



TOWN OF LINCOLN, NH
Planning & Zoning Department
PO Box 25
Lincoln, NH 03251-0025

Phone: 603-745-2757
Fax: 603-745-6743
Email: planning@lincolnnh.org
Web: www.lincolnnh.org

**PLANNING BOARD
TOWN OF LINCOLN, NEW HAMPSHIRE
NOTICE OF DECISION**

Site Plan Review Approval Granted

Case # SPR 2018-04 M110 L015 – William Conn and Cynthia A. Conn

You are hereby notified that the Planning Board **GRANTED WITH CONDITIONS** the Application for Site Plan Review Approval of:

Applicant & Agent for property owners William Conn and Cynthia A. Conn:

Taylor Beaudin
8 Louis Lane
Lincoln, NH 03251

Property Owner:

William Conn and Cynthia A. Conn
177 Connector Road
Lincoln NH 03251-9720

Property:

177 Connector Road
(Map 110, Lot 015)
General Use (GU) District).

Request for Site Plan Review Approval

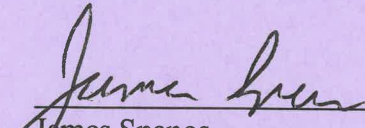
Proposed Project:

Applicant Taylor Beaudin, as agent for property owners William Conn and Cynthia A. Conn, request for Site Plan Review approval to change/expand the existing residential use of the property (i.e., one single family home with a large residential garage) into a mixed residential and business and industrial use property with the single-family residence continuing, as is, and converting the residential garage to a construction business (Lincoln Trucking & Excavating, LLC) operating out of the large garage with an added office space and using the exterior space for storing construction and related equipment was **GRANTED WITH CONDITIONS** by the affirmative vote of five (5) members of the Planning Board after a duly-noticed public hearing, on June 13, 2018.

CONDITIONS:

1. Conn shall move the trailer;
2. Conn shall put down calcium chloride on the driveway and dirt piles and elsewhere, as needed, to reduce the dust;
3. Conn shall comply with the Disorderly Actions Ordinance;
4. Conn shall relocate the dirt pile near the front of the lot across the street from the abutters' homes;
5. The existing "residential garage" shall be converted to a "business use garage" and the existing "residential office" addition to the "residential garage" shall be converted to a business use office for the business/industrial garage; the business office addition to the garage is 24'x28' or 672 square feet.

FOR THE PLANNING BOARD



James Spanos
Chair of Planning Board

Date: 7/2/18

IMPORTANT NOTICE

TIME LIMIT: Per NH RSA 674:39, this approval shall be valid if exercised within five (5) years from the date of final approval June 13, 2018, to an expiration date of June 13, 2023, subject to the conditions listed above and subject to the statutory limitations as indicated below.

- I. *Every site plan approved by the planning board and properly recorded in the registry of deeds shall be exempt from all subsequent changes in site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any town, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of 5 years after the date of approval; provided that:*
 - (a) *Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within 24 months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;*
 - (b) *Development remains in full compliance with the public health regulations and ordinances specified in this section; and*
 - (c) *At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.*
- II. *Once substantial completion of the improvements as shown on the site plan has occurred in compliance with the approved site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.*
- III. *The planning board may, as part of its site plan regulations or as a condition of site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:*
 - (a) *"Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and*
 - (b) *"Active and substantial development or building," for the purposes of fulfilling paragraph I.*
- IV. *Failure of a planning board to specify by regulation or as a condition of site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the 5-year exemption described in paragraph I. The planning board may, for good cause, extend the 24-month period set forth in subparagraph I(a).*

APPEALS: The Board of Selectmen, any party to the action or any person directly affected has a right to appeal this decision. See New Hampshire Revised Statutes Annotated, Chapter 677, (RSA 677) available on the State's Website:

<http://www.gencourt.state.nh.us/rsa/html/lxiv/677/677-mrg.htm> .

NOTICES: This notice has been placed on file and made available for public inspection in the records of the ZBA and has been posted at the Town Offices and at the US Post Office in Lincoln – the two public places in Town where notices are posted on July 3, 2018.

Copies of this notice have been distributed to:

- (1) **Applicant & Agent:** Taylor Beaudin, 8 Louis Lane, Lincoln, NH 03251 also agent for property owners William Conn and Cynthia A. Conn
- (2) **Property Owner:** William Conn and Cynthia A. Conn, 177 Connector Road, Lincoln NH 03251-9720 owns the property with an address of 177 Connector Road, (Map 110, Lot 015)

Board of Selectmen

Town Clerk

Fire Chief

Cartographic Associates, Inc. (CAI)

Posted at Town Offices & Town Website on July 3, 2018.

Posted at Post Office on July 3, 2018.

Town Manager

Tax Assessor

Public Works Director

PERMITS NEEDED: Prior to issuance of any Land Use Authorization Permit or Subdivision Approval or Site Plan Review Approval the Applicant shall obtain all applicable state and federal permits and approvals and provide copies to the Town, including any permits obtained from NHDES and any documentation will be provided to the Town.

NOTE: The Board of Selectmen, any party to the action or any person directly affected has a right to appeal this decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Town Clerk's Office at the Lincoln Town Offices during regular working hours. This notice has been placed on file and made available for public inspection in the records of the ZBA on July 3, 2018. Copies of this notice have been distributed to the Applicant, Board of Selectmen, Town Clerk, and Property Tax Assessor as required by Planning Board's Rules of Procedure).

NOTICE OF DECISION
PLANNING BOARD
LINCOLN, NEW HAMPSHIRE

Case # SPR 2018-04 M110 L015 – William Conn and Cynthia A. Conn

SITE PLAN REVIEW APPROVAL GRANTED WITH CONDITIONS

FINDINGS OF FACTS

Applicant/Property Owner/Surveyor:

- (1) **Applicant & Agent:** Taylor Beaudin, 8 Louis Lane, Lincoln, NH 03251 also agent for property owners William Conn and Cynthia A. Conn
- (2) **Property Owner:** William Conn and Cynthia A. Conn, 177 Connector Road, Lincoln NH 03251-9720 owns the property with an address of 177 Connector Road, (Map 110, Lot 015)

Property: 177 Connector Road, (Map 110, Lot 015). The property is located in the General Use (GU) District).

Request for Site Plan Review Approval

Proposed Project:

Application for Site Plan Review approval to change/expand the existing residential use of the property (i.e., one single family home with a large residential garage) into a mixed residential and business and industrial use property with the single-family residence continuing, as is, and converting the residential garage to a construction business (Lincoln Trucking & Excavating, LLC) operating out of the large garage with an added office space and using the exterior space for storing construction and related equipment. The property is located in the General Use (GU) District).

SUMMARY OF THE FACTS OF THE CASE DISCUSSED AT THE ABOVE PUBLIC HEARING:

A. Zoning District Designation

1. The zoning district designation for this property [and two other lots] were converted from the General Residential (GR) District to the General Use (GU) District in 2016 per the vote at the 2016 Annual Town Meeting.
2. The Conn's entire lot (Map 110, Lot 015) is now in the General Use (GU) District.

B. Prior Permits

1. The Land Use Authorization Permit (LUP) was issued for the "residential garage" in 2014.
2. This was the first application for a change in use from residential to business/industrial use.
3. The issue involving the sewer pump station easement was not resolved in meetings for Conn's previous buildings when Conn built the other garage because there were no other

Planning Board meetings required; Conn got a permit to build a residential garage. Conn never had a hearing for a change in use.

C. 100 Year Flood Plain or Special Flood Hazard Area

1. Although Conn's house is in, the Conn's garage is not in the
 - "Area of Special Flood Hazard";
 - Also known as the "Floodplain" or "Flood-prone Area"
 - Also known as the "Base Flood" or "100-Year Flood".
2. The portion of the lot where the house is located is within the "area of special flood hazard area /floodplain area/flood-prone area/base flood area or 100-year flood area, but the portion of the lot where the garage and the proposed office is located is not.

D. Sewer Easement to Town Over Conn Lot & Driveway from Connector Road to Subject Property

1. NH Department of Transportation (DOT) required the Conns to move the location of their driveway off Connector Road due to inadequate sight distance for traffic entering and exiting Connector Road to and from the Conn lot.
2. Conn moved the former roadway entrance to his lot further north off Pollard Road as shown on the Site Plan submitted marked in red with "20' DRIVE" at the behest of NH DOT.
3. Historically, the Town accessed its pump station through Conn's former driveway.
4. Conn grassed in the old roadway and planted a tree in the old roadway bed. Now the former roadway access is Conn's "front lawn".
5. The Town has an easement, but right now that easement [as shown on Plan #7804] goes right over the Conn's front lawn and through a tree planted on the front lawn.
6. The location of the Town sewer easement is shown on Plan #7804 recorded in the Grafton County Register of Deeds on January 11, 1994 (see attached Exhibit A).
7. The Quitclaim Deed dated March 18, 1994, recorded in Book 2068, Page 858 references the sewer easement to the Town (see attached Exhibit B).
8. The language for the easement is in the Quitclaim Deed from Peter Govoni and Carol C. Govoni to William Conn and Cindy Conn undated but recorded on December 23, 1993 in Book 2068, Page 858 references Plan #7804, recorded January 11, 1994 says as follows:

"ALSO EXCEPTING AND RESERVING herefrom an easement in favor of the Town of Lincoln for sewer purposes as shown on the referenced plan."
9. The Town has a major sewer pump station located on a lot owned by the Town of Lincoln (Map 110, Lot 016). The sewer pump station has been serviced for years by using the existing easement over the subject lot (Map 110, Lot 015) currently owned by the Conns.
10. The Sewer Pump Station at this location is probably one of the most important piece of sewer pumping equipment the Town has. The Town has to cross the Conn's property to get to it.

11. There is currently an issue between the Town of Lincoln and William Conn and Cynthia A. Conn about the extent, location and character of the easement for the Sewer Pump Station over the subject lot (Map 110, Lot 015) to the lot owned by the Town of Lincoln (Map 110, Lot 016) where the pump station is located.
12. Looking at the survey map submitted as part of the Site Plan Review Application, the easement is located along the area [that looks like a roadway where the maps says "20' SEWER EASEMENT"]. There used to be a roadway just to the right (northeast) of the sewer easement, where on the map it says "5/8" REBAR FND FLUSH", that came down through there where the Town sewer line runs.
13. According to Conn, the Town easement is for the sewer lines, not to access the sewer pump station.
14. Conn has not physically stopped the Town from driving down his driveway to service the sewer pump station yet, however, Conn has verbally noticed the Town that Conn has a right to stop the Town from accessing its Sewer Pump Station.
15. Town Manager Burbank said although this impasse has been going on since last October or November of 2017; ironing out the easement is an issue for the Board of Selectmen, not the Planning Board.

E. Water & Sewer Hookup to Proposed Office Attached to Garage

1. Using the highlighted survey plan, the thin blue and green parallel lines on the map indicate where the proposed sewer line (green) and water line (blue) will enter the office addition to the garage building. The water and sewer lines are not hooked up to the building yet. The two thin lines, green and blue, on the map just indicate where the water and sewer lines will go when the lines are put in. The sewer and water lines are coming out of the building, but nothing is hooked up yet.

F. Impervious Surfaces

1. Taylor Beaudin does not have immediate plans to pave "the whole thing".

G. Dust

1. When Conn first started operating his business out of the property the construction operation was very small so the neighbors said they did not complain to the Town, however, now the business has grown so much that the Beaudin/Conn construction operation has made life very difficult for the neighbors. Every time Mrs. Dumont and Mrs. Gioiosa open their windows all they see is sand and rocks on the front of their houses.
2. Conn has a large pile of dirt near the low berm in the front of the subject lot, next to Connector Road (US Route 3A) across the road from the neighbors' homes.
3. The neighbors cannot keep their windows open during the spring, summer and fall because when the wind blows, the wind takes dirt off the pile and blows the dirt directly across the road toward their homes. The dirt blows into through the neighbors' window screens and onto the furniture and furnishings in their homes. The dirt also covers the front of their homes. The neighbors have to wash the front of their homes frequently. When the wind blows, the neighbors also have to keep all of the front windows and the front doors closed.

The dust is so bad, that if the neighbors wash their car on Monday, they have to rewash their car on Tuesday.

4. Taylor Beaudin said he will throw down some calcium chloride on the dirt and roadway to keep the dust down tomorrow.
5. Taylor Beaudin said he will slow down on the roadway as well to keep the dust and dirt down.
6. Taylor Beaudin said he can move the dirt pile this weekend.

H. Noise and Hours of Operation and Disorderly Actions Ordinance

1. The Lincoln Trucking & Excavating LLC trucks wake the neighbors up every morning at 6:30 a.m. when Taylor Beaudin and William Conn bang their truck doors and tailgates shut and drop their plows.
2. The Lincoln Disorderly Actions Ordinance lists 7 a.m. as the earliest allowable time for operating heavy equipment
3. Taylor Beaudin said they cannot start work that late (i.e., 7 a.m.). He usually starts the truck up at 6:45 a.m.
4. Taylor Beaudin said sometimes they are called out in the middle of the night for emergencies such as when an emergency water main breaks or a road washes out. They would have to be able to drive the trucks to address an emergency.
5. Taylor Beaudin said he does not idle his equipment in the winter, he plugs his vehicles in during the winter time, and he will not rev up his engines in the early morning hours.
6. Taylor Beaudin said his dump truck is parked even with the front of "his shop".
7. Taylor Beaudin said that "we" come out of there two to three (2-3) times per day. Right now, Conn and Beaudin are "filling in outback" so they may be coming back and forth a few times more per day now, but once that area is all filled in, they will leave for work in the morning and be back to the shop at night.

I. Depreciation of Property Values in the Neighborhood

1. When Conn's neighbors purchased or built their homes on Connector Road, there was only one house on the Conn lot across the street. There were no businesses there.
2. According to the neighbors, the value of their properties has depreciated approximately thirty thousand dollars (\$30,000) over the past two (2) years.
3. No written documentation about the decrease in the valuations was submitted.
4. Mrs. Gioiosa said the depreciation of the property was reflected in both the property tax assessment and in the estimated fair market value as well.
5. The Planning Board will look into the possible depreciation of the homes in their neighborhood. The Planning Board members said they would have to look at the property assessment cards and see what the assessors decided about reducing the value of their homes and why. They would have to look at documentation for that claim and see what factors contributed to the loss in value.

6. Conn's "residential" garage went in in late fall of 2014 and the operation of the Lincoln Trucking & Excavating construction company amped up in the spring of 2015. A "residential office" was permitted to be added to the "residential garage" in 2016.
7. The first business moved into the Lincoln Business Park a/k/a the "industrial park" behind the neighbors in 2012 (Map 109, Lot 020) 21 Arthur Salem Way owned by Sully & Sons Holdings LLC, PO Box 665, Lincoln, NH 03251-0665.
8. Fair market value and property tax assessment values are different.

J. Size of the Proposed Addition

1. The proposed construction office has already been built as a "residential" addition to the "residential" garage. The current "residential office" space will be converted into construction office space. That space is twenty-eight feet by twenty-four feet (28'x24'), for a total of six hundred seventy-two square feet (672 sf). The only change will be that water and sewer will be added to the office space. A Land Use Authorization Permit will be required and the water and sewer tap fees will need to be paid.

K. Unattached Uninstalled Trailer Being Stored in the Front of the Lot

1. Conn is storing an unattached and uninstalled trailer in the front of the lot next to Connector Road.
2. The neighbors asked to have the trailer located in the front of the lot moved.
3. Taylor Beaudin said he would move the trailer.

L. Size of Construction Operation on the Lot

1. The neighbors asked how many trucks were going to operate out of the property.
2. Planning Board member Romprey said the number of trucks did not matter.
3. Selectmen's Representative to Planning Board Ham said Beaudin can have as many trucks as he needs.
4. Mrs. Dumont said the number of trucks matters to her and her neighbors. When the noise from starting the trucks wake her up early in the morning is she going to be disturbed by the noise from one or two trucks each morning or a whole fleet of eighteen-wheeler trucks starting up one after another all morning long.
5. Taylor Beaudin said he intended to keep the business the same scale as it is now and add the office "for right now". However, Taylor Beaudin said "I am not going to sit in here and tell you that I am not going to ever have more."
6. Ham asked Taylor Beaudin, "At this time you have no immediate plans to expand exponentially [the size of your business] in the near future?" Taylor Beaudin did not answer.
7. The following buildings and permits are reflected on the 2018 property assessment card:
 - a. 1960 - Original residential house (built 1960) No building permit required.
 - b. 1970 - 168 sf deck (built 1970) No building permit required.
 - c. 1980 - 480 sf garage [20'X24'attached garage] (built 1980) No building permit required
 - d. 1993 - New windows & doors for house (1993 Building Permit issued)

- e. 1996 - 2 story barn [18'X18'] (324 sf) (built in 1988, but Building Permit was issued in 1996 – could be he moved existing barn to new site)
- f. 2003 - Additions & renovations to house (Building Permit issued)
- g. XXXX - 128 sf lean-to (no date) No Land Use Permit – no year
- h. XXXX - 128 sf lean-to (no date) No Land Use Permit – no year
- i. 2014 - Permit for a “residential garage”; assessed as a “commercial” garage (Land Use Permit for 2014; built in 2014)
- j. 2018 - 24'X28' (residential office addition to residential garage built 2018 almost complete as of April 1st - BEFORE site plan review approval) (2016 Land Use Permit for addition to be used for residential purposes only – no water or sewer fixtures and no bedrooms)

M. The Applicant and Property Owner will take the following steps to mitigate the impact of the change in use from residential to business/industrial on the neighbors:

- 1. Taylor Beaudin said he will throw down some calcium chloride on the dirt and roadway to keep the dust down tomorrow.
- 2. Taylor Beaudin said he will slow down on the roadway as well to keep the dust and dirt down.
- 3. Taylor Beaudin said he can move the dirt pile this weekend.
- 4. Taylor Beaudin said he does not idle his equipment in the winter, he plugs his vehicles in during the winter time, and he will not rev up his engines in the early morning hours.
- 5. Taylor Beaudin said he would move the trailer.
- 6. Taylor Beaudin intends to keep the business the same scale as it is now and add the office “for right now”.

NOTICE OF DECISION
PLANNING BOARD
LINCOLN, NEW HAMPSHIRE

Case # SPR 2018-04 M110 L015 – William Conn and Cynthia A. Conn

SITE PLAN REVIEW APPROVAL GRANTED WITH CONDITIONS

WAIVERS GRANTED

Applicant/Property Owner/Surveyor:

- (1) Applicant & Agent: Taylor Beaudin, 8 Louis Lane, Lincoln, NH 03251 also agent for property owners William Conn and Cynthia A. Conn**
- (2) Property Owner: William Conn and Cynthia A. Conn, 177 Connector Road, Lincoln NH 03251-9720 owns the property with an address of 177 Connector Road, (Map 110, Lot 015)**

Property: 177 Connector Road, (Map 110, Lot 015). The property is located in the General Use (GU) District).

Request for Site Plan Review Approval

Proposed Project:

Application for Site Plan Review approval to change/expand the existing residential use of the property (i.e., one single family home with a large residential garage) into a mixed residential and business and industrial use property with the single-family residence continuing, as is, and converting the residential garage to a construction business (Lincoln Trucking & Excavating, LLC) operating out of the large garage with an added office space and using the exterior space for storing construction and related equipment. The property is located in the General Use (GU) District).

WAIVERS GRANTED:

- A. Regarding Plan Required to Be Submitted for Site Plan Review.** Planning Board voted unanimously (5-0) to waive the following requirements associated with the requirement that Application include an updated professionally prepared Site Plan. Applicant submitted a copy of an earlier survey prepared for an earlier owner of the lot and Applicant drew his proposed plan on the earlier survey. Planning Board permitted Applicant to submit hand-drawn plans using the earlier survey.
- 1. Page 1, Item 6.** An accurate plan of the site showing existing natural features including water courses and water bodies, various types of vegetation, topographical features and any other features which would be considered in the site design process.
 - 2. Page 2, Item 9.** Soil mapping units and unit boundaries.
 - 3. Page 2, Item 10.** Flood plain identification areas.

4. **Page 2, Item 12.** The location of all building setbacks required by the Land Use Plan Ordinance.
5. **Page 2, Item 13.** Location of district boundaries, including wetlands.
6. **Page 2, Item 14.** The lot area, street frontage and the requirements for minimum lot size.
7. **Page 2, Item 15.** Location of off street parking and loading spaces with the layout of the parking indicated.
8. **Page 2, Item 17.** The location of all existing and proposed deeds, restrictions, covenants, etc.
9. **Page 3, Item 24.** Storm water drainage plan showing
 10. a) Existing and proposed methods of handling storm water runoff.
 - b) The direction of flow of the runoff through the use of arrows.
 - c) The location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers.
 - d) Engineering calculations used to determine drainage requirements.