

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
May 5, 2016

Members Present

Lynn Perkins, Chairman
Allan Virr, Vice Chairman
Heather Evans, Secretary
Teresa Hampton
Stephen Coppolo

Members Absent

Alternates Present

Donald Burgess
Randall Kelley

Alternates Absent

Dana Nauerz

Mr. Perkins called the meeting to order at 7:00 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.

The Board introduced themselves for the record.

Mr. Perkins said that the election of officers would be taken up after the hearing of the case due to missing a primary member.

It was noted for the record that Mr. Kelley would sit on the following case in the absence of Mr. Coppolo.

16-109 Bedford Design Consultants, Inc.
Owner: Angelique Huston

The applicant is requesting a variance to the terms of Article VI, Section 165-42.A of the Town of Derry Zoning Ordinance to remove an existing house and replace it with a new house with an accessory apartment within the Industrial District IV (IND IV) zone at 30 Scobie Pond Road, Parcel ID 08015, Zoned IND IV

Robert Baskerville, PE, Bedford Design Consultants, Inc., said that he was representing owner who was also present this evening.

Mr. Virr called point of order and said that his packet was missing the abutter list and deed and that the criteria was not filled out on the official application.

Mr. Perkins said that there was a copy of the deed and abutter list in the file. He said that the criteria are listed as see attached and on a separate form and that he would take a motion to accept to have the application as presented.

There was some discussion with regard to format and the applicant agreed to submit the criteria form with answers filled out on it.

Mrs. Evans motioned to accept application as presented and that the applicant must submit the proper criteria form filled out to the Code Enforcement Office.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Kelley, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins.

Mr. Baskerville, read the criteria requirements and letter of explanation for the record. He then reviewed the plan that showed the property and subdivision of how the property was currently and what it used to be.

Board Questions

Mr. Coppolo asked when were the other buildings removed and property merged. Mr. Baskerville said that the first notice of decision was dated August 10, 1976 and he believes they were separated in October of 1976.

Angelique Huston, owner, said that there was a fire that destroyed the building on the front lot approximately 15-20 years ago. She said that her mother had passed away in January and she applied for the merger.

Mrs. Hampton asked if there were any marshy land or other concerns on the property such as wetlands or other problems that would limit construction. Mr. Baskerville said that he brought along Josh Brian who is a wetland scientist. He said that Mr. Brian walked the lot and found no wetlands and if the Board grants tonight he will draw up preliminary plans for a septic design to be submitted to the State.

Mr. Virr asked where the proposed home would be located and if it would be a two story home. Ms. Houston said that she hopes to build on the higher portion of the property as there is a slight slope where the present home is located. She said that she plans on building a single story home of approximately 1500 square feet minus in-law.

Mr. Baskerville said that he has a sketch of the proposed house if the Board wished to view. The Board accepted copy of proposed structure.

Mrs. Evans asked if the proposed structure would meet setbacks. Ms. Houston said yes.

Mr. Kelley asked where proposed structure would be located and if need to clear any property. Ms. Houston said the lot was clear and plans on building closer to the front of the property.

Mr. Kelley asked what was the present value of the home. Ms. Houston said that the existing home was of no value and that the value was only in the land. She said that according to the on-line value was listed as \$100,000 for the land.

Mr. Virr asked if the in-law would be constructed at the same time as the home. Ms. Houston said no as would build the home first then if money was available would build in-law after.

Mr. Perkins asked Mr. Mackey if reason here was for the in-law. Mr. Mackey said no. He said that the Industrial IV zoning does not allow residential structures.

Code Enforcement

Mr. Mackey provided the following information for the record:

- The applicant is requesting a variance to allow the removal and subsequent reconstruction of a single-family dwelling on a parcel located in the Industrial IV Zoning District.
- The front (0815) and rear (08015-003) parcels have recently been combined and the owner is seeking to replace the existing home located on the former rear lot.
- Originally, the lot was one parcel containing two homes and a variance was granted in the 1970's to allow the subdivision of the property so each dwelling would be located on its own lot. The dwelling which was located on the front lot was removed several years ago and the properties were recently combined back into one parcel.
- A variance is required as the now consolidated lot will be utilized for a residence which is not a permitted use in the Industrial IV zoning district.
- If approved, the typical building permit and construction procedures will be required.
- There are pictures of the property in the file for review by the Board

There was some discussion with regard to the single family construction with an accessory use and when the Industrial IV zoning district change was made.

Mr. Burgess asked Mr. Mackey if allow the accessory use were to be granted would it be to the current regulations or to the future rules. Mr. Mackey said that the State regulations are not in effect until June of 2017 so the current regulations would apply.

Mr. Perkins said one of the conditions would be subject to code requirements.

Mr. Virr said that the Town is sensitive to the use of Industrial land this is not changing the use of the land as it would still be in the Industrial IV zone. He said that he feels that the reason needs to make clear that granting for the accessory use as it is not allowed in an industrial zone. This way we are continuing the legal non-conforming use and is cleaner.

Mr. Burgess asked if there would be adequate buffers on both sides. Mr. Baskerville said yes and that the property would meet all setback requirements.

Mr. Coppolo asked if there had ever been any offers or discussions with regards to the property being utilized for industrial. Ms. Houston said no.

Mrs. Hampton asked if there are any plans to sell the property. Ms. Houston said no.

Favor

No one spoke in favor of the request.

Opposed

No one spoke in opposition to the request.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mrs. Hampton.

Vote: Unanimous.

Mr. Kelley, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins.

Deliberative Session

Mr. Perkins said that the motion of being subject to obtaining all State and Town permits and inspections be noted.

Mr. Virr said that the motion is to replace the existing home and have an accessory apartment and feels that condition also be made to have the accessory be subject to the regulations of Town ordinance at the time of construction.

Mr. Mackey reviewed Article III, Section 165.25 pertaining to accessory use for the record.

There was some discussion with regard to wording of conditions.

Mr. Kelley motioned come out of deliberative session.

Seconded by Mrs. Hampton.

Vote: Unanimous.

Mr. Kelley, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins.

Mrs. Evans motioned on case #16-109 Bedford Design Consultants, Inc., Owner: Angelique Huston, to Grant a variance to the terms of Article VI, Section 165-42.A of the Town of Derry Zoning Ordinance to remove an existing house and replace it with a new house with an accessory apartment within the Industrial District IV (IND IV) zone at 30 Scobie Pond Road, Parcel ID 08015, Zoned IND IV as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to current zoning ordinance pertaining to accessory apartment at time of construction.**

Seconded by Mr. Virr.

Vote:

Mrs. Evans: Yes.
Mrs. Hampton: Yes.
Mr. Virr: Yes.
Mr. Kelley: Yes.
Mr. Perkins: Yes.

The application was Granted 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.

Approval of Minutes

Mr. Burgess said that there needed to be a change to page 8 as the vote should read 4-1-0.

Mr. Virr motioned to accept the minutes of April 21, 2016 as amended.

Seconded by Mr. Mr. Burgess.

Vote: Unanimous.

Mr. Kelley, Mr. Burgess, Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins

Election of Officers

Mr. Perkins said that he offered to remain as Chair if the Board so wished. He said that as a matter of protocol each member has the right to vote for a position on the Board.

Position of Chairman

Mr. Virr nominated Mr. Perkins for the position of Chairman.

Vote: Unanimous

Mr. Coppolo, Mrs. Evans, Mrs. Hampton, Mr. Virr

Position of Vice Chairman

Mr. Virr said that he would remain as Vice Chair if the Board wished or someone else can take position as he did not own it.

Perkins nominated Mr. Virr for the position of Vice Chairman.

Vote: Unanimous.

Mr. Coppolo, Mrs. Evans, Mrs. Hampton, Mr. Perkins

Position of Secretary

Mrs. Evans said that she would like to remain as Secretary.

Mr. Virr nominated Mrs. Evans for the position of Secretary.

Vote: Unanimous

Mr. Coppolo, Mrs. Hampton, Mr. Virr, Mr. Perkins

Other Business

Mr. Virr said that the annual spring conference is coming up and he only knows of 3 members that have signed up and that he encourages all members to attend as there is always something there that is of value.

Mr. Mackey said that he had signed an invoice for 3 members and if anyone also plans on attending to let the office know.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Kelley, Mr. Burgess, Mr. Coppolo Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins.

Adjourn at 8:10 pm

Minutes transcribed from tape:

Ginny Rioux

Recording Clerk

APPROVAL OF MINUTES May 19, 2016

Mrs. Hampton motioned to approve the minutes of May 5, 2016.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Kelley, Mr. Burgess, Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins