

ZONING BOARD OF ADJUSTMENT

MINUTES

AUGUST 27, 2008

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, August 27, 2008 at the Conway Town Office in Center Conway, NH, beginning at 7:37 pm. Those present were: Chair, Phyllis Sherman; Vice Chair, John Colbath; Andrew Chalmers; Sheila Duane; Alternate, Cynthia Briggs; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

APPOINTMENT OF ALTERNATE MEMBERS

Ms. Sherman appointed Ms. Briggs as a voting member.

PUBLIC HEARINGS

A public hearing was opened at 7:37 pm to consider a **VARIANCE** requested by **FRAM DONUTS, INC** in regard to §147.12 of the Conway Zoning Ordinance to relocate the existing overhead utility service and replace it with a three-phase service which increases the number of lines from one to four at 402 West Main Street, Conway (PID 277-287). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, July 16, 2008. This hearing was continued from July 23, 2008.

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 Irving stated that the applicant has withdrawn the application.

A public hearing was opened at 7:37 pm to consider a **VARIANCE** requested by **LACONIA SAVINGS BANK** in regard to §147.13.6.7.8.4 of the Conway Zoning Ordinance to allow an amber display LED time and temperature clock at 23 Main Street, Conway (PID 276-277). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, August 15, 2008.

Christopher Browher of United Sign Associates appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Mr. Browher stated they are asking for relief from the flashing aspect to allow a clock. Mr. Browher stated that the scrolling speed could be regulated from temperature to time from every 2 seconds to every 6 seconds. Mr. Browher stated that it would be dimmed so not to be blinding and this change would reduce the non-conformity by one-third. Mr. Browher stated that he understands that the ordinance requires a variance, but he doesn't see a determinant to the community or to the ordinance if this were granted.

Mr. Chalmers asked if there is a time and temperature sign at the Woodlands Credit Union. Mr. Irving answered in the affirmative. Mr. Chalmers asked how it was approved. Mr. Irving stated that he did not know. Mr. Chalmers asked if the rest of the proposed sign conforms. Ms. Briggs stated that Mr. Browher stated that the sign non-conformity was being reduced. Mr. Browher

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stated that they are reducing the amount of the internally lit portion. Ms. Briggs asked how the new sign would be illuminated. Mr. Browher answered with fluorescent tubes. Ms. Briggs asked if the sign would still be internally lit. Mr. Browher answered in the affirmative. Ms. Briggs asked if the sign is basically remaining the same size with a ½ square foot reduction and reducing the internally lit portion by ⅓. Mr. Browher answered in the affirmative.

Ms. Sherman asked for public comment; there was none. Mr. Colbath stated that he doesn't know how Woodlands Credit Union sign was granted. Mr. Irving stated that he would have to review the file. Mr. Browher stated that Jim Yeager, Code Enforcement Officer, told him that the permit was issued prior to a zoning change. Ms. Briggs stated too bad the rest of the sign could not be more conforming. Mr. Browher stated that the bank could not sacrifice the total amount of internally lit.

Ms. Sherman read item 1.a. **Mr. Colbath made a motion, seconded by Ms. Duane, that the zoning restriction as applied interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment.** Ms. Sherman asked for Board comment; Mr. Chalmers stated that he believes the property can still be used for a bank. Ms. Briggs agreed. Mr. Colbath stated there is reasonable use of the sign as it exists. **Motion defeated with Mr. Chalmers, Ms. Briggs, Mr. Colbath and Ms. Sherman voting in the negative and Ms. Duane voting in the affirmative.**

Ms. Sherman read item 1.b. **Mr. Colbath made a motion, seconded by Ms. Duane, that no fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restriction on this property.** Ms. Sherman asked for Board comment; Mr. Chalmers stated that the Zoning Ordinance exists because the Town would rather not have blinking message areas. Mr. Colbath stated that the restriction is not specific to this property, but to all properties. **Motion defeated with Mr. Chalmers, Ms. Briggs, Mr. Colbath and Ms. Sherman voting in the negative and Ms. Duane voting in the affirmative.**

Ms. Sherman read item 1.c. **Mr. Colbath made a motion, seconded by Ms. Duane, that the variance would not injure the public or private property rights of others.** Ms. Sherman asked for Board comment; Mr. Chalmers stated that the public added this ordinance and to not uphold it would be against public interest. **Motion defeated with Mr. Chalmers, Ms. Briggs, Mr. Colbath and Ms. Sherman voting in the negative and Ms. Duane voting in the affirmative.**

Mr. Colbath made a motion, seconded by Ms. Duane, that based on the findings of a, b, and c above, denial of the variance would result in unnecessary hardship to the property owner seeking it. Ms. Sherman asked for Board comment; there was none. **Motion unanimously defeated.**

Ms. Sherman read item 2. **Mr. Colbath made a motion, seconded by Ms. Duane, that there would not be a diminution in value of surrounding properties as a result of granting this variance.** Ms. Sherman asked for Board comment; Mr. Chalmers stated that he believes there would be a diminution in property values. **Motion carried with Mr. Chalmers voting in the negative.**

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Ms. Sherman read item 3. **Mr. Colbath made a motion, seconded by Ms. Duane, that the use contemplated by the petitioner as a result of obtaining this variance would not be contrary to the spirit and intent of the ordinance.** Ms. Sherman asked for Board comment; Mr. Chalmers stated the ordinance is clear that the town did not want this type of signage. **Motion defeated with Mr. Chalmers, Ms. Briggs, Mr. Colbath and Ms. Sherman voting in the negative and Ms. Duane voting in the affirmative.**

Ms. Sherman read item 4. **Mr. Colbath made a motion, seconded by Ms. Briggs, that the granting of this variance will not adversely affect the public interest.** Ms. Sherman asked for Board comment; Mr. Chalmers stated that it is within the public interest to uphold the ordinance. Mr. Colbath stated that he personally likes the sign and it's too bad it is prohibited. Mr. Colbath stated that he is not sure how much the public is interested. **Motion defeated with Mr. Chalmers, Ms. Briggs and Ms. Sherman voting in the negative and Ms. Duane and Mr. Colbath voting in the affirmative.**

Ms. Sherman read item 5. **Mr. Colbath made a motion, seconded by Ms. Duane, that by granting this variance, substantial justice would be done.** Ms. Sherman asked for Board comment; Mr. Chalmers stated upholding the ordinance would result in substantial justice. Mr. Colbath stated that the public justice is greater here. **Motion defeated with Mr. Chalmers, Ms. Briggs, Mr. Colbath and Ms. Sherman voting in the negative and Ms. Duane voting in the affirmative.**

Mr. Colbath made a motion, seconded by Ms. Duane, that, based on the forgoing findings of fact, the variance from §147.13.6.7.8.4 of the Town of Conway Zoning Ordinance to allow an amber display LED time and temperature clock be granted. Motion defeated with Mr. Chalmers, Ms. Briggs, Mr. Colbath and Ms. Sherman voting in the negative and Ms. Duane voting in the affirmative.

A public hearing was opened at 7:57 pm on Wednesday, August 27, 2008 at the Conway Town Office in Center Conway, NH to consider a **SPECIAL EXCEPTION** requested by **HUGH W. HASTINGS, II** in regard to §147.13.16.10.7 of the Conway Zoning Ordinance to a roadway to cross a wetland and wetland buffer on Grandview Road, Conway (PID 250-71 & 263-62). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, August 5, 2008.

Ronald Briggs of Briggs Land Surveying and Peter Cooperdock, Wetland Scientist, appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Mr. Briggs stated that this is a subdivision that was approved in 1988 which was phased, but not completed. Mr. Briggs stated there is a section of road that needs to be relocated to comply with the 200-foot well radius around the community well.

Mr. Briggs stated that the only way to get water to the subdivision was to construct a new well and without the new well there would not be sufficient water. Mr. Briggs stated that there are no other sites available for a well on this parcel. Mr. Briggs stated that the impacts to the wetlands

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have been minimized. Mr. Briggs stated that the State Wetland application has been submitted and there appears to be no issues with the crossings, however, the State would like to see more information as there may be issues that are related to the drainage retention ponds. Mr. Briggs stated that some of the drainage may need to be relocated and the State wanted to see grading plans to make sure there was no impact to the wetland.

Ms. Sherman asked if there had been any regulation updates since 1988 that would effect this subdivision. Mr. Irving answered in the negative and stated that the applicant would be submitting an application to the Planning Board to move the roadway and some boundary line adjustments. Ms. Briggs stated that it appears to her that there were wetlands at the existing crossings. Mr. Briggs stated that the wetland existed in 1988 and they had permits, but the construction was not completed prior to the permits expiring.

Ms. Sherman asked for public comment; there was none. Ms. Briggs stated that the plan states that the old road would remain for access to the wells. Mr. Briggs stated that it is best not to disturb those areas to not disturb the water quality. Ms. Briggs asked how people would be prevented from crossing over it. Mr. Briggs stated there is a gate there now and it could remain gated.

Ms. Sherman read item 1. **Mr. Colbath made a motion, seconded by Ms. Duane, that the use is essential to the productive use of land not in the District.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 2. **Mr. Colbath made a motion, seconded by Ms. Duane, that the use is so located and constructed as to minimize the detrimental impact upon the wetlands.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 3. **Mr. Colbath made a motion, seconded by Ms. Duane, that there is no better feasible alternative, in keeping with State and Federal standards for the issuance of development permits in 404 jurisdictional wetlands.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Ms. Duane, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.7 of the Town of Conway Zoning Ordinance to allow a roadway to cross a wetland and wetland buffer be granted. Motion unanimously carried.

A public hearing was opened at 8:10 pm on Wednesday, August 27, 2008 at the Conway Town Office in Center Conway, NH to consider an **APPEAL FROM ADMINISTRATIVE DECISION** requested by **HURST FAMILY REALTY, LLC/SACO RIVER CAMPGROUND** in regard to §147.14.1.1.1 of the Conway Zoning Ordinance that the proposed expansion of the non-conforming use is not accessory to the existing non-conforming use at 1550 White Mountain Highway, North Conway (PID 246-22). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, August 15, 2008.

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Randy Cooper of Cooper Cargill Chant, Shawn Bergeron of Bergeron Technical Services and Stephen Hurst, applicant, appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Mr. Chalmers stepped down at this time.

Ms. Sherman stated that the applicant is entitled for a five member board and there are only four members present. Ms. Sherman asked if the applicant would like to proceed with four members or continue the application until a five member board is present. Mr. Cooper agreed to proceed with four members.

Mr. Cooper submitted a “*Request for findings of fact*” dated August 20, 2008 to the Board. Mr. Cooper read the request for findings of fact. Mr. Irving stated that he is uncomfortable that this information is not arriving in the timely manner that the Board requires pursuant to their procedures [Chapter A153]. Mr. Irving stated he is concerned if the Board makes the requested findings of fact it would prejudice their decision on another appeal. Mr. Cooper stated the courts have determined that he has to ask for findings of fact.

Mr. Cooper stated in the letter of denial there was never an issue with the course of business or it being on the same lot of record. Mr. Cooper stated in regard to item #10, it requires the special exception, but the planned expansion is to be serviced by municipal water and sewer. Mr. Cooper stated items #1 through #11 don’t get into the interpretation of the ordinance, but into the facts of the case. Mr. Irving stated that this is a new approach that the Board has not seen before and he is uncomfortable with making findings of fact before discussing the applications. Mr. Cooper stated if there are questions regarding those points he can put it into testimony.

Mr. Cooper stated in a Supreme Court case it was determined that you had to request specific facts be found because you cannot complain later. Mr. Irving asked the court case that made that determination. Mr. Cooper stated that he would have to get the information for Mr. Irving. Ms. Duane stated if we find those facts and then deny your applications he can use the findings of fact against the Board later. Mr. Cooper stated that he is not here to lie to the Board; he wanted to review items #1 through #11 to use as factual information and as an outline.

Ms. Briggs stated that she has a problem with item #11 as it implies that all campgrounds should have these things and this is not all campgrounds. Mr. Cooper stated that they are uses that are customarily accessory to campgrounds. Mr. Cooper stated that he is factually trying to put in front of the Board that the improvements are customary to a campground.

Mr. Cooper swore in Steven Hurst. Mr. Cooper asked Mr. Hurst if he is the owner of the Saco River Campground. Mr. Hurst answered in the affirmative. Mr. Cooper asked if the proposed improvements are customarily accessory to the campground business. Mr. Hurst answered in the affirmative.

Mr. Irving asked in regard to #9 how many additional sites are proposed. Ms. Duane answered 166 sites. Ms. Duane asked if the campground would like to install an additional 166 sites and accessory uses. Mr. Cooper answered in the affirmative. Ms. Duane asked what the easiest way to do this is. Mr. Irving stated that he did not know. Ms. Duane asked if the campground is located in the Residential Agricultural District. Mr. Irving answered in part. Ms. Duane stated that she is trying to get to the core of the issue.

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Mr. Cooper stated that the ordinance allows a business to expand in the ordinary course of business if the expansion is related to or accessory to the business. Ms. Duane asked if Mr. Cooper is asking the Board to consider 166 new campsites to be accessory to the existing 144 campsites. Mr. Cooper read Mr. Irving's letter dated May 8, 2008. Mr. Cooper stated Mr. Irving is saying an expansion that big cannot be done under the ordinance as it is too much. Mr. Cooper stated that it is his position that the size is limited by the lot and the size of the expansion is not an issue. Mr. Cooper stated that the issue is whether or not the expansion is accessory to the existing non-conforming use.

Ms. Duane asked if this board is making the determination of whether this expansion is with keeping with the existing non-conforming use. Mr. Irving answered in the negative and stated that the question is whether or not the proposed expansion is accessory to the existing non-conforming use and his position was that it was not. Mr. Cooper stated that it is how you interpret the language "accessory to the non-conforming use". Ms. Duane stated that the hinge here is accessory. Mr. Cooper agreed and stated that the law of accessory uses does not apply, you have defined a permitted expansion is accessory. Mr. Cooper stated that the term accessory is being used as "an expansion of the non-conforming principal use" not a use not specifically permitted by the ordinance.

Mr. Cooper submitted and reviewed the "*History of Adoption of Current Language of §147.14.1.1.1*" dated August 27, 2008. Mr. Cooper stated the only time he has been before this Board in regard to this section of the ordinance was for the Pirate's Cove expansion. Mr. Cooper stated that Pirate's Cove went from an 18-hole miniature golf course to a 36-hole miniature golf course. Mr. Cooper stated that he knows the expansion was not more than the original, but the Board agreed it was accessory and was permitted under the ordinance.

Mr. Cooper stated that the definition of accessory in the ordinance doesn't quite work. Mr. Irving read the definition of "accessory building or use". Mr. Cooper stated that you are not being allowed to expand accessory uses, but being allowed to expand so long as it is accessory to the existing non-conforming use. Mr. Cooper asked what an accessory expansion is; and stated that an expansion is limited to the lot of record. Mr. Cooper stated that magnitude is not an issue, however, the ordinance allows changing to a different non-conforming use and there are no restrictions on the size. Mr. Cooper stated that you can change the use, but he wants to construct more campsites.

Mr. Cooper stated there will be issues for the Planning Board as well as the Zoning Board of Adjustment, but is what is proposed allowed under this section. Mr. Cooper asked if campsites are customary to campgrounds. Mr. Cooper asked if Recreation Halls are customary to campgrounds. Mr. Cooper stated if you agree with Mr. Irving that it's just too big or if you don't think it goes with it, that is your call, but Mr. Irving is saying that it is too big to be accessory.

Ms. Briggs stated that she knew Jane LeFleur and one of her concerns was non-conforming uses and she thought the Town should try to diminish them. Ms. Briggs stated if this is a non-conforming use, expanding it to this size is not diminishing it, but making it more non-conforming. Ms. Briggs stated that is the way she understood the ordinance to be written. Mr. Cooper stated that interpretation was rejected in 1988-1989.

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Ms. Sherman stated her concern is where it is located, not necessarily what you want to do, as it is in the Floodplain Conservation District and in the floodway. Mr. Cooper stated that the question is whether or not it is an allowable expansion. Mr. Cooper stated if this is an issue to the Town Planner and members of this Board then maybe the Planning Board should look at what they would like it to mean in 2008. Ms. Duane stated if this was in the commercial district would this be permitted. Mr. Irving answered in the affirmative and stated if his was in the commercial district it would not be a non-conforming use. Ms. Duane suggested looking into rezoning the property.

Mr. Cooper stated if the Board takes a look at the findings #11 or #12 and the Board thinks they are true statements then you would overturn the decision, if the Board disagrees with the statements, then the Board would uphold this decision. Ms. Sherman read the application and stated that that was what this Board has to decide. Mr. Cooper stated that magnitude should not be part of the issue. Ms. Sherman stated that magnitude was part of Mr. Irving's decision, so either we uphold or overturn Mr. Irving's decision.

Mr. Cooper stated that this is accessory to what is there, but Mr. Irving's finding was this is too much and more than what he could consider accessory. Mr. Cooper asked if the applicant was only proposing 10 campsites would he have approved it. Mr. Irving stated that it would have been tougher to have said no. Mr. Cooper stated that magnitude is a component of this decision. Mr. Irving read the second and third paragraph of his letter. Mr. Cooper stated that magnitude should not be considered. Mr. Irving stated that is where he and Mr. Cooper differ.

Ms. Duane stated that Mr. Irving's interpretation is the amount of the expansion. Ms. Duane stated that the applicant is proposing 166 new campsites and trying to categorize them as accessory. Ms. Sherman stated that more of the problem is where they are located. Mr. Irving stated that what the Board is currently finding is whether or not the proposed expansion qualifies as accessory under the ordinance.

Mr. Bergeron stated that the Board would address the Floodplain in another application. Mr. Cooper stated that the first issue is can they do an expansion of this magnitude; if they can, then the applicant would ask if they can build roads, etc in the floodplain. Ms. Briggs stated if this application is approved then essentially the Board would be saying that you could build buildings in the floodplain. Mr. Irving stated the Board would be saying that his interpretation was different and the expansion is accessory to the existing non-conforming use.

Mr. Colbath made a motion, seconded by Ms. Briggs, to uphold the Administrative Decision that the proposed expansion of the non-conforming use is not accessory to the existing non-conforming use. Ms. Sherman asked for Board comment; there was none.
Motion carried with Ms. Briggs, Mr. Colbath and Ms Sherman voting in the affirmative and Ms. Duane voting in the negative.

Mr. Cooper asked if the Board would consider making the findings of fact that he has requested, specifically items #11, #12 and #13. Ms. Briggs asked if the Board could refuse to make the findings of fact. Mr. Cooper stated that they could, but it would be ground for the Court to remand it back to the Board. Mr. Irving stated that the Board could continue this hearing to defer to the Town attorney, as this Board has never done this before or they could address this

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application the same way as they have other applications in the past. **Ms. Brigg made a motion, seconded by Mr. Colbath, to defer a vote on the requested findings of fact for Town Counsel opinion. Motion unanimously carried.**

Mr. Cooper stated that the Board made a vote and denied it and the record should reflect the reason the Board voted the way they did, because the Board is not making a decision one way or the other. Mr. Cooper stated if the Board defers voting on the findings of fact, he has 30-days to appeal the Board's decision, so he would ask the Board defer the effectiveness of the vote until it is decided if the Board would vote on the findings of fact. Mr. Irving stated that the Board could choose to make a motion to reconsider their decision and then continue the hearing until the Board hears back from Town Counsel.

Ms. Briggs stated that she doesn't understand why that comes into it at all. Mr. Cooper stated that he thinks it is critical and he believes if the Board made a finding "that campsites and the improvements on the list entitled *Inventory of proposed campground amenities in addition to existing* and roadways are improvements that are subordinate and customarily incidental to a commercial campground" the Court would say they were entitled and there would be no need for a remand.

Mr. Colbath stated that this is a new approach and he doesn't deny what he's trying to do, but he is not comfortable when Mr. Cooper comes in five minutes before the meeting with this type of request. Mr. Colbath stated that he is not comfortable and he needs time and someone else's opinion. Mr. Cooper stated that he doesn't have a problem with that, but he would ask that the Board defer the effectiveness of the decision. Mr. Irving stated that the Board could make a finding as to why they concurred with his decision. Mr. Colbath stated that Mr. Cooper was asking the Board to accept the owner of the campground as an expert person.

Mr. Cooper stated that the question is whether or not campsites are accessory to the existing use and he would ask this Board for a finding of fact as he does not believe magnitude was an issue. Mr. Irving stated that the Board's practice has been to make their decisions and give reasons why. Ms. Sherman stated that she is not sure if they have to on an Appeal from Administrative Decision as the Board is agreeing with the Administrative Decision. Mr. Irving stated that he cannot recommend the Board make the requested findings of fact until he reviews the case in which this requirement came from and until he has spoken with the Town Attorney.

Ms. Sherman stated that that the Board upheld the Administrative Decision because the Board agreed with the decision due to the magnitude of the number of campsites.

A public hearing was opened at 9:27 pm on Wednesday, August 27, 2008 at the Conway Town Office in Center Conway, NH to consider an **APPEAL FROM ADMINISTRATIVE DECISION** requested by **HURST FAMILY REALTY, LLC/SACO RIVER CAMPGROUND** in regard to §147.14.1.1.1 of the Conway Zoning Ordinance that the increase in disturbed area of 175,000 square feet (including a new building, swimming pool and expansion of service roads) is not accessory to the existing non-conforming use at 1550 White Mountain Highway, North Conway (PID 246-22). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, August 15, 2008.

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Randy Cooper of Cooper Cargill Chant, Shawn Bergeron of Bergeron Technical Services and Stephen Hurst, applicant, appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Mr. Cooper stated that this application is identical to the first application. Mr. Cooper stated that it is based on size again. Mr. Irving read his interpretation from his letter dated May 8, 2008. Ms. Sherman asked if this was for roadways and campsites. Mr. Cooper answered roadways, swimming pool, recreation building and anywhere dirt would be moved. Mr. Irving stated it would include utilities as well.

Ms. Briggs made a motion, seconded by Mr. Colbath, to uphold. After a brief discussion, **Ms. Briggs withdrew her motion and Mr. Colbath withdrew his second.**

Ms. Briggs made a motion, seconded by Mr. Colbath, to uphold the Administrative Decision that the increase in disturbed area of 175,000 square feet (including a new building, swimming pool and expansion of service roads) is not accessory to the existing non-conforming use. Ms. Sherman asked for Board comment; Mr. Colbath stated that he is going by the accessory use definition that the use must be subordinate and incidental. Mr. Colbath stated that he does not think this is subordinate nor incidental, but overwhelming. Mr. Cooper asked if it is not the act of moving dirt, but the amount of dirt being moved. Mr. Colbath answered in the affirmative. **Motion carried with Ms. Briggs, Mr. Colbath and Ms. Sherman voting in the affirmative and Ms. Duane voting in the negative.**

A public hearing was opened at 9:40 pm on Wednesday, August 27, 2008 at the Conway Town Office in Center Conway, NH to consider an **APPEAL FROM ADMINISTRATIVE DECISION** requested by **HURST FAMILY REALTY, LLC/SACO RIVER CAMPGROUND** in regard to §147.14.1.1.1 of the Conway Zoning Ordinance regarding denial of permit to expand a non-conforming use at 1550 White Mountain Highway, North Conway (PID 246-22). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, August 15, 2008.

Randy Cooper of Cooper Cargill Chant and Shawn Bergeron of Bergeron Technical Services appeared before the Board. Mr. Cooper withdrew the application.

A public hearing was opened at 9:40 pm on Wednesday, August 27, 2008 at the Conway Town Office in Center Conway, NH to consider an **APPEAL FROM ADMINISTRATIVE DECISION** requested by **HURST FAMILY REALTY, LLC/SACO RIVER CAMPGROUND** in regard to §147.13.16.1 and §147.13.16.4 of the Conway Zoning Ordinance that the “Oxbow” is within the Wetland and Watershed Protection Overlay District at 1550 White Mountain Highway, North Conway (PID 246-22). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, August 15, 2008.

Randy Cooper of Cooper Cargill Chant and Shawn Bergeron of Bergeron Technical Services appeared before the Board. Mr. Cooper withdrew the application.

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A public hearing was opened at 9:40 pm on Wednesday, August 27, 2008 at the Conway Town Office in Center Conway, NH to consider a **SPECIAL EXCEPTION** requested by **HURST FAMILY REALTY, LLC/SACO RIVER CAMPGROUND** in regard to §147.13.14.3.4 of the Conway Zoning Ordinance to construct service roads and underground utility and pipelines within the Floodplain Conservation District at 1550 White Mountain Highway, North Conway (PID 246-22). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, August 15, 2008.

Randy Cooper of Cooper Cargill Chant and Shawn Bergeron of Bergeron Technical Services appeared before the Board. Mr. Cooper withdrew the application.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Duane made a motion, seconded by Mr. Colbath, to approve the Minutes of July 23, 2008 as written. Motion unanimously carried.

Meeting adjourned at 9:45 pm.

Respectfully Submitted,

Holly L. Meserve
Planning Assistant