

ZONING BOARD OF ADJUSTMENT

MINUTES

JANUARY 16, 2019

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, January 16, 2019 at the Conway Town Office in Center Conway, NH, beginning at 7:00 pm. Those present were: Chair, Phyllis Sherman; Andrew Chalmers; Luigi Bartolomeo; Steven Steiner; Alternate, Richard Pierce; Planning Director, Thomas Irving; and Planning Assistant, 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 a **VARIANCE** requested by **ADC FUNDING TRUST** in regards to §190-13.F.(2) of the Conway Zoning Ordinance **to allow a freestanding sign greater than 12-square feet within the Residential Agricultural District** at 987 East Main Street, Center Conway (PID 261-52). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, January 4, 2019.

Christopher Meier of Cooper Cargill Chant appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Mr. Meier stated this a facility that serves elders during the day; but is not a residential facility. Mr. Meier stated that this zoning district only allows for 12 square feet, and they are proposing a 20 square foot sign. Mr. Meier stated the sign is designed to be similar and the same size as the Journey Church sign next door who were granted a variance for their sign.

Mr. Meier stated he submitted a memo with the application that addresses each of the criteria to grant a variance. Mr. Meier stated one reason Journey Church was granted a variance is that in this area the State Highway right-of-way is larger so the sign is farther from the roadway and does not look as big. Mr. Meier stated it is hard to see off the road and would be easier to see if it were a bit larger. Mr. Meier stated in terms of this particular use and this particular lot, the clientele visiting this facility are older and elderly. Mr. Meier stated this demographic has a higher incident of sight problems so a larger sign is additionally appropriate.

Mr. Bartolomeo stated we were told that most of the clientele would most likely be bussed in or brought in my other family members. Mr. Meier stated that is probably true, but there will be folks who are driving themselves. Mr. Meier stated there is a conforming sign out there now. Mr. Pierce asked what is the setback in this area. Mr. Irving answered 5-feet from the property line, but in that section the State Highway right-of-way jumps from 66-feet to about 200-feet. Mr. Irving stated the sign would probably be back approximately 30- to 35-feet from the pavement.

Adopted: March 20, 2019 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – JANUARY 16, 2019

Mr. Meier referred to RSA 674:33,V that allows a variance to be granted without finding a hardship if persons with disabilities regularly use the premises. Mr. Irving stated this Board has never considered a disability variance.

Mr. Bartolomeo asked if the sign would be lit. Mr. Meier answered in the affirmative. Mr. Bartolomeo stated a simple controller could be used to turn the lights off at night. Mr. Bartolomeo stated he would be interested in adding that as a condition of approval. Ms. Sherman asked if the sign would be parallel or perpendicular to the road. Mr. Meier stated he was not sure, but he could make a phone call to find out. Mr. Irving stated the Journey Church sign is perpendicular to the road because if it had been paralleled it would have been blocked by the tree line, though that would not be the case here.

After a brief recess, Mr. Meier stated the sign would be perpendicular to the road, same as the Journey Church. Mr. Meier stated they would also be amenable to not having the sign illuminated all night. Mr. Pierce asked how would you propose timing. Mr. Meier stated whatever the Board thought reasonable. Mr. Bartolomeo stated the light being turned off within the hour of the function ending would be fine.

Mr. Pierce stated that we are not a precedent setting Board and we have to look at each application as an individual case. Mr. Meier agreed, but the Board also needs to look at the neighborhood and that there is a sign similar to the one they are proposing next door. Mr. Pierce stated being set back off the road he would consider that a hardship.

Ms. Sherman asked for public comment; Tracy McCarthy stated one of the things that happened with the Journey Church project was that they departed the meeting before the statement that people would not know that this massive building was a church, which then was allowed a much larger sign. Ms. McCarthy stated that she is more align with this project.

Ms. McCarthy asked what the height of the sign is. Mr. Meier answered 8-feet. Ms. McCarthy asked what the setback for the sign is. Mr. Irving answered 5-feet from the edge of the property line.

Ms. McCarthy stated that she cannot see the Journey Church sign, but this one will likely be visible to her. Mr. Meier stated there is a sign currently where the new sign is going to be located. Mr. Meier asked if Ms. McCarthy could see the existing sign. Ms. McCarthy stated there are snow banks currently that would block her view. Ms. McCarthy stated she is concerned with how the sign is going to be lit. Ms. McCarthy stated this is just another project of a large scope. Ms. McCarthy stated she is primarily concerned with not having a sign that is lit and shining in her face all the time.

Ms. McCarthy asked if the driveway was going to be lit. Ms. Sherman stated driveway lighting is not the purview of this Board. Ms. Sherman asked Ms. McCarthy if she has noticed the existing sign. Ms. McCarthy stated it is under snow cover, and she tries not to look over there, so, no, she has not seen the sign. Ms. McCarthy stated that she mostly tries to ignore it so she does not live in a constant state of irritation.

Adopted: March 20, 2019 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – JANUARY 16, 2019

Mr. Bartolomeo stated this would be a pretty small sign for a large building. Ms. McCarthy agreed, but her real concern is that the driveway is going to be lit. Ms. Sherman stated all this Board is dealing with is the sign and their request for a variance for a 20-square foot sign versus the allowed 12-square foot sign.

Ms. McCarthy stated it would make a difference with how the sign was lit if the driveway is going to be lit. Ms. McCarthy wished everyone best of luck with the rest of the evening and left at this time. The Board discussed the lighting of the sign.

Ms. Sherman read item 1. **Mr. Bartolomeo made a motion, seconded by Mr. Chalmers, that the variance will not be contrary to the public interest.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 2. **Mr. Chalmers made a motion, seconded by Mr. Bartolomeo, that the spirit of the ordinance is observed.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 3. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that substantial justice is done.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 4. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that the values of surrounding properties are not diminished.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 5.i. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 5. ii. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that the proposed use is a reasonable use.** Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Steiner, that based on i and ii above literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Ms. Sherman asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Sherman read item 5.b. **Mr. Chalmers made a motion, seconded by Mr. Bartolomeo, that item 5.b. is not necessary.** **Motion carried unanimously.**

Mr. Bartolomeo made a motion, seconded by Mr. Steiner, that, based on the forgoing findings of fact, the variance from §190-13.F.(2) of the Town of Conway Zoning Ordinance to allow a 20-square foot freestanding sign ~~greater than 12-square feet~~ within the Residential Agricultural District be granted with the condition that the sign be illuminated only during hours of operation. **Motion carried unanimously.**

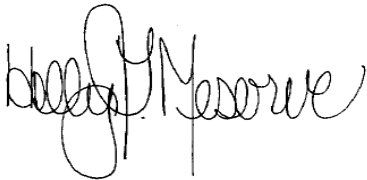
A public hearing was opened at 7:48 pm to consider a **SPECIAL EXCEPTION** requested by **JOSEPH AND DONNA MORI** in regards to §190-28.I.(4) of the Conway Zoning Ordinance **to allow a wetland and/or stream crossing for proposed access and utilities in the Wetlands and Watershed Protection Overlay District** at 28 Banfill Road, Conway (PID 279-12). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, January 4, 2019. Mr. Irving stated that the applicant has withdrawn the application.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Chalmers made a motion, seconded by Mr. Steiner, to approve the minutes of November 20, 2018 as written. Motion carried unanimously.

Meeting adjourned at 7:50 pm.

Respectfully Submitted,



Holly L. Meserve
Planning Assistant