

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
May 5, 2022

Members Present

Lynn Perkins, Chairman
Craig Corbett – Vice Chair
Crystal Morin, Secretary
Allan Virr
Donald Burgess

Members Absent

Alternates Present

Michael Donlon
Richard Tripp
Gaspar Obimba

Alternates Absent

Code Enforcement

Robert Mackey, Code Enforcement Director

Mr. Perkins called the meeting to order at 7:06 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.

22-128 Stephen Slater

The applicant is 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 28' detached garage 18' from the front property line where 35' is required at 62 Old Chester Road, Parcel ID 09047, Zoned LDR

Stephen Slater, 62 Old Chester Road, reviewed the required criteria and described the layout of the property for the record.

Board Questions

Mr. Perkins asked if the well was a dug well or artesian. Mr. Slater said it was artesian.

Mr. Virr asked how far were the propane tanks from the home. Mr. Slater said they were located along the side of the home.

Mr. Virr asked what was the distance of propane tanks from home. Mr. Mackey said that depended on the size of the tank but the size of these tanks can be located up against the home.

Mr. Corbett asked if the proposed garage would be located where the driveway ends or at the extension. Mr. Slater said it would be located at the extension area.

Code Enforcement

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

- The applicant is requesting a variance to allow the construction of a 2-stall garage 18 feet from the front property line (35' required).
- The proposal is to construct a detached garage along the existing driveway.
- This is a corner lot which abuts both Old Chester Road and Beaver Lake Road.
- If approved, appropriate permits and inspections will be required to be obtained.
- There are pictures 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 will answer your call.

Favor

No one spoke in favor of the request.

Mr. Perkins 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 will answer your call.

Opposed

No one spoke in opposition of the request.

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 said that he understands the applicants concerns due to the location of the septic and artesian well. He said he felt that the applicant meets the criteria standards.

Mr. Corbett said he felt that the case was straight forward and that there would be no impact to the neighborhood.

Mr. Perkins reviewed the condition for the record.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Mrs. Morin motioned on case #22-128 Stephen Slater to grant a variance to the terms of 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 28' detached garage 18' from the front property line where 35' is required at 62 Old Chester Road, Parcel ID 09047, Zoned LDR as presented with the following condition:

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

Seconded by Mr. Corbett.

Vote:

Mr. Virr: Yes.

Mr. Corbett: Yes.

Mr. Burgess: Yes.

Mrs. Morin: 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.

It was noted for the record that Mr. Perkins would step down for the following case and Mr. Corbett would act as Chair and Mr. Donlon would sit.

22-129 Jeffrey Moulton
Owner: Tracie E. Durant Revocable Trust

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 replacement of a 15' x 31' patio with a 16.6' x 22' deck six feet from the side yard property line where 15' is required at 19 Taylor Brook Lane, Parcel ID 18029, Zoned LDR

Jeffrey Moulton, Moulton Engineering, PLLC, reviewed criteria and plans submitted for the record.

Board Questions

Mr. Corbett asked if picture #1 could be explained more. Mr. Moulton said that it shows and existing patio that will be replaced.

Mr. Virr asked what are pervious pavers. Mr. Moulton said pavers are not pervious but the design has a larger gap between the pavers to allow water to seep down between.

Mr. Perkins asked if the pavers are before the system. Mr. Moulton said yes.

Mr. Tripp asked if the wastewater from the roof run off went to pavers. Mr. Moulton said the existing home has gutters and described sheet #1 that the run off goes to the driveway and not changing.

Mr. Tripp asked if where comes off roof if there would be an improvement. Mr. Moulton said yes that it goes from 49% to 47%.

There was some discussion with regard to picture #1's design layout.

Code Enforcement

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

- The applicant is requesting a variance to allow the construction of a deck within 6 feet of the side property line (15' required).
- This is waterfront property located on Big Island Pond, therefore a shoreland permit will also be required to be obtained from the N.H. Dept. of Environmental Services (DES).
- In addition, 2 pervious patios are being proposed but these are not subject to Town setback requirements but do require DES permitting.
- If approved, a building permit must be obtained for construction of the deck.

- There are pictures 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 will answer your call.

Favor

Mr. Moulton read a letter from Wes Dolloff, 17 Taylor Brook Road in favor of the proposed request and provide copy for the record.

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 will answer your call.

Opposed

No one spoke in opposition of the request.

Mrs. Morin motioned to go into deliberative session.

Seconded by Mr. Donlon.

Vote: Unanimous.

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

Deliberative Session

Mr. Corbett reviewed the request and condition for the record. He said he did not feel the request was a huge change and that it would be in keeping with the neighborhood.

Mr. Virr said that the properties were former camp lots and most predate zoning.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

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

Mrs. Morin motioned on case #22-129, Jeffrey Moulton, Owner: Tracie E. Durant Revocable Trust 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 replacement of a 15' x 31' patio with a 16.6' x 22' deck six feet from the side yard property line where 15' is

required at 19 Taylor Brook Lane, Parcel ID 18029, Zoned LDR as presented with the following condition:

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

Seconded by Mr. Virr.

Vote:

Mr. Donlon: Yes.

Mrs. Morin: Yes.

Mr. Virr: Yes.

Mr. Burgess: Yes.

Mr. Corbett: 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.

It was noted for the record that Mr. Perkins resumed his position of Chair.

22-129 Jeffrey Moulton
 Owner: Glenn Bauer

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 replacement of a 24.8' x 22.4' garage with a 28' x 34.5' garage located 6.5 feet from the side property line where 15' is required and 56 feet from the front property line where 15' and 35' are required at 25 Escumbuit Road, Parcel ID 15030, Zoned LDR

Jeffrey Moulton, Moulton Engineering, PLLC, reviewed criteria and plans submitted for the record.

Board Questions

Mr. Burgess asked if the second floor would have space over. Mr. Moulton said yes that it would be for storage purposes.

Code Enforcement

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

- The applicant is requesting a variance to allow the construction of a two-stall garage 6.5 feet from the side property line (15' required).
- As part of this proposal, the existing detached garage will be removed. It is also proposed that a second story be added to the home.
- As this is waterfront property, a State Shoreland permit is required and an application has been submitted to the N.H. DES.
- If approved, permits and inspections will be required to be obtained.
- There are pictures in the file for review by the Board.

Mr. Perkins asked if applicant was seeking to expand space but not property setbacks. Mr. Moulton said that was correct.

Mr. Perkins asked what was the number of bedrooms. Mr. Moulton said the existing 3 bedroom consist of 960 square feet would be relocated to the second floor as shown on the plan.

Mr. Tripp asked if the second floor of the garage was for storage only. Mr. Moulton said yes.

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 will answer your call.

Favor

Mr. Moulton said he had letters from Gordon & Amelia Parks, 66 Conleys Grove Road and Michael & Camela St. Gelais, 23 Escumbuit Road in favor of the proposed request and provide copies of the letters for the record.

Mr. Perkins 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 will answer your call.

Opposed

No one spoke in opposition of the request.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Deliberative Session

Mr. Corbett said the request was similar to the previous case with tight lots. He said he felt that a new garage would improve the area.

Mr. Burgess said he agreed.

Mr. Virr said he did not see any issues and that he also felt it would be an improvement to the area.

Mrs. Morin said she also agreed with the Board.

Mr. Perkins reviewed the conditions for the record.

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Mrs. Morin motioned on case #22-129, Jeffrey Moulton, Owner: Glenn Bauer 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 replacement of a 24.8' x 22.4' garage with a 28' x 34.5' garage located 6.5 feet from the side property line where 15' is required and 20 feet from the front property line where 15' and 35' are required at 25 Escumbuit Road, Parcel ID 15030, Zoned LDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to obtaining N.H. DES State Shoreland permit.**
- 3. Subject to filing flood elevation certificate to the Code Enforcement office.**

Seconded by Mr. Burgess.

Mr. Mackey noted that the motion should reflect that instead of 20 feet from the front property line it should be 56 feet.

Mr. Corbett motioned to ament the motion to reflect the change noted by Mr. Mackey.

Seconded by Mr. Virr.

Vote:

Mrs. Morin: Yes.

Mr. Virr: Yes.
Mr. Corbett: Yes.
Mr. Burgess: 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 Board took a brief recess and reconvened at 8:09 pm.

22-131 Family Promises of New Hampshire, Inc.
Owner: Roman Catholic Bishop of Manchester

The applicant is requesting a variance to the terms of Article VI Section 165-47.A of the Town of Derry Zoning Ordinance to allow a group residence in a zone in which the former use was a Church. The intent is to provide temporary residences for homeless families at 187 Hampstead Road, Parcel ID 10012, Zoned LMDR

Attorney Gerard Prunier, Prunier & Prolman, PA, Nashua, NH, said he was representing Family Promises and also present to help with any questions was Mark Siragusa. Attorney Prunier reviewed the criteria and information submitted to the Board for the record. He said that he also had letters he wished to submit to the Board from various people in support of the request.

Mr. Perkins said that typically the Board wished to have information prior to the meeting in order to review but would accept the letters. Attorney Prunier provided the letters for the record.

Mark Siragusa, 49 South Main Street, said he joined the Board of Trustees of Family Promise approximately a year ago. He explained that the proposed project would provide supportive housing for a number of homeless families in the community and provide them training and support to assist them to get back on track. Mr. Siragusa described the Nashua facility layout for the record and indicated that this facility would create 16 dormitory style rooms for families in need. He said that the staff works closely with the Derry Welfare Department and various other agencies throughout the area.

Board Questions

Mr. Perkins asked what would be done with existing septic with relation to converting this structure. Mr. Siragusa said that they have viewed the septic system and are in the process of proposing a new design. He said that the existing parking lot would be changed as will no longer need all the parking area so asphalt would be removed and there would be no tree cutting.

Mr. Perkins asked if existing area would be able to accommodate the proposed use and what would be done to the inside of the structure. Mr. Siragusa said that the families would be supervised and stay for 1 year where they are then educated to budget and when leave potentially have ten thousand dollars in savings and increased credit scores where they could potentially purchase a home. He said they accept families and do a complete background check, and no substance abuse is allowed and all families have to complete programs where Family Promise has had a 90% success rate. Mr. Siragusa said that there is 24-7 supervision and no visitors are allowed except for doctors so no friends or relatives would be coming and going and all families are required to a vehicle and a job.

Mr. Corbett said that one of the letters states that 52% of families are approved for a mortgage. He asked what happens to the other 48%. Mr. Siragusa said that they enter into work force housing through renting an apartment. He said that people that do not qualify for a mortgage are typically approved for rental units and that Pamela Wellman is here to speak with regard to the letter submitted.

Pamela Wellman, Executive Director at Family Promise, said that the letter states 52% of the families that come into the program typically qualify for mortgages and the other 48% enter into rental programs and build workable credit scores.

Mr. Corbett asked if have 34 families in need of placement and only seeking 16 units how do guarantee that families would be from Derry. Ms. Wellman said that their focus would be on Derry families and would work closely with the Derry School district as focal point. She said that there are currently 3 families in the Nashua facility.

Mr. Siragusa said that Federal laws provide services for school districts where families come from.

Mr. Perkins said he was familiar with the McKinney Vento program as it has been a subject at several School Board meetings.

Mr. Corbett asked why church being viewed as potential site. Mr. Siragusa said that the church opened in the 90's due to high demand but unfortunately their growth did not occur as projected so closed. He said that the building currently needs significant repairs of which the major one is the sprinkler system.

Mrs. Morin asked how 16 families with 24-7 supervision are provided space. Mr. Siragusa said that there are volunteers always on site and described the layout of the proposed 16 dormitory style rooms for the record.

Ms. Wellman said that there was no guarantee of family needs so accommodate so layout could potentially change. She said in Nashua they have 2 resident staff members that rotate shifts so there is always one on each floor.

There was some discussion with regard to dormitory style rooms and number of people for proposed facility.

Karl McGiver, Engineer, said that they built the Nashua facility and that this proposed location would meet all IBC 2015 codes and required and that there would be a perk test performed for the septic system, the sprinkler system would be brought up to code requirements and that central AC would be installed. He said that the building currently did not have an elevator but one would be installed.

Mr. Perkins asked if the TRC staff would classify the building type. Mr. Mackey said that the TRC typically is geared towards the site and the classification type would fall under the Building and Fire Departments.

There was some discussion with regard to the demographics of the property with regard to emergency services and daily needs.

Mr. Perkins said that due to the current time he felt that the Board would not be able to hear the next case and asked if the applicant wished to be tabled to the next meeting. Mr. Chadwick said that he would like to take his chances for tonight.

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 will answer your call.

Favor

Derek , 10 Meadowbrook Lane, said that he was in favor of the proposed request and liked what they were seeking to do.

Catherine Zylinski, 25 Sheldon Road, said she believed that the proposed use of the church was good and was 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 will answer your call.

Opposed

James Foley, 178 Hampstead Road, said he had concerns about the proposed conversion as the church was built due to the goodness and need but doesn't belong there but church can be built anywhere in Derry. He said the church was built and had limited access as not always utilized now seeking to put in another use that is not appropriate for the area where he was concerned with the number of people, increase of traffic and noise. Mr. Foley said no one thought a church could go out of business but they did. He said he believes in mission but wrong place for it's location.

Melanie Mangion, 3 Butternut Lane, said she also felt it was not the proper location for the proposed use. She said that there are currently only 2 social workers for the entire district and that the proposed use would impact Police and Fire resources. Ms. Mangion said there have been recently 3 motor vehicle accidents on Hampstead Road and that the proposed use would also increase traffic in the area as would be open 24 hours a day 7 days a week. She said it was unfair to compare to Nashua as that location has more resource availability due to its location. Ms. Mangion said the statement being beneficial to Derry families is not realistic as homes in Derry are very expensive.

Mr. Perkins said that there is a need for social workers but opposed to use. Ms. Mangion said yes, as need the social workers for the schools.

Mr. Burgess said that each proposed family would be there a year or less and Derry children would still be there. Ms. Mangion said that there was no guarantee that all Derry residents as there are currently Derry families in Nashua.

Mr. Tripp asked how many times did she leave her home in the course of a day and how would people in a shelter leaving the same amount of times aggrieve you. Ms. Mangion said possibly 4 to 5 times a day but she did not have 16 families living in her home so there would be more traffic generated from this building so very different.

Mr. Tripp said that the zoning for the area is currently 3 acres per home so potentially there could be 4 homes built on the 11 acres. Ms. Mangion said that 4 homes would have their own exits and this property has one entrance and exit.

William Davidson, 1 Wishing Well Lane, said he has concerns about the proposed use as stated there are currently 35 families in need and proposed is only for 16 so use is already too small. He said he was concerned for the increase in traffic and what happens if use fails.

Rebuttal

Mr. Siragusa said he would like to address some of the concerns as follows:

Traffic Concern – The church had daily mass and CCD classes in the evening so feel would be similar. He said that feel would be same times as people would generally come and go for work, school, etc. Mr. Siragusa said the church had 480 seats with 160 parking spaces allocated and they were seeking to have 16 families, possibly 30-40 cars. If were to be increase in traffic the driveway may need to be altered but feel there would be no additional impact.

Number of People – number of people varies on family size. He said that the Nashua site can hold 100 people.

Impact on Schools – Feel no impact as children are already established in the school system.

Nashua Site – He said it is a different community but currently Nashua has 3 families from Derry currently residing in that facility.

Length of stay – He said that the goal is 12 month stay. The program would not work with long term stay. Have professionals teach them how to be independent.

Attorney Prunier said he would like to complement Mr. Donlon for stating that homelessness is not going away and it would be wonderful if it did but unfortunately it is not going to disappear.

Code Enforcement

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

- The applicants are requesting a variance to allow the former church building to be utilized as temporary housing for homeless families.
- The property is located in the Low Medium Density Residential Zoning District (LMDR). Churches are allowed in most zoning districts of the Town, including all residential districts, but the use as a temporary homeless shelter for families requires a variance.
- The church was constructed in 1999-2000 and is connected to the Pennichuck Water system. The building is also sprinklered and serviced by a private septic system. If the variance is approved, these utilities must be verified to be adequate for the intended use.
- If approved, detailed plans will be required to be submitted to the Building and Fire Departments to verify code compliance.
- If approved, Planning Board site review will be required.
- There are pictures in the file for review by the Board.

Mr. Corbett said that there were currently 3 families in the Nashua facility where were the other remaining families from. Mr. Siragusa said he believes there are currently 15 families on a waiting list. He was unsure of where other families were from but Nashua primary service area is Hillsborough.

Opposed

William Davidson, said that the decision of the Board still needs to determine if the use is appropriate area and neighborhood for the use being requested. He said he feels strongly that this use does not fit the zoning and should not be an allowed use and that they have not shown evidence that it would not impact the neighborhood.

Mr. Corbett said he did not find a purchase and sales agreement in the submission file only and agreement to sell. He said he would also like to see some plans of preliminary floor designs along with a purchase and sales agreement.

Mr. Perkins said it was in the Board's purview to extend the meeting if find the need to request additional information.

There was some discussion with regard to continuing the meeting so the applicant could provide additional information.

Mr. Mackey noted that the next meeting would be for Wednesday, May 18th due to the Town Council meeting being held on Thursday night.

Mr. Corbett motioned to table case #22-131 Family Promises of New Hampshire, Inc., Owner: Roman Catholic Bishop of Manchester to the meeting of May 18, 2022 and to submit proposed floor layout and a purchase and sales agreement.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Mr. Corbett motioned to extend the meeting for an additional 10 minutes.

Seconded by Mrs. Morin.

Vote: Unanimous.

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

Mr. Siragusa said that he believes that he may have a conflict with the May 18, 2022 meeting and if so could he request the next meeting. Mr. Perkins said if there was a conflict then would need to submit a letter to request continuance.

Mr. Corbett motioned to table case #22-132 George Chadwick to the meeting of May 18, 2022.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Approval of Minutes

Mr. Burgess motioned to approve the minutes of April 7, 2022 as written.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Correspondence

Mr. Perkins said that there was a copy of the May/June NH Town and City available for the Board's viewing.

Other Business

Mr. Mackey said that the next meeting was going to be on Wednesday, May 18, 2022 due to the Town Council holding a meeting on Thursday. He said that he was aware that Mrs. Morin and Mr. Burgess have stated that they were unable to be present so will need to have alternates attend as have a special exception request that requires a joint meeting with Planning Board and Conservation.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Vote: Unanimous.

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

Adjourn at 10:04 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk