

**TOWN OF DERRY**  
**ZONING BOARD OF ADJUSTMENT MINUTES**  
**June 7, 2018**

**Members Present**

Lynn Perkins, Chairman  
Heather Evans  
Stephen Coppolo, Secretary  
Randall Kelley  
Michelle Navarro

**Members Absent**

**Alternates Present**

Donald Burgess  
Evan Rathburn  
Craig Corbett  
Crystal Morin

**Alternates Absent**

**Code Enforcement**

Robert Mackey

Mr. Perkins called the meeting to order at 7:01 p.m. with the salute to the flag and informed public of fire and handicap exits. He noted that this and all Zoning Board meetings are videotaped.

The Board introduced themselves for the record.

**18-111 Pennichuck Waterworks, Inc.**

**The applicant is requesting a variance to the terms of Article VI, Section 165-47.B.2 & 3 of the Town of Derry Zoning Ordinance to allow the existing parcel to be designated a buildable lot with the current frontage dimension (98.23'). Warner Hill Road PID 06105, Zoned LMDR**

Donald Ware, P.E. Chief Operating Officer for Pennichuck Waterworks, Inc., said he was present this evening to request a variance on two former well lots in the Town of Derry that were no longer utilized. Mr. Ware read the criteria for the record and described the area.

## **Board Questions**

Mrs. Evans asked when was the building removed. Mr. Ware said that the building was removed in 2012.

Mr. Coppolo asked why was the well decommissioned. Mr. Ware said that the building was built by the developer in the late 80's or early 90's and was no longer needed so it was discontinued as the water service was connected to the Drew Woods community water system in 2011 – 2012.

Mr. Perkins asked when was the well lot acquired. Mr. Ware said that Pennichuck took over the well in the mid 90's.

Mr. Burgess asked if it was their own driveway or an easement. Mr. Ware said that it was their driveway that consisted of 90' at the opening and reducing to 32' in width and was informed that the frontage was previously required to be 125'.

Mr. Perkins asked if the frontage requirement was now 150'. Mr. Mackey said yes.

Mr. Coppolo asked if the driveway was 50' wide to get to where the 98' flare was located. Mr. Ware said yes.

Mr. Coppolo said that there appeared to be a utility pole in the frontage and asked if it would be relocated. Mr. Ware said he was unsure of the utility pole location but the driveway has existed since the early 80's.

Mr. Coppolo said that he did not see any plans of proposed structure. Mr. Ware said that there were no plans submitted as just planning to dispose of lot to a builder as being taxed for a building lot.

## **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow the existing parcel to be designated/marketed as a buildable lot with 98.23 feet of frontage.
- At the time this lot was created in 1980, there was a 125 foot frontage requirement. This lot was permitted to be created with less than 125 feet as it was designated a non-buildable community well lot (The current frontage requirement in this district is 150 feet).
- As the wells are no longer in use, the applicants are seeking a variance to the frontage requirement so that it can be sold as a buildable lot.
- If approved, Planning Board approval will be required and the Fire Prevention Office will need to assign a street number.
- There are pictures of the property in the file for review by the Board.

Mr. Kelley asked if a variance was required when built. Mr. Mackey said no it was not required at that time but would be required today.

### **Favor**

No one spoke in favor to the request.

### **Opposed**

George Boelee, 137 Warner Hill Road, said he has been a resident since 1988. Mr. Boulay said that the road has been utilized by them to access their garage and is located very close to their property. He said he was concerned of two homes being built on the property with a shared driveway due to the acreage. Mr. Boulay said that he felt that the property was landlocked and when the well was closed the poles and building were removed.

Mr. Coppolo said they would require an additional variance would be required to build 2 homes and not seeking to do that according to proposal.

Mr. Perkins said that in order to subdivide would require another variance. Mr. Mackey said yes. The property was located in the LMDR zone which requires 2 acres and 150' frontage per lot. He said that legally they could not put 2 residences on one property and due to the economics to put in a road for 2 lots is probably not feasible. He said that as a matter of right can build one if obtain a variance for inadequate frontage.

Mr. Burgess asked if fire department required 25' wide area for a turn around. Mr. Mackey said no that it was 14' with a 12" gravel base.

Jill Pelunis, 135 Warner Hill Road, said that she has a real concern with the water base as when she purchased her home from the Coopers in 1978 their well went dry and had to have water drops. She said that her well has since recovered but concerned with having another house built that it would have an affect on the water table.

Mr. Kelley asked if there was any record of the water table in the area. Mr. Mackey said no that it would need to be researched. He said that todays standards require well data to be submitted to the office.

Mr. Perkins asked how many homes did the well feed. Mr. Mackey said that he believed 25 homes.

Bob Lehmenkuler, 25 Hubbard Hill Road, said that they have a land contract from the 1980's that states they were unable to drill their own well as they abut the water shed. Mr. Lehmenkuler said that there were clear lines in deed stipulating what could build on property. He said that there were other uses for the property that could be considered as there is a wildlife corridor there and also conservation land. He said that they could consider donating the property for conservation land and that would eliminate the tax bill.

Dottie Denaro, 23 Hubbard Hill Road, said that she agreed with Mr. Lehmenkuler that there were other uses available for the land and that there was a lot of deer and other wildlife in the area.

Dennis Marion, 121 Warner Hill Road, said that he built his home 9 years ago and at that time wished to subdivide but was denied as he only had 200' of frontage. He said that if the applicant was concerned with taxes why not sell to abutters as there were currently 15 of them.

### **Rebuttal**

Mr. Ware said that he would like to meet any of the Hubbard Hill property owners and they will expunge the well clause in their deeds. He said that the Town has deemed the property to be buildable. They do not wish to keep the property and just wish to dispose of the land.

Mr. Burgess asked if abutters wished to purchase could merge with their lot could possibly set different tax rate. Mr. Mackey said that could sell to abutter on Hubbard Hill to lower tax bracket believe requires a 10 acre requirement for current use.

Mrs. Evans asked what was the reason for decommissioning the well. Mr. Ware said that the development of 36 homes was hard to keep up with summer demand so interconnected with the Drew Woods well which is now connected to the Town so this well was no longer needed.

Mr. Coppolo said there was some concern of a home built on the property and affect to abutters water supply. Mr. Ware said that they could request that the home be connected to the existing water supply vs a drilled well.

Mr. Kelly motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

### **Deliberative Session**

Mr. Perkins said a review of the time frame of the water system developed and abutters concerns have been heard. He said that he has concerns with how tight the area is as actually thought the area belonged to others.

Mr. Kelley said that he felt the same way and when built will fall under all applicable building codes and laws but find trouble with not being contrary to public interest.

Mr. Coppolo said that the request was a pure reason for a variance. He said that he did have some concern as not shown any type of picture of what the home would be or any elevations of the property. He said that there was also a utility pole in the way that may need to be relocated and that the driveway conditions will require to be upgraded. He said that they need to look at the 4.82 acre hardship as not ever able to build on feel would be an unnecessary hardship to say undevelopable as the property has two and a half times the required acreage but lacks adequate frontage.

Mr. Kelley said that the length of the driveway creates concern.

Mr. Perkins said that he understands neighbor's life time expectations and that the spirit of the ordinance at the time exceeded what the lot could have been at the time of development.

Mr. Coppolo said that it was a large lot to leave undevelopable and has concerns with the location of the Boelee home being only 20' from where the driveway would be located. Heard concerns of wildlife and everyone wants deer on other people's land but not a basis for denial. He asked if a condition be made to meet standards.

Mr. Mackey said that the applicant will also need to go back to the Planning Board to have the non-buildable status removed. The driveway would have to meet the regulations on a standard driveway approved by the Town.

Mr. Perkins reviewed the conditions for the record.

Mr. Kelley motioned to come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

**Mr. Coppolo motioned on case #18-111 - Pennichuck Waterworks, Inc. to Grant a variance to the terms of Article VI, Section 165-47.B.2 & 3 of the Town of Derry Zoning Ordinance to allow the existing parcel to be designated a buildable lot with the current frontage dimension (98.23'). Warner Hill Road PID 06105, Zoned LMDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board approval.**

**Seconded by Mr. Kelley.**

**Vote:**

**Mr. Coppolo:** Yes.

**Mr. Kelley:** No. Believe granting a variance would be contrary to public interest due to given testimony.

**Mrs. Navarro:** No. For the same reason as stated by Mr. Kelley.

**Mrs. Evans:** No. Feel not in the public interest.

**Mr. Perkins:** No. Concerns that it is contrary to public interest. Also concerned with location of existing driveway.

**The application was Denied by a vote of 1-4-0. 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 Mrs. Evans would step down and Mr. Corbett would sit for the following case.

**18-111 Pennichuck Water Works, Inc.**

**The applicant is requesting a variance to the terms of Article VI, Section 165-48.B.2 & 3 of the Town of Derry Zoning Ordinance to allow the existing parcel to be designated a buildable lot with the current frontage dimension (50'). 8.5 Richardson Road, PID 10062-020, Zoned LDR**

Donald Ware, P.E. Chief Operating Officer for Pennichuck Waterworks, Inc. Mr. Ware read the criteria and described the area for the record. He said that this was similar to the previous case. Mr. Ware said that this well was part of the Richardson Subdivision and was decommissioned approximately 2 years ago when they connected to the Maple Haven water system which was better water quality. He said that the lot was valued by the Town to be \$22,980 and that paying the taxes on the property produced no value to them.

**Board Questions**

Mr. Coppolo asked if the large lot behind this is were the Board just granted a variance. Mr. Mackey said that a variance was granted on Morrison Road which was a large vacant parcel.

Mr. Burgess asked if there was a conservation corridor on the property. Mr. Ware said as with the previous lot this property is surrounded by developed lots but this one is different as more vacant land in the area.

Mr. Burgess asked if the lot was part of the conservation corridor or be considered as part of conservation land. Mr. Mackey said that the land falls under the 100 year flood zone and could possibly be conservation land.

There was some discussion with regard to distances to other homes in the area.

## **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow the existing parcel to be designated/marketed as a buildable lot with 50 feet of frontage.
- At the time this lot was created in 1985, there was a 125 foot frontage requirement. This lot was permitted to be created with less than 125 feet as it was designated a non-buildable community well lot. (The current frontage requirement in this district is 200 feet).
- As the wells are no longer in use, the applicants are seeking a variance to be the frontage requirements so that it can be sold as a buildable lot.
- If approved, Planning Board approval will be required, and the Fire Prevention Office will need to confirm the number.
- There are pictures of the property in the file for review by the Board.

## **Favor**

No one spoke in favor to the request.

## **Opposed**

Judith Arnold, 236 Hampstead Road, said that she purchased her home in 2000. She said that this property runs along the side of hers where there was currently a lot of wetlands. Ms. Arnold said the reason for her purchasing the property was due to the rural nature of the area and described the area where the road goes along her property to access the former well.

Mr. Coppolo motioned to go into deliberative session.

Seconded by Mrs. Navarro.

Vote: Unanimous.

Mr. Corbett, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mr. Perkins.

## **Deliberative Session**

Mr. Corbett said that he sees a lot of wetlands on the property and had some concerns of where would develop.

Mr. Perkins said that they may need to stay in same stretch as current access and may also need to obtain wetlands crossing permits.

Mr. Mackey explained the map for the record. He said that the applicant may need a wetland permit for a driveway crossing.

Mr. Coppolo said that he voted yes to the previous case and having trouble distinguishing difference in this case as it is even larger. He said he felt it would be unreasonable to tell land owner that needs to be kept vacant.

Mrs. Navarro said that she agreed with Mr. Coppolo.

Mr. Kelley said that the only problem he sees is driveway access but that would be someone else's concern when purchased as applicant is only here to obtain a variance so they can remove the non-buildable status and will be selling the property.

Mr. Perkins environmental permits create process for wetland disturbances to occur within a reasonable use. He said that in reviewing the area there are no other structures as close to this area as with the former case as homes are further away and this is a larger parcel to utilize.

Mr. Coppolo said some of the elevations may be tough to put in a driveway but could do if granted a wetland crossing permit.

Mr. Kelley asked if drainage easements would come into play.

Mr. Mackey said that there appears to be a recorded easement from when Richardson Road which will need to stay so as not to interrupt drainage.

Mr. Perkins reviewed the conditions for the record.

Mr. Kelley motioned to come out of deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Corbett, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mr. Perkins.

**Mr. Coppolo motioned on case #18-111 - Pennichuck Waterworks, Inc. to Grant a variance to the terms of Article VI, Section 165-48.B.2 & 3 of the Town of Derry Zoning Ordinance to allow the existing parcel to be designated a buildable lot with the current frontage dimension (50'). 8.5 Richardson Road, PID 10062-020, Zoned LDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board approval.**

**Seconded by Mrs. Navarro.**



**Vote:**

**Mr. Kelley:** Yes.  
**Mrs. Navarro:** Yes.  
**Mr. Coppolo:** 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.**

**18-113            Aaron Hill**  
**Owner: Glema Coughlin**

**The applicant is requesting a variance to the terms of Article VI, Section 165-45.1 (A) of the Town of Derry Zoning Ordinance to construct a two-family dwelling on the property. 30 Fairview Avenue PID 27036-001, Zoned MHDR II**

Aaron Hill, applicant, said that there was a letter of representation from his sister Glema Coughlin in the file. Mr. Hill read the application criteria and letter of explanation for the record.

**Board Questions**

Mr. Coppolo asked if the plans were to have his parents on one side and who would be located on the other side. Mr. Hill said that the plans for the home was to have his parents on one side and his sister and brother-in-law on the other side.

Mrs. Evans asked if the neighboring properties were duplexes. Mr. Hill said that he submitted a map to the Board showing all the duplexes in the area in green.

Mr. Kelley asked if the exact purpose was so everyone could fit. Mr. Hill said that he looked into single family structures and the property is a legal lot of record and could build a single with an accessory by right but did not want limit of 800 square feet. He said that the original plan submitted would change as currently show 2 smaller bedrooms on first floor with master on second but would be reverse as build master on first with 2 smaller bedrooms on second floor.

Mr. Coppolo said he thought an accessory unit was 850 square feet. Mr. Mackey said that accessory units were 800 square feet max. He said that the law changed to 750 square feet and that the Town adopted 800.

Mr. Coppolo asked what would be say as to many duplexes in area. Mr. Hill said that he respects his opinion and that was the reason for showing where the existing duplexes were located showing that his proposal would fit with current conditions in the neighborhood.

Mr. Coppolo asked when the zoning was changed. Mr. Mackey said that MHDR II zone was created approximately 10-12 years ago. Previously had request from a developer to put large development in area which thus prompted zoning change.

Mr. Kelley asked if the basement would be floor height for possible living space. Mr. Hill said it would be a poured basement.

### **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting approval to construct a two-family dwelling on the property.
- The property is zoned Medium Density Residential II (MHDR II) which allows for the construction of single-family homes only.
- The property was previously zoned MHDR which allows for the construction of two-family dwellings. That is the reason there are existing two-family dwellings located across the street from this property. Minimum lot size for a two-family dwelling is 20,000 sq. ft. and 100 feet of frontage on a lot serviced by Town water and sewer.
- This lot was subdivided in 2007 and contains 21,648 sq. ft. and has 110(+/-) feet of frontage.
- If approved, appropriate permits and inspections will be required.
- There are pictures of the property in the file for review by the Board.

### **Favor**

No one spoke in favor to the request.

### **Opposed**

Rick Willets, 27 Summit Ave, said that there were currently 9 duplexes in the neighborhood and did not feel another duplex would enhance the neighborhood. He asked if granted is the applicant obligated to build the proposed plan. Also said that he has concerns that the applicant is stating that parents and sister would be residing there but what happens in the future as things change. He said that the zoning change was more than 10 years ago to an area of Town with narrow dead end streets. Mr. Willets said that he had attended those meetings to stop duplexes and that there was a previous applicant seeking the same thing and was told no so he did not know what has changed. He said that he felt that the argument given was self-serving and not in favor of the Board granting the request as did not see what has changed from 10 years ago.

Travis Youssef, 28 Fairview, said that he has the same concerns as Mr. Willets and also concerned with increased traffic flow. He said that he felt a 2 family home would decrease property values as his home was currently a single family and that was told if sold the down fall was that there were duplexes across the street. Mr. Youssef said that

when he purchased his home he was told that only a single family structure could be built there as it had been previously subdivided from his property.

Mr. Burgess said that the floor plan shows 4 bedrooms in each home. Mr. Youssef said that the area was rezoned to single family and an accessory is allowed. He said that the zoning when purchased hasn't changed.

### **Rebuttal**

Mr. Hill said that he respects the abutters opinions. He said that the lot is a half-acre and has access to Town utilities. If the Board wishes to restrict variance to the design submitted that would be accepted. Mr. Hill said that he could build a larger home with an 800 square foot accessory by right but felt this design was more esthetically pleasing.

Mrs. Evans said that the proposal was to have parents side to be 1 master on first floor and 2 bedrooms on upper floor. Mr. Hill said yes and the design would be the same on both sides.

Mr. Kelley motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins

### **Deliberative Session**

Mr. Kelley said he felt would stay within criteria if built as designed as not your typical condex. He said that he felt the proposed plan would be an enhancement to the property but his only concern is applicant stated 1 bedroom on first floor and 2 bedrooms on second floor.

Mr. Coppolo said that Derry was esthetically burdened with too many duplex homes that are weighing down property values. He agrees that the plan is esthetically pleasing but still a duplex. Mr. Coppolo said that with regard to the five criteria he did not see where a hardship had been shown as property could be built as a single family with an accessory.

Mr. Kelley said that the design of a master bedroom on the first floor was geared towards elderly and better design than typical side by side duplex. He said a large home could be built there with an accessory and no variance would be required.

Mrs. Evans said that she was also held up on the unnecessary hardship aspect as could build a single family home with and accessory.

Mrs. Navarro said that she agreed with Mrs. Evans.

Mr. Perkins said that he feels opposition with school and long term plan. He said that he agrees as Mr. Kelley stated an accessory use is allowed. He reviewed the conditions for the record.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins

**Mr. Coppolo motioned on case #18-113 - Aaron Hill, Owner: Glema Coughlin to Grant a variance to the terms of Article VI, Section 165-45.1 (A) of the Town of Derry Zoning Ordinance to construct a two-family dwelling on the property. 30 Fairview Avenue PID 27036-001, Zoned MHDR II as presented with the following conditions:**

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

Seconded by Mrs. Navarro.

**Vote:**

**Mrs. Evans: No. Unnecessary hardship has not been shown. Believe would be contrary to public interest.**

**Mr. Coppolo: No. Feel it does not meet any of the five criteria for granting of a variance based on the evidence.**

**Mrs. Navarro: No. No hardship has been shown.**

**Mr. Kelley: No. Believe would be contrary to public interest.**

**Mr. Perkins: No. Believe use can be met with current zoning requirements. Feel it would also be contrary to public interest.**

**The application was Denied by a vote of 0-5-0. 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. Coppolo would step down and Mrs. Morin would sit for the following case.

**18-114            Rodney & Laurie Daily Revocable Trust  
Rodney K & Laurie A Daily, Trustees**

**The applicant is requesting a variance to the terms of Article III, Section 165-8 and Section 165-25.e of the Town of Derry Zoning Ordinance to allow the installation of an accessory dwelling unit in a detached structure. 4 Beaver Lake Road PID 09045-002, Zoned LDR**

Rodney & Laurie Daily, owners, were present. Mr. Daily reviewed the application criteria for the record.

**Board Questions**

Mr. Coppolo said that there appeared to be a lot of construction in the area and if this was for a different structure than what is there. Mr. Daily said that he had previously built his workshop and has recently poured the foundation for his home and his mother's home. He said that the workshop is where he wishes to have the accessory unit located.

Mr. Perkins asked what was the size of the proposed accessory use. Mr. Daily said it was 800 square feet. His mothers lot is next door and currently building that home also. He said that his workshop was currently built as a 2 story structure which he planned on putting an accessory over and the home would be located 50 feet away.

Mr. Kelley asked if the accessory was proposed to be located in the workshop. Mr. Daily said yes on the second floor.

Mr. Burgess said that the ordinance states that an ADU needs to be attached and so why not attach structures. Mr. Daily said that the driveway to the shop is installed and in order to attach the two structures would need to build a bridge due to the slope of the property. He said that the State changed the laws to mandate the allowances of ADU's.

Mr. Perkins said that the Board recognizes the State law with regard to ADU's and usage underneath could easily be increased. Mr. Daily said that the first floor of the workshop is proposed to be his workshop as his hobby is wooden bowl turning which has become an obsession. He said that he has multiple lays and machinery for his hobby and cabinet making.

## **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow an accessory apartment to be created in a structure that is not attached to the main dwelling currently under construction.
- The Town's regulations for accessory dwelling units (ADU) (Article III, Section 165-25e) require that the ADU be attached to the main dwelling. State regulations allow for a detached structure to contain an ADU.
- The structure that is proposed to contain the ADU also contains a garage and woodworking shop areas as accessory to the main dwelling.
- The ADU is proposed to comply with the other requirements for an ADU per Article III, Section 165-25.
- There is also a general regulation per Article III, Section 165-8 that allows for only one residential structure on a lot. Therefore, this Article has been included in this request.
- If approved, appropriate permits and inspections will be required.
- There are pictures of the property in the file for review by the Board.

Mr. Kelley asked if there was no connection proposed and no living area in the shop at the present time. And that the reason here is that the ADU is proposed to be located within the shop which is detached. Mr. Mackey said that was correct and that the main home has not been constructed yet and it would not be attached to the main structure.

Mr. Daily said that surrounding Town's now allowing detached housing. Mr. Perkins said that the Town has recognized the need and has an ordinance in place.

## **Favor**

No one spoke in favor to the request.

## **Opposed**

No one spoke in opposition to the request.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mrs. Morin, Mrs. Navarro, Mr. Kelley, Mrs. Evans, Mr. Perkins

## **Deliberative Session**

Mr. Perkins asked if the Board had any concerns that needed as could possibly be larger than 800 square feet. He said that other communities allow detached ADU's.

Mr. Kelley said that detached opens a can of worms and that he understands the ordinance and the purpose of the application. He said that he was also not seeing any negative impact to the neighborhood considering the location and his only concern was ownership later of what it would become.

Mr. Perkins asked if the septic design approval needed to be updated. Mr. Mackey said that the current septic design was created to allow a 2 bedroom ADU.

Mr. Perkins asked if this were to be expanded if they would need to come back before the Board. Mr. Mackey said yes, that the applicant would be limited to the size of the ADU unless they come back before the Board for an increase of size.

Mrs. Morin said that the property was already in a trust so feel the long term use was already in place.

Mrs. Evans said that she felt that the use was reasonable.

Mrs. Navarro said that she also felt that it was a reasonable use.

Mr. Perkins said a variance does not transition out and asked if ADU's had a sunset clause. Mr. Mackey said no that once created stays with the property and can be transferred but the Board could put a sunset clause on the variance request.

Mrs. Evans said that any expansion would require an additional variance.

Mr. Perkins said that he also had the same concerns as stated by Mr. Kelley. He asked if the Board wished to set a sunset clause on the ADU to expire if the property were to be transferred. He reviewed the conditions for the record.

Mr. Kelley motioned to come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mrs. Navarro, Mr. Kelley, Mrs. Evans, Mr. Perkins

**Mr. Kelley motioned on case #18-114 - Rodney & Laurie Daily Revocable Trust, Rodney K & Laurie A Daily, Trustees to Grant a variance to the terms of Article III, Section 165-8 and Section 165-25.e of the Town of Derry Zoning Ordinance to allow the installation of an accessory dwelling unit in a detached structure. 4 Beaver Lake Road PID 09045-002, Zoned LDR as presented with the following conditions:**

1. Subject to obtaining all State & Town permits and inspections.
2. Accessory Use Dwelling (ADU) occupancy will end when current ownership expires.

Seconded by Mrs. Navarro.

**Vote:**

Mrs. Evans: Yes.  
Mr. Kelley: Yes.  
Mrs. Navarro: 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 and Mr. Kelley would step down and that Mr. Rathburn and Mr. Burgess would sit for the following case.

**18-115 Kevin & Kathryn Coyle**

**The applicant is requesting a variance to the terms of Article III, Section 165-20a of the Town of Derry Zoning Ordinance to allow the construction of a dwelling less than 75 feet from a wetland after the subdivision of the lot. 74 Chester Road PID 55012-002, Zoned MDR**

Kevin Coyle, applicant, read his application criteria for the record.

**Board Questions**

Mrs. Evans asked if it was 30' required. Mr. Coyle said that the area he believes has 2 wetland setbacks of 75 feet if more than an acre and he believes that the area behind the property was more than an acre.

Mr. Burgess asked if seeking 30' as letter states 75'. Mr. Coyle said yes as he believes the wetland is over an acre.

Mr. Coppolo asked if this was a subdivided lot. Mr. Coyle said he was seeking to subdivide the L section off the property.

The Board reviewed the proposed plan.

Mr. Coppolo asked what was the easement. Mr. Mackey said it was for the sewer lift pump station.



Mr. Coyle said that the area is where the pump station is located so the property has access to sewer hookup.

Mrs. Evans asked if there would be any fill of wetlands. Mr. Coyle said no.

Mr. Coppolo asked if they would need a permit from Concord. Mr. Mackey said yes if the property is within 250 feet of the lake a shoreland permit would be required.

Mr. Burgess asked where was the building area located. Mr. Coyle explained the property for the Board.

### **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicants are requesting a variance to allow a residence to be constructed less than 75 feet from a wetland after subdividing the property into 2 lots.
- The proposed subdivision will create 2 lots, one containing the existing dwelling and the other will have a new structure built if the variance is approved.
- It is represented that the subdivision will comply with all regulations but the proposed dwelling will be located less than the required 75 feet from the wetland (which is greater than 1 acre in size and flows into Beaver Lake)
- If the variance is approved, a building permit will not be issued until the subdivision has been approved by the Planning Board.
- Due to the proximity of the 100 year flood plain, a flood elevation certificate will be required for any new construction.
- There are pictures of the property in the file for review by the Board.

Mr. Burgess asked if the property was located within the 100 year flood plain if they would need to raise home. Mr. Mackey said that it appears according to the plan provided that it would be out of the flood plain but will require an elevation certificate.

### **Favor**

No one spoke in favor to the request.

### **Opposed**

No one spoke in opposition to the request

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Rathburn, Mr. Burgess, Mrs. Navarro, Mr. Coppolo Mrs. Evans.

## **Deliberative Session**

Mr. Coppolo said that he any issue of overcrowding and that the request was for a dimensional variance only to the wetlands. He said that the applicant will also need approval from the State.

Mr. Burgess said a condition of subject to State and local inspections and permits.

Mr. Rathburn said D.E.S is very stringent with regards to shoreland permits so they will also follow up with the process.

Mrs. Evans asked if it would require Planning Board approval. Mr. Mackey said yes.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mrs. Navarro.

Vote: Unanimous.

Mr. Rathburn, Mr. Burgess, Mrs. Navarro, Mr. Coppolo, Mrs. Evans.

**Mr. Coppolo motioned on case #18-115 - Kevin & Kathryn Coyle to Grant a variance to the terms of Article III, Section 165-20a of the Town of Derry Zoning Ordinance to allow the construction of a dwelling less than 75 feet from a wetland after the subdivision of the lot. 74 Chester Road PID 55012-002, Zoned MDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board approval.**

Seconded by Mr. Burgess.

### **Vote:**

**Mr. Coppolo: Yes.**

**Mrs. Navarro: Yes.**

**Mr. Burgess: Yes.**

**Mr. Rathburn: Yes.**

**Mrs. Evans: 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. Burgess motioned to approve the minutes of May 17, 2018 as amended.

Seconded by Mrs. Navarro.

Vote: Unanimous.

Mr. Corbett, Mrs. Morin, Mr. Rathburn, Mr. Burgess, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

### **Other Business**

Mr. Perkins said that the Board typically meet only the third Thursdays of the month for July and August as part of their summer schedule. This year's meeting dates are as follows:

**July 19, 2018  
August 16, 2018**

Mr. Coppolo said that this years Spring Planning Conference was very informative. He said that the Board needs to revise the language with regard to conform to RSA 677.2 to correct statement of law.

There was some discussion with regard to correct verbiage and it was determined that it should be reviewed.

### **Adjourn**

Mr. Burgess motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Corbett, Mrs. Morin, Mr. Rathburn, Mr. Burgess, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

Adjourn at 9:47 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

**Approval of Minutes June 21, 2018**

Mr. Perkins motioned to approve the minutes of June 7, 2018 as amended.

Vote: Unanimous.

Mrs. Morin, Mr. Rathburn, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.