

`TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
February 3, 2022

Members Present

Lynn Perkins, Chairman
Craig Corbett – Vice Chair
Heather Evans - Secretary
Crystal Morin
Allan Virr

Members Absent

Alternates Present

Richard Tripp
Michael Donlon - Remote

Alternates Absent

Donald Burgess
Gaspar Obimba

Code Enforcement

Robert Mackey, Code Enforcement Director

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag. Mr. Perkins stated that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 this public body is authorized to meet now physically and also electronically. As such this meeting is being held and will also be providing public access to the meeting by telephone with additional access possibilities by video utilizing the ZOOM app for the electronic meeting. To participate in this meeting, you can be present or by dialing 323-909-140 or by clicking on the website address: derrycam.org/TuneIn the phone numbers are 646-558-8656 or 312-626-6799 meeting ID: 323-909-140 or if anybody has a problem, please call 603-845-5585 or email at: ginnyrioux@derrynh.org. In the event that the public is unable to access the meeting, the meeting will be adjourned and rescheduled otherwise the meeting will end at 10:00 PM. Mr. Perkins said that all votes taken are taken during this meeting shall be done by roll call vote.

Mr. Perkins stated that in keeping with the mask mandate it has been reviewed that if all parties can maintain 6' distances then do not require to wear, however, if more comfortable to wearing then also have that option.

The Board members introduced themselves.

**22-107 Promised Land Survey, LLC
 John A. Glasier Revocable Trust
 John A. Glasier, Trustee**

The applicants are requesting a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to allow the construction of a 24' x 24' attached garage less than 15 feet from the side property line at 8 Holiday Ave Parcel ID 12052-017, Zoned LDR

Timothy Peloquin, Promised Land Survey, LLC, said he was representing his client John Glaiser. Mr. Peloquin reviewed the required criteria for the record. He said the area consisted of homes built in the 1960's and most had garages. Mr. Peloquin described the property for the record and said that this was the most viable area that the proposed garage could be built. He said that the direct neighbor has written a letter stating that there is no objection to the proposal.

Board Questions

Mr. Perkins asked if the houses in the area were constructed in the 1960's. Mr. Peloquin said the homes in the area were built late 60's early 70's. He said that this property is a wet area and that the zoning laws were different in 1971 so existing predates restrictions. Mr. Peloquin said that the request is a modest footprint and would be consistent with the neighborhood.

Mr. Corbett asked if the garage was a single story or a room over. Mr. Peloquin said it may have a room over for storage.

Mr. Virr said that a 24' x 24' garage was reasonably sized.

Mr. Perkins said that a 22' x 24' is tight and even a 24' is still narrow with the size of vehicles today.

Code Enforcement

Mr. Mackey provided information with regard to the property for the record.

- The applicants are requesting a variance to construct an attached 24' x 24', 2 stall garage at the property.
- The garage is proposed to be located 8.5' from the side property line (at it's closest point) where 15' is required.
- The home is serviced by a private well and septic system.
- If approved, appropriate permits and inspections will be required.
- There are pictures of the property in the file for review by the Board.

Mr. Corbett informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Favor

Mr. Perkins said that they have received a letter from Tim & Martha Stavrou, 6 Holiday Ave, who are directly affected by the applicants request in favor of the proposal.

Mr. Corbett informed the public that now would be the time to call in opposition of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Opposed

Keith Kobrenski, 3 Happy Ave, said he was in opposition of the request as he would be affected as the garage would be almost on his deck as the property was directly behind them. He said that they could build a smaller garage as a feasible alternative and not need a variance. Mr. Kobrenski said that the zoning law is to protect property lines so they should be adhered to.

Mr. Corbett said that the proposed garage is to be built on the left side of the home.

There was some discussion with the regard to the proposed location of the garage and the abutting property.

Rebuttal

Mr. Peloquin said that he was not misrepresenting the property and that the area consists of a treed wetland to the rear of the property. He said that he did not believe that there would be any area to the rear that would be disturbed.

Mr. Virr asked how far to the rear property line is proposed. Mr. Peloquin said he did not measure but looks to be roughly 120'.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

Deliberative Session

Mr. Virr said that he had formally lived in that neighborhood and most homes had garages.

Mrs. Evans said that she felt that the case was well presented and clear to where being built with regard to property lines.

Mrs. Morin said she felt it was a reasonable request.

Mr. Corbett said that the garage fit applicant presented the case well and saw no concern.

Mr. Perkins said that the position of the existing home and wetlands restricted placement and that a 24' x 24' garage is standard size today and even if built narrower would still require a variance.

Mr. Virr said a condition to limit the second floor to storage only be made.

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

Mrs. Evans motioned on case #22-107 Promised Land Survey, LLC, Owner: John A. Glasier Revocable Trust, John A. Glasier, Trustee to Grant a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to allow the construction of a 24' x 24' attached garage less than 15 feet from the side property line at 8 Holiday Ave Parcel ID 12052-017, Zoned LDR with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Limited to single story with storage only over.**

Seconded by Mrs. Morin.

Vote:

Mr. Virr:	Yes.
Mrs. Morin:	Yes.
Mr. Corbett:	Yes.
Mrs. Evans:	Yes.
Mr. Perkins:	Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

**22-115 Promised Land Survey, LLC
Owner: JAL, LLC**

The applicants are requesting a variance to the terms of Article III, Section 165-9, Article VI, Section 165-47.B.2 of the Town of Derry Zoning Ordinance and NH RSA 674:41 to allow the creation of a building lot which will not have frontage on an approved street and which will be accessed from Hilda Ave via a private easement at 25 Daniel Road, Parcel ID 11059-005, Zoned LMDR

Timothy Peloquin, Promised Land Survey, LLC, said he was representing JAL, LLC and that Steve Lannon, was also present. Mr. Peloquin reviewed the required criteria for the record. He said that this lot is part of Denali Estates which is a new subdivision off Daniel Road and Forrest Street. He described the location being a small possibly 4 to 5 acre parcel off Hilda Ave but did not have frontage on Hilda. Mr. Peloquin said that they are currently working with the owners of the property with a lot line adjustment in exchange for an access easement for this proposed lot which will consist of 2.1 acres. He said that the property will meet all criteria except for the frontage requirement.

Board Questions

Mr. Perkins asked if parcel 59-5 was a wet area. Mr. Peloquin said yes, that it was a main feed for Rainbow Lane and the applicant is working with Conservation to try to transfer into a trail network of such with a 25 foot no cut buffer to protect the wetlands.

Mr. Perkins asked if this lot had been before the Board. Mr. Mackey said yes, that it had been denied then brought back for a rehearing where it was then approved.

Code Enforcement

Mr. Mackey provided the following information with regard to the property for the record.

- The applicants are requesting a variance to allow a 2.21 acre building lot to be created that will not have frontage on a town approved street. This lot will be subdivided from parcel 11059-005.
- The new lot, which will have a single family home constructed on it, will be accessed over a private easement (over lot 11070, 36 Hilda Ave).
- Currently, the Town of Derry has a turn around easement on lot 11070 which is located at the end of Hilda Ave. This easement exists primarily for snow plowing purposes.
- The driveway for the proposed lot will tie into this paved easement.

- In exchange for this easement, some additional land will be transferred to lot 11070 (1.73 acres).
- If approved by the Board, Planning Board subdivision will be required for the proposed lot as well as the lot line adjustment between parcel 11059-005 and 11070.
- The new lot will be serviced by a private well and septic system and the dwelling will need to comply with fire protection requirements by installation of a cistern or residential sprinkler system.
- There are pictures showing the end of Hilda Ave in the file for review by the Board.

Mr. Corbett asked if lot 59 was 24 acres created lot B and that the 1.73 not part of B just shuffling. Mr. Peloquin said yes, that lot 59 consisted of 60 acres, phase 1 of Denali Estates that has been worked on for over a year. He said that Attorney Korbey and the Brother's Attorney have been in discussions with regards to an easement on the cul-de-sac on the Brother's property.

Mr. Perkins asked if on parcel B was the location of the proposed structure. Mr. Peloquin said yes.

There was some discussion with regard to the location of the property and relation to Hilda Ave.

Mr. Corbett informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Favor

No one spoke in favor of the request.

Mr. Corbett informed the public that now would be the time to call in opposition of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Opposed

No one spoke in opposition of the request.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

Deliberative Session

Mrs. Morin said that it appears that the proposed lot would close up the area so nothing could be built in the future.

Mr. Perkins said that 1 home had been granted on the abutting lot prior. He said that he did not feel that it was an excessive use of the land and reviewed the conditions for the record.

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

Mrs. Evans motioned on case #22-115 Promised Land Survey, LLC, Owner: JAL, LLC to Grant a variance to the terms of Article III, Section 165-9, Article VI, Section 165-47.B.2 of the Town of Derry Zoning Ordinance and NH RSA 674:41 to allow the creation of a building lot which will not have frontage on an approved street and which will be accessed from Hilda Ave via a private easement at 25 Daniel Road, Parcel ID 11059-005, Zoned LMDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to a recording of a Waiver of Municipal Liability and Responsibility with the Rockingham County Registry of Deeds as required per N.H. RSA 674:41.**

Seconded by Mrs. Morin.

Vote:

Mrs. Evans: Yes.

Mrs. Morin: Yes.

Mr. Virr: Yes.

Mr. Corbett: Yes

Mr. Perkins: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

The applicants are requesting a variance to the terms of Article III, Sections 165-17, 18 & 20a of the Town of Derry Zoning Ordinance to allow the construction of a replacement dwelling and septic system with less than the required wetland setbacks at 32 Pond Road, Parcel ID 44015-007, Zoned MDR.

Timothy Peloquin, Promised Land Survey, LLC, said he was representing Andrew and Alana Day. Mr. Peloquin reviewed the required criteria and property layout for the record.

Board Questions

Mr. Virr said that they have seen the new septic system design for the lot on Tsienneto Road. Mr. Peloquin said that system has a maintenance agreement with the septic installation.

Mrs. Evans asked for clarification that the wetlands were greater than on acre. Mr. Peloquin said yes and described the area for the record in relation to Beaver Lake.

Mr. Perkins asked if a new well would be installed. Mr. Peloquin said not noted at this time as looking into tying into municipal water.

Mr. Tripp asked if possible to tie into Town Sewer. Mr. Peloquin said not at this time.

Mr. Donlon asked if intention was to demo and build new dwelling. Mr. Peloquin said that the intention was to convert the existing yurt to a storage area but not to be utilized as a dwelling. He said that the existing septic would be removed and a new enviro system would be installed for the new dwelling.

Code Enforcement

Mr. Mackey provided the following information with regard to the property for the record.

- The applicants are requesting approval to construct a new single family dwelling on the property.
- The property is located in close proximity to the outlet of Beaver Lake and is bisected by a brook and also contains some pockets of wetland.
- The applicants are requesting relief from the general wetland setback provisions that require a 30' building setback for a wetland less than 1 acre and a 75' building setback for a wetland 1 acre or larger. They are also seeking relief from the provision that the septic system be located from the provision that the septic system be located 75' from a wetland and 125' from the conservation corridor

(100 year flood zone). The State DES will also need to approve the septic system location.

- As the property is located in close proximity to the 100 year flood zone, a flood elevation certificate will be required to insure the dwelling is elevated above the flood zone.
- If approved, it will also be determined if this property falls within the limits of the Comprehensive Shoreland Protection regulations.
- There are pictures in the file for review by the Board.

Mr. Mackey asked for the floor layout to be explained as appears to be possibly an accessory dwelling. Mr. Peloquin described the floor layout and said that the area was not for an ADU as there would not be a separate kitchen but will have parents living there.

Mr. Mackey said that a flood elevation certificate would be required. Mr. Peloquin said he was unsure if required Shoreland Permit and the flood plain the existing structure is in but the proposed would be out.

Mr. Corbett asked if the floor plan was the intended structure. Mr. Peloquin said that is the maximum size proposed and actual footprint may be less.

Mr. Perkins informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Favor

Mr. Corbett informed the public that now would be the time to call in opposition of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Opposed

No one spoke in opposition of the request.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

Deliberative Session

Mr. Corbett said that it was a unique property and not much could be done there. He said that he felt that the size of the structure was not unreasonable.

Mr. Perkins said it was a lot of record with an existing structure and seeking to improve the area with a new structure.

Mrs. Evans said she agrees that it would be an improvement to the lot and area and that the proposed septic design would be good for the environment. She said a condition should be added subject to a flood elevation certificate be made.

Mr. Mackey said that is a requirement any way.

Mr. Virr said he feels the property has problems and challenges that can be accommodated with updating.

Mrs. Morin said she agrees with the Board that something built in the 1970's needs possible upgrades so this design would be a better fit for the environment.

Mr. Perkins reviewed the condition for the record.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

Mrs. Evans motioned on case #22-116 Promised Land Survey, LLC, Owner: Andrew M. Day & Alana M. Day to Grant a variance to the terms of Article III, Sections 165-17, 18 & 20a of the Town of Derry Zoning Ordinance to allow the construction of a replacement dwelling and septic system with less than the required wetland setbacks at 32 Pond Road, Parcel ID 44015-007, Zoned MDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**

Seconded by Mrs. Morin.

Vote:

Mr. Virr: Yes.

Mrs. Morin: Yes.

Mr. Corbett: Yes.

Mrs. Evans: Yes.

Mr. Perkins: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Approval of Minutes

Mr. Corbett motioned to table the minutes of January 29, 2022 to the next meeting.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Donlon, Mr. Tripp, Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

Adjourn

Mr. Corbett motioned to adjourn.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Donlon, Mr. Tripp, Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

Adjourn at 8:30 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes – March 3, 2022

Mr. Virr motioned to approve the minutes of February 3, 2022 as written.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Donlon, Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Perkins

Mr. Tripp and Mr. Burgess – via email