

**CONWAY ZONING BOARD
OF ADJUSTMENT**

MINUTES

JUNE 22, 2005

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, June 22, 2005 beginning at 7:30 p.m. Those present were: Acting Chair, Andrew Chalmers; Jeana Hale; Alternate, David Weathers; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

PUBLIC HEARINGS

A public hearing was opened at 7:35 p.m. to consider a **VARIANCE** requested by **ROCKFORD THOMPSON, GERALD THOMPSON AND EARL BROWN** in regard to Articles 147.13.3.2.3 and 147.13.3.3.1 of the Conway Zoning Ordinance to allow the subdivision of 2.87 acres into three-lots with two lots having one gross acre and adequate frontage and the third lot having 0.87 of an acre and 148.2-feet of frontage at 362 Henderson Road, Conway (PID 272-49). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters June 15, 2005.

Dave Douglass of Thaddeus Thorne Surveys appeared before the Board. Mr. Chalmers stated that there were only three-members present and the applicant is entitled to a five-member board. Mr. Douglass agreed to proceed with three-members. Mr. Douglass stated that the three houses existed prior to zoning and the land ownership is under one entity. Mr. Douglass stated that one owner would like to improve his property, but cannot obtain a mortgage with the property under a joint ownership.

Mr. Irving stated that this Board is addressing the gross acreage and the Planning Board would address the soil suitability. Ms. Hale asked if this was an estate. Mr. Douglass stated that they are the heirs. Mr. Chalmers asked for public comment; there was none. Mr. Chalmers asked Mr. Irving the town's opinion. Mr. Irving stated that this is not the section of Henderson Road that the Board of Selectmen has voted to not issue building permits.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that an area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the benefit sought by the applicant couldn't be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that based on the findings of a and b above, denial of the variance would result in

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unnecessary hardship to the property owner seeking it. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that there would not be a diminution in value of surrounding properties as a result of granting this variance. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the use contemplated by the petitioner as a result of obtaining this variance would not be contrary to the spirit and intent of the ordinance. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the granting of this variance will not be contrary the public interest. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that by granting this variance, substantial justice would be done. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers that, based on the forgoing findings of fact, the variance from §147.13.3.2.3 and 147.13.3.3.1 of the Town of Conway Zoning Ordinance requested by Rockford Thompson Gerald Thompson and Earl Brown be granted. Motion unanimously carried.

A public hearing was opened at 7:47 p.m. to consider a **SPECIAL EXCEPTION** requested by **LEE FAMILY ENTERPRISES** in regard to Article 147.14.1.2 of the Conway Zoning Ordinance to allow the conversion of a non-conforming restaurant and 4-unit apartment building to an 11-unit apartment building and a coffee roasting business at 2659 West Side Road, North Conway (PID 217-24). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters June 15, 2005.

Claudine Safar of Cooper, Deans and Cargill and Norman Lee appeared before the Board. Mr. Chalmers stated that there were only three-members present and the applicant is entitled to a five-member board. Ms. Safar agreed to proceed with three-members. Ms. Safar submitted a Memorandum of Support to the Board. Ms. Safar stated that the applicant is requesting a total of nine apartments and not eleven as indicated on the application. Ms. Safar stated that the parking requirement is reducing from 57 required for the restaurant to 18 required for the proposed use.

Ms. Hale asked if it would be a coffee shop. Ms. Safar stated that it is a wholesale business. Mr. Weathers asked if there are any proposed changes to the parking lot. Mr. Lee answered in the negative. Mr. Chalmers asked for public comment; there was none. Mr. Irving stated that staff has no objections except that the existing non-conforming sign in the West Side Road right-of-way should be abandoned knowingly and willingly by the applicant. Mr. Lee asked if the field stone base could remain as a planter. Mr. Irving stated it would be best for it to be removed. Mr. Lee agreed to remove the sign and the base.

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Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the proposed use is confined to the same lot to which the original nonconforming use would be confined. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the proposed has the same or lesser impact on the neighborhood relative to public health, safety and/or welfare. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the proposed use has the same or lesser impact on the neighborhood relative to impact on property values of adjacent properties. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the proposed use has the same or lesser impact on the neighborhood relative to traffic. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the proposed use has the same or lesser impact on the neighborhood relative to nuisance to neighbors. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the proposed use has the same or lesser impact on the neighborhood relative to nuisance to noise. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, to the finding of fact that the proposed use has the same or lesser impact on the neighborhood relative to nuisance nighttime lighting. Motion unanimously carried.

Ms. Hale made a motion, seconded by Mr. Weathers, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.14.1.2 of the Town of Conway Zoning Ordinance requested by Lee Family Enterprises, LLC to allow the conversion of a non-conforming restaurant and 4-unit apartment building to a 9-unit apartment building and a coffee roasting business be granted with the subsequent condition that no building permit be issued until the non-conforming sign and sign structure be abandoned and removed. Motion unanimously carried.

A public hearing was opened at 8:01 p.m. to consider a **VARIANCE** requested by **LEE FAMILY ENTERPRISES** in regard to Article 147.13.1.2.3 of the Conway Zoning Ordinance to allow the conversion of a non-conforming restaurant and 4-unit apartment building to an 11-unit apartment building and a coffee roasting business at 2659 West Side Road, North Conway (PID 217-24). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters June 15, 2005.

Claudine Safar of Cooper, Deans and Cargill withdrew the variance request.

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A public hearing was opened at 8:02 p.m. to consider a **SPECIAL EXCEPTION** requested by **KGI MOUNTAIN VALLEY MALL, LLC** in regard to Article 147.13.16.10.7 of the Conway Zoning Ordinance to add fill to 2,415 square feet of the wetland and construct an additional lane for the North-South Road in the wetland buffer at 32 Mountain Valley Boulevard, North Conway (PID 246-38). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters June 15, 2005.

Claudine Safar of Cooper, Deans and Cargill appeared before the Board. Ms. Safar asked that the application be continued. **Ms. Hale made a motion, seconded by Mr. Weathers, to continue the hearing until July 27, 2005. Motion unanimously carried.**

OTHER BUSINESS

River Run Company – Motion for Rehearing (PID 218-43) File #05-28: Mr. Weathers made a motion, seconded by Ms. Hale, to deny the motion for rehearing for River Run Company to allow a 12-square foot roof sign at 2686 White Mountain Highway, North Conway as there was no new evidence provided nor was there a technical error. Motion unanimously carried.

Meeting adjourned at 8:10 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary