

ZONING BOARD OF ADJUSTMENT

MINUTES

FEBRUARY 17, 2010

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, February 17, 2010 at the Conway Town Office in Center Conway, NH, beginning at 7:32 pm. Those present were: Vice Chair, John Colbath; Andrew Chalmers; Alternate, Cynthia Briggs; Alternate, Dana Hylan; Alternate, Martha Tobin; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

APPOINTMENT OF ALTERNATE MEMBERS

Mr. Colbath appointed Ms. Briggs, Ms. Tobin and Mr. Hylan as voting members.

PUBLIC HEARINGS

A public hearing was opened at 7:32 pm to consider a **VARIANCE** requested by **AUDUBON SOCIETY OF NEW HAMPSHIRE/NH AUDUBON** in regard to §147.13.1.6.2 of the Conway Zoning Ordinance **to allow a total of seven six signs on the property** at 1388 White Mountain Highway, North Conway (PID 246-18). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, February 5, 2010.

Richard Jordan of Boyle Associates appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Jordan stated that they would like to educate people to stay on the trails of the wildlife sanctuary. Mr. Jordan stated that they would like three kiosks and three small overlook signs. Mr. Jordan stated the sign by L.L. Bean will have a roof, be flat and have a mailbox.

Ms. Briggs asked if the signs are located within the floodplain. Mr. Jordan stated that the signs have to be at least 75-feet from the river. Ms. Briggs asked if there will be a sign at the campground. Mr. Jordan answered in the affirmative and stated there is a gate there now with no signage.

Ms. Briggs asked if there was a hotel proposed. Mr. Jordan stated as far as he knows that proposal is no longer on the table. Mr. Irving stated there was a restriction by the Dahl's that would have precluded a hotel, but that project did not go very far anyway.

Ms. Tobin asked the size of the signage. After a brief discussion, the Board and Mr. Jordan agreed to three, 24 square foot signs and three, 4 square foot signs. Mr. Jordan stated they eliminated one sign, so they are now proposing six signs rather than seven.

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

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

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

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

Mr. Colbath read item 5.a.i. **Ms. Briggs made a motion, seconded by Mr. Hylen, 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.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

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

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

Ms. Briggs made a motion, seconded by Ms. Tobin, that, based on the forgoing findings of fact, the variance from §147.13.1.6.2 of the Town of Conway Zoning Ordinance to allow a total of six signs on the property with 3 signs not to exceed 24 square feet and 3 signs not to exceed 4 square feet be granted. Motion unanimously carried.

A public hearing was opened at 8:00 pm to consider a **SPECIAL EXCEPTION** requested by **AUDUBON SOCIETY OF NEW HAMPSHIRE/NH AUDUBON** in regard to §147.13.14.3.12 of the Conway Zoning Ordinance **to allow signs within the Floodplain Conservation Overlay District** at 1388 White Mountain Highway, North Conway (PID 246-18). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, February 5, 2010.

Richard Jordan of Boyle Associates appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Jordan stated there are five signs within the floodplain. Mr. Colbath asked if the kiosk by Route 16 is the only one out of the floodplain. Mr. Jordan answered in the affirmative.

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Mr. Colbath read item 1. **Ms. Briggs made a motion, seconded by Ms. Tobin, 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.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 2. **Ms. Tobin made a motion, seconded by Ms. Briggs, that all fill, new construction, substantial improvements and other development within the floodway shall be prohibited unless the applicant's New Hampshire registered engineer can show the activity would not result in any increase in flood hazard within the Town of Conway.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 3. **Ms. Briggs made a motion, seconded by Ms. Tobin, that the granting of the special exception would not violate the general spirit of the ordinance nor would it create a public health or safety hazard.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Ms. Briggs made a motion, seconded by Ms. Tobin, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.14.3.12 of the Town of Conway Zoning Ordinance to allow signs within the Floodplain Conservation Overlay District be granted. Motion unanimously carried.

A public hearing was opened at 8:08 pm to consider a **VARIANCE** requested by **AUDUBON SOCIETY OF NEW HAMPSHIRE/NH AUDUBON** in regard to §147.13.16.4 of the Conway Zoning Ordinance **to allow temporary disturbance within the wetland buffer to create a 20-foot wide, shallow vegetated swale beginning within 50-feet of a freshwater wetland** at 1388 White Mountain Highway, North Conway (PID 246-18). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, February 5, 2010.

Richard Jordan of Boyle Associates appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Irving stated that we don't have a provision that allows the disturbance of a wetland buffer, so that is what they want relief from. Mr. Jordan stated part of the grant is that they need to improve the area and they are big on restoration of hydrology; so we looking to improve flood storage.

Ms. Briggs stated they are not decreasing the area for flood waters, but increasing the area. Mr. Jordan answered in the affirmative. Mr. Jordan stated that they want to increase hydrology in the field; create a wetland in the open field for birds that don't normally go into the woods and increase habitat diversity in the field.

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

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

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

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

Mr. Colbath read item 5.a.i. **Ms. Briggs made a motion, seconded by Mr. Hylen, 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.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

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

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

Ms. Briggs made a motion, seconded by Ms. Tobin, that, based on the forgoing findings of fact, the variance from §147.13.16.4 of the Town of Conway Zoning Ordinance to allow temporary disturbance within the wetland buffer to create a 20-foot wide, shallow vegetated swale beginning within 50-feet of a freshwater wetland be granted. Motion unanimously carried.

A public hearing was opened at 8:27 pm to consider a **SPECIAL EXCEPTION** requested by **AUDUBON SOCIETY OF NEW HAMPSHIRE/NH AUDUBON** in regard to §147.13.14.3.9 of the Conway Zoning Ordinance **to maintain recreational roads (trails) within the Floodplain Conservation Overlay District** at 1388 White Mountain Highway, North Conway (PID 246-18). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, February 5, 2010.

Richard Jordan of Boyle Associates appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Jordan stated they primarily mow.

Adopted: March 17, 2010 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – FEBRUARY 17, 2010

Mr. Colbath read item 1. **Ms. Briggs made a motion, seconded by Mr. Hylen, 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.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 2. **Ms. Briggs made a motion, seconded by Mr. Hylen, that all fill, new construction, substantial improvements and other development within the floodway shall be prohibited unless the applicant's New Hampshire registered engineer can show the activity would not result in any increase in flood hazard within the Town of Conway.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 3. **Ms. Briggs made a motion, seconded by Mr. Hylen that the granting of the special exception would not violate the general spirit of the ordinance nor would it create a public health or safety hazard.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

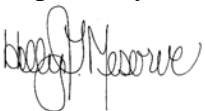
Ms. Briggs made a motion, seconded by Ms. Tobin, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.14.3.9 of the Town of Conway Zoning Ordinance to maintain recreational service roads (trails) within the Floodplain Conservation Overlay District be granted. Motion unanimously carried.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Chalmers made a motion, seconded by Ms. Briggs, to approve the Minutes of January 20, 2010 as written. Motion carried with Ms. Tobin abstaining from voting.

Meeting adjourned at 8:35 pm.

Respectfully Submitted,



Holly L. Meserve
Planning Assistant