

CONWAY PLANNING BOARD

MINUTES

DECEMBER 10, 2020

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CONWAY PLANNING BOARD

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DECEMBER 10, 2020

A meeting of the Conway Planning Board was held on Thursday, December 10, 2020 beginning at 7:00 pm at the Conway Village Fire Station, 97 Main Street, Conway, NH. Those present were: Vice Chair, Benjamin Colbath; Selectmen's Representative, Steven Porter; Secretary, Sarah Frechette (via telephone); Ailie Byers; Earl Sires; Alternate, Steven Steiner; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

APPOINTMENT OF ALTERNATE MEMBER

Mr. Colbath appointed Mr. Steiner as a voting member.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Byers made a motion, seconded by Mr. Sires, to approve the Minutes of November 12, 2020 as written. Motion carried with Mr. Steiner abstaining from voting.

GARRY SHEERY (FILE #S20-18) – BOUNDARY LINE ADJUSTMENT REVIEW (PID 262-8 & 263-128)

Kate Richardson of Bergeron Technical Services appeared before the Board. This is an application to convey 6.09 acres to PID 262-8 from PID 263-128. Ms. Richardson reviewed the plans with the Board. **Mr. Porter made a motion, seconded by Ms. Byers, to accept the application of Garry Sherry for a boundary line adjustment review as complete. Motion carried unanimously.**

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

Ms. Richardson read waiver requests for §130-24.J. & 29; §130-23.K. & 24.T., U., & V. and §130-36.A. **Mr. Porter made a motion, seconded by Ms. Byers, to grant the waiver requests for §130-24.J. & 29; §130-23.K. & 24.T., U., & V. and §130-36.A.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Porter made a motion, seconded by Ms. Byers, to conditionally approve the boundary line adjustment for Garry Sherry conditionally upon 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 March 11, 2021. Motion carried unanimously.

KENNETT COMPANY (FILE #S20-19) – TWO-LOT SUBDIVISION REVIEW (PID 262-71.1)

Kevin Tilton of HEB Engineers appeared before the Board. This is an application to subdivide 184.27 acres into two lots on Eagle's Way and White Mountain Highway, North Conway. Mr. Tilton reviewed the plans with the Board.

Mr. Porter made a motion, seconded by Ms. Byers, to accept the application of Kennett Company for a subdivision review as complete. Motion carried unanimously.

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

Mr. Tilton read a waiver request for §130-36.A. **Mr. Sires made a motion, seconded by Ms. Byers, to grant the waiver request for §130-36.A.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Steiner made a motion, seconded by Ms. Byers, to conditionally approve the two-lot subdivision for the Kennett Company conditionally upon North Conway Fire Chief approval; North Conway Water Precinct water and sewer approval; 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 March 11, 2021. Motion carried unanimously.

NELSON BERGMAN GROUP, INC. (FILE #CC20-01) – CONCEPTUAL CONSULTATION (PID 258-38)

Richard Meek of Sebago Technics appeared before the Board. This is a conceptual consultation for the second phase, a 23-lot residential subdivision, of the Saco River Run development on Pemigewasset Road and Old Goshen Road. Mr. Meek reviewed the plans with the Board.

OTHER BUSINESS

Sharon and Paul Pacenka (File #NA20-06) – §110-4.A.(5): Andy Fisher of Ammonoosuc Survey Company appeared before the Board. This is a request to add a third residential dwelling unit at 29 Pollard Street (PID 276-5).

Mr. Irving stated they received a special exception from the Zoning Board of Adjustment for a third unit under the expansion of older homes; they have two units and are requesting a third unit. Mr. Irving stated they are proposing to pave an area to accommodate five parking spaces and to plant landscaping to shield the adjacent property.

Mr. Colbath asked if a fence would be a better alternative. Mr. Fisher stated the intention of planting landscaping is to eliminate any headlight glare; point of landscaping is to protect the neighbor.

