

ZONING BOARD OF ADJUSTMENT

MINUTES

JANUARY 21, 2009

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, January 21, 2009 at the Conway Town Office in Center Conway, NH, beginning at 7:35 pm. Those present were: Chair, Phyllis Sherman; Andrew Chalmers; Jeana Hale-DeWitt; Alternate, Cynthia Briggs; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

PUBLIC HEARINGS

A public hearing was opened at 7:35 pm to consider a **VARIANCE** requested by **CONWAY AREA HUMANE SOCIETY** in regard to §147.16 of the Conway Zoning Ordinance to change the use of the retail and office space to a veterinarian's office at 223 East Main Street, Conway (PID 265-11). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, January 9, 2009.

Virginia Moore of the Conway Area Humane Society appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Ms. Sherman stated that only four members were present and the applicant is entitled to a five-member Board. Ms. Sherman asked if the applicant would like to proceed with four-members or continue the hearing until a five-member Board is present. Ms. Moore agreed to proceed with four members.

Mr. Irving stated that the current use of the space is office space and a thrift store. Mr. Irving stated that the applicant has the opportunity to lease the space to a veterinarian which would also provide services to the Conway Area humane Society. Mr. Irving stated that it is a similar use, but this use is independent of CAHS.

Ms. Briggs stated that this is probably a less intense use of the property versus the thrift shop. Ms. Briggs asked if this change is approved, does that tie it to a veterinarian and how does the Board make sure it doesn't change to another use. Mr. Irving stated that the Board could place reasonable conditions on the approval. Mr. Irving stated if you do make it specific and limit to a veterinarian's office then we would have that restriction and staff will be able to easily recognize it.

Ms. Moore asked if it is no longer a veterinarian's office could the thrift store come back. Mr. Irving stated if the space is physically changed to a veterinarian's office, then the thrift store would not be able to be reestablished without Zoning Board of Adjustment approval. Mr. Irving stated if the space was never physically changed to the veterinarian's office then the use could remain as office space and a thrift store. Ms. Moore stated that the office is no longer in the house, only the thrift store. Ms. Moore stated that they are hoping to move the retail store to North Conway. Ms. Moore stated that Sandy Brown [who was in attendance] is looking to rent the space. Ms. Moore stated that it is a likeminded business and can tie into the shelter and create some income for the shelter. Ms. Moore stated that this is a win-win situation for both.

Adopted: March 18, 2009 – As Written
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Ms. Hale-DeWitt asked if the veterinarian's office would be operated during normal hours. Ms. Brown answered in the affirmative, but stated that they are on call for emergencies. Andy Orsini stated Ms. Brown's primary business is mobile so it probably won't be as intensive as another vet would be. Mr. Irving stated that the use is for a vet's office. Ms. Sherman asked for public comment; Ms. Brown asked if there were any restrictions on signage. Mr. Irving stated there are restrictions and suggested contacting James Yeager.

Ms. Sherman read item 1.a. **Ms. Briggs made a motion, seconded by Ms. Hale-DeWitt, 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; there was none. **Motion unanimously carried.**

Ms. Sherman read item 1.b. **Ms. Hale-DeWitt made a motion, seconded by Ms. Briggs, 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; there was none. **Motion unanimously carried.**

Ms. Sherman read item 1.c. **Ms. Briggs made a motion, seconded by Mr. Chalmers, that the variance would not injure the public or private property rights of others.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Hale-DeWitt made a motion, seconded by Ms. Briggs, 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 carried.**

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

Ms. Sherman read item 2. **Ms. Hale-DeWitt made a motion, seconded by Mr. Chalmers, 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; there was none. **Motion unanimously carried.**

Ms. Sherman read item 3. **Ms. Hale-DeWitt made a motion, seconded by Mr. Chalmers, 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; there was none. **Motion unanimously carried.**

Ms. Sherman read item 4. **Ms. Briggs made a motion, seconded by Mr. Chalmers, that the granting of this variance will not adversely affect the public interest.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 5. **Ms. Briggs made a motion, seconded by Mr. Chalmers, that by granting this variance, substantial justice would be done.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

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Ms. Hale-DeWitt made a motion, seconded by Ms. Briggs, that, based on the forgoing findings of fact, the variance from §147.16 of the Town of Conway Zoning Ordinance to change the use of the retail and office space to a veterinarian's office be granted with the stipulation that any further change of use would require ZBA approval. Motion unanimously carried.

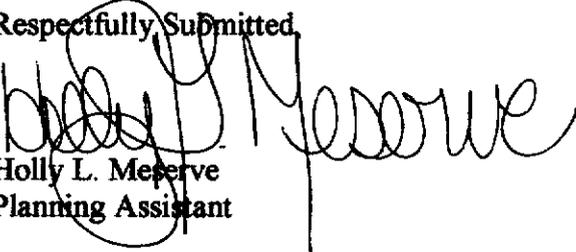
REVIEW AND ACCEPTANCE OF MINUTES

Ms. Hale-DeWitt made a motion, seconded by Ms. Briggs, to approve the Minutes of November 19, 2008 as written. Motion unanimously carried.

Ms. Briggs made a motion, seconded by Ms. Hale-DeWitt, to approve the Minutes of December 11, 2008 as written. Motion unanimously carried.

Meeting adjourned at 7:55 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is written in a cursive style and is positioned to the right of the typed name.

Holly L. Meserve
Planning Assistant