

**CONWAY PLANNING BOARD**

**MINUTES**

**FEBRUARY 25, 2021**

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**CONWAY PLANNING BOARD**

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**FEBRUARY 25, 2021**

A meeting of the Conway Planning Board was held on Thursday, February 25, 2021 beginning at 7:00 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Hartmann; Selectmen's Representative, Steven Porter; Vice Chair, Benjamin Colbath; Secretary, Sarah Frechette; Bill Barbin; Ailie Byers; Alternate, Ray Shakir; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

**APPOINTMENT OF ALTERANTE MEMBER**

**Mr. Porter made a motion, seconded by Mr. Colbath, to appoint Ray Shakir as a voting member this evening. Motion carried unanimously.**

**REVIEW AND ACCEPTANCE OF MINUTES**

**Ms. Byers made a motion, seconded by Mr. Colbath, to approve the Minutes of February 11, 2021 as written. Motion carried with Mr. Shakir abstaining from voting.**

**ALAN DOUCET AND MICHAEL MCMAHON (FILE #S21-02) – BOUNDARY LINE ADJUSTMENT REVIEW (PID 230-11 & 231-125)**

Kevin Tilton of HEB Engineers appeared before the Board. This is an application to convey 0.36 of an acre to PID 231-125 (Doucet) from PID 230-11 (McMahon). **Mr. Porter made a motion, seconded by Mr. Colbath, to accept the application of Alan Doucet and Michael McMahon for a boundary line adjustment review as complete. Motion carried unanimously.**

Mr. Irving stated the Midas property [PID 230-11] was subject to site plan review and nothing in this application conflicts with that approval. **Mr. Porter made a motion, seconded by Ms. Frechette, to make a finding that pursuant to §110-4.A.(5) a site plan review is not required. Motion carried unanimously.**

Mr. Tilton reviewed the application. Mr. Hartmann asked for Board comment; there was none. Mr. Hartmann asked for public comment; there was none.

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

**Mr. Colbath made a motion, seconded by Ms. Byers, to conditionally approve the boundary line adjustment for Alan Doucet and Michael McMahon conditionally upon North Conway Fire Chief approval; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for recording; 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 May 27, 2021. Motion carried unanimously.**

**CMR PROPERTIES, LLC (FILE #S21-03) – 2-UNIT SUBDIVISION REVIEW (PID 214-84.2)**

Josh McAllister of HEB Engineers appeared before the Board. This is an application to create two commercial units. Mr. McAllister stated this subdivision was approved under the concurrent site plan and subdivision review for the hotel proposed at Cranmore. Mr. McAllister stated they would like to have the subdivision approved separate from the site plan so Cranmore can continue to do things on their development without waiting for bonding associated with the site improvements at the hotel.

**Mr. Porter made a motion, seconded by Mr. Colbath, to accept the application of CMR Properties, LLC for a unit subdivision review as complete. Motion carried unanimously.**

Mr. McAllister reviewed the application. Mr. Hartmann asked for Board comment; there was none. Mr. Hartmann asked for public comment; there was none.

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

**Mr. Porter made a motion, seconded by Mr. Colbath, to make a finding that pursuant to §110-4.A.(5) a site plan review is not required. Motion carried unanimously.**

**Ms. Byers made a motion, seconded by Mr. Colbath, to conditionally approve the unit subdivision for CMR Properties, LLC conditionally upon North Conway Fire Chief approval; revising waivers granted table as necessary; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for recording; 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 May 27, 2021. Motion carried unanimously.**

**BEAR HILL DEVELOPMENT, LLC (FILE #FR21-03 & #S21-04) – CONCURRENT SITE PLAN AND UNIT SUBDIVISION REVIEW (PID 219-243.1)**

Fran Parisi appeared before the Board. This is an application to construct a wireless communication facility with associated infrastructure and create a one-unit subdivision. **Mr. Colbath made a motion, seconded by Ms. Byers, to accept the application of Bear Hill Development, LLC for a concurrent site plan and unit subdivision review as complete. Motion carried unanimously.** Mr. Parisi reviewed the application.

Mr. Hartmann asked for Board comment; Mr. Hartmann asked if there is any site line on this from anywhere. Mr. Parisi stated he would not say it was invisible, there was some visibility from the power line easement area. Mr. Parisi stated the abutters were notified and there was an ad in the paper. Mr. Parisi stated he could not see it from the Cranmore parking lot or Schouler Park; we thought it would be more visible because of the height. Mr. Parisi stated there was very limited visibility and they have provided evidence of that.

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Mr. Porter asked if there was visibility in the village. Mr. Parisi answered there is no visibility from Main Street or the Village. Mr. Porter asked if there was visibility from the North-South Road. Mr. Parisi stated there was in one spot, but it was not in your face. Mr. Porter asked if it was visible from Artist Falls Road. Mr. Parisi stated there was no visibility from any of the houses or the Inn at the end of Artist Falls Road.

Ms. Byers asked how tall the tower is. Mr. Parisi answered 166-feet total. Mr. Porter stated he is shocked that it cannot be seen from the village. Mr. Parisi stated he was shocked too, but it was not seen.

Mr. Porter asked if his company looked at a different location. Mr. Parisi stated they looked at several properties in that area; there is a capacity issue and they are trying to fill in the capacity gap and provide more coverage in a stretch of Main Street. Mr. Porter stated it's sad with cell use being so common we are skirting about to build more towers to accommodate that; he would rather see our natural beauty in place than accommodate cell phone use. Mr. Parisi stated it becomes a public safety issue when you cannot make a cell phone call; there is a need.

Ms. Frechette stated there is a very small percentage of people who are not using cell phones. Mr. Parisi stated over 50% of people in NH only have a wireless phone; over 75% of 911 calls are made from cell phones.

Mr. Colbath stated with the Green Hills Preserve to the east and with a lot of walking trails, what kind of impact will it have on the site line from those peaks. Mr. Parisi stated there is a peak to the north and to the south, it is in a tight area; they took pictures from the trailhead of Pudding Pond and it could not be seen. Mr. Parisi stated there is a powerline easement and we are up against that powerline easement.

Ms. Byers asked the diameter of the tower. Mr. Parisi stated it starts about 8-feet and tapers to 4-feet, then at the top there is a platform with a triangle and each triangle face is 12-feet. Mr. Shakir asked if this will fill all the cell phone holes in the valley. Mr. Parisi answered only in downtown North Conway, and one mile north and a mile south. Mr. Shakir stated this is a very narrow targeted approach to the overall situation in regard to coverage. Mr. Parisi stated there are dramatic topography differences; when the Cranmore tower was built it blasted over downtown North Conway and now with so much traffic the Cranmore tower gets overloaded. Mr. Parisi stated one tower cannot be constructed for all of Conway given the traverse terrain.

Mr. Hartmann asked for public comment; Kevin MacMillan of Artist Falls Road stated cell towers cannot be regulated without certain laws in place. Mr. MacMillan stated the problem in Charlestown was that the abutters didn't want to see the heights of these towers, so they have some limitations in place; one requirement is an analysis of coverage in the area.

Mr. MacMillan stated in these larger towns without mountains they figure the coverage is usually about five miles on flat terrain. Mr. MacMillan stated they looked at the business issues and what they would like to see; they would have to prove that comparable sites were visited and refused. Mr. MacMillan stated a fall zone was discussed; the height of the tower from the center of the tower there has to be a diameter twice the size of the height of the tower to be protected.

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Mr. MacMillan stated he would recommend the Board look at those ordinances in the Towns of Northfield and Charlestown; there was a problem that they had solved. Mr. MacMillan stated in this case there was a special exception for the residential agricultural district to put up a commercial structure; in those other towns they still have a variance for the height. Mr. MacMillan stated he has requested a rehearing with the Zoning Board of Adjustment. Mr. Hartmann stated this Board is aware of that and any decisions made tonight will tie into that.

Courtney Wrigley stated a new tower toward Bartlett has green netting; you know it's a cell tower, but it doesn't hit you with all the grey metal. Ms. Wrigley asked if there is a possibility of putting that greenery on it so it blends in more. Mr. Parisi stated he thinks it calls more attention to things when you try to hide it. Mr. Parisi stated there is minimal visibility; cannot really dress them up, they are cell towers.

Mr. Porter stated we are in an area with a lot of mountains, we appreciate our pine trees and foliage. Mr. Porter stated in the southern part of the country where it is all flat they are used to them, we are not; so, anything that makes this more appealing makes more sense. Mr. Porter stated he still finds it hard to believe that a 166-foot tower is going to disappear into the trees. Mr. Parisi stated it is not invisible, but we provided a very extensive analysis to the Zoning Board of Adjustment.

Mr. Porter stated he has concerns with a tower in the middle of our village; want to see the impact mitigated. Mr. Parisi stated he believes they did mitigate it; it is on a large, heavily forested property with a powerline easement that already goes through the property, and in regard to tower height setback, we are almost two times tower height setback from all abutting properties.

Mr. MacMillan stated it is hard to believe that the tower is not going to be seen from Cranmore Road or Old Bartlett Road. Mr. MacMillan stated he didn't see the balloon go up; it also was a cloudy day. Mr. MacMillan stated not sure if it was a 15-minute window or what it was. Mr. Irving stated the actual tower itself has been approved by the Zoning Board of Adjustment through the special exception, the Board's review this evening is the site.

Jennifer MacMillan stated she is a North Conway native, she grew up on Artist Falls Road and she recently just built a home on Artist Falls Road. Ms. MacMillan stated she walked up to that lot today and she finds it impossible that it will not be seen. Ms. MacMillan questioned whether the balloon went up; she did not get the notice in her mailbox until the day it went up, so she missed it and she would like for it to be done again.

Ms. MacMillan stated she thinks it is a horrible location, this is a neighborhood. Ms. MacMillan stated she has concern for her children, health concerns and concerns with protecting and preserving this land. Ms. MacMillan stated we are going to compromise a forested lot that abuts wetlands. Ms. MacMillan stated this is in the direct center of a multi-use four season trail network. Ms. MacMillan stated she does not believe the trees in this area are over 80-feet; probably can be seen off of Peaked and Kearsarge. Ms. MacMillan stated they could not have picked a worse location; we need to protect our land and they should explore alternative sites.

Michael Speck asked what is the visibility from Peaked Mountain, Middle Mountain and Kearsarge; it might not be visible from the ground looking up, but from those locations you are

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looking down. Mr. Speck stated he is not necessarily against the Christmas tree look suggested by Ms. Wrigley; the tree look does catch your eye, but it is not right in your face and hidden a bit. Mr. Speck stated an attempt should be made for it to stand out a little less. Mr. Parisi stated he put a balloon in the air, he put an advertisement in the paper and he notified all the abutters and this was done voluntarily. Mr. Parisi stated where it is suggested this tower might be visible from, all the commercial activity that goes on in North Conway is already visible.

Mr. Hartmann stated they are trying to protect their back yard and their views. Mr. Hartmann asked if they went to the top of Peaked Mountain or Black Cap Mountain. Mr. Parisi answered in the negative. Mr. Porter stated he understands why they have to do this; Police, Fire and EMS would be in favor because it does make a difference. Mr. Porter stated we care for the community that we live in; we live here because of the beauty and thinks this needs to find a different location.

Mr. Parisi stated people are speculating that it is visible when he has provided evidence to the Zoning Board of Adjustment that it is not visible. Mr. Porter stated we have been told that before in other cases. Mr. Porter stated he is not going to vote in favor of the cell tower because he thinks it is going to come back to bite us and he respects the people on Artist Falls Road. Mr. Porter stated he would not want it in his backyard.

Mr. Parisi stated it is not in their backyard; it is on a 22-acre parcel and hundreds of feet from their backyard. Ms. Frechette stated we think of the National Forest as our home, this is our home. Mr. Porter stated he understands commercial growth and he understands modern technology. Mr. Parisi stated he has submitted an affidavit that there is no other site, and they conducted a very extensive analysis.

Ms. MacMillan stated she's curious why she didn't get 30-days from the ZBA meeting to this meeting; however, she and her father have appealed the Zoning Board of Adjustment's decision. Steve Steiner, a member of the ZBA, stated the Board was shown aerials showing there was no view of this tower. Mr. Steiner stated they are also the same company that constructed the tower on East Main Street in Center Conway. Mr. Steiner stated this is about capacity, it is important.

Mr. Colbath asked who controls the bandwidth that the tower has. Mr. Parisi stated we build the structure; we are real estate developers. Mr. Parisi stated we then lease space on the structure to various carriers and they are the ones with the FCC licenses; they are the ones who have the frequency that are licensed by the FCC.

Mr. Colbath stated cell phones are not a new technology and now we need one on the top of Cranmore and one a mile and a half away down the hill. Mr. Parisi stated they are selling millions of phones a month and they have evolved; they are now internet access devices. Mr. Parisi stated the amount of data traffic that has evolved over the last several years is infinitely.

Mr. Shakir asked if he would expand a bit on the areas that the new tower will serve that is not served prior to this proposal. Mr. Parisi stated starting at the train station a mile south on Route 16 and a mile north on Route 16, the Cranmore parking lot and Cranmore base lodge; it is a small footprint. Mr. Parisi stated the networks are getting capacity strained.

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Mr. Shakir asked what the cost effectiveness is. Mr. Parisi stated there is demand for this, there is a capacity issue. Mr. Parisi stated we have met all the criteria's in zoning, and the Federal Government is very supportive of wireless infrastructure.

Mr. Parisi read waiver requests for §110-6.A.(scale); §110-6.A.(greenspace); §110-6.B.(4); §110-20.I.; §110-20.E. & F./§130-66.C.8.(f), (g) & (i); §110-21.; §110-24.; §110-27.; §110-29.B., D., & E.; and §110-36. **Mr. Hartman made a motion, seconded by Mr. Colbath, to grant the waiver requests for §110-6.A.(scale); §110-6.A.(greenspace); §110-6.B.(4); §110-20.I.; §110-20.E. & F./§130-66.C.8.(f), (g) & (i); §110-21.; §110-24.; §110-27.; §110-29.B., D., & E.; and §110-36.** Mr. Hartmann asked for Board comment; there was none. **Motion carried with Mr. Porter and Ms. Frechette voting in the negative.**

**Ms. Byers made a motion, seconded by Mr. Hartmann, to conditionally approve the concurrent site plan and unit subdivision for Bear Hill Development, LLC conditionally upon Town Engineer approval; North Conway Fire Chief approval; North Conway Water Precinct water and sewer approval; Conway Police Chief approval; adding a supplemental plan list with latest revision dates to sheet 3; adding a waivers granted table to sheet 3; resolution of zoning appeal in applicant's favor; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for recording; submitting a \$25 check made payable to Carroll County Registry of Deeds for the L-CHIP fee; \$200 for inspection fees; 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 February 24, 2022. Motion carried with Ms. Frechette and Mr. Porter voting in the negative.**

**1657 NORTH CONWAY, LLC (FILE #FR16-06) – NOTICE OF REVOCATION**

Mr. Irving stated the applicant is no longer interested in this approval and would like the approval revoked. Mr. Hartmann asked for public comment; there was none. **Mr. Colbath made a motion, seconded by Ms. Frechette, to revoke the Planning Board approval granted February 15, 2017 [File #FR16-06] to install an interactive menu-board with speakers, construct a drive-up window and associated uses, and associated infrastructure. Motion carried unanimously.**

**VIEWPOINT NORTH CONWAY, LLC (FILE #FR21-01) – FULL SITE PLAN REVIEW (PID 202-168)**

Josh McAllister of HEB Engineers and Ken Cargill of Cooper Cargill Chant appeared before the Board. This is an application to demolish existing motel and site features and construct a 105,836 square foot, 4-story, 105-room hotel with associated infrastructure. This application was continued from February 11, 2021.

Mr. Cargill stated they would like to request a continuance; there will be no further presentation this evening. Mr. Hartmann asked for public comment; Roy Tilsley, Attorney representing Mike and Eliza Grant, submitted a nuisance complaint to the Board.

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**Mr. Porter made a motion, seconded by Mr. Colbath to continue the full site plan review for Viewpoint North Conway, LLC until March 25, 2021. Motion carried unanimously.**

**OTHER BUSINESS**

There was no other business.

Meeting adjourned at 8:30 pm.

Respectfully Submitted,



Holly L. Whitelaw  
Planning Assistant