Adopted: January 28, 2021 – As Written
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Mr. Steiner stated the big issue at the ZBA meeting was parking; does this meet the Town ordinance in regard to parking. Mr. Fisher answered in the affirmative and stated our company was hired to do the survey work and layout the parking. Mr. Steiner asked if the sixth parking space is inside the garage. Mr. Fisher answered in the affirmative. Mr. Colbath asked the number of bedrooms. Mr. Fisher stated he is not sure.

Mr. Porter made a motion, seconded by Ms. Byers, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that the addition of a third dwelling unit 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.

Proposed Zoning Amendments: Mr. Sires submitted the attached zoning amendment for a special exception for Compact Cluster Housing Developments. Mr. Sires stated the proposed special exception would provide greater density to construct smaller units. Mr. Sires stated these would not be able to be used for short-term rentals. Mr. Sires stated the intention is to provide another opportunity for seasonal housing for employees, downsizing and transitional homes.

Mr. Colbath asked for Board comment; Ms. Byers stated she likes it. Mr. Colbath stated he thinks it is great. Mr. Irving stated although this is a higher density then we are accustomed to, it is equivalent to the density in the affordable housing ordinance. Mr. Irving stated it is basically the same sort of thing, but it is precluding multi-family structures and burden to manage the affordability issue.

Ms. Byers made a motion, seconded by Mr. Colbath, to post the proposed Compact Cluster Housing Developments amendment to a public hearing on the January 28, 2021. Motion carried unanimously.

Mr. Sires submitted the attached zoning amendment to change “1930” to “1970” under the older home conversion special exception. Mr. Irving stated this amendment adopted in the 1980’s originally required the structure to be 50 years or older. Mr. Irving stated this was amended to 1930 after consulting an architect that is a ZBA member and he indicated that around 1930 building construction went from balloon framing to platform framing.

Mr. Irving stated this section of the ordinance allows the conversion of older homes to up to four units while keeping the character of the building. After a brief discussion, the Board agreed to table this amendment.

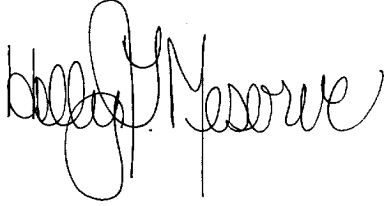
Set public hearing for proposed and petitioned amendments for the Town Warrant: Mr. Irving stated the Board needs to set the public hearing for the proposed and petitioned amendments. **Mr. Porter made a motion, seconded by Ms. Byers, to hold a public hearing on proposed and petitioned amendments on January 28, 2021. Motion carried with Mr. Steiner abstaining from voting.**

Short-Term Rentals: Mr. Irving stated the Board of Selectmen has forwarded *Regulations of Short-Term Rentals Proposed by the Committee and Accepted by the Board of Selectmen* to the Planning Board for their recommendation [attached].

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Meeting adjourned at 8:15 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is written in a cursive style with a large initial "H" and "M".

Holly L. Meserve
Planning Assistant

12/10/20

Conway Planning Board,

I propose creating the following Special Exception:

Special Exception for Compact Cluster Housing Developments

In order to encourage the development of smaller single-family detached dwellings and enhance residential housing choices in Conway, the Zoning Board of Adjustment may grant a special exception for compact cluster housing developments under the following conditions:

- *All dwelling units shall be in single-family detached structures;*
- *All dwelling units shall be served by municipal water and sewerage;*
- *All dwelling units shall have a floor area of not less than 300 square feet nor greater than 800 square feet;*
- *All dwelling units shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited;*
- *The minimum lot size shall be ¼ acre for the first unit and 5,000 square feet for each additional dwelling unit on a lot;*
- *The minimum frontage for any lot shall be 75 feet, and*
- *This special exception shall not be combined with any other special exception, including but not limited to the special exceptions for accessory dwelling units.*

Thank you,

Earl Sires

12/10/20

Conway Planning Board,

I propose eliminating the underlined sentence in the special exception below, or updating it to read "1970" instead of "1930".

In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same lot, provided that:

[Amended 4-10-2018 ATM by Art. 2; 5-12-2020 ATM by Art. 4]

[1] Substantially all of the structure was constructed prior to 1930.

[2] The total number of dwelling units on the site does not exceed four.

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.

[4] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas.

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion to a dwelling unit.

[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited.

[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception.

Currently, this special exception is offered in the following districts:

- Conway Village Residential
- North Conway Village Residential
- RA
- Center Conway Village Residential
- Center Conway Village Commercial
- Conway Village Commercial
- North Conway Village Commercial
- Recreational Resort
- Highway Commercial District

Thank you,

Earl Sires

GAVE TO THE HB
12/10/2020

Regulations of Short-Term Rentals Proposed by the Committee

and

Accepted by the Board of Selectmen

- I. Definitions
- A. Short Term Rental: The rental of a dwelling unit for periods of less than thirty (30) days, rented or offered for rent for 15 or more days in a calendar year and where the dwelling unit is not associated with commercial activities such as a hotel, motel or bed-and-breakfast. This is a non-residential use. A qualified Short-Term Rental must have a Business License in good standing from the Board of Selectmen.
 - B. Short Term Rental License: Shall mean a business license issued under RSA 41:11c by the Town of Conway to an owner permitting use of a dwelling unit as a short-term rental.
 - C. Application: Shall mean the application for a short-term rental license which shall be a form approved by the Conway Board of Selectmen
 - D. Complete Application: Shall mean an application that has satisfied all the submittal requirements set forth herein and otherwise complies with the criteria required for issuance of a short-term rental license.
 - E. Floor Plan: Shall mean a level-by-level plan of the rental property with labeling of all enclosed spaces within the structure(s) and dimensions, including without limitation all sleeping areas.
 - F. Owner: Shall mean the recorded titled owner of the residence for which a short-term rental license is sought or has been issued. The owner may be a person or any form of business entity recognized by the State of New Hampshire. If the owner is a business entity, said entity must maintain current registration with the NH Secretary of State's Office.
 - G. Parking Space: Shall mean an area with a width of not less than nine feet and a length of not less than 18 feet located either within designated garage, or on impermeable surfaces such as asphalt, concrete, or gravel.
 - H. Owner's Agent: Shall mean a person, or business designated by the owner to manage the property. An owner's agent shall be designated by the owner as a person who can be contacted by the Town, by Emergency Services, and can receive legal notices on the owner's behalf.
 - I. Sleeping Area: To be a valid sleeping area, there must be a primary means of egress, a secondary means of escape, and a working smoke detector as per chapter 24 of NFPA 101, *The Life Safety Code*. The number of sleeping areas in a short-term rental shall not be more than the number of bedrooms listed on the Tax Card.
 - J. Town: Shall mean The Town of Conway, NH.
 - K. Valid Objection: Shall mean an objection based on:
 - 1. The owner's failure to file a complete application
 - 2. The owner's failure to meet any of the required criteria for issuance of a short-term rental license.

- II. Short Term Rental License Required:
 - A. To operate a short-term rental, the owner, or the owner's agent shall file an application with the Town for a short-term rental license.
 - B. No dwelling unit may be rented or offered for rent as a short-term rental without a short-term rental license.
 - C. Operating a short-term rental without a license may be charged as a criminal offense under RSA 41:11-C and/or be subject to civil penalty of \$275.00 for the first day and \$550.00 each subsequent day the dwelling unit is being rented or offered to rent as a short-term rental without a license. An owner who believes he/she has been fined in error may appeal as per section VII E.

- III. Requirements for Application: The following information and documentation shall accompany the application and be provided to the Town.
 - A. Completed application
 - B. Proof of ownership
 - C. Sketch, to scale, of property showing structures, parking spaces, and outside amenities.
 - D. Floor plan
 - E. Letter signed by owner designating owner's agent if any.
 - F. The Name, address, and 24-hour contact phone number for the owner or owner's agent who can be contacted in case of emergency. This person or business must be able and available to be on site within 30 minutes if requested by the Town or emergency services.
 - G. A form certifying compliance with safety standards set forth in section V I.
 - H. A signed acknowledgement on the application that the owner, and owner's agent, if any, have read all of the Town's regulations pertaining to the operation of short-term rentals.
 - I. The owner and the owner's agent, if any, shall sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations.
 - J. Septic Systems. Short Term Rentals on Septic Systems must show that their occupant load does not exceed the capacity of their septic system. This can be done by showing a State of New Hampshire ISDS Permit showing approval for the proposed occupant load or, where there is no permit on file, a letter from a New Hampshire Licensed Septic Inspector stating the Septic System is appropriately sized for the proposed occupant load within 12 months.
 - K. Garbage. Short term rentals shall demonstrate an approvable plan for trash storage and removal.
 - L. Fire Pits. If the short-term rental has a fire pit, the owner must submit with their application and subsequent renewals, permission for the guests to obtain a fire permit. Fire pits must meet the requirements of NH RSA 227: L-17

 - M. Should an owner believe that their property possesses more sleeping areas than the tax card shows, they may request the Town review that. The Town and Fire

Department will inspect the property and if the room in question meets the requirements of a sleeping area, it may be added to the floor plan and license as such.

IV. License

- A. The license shall be issued by the Town provided that:
 - 1. The application is complete
 - 2. Any valid objections have been corrected to the satisfaction of the Town.
 - 3. The fee has been paid.
- B. The license shall be valid for one year from date of issue.
- C. Annual renewal must be completed prior to expiration. Renewals will expire on the same date year to year as the original license.
- D. Failing to renew the license prior to expiration shall be treated the same as operating a short-term rental without a license and will be subject to the penalties set forth in section II C.
- E. License Fee. The License Fee shall be established annually by the Board of Selectmen as per NH RSA 41:9-a.

V. Regulations

- A. Sleeping Areas. Only the rooms designated as sleeping areas in the application, shown on the floor plan, and approved by The Town, shall be used for sleeping. Lofts accessed by ladders are not suitable for sleeping areas.
- B. Occupant Load:
 - 1. The maximum number of overnight guests permitted in a short-term rental is, not more than 2 persons per bedroom, plus 2 additional guests. Children under 3 years old sleeping in their parent's bedroom shall not count toward the occupant load.
 - 2. The maximum number of people allowed on the property after midnight shall not exceed the approved occupant load.
- C. Parking: A maximum of 1 vehicle per bedroom is permitted. All overnight guests' vehicles must be parked on the property. All vehicles must be parked in a designated parking space.
- D. Garbage
 - 1. Dumpsters shall be placed in observance of setbacks and shall be enclosed.
- E. Noise
 - 1. Short Term Rentals shall not interfere with the neighbor's peaceful enjoyment of their property.
 - 2. Noise complaints, when reported to the Town, may constitute a violation of this ordinance when the reporting party is willing to make a written complaint or provide evidence of excessive noise.
- F. Posting: Each Short-Term Rental shall have a clearly posted and legible notice, on or adjacent to the front door, containing the following information.

