

CONWAY ZONING BOARD  
OF ADJUSTMENT

MINUTES

MAY 23, 2007

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, May 23, 2007 at the Conway Town Office in Center Conway, NH, beginning at 7:30 pm. Those present were: Vice Chair, John Colbath; Andrew Chalmers; Jeana Hale; Luigi Bartolomeo; Alternate, Hud Kellogg; Alternate, Cynthia Briggs; Alternate, Sheila Duane; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

Ms. Briggs stated that she would have to step down from several items on the agenda this evening. Ms. Briggs stated that she would have to step down for the Kennett Company applications as she is on the Board of the Upper Saco Valley Land Trust who is negotiating an easement with the Kennett Company.

Ms. Briggs stated that she received a phone call this afternoon and continued a discussion regarding applications before the Board this evening. Ms. Briggs stated that she discussed the Strawberry Lane application and the Motion for Rehearing requested by Irving Oil Corporation. Ms. Briggs stated that she recognizes that the Board does not need her to vote this evening, but she will be leaving the room during those applications since her presence could be perceived as an influence one way or the other.

Mr. Colbath asked if Ms. Briggs was stepping down because she had an unofficial discussion regarding the applications. Mr. Briggs stated someone contacted her today and she discussed the applications. Mr. Colbath thanked Ms. Briggs for bringing to the Board's attention.

**APPOINTMENT OF ALTERNATE MEMBER**

Mr. Colbath appointed Ms. Duane as a voting member.

**OTHER BUSINESS**

**PLR Real Estate Development and Irving Oil Corporation (PID 246-21.001 – File #07-03) – Motion for Rehearing – File #07-26:** Ms. Briggs left the room at this time. Paul Pietropaoli of Perkins Thompson representing Irving Oil Corporation appeared before the Board. Mr. Colbath asked Mr. Irving if the Board had to receive testimony from the applicant. Mr. Irving stated that it is not necessary, but it is at the Board's discretion. Mr. Bartolomeo stated that he was here for the first hearing, but was not present for the second hearing and he would like to hear from the applicant.

Mr. Pietropaoli stated that there was a request for a variance by the Irving Oil Corporation, which was heard at the Board's February 2007 meeting. Mr. Pietropaoli stated that the Board continued that hearing until the March 2007 for the applicant to submit additional

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information. Mr. Pietropaoli stated that the applicant reduced the request from three signs to one sign on one gable of the canopy. Mr. Pietropaoli stated that the variance request was denied at the March hearing. Mr. Pietropaoli stated that the applicant is requesting a Motion for Rehearing because the applicant believes the ZBA at the March meeting did not properly apply and misapplied the standards of a variance.

Mr. Pietropaoli stated that the majority of the Board's rationale for denying the variance was because the sign wasn't allowed, however, that is the reason the applicant was before the Board. Mr. Pietropaoli stated that the Board's function is to grant variances in certain cases and if the sign were allowed, then the applicant would not have been before this Board. Mr. Pietropaoli stated that a rehearing is available to the applicant if the decision was unlawful or unreasonable and with the misapplication of the standards the applicant is requesting a rehearing.

Mr. Bartolomeo stated he is not sure if he can vote on this tonight, but he remembers at the first hearing through an informal straw vote the Board gave a clear indication that it would support two signs and not three signs. Mr. Irving stated he doesn't believe Mr. Bartolomeo has a conflict as he was here at the first meeting. Mr. Colbath asked if there was a Town opinion. Mr. Irving answered in the negative and stated it is up to the Board.

Mr. Colbath asked for any other comment; there was none. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, to grant the motion for rehearing for PLR Real Estate Development and Irving Oil Corporation. Motion carried with Mr. Chalmers voting in the negative.**

**Ms. Duane made a motion, seconded by Mr. Bartolomeo to hold the public hearing on July 25, 2007. Motion unanimously carried.**

## **PUBLIC HEARINGS**

A public hearing was opened at 7:47 pm to consider a **SPECIAL EXCEPTION** requested by **ROUTE 112 REALTY, LLC** in regard to §147.14.1.2 of the Conway Zoning Ordinance to convert retail space to an ice cream shop at 175 Kancamagus Highway (PID 264-35). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, May 16, 2007.

Ms. Briggs returned to the room at this time. Mary Ellen Szetela appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Ms. Szetela stated that she thought the applicant was going to be present this evening, but agreed to continue with the hearing and represent the property.

Ms. Szetela stated that this is the former Sunburst Gift Store and the applicant has operated sandwich shops in Portland. Mr. Colbath asked if Ms. Szetela was the property owner and/or the proprietor of Sunburst. Ms. Szetela stated that she is the owner of the property. Ms. Hale asked the hours of operation. Ms. Szetela stated that she did not know, but could not imagine being open beyond 9 pm. Ms. Duane stated that it would probably be traffic

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dictated. Ms. Briggs asked about the septic system. Ms. Szetela stated that it is on municipal sewer.

Mr. Irving asked the number of seats. Ms. Szetela stated she thinks 15 seats. Mr. Irving stated there is a site plan approval for the retail site and the number of seats dictates the number of parking spaces. Mr. Irving stated that there are six parking spaces and so the site would be limited to 18 seats. Mr. Colbath asked for public comment; there was none.

Mr. Colbath read item 1. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, that the proposed use is confined to the same lot to which the original nonconforming use would be confined.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 2. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, that the proposed has the same or lesser impact on the neighborhood relative to public health, safety and/or welfare.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 3. **Ms. Duane made a motion, seconded by Ms. Hale, that the proposed use has the same or lesser impact on the neighborhood relative to impact on property values of adjacent properties.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 4. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that the proposed use has the same or lesser impact on the neighborhood relative to traffic.** Mr. Colbath asked for Board comment; Mr. Chalmers stated that there would be an impact. Ms. Hale stated that she doesn't believe they would be there just to get ice cream, but would be in that area anyway. Mr. Irving stated although one particular retail activity did not generate a lot of traffic doesn't mean another retail activity could be more active. **Motion unanimously carried.**

Mr. Colbath read item 5. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, that the proposed use has the same or lesser impact on the neighborhood relative to nuisance to neighbors.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 6. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that the proposed use has the same or lesser impact on the neighborhood relative to nuisance to noise.** Mr. Colbath asked for Board comment; there was none. **Motion carried with Ms. Hale voting in the negative.**

Mr. Colbath read item 7. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, that the proposed use has the same or lesser impact on the neighborhood relative to nuisance nighttime lighting.** Mr. Colbath asked for Board comment; Mr. Chalmers asked if there would be any additional lighting. Ms. Szetela answered in the negative. **Motion unanimously carried.**

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**Mr. Bartolomeo made a motion, seconded by Ms. Duane, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.14.1.2 of the Town of Conway Zoning Ordinance to convert retail space to an ice cream shop be granted. Motion unanimously carried.**

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A public hearing was opened at 8:00 pm to consider a **VARIANCE** requested by **EDWARD PREVOST** in regard to §147.13.4.6.6 of the Conway Zoning Ordinance to allow an off-premise sign for a home occupation on Strawberry Lane, Center Conway (PID 259-96 & 99). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, May 16, 2007.

Ms. Briggs left the room at this time. Edward Prevost appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Irving stated that the applicant has a home occupation permit for a crane service. Mr. Irving stated that the applicant's property is linked to the main road via a road right-of-way jointly owned by him and two others. Mr. Irving stated that the home is not visible from the road and the applicant would like the Board to allow a home occupation sign on the road right-of-way so it would be visible.

Mr. Prevost stated that he has been there since 1992 and in 1996 he applied for a sign for his wife's beauty salon, which was granted but has since been removed. Mr. Prevost stated that another owner had a sign on his own property and he has since passed away and the neighbor has allowed him to use the brackets. Mr. Prevost stated that it is not off-premise as he owns the right-of-way jointly and not a big deal as the permit has already been issued and doesn't understand why changing the lettering on the sign requires a permit.

Mr. Irving stated that the sign for the Justice of the Peace was on the Justice of the Peace property and not in the right-of-way. Mr. Irving stated that the Justice of the Peace sign was legal and he does not know how the beauty salon sign was allowed. Ms. Hale asked if the new sign is on the Reed property. Ms. Prevost stated that it could be moved to the right-of-way if necessary. Mr. Prevost stated that he has letters from all three abutters that they did not have an issue with the sign. Mr. Irving stated that there are letters from all owners of the right-of-way.

Mr. Colbath asked for public comment; there was none. Mr. Chalmers asked if everyone who owns the right-of-way wanted a home occupation would they be allowed a sign in the right-of-way. Mr. Irving stated at this time the Board is entertaining a sign for Mr. Prevost and not for any other sign. Mr. Kellogg asked if the applicant is relinquishing the previous home occupation. Mr. Prevost answered in the affirmative.

Mr. Kellogg stated that this was a highly protested area and there was a zoning change proposed to change the zoning in the area of the church to Highway Commercial, but it was denied. Mr. Kellogg stated that he has seen a crane parked in the right-of-way across the street from the applicant's property and asked if that would be the permanent home. Mr. Prevost stated that the crane was on the property to cut trees, but with the weather we

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haven't been able to take them down. Nancy Reed stated if the post is on her property it could remain on her property.

Mr. Colbath read item 1.a. **Ms. Duane made a motion, seconded by Mr. Chalmers, that the zoning restriction as applied interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 1.b. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that no fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restriction on this property.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 1.c. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that the variance would not injure the public or private property rights of others.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Ms. Duane made a motion, seconded by Mr. Bartolomeo, that based on the findings of a, b, and c above, denial of the variance would result in unnecessary hardship to the property owner seeking it.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 2. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that there would not be a diminution in value of surrounding properties as a result of granting this variance.** Mr. Colbath asked for Board comment; there was one. **Motion unanimously carried.**

Mr. Colbath read item 3. **Ms. Duane made a motion, seconded by Ms. Hale, that the use contemplated by the petitioner as a result of obtaining this variance would not be contrary to the spirit and intent of the ordinance.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 4. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that the granting of this variance will not adversely affect the public interest.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

Mr. Colbath read item 5. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, that by granting this variance, substantial justice would be done.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Ms. Duane made a motion, seconded by Mr. Bartolomeo, that, based on the forgoing findings of fact, the variance from §147.13.4.6.6 of the Town of Conway Zoning Ordinance to allow an off-premise for a home occupation be granted. Motion unanimously carried.**

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A public hearing was opened at 8:12 pm to consider a **SPECIAL EXCEPTION** requested by **HAROLD WHITAKER AND THOMAS FADDEN** in regard to §147.13.16.10.7 of the Conway Zoning Ordinance to expand the affected area of the wetland crossing for the road and one additional driveway to benefit PID 243-13 off the East Conway Road (PID 243-12). Notice was published in the Conway Daily Sun and certified notices were mailed on Wednesday, May 16, 2007.

Ms. Briggs returned to the room at this time. Jay Poulin of H.E. Bergeron Engineers appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance. Mr. Poulin stated that a special exception has been granted to cross the wetlands, but after the engineering review one of the comments was that the road was a bit too steep. Mr. Poulin stated to reduce the steepness there would be more of an impact to the wetland. Mr. Poulin stated that a conservation easement has been added, but it is off-site. Mr. Irving asked if the driveway for PID 243-13 was being moved. Mr. Poulin stated that the driveway itself does not impact the wetland, but the driveway on East Conway road had to be moved due to distance.

Mr. Colbath asked for public comment; Sharon Johnston stated that it is her driveway that is being moved. Ms. Johnston stated that she has spoken with Doug Burnell and reviewed the proposed locations of the driveway. Ms. Johnston stated that they are still negotiating.

Mr. Colbath read item 1. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, 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 unanimously carried.**

Mr. Colbath read item 2. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, 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 unanimously carried.**

Mr. Colbath read item 3. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, 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. Bartolomeo made a motion, seconded by Ms. Duane, that a site plan review approval was not applicable.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Ms. Hale made a motion, seconded by Mr. Bartolomeo, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.7 of the Town of Conway Zoning Ordinance to expand the affected area of the wetland crossing for the road and one additional driveway to benefit PID 243-13 be granted.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried**

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A public hearing was opened at 8:25 pm to consider a **SPECIAL EXCEPTION** requested by **THE KENNETT COMPANY** in regard to §147.13.16.10.7 of the Conway Zoning Ordinance to allow the construction of a subdivision road (Summit View Lane) across a wetland off Dollof Hill Road (PID 291-30). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, May 16, 2007.

Ms. Hale and Ms. Briggs left the meeting at this time. Mr. Colbath appointed Mr. Kellogg as a voting member. Jay Poulin of H.E. Bergeron Engineers appeared before the Board. Larry Landry of the Arlington Group and Bayard Kennett of the Kennett Company were in attendance. There was no public in attendance. The Board agreed to review the applications for the Kennett Company all at once.

Mr. Poulin reviewed the wetland crossings. Mr. Poulin stated that the fire pond might not be constructed as the fire chief may require a dry hydrant at the bridge instead. Mr. Colbath asked for Board comment; there was none. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, to address the finding of facts for the roadways together and to address the findings of facts for the retention basins and fire ponds together. Motion unanimously carried.**

Mr. Colbath read item 1. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, 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 unanimously carried.**

Mr. Colbath read item 2. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that the use is so located and constructed as to minimize the detrimental impact upon the wetlands.** Mr. Colbath asked for Board comment; Mr. Colbath stated that the applicant has done an excellent job to have minimal impact. **Motion unanimously carried.**

Mr. Colbath read item 3. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, 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. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that a site plan review approval is not applicable.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Ms. Duane made a motion, seconded by Mr. Bartolomeo, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.7 of the Town of Conway Zoning Ordinance to allow the construction of a subdivision road (Summit View Lane) across a wetland be granted.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

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A public hearing was opened at 8:25 pm to consider a **SPECIAL EXCEPTION** requested by **THE KENNETT COMPANY** in regard to §147.13.16.10.7 of the Conway Zoning Ordinance to allow the construction of a subdivision road (Powder Ridge Lane) across a wetland off Dollof Hill Road (PID 291-30). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, May 16, 2007.

Jay Poulin of H.E. Bergeron Engineers appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

Mr. Colbath read item 1. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, 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 unanimously carried.**

Mr. Colbath read item 2. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that the use is so located and constructed as to minimize the detrimental impact upon the wetlands.** Mr. Colbath asked for Board comment; Mr. Colbath stated that the applicant has done an excellent job to have minimal impact. **Motion unanimously carried.**

Mr. Colbath read item 3. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, 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. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that a site plan review approval is not applicable.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Ms. Duane made a motion, seconded by Mr. Bartolomeo, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.7 of the Town of Conway Zoning Ordinance to allow the construction of a subdivision road (Powder Ridge Lane) across a wetland be granted.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

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A public hearing was opened at 8:25 pm to consider a **SPECIAL EXCEPTION** requested by **THE KENNETT COMPANY** in regard to §147.13.16.10.7 of the Conway Zoning Ordinance to allow the construction of a subdivision road (Alpine Lane) across a wetland off Dollof Hill Road (PID 291-30). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, May 16, 2007.

Jay Poulin of H.E. Bergeron Engineers appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

Mr. Colbath read item 1. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, 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 unanimously carried.**



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Mr. Colbath read item 2. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that the use is so located and constructed as to minimize the detrimental impact upon the wetlands.** Mr. Colbath asked for Board comment; Mr. Colbath stated that the applicant has done an excellent job to have minimal impact. **Motion unanimously carried.**

Mr. Colbath read item 3. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, 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. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that a site plan review approval is not applicable.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Mr. Bartolomeo made a motion, seconded by Ms. Duane, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.7 of the Town of Conway Zoning Ordinance to allow the construction of a subdivision road (Alpine Lane) across a wetland be granted.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

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A public hearing was opened at 8:25 pm to consider a **SPECIAL EXCEPTION** requested by **THE KENNETT COMPANY** in regard to §147.13.16.10.7 of the Conway Zoning Ordinance to allow the construction of a private driveway (Private Road A) across a wetland off Dollof Hill Road (PID 291-30). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, May 16, 2007.

Jay Poulin of H.E. Bergeron Engineers appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

Mr. Colbath read item 1. **Mr. Bartolomeo made a motion, seconded by Ms. Duane, 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 unanimously carried.**

Mr. Colbath read item 2. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that the use is so located and constructed as to minimize the detrimental impact upon the wetlands.** Mr. Colbath asked for Board comment; Mr. Colbath stated that the applicant has done an excellent job to have minimal impact. **Motion unanimously carried.**

Mr. Colbath read item 3. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, 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.**

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Mr. Colbath read item 4. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that a site plan review approval is not applicable.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Ms. Duane made a motion, seconded by Mr. Bartolomeo, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.7 of the Town of Conway Zoning Ordinance to allow the construction of a private driveway (Private Road A) across a wetland be granted.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

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A public hearing was opened at 8:25 pm to consider a **SPECIAL EXCEPTION** requested by **THE KENNETT COMPANY** in regard to §147.13.16.10.8 of the Conway Zoning Ordinance to allow the construction of two retention basins in the buffer located adjacent to Presidential Drive and Summit View Lane cul-de-sacs off Dollof Hill Road (PID 291-30). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, May 16, 2007.

Jay Poulin of H.E. Bergeron Engineers appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

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

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

Mr. Colbath read item 3. **Mr. Bartolomeo made a motion, seconded by Mr. Chalmers, 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. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that a site plan review approval is not applicable.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Mr. Bartolomeo made a motion, seconded by Ms. Duane, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.8 of the Town of Conway Zoning Ordinance to allow the construction of two retention basins in the buffer located adjacent to Presidential Drive and Summit View Lane cul-de-sacs be granted.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

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A public hearing was opened at 8:25 pm to consider a **SPECIAL EXCEPTION** requested by **THE KENNETT COMPANY** in regard to §147.13.16.10.8 of the Conway Zoning Ordinance to allow construction of a fire pond in a wetland and associated buffers off Dollof Hill Road (PID 291-30). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Wednesday, May 16, 2007.

Jay Poulin of H.E. Bergeron Engineers appeared before the Board. Mr. Colbath read the application and the applicable section of the ordinance.

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

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

Mr. Colbath read item 3. **Mr. Bartolomeo made a motion, seconded by Mr. Chalmers, 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. **Ms. Duane made a motion, seconded by Mr. Bartolomeo, that a site plan review approval is not applicable.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**Mr. Bartolomeo made a motion, seconded by Ms. Duane, that, based on the forgoing findings of fact, the Special Exception pursuant to §147.13.16.10.8 of the Town of Conway Zoning Ordinance to allow construction of a fire pond in a wetland and associated buffers be granted.** Mr. Colbath asked for Board comment; there was none. **Motion unanimously carried.**

**REVIEW AND ACCEPTANCE OF MINUTES**

The Minutes of March 28, 2007 should be amended as follows: page 4, seventh paragraph, line 3 should be amended as “.. Motion unanimously carried”; and page 7, paragraph 4, lines 3 and 4, should read “..being assessed at \$100..” and “..lot is assessed at \$30,600”.

**Mr. Bartolomeo made a motion, seconded by Ms. Duane, to approve the Minutes of March 28, 2007 as amended. Motion unanimously carried.**

Meeting adjourned at 8:50 pm.  
Respectfully Submitted,

Holly L. Meserve, Planning Assistant