

CONWAY PLANNING BOARD

MINUTES

JULY 27, 2000

A meeting of the Conway Planning Board was held on Thursday, July 27, 2000, beginning at 7:02 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Selectmen's Representative, Gary Webster; Vice Chair, Stacy Sand; Robert deFeyter; Arthur Bergmann; John Waterman; Conrad Briggs; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve. Alternate, Martin Frank was in the audience.

REVIEW AND ACCEPTANCE OF MINUTES

The Minutes of June 22, 2000 should be amended as follows: page 1, under Brassill, paragraph 2, line 1 should read, "...requirement that it be received two days..."; page 6, paragraph 2, line 5, should be added, "...grand fathered. Mr. Lucy stated that they are grand fathered. Mr. Lucy stated that..."; and page 8, under Muddy Moose, paragraph 1, line 4, should be added, "...affirmative. Mr. Irving stated that he was going to approve it as a field change.". **Mr. Briggs made a motion, seconded by Ms. Sand, to approve the Minutes of June 22, 2000 as amended. Motion unanimously carried.**

The Minutes of July 13, 2000 should be amended as follows: Remove Dick O'Brien in the first paragraph as he was not in attendance. **Mr. Briggs made a motion, seconded by Ms. Sand, to approve the Minutes of July 13, 2000 as amended. Motion unanimously carried.**

**CHAD HILL – TWO–LOT SUBDIVISION (1999 TAX MAP 268, PARCEL 86.2) FILE #S00-06
ROGER JONES – FULL SITE PLAN REVIEW (1999 TAX MAP 252, PARCEL 12/OLD TAX MAP 57,
PARCEL 5) FILE #FR00-10**

Mr. Irving stated that there was an error in the abutter's lists in the applications for Chad Hill and Roger Jones. **Ms. Sand made a motion, seconded by Mr. Briggs, to accept the applications of Chad Hill and Roger Jones as complete.** Mr. deFeyter stated under State requirement an application has to be noticed correctly before it can be accepted. **Motion was defeated with Ms. Sand, Mr. deFeyter, Mr. Bergmann and Mr. Webster voting in the negative.** The applications will need to be re-notified.

**OHLSON PROPERTIES, INC. – FULL SITE PLAN REVIEW (1999 TAX MAP 276, PARCEL 294/ OLD
TAX MAP 33, PARCEL 34) FILE #FR00-11**

Mr. Irving stated that the applicant has withdrawn his application.

**ROMAN CATHOLIC BISHOP OF MANCHESTER – FULL SITE PLAN REVIEW CONTINUED (1999
TAX MAP 215, PARCEL 72/OLD TAX MAP 73, PARCEL 12-15) FILE #FR00-08**

Ed Bergeron of H.E. Bergeron Civil Engineers appeared before the Board. Mr. Bergmann left the table at this time. Mr. Bergeron stated that this proposal is for the new for Our Lady of the Mountains church. Mr. Bergeron stated that they received site plan approval last September, but there was a slight reduction in the footprint. Mr. Bergeron stated that it would not effect the parking calculations. Mr. Irving reviewed his staff report and stated that there are two waivers requests: one for trees in traffic islands and one for the scale of the plan. **Ms. Sand made a motion, seconded by Mr. Webster, to accept the application of the Roman Catholic Bishop of Manchester as complete for a Full Site Plan Review. Motion unanimously carried.**

Mr. Bergmann rejoined the table at this time. Ms. Duane read the waiver request for Article 123-30.D.(7). Ms. Duane read the requirements to grant a waiver. Mr. deFeyter asked why are you not able to get more trees in the islands. Mr. Bergeron stated that the trees physically would not fit. **Ms. Sand made a motion, seconded by Mr. Waterman, to grant the waiver request for Article 123-30.D.(7) for six trees. Motion unanimously carried.**

Ms. Duane read the waiver request for Article 123-7.B.(2). **Ms. Sand made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-7.B.(2). Motion unanimously carried.**

Ms. Sand made a motion to grant site plan approval. Mr. deFeyter stated that we have not reviewed the changes to the plans. **There was no second.** Mr. deFeyter stated that the church has architecturally changed. Mr. deFeyter asked the materials of the building. Mr. Bergeron stated that they are listed on the architectural plans. Mr. Bergeron stated that the reason we continued the hearing in June was because of some budgetary restraints. Mr. Bergeron stated that some materials may be down graded or changed, but if that is the case we will be back before the Board. Mr. Irving stated if it is consistent with our field changes policy they will not be back, but if any of the changes take them out of compliance then they will be back before the Board.

Mr. deFeyter stated that the other potential problem is the height of the structure. Mr. deFeyter stated that he thinks it exceeds the Town's height requirement. Mr. Irving stated that it is 54 feet to the roof and 42 feet to the mean gable. Mr. deFeyter stated that the cross is a structure. Ms. Duane asked if the Board thinks the cross is a structure. Mr. Waterman answered in the negative. Ms. Sand stated that it meets the definition of a steeple and it should not be considered in our height restriction. Mr. Irving referred to Article 147-17.2.D. Mr. deFeyter stated that they came in with a traditional steeple in the first application, but we couldn't approve it. Mr. deFeyter stated since then there has been an amendment to the zoning ordinance to allow steeples, but this is not what we had in mind.

Mr. Briggs stated that he agrees with Ms. Sand and this should be considered a steeple. Mr. deFeyter stated that it would need to go to the Zoning Board of Adjustment. Mr. Webster stated that if it were not changed it would be okay. Mr. deFeyter read the definition of a structure. Mr. Irving stated that he is unclear on how the Board is going to treat this and it needs to be established how to deal with this. Ms. Sand stated that there are different religions and different ideas of a steeple. Mr. Irving stated if you consider this a steeple then the approval should be conditional upon Zoning Board of Adjustment approval.

Mr. deFeyter stated that he thinks it is a structure and, therefore, would exceed our height requirement. **Ms. Sand made a motion, seconded by Mr. Bergmann, to grant conditional approval to the Roman Catholic Bishop of Manchester conditionally upon directing the Zoning Board of Adjustment to grant a Special Exception in regard to the steeple. Motion was defeated with Mr. Webster, Ms. Duane, Mr. deFeyter, Mr. Waterman, and Mr. Briggs voting in the negative.** Mr. Briggs stated that he does not see the cross as a structure and it should be accepted as it stands.

Ms. Sand made a motion, seconded by Mr. deFeyter, to grant conditional approval to the Roman Catholic Bishop of Manchester conditional upon receiving a Special Exception from the Zoning Board of Adjustment in regard to the steeple. Motion carried with Mr. Briggs not voting.

JOY TARBELL – MINOR SITE PLAN REVIEW (1999 TAX MAP 215, PARCEL 65/OLD TAX MAP 73, PARCEL 8) FILE #MR00-12

Mark Lucy of White Mountain Survey Company, Inc. appeared before the Board. Mr. Lucy stated that this is the Demers' Dry Cleaning drop-off and Sunforth Antique property. Mr. Lucy stated that the dry cleaners will remain the same and the antique shop is changing to professional office space. Mr. Irving reviewed his staff report. Mr. Irving stated that there are no waiver requests, they are in compliance with zoning and all pending items have been resolved. **Ms. Sand made a motion, seconded by Mr. Webster, to accept the application of Joy Tarbell for a minor site plan review as complete. Motion unanimously carried.**

Ms. Duane asked if there were any questions regarding driveways and vehicular access. Ms. Sand asked if the existing driveway was not wide enough. Mr. Lucy stated that it will remain at 25 feet, the applicant is just proposing to pave it. Ms. Duane asked if there were any questions regarding parking; there were none. Ms. Duane asked if there were any questions regarding parking lot design; there were none. Ms. Duane asked if there were any questions regarding loading; there were none.

Mr. deFeyter asked if the pending items have been satisfied. Mr. Irving answered in the affirmative. Ms. Duane asked if there were any questions regarding snow removal; there were none. Ms. Duane asked if there were any questions regarding pedestrian access; there were none. Ms. Duane asked if there were any questions regarding

Adopted: August 10, 2000 – As Amended
CONWAY PLANNING BOARD – JULY 27, 2000

lighting; there were none. Ms. Duane stated that the drainage calculations have been approved. Mr. Irving agreed and read a memorandum from Paul DegliAngeli dated July 27, 2000 regarding the drainage.

Ms. Duane asked if there were any questions regarding utilities; there were none. Ms. Duane asked if there were any questions regarding landscaping; Ms. Sand asked if a decision regarding the pond has been made. Mr. Lucy stated if the arborist determines that the tree will not live with the pond so close, the pond will be moved. Ms. Sand asked if one of the trees is on the property line. Mr. Lucy stated that it could be a foot or two off the property line.

Ms. Duane asked if there were any questions regarding green space; there were none. Ms. Duane asked if there were any questions regarding architectural design; there were none. Ms. Duane stated that historical site and on-site water and sewer are not applicable. Ms. Duane asked if there were any questions regarding ADA compliance; there were none. Ms. Duane asked if there were any questions regarding plat notes; there were none. Ms. Duane asked if there were any other questions or comments by the Board; there were none. Ms. Duane asked for public comment; there were none.

Ms. Sand made a motion, seconded by Mr. Webster, to conditionally approve the minor site plan for Joy Tarbell conditionally upon a performance guarantee for 50% of all site improvements; the plans can be signed out-of-session once the condition has been met; and the conditional approval will expire in thirty-days. Motion unanimously carried.

RICHARD CHAPLICK/NANCI NEENAN – SUBDIVISION/BOUNDARY LINE ADJUSTMENT REVIEW (1999 TAX MAP 235, PARCEL 80 & 81/OLD TAX MAP 15, PARCELS 22V & 23-1) FILE #S00-07

Diane Smith of Thaddeus Thorne Surveys appeared before the Board. Mr. Irving stated that they are only going for the boundary line adjustment. Mr. Irving stated that the applicants did not have a pre-application with staff and this needs to have site plan review as well. Mr. Irving stated that they would like to request a concurrent site plan and subdivision review. **Ms. Sand made a motion, seconded by Mr. Webster, to accept the application of Richard Chaplick and Nanci Neenan complete for Boundary Line Adjustment review. Motion unanimously carried.**

Mr. Irving reviewed his staff report. Mr. Irving stated that all the pending items have been addressed. Ms. Smith stated that Mr. Chaplick currently has two-units and would like to add a third unit. Ms. Smith stated to add the third unit he needed 1/100 of an acre of additional land. Ms. Smith stated that his neighbor, Ms. Neenan, was willing to work with him. Ms. Duane read the waiver request for Article 131-26.A. and 131-24.O. **Ms. Sand made a motion, seconded by Mr. Briggs, to grant the waiver request for Article 131-26.A. and 131-24.O. Motion unanimously carried.**

Ms. Duane asked for public comment; there were none. Mr. deFeyter asked if this was hooked up to municipal water and sewer. Ms. Smith answered water only. **Ms. Sand made a motion, seconded by Mr. Bergmann, to approve the boundary line adjustment for Richard Chaplick and Nanci Neenan. Motion unanimously carried.** The plans were signed. **Ms. Sand made a motion, seconded by Mr. Webster, to accept the request for a concurrent site plan and subdivision review for Richard Chaplick. Motion unanimously carried.**

POOPSY INVESTMENTS – MINOR SITE PLAN REVIEW (1999 TAX MAP 235, PARCEL 19/OLD TAX MAP 64, PARCEL 1-2) FILE #MR00-13

Will Haskell of H.E. Bergeron Civil Engineers; and Robert Johnson, Project Manager, appeared before the Board. Mr. Johnson stated that this is a family owned and operated restaurant and this will be #59. Mr. Irving reviewed his staff report. Mr. Irving stated that there are four waiver requests: one for a connecting drive; one for granite curbing; one for parking in the buffer; and one for the curb radius. Mr. Irving stated that the pending items have been resolved except for a NHDOT driveway permit. Mr. Irving stated that the application is substantially complete. **Mr. Bergmann made a motion, seconded by Ms. Sand, to accept the application of Poopsy Investments as complete for a minor site plan review. Motion unanimously carried.**

Ms. Duane read a waiver request for Article 123-21.G. Ms. Sand stated that there is quite an up slope, plus with access onto two roads the waiver makes sense. Mr. deFeyter asked if everything else is cleared up. Mr. Irving answered in the affirmative. Mr. deFeyter stated that we should review the sign. Mr. deFeyter stated that we should

Adopted: August 10, 2000 – As Amended
CONWAY PLANNING BOARD – JULY 27, 2000

see what the Town would like and see what they would like. Mr. Bergmann asked Mr. deFeyter if he was looking for a swap off. Mr. deFeyter answered in the affirmative. Ms. Sand stated that we should go through the checklist and we can deal with signs when we get to that aspect.

Ms. Duane asked if there were any questions regarding driveways. Ms. Duane read the waiver request for Article 123-21.G. **Ms. Sand made a motion, seconded by Mr. Bergmann, to grant the waiver request for Article 123-21.G. based on specific characteristics of this site.** Mr. Briggs asked if the NHDOT was doing anything with the curb cuts. Mr. Irving stated that they only have one curb cut onto Route 16. Mr. Bergmann asked if it would be possible to put a walkway. Mr. Johnson stated that there is competition there. Mr. deFeyter stated that we can recommend it, but we cannot require a walkway. Mr. deFeyter stated that they can put a couple of dotted lines to indicate where it would be located if they wanted to construct a walkway. Mr. Irving stated that there is a tremendous drop there. Mr. deFeyter stated that it doesn't make sense to have a walkway. **Motion unanimously carried.**

Ms. Duane asked if there were any questions regarding parking or the signs. Mr. deFeyter stated that he would like to see the signs come into compliance. Ms. Duane stated that it is a non-conforming sign because it is internally lit. Ms. Duane stated that we would like to see it changed. Ms. Duane stated that we have some beautiful wood cut signs in Town and the applicant may want to look at a higher end sign. Ms. Sand stated that the internally lit aspect of the sign is grand fathered, however, we would prefer to see it externally lit. Ms. Duane stated aesthetically it would be more pleasing. Mr. Johnson stated that he would take that under advisement. Mr. Irving asked if he is voluntarily giving up his grand fathered status. Mr. Johnson stated that he would have to get back to him.

Ms. Duane asked if there were any questions regarding parking. Ms. Duane stated that the number of parking spaces provided exceed the number required. Ms. Sand stated that some of the parking spaces are in the setback. Ms. Duane read a waiver request for Article 123-23.D. Mr. Irving read a memorandum from Paul DegliAngeli dated July 27, 2000. **Mr. Bergmann made a motion, seconded by Mr. Waterman, to grant the waiver request for Article 123-23.D.** Ms. Sand stated that she would like to see the granite-curbings put in because in the future if they make any changes or updates they could continue with the granite. Mr. Bergmann stated that he thinks it would be out of place with the amount of concrete curbing. Mr. deFeyter stated that he agrees with Ms. Sand. Mr. deFeyter stated that it is not going to make that much difference to the cost.

Mr. Johnson stated that the rest would remain concrete. Ms. Sand stated in the future if you replace it you would put in granite. Mr. Haskell stated that there is 170 feet of new curbing. **Motion was defeated with Ms. Duane, Mr. Webster, Ms. Sand, Mr. deFeyter, Mr. Waterman and Mr. Briggs voting in the negative.** Ms. Duane stated that the new is to be done in granite and the existing concrete can remain. Mr. Haskell state that the applicant will withdraw the waiver request and put in granite for any of the new curbing. Ms. Duane asked if there were any questions regarding loading. Mr. deFeyter stated that the loading area is blocking the handicap parking spaces and asked if we done that in other places. Mr. Irving answered in the affirmative and stated that it is similar to the Muddy Moose. Mr. deFeyter asked if it blocks the handicap parking. Ms. Duane stated that deliveries usually occur when the restaurant is not open. Mr. Johnson stated that all deliveries are before 11:00 a.m. and they open between 11:15 and 11:30 a.m.

Ms. Duane asked if there were any questions regarding snow removal; there were none. Ms. Duane asked if there were any questions regarding pedestrian access; there were none. Ms. Duane asked if there were any questions regarding lighting. Mr. deFeyter stated that the ordinance requires that light be kept on your own property. Mr. deFeyter asked how the light from the lights on the southern property line would be kept on their property. Mr. Haskell stated that the lights exist. Mr. Johnson stated that they could adjust the head so that it is not on the abutter's property. Mr. Johnson stated that they usually have lights around the parking perimeter for safety. Mr. Irving stated if they shine off their property they are out of compliance.

Ms. Duane asked if there were any questions regarding storm drainage. Mr. Irving read a memorandum from Paul DegliAngeli regarding drainage dated July 27, 2000. Ms. Duane asked if there were any questions regarding utilities. Ms. Sand asked if the utilities were underground. Mr. Haskell stated that the existing utilities are underground. Ms. Duane read a waiver request for Article 123-38.2. **Ms. Sand made a motion, seconded by Mr. Bergmann, to grant the waiver request for Article 123-38.2. Motion unanimously carried.** Ms. Duane asked if there were any questions regarding landscaping. Ms. Sand stated that the transformer box is currently an eye sore

and stated that there is nothing proposed to hide it. Mr. Johnson stated that they could add some shrubs around it to hide it.

Ms. Duane asked if there were any questions regarding architectural design. Mr. deFeyter asked if the applicant could review the materials. Mr. Johnson reviewed the architectural plans. Mr. deFeyter asked if the rear of the building faces the back of the parking lot. Mr. Bergmann stated that there are no windows on the back of the building. Mr. deFeyter stated that we require windows on all sides facing parking lots. Mr. Irving stated that it could be waived if the windows will serve no usable function. Mr. Johnson reviewed the floor plans. Mr. Bergmann stated that a window in the back is not practical. The Board agreed that windows facing the back parking lot would not be a usable function and, therefore, were waived.

Mr. Briggs asked if the roof top mechanicals are covered. Ms. Duane stated that roof top mechanicals have to be shielded. Mr. Johnson stated that the roof top mechanicals would be covered. Ms. Sand asked what is the color of the cooler. Mr. Johnson stated that it is a white metal. Ms. Duane read a waiver request for Article 131-67.C.(8)(f). Mr. Haskell stated that the applicant would like to withdraw the waiver request for Article 131-67.C.(8)(f) and will make the radius 25 feet. Ms. Duane asked if there were any questions regarding patron restrooms; dumpster location; water and sewer; ADA; outdoor display; and plat notes; there were none.

Mr. Irving stated that the original application indicated 24-lounge seats on the application, but the plans indicated 29-lounge seats. Mr. Irving stated that all issues have been satisfied for 29-lounge seats. Mr. Irving stated that this was a typographical error on the application and the applicant has requested that they be approved for 141 restaurant seats plus 29-lounge seats. Mr. deFeyter asked if it was noticed for 24-lounge seats. Mr. Irving answered in the affirmative. Mr. deFeyter asked what procedure do we use if they wish to change the number of seats. Mr. Irving answered site plan review. Mr. Bergmann stated that it is administrative. Mr. Irving stated that it might be perceived as an increase in use.

Mr. deFeyter stated that that he sees this as a scrivener's error. **Mr. deFeyter made a motion, seconded by Mr. Briggs, that this is minor and don't think anyone would matter if it were 24- or 29-lounge seats. Motion unanimously carried.** Ms. Duane asked for public comment; there were none. Ms. Duane asked the applicant if they decided anything on the sign. Mr. Johnson stated that he would do the best he can to see if the owners will comply. Ms. Duane stated that it is the freestanding sign that we have the greatest concern with. Mr. Johnson stated that we are leasing the property. Mr. Irving stated that you would have to consult the owner.

Ms. Sand made a motion to conditionally approve the minor site plan for Poopsy Investments conditionally upon a NHDOT driveway permit; add shrubs around the utility box on the north; the new curbing is to be granite; the Route 16 driveway radius is to be 25 feet; change the number of lounge seats to 29 and correct the parking calculations; and a performance guarantee for 50% of all site improvements. After a brief discussion, Ms. Sand withdrew her motion. **Ms. Sand made a motion, seconded by Mr. deFeyter, to continue the minor site plan review for Poopsy Investments until August 10, 2000. Motion unanimously carried.**

OTHER BUSINESS

Clarification: Mr. Webster stated that an enforcement issue was discussed with the Board of Selectmen in regard to action on Promto. Mr. Webster stated that the drainage plans the Planning Board saw and the Town Engineer approved were changed. Mr. Webster stated that the Town received a letter from the State granting the applicant a driveway permit, however, the applicant received a State driveway permit with conditions. Mr. Webster stated that the applicant did the work based on his copy of the State permit.

Mr. Webster stated that the developer of the site has stamped plans including drainage. Mr. Webster stated that the Board of Selectmen took a stance to enforce the ordinance. Mr. Webster stated that the developer has been told to correct it. Mr. Webster stated that the ordinance is very clear, but it is unfortunate that it happened. Mr. deFeyter asked who made the changes. Mr. Webster stated that it is subject to litigation, but someone will likely be sued. Mr. deFeyter asked is it what we approved. Mr. Webster stated what the Planning Board saw is not what is in the stamped plans. Mr. Waterman stated from observation it looks like the State is at fault. Mr. Webster stated that they have stepped out of it, but it appears they are as part of the issue is the run-off from the State.

Adopted: August 10, 2000 – As Amended
CONWAY PLANNING BOARD – JULY 27, 2000

Secretary: Mr. deFeyter thanked the Board for their vote to appoint him secretary, but he would like to decline the position. Ms. Sand asked why. Ms. Sand stated that Mr. deFeyter is an active member that does his homework and attends meetings. Mr. deFeyter stated that he has concerns and he does not want his signature on the plans when something that was approved here doesn't come out the other end. Mr. deFeyter stated that we have had many cases where that has not happened and he does not want his signature on it.

Mr. Webster stated that there is a 100% improvement today over a year ago and it is getting better all the time. Mr. Webster stated that we have come a long way and he hopes everyone else feels the same way. Mr. deFeyter stated that he agrees that things are getting better, but he thinks there are still problems. Mr. deFeyter stated that he hopes in the future he will be more comfortable with that. Mr. Waterman nominated Mr. Bergmann for secretary. Mr. Bergmann declined. Ms. Sand nominated Mr. Waterman. Mr. Waterman nominated Mr. Briggs. After a brief discussion, Mr. Briggs agreed to be the Secretary.

Post Office/Satellite Offices: Mr. deFeyter stated that they should address satellite boxes before we address the site plan. Ms. Duane stated that we should work with them and not drive it at them. Mr. Webster stated that through the site plan process you may not have a representative from the post office. Ms. Duane stated that we have sent letters to the post office asking for a response on our previous letters. Mr. Irving stated that we should approach the post office regarding mail delivery and satellite boxes, but we should not hold it over the applicant's head as is it out of their control.

Mr. deFeyter stated that he does not want to hold up the site plan, but we need to look at issues such as traffic and congestion. Mr. Irving stated that we should ask for confirmation on the previous decision. Ms. Sand stated that the relocation process took place prior to the 1999-2000 Planning Board was in existence. Ms. Sand stated that she does recall reading that a meeting with the Planning Board and Post Office representatives took place. Ms. Sand stated that it could have been at a Board of Selectmen meeting and it was prior to last spring. Ms. Sand stated that we couldn't use the site plan review process as leverage. Ms. Sand stated that we do not have a master plan.

Mr. Irving asked if this Board was going to require a traffic study. Mr. Irving stated that it takes time to prepare and if we are going to require it we want to notify the applicant. Ms. Duane polled the Board to see if a traffic study is necessary. Mr. deFeyter, Mr. Waterman, Mr. Bergmann, Ms. Sand and Ms. Duane agreed that a traffic study was necessary. Mr. Briggs stated that it is late to be asking for a traffic study. Mr. Webster stated that it would be necessary if there were no satellite boxes.

Work Session: The next work session will be August 31, 2000 to discuss the Master Plan.

Meeting adjourned at 9:55 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary