

ZONING BOARD OF ADJUSTMENT

MINUTES

JULY 17, 2019

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, July 17, 2019 at the Conway Town Office in Center Conway, NH, beginning at 7:00 pm. Those present were: Acting Chair, Andrew Chalmers; Luigi Bartolomeo; Steven Steiner; Richard Pierce; Alternate, Phyllis Sherman; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

APPOINTMENT OF ALTERNATE MEMBER

Mr. Chalmers appointed Ms. Sherman as a voting member.

PUBLIC HEARINGS

A public hearing was opened at 7:00 pm to consider a **VARIANCE** requested by **GARG, LLC** in regards to §190-19.F.(15)(a) of the Conway Zoning Ordinance **to allow changeable copy on a non-conforming roof sign** at 2806 White Mountain Highway, North Conway (PID 215-13). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, July 3, 2019.

The applicant was not in attendance. Mr. Chalmers read the application and the applicable section of the ordinance. Mr. Bartolomeo asked if the sign is non-conforming because it is a roof sign. Mr. Irving answered in the affirmative. Mr. Chalmers stated the purpose of this section clearly states that it wants to reduce visual clutter and distraction; this non-conforming sign on top of a roof, once changeable copy is added, is going to be more distracting. Mr. Irving stated changeable copy would make the sign more nonconforming. There was no public in attendance.

Mr. Chalmers read item 1. **Mr. Bartolomeo made a motion, seconded by Mr. Steiner, that the variance will not be contrary to the public interest.** Mr. Chalmers asked for Board comment; Mr. Steiner stated granting the variance would make the sign more non-conforming. Mr. Bartolomeo stated it would create more visual clutter. Mr. Pierce stated it would be more non-conforming and cause distracted driving. **Motion defeated unanimously.**

Mr. Chalmers read item 2. **Mr. Steiner made a motion, seconded by Mr. Bartolomeo, that the spirit of the ordinance is observed.** Mr. Chalmers asked for Board comment; Mr. Pierce stated the sign is already non-conforming and does not meet the spirit of the ordinance. Mr. Bartolomeo stated it definitely is against the spirit of the ordinance. **Motion defeated unanimously.**

Mr. Chalmers read item 3. **Mr. Bartolomeo made a motion, seconded by Mr. Pierce, that substantial justice is done.** Mr. Chalmers asked for Board comment; Mr. Bartolomeo stated the balance of substantial would be on the applicant and there would be none for the public. **Motion defeated unanimously.**

Mr. Chalmers read item 4. **Mr. Bartolomeo made a motion, seconded by Mr. Steiner, that the values of surrounding properties are not diminished.** Mr. Chalmers asked for Board comment; Mr. Bartolomeo stated this is usually difficult to prove. **Motion defeated with Mr. Pierce, Ms. Sherman and Mr. Chalmers voting in the negative and Mr. Steiner and Mr. Bartolomeo voting in the affirmative.**

Mr. Chalmers read item 5.a.i. **Mr. Bartolomeo 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. Chalmers asked for Board comment; Mr. Chalmers stated they can still use the property as it was intended without a variance. Mr. Bartolomeo stated the property is located at the corner of a busy intersection. Mr. Pierce stated they are on the same level playing field as everyone else in Town. **Motion defeated unanimously.**

Mr. Chalmers read item 5.a.ii. **Mr. Bartolomeo made a motion, seconded by Mr. Steiner, that the proposed use is a reasonable use.** Mr. Chalmers asked for Board comment; Mr. Steiner stated it is not reasonable for the sign to have changeable copy. Mr. Pierce stated it is a non-conforming sign, and there are rules for a reason. Ms. Sherman stated the site has signage; they don't need anything else. **Motion defeated with Mr. Steiner, Mr. Pierce, Ms. Sherman and Mr. Chalmers voting in the negative and Mr. Bartolomeo voting in the affirmative.**

Mr. Bartolomeo 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. Chalmers asked for Board comment; Mr. Bartolomeo stated they are still in business and can still sell gas. **Motion defeated unanimously.**

Mr. Chalmers read item 5. **Mr. Bartolomeo made a motion, seconded by Mr. Steiner, that if the criteria is subparagraph a are not established, an unnecessary hardship will be deemed to exist, if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

Mr. Chalmers asked for Board comment; Mr. Chalmers stated even without granting the variance this building can still be utilized in the same manner; there is no hardship. Mr. Bartolomeo stated there is nothing unique that would keep them from using the property. **Motion defeated unanimously.**

Mr. Bartolomeo made a motion, seconded by Ms. Sherman, that, based on the forgoing findings of fact, the variance from §190-13.F.(15)(a) of the Town of Conway Zoning Ordinance to allow changeable copy on a non-conforming roof sign be granted. Motion defeated unanimously.

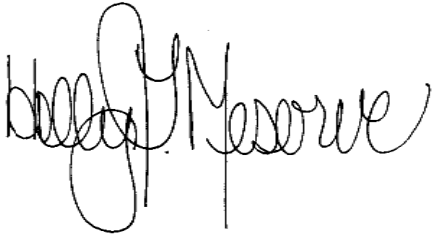
REVIEW AND ACCEPTANCE OF MINUTES

Mr. Bartolomeo made a motion, seconded by Mr. Steiner, to approve the minutes of June 19, 2019 as written. Motion carried with Mr. Pierce and Mr. Chalmers abstaining from voting.

Adopted: August 21, 2019 – As Written
CONWAY ZONING BOARD OF ADJUSTMENT – JULY 17, 2019

Meeting adjourned at 7:26 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is fluid and cursive, with the first name "Holly" written in a larger, more prominent script than the last name "Meserve".

Holly L. Meserve
Planning Assistant