

**CONWAY PLANNING BOARD**

**MINUTES**

**FEBRUARY 1, 2024**

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CONWAY PLANNING BOARD

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FEBRUARY 1, 2024

A meeting of the Conway Planning Board was held on Thursday, February 1, 2023, beginning at 7:00 p.m. at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Selectmen’s Representative, Steve Porter; Vice Chair, Ailie Byers; Secretary, Erik Corbett; Eliza Grant; Bill Barbin; Mark Hounsell; and Town Planner, Ryan O’Connor. Alternates Ted Phillips and Debra Haynes and Deputy Town Manager Paul DegliAngeli were in attendance.

**NON-PUBLIC SESSION – CONSIDERATION OF LEGAL ADVICE, RSA 91-A:3, II.(1):**

At 7:06 p.m., Ms. Byers made a motion, seconded by Mr. Hounsell, to enter a non-public session based on RSA 91-A:3.II(1), Consideration of Legal Advice. A roll call vote was taken. Hounsell – yes; Corbett – yes; Byers – yes; Porter – yes; Grant – yes; Barbin – yes; Colbath – yes. Motion passed unanimously.

At 7:43 p.m., Ms. Byers made a motion, seconded by Ms. Grant, to leave a non-public session. A roll call vote was taken. Hounsell – yes; Corbett – yes; Byers – yes; Porter – yes; Grant – yes; Barbin – yes; Colbath – yes. Motion passed unanimously.

Ms. Byers made a motion, seconded by Mr. Corbett, to seal the nonpublic session minutes until review by the Board in six months at the July 11, 2024, Planning Board meeting. Disclosure of the minutes at this time would render the proposed action ineffective. Motion carried unanimously.

**PUBLIC HEARING – ZONING AMENDMENTS PROPOSED BY PETITION**

**§190-31 - Definitions, §190 – Permitted Use Table, and §23, Building Construction – Residential Short-Term Rental** – The purpose of this amendment is to add a definition of Residential Short Term Rental; to modify the table of permitted uses to restrict residential short-term rentals to the following zones; CCVC (§190-17), CVC (§190-18), NCVC (§190-19), HC (§190-20), I-1 (§190-22), I-2 (§190-23), RR (§190-24); and FC (§190-26) if permitted in the underlying district; and within §23-12 to classify residential short-term rentals as R-1 occupancies.

Mr. Hounsell made a motion, seconded by Mr. Porter, to recommend the proposed amendment to §190-31 - Definitions, §190 – Permitted Use Table, and §23, Building Construction – Residential Short-Term Rental to the warrant.

Mr. Hounsell said what he has said previously has some merit to it.

Ms. Grant expressed the concern that this article is attempting to touch the building code. She doesn't think trying to force-classify short-term rentals (STRs) as R-1 will go well. These are

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mostly single-family homes, which fall under the residential code, not commercial mixed-use structures, which is what the R-1 residential group falls under. The building code is intended for new construction; it is not intended to retroactively apply to different uses. She supports the voters weighing in on ordinances, but does not feel this article will accomplish the intended goal.

Mr. Barbin believes there are enough flaws in the article that it will likely be taken to court and not prevail. The voters of Conway cannot afford to spend funds on litigation that will likely not be successful. He warned voters not to vote for this article, as it will not accomplish what is intended.

Chair Colbath thanked Mr. Guerringue for bringing this article forward. He recognized it is frustrating to not find a solution for STRs and feels the Town's hands are tied by state regulations. He repeated the concern about increasing the tax burden on the taxpayers with litigation. He recommended trying to move forward in smaller bites; this amendment attempts to do too much at once.

Mr. Corbett noted counsel said parts of this article could be severed by the courts later on. While the article is not perfect, he feels it is worth trying to put regulations on STRs. Even if only part of it is upheld, it does achieve some forward movement.

Mr. Hounsell expressed his frustration regarding the damage done to the Town by STRs and why he is in support of this amendment. He said there is overwhelming support for STRs in the legislature. He cannot support this article to the voters, but he encouraged the Board to move forward with the pieces of it that are savable. He recommended the Town support a licensing and inspection program, which would remove fighting against revenues.

Ms. Byers said the definitions in the article need to be further refined to hold up in court, if challenged.

Ms. Grant noted the intent of the Master Plan is to redo zoning. It is the Board's intent to plan how to help the community thrive and handle problematic STRs. She said the Board cares very much about the STR issue and is looking at ways to legally deal with it.

Chair Colbath opened public comment.

Mark Guerringue, resident, thanked the Board for considering the article. He said something has to be done about STRs and believes the article is worth presenting to the voters. He noted attorney Chris Meier's expertise in zoning. He said if the article is taken to court and fails, the Town could learn something from it. He encouraged the Board to support the article, as STRs are a huge issue in town and affect neighborhoods and values.

In response, Mr. Hounsell said it would be good for the community to hear that the Board will use this petition as a means to add protection from the impact of STRs. He urged the Board to commit to working with all parties to come up with a solution. Chair Colbath said this article is a good building block and made the commitment that the Board will continue to work on this issue.

Josh Brustin, resident, offered to help with this process in whatever way he can.

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Daymond Steer of the Conway Daily Sun asked how much of the opinion from counsel was based on Freedom, New Hampshire. Mr. Hounsell said the Board discussed counsel's opinion in a non-public meeting, so it is not appropriate to respond to this question.

Mr. Steer asked if there is a way to sever the good from the bad in the article before the vote. Chair Colbath said a petition article cannot be changed by the Board. Mr. Steer asked for clarification as to what parts of the article would be workable. Chair Colbath noted Ms. Grant outlined this in her initial comments and the Board members agreed with her comments.

Chair Colbath closed public comment.

**Motion defeated, with Mr. Hounsell, Ms. Byers, Mr. Porter, Ms. Grant, Mr. Barbin, and Mr. Colbath voting in the negative and Mr. Corbett voting in the affirmative.**

Chair Colbath thanked Mr. Guerringue for putting this article forward. He said this is a conversation that the Board will continue to have.

Chair Colbath adjourned the meeting at 8:24 p.m.

Respectfully submitted,  
Beth Hanggeli

Received  
1/9/24  
[Signature]

TOWN OF CONWAY

To be filed by: January 10, 2024

**RSA 675:4 and RSA 39:3 PETITION TO AMEND ZONING ORDINANCE AND MUNICIPAL CODE**

Pursuant to RSA 675:4 and/or RSA 39:3, the undersigned voters of the Town of Conway, being more than twenty-five (25) in number, hereby submit to the Board of Selectmen the following petition to amend the Town of Conway Municipal Code, including the Zoning Ordinance, such Article to be included on the Warrant for the 2024 Annual Town Meeting scheduled for April 9, 2024:

To see if the Town will vote to, for the purpose of prohibiting new residential short term rentals in certain residential districts (RA, CCVR, CVR, NCVR, MC, GWP, SP, and WWP), and ensuring that pre-existing residential short term rentals in those districts, and all residential short term rentals in districts where they are allowed, all meet certain life safety criteria applicable to units where occupants are primarily transient in nature, all for the health, safety, and general welfare of the occupants, the surrounding properties, and the Town, to amend the Zoning Ordinance of the Town of Conway as follows):

1. Amend Section 190-31 (Definitions) to add:

**RESIDENTIAL SHORT TERM RENTAL.** Any dwelling consisting of, or within, a residential single family or two-family (duplex), or a mobile home, which is rented or leased for more than thirty (30) total nights in a calendar year, and where any tenant or lessee of the dwelling is not protected by the provisions of RSA 540, the occupancy is transient in nature, and/or where the term of any lease or rental is less than 30 days; except that none of the following shall constitute a residential short term rental: 1) a seasonal rental with a term of over ninety (90) days; or 2) any lease or rental of a dwelling unit within a boardinghouse, an owner-occupied boardinghouse, a hotel, a lodging house, and an owner-occupied lodging house, a motel, a multifamily, a nursing home, an accessory dwelling unit, a resort hotel, a rooming house, an owner-occupied rooming house, a tourist home, and/or an owner-occupied tourist home.

2. Amend Section 190 Attachment 2 (Permitted Use Table) to add a line for Residential Short Term Rental, with N noted for RA, CCVR, CVR, NCVR, MC, GWP, SP, and WWP; P noted for CCVC, CVC, NCVC, HC, I1, I2, and RR; Pu for FC.
3. Amend Section 23, Building Construction, of the Municipal Code, to add § 23-12 as follows:

**Residential short term rentals shall be classified as Residential Group R-1 for purposes of requirements of the New Hampshire Building Code and this Section 23 of the Conway Municipal Code; shall be classified as an R-1 occupancy, a**

[Signature]









transient occupancy, and/or a Lodging or Rooming House (whichever is most restrictive) for purposes of the requirements of the National Life Safety Code, NFPA Doc. No. 101, edition currently being enforced by the State of New Hampshire Fire Marshal's Office, the State Fire Code, and this Section 23 of the Conway Municipal Code; and shall not be considered "only for residential purposes" for purposes of the requirements of the State Fire Code and this Section 23 of the Conway Municipal Code. For the purposes of this Section 23 of the Conway Municipal Code and this subsection, the definition of residential short term rental shall be as provided by § 190-31.

So petitioned, by the following registered voters of the Town of Conway:

SIGNATURE	PRINTED NAME	PHYSICAL ADDRESS (not PO Box)
<i>Mark Gurringue</i>	Mark Gurringue	61 Morrill Lane <sup>CTA Conway</sup>
<i>John Cuddy</i>	John Cuddy	3553 White Mtn Highway
<i>Barbara J. Harmon</i>	Barbara J. Harmon	75 Ash St N Conway, NH 03860
<i>Marissa Harmon</i>	Marissa Harmon	75 Ash St N Conway, NH 03860
<i>Larry Moore</i>	Larry Moore	230 Odell Hill Rd
<i>Berlene E Slater</i>	Berlene E Slater	13 Lion Mtn Lane 03513
<i>Virginia Nossiff</i>	Virginia Nossiff	184 Brownfield Rd Ctr. Conway
<i>Brodley Gaudreault</i>	Brodley Gaudreault	184 Brownfield Rd Ctr Conway
<i>Marshall Gross</i>	Marshall Gross	496 Potter Rd, Ctr. Conway
<i>Thomas Gross</i>	Thomas Gross	496 Potter Rd, Ctr Conway
<i>Fred Godbold</i>	FRED GODBOLD	136 BROWNFIELD RD CTR CONWAY
<i>Sarah Godbold</i>	SARAH GODBOLD	" " "
<i>Darcy Farver</i>	Darcy Farver	277 E. Conway Rd. Ctr. Conway

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