

ZONING BOARD OF ADJUSTMENT

MINUTES

DECEMBER 15, 2010

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, December 15, 2010 at the Conway Town Office in Center Conway, NH, beginning at 7:30 pm. Those present were: Chair, Phyllis Sherman; Andrew Chalmers; Sheila Duane; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

PUBLIC HEARINGS

A public hearing was opened at 7:35 pm to consider a **VARIANCE** requested by **CHRISTOPHER POOR** in regard to §147.13.1.4 of the Conway Zoning Ordinance **to allow a garage to encroach 5-feet into the front setback** at 52 Forbes Drive, North Conway (PID 232-108). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, December 3, 2010.

Christopher Poor appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Ms. Sherman stated there were only three members present and the applicant is entitled to a five member Board. Ms. Sherman asked if the applicant would like to proceed with three members or continue the hearing until there is a five member Board. Mr. Poor stated he would like to continue until there is a five-member Board.

Mr. Chalmers made a motion, seconded by Ms. Duane, to continue the public hearing for Christopher Poor until January 19, 2011 at 7:30 pm. Motion unanimously carried.

A public hearing was opened at 7:37 pm to consider a **VARIANCE** requested by **BERGERON & BURNELL, INC** in regard to §147.13.7.6.3 of the Conway Zoning Ordinance **to allow off-site signage for Mount Washington Valley Chamber of Commerce** at 2605 White Mountain Highway, North Conway (PID 218-135). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, December 3, 2010.

Doug Burnell appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Ms. Sherman stated there were only three members present and the applicant is entitled to a five member Board. Ms. Sherman asked if the applicant would like to proceed with three members or continue the hearing until there is a five member Board. Mr. Burnell stated he would proceed with three members. Mr. Irving stated the fact there is not a full board is not a reason to appeal. Mr. Burnell stated he understood.

Mr. Burnell stated that their sign needs to be replaced and they would like to eliminate some of the signs at the entrance of the 50-foot corridor from Route 16 to their building at the back of the lot. Mr. Burnell stated that the Chamber of Commerce would like to consolidate their front and

combine signs. Mr. Burnell stated the Chamber would eliminate their sign and take out the phone and the blue phone sign. Mr. Burnell stated their sign would be the same size, but they would remove the municipal parking verbiage. Mr. Burnell stated that the Chamber sign would be off-premise.

Mr. Chalmers asked where the municipal parking sign is going. Mr. Burnell stated there is a directional sign that could be installed; that was something suggested that would be appropriate to do. Mr. Burnell stated that we are leasing the parking lot to the Town, which will expire next year.

Ms. Sherman stated it would be combining two signs into one sign with lesser square footage. Mr. Burnell agreed. Mr. Irving stated that this would not preclude the Chamber from putting signage on their property. Mr. Burnell stated that is not their intent. Mr. Irving stated he is just clarifying that it doesn't preclude that. Ms. Sherman asked for public comment; there was none.

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

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

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

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

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

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

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

Ms. Duane made a motion, seconded by Mr. Chalmers, that, based on the forgoing findings of fact, the variance from §147.13.7.6.3 of the Town of Conway Zoning Ordinance to allow off-site signage for Mount Washington Valley Chamber of Commerce be granted. Motion unanimously carried.

A public hearing was opened at 7:45 pm to consider a **VARIANCE** requested by **LEE FAMILY ENTERPRISES, LLC/HEARTBREAK HOTEL, LLC** in regard to §147.13.1.2.3 of the Conway Zoning Ordinance to allow the conversion of a 9-unit apartment building and a coffee roasting business to a 12-unit apartment building resulting in a total of 20 dwelling units (twelve (12) one-bedroom apartments in the existing Building and eight (8) one-bedroom apartments in a proposed second building) and no nonresidential units 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 on Friday, December 3, 2010.

Richard Badger, Richard Leavitt and Kevin Killourie appeared before the Board. Ms. Sherman read the application and the applicable section of the ordinance. Ms. Sherman stated there were only three members present and the applicant is entitled to a five member Board. Ms. Sherman asked if the applicant would like to proceed with three members or continue the hearing until there is a five member Board. Mr. Leavitt stated they would like to proceed with three members. Ms. Sherman stated not having a full Board is not grounds for an appeal. Mr. Leavitt stated that he understood.

Ms. Sherman asked what is on the property at the present time. Mr. Leavitt stated there is an existing kitchen for the coffee roasting business and the offices with men and women's bathroom. Mr. Leavitt stated they would like to convert that area to four small apartments. Mr. Badger stated they would be eliminating all commercial use and going all residential. Mr. Chalmers asked if this is on the first floor of the existing building. Mr. Badger agreed.

Mr. Killourie stated there would be no exterior changes. Ms. Duane stated the golf course entrance is across the street and there is a bed and breakfast with horses next door. Mr. Leavitt stated there is the mobile home park next door. Mr. Badger stated there is a ski house behind this property. There was no one in the audience.

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

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

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

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

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

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

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

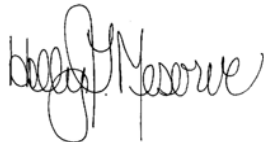
Ms. Duane made a motion, seconded by Mr. Chalmers, that, based on the forgoing findings of fact, the variance from §147.13.1.2.3 of the Town of Conway Zoning Ordinance to allow the conversion of a 9-unit apartment building and a coffee roasting business to a 12-unit apartment building resulting in a total of 20 dwelling units (twelve (12) one-bedroom apartments in the existing Building and eight (8) one-bedroom apartments in a proposed second building) and no nonresidential units be granted. Motion unanimously carried.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Duane made a motion, seconded by Mr. Chalmers, to approve the Minutes of November 17, 2010 as written. Motion unanimously carried.

Meeting adjourned at 8:10 pm.

Respectfully Submitted,



Holly L. Meserve
Planning Assistant