

**CONWAY ZONING BOARD
OF ADJUSTMENT**

MINUTES

MARCH 28, 2007

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, March 28, 2007 at the Conway Town Office in Center Conway, NH. Those present were: Chair, Phyllis Sherman; Vice Chair, John Colbath; Andrew Chalmers; Alternate, Hud Kellogg; Alternate, Cynthia Briggs; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

APPOINTMENT OF ALTERNATE MEMBERS

Ms. Sherman appointed Mr. Kellogg and Ms. Briggs as voting members.

PUBLIC HEARINGS

A public hearing was opened at 7:30 pm to consider a **VARIANCE** requested by **PLR REAL ESTATE DEVELOPMENT AND IRVING OIL CORPORATION** in regard to **§147.13.8.6.2** of the Conway Zoning Ordinance to exceed the number of permitted wall signs at 1500 White Mountain Highway, North Conway (PID 246-21.001). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, February 21, 2007.

Paul Pietropaoli of Perkins Thompson representing Irving Oil Corporation appeared before the Board. Dot Seybold of OVP Management and James Yeager, Code Enforcement Officer, was in attendance. Mr. Pietropaoli stated the proposal is for one sign on the street-facing gable of the canopy. Mr. Colbath stated there is no signage proposed on the north end or the south end gables. Mr. Pietropaoli agreed.

Mr. Kellogg stated that this is starting down a slippery slope with this proposal. Mr. Kellogg stated that this is a serious issue and we are going to be deluged with the same type of applications. Mr. Kellogg stated that the applicant has not met the criteria's for a variance. Mr. Colbath stated that we had asked the applicant to revisit the application and they have presented a good alternative for a win-win situation.

Ms. Sherman stated every variance stands on its own and every application has its own merit. Mr. Chalmers stated that the applicant has stated that they have been impacted and have come a long way to meet the regulation. Mr. Chalmers stated that the applicant is entitled to a certain number of square footage and they are proposing that in two signs.

Mr. Kellogg stated that they could change the Blue Canoe wall sign. Mr. Kellogg stated just because they changed their marketing approach doesn't mean they cannot change the existing wall sign to Irving. Mr. Kellogg stated that variances have been denied on this

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property for similar situations. Mr. Kellogg stated that the Board should draw a line in the sand and make this the nicest property it can be.

Mr. Pietropaoli asked that the Board go forward with the alternative request and he withdrew the original proposal. **Mr. Colbath made a motion, seconded by Ms. Briggs, to acknowledge the withdrawal or abandonment of the first application and move forward with the amended application. Motion carried with Mr. Kellogg voting in the negative.**

Ms. Sherman read item 1.a. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that an area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.** Ms. Sherman asked for Board comment; there was none. **Motion defeated with Ms. Briggs, Mr. Kellogg and Mr. Chalmers voting in the negative and Mr. Colbath and Ms. Sherman voting in the affirmative.** Ms. Briggs stated that the property was developed after the sign ordinance was created and the applicant should have anticipated this when the property was developed and created better signage.

Ms. Sherman read item 1.b. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Mr. Chalmers, that based on the findings of a and b above, denial of the variance would result in unnecessary hardship to the property owner seeking it. Ms. Sherman asked for Board comment; there was none. **Motion defeated with Ms. Briggs, Mr. Kellogg and Mr. Chalmers voting in the negative and Mr. Colbath and Ms. Sherman voting in the affirmative.**

Ms. Sherman read item 2. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that there would not be a diminution in value of surrounding properties as a result of granting this variance.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 3. **Mr. Colbath made a motion, seconded by Mr. Chalmers, 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.** Ms. Sherman asked for Board comment; there was none. **Motion defeated with Ms. Briggs, Mr. Kellogg and Mr. Chalmers voting in the negative and Mr. Colbath and Ms. Sherman voting in the affirmative.** Mr. Chalmers stated that the ordinance is clear and the Town wants to limit the amount of signage. Mr. Chalmers stated that there are other avenues to pursue other than a variance.

Ms. Sherman read item 4. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the granting of this variance will not be contrary the public interest.** Ms. Sherman asked for Board comment; there was none. **Motion defeated with Ms. Briggs, Mr. Kellogg and Mr. Chalmers voting in the negative and Mr. Colbath and Ms.**

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Sherman voting in the affirmative. Mr. Chalmers stated that he is looking at the public as our local populace. Mr. Chalmers stated that the ordinance is clear that the public is looking for fewer signs. Mr. Chalmers stated granting additional signage is going against public interest. Ms. Briggs stated what has been voted on is what the public wants and it should be, as the public wants.

Ms. Sherman read item 5. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that by granting this variance, substantial justice would be done.** Ms. Sherman asked for Board comment; there was none. **Motion defeated with Ms. Briggs, Mr. Kellogg and Mr. Chalmers voting in the negative and Mr. Colbath and Ms. Sherman voting in the affirmative.** Ms. Briggs stated there is nothing to gain by additional signage and limiting the amount of signage is not detrimental to the applicant.

Mr. Colbath made a motion, seconded by Mr. Chalmers, that, based on the forgoing findings of fact, the variance from §147.13.8.6.2 of the Town of Conway Zoning Ordinance to exceed the number of wall signs as amended per letter dated March 13, 2007 from Paul D. Pietropaoli be granted. Motion defeated with Ms. Briggs, Mr. Kellogg and Mr. Chalmers voting in the negative and Mr. Colbath and Ms. Sherman voting in the affirmative.

A public hearing was opened at 7:55 pm to consider an **APPEAL FROM ADMINISTRATIVE DECISION** requested by **E & C MAINE REALTY, LLC/JOE JONES SKI AND SPORT** in regard to **§147.15.88** of the Conway Zoning Ordinance to allow translucent pictures on the outside of the windows at 2709 White Mountain Highway, North Conway (PID 218-97). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, March 21, 2007.

Danielle Coimbra, Director of Marketing, appeared before the Board. Jim Yeager, Code Enforcement Officer, was in attendance. Ms. Coimbra stated that the applicant was seeking something to put in the window so the light wouldn't shine through and damage the clothes. Ms. Coimbra stated the applicant was going to be purchasing gray translucent covers for the windows when a photographer that could put the photos on the translucent covers, not believing or recognizing that they could be signs, approached them.

Ms. Coimbra stated that the photos are not representative of Joe Jones, but of the North Conway area, which is outdoor recreation. Ms. Coimbra stated that the photos are irrelevant to what Joe Jones sells. Ms. Coimbra stated that the photos are only visible during the day and not at night. Ms. Coimbra stated that the photos are not branding Joe Jones and not imaging the products they sell. Ms. Coimbra stated that the photos do not take away from the building and there are no sales advertisements in the windows. Ms. Coimbra stated that this a non-communitive image. Ms. Coimbra stated that this is not a sign, just an image and not visible the entire day.

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Mr. Yeager stated that the photos are window signs that cover more than 50% of the windows. Mr. Yeager stated that the photos also have the signature of the person who had taken the photo as well as Oakley products, which is a product that Joe Jones sells.

Ms. Sherman asked Mr. Yeager if there had been neither a signature nor any product in the photo would he have still found that the photos were signs. Mr. Yeager stated that it represents the lifestyle of the area as well as products that they sell. Mr. Yeager stated even with graphic elements and color, it would still be a sign even without those. Mr. Yeager stated that the photos are nice images and they definitely represent the lifestyle of the valley and what they it promotes, but they are still considered signage.

Ms. Sherman asked if there is anything that could be put on the windows without the photos to help prevent damage to the clothes. Ms. Coimbra stated absolutely, but if this is promoting the Oakley product its probably not even 1/10th of the window. Ms. Coimbra stated that the applicant does not believe the photos are signage, but showing the lifestyle of the valley. Ms. Coimbra stated that the owner questioned since this is temporary and is only visible during the day if the ZBA even had the right to take that away from the applicant. Ms. Coimbra stated that this is very vague and is not against the zoning laws. Ms. Coimbra stated the applicant would like to have a pleasant image in the window.

Ms. Briggs stated if there was a picture of a flower it may not violate the zoning laws as Joe Jones does not sell flowers, but it does imply that Joe Jones sells equipment for those activities by having ski pictures in the windows. Ms. Briggs stated that the pictures are related to your business. Ms. Coimbra stated absolutely.

Mr. Kellogg stated that the windows are to break up the wall and to foil them is defeating the purpose of the windows. Mr. Kellogg stated that this is kind of an industrial shopping mall motif. Mr. Kellogg stated that the windows need to look like windows and therefore anything on the foil would come under review. Mr. Kellogg stated that the windows need to look like windows for the ambiance of North Conway Village.

Mr. Chalmers stated that the question is are these signs and does the Board believe that the Code Enforcement Officer was right in that the photos depict something inside the building and does it cover more than 50% of the glass. Mr. Colbath stated by definition the photos are signs. Ms. Sherman asked for public comment; there was none.

Mr. Colbath made a motion, seconded by Mr. Chalmers, to uphold the Administrative Decision that the translucent pictures on the windows are signage. Ms. Sherman asked for Board comment; there was none. **Motion unanimously defeated carried.**

A public hearing was opened at 8:15 pm to consider a **VARIANCE** requested by the **CONWAY HISTORICAL SOCIETY** in regard to **§147.13.16.3.1** of the Conway Zoning Ordinance to increase the structure area in the wetland setback for an egress

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stairway at 110 Main Street, Conway (PID 265-33). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, March 21, 2007.

Shawn Bergeron of Shawn Bergeron Technical Services, LLC appeared before the Board. Mr. Chalmers stated that his company bid on this project and was not awarded the bid. Mr. Chalmers stated that he would be willing to step down if Mr. Bergeron believes he has a conflict of interest. Mr. Bergeron stated that he had no issue with Mr. Chalmers reviewing this application and thanked Mr. Chalmers for asking.

Mr. Colbath asked if it has ever flooded to the stairs. Mr. Bergeron answered in the negative; however, he has seen it to the parking lot. Ms. Briggs asked what is the current surface under the stairs. Mr. Bergeron stated there is a sidewalk and grass and it is proposed to be an impermeable surface, such as gravel or wood chips. Ms. Sherman asked for public comment; there was none. Mr. Kellogg stated the applicant is doing an admiral job of updating the property and staying in tune with the original building. Mr. Colbath agreed and stated that the applicant had made it something very useful in the community.

Ms. Sherman read item 1.a. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that an area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 1.b. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Mr. Chalmers, that based on the findings of a and b above, denial of the variance would result in unnecessary hardship to the property owner seeking it. Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 2. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that there would not be a diminution in value of surrounding properties as a result of granting this variance.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 3. **Mr. Colbath made a motion, seconded by Mr. Chalmers, 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.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 4. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the granting of this variance will not be contrary the public interest.** Ms. Sherman asked for Board comment; Ms. Sherman stated that it is enhancing the public interest. **Motion unanimously carried.**

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Ms. Sherman read item 5. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that by granting this variance, substantial justice would be done.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Ms. Briggs, that, based on the forgoing findings of fact, the variance from §147.13.16.3.1 of the Town of Conway Zoning Ordinance to increase the structure area in the wetland setback for an egress stairway be granted. Motion unanimously carried.

A public hearing was opened at 8:30 pm to consider a **SPECIAL EXCEPTION** requested by **EDGAR AND KARYL BISSON** in regard to **§147.13.16.10.7** of the Conway Zoning Ordinance to maintain and improve an existing woods road through wetlands and wetland buffers for access to a residential structure on Benlor Drive, Conway (PID 280-14). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, March 21, 2007.

Barry Keith of BH Keith Associates appeared before the Board. Edgar and Karyl Bisson were in attendance. Mr. Keith stated that there is an existing logging road on the property and the applicant would like to upgrade the road to use as a driveway. Mr. Keith stated that the fourth crossing would be used as a farm crossing for forestry maintenance. Ms. Sherman asked what are the upgrades to the road. Mr. Keith stated that a culvert needs to be replaced and some top dressing so that it would be accessible during mud season.

Ms. Sherman read item 1. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the use is essential to the productive use of land not in the District.** Ms. Sherman asked for Board comment; there was one. **Motion unanimously carried.**

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

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

Ms. Sherman read item 4. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that a site plan review approval shall not be required prior to construction.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Ms. Briggs, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.7 of the Town of Conway Zoning Ordinance to maintain and improve an existing woods road through wetlands and wetland buffers for access to a residential structure be

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granted. Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

A public hearing was opened at 8:43 pm to consider a **VARIANCE** requested by **LOIS CHAPMAN KNIGHT** in regard to **§147.13.16.3.1** of the Conway Zoning Ordinance to allow the placement of a mobile home within the 75-foot wetland setback on Prospect Road, Conway (PID 276-116). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, March 21, 2007.

Barry Keith of BH Keith Associates appeared before the Board. Mr. Keith stated that this lot was created in 1966 and this subdivision has been developed for several years. Mr. Keith stated that this is the only lot that is not developed. Mr. Keith stated that the applicants father purchased this lot over 25-years ago and she inherited it and has never done anything with it. Mr. Keith stated that municipal water and sewer services the site. Mr. Keith stated that the Conway Conservation Commission has reviewed the application and they had no additional concerns.

Mr. Kellogg asked if it was a mobile home or a modular home. Mr. Keith stated that it would be a mobile home. Ms. Briggs asked the volume being added to the floodplain. Mr. Keith stated 536 square feet. Ms. Briggs stated what is put in the floodplain here gets pushed out somewhere else. Mr. Keith stated that the culverts backflow and would continue to be floodplain. Ms. Briggs stated that not all lands need to be developed and not sure if this lot should be developed.

Mr. Irving stated that he needs to correct a statement made by Mr. Keith in that there is another undeveloped lot in this subdivision, which is the Nickerson lot [PID 276-115.1]. Mr. Irving stated that the Nickerson lot is being ~~accessed~~ assessed at \$100 and they are paying \$2 a year for taxes. Mr. Irving stated that this lot is ~~accessed~~ assessed at \$30,600 with annual taxes of approximately \$599 a year.

Mr. Colbath asked how long is the driveway. Mr. Keith answered approximately 85-feet. Ms. Briggs asked if there are any means to prevent oil and such from draining from the vehicles into the wetland. Mr. Keith stated that it has not been brought into this parcel. Mr. Chalmers stated that he is concerned with contaminated run-off.

Ms. Sherman asked what is the setback from the wetland. Mr. Keith answered 28-feet from edge of wetland. Mr. Chalmers asked if this lot was approved prior to wetlands ordinance. Mr. Irving stated that he believe these were developed prior to any regulations. Mr. Chalmers stated that that the applicant purchased this piece of land that they thought they would be able to build on it. Ms. Sherman stated that the applicant is requesting a 47-foot variance.

Ms. Sherman read item 1.a. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that an area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

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Ms. Sherman read item 1.b. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Mr. Chalmers, that based on the findings of a and b above, denial of the variance would result in unnecessary hardship to the property owner seeking it. Ms. Sherman asked for Board comment; there was none. **Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.**

Ms. Sherman read item 2. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that there would not be a diminution in value of surrounding properties as a result of granting this variance.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 3. **Mr. Colbath made a motion, seconded by Mr. Chalmers, 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.** Ms. Sherman asked for Board comment; there was none. **Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.** Mr. Chalmers stated it would be contrary to the intent of the ordinance by allowing this application to be passed.

Ms. Sherman read item 4. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the granting of this variance will not be contrary the public interest.** Ms. Sherman asked for Board comment; there was none. **Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.**

Ms. Sherman read item 5. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that by granting this variance, substantial justice would be done.** Ms. Sherman asked for Board comment; there was none. **Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.**

Mr. Colbath made a motion, seconded by Mr. Chalmers, that, based on the forgoing findings of fact, the variance from §147.13.16.3.1 of the Town of Conway Zoning Ordinance to allow the placement of a mobile home within the 75-foot wetland setback be granted. Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.

A public hearing was opened at 9:30 pm to consider a **VARIANCE** requested by **LOIS CHAPMAN KNIGHT** in regard to **§147.13.16.4** of the Conway Zoning Ordinance to allow the placement of a mobile home within the 50-foot wetland buffer on Prospect Road, Conway (PID 276-116). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, March 21, 2007.

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Barry Keith of BH Keith Associates appeared before the Board. Mr. Irving stated that the driveway and most of the mobile home is entirely within the buffer. Ms. Sherman stated that this section of the ordinance pertains more to the shoreline of the ponds. Mr. Chalmers stated that it doesn't apply to all bodies of waters. Mr. Irving stated that it applies to all wetlands and all water bodies.

Ms. Sherman read item 1.a. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that an area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.** Ms. Sherman asked for Board comment; Mr. Chalmers asked about clearing or cutting on this lot. Mr. Keith stated looking at the grading probably could get away with 5-feet around the pad and the width of the driveway. Mr. Keith stated that they would try to keep it to a minimum. Mr. Irving stated by granting this variance the Board would be approving the removal of any vegetation within the buffer for the proposal. Mr. Chalmers asked if the vegetation is over 4-feet in diameter would it be removed. Mr. Keith stated that it would have to be removed if in the developed area. Mr. Colbath stated that this lot is not a heavily vegetated lot anyway. **Motion carried with Mr. Chalmers voting in the negative.**

Ms. Sherman read item 1.b. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Mr. Chalmers, that based on the findings of a and b above, denial of the variance would result in unnecessary hardship to the property owner seeking it. Ms. Sherman asked for Board comment; Mr. Chalmers stated that the applicant has owned the property for over 20 years and the property has been acceptable to the property owner for that time. Mr. Irving asked when the original wetland ordinance was adopted, as it may have been a buildable lot at one time, but now the ordinance has created an unbuildable lot. Mr. Colbath stated that the current owner has not owned for the whole 25 years. **Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.**

Ms. Sherman read item 2. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that there would not be a diminution in value of surrounding properties as a result of granting this variance.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Sherman read item 3. **Mr. Colbath made a motion, seconded by Mr. Chalmers, 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.** Ms. Sherman asked for Board comment; Mr. Chalmers stated that the buffers were established for a reason and this is not just a little bit in the buffer it is all in the buffer. Ms. Briggs stated we don't want flooding in other places and have guaranteed the federal government we'd protect that in order for them to provide insurance for those in the floodplain. **Motion defeated with Ms. Briggs, Mr. Kellogg and Mr. Chalmers voting in the negative.**

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Mr. Irving asked if it was contrary to the regulation as the intent is to provide protection to the buffer and that the proposal is entirely within that buffer. The Board agreed.

Ms. Sherman read item 4. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the granting of this variance will not be contrary the public interest.** Ms. Sherman asked for Board comment; Mr. Chalmers stated the proposed building is well within the buffer and were established to protect the public. **Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.**

Ms. Sherman read item 5. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that by granting this variance, substantial justice would be done.** Ms. Sherman asked for Board comment; Mr. Chalmers stated that substantial justice is the public at a whole not just the property owner. **Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.**

Mr. Colbath made a motion, seconded by Mr. Chalmers, that, based on the forgoing findings of fact, the variance from §147.13.16.4 of the Town of Conway Zoning Ordinance to allow the placement of a mobile home within the 50-foot wetland buffer be granted. Motion carried with Ms. Briggs and Mr. Chalmers voting in the negative.

A public hearing was opened at 9:45 pm to consider a **SPECIAL EXCEPTION** requested by **LOIS CHAPMAN KNIGHT** in regard to **§147.13.14.3.6** of the Conway Zoning Ordinance to allow the placement of fill within the floodplain for a driveway on Prospect Road, Conway (PID 276-116). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, March 21, 2007.

Barry Keith of BH Keith Associates appeared before the Board.

Ms. Sherman read item 1. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that all development and substantial improvements shall comply with the minimum standards of the regulations of the National Flood Insurance Program contained in 44 CFR 60.3 and 44 CFR 60.6 (Code of Federal Regulations), as amended.** Ms. Sherman asked for Board comment; Ms. Briggs stated that she would like a letter from a licensed engineer that states that the application does comply with this requirement. The Board agreed to make it a subsequent condition of the approval. **Motion unanimously carried.**

Ms. Sherman read item 2. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that this regulation does not apply to this application. Motion unanimously carried.**

Ms. Sherman read item 3. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that this regulation does not apply to this application. Motion unanimously carried.**

Ms. Sherman read item 4. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that the granting of the special exception would not violate the general spirit of the**

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ordinance nor would it create a public health or safety hazard. Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Mr. Chalmers, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.14.3.6 of the Town of Conway Zoning Ordinance to placement of fill within the floodplain for a driveway allow a stream crossing for a driveway and utilities be granted with a subsequent condition of approval and precedent to construction submit a letter from a licensed engineer that states that all development and substantial improvements comply with the minimum standards of the regulations of the National Flood Insurance Program contained in 44 CFR 60.3 and 44 CFR 60.6 (Code of Federal Regulations), as amended. Motion unanimously carried.

A public hearing was opened at 10:00 pm to consider a **SPECIAL EXCEPTION** requested by **LOIS CHAPMAN KNIGHT** in regard to **§147.13.16.10.7** of the Conway Zoning Ordinance to allow a stream crossing for a driveway and utilities on Prospect Road, Conway (PID 276-116). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, March 21, 2007.

Barry Keith of BH Keith Associates appeared before the Board.

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

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

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

Ms. Sherman read item 4. **Mr. Colbath made a motion, seconded by Mr. Chalmers, that a site plan review approval shall not be required prior to construction.** Ms. Sherman asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath made a motion, seconded by Mr. Chalmers, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.7 of the Town of Conway Zoning Ordinance to allow a stream crossing for a driveway and utilities be granted. Motion unanimously carried.

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OTHER BUSINESS

Review and Acceptance of Minutes: Mr. Colbath made a motion, seconded by Mr. Chalmers, to approve the Minutes of February 28, 2007 as written. Motion unanimously carried.

Meeting adjourned at 10:05 pm.

Respectfully Submitted,

Holly L. Meserve
Planning Assistant