1. The name of the owner or owner's agent with their 24-hour phone number.
 2. The maximum number of occupants permitted by license
 3. The maximum number of vehicles permitted on the property and that all vehicles must be parked on the property.
 4. If there is a Fire Pit, the requirement to get a permit before use and to burn only camp fire wood.
 5. If Pets are permitted, the requirement to keep pets under control and off other people's property.
 6. Name and phone number of Fire Department that covers that STR
- G. Fire Pits: Fire Pits must be installed and used in compliance with NH RSA 227: L-17.
1. Permits must be obtained by the guest before using the fire pit.
 2. Only campfire wood may be burned in the fire pit.
 3. A guests' violation of State Law and Rules regarding outdoor burning or burning other than campfire wood will be addressed with the guest by the Fire Department. It shall also be a violation of these rules and subject to the penalties set forth in section VII.
- H. Fire Alarm Systems
1. Short Term Rentals that have fire alarm systems are required to maintain their systems in compliance with NFPA 72, *The National Fire Alarm Code*.
 2. Fire Alarms shall be installed and maintained such as to minimize nuisance activations from things such as cooking appliances, wood stoves, and fireplaces.
 3. The third and each subsequent time the Fire Department responds to a nuisance fire alarm in a calendar year shall constitute a violation of these rules and subject to the penalties set forth in section VII.
- I. Safety Standards
1. Short Term Rentals shall meet the requirements of Chapter 24 of NFPA 101, *The Life Safety Code*, as adopted by the State of New Hampshire including but not limited to:
 - a. Not less than one Means of Egress for each occupiable room.
 - b. Not less than one Means of Escape for each occupiable room.
 - c. Smoke Alarms in each sleeping area, outside each sleeping area and on each level.
 - d. Carbon monoxide alarms.
 2. Heating appliances shall be maintained not less than annually.
 3. Chimneys, Fireplaces, Woodstoves, and Pellet Stoves shall be installed and maintained in accordance with NFPA 211, *Standard for Chimneys, Vents, Fireplaces, and Solid Fuel Burning Appliances*.
 4. Building electrical system installed and maintained in accordance the NFPA 70, *The National Electric Code*.

VI. Inspections

- A. Short Term Rental Licenses are issued with self-certification of compliance with life safety and other rules.
- B. Inspection by the Town and/ or Fire Department is initiated in one of the following ways.
 - 1. Owner's request
 - 2. Violation of these rules
 - 3. Observation of perceived Life Safety violation by the Town or Fire Department while there on other business, such as an emergency response.
- C. Town and Fire Department officials conducting inspections will do their best to accommodate the owners or owner's agent needs and minimize disruption to guests whenever possible.
- D. Discovery of Imminent Threat to Health, Life, or Safety. Pursuant to NH RSA 147:4, 147:11, or 154:21-a, should an imminent threat to life or safety be discovered, the short-term rental shall be vacated and their license suspended until such time that the problem is corrected.

VII. Violations and Penalties

- A. Violations of These Rules shall be addressed as follows
 - 1. First Violation. A written warning shall be issued to the owner or owner's agent containing the nature of the problem and required corrective action.
 - 2. Second Violation within one year of the first violation. A fine of \$275.00 shall be levied on the owner.
 - 3. Third Violation within one year of the first violation. A fine of \$550.00 shall be levied on the owner.
 - 4. Fourth Violation within one year of the first violation. Revocation of the Short-Term Rental License.
- B. One year from the date of the first violation, that violation shall be removed and the second violation, if there is one, shall become the first violation for subsequent violations. If there is a third violation on file, it becomes the second.
- C. Owners with continued or egregious violations of these rules may be prosecuted under NH RSA 616:17
- D. Any owner who has had his/her short-term rental license revoked, may not apply for a short-term rental license for that property for one year from the date of revocation.
 - 1. This has no effect on other licensed short-term rentals that owner owns.
 - 2. Should an owner have his/her licensed for a particular short term rental property revoked a second time, that owner may no longer obtain a short-term rental license for that property.
- E. Right of Appeal. An owner who feels he has been issued a violation in error, may appeal to the Board of Selectmen.
 - 1. Any fines levied shall be stayed pending the appeal.
 - 2. Should the violation being appealed cause a revocation of the license, that short term rental shall not be rented during the appeal process.

3. If an owner has been charged criminally, he/she must seek redress through the court system.