

ZONING BOARD OF ADJUSTMENT

MINUTES

DECEMBER 21, 2011

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, December 21, 2011 at the Conway Town Office in Center Conway, NH, beginning at 5:40 pm. Those present were: Chair, Phyllis Sherman; Vice Chair, John Colbath; Andrew Chalmers; Dana Hylan; Sheila Duane; Alternate, Luigi Bartolomeo; Town Attorney, Peter Malia; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

A public meeting was opened at 5:40 pm to consider a **MOTION FOR REHEARING** requested by **PAUL AND TRICIA PELLERIN** in regard to §147.13.14 of the Conway Zoning Ordinance **to allow existing structures to remain in the Floodplain Conservation District** at 129 E Road, Conway (PID 251-68). Notice was published on the Town of Conway's website.

Mr. Chalmers stated that they are making their argument that they had a trailer there since 1985 which is not before 1979. Mr. Chalmers stated that he doesn't see where this has standing. Ms. Sherman stated that it says that the applicant spoke with someone at Town Hall, but we don't know who that was or the position they held. Mr. Malia stated this is a chance to revisit your decision before it goes to Superior Court; review any new information submitted or look at submission and decide whether or not you want to take another look. Mr. Malia stated that this is a second look before court if the information is compelling.

Mr. Malia stated the request doesn't mention the variance criteria, but relates to an estoppels argument. Mr. Bartolomeo stated even it was true; it doesn't say you can do it without a permit. Mr. Malia stated it does not focus on the variance criteria. Mr. Colbath stated there is no new evidence available and there was no technical error; they were taxed from 1978-1994 as a vacant lot only. Mr. Colbath stated that it does not address the variance criteria's.

Mr. Colbath made a motion, seconded by Ms. Duane, to grant the Motion for Rehearing for Paul and Tricia Pellerin. Ms. Sherman stated that there was no technical error made. Mr. Colbath stated that no new information has been provided that wasn't available at the first hearing. **Motion unanimously defeated.**

A public meeting was opened at 5:48 pm to consider a **MOTION FOR REHEARING** requested by **JEFFREY AND MICHELLE KNOWLES** in regard to §147.13.14 of the Conway Zoning Ordinance **to allow existing structures to remain in the Floodplain Conservation District** at 128 E Road, Conway (PID 251-61). Notice was published on the Town of Conway's website.

Ms. Sherman stated that the affidavit from Duggan could have been available at the first meeting. Mr. Colbath stated the affidavit is related to grandfathering and not to the variance. Mr. Colbath stated if they thought it was grandfathered, they could have appealed the

Adopted: January 18, 2012 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – DECEMBER 14, 2011

administrative decision. Mr. Colbath stated that their attorney has not addressed any new information related to the variance. Mr. Bartolomeo stated that the burden of proof is before 1979. Mr. Irving disagreed and stated that they requested a variance, which is to allow relief for something that preexisted.

Mr. Irving stated if they thought it preexisted, they should have appealed the administrative decision. Mr. Malia stated that they should be presenting evidence to staff for grandfathering and requesting a consideration of their arguments that they are grandfathered and should submit that information to the planning department.

Mr. Colbath stated that it does not appear that we made any technical errors. Mr. Bartolomeo stated the affidavit is still at odds with the assessing records. Mr. Bartolomeo stated that there is no evidence that the affidavit couldn't have been provided at the first hearing and there is no variance criteria in the motion for rehearing and there is no technical error.

Mr. Chalmers made a motion, seconded by Ms. Duane, to grant the Motion for Rehearing for Jeffrey and Michelle Knowles. Motion unanimously defeated.

Meeting adjourned at 5:55 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is written in a cursive, flowing style.

Holly L. Meserve
Planning Assistant