

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
July 21, 2022

Members Present

Lynn Perkins, Chairman
Craig Corbett
Crystal Morin
Allan Virr
Donald Burgess

Members Absent

Alternates Present

Michael Donlon - Remote
Richard Tripp
James Dietzel

Alternates Absent

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.

The Board members introduced themselves.

Mr. Perkins explained that this was a joint meeting which requires the Zoning Board, Planning Board and Conservation Commission to review and discuss the application and that the Zoning Board will make the final decision but the meeting will be chaired by the Planning Board Chairman Mr. O'Connor.

Mr. O'Connor reviewed RSA 676:2 for the record and explained the meeting proceedings and cautioned the Planning Board members to keep to the facts as if the plan were to come to the Planning Board and that they did not want to prejudice themselves on the case.

Planning Board Members

John O'Connor, Chair
Jim MacEachern, Vice Chair
Mark Connors
Richard Malaby

Conservation Commission

James Degnan, Chair
Margie Ives

22-136 Keith & Julie Coviello

The applicants request a special exception as provided in Article X, Section 165-80.A.4 of the Town of Derry Zoning Ordinance to allow the construction of a 14' x 22' shed within the outermost 75' feet of the prime wetlands buffer at 3 Orchard Drive, Parcel ID 56019-008, Zoned MDR

Keith Coviello, owner, said that he and his wife Julie were here 20 years ago when they built their home. He said that they had not anticipated the need for a shed at that time and that the proposed shed would be within the prime wetland setback. Mr. Coviello reviewed the required criteria for the record and said that the Board should have a plan that he marked up as best as he could with the location of the shed.

Mr. O'Connor said that at this time he would like to have the Conservation Commission address their concerns for the proposed request.

Mr. Perkins suggested that we hear from Code Enforcement's review before questions as possibly alleviate some concerns and possibly will answer some questions before hand.

Code Enforcement

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

- The applicant is requesting a special exception to allow a 14' x 20' shed within the outermost 75' of the 150' prime wetland buffer.
- This request requires a joint meeting of the Planning Board, Conservation Committee, and the Zoning Board of Adjustment.
- Per State regulations the Chairman of the Planning Board chairs the hearing and then turns the meeting back over to the Zoning Board Chair for the vote.
- The applicant must show the Boards that they meet the 8 criteria for the special exception as delineated in the application.
- The area was designated as prime wetland due to the proximity to Beaver Lake.
- A special exception was granted in 2002 for the construction of the home within the outmost 75' of the buffer. The home was constructed in 2002-2003.

- Exception for infringements for pre-existing residences does not apply.
- No Planning Board action beyond this hearing.
- There are pictures in the file for review by the Board.

Mr. O'Connor said that there was a special exception granted May 16, 2002 for the construction of the home. He said at this time he would ask the Conservation Commission if they have any questions for the applicant.

Conservation Commission Questions

James Degnan, Chair, said that he would like to know if there would be any accessory items added such as electric or water and what type of footing the proposed structure would have. Also, if digging what sort of scope would be and if there would be replanting of a garden, etc.

Margie Ives, Conservation member, asked with regard to the note number five if there would be any trees that need to be cut down and if anyone did a site visit.

Mr. Burgess said that they are unable to go onto the property and only can visualize from the street.

Mr. Perkins said the applicant has indicated that they will be removing invasive species and will be trade off for some other types of vegetation.

Zoning Board Questions

Mr. Corbett asked if removal was based on State standards as not specifically noted. Mr. Coviello said that the State standards have changed since the original home was constructed but still required variance.

Mr. Burgess said that the applicant noted that only removing and replanting vegetable garden on the plan submitted and not stating any removal of trees at this time.

Mr. Dietzel asked what the nature of the wetland was if it was a swamp or bog. Mr. Coviello said that it was beautiful and has standing water. This is a drought season so currently dry and believe there is a beaver dam a way up but area is wet and marshy area.

Mr. Dietzel asked what type of base would the shed be placed on and what type of equipment would be located inside as potential spill of gas or oil if lawnmowers etc. were stored. Mr. Coviello said that it would consist of a gravel base on patio blocks with a double plywood floor and would be utilized for his lawn mower etc. and if any gas were spilled he would clean up immediately with speedy dry.

Mr. Corbett asked why locate on this side versus the other. Mr. Coviello said this side has the existing driveway and the other side he would have to remove trees. He said that he was unaware he needed a permit and had previously started placement near woods

road. He removed one tree which had fallen over due to the bittersweet. Mr. Coviello said that he has started removing the evasive bittersweet and Japanese knot weed. Mr. Tripp asked if the wetland was flagged and if not how know edge. Mr. Coviello said that the area is not flagged but the stonewall is the edge of the wetland on the other side.

There was some discussion with regard to the location of the wetland buffer. Mr. Coviello explained shed location on the plan for the record.

Mr. Coviello said he originally had to obtain permit from the State which was required when built his home and is no longer regulated at the state level but is at the Town level.

Mr. Burgess said that no trees were being removed. Mr. Coviello said that was correct.

Mr. Donlon said he had no questions at this time but to let the Board know he was present via remote.

Planning Board Questions

Mr. MacEachern said he felt that the case was straight forward.

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.

Mr. O'Connor informed the public that the public hearing portion of the meeting was closed at this time and asked Mr. Coviello if there was any additional information he wished to provide.

Mr. Coviello said that he answered the questions of utility and footings. The species of trees were answered. He said that he may install electric to the shed so as to have light but there would be no water.

Mr. O'Connor said that they have sheds that are manufactured with solar panels.

Mr. Tripp asked with regard to plantings where is the garden to be located. Mr. Coviello said it would be located behind the propane tank.

Mr. Corbett said that the applicant is here for shed placement not garden.

Mr. Dietzel asked if later sell the property or tear down the shed would new owners need to reapply.

Mr. Mackey said that the special exception goes with the land and if rebuilding shed on same footprint would be allowed but if build larger would need to come back.

Mr. O'Connor said that if there were no additional questions then he would turn the meeting back over to the Zoning Board at this time.

Mr. Perkins said that if there were no additional questions from the Board he would entertain a motion to go into deliberative session.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Deliberative Session

Mr. Perkins asked if the Board had any thoughts or concerns.

Mrs. Morin said that she felt that it was a straight forward case.

Mr. Burgess said that he thought only the Planning Board required site walks for property.

Mr. Virr said that the Chair knows feelings of sheds.

Mr. Corbett said that either way applicant wished to place shed would still be 75' either way.

Mr. Perkins said that original plan Mr. Dionne recommended clean up of evasive species and plan does not show what putting back in. Woods road shows travel way and feel that the applicant is looking to improve the area. He reviewed the condition for the record.

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mrs. Morin motioned on case #22-136 Keith & Julie Coviello to Grant a special exception as provided in Article X, Section 165-80.A.4 of the Town of Derry Zoning Ordinance to allow the construction of a 14' x 22' shed within the outermost 75' feet of the prime wetlands buffer at 3 Orchard Drive, Parcel ID 56019-008, Zoned MDR as presented with the following conditions:

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

Duly noted that this request required a joint meeting of the Zoning Board of Adjustment, the Planning Board and the Conservation Commission

Seconded by Mr. Virr.

Vote:

Mr. Corbett: Yes.

Mr. Virr: Yes.

Mr. Burgess: Yes.

Mr. Tripp: 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.

Mr. Perkins said he would like to Thank the Planning Board and Conservation Commission for their time this evening.

Other Business

Mr. Perkins said that the Board received a copy of NH Town & City.

Approval of Minutes

Mr. Corbett motioned to approve the minutes of June 16, 2022 as amended.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Mr. Corbett motioned to go into non-public forum.

Seconded by Mrs. Morin

Vote: Unanimous.

Mr. Tripp, Mr. Donlon, Mr. Burgess, Mrs. Morin, Mr. Corbett, Mr. Perkins

Mr. Tripp motioned to come out of non-public forum.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mr. Tripp, Mr. Donlon, Mr. Burgess, Mrs. Morin, Mr. Corbett, Mr. Perkins

Adjourn at 8:52 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk