

ZONING BOARD OF ADJUSTMENT

MINUTES

NOVEMBER 18, 2020

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, November 18, 2020 at the Conway Village Fire Station, 97 Main Street, in Conway, NH, beginning at 7:00 pm. Those present were: Chair, John Colbath; Vice Chair, Andrew Chalmers; Alternate, Phyllis Sherman; Alternate, Jonathan Hebert; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

APPOINTMENT OF ALTERNATES

Mr. Colbath appointed Ms. Sherman and Mr. Hebert as voting members.

PUBLIC HEARINGS

A public hearing was opened at 7:00 pm to consider a **SPECIAL EXCEPTION** requested by **PAUL AND SHARON PACENKA** in regards to §190-15.B.(4)(a) of the Conway Zoning Ordinance **to allow an additional residential unit for a total of three-units** at 29 Pollard Street, Conway (PID 276-5). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Thursday, August 6, 2020. This hearing was continued from September 16, 2020 and October 21, 2020.

Paul and Sharon Pacenka appeared before the Board. Mr. Colbath stated only four-members were present and the applicant is entitled to a five-member Board. Mr. Colbath asked if they would like to proceed with four-members or continue the meeting until a five-member Board was present. Ms. Pacenka agreed to continue with four members.

Ms. Pacenka stated they submitted a scaled drawing of the parking. Mr. Colbath asked for Board comment; Ms. Sherman asked where will snow be stored. Ms. Pacenka answered on the side of the barn.

Mr. Colbath asked for public comment; Michael DiGregorio asked to review the plan. Mr. DiGregorio stated there are five parking spaces proposed outside and one parking space inside. Mr. Colbath agreed. Mr. DiGregorio asked if the parking is not complied with would it be a code enforcement issue. Mr. Colbath answered in the affirmative.

Patricia Golding stated she is not in favor of this in the least; it is located across the street from her. Ms. Golding stated is not pleasing to the eye, and she does not see how six vehicles are going to fit. Ms. Golding stated she does not want to see Pollard Street turn into apartment buildings. Mr. Chalmers stated he is not necessarily in favor of this, but this was approved by the voters; and there is a way to change it. Mr. Chalmers stated if they meet the criteria's it does not matter if the Board is in favor of it or not.

Adopted: January 20, 2021 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – NOVEMBER 18, 2020

Mr. DiGregorio stated a handicap parking space is identified as being inside the garage; the door is nowhere near that size without the structure changing. Mr. Irving stated the ordinance states that there is sufficient room for the parking; it is under site plan, through the Planning Board, that determines the site layout. Mr. Irving stated it is this Board's role to determine if there is sufficient parking. Mr. Irving stated, however, since this property has less than six dwelling units, he's not sure they are required to have an ADA space.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that substantially all of the structure was constructed prior to 1930.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 2. **Mr. Chalmers made a motion, seconded by Mr. Hebert, that the total number of dwelling units on the site does not exceed four (4).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 3. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that no less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 4. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that no significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 5. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that adequate area is available for parking outside the setback and buffer areas.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 6. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that item 6 is not applicable to this application. Motion Accessory structures must have at least three hundred (300) square feet of occupiable space per unit suitable for conversion to a dwelling unit.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 7. **Mr. Chalmers made a motion, seconded by Mr. Hebert, that all of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 8. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Chalmers made a motion, seconded by Ms. Sherman, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-15.B.(4)(a) of the Town of Conway Zoning Ordinance to allow an additional residential unit for total of three-units be granted. Motion carried unanimously.

A public hearing was opened at 7:19 pm to consider a **SPECIAL EXCEPTION** requested by **STEPHEN AND OLGA MORRILL/BRADFORD AND MARGARET MORRILL/BRUCE MORRILL/GARY AND CAROLINE FOLLMER/GSSG NEW HAMPSHIRE, LLC** in regards to §190-28.I.(4) of the Conway Zoning Ordinance **to allow the installation of underground utilities within the Wetland and Watershed Protection Overlay** buffer on East Main Street, Center Conway (PID 260-58). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, October 30, 2020.

Michael Redding of GSSG New Hampshire, LLC appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Redding stated they have received Planning Board approval for the one-megawatt solar array, and though they could have benefitted from piggybacking on the cell tower project to bring electric into the site they were ahead of us and it just didn't work out.

Mr. Colbath stated we only have four-members present and the applicant is entitled to a five-member Board. Mr. Colbath asked if he would like to proceed with four-members or continue the hearing until a five-member Board was available. Mr. Redding agreed to proceed with four-members.

Mr. Redding stated we are proposing to avoid impacts to wetlands and stay outside of the corridor for the cell tower by using directional drill technology; the drill will go under the ground laterally without disturbing the ground from the surface. Mr. Redding stated we would be below the wetland. Mr. Colbath asked if they have tested this technique in this area. Mr. Redding answered in the affirmative. Mr. Colbath asked how far below the surface. Mr. Redding answered 4- to 6-feet.

Mr. Colbath asked for Board comment; Ms. Sherman asked how big is the conduit. Mr. Redding answered it is a 4-5" HDPE pipe. Mr. Colbath asked what is the alternative to this. Mr. Redding answered they would have to apply for a wetland permits, which would disturb the wetlands by trenching it as there is no easy way to go around the wetland. Mr. Colbath asked if this is a lesser impact. Mr. Redding answered in the affirmative.

Mr. Colbath asked for public comment; there was none.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that the use is essential to the productive use of land not in the District.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 2. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that the use is so located and constructed as to minimize the detrimental impact upon the wetlands.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 3. **Mr. Chalmers made a motion, seconded by Ms. Sherman, that there is no better feasible alternative, in keeping with State and Federal standards for the issuance of development permits in 404 jurisdictional wetlands.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

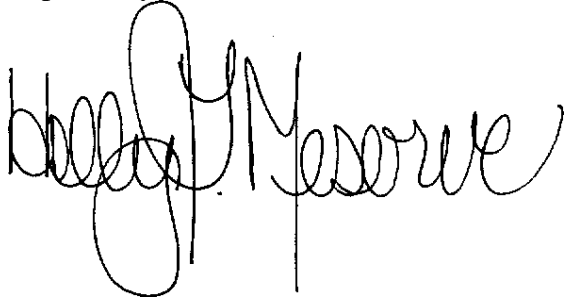
Mr. Chalmers made a motion, seconded by Ms. Sherman, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-28.I.(4) of the Town of Conway Zoning Ordinance to allow the installation of underground utilities within the Wetland and Watershed Protection Overlay District buffer be granted. Motion carried unanimously.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Chalmers made a motion, seconded by Ms. Sherman, to approve the Minutes of October 21, 2020 as written. Motion carried with Mr. Hebert abstaining from voting.

Meeting adjourned at 7:45 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is fluid and cursive, with a large loop at the end.

Holly L. Meserve
Planning Assistant