

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
June 6, 2013

Members Present

Allan Virr, Chairman
Lynn Perkins, Vice Chairman
Donald Burgess, Secretary
Teresa Hampton
Joseph Carnvale

Members Absent

Alternates Present

David Thompson

Alternates Absent

Louis Serrecchia

Code Enforcement

Robert Mackey

Mr. Virr called the meeting to order at 7:02 p.m. with the salute to the flag, and notice of fire and handicap exits and that this and all Zoning Board meetings are videotaped.

#13-107 Catherine A. Ritchey
Owner: Joseph Agri & Gail Ritchey, Trustees

Special Exception as provided in Article VI, Section 165-45D of the Town of Derry Zoning Ordinance to allow the operation of a towing business (home office and parking of one truck) at the residence. Parcel ID 32078, 83 East Broadway, Zoned MHDR

Catherine A. Ritchey, applicant, read her application for the Board. Ms. Ritchey said that she has two vehicles and only one comes home as her fiancé drives it and resides at the property with her so brings it home. She said that she has a contract with Auto Auctions in Salem, New Hampshire.

Board Questions

Mr. Carnevale asked if there were regular hours of operation and if the flatbed was diesel. Ms. Ritchey said that the truck was diesel and that it usually leaves the property around 7-8:00 am and returns around 5:30 pm.

Mr. Virr asked if there was to be one non-resident employee. Ms. Ritchey said she has one other employee but they do not reside at the property.

Mr. Virr asked if Mr. Agri also drives the vehicle and why coming before the Board now. Ms. Ritchey said no that he is her father-in-law who owns the property. She said that she has been operating the business since 2007 and used rent property next to the old Wal-Mart but was unable to afford the rent there so relocated to the residence as vision appraisal states that the property was business/commercial so thought the use was allowed.

Mr. Carnevale asked how long has the business been operating at the residence. Ms. Ritchey said that she has been there approximately two years.

Mr. Perkins asked some questions with regard to the lot and also was concerned with the visibility of exiting the property due to some shrub overgrowth and if it was feasible to trim them back. Ms. Ritchey said that the vehicle backs into the property and pulls out with warning lights always utilized. She said that she did not for see a problem with trimming the shrubs if needed.

Code Enforcement

Mr. Mackey said the applicant is requesting approval to allow a towing company to operate from the residence. The business, which apparently has been in operation for some time, will consist of a home office and the parking of one (1) towing vehicle (flatbed truck) on the property. No sign is being requested. The existing building is a 4 unit multi-family structure. This office was made aware of the business through a complaint from one of the tenants with regard to diesel fumes being generated by the truck. There are pictures in the file for the review by the Board.

Opposition

No one spoke in opposition of the application.

Favor

Eric Piatt, owner of 87 East Broadway, said that he has been to the property around the time that the truck is coming and going and that the noise is very minimal and that he has received no tenant complaints from his building with regard to the applicants truck coming or going from the property.

Board Questions

Mr. Virr asked if there were any children residing in the 4 unit building. Ms. Ritchey said that she has a 19 and 17 year old children and believe there is a 15 year old boy in the unit above her.

Mr. Virr asked if the vehicle was equipped with signal sound system. Ms. Ritchey said yes the truck was equipped with sound signal system that was toggle regulated so it can be controlled.

Mr. Carnevale motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr.

Deliberative Session

Mr. Carnevale said that he felt that a stipulation of hours of operation be as stated in the applicants request so as to not run 24 hours.

Mr. Virr said that the applicant stated that they operate Monday – Friday 7:00 am – 6:00 pm and did not feel that there needed to be a stipulation as it was stated by the applicant for the record. He said that he has driven by that property many times and never knew that there was a flatbed truck there.

Mrs. Hampton said that the business had been operating for 6 years with no complaints and that the applicant believed that they were okay to operate there until now and is here to correct the situation.

Mr. Burgess said that he was concerned with visibility with traffic on exiting and entering the property.

Mr. Carnevale said that was why the question of trimming the brush back was brought up by Mr. Perkins.

Mr. Mackey said that the applicant was here due to a complaint from one of the tenants in the building.

Mr. Virr said that conditions such as no vehicles to be stored on the flatbed and that the hours of operation be 7:00 am – 6:00 pm.

Mr. Perkins said that he felt that hours of operation was not necessary as the applicant has stated the hours of operation for the record and the truck could go out just to be washed or fueled up.

Mr. Perkins motioned to come out of deliberative session.

Seconded by Mr. Carnevale.

Vote: Unanimous.

Mr. Carnavale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Mr. Burgess motioned on case #13-107, Catherine A. Ritchey, Owner: Joseph Agri & Gail Ritchey, Trustees, to Grant a Special Exception as provided in Article VI, Section 165-45D of the Town of Derry Zoning Ordinance to allow the operation of a towing business (home office and parking of one truck) at the residence. Parcel ID 32078, 83 East Broadway, Zoned MHDR as presented with the following conditions:

- 1. No vehicles to be stored on the flatbed.**

Seconded by Mr. Carnvale.

Vote:

Mrs. Hampton: Yes.

Mr. Carnvale: Yes.

Mr. Burgess: Yes

Mr. Perkins: Yes.

Mr. Virr: 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.

13-108 Kathleen (Hamilton) Quatrano

Variance to the terms of Article VI, Section 165-45.B.1.d.i of the Town of Derry Zoning Ordinance to allow the construction of an attached, 32' x 32', two story garage addition less than 35 feet from the front property line where 35 feet is required. Parcel ID 35058, 89 Franklin Street, Zoned MHDR.

Kathleen (Hamilton) Quatrano, owner, said that she was also here with her husband Byron. She read her application for the Board.

Board Questions

Mr. Virr said that the proposed addition was for a two story garage with dormers and if the proposed garage would have an exit door. He also asked what the second level would be utilized for. Mrs. Quatrano said that the second level would have dormers and that the that they had chosen this area due to the fact of the neighbor's sun porch that they did not want to encroach on and that the other area had ledge and they did not wish to blast and possibly cause any destruction to any homes. The proposed garage would have an exit door and be setback 12' from front of the existing home.

Mrs. Hampton said that there appears to be approximately 2000 square feet of finished area if it was all for living space and have windows installed. Mr. Quatrano said that the first level was for a garage and the second level would have windows but would be unfinished at this time but would be future living space for a master bedroom or family room.

Mr. Burgess asked if the garage area was going to be level with the existing first floor and have electricity. Mr. Quatrano said yes.

Code Enforcement

Mr. Mackey said the applicant is requesting a variance to construct an attached 32' x 32' garage with living space above, 27' from the edge of Franklin Street. The right-of-way width for Franklin Street in this area is approximately 50 feet although it is not well established in this area. The topography and swimming pool would appear to limit the options for location of the garage. If approved, the applicant will be required to obtain the necessary construction permits as well as a driveway permit from the Department of Public Works. There are pictures in the file for the review by the Board.

Board Questions

Mrs. Hampton asked if the pool was remaining and if so would there be enough room for the garage. Mrs. Quatrano said yes and said that she had provided a plan in her application showing the garage addition.

Mr. Burgess asked if anyone had checked to see if there was ledge in the proposed location. Mr. Quatrano said that they had previously cut down some trees in the proposed area and had fill brought in so knew there was no ledge in the proposed location for the garage addition.

Favor

No one spoke in favor of the application.

Opposed

No one spoke in opposition of the application.

Mr. Carnevale motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Deliberative Session

Mr. Virr said that other than being subject to obtaining all Town permits and inspections there does not seem to be any issues.

Mr. Burgess said that he was concerned with backing into the roadway.

Mr. Perkins said that he did not have any conflict with the applicants request as he felt it would be an improvement to the area. He said that it would also eliminate the Town from having issues with the existing driveway.

Mrs. Hampton said that she felt that the addition would enhance the neighborhood and create more tax revenue.

Mr. Virr said that a condition should be subject to obtaining all Town permits and inspections.

Mr. Carnevale motioned to go come out of deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Mr. Burgess motioned case #13-108, Kathleen (Hamilton) Quatrano to Grant a Variance to the terms of Article VI, Section 165-45.B.1.d.i of the Town of Derry Zoning Ordinance to allow the construction of an attached, 32' x 32', two story garage addition less than 35 feet from the front property line where 35 feet is required. Parcel ID 35058, 89 Franklin Street, Zoned MHDR as presented with the following conditions:

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

Seconded by Mr. Perkins.

Vote:

Mrs. Hampton: Yes.

Mr. Burgess: Yes.

Mr. Carnevale: Yes.

Mr. Perkins: Yes.

Mr. Virr: 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

Mrs. Hampton motioned to approve the minutes of May 16, as amended.

Seconded by Mr. Carnevale.

Vote: Unanimous

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Adjourn

Mr. Perkins motioned to adjourn.

Seconded by Mr. Carnevale.

Vote: Unanimous.

Mr. Thompson, Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Adjourn at 7:52 pm

Minutes transcribed by:

Ginny Rioux

Recording Clerk

Approval of Minutes on June 20, 2013

Mr. Perkins motioned to approve the minutes of June 6, 2013 as amended.

Seconded by Mr. Carnevale.

Vote: Unanimous

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr