapter of the Master Plan since 1994.

Chair Colbath closed public comment and thanked the representatives for their presentation.

PUBLIC HEARING – MORATORIUMS

Hotels, Motels, resort hotels, and commercial structures greater than or equal to 50,000 square feet: To see if the Town will vote to adopt an ordinance establishing a temporary Town-wide moratorium, to be in effect from April 2024 through April 2025, stopping the issuance of building permits, granting of subdivision approval, and granting of site plan approval for hotels, motels, resort hotels, and commercial structures greater than or equal to 50,000 square feet, not including multifamily residential structures. This ordinance shall not apply to any project or work that (a) has already received all necessary approvals, (b) received conditional approval, (c) does not require any new or additional planning board or zoning board application or review, and (d) consists of reasonable repair or restoration necessitated by any natural disaster, Act of God, or loss covered by insurance.

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Chair Colbath asked for Board comment; there was none.

Chair Colbath opened a public hearing at 6:30 p.m.

Chair Colbath asked for public comment.

Shawn Bergeron expressed his support of the moratorium. He described his concerns regarding the Hilton and the amount of development on this parcel, including the effect the drainage could have on the Saco River. He asked whether the 50,000-foot restriction is for occupiable square footage or the footprint of the structure. After discussion, the Board agreed this should be clarified as occupiable square footage. The Board discussed the need for housing in Town and whether a multi-family dwelling should be included in the moratorium. Mr. Bergeron suggested that the Board review the Hilton site design and drainage plan to better understanding the real-world implications of the ordinances.

Chair Colbath closed the public hearing at 6:45 p.m.

Mr. Hounsell made a motion, seconded by Ms. Grant, for clarification. Motion carried unanimously.

Ms. Grant made a motion, seconded by Ms. Haynes, to post to the warrant as clarified. Motion carried unanimously.

PUBLIC HEARING – PROPOSED AMENDMENT TO SITE PLAN REVIEW REGULATIONS

§110-9 – Submission of application materials: The purpose of this amendment is to extend application submittal deadlines from 22 days to 30 days.

Chair Colbath asked for Board comment; there was none.

Chair Colbath opened a public hearing at 6:53 p.m.

Chair Colbath asked for public comment; there was none.

Chair Colbath closed the public hearing at 6:53 p.m.

Ms. Byers made a motion, seconded by Chair Colbath, to adopt the proposed amendment to §110-9 as written. Motion carried unanimously.

PUBLIC HEARING – PROPOSED AMENDMENT TO SITE PLAN REVIEW REGULATIONS

§130-8 – Filing and Submission of application: The purpose of this amendment is to extend application submittal deadlines from 22 days to 30 days.

Chair Colbath asked for Board comment; there was none.

Chair Colbath opened a public hearing at 6:54 p.m.

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Chair Colbath asked for public comment; there was none

Chair Colbath closed the public hearing at 6:54 pm.

Mr. Corbett made a motion, seconded by Ms. Haynes, to adopt the proposed amendment to §130-8 as written. Motion carried unanimously.

PUBLIC HEARING – ZONING AMENDMENTS PROPOSED BY THE CONWAY PLANNING BOARD

§190-31 – Definition of Charitable Gaming Facility – The purpose of this amendment is to add a definition of Charitable Gaming Facility as follows: “A facility conducting Games of Chance for the benefit of nonprofit organizations which engage in any game involving gambling or lottery prohibited by RSA 647:1. Facilities are required to be licensed by the State of New Hampshire pursuant to RSA 287-D:7, excluding halls owned by any Charitable Organization or governmental subdivision and shall meet Administrative Rules of Chapter Lot 7200, Games of Chance.”

Chair Colbath asked for Board comment; there was none.

Chair Colbath opened a public hearing at 6:56 p.m.

Chair Colbath asked for public comment.

Daymond Steer of Tamworth and the Conway Daily Sun, said this seems to be aimed at preventing the charitable gaming facility planned at the Shurfine Plaza. The Board clarified that this is a definition; it is not intended to prohibit anything. It is specifically designed to address charitable games of chance. Mr. Steer withdrew his comment.

He asked where the Board wants to take the Town in terms of charitable gaming, if the voters adopt this definition. Chair Colbath said the purpose of creating a definition is so that everyone has an understanding of what something is. This is the first step in deciding how something will fit into a community. This process is not unique to charitable gaming. As time goes on, new concepts are introduced and need to be defined so that they can be addressed and understood.

Chair Colbath closed the public hearing at 7:05 p.m.

Mr. Hounsell made a motion, seconded by Ms. Grant, to post to the warrant.

The Board discussed the benefit of leaving these issues open so that the public has adequate time to comment on them. They clarified that these are just definitions; they are not ordinances.

Motion carried unanimously.

§190-31 – Definition of Charitable Organization – The purpose of this amendment is to add a definition of Charitable Organization as follows: “A bona fide religious, charitable, civic, veterans', or fraternal or church organization, including police and firemen’s organizations which shall have been registered with the Secretary of State for at least 2 years. A charitable organization

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shall not include auxiliary units, committees, or other entities organized under the auspices of a charitable organization eligible for State of New Hampshire licensure, when such auxiliary unit, committee, or other entity is organized for the primary purpose of conducting games of chance.”

Chair Colbath asked for Board comment.

Mr. Hounsell asked if these definitions are in line with the state definitions and Mr. O'Connor said they are.

Chair Colbath opened a public hearing at 7:11 p.m.

Chair Colbath asked for public comment; there was none.

Chair Colbath closed the public hearing at 7:11 p.m.

Mr. Hounsell made a motion, seconded by Mr. Corbett, to post to the warrant. Motion carried unanimously.

§190-31 – Definition of Sports Betting Facility – The purpose of this amendment is to add a definition of Sports Betting Facility as follows: “A facility licensed by the State of New Hampshire which conducts Sports Wagering as authorized by RSA 287-I. Sports Betting facilities include Sports Book Retail locations and Mobile Sports Wagering.”

Chair Colbath asked for Board comment; there was none.

Chair Colbath opened a public hearing at 7:11 p.m.

Chair Colbath asked for public comment.

Jim McQueen said as the definitions are clearly stated and they agree with the state definitions, there is no reason to hold further public meetings to discuss them.

Chair Colbath closed the public hearing at 7:13 p.m.

Ms. Grant made a motion, seconded by Ms. Byers, to post to the warrant. Motion carried unanimously.

§190-31 – Definition of Commercial Bingo Hall – The purpose of this amendment is to add a definition of Commercial Bingo Hall as follows: “Any hall owned or leased by an individual, corporation, realty trust, partnership, association, or any other person who rents or leases the hall to a charitable organization for the operation of bingo or Lucky 7 games, excluding halls owned by any charitable organization or governmental subdivision.”

Chair Colbath asked for Board comment; there was none.

Chair Colbath opened a public hearing at 7:13 p.m.

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Chair Colbath asked for public comment; there was none.

Chair Colbath closed the public hearing at 7:13 p.m.

Mr. Corbett made a motion, seconded by Ms. Haynes, to post to the warrant. Motion carried unanimously.

§190-31 – Definition of Game of Chance – The purpose of this amendment is to add a definition of Game of Chance as follows: “Any game involving gambling as defined by RSA 647:2, II, 17 or any lottery prohibited by RSA 647:1, but shall not include any game involving the use of a slot machine or any other device in the nature of a slot machine, 50/50 raffles as defined in RSA 19 287-A:1, III, or ice-out contests as defined in RSA 287-D:1, VI.”

Chair Colbath asked for Board comment; there was none.

Chair Colbath opened a public hearing at 7:14 p.m.

Chair Colbath asked for public comment; there was none.

Chair Colbath closed the public hearing at 7:14 p.m.

Ms. Haynes made a motion, seconded by Ms. Grant, to post to the warrant.

Mr. Hounsell said that historical horse racing is parimutuel and asked if parimutuel should be included in this definition. Ms. Grant clarified that the state does not treat parimutuel as it does other games of chance. The Board agreed the subcommittee should discuss parimutuel at their next meeting.

Motion carried unanimously.

§190-31 – Definition of Gambling – The purpose of this amendment is to add a definition of Gambling as follows: “Games involving a risk of value upon a future contingent event not under one's control or influence, upon an agreement or understanding that something of value will be received in the event of a certain outcome.”

Chair Colbath asked for Board comment.

Ms. Grant noted that the state statutes do not define gambling; the Board has added this definition for clarity.

Chair Colbath opened a public hearing at 7:18 p.m.

Chair Colbath asked for public comment.

Daymond Steer of Tamworth and the Conway Daily Sun asked for clarification regarding the appropriateness of using the word "influence." After discussion, the Board agreed to strike the word "influence" from this definition.

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Chair Colbath closed the public hearing at 7:22 p.m.

Mr. Hounsell made a motion, seconded by Mr. Corbett, to strike the words “or influence” from the definition. Motion carried unanimously.

Mr. Hounsell. made a motion, seconded by Ms. Grant, to post to the warrant. Motion carried unanimously.

§190-31 – Definition of Casino – The purpose of this amendment is to add a definition of Casino as follows: “A non-charitable facility whose principal use is for the conduct of games of chance and / or gambling.”

Chair Colbath asked for Board comment.

Ms. Grant noted that the state statutes do not define a casino; the Board has added this definition for clarity.

Chair Colbath opened a public hearing at 7:23 p.m.

Chair Colbath asked for public comment; there was none.

Chair Colbath closed the public hearing at 7:23 p.m.

Ms. Byers made a motion, seconded by Ms. Grant, to post to the warrant. Motion carried unanimously.

§190-31 – Definition of Commercial Amusement Facility – The purpose of this amendment is to amend the definition of Commercial Amusement Facility as follows: “Any commercial use which offers for hire or to the general public access to structures, vehicles, mechanical or electrical contrivances, or other facilities which are intended primarily to provide entertainment, amusement or recreation, and in which the patron is engaged on the premises as an active participant rather than as a spectator. This shall not include volleyball, tennis or basketball courts, baseball, football or soccer fields, other similar sporting fields, or commercial golf facilities as regulated in the underlying district, **or any facility conducting Games of Chance**, and shall exclude special events as permitted by the Board of Selectmen.”

Chair Colbath asked for Board comment.

Ms. Grant noted that the state statutes do not define commercial amusement facility; the Board has added this definition for clarity.

Chair Colbath opened a public hearing at 7:24 p.m.

Chair Colbath asked for public comment.

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Daymond Steer of Tamworth and the Conway Daily Sun said this definition seems to be intended to prevent the Conway Poker Room & Casino from being approved. Mr. Hounsell noted that clarity is important when deciding on certain situations, such as the application for the Conway Poker Room & Casino, and this definition will help to provide that clarity moving forward. Mr. O'Connor noted that the Conway ZBA ruled that games of chance were not included in a commercial amusement facility and this definition will help to provide that clarity moving forward. Ms. Byers added that she believes games of chance were not legal in the state when this definition was originally created. It is important to consider the intent of the creators and the historical use of the definition.

Jim McQueen clarified if the definitions have to go to the warrant or could be approved at another public hearing. The Board said the definitions must go to warrant.

Chair Colbath closed the public hearing at 7:31 p.m.

Ms. Grant made a motion, seconded by Ms. Haynes, to post to the warrant. Motion carried unanimously.

§190-31 – Definition of Charitable Fundraising Event – The purpose of this amendment is to add a definition of Charitable Fundraising Event as follows: “An event held by a Charitable Organization for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other charitable purpose. The basis of any solicitation shall be solely for a charitable purpose and may include Games of Chance.”

Chair Colbath asked for Board comment.

Ms. Grant noted this is to address individual events where a permit is issued by the Selectboard as opposed to a facility that is holding such events. She said the state statutes do not define a charitable fundraising event; the Board has added this definition for clarity.

Chair Colbath opened a public hearing at 7:33 p.m.

Chair Colbath asked for public comment.

Daymond Steer of Tamworth and the Conway Daily Sun asked if this definition contemplates the idea of a fraternal organization, such as the American Legion, having something like pull tabs. Mr. O'Connor stressed that while the Town is still addressing those types of situations with games of chance, this definition is ruled by state statute and games of chance would include that type of facility. Mr. Steer asked about a commercial bingo hall, which Mr. O'Connor said would be viewed differently.

Chair Colbath closed the public hearing at 7:35 p.m.

Ms. Grant made a motion, seconded by Chair Colbath, to post to the warrant. Motion carried unanimously.

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§190-31 – Definition of Parkway – The purpose of this amendment is to add a definition of Parkway as follows: “A landscaped thoroughfare, most commonly a road with no curb cut and/or crossroad access, that has a protected vegetated buffer along either side for the purpose of maintaining scenic beauty. Vehicles with more than 2 axles are prohibited from driving on parkways.”

Chair Colbath asked for Board comment; there was none.

Chair Colbath opened a public hearing at 7:37 p.m.

Chair Colbath asked for public comment; there was none.

Chair Colbath closed the public hearing at 7:37 p.m.

Chair Colbath made a motion, seconded by Ms. Grant, to post to the warrant. Motion carried unanimously.

OTHER BUSINESS

SCRC, LLC – Lot Merger (PID 251-149.1 & 149.2): This is a request to merge PID 251-149.1 & 149.2 into one lot of record.

Ms. Byers made a motion, seconded by Chair Colbath, to approve the lot merger for SCRC, LLC. Motion carried unanimously.

ACLU Committee Update:

Mr. Hounsell reported the next meeting will be on October 23, 2023. They will be discussing parimutuel horse racing, among other topics.

Lesek and Ewa Gielata (File #FR22-02) – Conditional approval expiring (PID 252-14):

Wes Smith of Horizons Engineering appeared before the Board and asked if the conditional approval of this project could be extended, as another project is taking longer than expected.

Chair Colbath made a motion, seconded by Mr. Corbett, to extend the conditional approval for Lesek and Ewa Gielata until October 10, 2024. Motion carried unanimously.

2024 Meeting schedule:

The Board reviewed the proposed 2024 meeting schedule, including the start time of meetings.

Chair Colbath made a motion, seconded by Ms. Grant, to approve the 2024 meeting schedule. Mr. Hounsell said this is the first time he has seen work sessions on the schedule to conduct actual planning activities and he is pleased.

Motion carried unanimously.

Selectmen's Report:

There was no representative present from the Select Board, so there was no report.

Issues for Consideration:

"Not Applicable" Applications: Chair Colbath suggested that an applicant requesting a "not applicable" be required to provide elevations suitable for the project. This would be a change to the site plan review not applicable application. Mr. O'Connor will add this to the instructions when an application is submitted. The Board will discuss this language in the future.

Pledge of Allegiance: Mr. Hounsell suggested that Board meetings should start with the Pledge of Allegiance.

Drainage Issues: The Board discussed the drainage issue on the Hilton parcel. Ms. Grant noted the DOT has an easement to handle the drainage on the property and suggested reaching out to them about this issue. She suggested communication with the DOT could be improved and that the DOT has expressed being open to communication.

Mr. O'Connor said he and Mr. DegliAngeli have been on the site with the engineers, who are drafting a plan to handle the nutrient and velocity load of the drainage from Route 16 and ensure it does not impact the abutting property or the river.

Jim McQueen asked if culverts leading to the river are regularly inspected. Mr. O'Connor said maintenance is being done, but he is not aware of the maintenance cycle. Mr. Hounsell expressed his concern as to how the state is handling runoff on the strip and if it is being mitigated properly.

Infrastructure Review Committee (IRAC): Mr. Corbett reported that the Committee has been rehashing old findings and arguments. They toured the old middle school and are identifying different scenarios to gather information. Mr. Hounsell asked why the Committee is discussing closing an elementary school, if the voters have voted not to do so. Chair Colbath noted the Master Plan states that each village should have its own school and he hopes the Committee keeps this in mind.

Parkway Committee: Ms. Grant reported they are working on an ordinance for the Planning Board to consider to protect the parkway.

Work Session Agenda: Mr. O'Connor reviewed the issues to be discussed at the next work session.

Media Questions:

Daymond Steer of the Conway Daily Sun asked if the definitions pass, would the next step be to figure out where they fit into the use table. Mr. O'Connor explained the procedure has not been established as to what to do with the definitions; they will be added to the definition section of the ordinance.

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Mr. Steer asked if the activities described in the commercial bingo hall definition are allowed anywhere. Mr. O'Connor described the different types of bingo and clarified "bingo" in the definition only applies to bingo offered in a charitable gaming facility.

Mr. Steer said he has been tasked with understanding the situation regarding the American Legion and pull tabs. Mr. O'Connor said there is an active zoning permit being processed.

Mr. Steer asked how these definitions affect fraternal organizations with pull tabs or a bingo hall. Mr. O'Connor explained the goal of creating definitions is to clarify these issues moving forward.

Mr. Steer asked how a voter's decision on these definitions at the polls would affect these issues. The Board clarified it would not, until there was an ordinance that implemented that wording.

Mr. Steer asked if the next step would be to explore how these uses would fit into the use table. Mr. O'Connor said the subcommittee has been established to explore those possibilities.

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Beth Haggeli
Recording Secretary