

ZONING BOARD OF ADJUSTMENT

MINUTES

MAY 20, 2020

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, May 20, 2020 at the Conway Recreation and Parks Department, 176 Main Street, in Conway, NH, beginning at 7:00 pm. Those present were: Chair, John Colbath; Vice Chair, Andrew Chalmers; Luigi Bartolomeo; Steven Steiner; Richard Pierce; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

PUBLIC HEARINGS

A public hearing was opened at 7:00 pm to consider a **VARIANCE** requested by **STEPHEN AND OLGA MORRILL/BRADFORD AND MARGARET MORRILL/BRUCE MORRILL/GARY AND CAROLINE FOLLMER/GSSG NEW HAMPSHIRE, LLC** in regards to §190-11 of the Conway Zoning Ordinance **to allow overhead utilities** on East Main Street and Stritch Road, Center Conway (PID 260-58). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Mr. Colbath read the application and the applicable section of the ordinance. Clay Mitchell of Tenday, LLC and Michael Redding of GSSG New Hampshire, LLC appeared before the Board. Mr. Mitchell stated that Eversource requires three poles above ground; a mid-span pole, a recloser pole and a meter pole.

Mr. Colbath asked if the utilities on Route 113 were on their side of the road or on the other side of the road. Mr. Mitchell answered on the other side of the road. Mr. Redding stated they would cross Route 113 and then go into the lot with the closure and the meter pole. Mr. Colbath asked if it was then going underground. Mr. Mitchell answered in the affirmative. Mr. Colbath asked how far. Mr. Redding answered 1,000 feet.

Mr. Colbath asked for Board comment; Mr. Bartolomeo asked if this is the property behind Ceramco. Mr. Colbath answered beside it, yes. Mr. Colbath asked for public comment; there was none.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that the variance will not be contrary to the public interest.** 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. Steiner, that the spirit of the ordinance is observed.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

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

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

Mr. Colbath read item 5.a.i. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

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

Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Bartolomeo, that item 5.b. is not necessary. Motion carried unanimously.

Mr. Chalmers made a motion, seconded by Mr. Steiner, that, based on the forgoing findings of fact, the variance from §190-11 of the Town of Conway Zoning Ordinance to allow overhead utilities be granted. Motion carried unanimously.

A public hearing was opened at 7:12 pm to consider a **SPECIAL EXCEPTION** requested by **VICKI FADDEN/GSSG NEW HAMPSHIRE, LLC** in regards to §190-28.I.(4) of the Conway Zoning Ordinance **to allow the installation of permanent culverts to replace existing installation for access roadway to solar array site** on Green Hill Road, Center Conway (PID 224-2 & 225-37). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Clay Mitchell of Tenday, LLC and 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 there was a forestry project started in 1993 and improved over the years; the forestry provided the culverts and Eversource has been using because it is in their corridor. Mr. Redding stated there are minor impacts. Mr. Redding stated it connects the upland to the wetland; the road has been in use, serves many purposes and is useful for our purpose.

Mr. Redding stated it has received approval from the State, and they met with the Conservation Commission and they sent comments in support of keeping the culverts there. Mr. Colbath asked Mr. Redding to provide the State permit and letter from the Conway Conservation Commission for the file. Mr. Redding stated he will email it.

Mr. Colbath asked for Board comment; Mr. Colbath asked have you used this road for preliminary work. Mr. Redding stated it has been used by the surveyors. Mr. Colbath asked for public comment; there was none.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 Mr. Steiner, 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 Mr. Steiner, 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 unanimously carried.**

Mr. Colbath read item 4. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that a site plan review approval shall be required prior to construction.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Bartolomeo, 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 permanent culverts to replace existing installation for access roadway to solar array be granted. Motion carried unanimously.

A public hearing was opened at 7:20 pm to consider a **VARIANCE** requested by **VICKI FADDEN/GSSG NEW HAMPSHIRE, LLC** in regards to §190-11 of the Conway Zoning Ordinance **to allow overhead utilities** on Green Hill Road, Center Conway (PID 224-2 & 225-37). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Clay Mitchell of Tenday, LLC and Michael Redding of GSSG New Hampshire, LLC appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Mitchell stated Eversource approved this today. Mr. Irving stated this was granted under a variance, not the newly adopted special exception; this is less than what they had originally applied for.

Mr. Irving stated following through with the variance procedure, this would be less of a variance because there is no new crossing over the road. Mr. Colbath asked how much is going underground. Mr. Redding answered 500-feet underground and 150-feet overhead.

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

Mr. Colbath read item 1. **Mr. Bartolomeo made a motion, seconded by Mr. Steiner, that the variance will not be contrary to the public interest.** 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. Steiner, that the spirit of the ordinance is observed.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

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

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

Mr. Colbath read item 5.a.i. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

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

Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Bartolomeo, that item 5.b. is not necessary. **Motion carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Steiner, that, based on the forgoing findings of fact, the variance from §190-11 of the Town of Conway Zoning Ordinance to allow overhead utilities be granted. **Motion carried unanimously.**

A public hearing was opened at 7:28 pm to consider an **EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENT** requested by **JOSEPH E. SULLIVAN, III** in regards to §190-16.D. of the Conway Zoning Ordinance **to allow the existing structure to remain within the front setback** on 29 White Horse Drive, North Conway (PID 214-12). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Ron Briggs of Briggs Land Surveying and Ned Sullivan appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

Mr. Briggs stated there was a mobile home on this property that was close to the road; this mobile home was removed. Mr. Briggs stated we made an effort to find documentation that the mobile home was closer to the road, but we were unable to get aerial photographs or sewer plans.

Mr. Briggs stated when the existing building was laid out the setback was measured from the centerline; however, Whitehorse Road is closer to the northern edge of the right-of-way so the building is shy of the setback.

Mr. Colbath asked for Board comment; Mr. Colbath asked how did this come to your attention. Mr. Sullivan stated the road wasn't centered in the right-of-way. Mr. Colbath asked if the structure has existed for 15-years. Mr. Sullivan answered in the affirmative. Mr. Bartolomeo asked if Mr. Briggs was a part of this when it was built. Mr. Briggs answered in the negative.

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

Mr. Colbath read item 3. **Mr. Bartolomeo made a motion, seconded by Mr. Steiner, that in lieu of the findings required by the board under subparagraphs 1. and 2. (above), the owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Steiner, that items 1 and 2 are not applicable since item 3 was granted. Motion carried unanimously.

Mr. Colbath read item 4. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 5. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Steiner, that, based on the forgoing findings of fact, the equitable waiver from §190-16.D. of the Town of Conway Zoning Ordinance to allow the existing structure to remain within the front setback be granted. Motion carried unanimously.

Adopted: July 15, 2020 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – MAY 20, 2020

A public hearing was opened at 7:38 pm to consider a **SPECIAL EXCEPTION** requested by **RIVER RUN COMPANY** in regards to §190-20.B.(5)(c) of the Conway Zoning Ordinance to **allow up to 12 units per acre** at 94 & 130 River Road, North Conway (PID 215-9 & 11). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Burr Phillips of Civil Solutions; Joe Berry, Sheila Duane and Alex Tarberry of the River Run Company appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

Mr. Phillips stated this is a proposal for 13 new dwellings with each building have 4-units; twenty-five percent of those units will be deed restricted rental units for 20 years. Mr. Phillips stated that the former Nearledge Inn has one apartment and 14 rental rooms; they share the kitchen and bathrooms. Mr. Phillips stated these sites have the potential for 98 units; we are proposing 54 units including those in Nearledge Inn.

Mr. Colbath asked for Board comment; Mr. Bartolomeo asked how many square feet are the units. Mr. Phillips stated there are 4-units in each building; the lower level units are approximately 590 square feet. Mr. Phillips stated the upper level units are two-floors. Mr. Bartolomeo asked if the garages go with the upper level units. Mr. Phillips answered in the affirmative.

Mr. Phillips stated there are four units in each building; the proposal is to have not less than 25% of the units designated as rentals; the site will be serviced by municipal water and sewer; the deed restricted rental units are between 300 and 1,000 square feet; and we have submitted floor plans and architectural plans.

Mr. Colbath asked for public comment; Linda Teagan of 120 River Road stated since there are several applications for this site, her comments apply to all of them. Ms. Teagan stated that she doesn't object to the project. Ms. Teagan stated what shows on the plan for her property is an A-frame, she has a home three times the size. Ms. Teagan stated she has had some nice conversations with Joe, Alex and Sheila.

Ms. Teagan stated the main issue is water, they are digging a substantial drainage pond. Ms. Teagan stated look at the complexity of the drain pipes behind her house and through the development, there is one directly pointed at her house and a swale behind the house. Ms. Teagan stated her major concern is water and it has always been an issue on that property.

Ms. Teagan stated she has a sump pump and in a non-high snow melt year the sump pump is still going non-stop; she is concerned with the building behind her house. Ms. Teagan stated buildings 1, 3 and 4 will replace permeable soil with pavement, roofs, driveways, etc. Ms. Teagan stated there is no vegetation left on the hill. Ms. Teagan stated she doesn't object to the project, but, again, she is concerned with what is proposed directly behind her house.

Ms. Teagan stated buildings 3 and 4 will replace all the permeable woods. Ms. Teagan stated her request/suggestion would be to eliminate building 4 and move the three buildings on the east side 30-feet east. Ms. Teagan stated she understands they have done underground drainage.

Adopted: July 15, 2020 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – MAY 20, 2020

Mr. Colbath asked if this requires a site plan review. Mr. Irving answered in the affirmative. Mr. Colbath stated some of these concerns will have to be addressed during the Planning Board process. Mr. Bartolomeo asked if there is a drain pipe just feet from her property line. Mr. Phillips answered in the affirmative, and stated there is a significant drainage swale proposed.

Mr. Phillips stated it is a schematic at this point, and will be part of the Planning Board review. Mr. Phillips stated they could do a closed drainage, or perforated only on the top. Mr. Bartolomeo stated none of the buildings have a basement. Mr. Phillips stated that is correct.

Mr. Irving stated under the site plan review regulations drainage shall be retained on-site, and under the subdivision review regulations there can be no increase in volume or rate of flow. Mr. Irving stated drainage needs to be managed on site. Mr. Bartolomeo stated they are going to intercept it and may actually alleviate Ms. Teagan's situation. Ms. Teagan stated she understands what the engineering theory is, but she feels as though she has to ask for that hill to be more open. Mr. Bartolomeo stated he understands; there can be no volume increase, but there could be a speed increase because you are losing permeable covers with non-permeable cover.

Dick Delaney stated he is here to educate himself; he's not opposed to the project, but he's not excited to have four units in his backyard.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that each structure must contain at least three dwelling units.** 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. Steiner, that not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan with a condition that they are leased for twenty years from the date of Planning Board approval by the developer and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 3. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that all lots must be serviced by municipal water and sewerage.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 4. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that the rental/deed restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 5. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the zoning regulations.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Steiner, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-20.B.(5)(c) of the Town of Conway Zoning Ordinance to allow up to 12 dwelling units per acre be granted. Motion carried unanimously.

A public hearing was opened at 8:11 pm to consider a **SPECIAL EXCEPTION** requested by **RIVER RUN COMPANY** in regards to §190-20.B.(1)(d) of the Conway Zoning Ordinance to **allow driveways, utilities and drainage within the Floodplain Conservation Overlay District** at 94 & 130 River Road, North Conway (PID 215-9 & 11). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Burr Phillips of Civil Solutions; Joe Berry, Sheila Duane and Alex Tarberry of the River Run Company appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Phillips gave an overview of the project.

Mr. Colbath asked for Board comment; Mr. Bartolomeo asked if they could bring them up the eastern driveway. Mr. Phillips stated they will have some water and sewer in the floodplain. Mr. Colbath asked if this meets the National Insurance Program. Mr. Phillips stated all of these will comply. Mr. Phillips stated all the buildings are out of the floodplain.

Mr. Colbath asked for public comment; Ms. Teagan stated she would repeat her earlier comments.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Colbath read item 2. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Colbath read item 3. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Steiner, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-26.B.(1)(d) of the Town of Conway Zoning Ordinance to allow driveways, utilities and drainage within the Floodplain Conservation Overlay District be granted. Motion carried unanimously.

A public hearing was opened at 8:21 pm to consider a **SPECIAL EXCEPTION** requested by **RIVER RUN COMPANY** in regards to §190-20.B.(1)(m) of the Conway Zoning Ordinance to **allow commercial parking areas within the Floodplain Conservation Overlay District** at 94 & 130 River Road, North Conway (PID 215-9 & 11). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Burr Phillips of Civil Solutions; Joe Berry, Sheila Duane and Alex Tarberry of the River Run Company appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

Mr. Phillips stated they would be raising it up enough to get it out of the floodplain; and it will comply with the National Floodplain Program. Mr. Phillips stated it is not going to increase the flood levels in the hydraulic analysis. Mr. Philips stated we will make sure we compensate it somewhere else so there will be no loss of flood storage.

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

Mr. Colbath asked for public comment; Ms. Teagan stated she would repeat her earlier comments.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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; Mr. Steiner asked Mr. Irving to explain this criterion. Mr. Irving stated when the site is designed and submitted for site plan review, the standards will need to be met. Mr. Phillips stated the intent is so people can purchase flood insurance in the floodplain or near it. **Motion carried unanimously.**

Mr. Colbath read item 2. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Colbath read item 3. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Steiner, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-26.B.(1)(m) of the Town of Conway Zoning Ordinance to allow commercial parking areas within the Floodplain Conservation Overlay District be granted. Motion carried unanimously.

A public hearing was opened at 8:28 pm to consider a **SPECIAL EXCEPTION** requested by **RIVER RUN COMPANY** in regards to §190-20.B.(1)(a) of the Conway Zoning Ordinance to **allow a pond within the Floodplain Conservation Overlay District** at 94 & 130 River Road, North Conway (PID 215-9 & 11). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Burr Phillips of Civil Solutions; Joe Berry, Sheila Duane and Alex Tarberry of the River Run Company appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Phillips stated this is confirmation that the aesthetic pond and drainage swales are considered a use compatible with open space.

Mr. Colbath asked for Board comment; Mr. Colbath asked what prevents the pond from overflowing and flooding itself; is there a drainage mechanism applied. Mr. Phillips stated there are overflow channels, if it fills up, we can let it out. Mr. Phillips stated there is typically an emergency overflow.

Mr. Colbath asked for public comment; Ms. Teagan stated she would repeat her earlier comments.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Colbath read item 2. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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; Mr. Bartolomeo asked if the level in the pond is going to reflect the water level in the ground. Mr. Phillips answered in the affirmative. **Motion carried unanimously.**

Mr. Colbath read item 3. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Bartolomeo, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-26.B.(1)(m) of the Town of Conway Zoning Ordinance to allow a pond within the Floodplain Conservation Overlay District be granted. Motion carried unanimously.

Adopted: July 15, 2020 – As Written

CONWAY ZONING BOARD OF ADJUSTMENT – MAY 20, 2020

A public hearing was opened at 8:34 pm to consider a **SPECIAL EXCEPTION** requested by **RIVER RUN COMPANY** in regards to §190-20.B.(1)(f) of the Conway Zoning Ordinance to **allow fill to construct driveways and commercial parking areas within the Floodplain Conservation Overlay District** at 94 & 130 River Road, North Conway (PID 215-9 & 11). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, May 7, 2020.

Burr Phillips of Civil Solutions; Joe Berry, Sheila Duane and Alex Tarberry of the River Run Company appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

Mr. Phillips stated this request is to allow fill to build the driveways. Mr. Colbath asked if the plan is to prevent erosion. Mr. Phillips stated on-site runoff will be part of that, and everything will be revegetated.

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

Mr. Colbath asked for public comment; Ms. Teagan stated she would repeat her earlier comments.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Colbath read item 2. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Colbath read item 3. **Mr. Chalmers made a motion, seconded by Mr. Steiner, 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 carried unanimously.**

Mr. Chalmers made a motion, seconded by Mr. Bartolomeo, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-26.B.(1)(f) of the Town of Conway Zoning Ordinance to allow fill to construct driveways and commercial parking areas within the Floodplain Conservation Overlay District be granted. Motion carried unanimously.

REVIEW AND ACCEPTANCE OF MINUTES

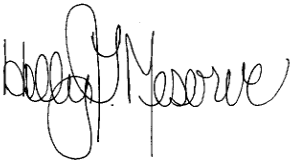
Mr. Chalmers made a motion, seconded by Mr. Bartolomeo, to approve the minutes of February 19, 2020 as written. Motion carried unanimously.

ELECTION OF OFFICERS

Mr. Steiner made a motion, seconded by Mr. Bartolomeo, to nominate John Colbath as Chair and Andrew Chalmers as Vice Chair. Motion carried unanimously.

Meeting adjourned at 8:42 pm.

Respectfully Submitted,



Holly L. Meserve
Planning Assistant