

Conway Planning Board
Thursday, July 22, 2021, 7:00-8:30 p.m.

MINUTES

Location: Town Hall General Purpose Room

Present: Beth Girshman (chair), Jenn Mullins (vice-chair), Susan Fentin, Bill Moebius, Joe Strzegowski (associate member) (via phone); Lara De Lucca (administrative assistant)

Other Attendees:

Chris Larabee, Greenfield Recorder

Alfred Albano, 100 Russell St, Hadley

John Moore, 40 Whately Glen Rd

Tom Lesser, 195 South Part Rd

Veronique Blanchard, Conway Town Administrator

Danielle Canedy (Deerfield River Portage), Huntington/Conway

Meeting called to order 7:00 pm by Chair Beth Girshman

1. Review and approve minutes of previous meeting, June 17, 2021

Motion to approve minutes as submitted by Susan, seconded by Bill.

Vote:

Fentin - Aye

Girshman - abstains

Moebius – Aye

Mullins - Aye

Motion passed

2. Roaring Glen Farms, LLC – town council opinion, continued discussion on bylaw sections P,Q clarification

Discussed opinion from John Fitz-Gibbon (Conway Town Counsel). He agrees that section 11.5 (R) of the bylaw is triggered by the proposed transfers. The special permit would lapse if the cumulative amount of the transfers is 40% (4% interest for 10 additional members).

Two possible actions discussed were:

- PB could ask Roaring Glen to apply for a modified permit, with its new owners, prior to the transfers. Concern expressed was that the new special permit should be very specific and put a limit on share transfers for the future.

- Another possibility is that PB determines that Section 11.5 (R) is redundant or impracticable and chose to not enforce it. Concern expressed about setting a precedent by not enforcing a bylaw that was very carefully thought about at the time the special permit was issued.

Per Tom Lesser for Roaring Glen Farms, they were not prepared to discuss implications of most recent email from Town Counsel since they didn't see it before the meeting. They will return to a later meeting to continue this discussion.

3. Potential conflict of interest query – Massachusetts State Ethics Commission response

Susan read response from T. Michael McDonald of the MA State Ethics Commission into the record:

Ms. Fentin,

Per your request, I am writing to confirm the advice that I provided you over the phone regarding the conflict of interest law, G.L. c. 268A.

You are an elected member of the Planning Board in Conway. An application from a marijuana farm to transfer interests from an LLC to shareholders will soon be before the Planning Board. The marijuana farm is approximately 0.2 miles from your residence. When the marijuana farm originally applied for the special permit to establish itself, you were publicly opposed as a citizen to the issuance of the special permit.

You inquired as to whether you may participate in the marijuana farm ownership transfer matter.

Based on the facts you presented (including our discussion of Advisory 05-02: Voting on Matters Affecting Abutting or Nearby Property), my opinion is that Section 19 of the conflict of interest law will not prevent you from participating in the matter as a Planning Board member. However, assuming you can be fair and impartial, you should file a Section 23(b)(3) disclosure with the Town Clerk in advance of participating to dispel the "appearance" of a conflict. The disclosure should include your past public opposition to the marijuana farm. The Section 23(b)(3) disclosure form is attached here for your convenience.

I hope this advice has been helpful. Let me know if you have any questions about this advice.

Confidentiality. Both this e-mail and your request for advice are confidential by statute. This means that you are free to disclose this advice to anyone you wish, but that the State Ethics Commission may not disclose your request or any other identifying information unless you consent, or unless you misrepresent the contents of this e-mail.

T. Michael McDonald
Assistant General Counsel

State Ethics Commission
One Ashburton Place, Room 619
Boston, MA 02108

Per Beth, this is a legally binding opinion. Susan will file the form to amend 23(b)(3) with the Town Clerk.

4. NexAmp – outstanding issues, planting plan official approval, T&B contract/inspection schedule

- NexAmp submitted an amended plan incorporating abutters' request for more trees and Beth's request that they speak to a forester (which they did). Plan got the okay from both a local forester and a local landscaping company. After planting done, bylaw allows that PB can check to be sure they provided adequate screening and request more.

Susan moves that latest landscaping and screening plan submitted by Nexamp be approved. Jenn seconds.

Vote:

Fentin - Aye

Girshman - Aye

Moebius – Aye

Mullins - Aye

Motion passed

- DEP received an anonymous complaint about NexAmp regarding solar installation, it was sent to ConCom and PB. They are setting up a site visit. Joe will go.
- Joe got amended/extended contract for Tighe & Bond to do more inspections. Asked NexAmp to pay, they agreed, and will send town a check. Contract will be signed as soon as payment received.
- Generator should be gone in 2-3 weeks. In the future, there is the option to ask for temporary power at the site (in order to keep battery temperatures stabilized) rather than relying on a generator. NexAmp used the generator for this project because they didn't expect the delays with Eversource.

5. Sign bylaw and tubing company sign

Beth received several complaints about the large purple inflatable at Deerfield River Portage, and sent a letter July 10 notifying owners. Per bylaws, signs must be of a certain size and not flash or display movement. It is considered a sign because it is associated with a business. Danielle Candey, co-owner, states they have taken it down and agree to keep it down. She understands that any future sign they put up must conform to the bylaws.

6. River corridor easement

Joe received a rough draft document from the Franklin Land Trust, proposing that property owners would get compensated if they agree to let the river do what it naturally does on their property. Project is in early stages, but if this were to happen, it might help Conway property owners take advantage of the compensation if Conway had already adapted the river corridor overlay district zoning. Joe will report on any additional information he receives about this proposal.

7. Right of first refusal, chapter 61A, South Shirkshire Rd parcel

Regarding a small parcel of land that is in Chapter 61A. Owners want to take it out of 61A and sell it as a house lot. Town has Right of First Refusal since it is in 61A. Lee and Open Space Committee both recommend not exercising the RoFR. Susan moves that PB recommend that Conway not exercise its right of first refusal for this parcel. Jenn seconds.

Vote:

Fentin - Aye

Girshman - Aye

Moebius – Aye

Mullins - Aye

Motion passed

8. River corridor overlay zoning – update from work group, FRCOG assistance

Jenn hasn't met with or heard from work group.

9. Future meetings – to include Zoom component as public option?

Postponed to next meeting

10. Flood plain bylaws, updated as required by state – next steps

Postponed to next meeting

11. Records/archives/documents storage and organization - project

Postponed to next meeting

12. New planning board member - ?

Planning Board really needs a new member. Everyone should be "beating the bushes."

13. Mail/email

- Lara sent summary of mail
- We got a notice from FRCOG asking if Joe has been re-appointed to the Franklin Regional Planning Board for FY22. Joe is glad to continue in this role. All agree to elect Joe for another year. Beth will submit the form indicating this.

14. Old business

None

15. New business (not anticipated 48 hours in advance)

None

Upcoming Meetings:

- August 19, 7:00 p.m. (summer schedule)
- September 2 & 16, 7:00 p.m.

Motion to close the meeting:

Susan moves, Second by Jenn.

Vote:

Fentin - Aye

Girshman - Aye

Moebius - Aye

Mullins - Aye

Motion passed. Meeting is closed 8:05 p.m.