

## Conway Planning Board (PB)

January 16, 2020

### Minutes – Meeting

**Members Present:** Beth Girshman (Chair), Joseph Strzegowski (Vice-Chair), Mary McClintock, Bill Moebius, Jennifer Mullins

**Other attendees:** Alexis Fedorjaczenko (staff), Francis D. Parisi (Parisi Law Associates, P.C), Mark Silverman, John Moore (Roaring Glen Farms, LLC), Lisa Gustavsen (Roaring Glen Farms, LLC), Carol Betsch, Grace Larson, Gayle Sullivan, Gary Fentin, Dean Scranton, Sue Bridge, Peter Jeswald, Philip Kantor, Chris Eagin, Jim Moore

**Location:** Conway Town Hall, GP room

### Meeting called to order at 6:00 pm

1. Motion by Joe to approve the minutes of January 2, 2020, as presented; seconded by Mary. Motion passes, 5-0-0.
2. Vertex Tower Assets wireless tower, Special Permit application and public hearing
  - a. The public hearing is February 13 at 7 pm.
  - b. Discussion about scheduling of balloon float. Mark Silverman of the ZBA asked about notice if the dates need to be postponed. Mary indicated this will be posted on the town website. The proposed dates and times are: Feb 1, 2, 8, 9 (the first two weekends of February), from 8:00 am to 11:00 am. There was discussion about using a reverse-911 to announce information to the town, as a test needs to be run anyway.
  - c. Mr. Parisi indicated that the town can choose sites to have photos from. The Planning Board will discuss and communicate a list via email. Mr. Parisi indicated that locations can be added up to the day before the balloon float.
  - d. Mr. Parisi asked that when the public notice is mailed to abutters, to include the balloon float notice. Mr. Parisi also indicated he could publish a separate notice for the balloon float.
  - e. Beth explained that she spoke to Fred Goldstein, a proposed consultant; he sent a scope of work, and Beth checked his references. There was a motion by Mary to hire Fred Goldstein to conduct a study of the cell tower application; seconded by Beth. Motion passes, 5-0-0. Beth will send the proposal to Mr. Parisi to get his formal approval to proceed. Mr. Parisi gave the Planning Board a check for \$3,600 on behalf of the applicant to cover the proposed cost of hiring the consultant.
3. Site Plan Review/Special Permit application for Roaring Glen Farms, LLC - deliberation
  - a. The Planning Board received guidance from Town Counsel. Beth read a section of this correspondence into the record, as follows:
    - i. *"1. In general, The Planning Board's focus should be on the compliance of the proposed building site with the requirements of the bylaw, NOT with the behaviors of a particular individual. I do not believe that the intimidating or*

*threatening behavior of one individual constitutes a "public safety" concern in the zoning context, although it might impact the Town's determination that the person is suitable when considering a proposed Host agreement or the CCC's final determinations. In any event, the board here should focus on the specifics of the site."*

- ii. "2. Although it presents an interesting issue, our bylaw talks about measuring the 500 foot setback line from the **property line** of the school, day care center, etc. to the marijuana business, not the line of any easement. I also agree that to construe this language otherwise would entail issues of undue burdening of the easement. In this case, the 500 foot buffer should extend from the property line of the school to the marijuana operation, not from the easement area."*
- iii. "3. Our bylaw does specify a five-year term, but I believe that the Board, in its wide discretion, could limit a permit to a shorter term. The Board would have to justify and explain any such deviation in its decision. I do not believe, however, that such a course is advisable. As you are learning, these operations are quite expensive, and a short time limit (perhaps even at 5 years) might dissuade many appropriate applicants from applying. The thought of a substantial investment being subject to closure after a few years might prohibit many from applying. I would not limit the life of the initial permit lightly."*

b. Questions of the Applicant:

- i. The applicant has been granted a provisional license by the State as of 1/16/20.
- ii. Joe asked which "tier" the applicant falls under. John indicated that they have applied for "tier 11" to allow participation of as many farmers as possible. Tier 11 is for a site of 90,000 to 100,000 square feet. Mary clarified that the Special Permit would be site-specific. Lisa Gustavsen added that farmers are capped at the tier they start with. There was discussion. Joe asked if, in light of comments received from the public, Roaring Glen Farms would consider a smaller site. John said he is willing to work with the town but that the restrictions would be problematic for his project. John said they have already made a number of adjustments to take into consideration the concerns of neighbors. Joe said that John's comments in the last submittal point out this is a small-scale project. Joe also asked questions about odor; there was general discussion.

- c. Discussion among the Planning Board about the idea of hiring a consultant including the pros and cons. Beth explained that the Planning Board wants any decision they make to be defensible, sound, and tight. John explained that there are only two outdoor cultivators to-date, and that both have had crops in residential neighborhoods in Western Massachusetts. Joe asked if he is aware of any issues; John said other than crop issues, no. John suggested C3RN does research in this space in Massachusetts. Beth has spoken with the Planning Board from Sheffield. Lisa added that before a final license is issued, the CCC would have many requirements, that there were not things that would fall through the cracks. Joe

suggested that Beth contact the two consultants (Berkshire Design did a bylaw review for the Hatfield Planning Board, and C3RN which John Moore suggested) and bring information to the next meeting that would include scope of work and cost. Motion by Mary that Beth contact possible consultants and get information about potential scope of work, cost, and references, and bring that back to the next meeting to decide; seconded by Joe. Motion passes, 5-0-0.

- d. Discussion about the intent/definition of children congregating. Bill, Jennifer and Joe think it's a moot point because it is 500 feet away. Mary thinks the Church property is a place that children congregate and that it's 500 feet away. The easement is not part of the consideration. Mary explained she feels that whether it's an existing site that children congregate should be resolved now so that the boundary has been established if anything changes with the project in the future. Beth said that they had asked the Church for five years of records and that was not provided. Mary said they produced a license as a conference center and that they had an event, which is to her existing. Beth said that camps nor churches were part of how the state defined place where children congregate and that it doesn't meet the criteria. Jennifer said that's been her position all along that it's not a place children congregate on a regular basis, and that Joe's example is a good one. John said he would not have a problem with a condition restricting the distance, though he does not believe it is a place that children congregate. Mary said a condition could be unrelated to children congregating and the condition could be that the permit is for this layout and configuration. Joe also said he would like (for example) conditions that existing shrubbery and trees be maintained.
4. Housing trust and CPA Conference, Citizen Planner Training Conference, other upcoming meetings of interest
    - a. Upcoming: Citizen Planner Training Conference in March
    - b. Mary provided information on the Housing Trust and CPA Conference on March 14 and a conference on rural housing in April. Anyone who wants to know about the small-town housing workgroup should talk to Mary about it.
  5. Multi-hazard action plan – Action items from 2019 mitigation plan update: establishing river corridor overlay. Continued discussion re: adding “reduce or eliminate the potential for localized flooding events” to Section 32, Environmental Controls of protective by-laws. (Joe) – no discussion
  6. Tiny houses, affordable housing and Zoning by-laws – no discussion
  7. Planning projects discussion for FY 2019-2020, items below – no discussion
    - 7a. Zoning use table revision (Joe and Mary)
    - 7b. 2013 Master plan review and update (one section) (Bill)
    - 7c. Multi-hazard mitigation action items
    - 7d. Small scale solar bylaw, 15 KW? (Beth)
  8. Pending and possible – no discussion
    - a. SPR(s) Hearings for tentative solar installations (Goodridge; Forcier property)
  9. Mail/email
    - a. Notice of hearing from the Town of Deerfield on the proposal for a Dollar General Store on January 23. Notice on Eversource adding an antenna to the existing radio tower in Deerfield.

10. Old Business

- a. Update on NexAmp – none.

11. New Business not reasonably anticipated 48 hours in advance

- a. Beth proposed to ask the Select Board and Town Administrator to submit an application for technical assistance from FRCOG for the small-town housing workgroup.

12. The next meetings are February 6, 13 (public hearing), likely meeting on 20<sup>th</sup>.

13. The Public Comment

- a. Gary Fentin – asked for a copy of the letter from Town Counsel. Beth stated it would be in the minutes and Mary suggested that after the meeting has been closed, he could read it. Gary saw online that an appendix to the site plan was submitted, and he does not think it is what was asked for. Gary will do some research and suggest a name of consultant.
- b. Carol Besh, 228 Maple Street – Has been distressed that during the Public Hearing and comment on the Special Permit Application the process has devolved into upsetting character assassination of John Moore. Documentation has been put online and now been in the Greenfield Recorder. John Moore is not on trial for something he may or may not have said or done to a neighbor and she is appalled that members of the Planning board didn't nip this in the bud when someone spoke out in the public hearing last month spewing vitriol that then got taken up by a mob mentality and is potentially libelous and slanderous. Why did the Planning Board accept it as documentation? Members of the community who participated in that should be ashamed of themselves, it's no way to deal with conflict or differing needs in a situation.
  - i. Joe assured Carol that information is not part of the Planning Board's decision-making, and apologized. Mary said she has not read the petition and it is not part of decision-making.
- c. Peter Jeswald – When he was chair of the Conservation Commission, there were complex and new things, and they always found a consultant helpful to make the most informed decision. Beth asked if he suggested anyone, he said he could think about it.
- d. Phil Kantor, 12 River Street – Impressed with thoughtfulness of conversations. In response to questions or statements about the select board's thinking in regards to the Community Host Agreement, it was approached from the historical perspective of the moratorium being a catastrophically bad decision and that other towns were benefitting. If this applicant is approved and the business is successful with a revenue stream to the town, the highest amount of good for the most people is to lower tax rate or limit increases so people hurting can stay in their homes longer.

Motion by Joe to adjourn the meeting; seconded by Jennifer. Motion passes, 5-0-0.

Adjourned at 7:26 pm.

Respectfully submitted,  
Alexis Fedorjaczenko