

ZONING BOARD OF ADJUSTMENT

MINUTES

DECEMBER 18, 2019

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, December 18, 2019 at the Conway Town Office in Center Conway, NH, beginning at 7:00 pm. Those present were: Chair, John Colbath; Vice Chair, Andrew Chalmers; Luigi Bartolomeo; Steven Steiner; Richard Pierce; Alternate, Phyllis Sherman; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

PUBLIC HEARINGS

A public hearing was opened at 7:00 pm to consider a **VARIANCE** requested by **JULIE DUDEVOIR-BADGER AND MARK BADGER** in regards to §190-20.F.(2)(d)[1] of the Conway Zoning Ordinance **to allow the existing 40 square foot freestanding sign to be moved to be within the 25-foot front setback** at 21A Poliquin Drive, Conway (PID 265-161.102). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, December 6, 2019.

Christopher Meier of Cooper Cargill Chant appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Meier stated the current sign serves both the dental practice and Fresenius Medical Care, and both obtain their access off Poliquin Drive. Mr. Meier stated the existing sign is very hard to see from Route 16, so the applicant is trying to move the sign to the Route 16 frontage so people can locate the sign. Mr. Meier stated there is significant confusion with her clients getting into the property.

Mr. Meier stated a variance is needed because the right-of-way on Route 16 is significantly large and would make the sign approximately 65-feet back off the roadway. Mr. Meier stated the topography of the lot slopes down and there are large existing pines all along the front of this lot. Mr. Meier stated by moving the sign up they would not have to cut down the pines so people could actually see the sign.

Mr. Bartolomeo stated there already is an existing sign. Mr. Meier stated it is located on the access road Poliquin Drive. Mr. Pierce asked it can't be seen from Route 16. Mr. Meier stated that is correct. Mr. Bartolomeo stated he can see it, but maybe because the foliage is down. Mr. Meier stated you have to be looking for it. Mr. Meier stated the idea is to increase visibility. Mr. Pierce asked how far off the pavement. Mr. Meier answered 40-feet off.

Mr. Colbath asked where the proposed sign is in the setback, is it one-foot. Mr. Meier stated it is one-foot from the right-of-way because the right-of-way for the State road is so wide we are substantially impacted more than a Town road and would be the same distance off a Town road, or road surface, but we have to be within the setback to be that close to the road. Mr. Meier stated it is the same as the adult day center sign, the hardship that we found was that that right-of-way was larger and that sign couldn't be seen unless it was that close to the road.

Adopted: January 15, 2020 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – DECEMBER 18, 2019

Mr. Colbath asked for public comment; Ed Poliquin, developer of Evergreens on the Saco development, stated there are some fairly substantial trees, will any of the trees be cut for the sign. Mr. Meier answered in the negative and stated the variance is so none of the trees would have to be cut. Mr. Poliquin stated he wants to make sure that section of Route 16 has a nice green buffer; he's not opposed to it, but he doesn't want to see the frontage trashed. Mr. Meier stated they are not looking to take down any trees. Mr. Poliquin stated he would like to keep it green.

Bob DiPace, lives in Evergreens on the Saco, stated we are very happy to have the dental office as a neighbor, they have done a nice job. Mr. DiPace asked the distance from the road to the existing sign. Mr. Irving stated it is over 150-feet. Mr. DiPace stated their address is Poliquin Drive and there is a Poliquin Drive street sign. Mr. DiPace stated there is a street light about two poles down and if they moved that light so it lit the street sign that might help.

Mr. DiPace asked if the new sign would be lighted. Mr. Meier answered in the affirmative and stated it would be moved along with the existing sign. Mr. Bartolomeo asked if the sign could be closer to the highway and conform to the ordinance on Poliquin Drive, not on the highway. Mr. Meier answered in the negative and stated it would be an off-premise sign as Evergreens on the Saco owns that property.

Julie Dudevoir-Badger stated we found that people are going up and down Route 16 so having a better sign that is more visible makes it a little more accessible; also, people who drive by a sign are going to be more likely to think about going to a dentist. Mr. Colbath closed public comment at 7:30 pm.

Mr. Colbath read item 1. **Mr. Bartolomeo made a motion, seconded by Mr. Steiner, that the variance will not be contrary to the public interest.** Mr. Colbath asked for Board comment; Mr. Bartolomeo stated being a foot away from the right-of-way is definitely contrary to the public interest; the Town looks to us to minimize the visual clutter of a lot of sign, and he considers that one of our highest responsibility. Mr. Bartolomeo stated he is not comfortable being one-foot from the property line. Mr. Steiner stated this is just not necessary, it is a public road and can use GPS. **Motion defeated with Mr. Bartolomeo, Mr. Steiner and Mr. Chalmers voting in the negative and Mr. Pierce and Mr. Colbath voting in the affirmative.**

Mr. Colbath read item 2. **Mr. Steiner made a motion, seconded by Mr. Chalmers, that the spirit of the ordinance is observed.** Mr. Colbath asked for Board comment; Mr. Pierce stated it is a variance so it is not allowed by the ordinance. Mr. Colbath stated they understand the ordinance and are requesting a variance and feel they have justification.

Mr. Irving stated when they are talking about the spirit of the ordinance, they are talking about what it is intending to do; to minimize visual clutter or having structures so close to the roadway it would cause a distraction or hazard. Mr. Irving stated why do we regulate the location of signs; do we need some sort of space.

Mr. Meier stated in the memo that was submitted with the application he addresses each one of these criteria. After a brief discussion, Mr. Meier withdrew the application.

OTHER BUSINESS

Motion for Reconsideration – CMR Properties (PID 214-84.2) File #19-32: Mr. Chalmers stepped down at this time. Mr. Colbath appointed Ms. Sherman as a voting member. After a brief discussion, **Mr. Colbath made a motion, seconded by Mr. Pierce, to grant a motion for rehearing due to a procedural error. Motion defeated with Mr. Bartolomeo, Mr. Colbath and Ms. Sherman voting in the negative and Mr. Pierce and Mr. Steiner voting in the affirmative.**

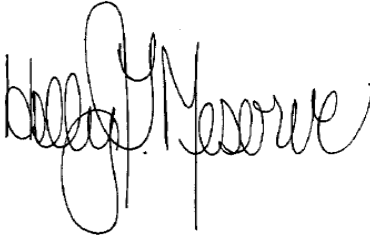
REVIEW AND ACCEPTANCE OF MINUTES

Ms. Sherman made a motion, seconded by Mr. Bartolomeo, to amend the Minutes of November 20, 2019 as follows: page 6, first paragraph, line 9 “...from the Planning Board. Motion carried unanimously with Mr. Bartolomeo, Ms. Sherman and Mr. Colbath voting in the affirmative and Mr. Steiner voting in the negative.”

Mr. Bartolomeo made a motion, seconded by Mr. Steiner, to approve the Minutes of November 20, 2019 as amended. Motion carried unanimously.

Meeting adjourned at 8:01 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is fluid and cursive, with the first name being the most prominent.

Holly L. Meserve
Planning Assistant