

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
May 19, 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.

#16-110 Salvatore N. Lupoli, Trustee
Owner: Lupoli Brothers Realty Trust

The applicant is requesting a variance to the terms of Article VI, Section 165-32.B.3 of the Town of Derry Zoning Ordinance to demolish the existing two story (3,720 SF) restaurant building and construct a new, single story (2,230 SF) restaurant building with less than the required property line setbacks 2 Lenox Road, Parcel ID 32032 Zoned GC.

Mr. Virr requested point of order to request that the application criteria be addressed in format with regards to the proper application format and that the applicant can embellish after.

Peter Ellison, Engineer with TEC, said that he was representing the applicant and also present was Phil McCabe to answer any questions that the Board may have. Mr. Ellison read the application criteria and letter of explanation for the record.

Mr. McCabe said that Sal's has been in Derry for 23 years. He said that feels that have set president and there is a concern for the building as it is tired and needs a face lift. Mr. McCabe said that Sal's has been reviewing all their buildings and seeking to give them a more uniform look.

Board Questions

Mr. Burgess said that there was several documents showing different square footage for the structure and asked what was the correct square footage. Mr. Ellison said that the 2,230 square footage as shown on the plot plan was correct.

Mr. Burgess said that there is currently parking in the front of the building which appears to be close to the road and he was concerned for safety.

Mr. Perkins said that the parking would be a Planning Board matter. He asked if the proposal would be gaining any more parking. Mr. Ellison said yes.

Mr. Coppolo said that it appears parking would back out onto Lenox Road.

Mrs. Hampton said that there was a light and a right turn lane onto Crystal Ave and feels that the property has a grandfathered use now and asked if they stand risk of losing the grandfathering where seeking to remove the existing structure.

Mr. Coppolo said that it was a valid point of moving parking spaces and in keeping an open mind when reviewing the proposal. He said that the footprint was expanding and feels worth it if the building was to be more esthetically pleasing. He asked if there had been any discussion with the Church and the proposed development of the adjacent lot. Mr. Ellison said that they have spoken to all the abutters and that there are a few residential lots that are being changed to General Commercial and they are working with the Bishop regarding the adjacent property.

Mr. Burgess said that the front and side of the property belong to the Church and have seen patrons park in the Church lot.

There was some discussion with regard to parking and safety concerns.

Mr. Perkins asked why would they tear down a non-conforming building and asked if it was due to the age of the existing structure. Mr. Ellison said that the existing building was not in the best condition as it has foundation and utility issues. He said that the proposed structure would reduce the overall square footage and improve the site.

Mr. McCabe said that the existing building is old and tired and they are seeking to create a uniform look for Sal's Pizza.

Mr. Coppolo said that in reviewing the criteria he felt that creating an esthetic pleasing structure would be a win for Crystal Ave.

Code Enforcement

Mr. Mackey provided the following information for the record:

- The applicant is requesting approval to demolish the existing 2 story building containing a restaurant on the first level and an apartment on the upper level and replace it with a new single story structure to be utilized as a restaurant.
- The property is located within the General Commercial zoning district which requires a 35' front setback and a 20' side and rear setbacks. The existing and proposed buildings do not meet these required setbacks and, therefore, a variance is required to replace the structure.
- If approved by the Board, Planning Board site plan review will be required where specific site details such as parking, landscaping and site lighting will be discussed. The applicant will be requesting the Planning Board to consider several waivers to the Land Development Control Regulations (LDCR) for items such as number of parking spaces, green space, buffers and the dumpster location.
- There are pictures of the property in the file for review by the Board.

Mr. Coppolo asked if the Board was also dealing with the lot being 30,000 square foot lot to build on. Mr. Mackey said no as it was an existing lot of record.

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

Deliberative Session

Mr. Virr said that he felt that it was a simple request and that the standard conditions be made for the motion.

Mr. Perkins said the applicant stated that the existing structure is outdated and does not fit and their objective is to be more positive and seeking relief to improve the building.

Mr. Coppolo asked with regard to conditions of being subject to all State & Town permits and inspections if that would still cover Planning Board approval.

Mr. Perkins said no as State and Town permits would pertain to permits and inspections
Mr. Mackey said that the Planning Board will possibly have a discussion with Highway Safety with regard to the safety concerns but he would speak with the Town Planner so it would be brought up for discussion.

Mrs. Hampton motioned come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Mrs. Evans motioned on case #16-110, Salvatore N. Lupoli, Trustee, Owner: Lupoli Brothers Realty Trust to Grant a variance to the terms of Article VI, Section 165-32.B.3 of the Town of Derry Zoning Ordinance to demolish the existing two story (3,720 SF) restaurant building and construct a new, single story (2,300 SF) restaurant building with less than the required property line setbacks 2 Lenox Road, Parcel ID 32032 Zoned GC 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. Hampton.

Vote:

Mr. Coppolo: Yes.

Mrs. Hampton: Yes.

Mrs. Evans: Yes.

Mr. Virr: 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.

Approval of Minutes

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

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 7:50 pm

Minutes transcribed from tape:

Ginny Rioux

Recording Clerk

APPROVAL OF MINUTES June 16, 2016

Mr. Virr motioned to approve the minutes of May 19, 2016 as written.

Seconded by Mr. Kelley.

Vote: Unanimous.

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