

## ZONING BOARD OF ADJUSTMENT

### MINUTES

**FEBRUARY 21, 2018**

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, February 21, 2018 at the Conway Town Office in Center Conway, NH, beginning at 7:00 pm. Those present were: Chair, Phyllis Sherman; Luigi Bartolomeo; Steven Steiner; Alternate, Richard Pierce; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

#### **APPOINTMENT OF ALTERNATE MEMBER**

Ms. Sherman appointed Mr. Pierce as a voting member.

#### **PUBLIC HEARINGS**

A public hearing was opened at 7:00 pm to consider an **EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENT** requested by **JAMES LOW, SR. AND JAMES LOW, JR.** in regards to §190-13.D of the Conway Zoning Ordinance **to allow a structure housing the mechanical equipment for the pool to remain within the side setback** at 34 Charles Road, Center Conway (PID 255-24). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, February 9, 2018.

Ron Briggs of Briggs Land Surveying appeared before the Board. Ed O'Halloran of Badger Realty was in attendance. Ms. Sherman read the application and the applicable section of the ordinance. Ms. Sherman stated there are only four members 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 application until there are five members present. Mr. Briggs agreed to proceed with four members.

Mr. Briggs stated the building is 10.2-feet from the property line. Mr. Briggs stated that a building permit was issued on April 29, 2008. Mr. Briggs asked that the Board review this in view of the 10-year period. Mr. Briggs stated 10-years being 520 weeks and we are at 511 weeks.

Mr. Bartolomeo asked the type of foundation. Mr. Briggs stated that the building permit indicates that it is on a slab. Mr. Briggs asked if it was for the pool mechanicals. Mr. Briggs stated he thought so, but this is for pool furniture and pool accessories and there is an indoor shower to rinse off. Mr. Bartolomeo asked if there is pressurized plumbing. Mr. Briggs answered in the affirmative. Mr. Pierce asked if it comes up through the slab. Mr. Briggs answered in the affirmative and stated both water and electric.

Mr. Bartolomeo asked if Mr. Briggs discovered the encroachment. Mr. Briggs answered in the affirmative. Mr. Bartolomeo asked if he advised the customer to an equitable waiver. Mr. Briggs answered in the affirmative.

**Adopted: March 21, 2018 – As Written**

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Ms. Sherman asked do you have the application for the building permit. Mr. Irving answered in the affirmative. Ms. Sherman asked if it indicates a dimension. Mr. Irving stated they indicated there was 25-feet, but looking at the sketch they used a 1" = 40' scale rather than a 1" = 20" scale.

Mr. Bartolomeo asked who is on that side of the line. Mr. Briggs stated it is part of a 31-acre parcel and the house located on that parcel is 3 houses closer to the police station. Ms. Sherman stated that the 31-acre lot has a lot of wetlands. Mr. Irving agreed and stated this Board granted them a wetland crossing.

Mr. Pierce asked about setting precedent. Mr. Bartolomeo stated that is a good question, we are not a precedent setting board and we look at all applications based on their merits. Mr. Pierce stated being in the building trade for decades moving that shed would not be a big deal. Ms. Sherman stated that the 31-acre parcel comes up in a narrow strip. Mr. Briggs stated there is a triangular piece between this property and Charles Road and it then widens out.

Mr. Bartolomeo asked how tall is this building. Mr. Briggs answered approximately eight-feet. Mr. Bartolomeo stated it has a low visual impact. Mr. Briggs agreed and stated he does not recall how visible it is from Charles Road. Ms. Sherman stated it is probably more visible from East Conway Road than Charles Road.

Mr. Steiner stated he will have to recuse himself from considering this application as he knows too much about this property. Mr. Steiner stepped down at this time. After a brief discussion, Mr. Briggs asked the Board to continue this public hearing until the next meeting. **Mr. Bartolomeo made a motion, seconded by Mr. Pierce, to continue the public hearing until March 21, 2018 at 7:00 pm. Motion unanimously carried.**

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A public hearing was opened at 7:20 pm to consider a **SPECIAL EXCEPTION** requested by **JAMES LOW, SR. AND JAMES LOW, JR.** in regards to §190-13.B.(4)(b) of the Conway Zoning Ordinance **to allow an accessory apartment** at 34 Charles Road, Center Conway (PID 255-24). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, February 9, 2018.

Ron Briggs of Briggs Land Surveying appeared before the Board. Ed O'Halloran of Badger Realty was in attendance. Ms. Sherman read the application and the applicable section of the ordinance. Ms. Sherman stated there are only three members present and the applicant is entitled to a five-member Board. Ms. Sherman asked if the applicant would like to proceed with three members or continue the application until there are five members present. Mr. Briggs agreed to proceed with three members.

Mr. Bartolomeo asked if the accessory apartment is over the garage. Mr. Briggs answered in the affirmative. Mr. Pierce asked if this is in an existing structure. Mr. Briggs answered in the affirmative. Ms. Sherman asked the number of parking spaces. Mr. Briggs answered there are a total of six parking spaces. Mr. Briggs stated that the property will be owner-occupied.

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Mr. Irving asked if this would be for year-round use or short-term rentals. Mr. Briggs stated he does not know. Mr. Irving stated the purpose of this special exception is to provide for year-round housing and precludes it from being used for short-term rentals. Mr. Irving stated if used for short-term rentals they would be in violation of the special exception. Mr. Briggs asked if the special exception would be granted with that condition or is that condition implied and enforceable. Mr. Irving stated by his interpretation it is not just implied, but specifically worded.

Ms. Sherman read item 1. **Mr. Bartolomeo made a motion, seconded by Mr. Pierce, that the apartment is accessory to an owner-occupied single-family dwelling.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 2. **Mr. Bartolomeo made a motion, seconded by Mr. Pierce, that the apartment is no less than 300 square feet and no greater than 800 square feet.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 3. **Mr. Bartolomeo made a motion, seconded by Mr. Pierce, that the apartment is architecturally compatible with the neighborhood.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 4. **Mr. Bartolomeo made a motion, seconded by Mr. Pierce, there sufficient parking is located on site.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

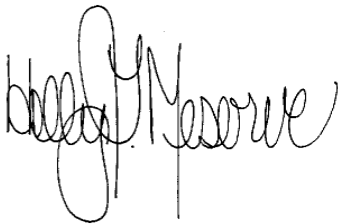
**Mr. Bartolomeo made a motion, seconded by Mr. Pierce, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-13.B.(4)(b) of the Town of Conway Zoning Ordinance to allow an accessory apartment be granted. Motion carried unanimously.**

**REVIEW AND ACCEPTANCE OF MINUTES**

Mr. Steiner rejoined the Board at this time. **Mr. Bartolomeo made a motion, seconded by Mr. Pierce, to approve the Minutes of January 17, 2018 as written. Motion unanimously carried.**

Meeting adjourned at 7:18 pm.

Respectfully Submitted,



Holly L. Meserve  
Recording Secretary