

## ZONING BOARD OF ADJUSTMENT

### MINUTES

JANUARY 17, 2024

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, January 17, 2024, at the Conway Town Office, 23 Main Street, in Conway, NH, beginning at 7:02 p.m. Those present were: Chair, John Colbath; Vice Chair, Andrew Chalmers; Jonathan Hebert; Jac Cuddy; Alternate, Steven Steiner; Town Planner, Ryan O'Connor; Assistant Planner, Holly Whitelaw; and Zoning Officer, Nicholas DeVito.

#### APPOINTMENT OF ALTERNATE MEMBER

Mr. Chalmers appointed Mr. Steiner as a voting member.

#### PUBLIC HEARINGS

A public meeting was opened at 7:00 p.m. to consider a **MOTION FOR REHEARING** requested by **WILLIAM CARVALHO AND ALICE KALT** [FILE #24-01] in regards to §190-13.B.(3) of the Conway Zoning Ordinance **to allow a third residential dwelling unit on an undersized lot** at 3045 East Main Street, Center Conway (PID 257-16).

Andrew Dean of Cooper Cargill Chant was in attendance.

Mr. Chalmers explained the applicant is entitled to present to five Board members. As there are only four members, if the motion does not go in the applicant's favor, having a short Board cannot be considered grounds for rehearing. Mr. Dean agreed to proceed with four Board members.

Mr. Hebert noted this applicant adhered to the state planning guidance. The application was well done and on point. He felt the applicant's points are very clear and urged the Board to take notice of them.

Mr. Cuddy asked if the letters received from abutters qualified as new evidence to qualify this case for rehearing. Mr. Hebert reminded the Board they asked if the applicant could acquire more land. The applicant said after doing research, this is not possible. The Board discussed if this information could have been available at the original hearing.

Mr. O'Connor said the appeal questions how some of the decisions were made. The application was denied, as it did not meet the lot size ordinance. The applicant said it should be stated in more detail how the proposal does not meet the criteria.

Chair John Colbath joined the meeting at 7:07 p.m.

Chair Colbath said the fact that the applicant contacted the abutters regarding acquiring more land is new information. He said the Board often comes under scrutiny for not approving additional housing and this is intended to house medical service personnel. He noted he was wrong about who owned the abutting property during the previous discussion.

**Mr. Hebert made a motion, seconded by Mr. Chalmers, that the motion for rehearing be granted.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

\*\*\*\*\*

A public hearing was opened at 7:12 p.m. to consider a **SPECIAL EXCEPTION** requested by **DLS PROPERTIES, LLC/PAUL RICHARDSON** [FILE #23-51] in regards to §190-26.B.(1)(h) of the Conway Zoning Ordinance **to allow the construction of two, 30’x96’ agricultural greenhouses** on Tasker Hill Road/Quint Street, Conway (PID 276-262). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, November 4, 2023. This hearing was continued from November 15, 2023, and December 20, 2023.

Jason and Paul Richardson of Grand View Farm appeared before the Board. Jason Richardson explained they are looking for a special exception from the flood plain conservation overlay. Due to the required setbacks, it is not possible to erect a 100-foot greenhouse on this lot. With a special exception of 50 feet from the waterway, this would be possible.

Mr. Hebert noted the Board asked the applicant to discuss this project with the Town engineer. Mr. O'Connor said Mr. DegliAngeli reviewed it and determined it did not create an increased flood hazard. Two conditions would need to be met regarding the location of electrical and fuel storage, and securing the structure.

Mr. Colbath spoke with a soil conservation and water expert, who felt there was not a concern with undertaking this project.

Mr. O'Connor said he believes this application meets the criteria set out for a special exception.

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. Hebert made a motion, seconded by Mr. Steiner, that new and replacement water supply, replacement septic systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters.** Mr. Colbath asked for Board comment; they clarified that water will be obtained from the Precinct. **Motion carried unanimously.**

Mr. Colbath read item 3. **Mr. Hebert 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, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that the activity would not result in any increase in flood hazard within the Town of Conway.** Mr. Colbath asked for Board comment; Mr. Cuddy asked if the applicant agreed to meet the requirements set forth by Mr. DegliAngeli and Mr. Richardson agreed. **Motion carried unanimously.**

Mr. Colbath read item 4. **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. Hebert 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 the construction of two, 30'x96' agricultural greenhouses within the Floodplain Conservation Overlay District be granted with two conditions outlined by the Town Engineer: electric one foot above flood elevation and building be secured to prevent uplift from flooding.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

## **OTHER BUSINESS**

**Second Reading of the Zoning Board of Adjustment Bylaws regarding §A200-5. Applications; decisions:** The purpose of this amendment is to extend application submittal deadlines from 21 days to 30 days.

Mr. Chalmers read the amendment.

Mr. Colbath opened a public hearing at 7:20 p.m.

Mr. Colbath asked for public comment; there was no public in attendance.

Mr. Colbath closed the public comment.

Mr. Colbath asked how the applicant knows information needs to be sent to the Town no fewer than seven days prior to the hearing. Mr. O'Connor said this will be added to the application.

Mr. Cuddy clarified the only change in this amendment is extending the deadline from 21 to 30 days and Ms. Whitelaw verified this.

**Mr. Chalmers made a motion, seconded by Mr. Steiner, to adopt the amendment as proposed.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

**OTHER BUSINESS**

Mr. O'Connor said NHMA will be meeting with the Board virtually on February 7, 2024. Members of the Planning Board have been invited to attend. Mr. O'Connor clarified they will present their regular training, then address any questions afterwards. He asked that the Board provide him with any questions ahead of time.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Hebert made a motion, seconded by Mr. Chalmers, to approve the minutes of December 20, 2023, as written. Motion carried, with Mr. Steiner and Mr. Cuddy abstaining from voting.**

**MISCELLANEOUS**

Mr. Cuddy noted a Warrant Article will be presented to the voters regarding allowing a duplex and an accessory dwelling unit on an undersized lot. He asked what will happen if the Board approves this application at rehearing, and then the voters vote it down. Mr. Colbath said the applicant would be grandfathered.

Mr. Colbath noted the Town might present the longest Warrant ever to the voters in April 2024.

Meeting adjourned at 7:32 pm.

Respectfully Submitted,  
Beth Hanggeli