

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
June 16, 2016

Members Present

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

Members Absent

Teresa Hampton

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 noted for the record that Mr. Burgess would sit on cases #16-111 & 16-113 and that Mr. Kelley would sit on cases #16-112 & 16-114 due to the absence of a full member.

#16-111 Melissa M. Demartino

The applicant is requesting a Special Exception as provided in Article VI, Section 165-46B of the Town of Derry Zoning Ordinance to operate a precision laser engraving business at the residence. 22 East Derry Road, Parcel ID 38116, Zoned MDR

Melissa Demartino, owner, read her application criteria for the record. She said that she was not requesting a sign as it is her home first and if someone were to come to the residence they would need to call first and have an appointment. She said that she has been operating the business for 7 years and has parking for 10 vehicles. Mrs. Demartino said she does custom engraving a part-time business and has done farmers markets and worked with various Town and schools. She said that she recently added a fiber laser to enable her to mark metal which can also be used to mark guns. So she contacted the ATF and is already to proceed but in order to be licensed she needed Zoning Board approval. She said there would be no one at her property with a gun and it is mostly only a piece or a part of a gun to be engraved. She said she has children and would not want that in her home. She has installed a gun safe in her basement which is bolted to the floor where the gun would be at all times until it is mailed back to the owner.

Board Questions

Mr. Perkins asked if the business would utilize 25% of her living space. Mrs. Demartino said it would be less than 25% as she only has a small corner of her basement where her work table is located.

Mr. Perkins asked if her fiber laser was similar to a 3D printer. Mrs. Demartino said no that it was similar to a machine that puts UPC codes on parts and that she the new equipment as her CO2 laser is outdated.

Mr. Coppolo asked if the fiber or O2 laser use created fumes. Mrs. Demartino said no that they each have their own filtration system.

Mr. Perkins asked if they circulate air. Mrs. Demartino said yes and also home has a house purifier. She said when she cuts wood you may be able to smell burning wood but that was about it.

Mr. Coppolo asked how the filters are cleaned as he was concerned where the property abuts Beaver Lake. Mrs. Demartino said that the filters are rinsed out and has only done it once in 10 years and the other has water and flushes itself out. She said that her property did not abut Beaver Lake but abuts the meadow and it was not swimmable as it was full of milfoil.

Mr. Virr said it was stated that the items are received and shipped. How many times per week would there be shipments. Mrs. Demartino said that she receives items via mail and that she ships back UPS but brings it to the service herself for shipment and there were not daily deliveries.

Mr. Virr said that he believes that the property was before the Board before. Mrs. Demartino said yes that she had purchased a shed for her husband and was granted a variance to place too close to the lot line.

Mr. Burgess said he has gone by the property and did not see anything. Mrs. Demartino said that you may see kids on bikes or husband utilizing his smoker. She said that they installed security approximately 6 years ago and discourage people from coming over without an appointment.

Mr. Perkins asked what was reasoning before the Board now where has been doing this work for a number of years. Mrs. Demartino said that her new laser can mark firearms so did some research and contacted the ATF. They came over and inspected the property and was told she needed to keep a log of any firearms she marks. She said that people build their own guns but in order to take them to a firing range they need to be engraved with a certificate number of which this laser can do. She said that a safe will be bolted to the floor that will hold the firearm to be locked in until she marks it and ships it back out.

Mr. Coppolo said that he had concerns of people mailing guns and asked if these would be pieces or whole gun. Mrs. Demartino said typically pieces but people do purchase firearms online and those need to be shipped directly to a licensed ATF person. She said

that she would not be doing this type of business and it would be only metal work. She said that the ATF licenses all or nothing.

Mr. Perkins said that the Board has heard other ATF applications before.

Favor

No one spoke in favor of the request.

Opposed

Lynn Conger, 24 East Derry Road, said that she has resided at her property since 1968. She said she has concerns with parking should her plans change in the future as she has seen cars infringe on the sidewalk. Mrs. Conger said that there have been accidents involving children on the road. She also said that the sun was blinding in the afternoon if you were coming down East Derry Road to the rotary.

Rebuttal

Mrs. Demartino said that she has lived here for 14 years and has never spoke to her so never knew there was any problem. She said that they do occasionally entertain and believes the incident she was speaking of was the surprise birthday party last year but do not have during the week or overnight.

Mr. Perkins asked if limit clintal. Mrs. Demartino said yes that there would be no more than one time per week.

Mr. Burgess said he parked on the side of the road and did not remember seeing a sidewalk. Mrs. Demartino said that there was a side walk along the fence and have had people park along the fence on sidewalk. She said that she will have people park over to where the boat launch is in the future.

Code Enforcement

Mr. Mackey provided the following information for the record:

- The applicant is requesting approval to operate a laser engraving business at the residence.
- The applicant has represented that the majority of the business is conducted on-line and the finished product is shipped to the customer.
- If customers come to the residence, it does appear there is ample parking.
- If granted, a sign permit will be required.
- There are pictures of the property in the file for review by the Board.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous.

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

Deliberative Session

Mr. Virr said that the business has been operating for 7 years and had no idea that there was a business there as have never seen any traffic.

Mr. Coppolo said that despite his concerns with the mailings of guns he sees no reason to deny as business has been operating for 7 years.

Mrs. Evans said she had concerns with ventilation but hearing ATF requirements are more intense she did not see any issues.

Mr. Virr said conditions of being subject to obtaining all Federal, State and local permits and inspections be made as a condition.

Mrs. Evans said that she knows that NH requires a firearm safety course and maybe this may fall under permits and inspections?

Mr. Burgess said that the ATF will see all items are addressed before they issue a license.

Mr. Burgess motioned come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Mrs. Evans motioned on case ##16-111 Melissa M. Demartino to Grant a Special Exception as provided in Article VI, Section 165-46B of the Town of Derry Zoning Ordinance to operate a precision laser engraving business at the residence. 22 East Derry Road, Parcel ID 38116, Zoned MDR as presented with the following conditions:

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

Seconded by Mr. Coppolo.

Vote:

Mr. Virr: Yes.
Mrs. Evans: Yes.
Mr. Burgess: Yes.
Mr. Coppolo: 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.

16-112 Cumberland Farms, Inc.
c/o Bohler Engineering

The applicant is requesting a variance to the terms of Article XII, Section 165-101.5.A.1.n of the Town of Derry Zoning Ordinance to allow the addition of an internally illuminated sign (12 square feet) to the existing pylon sign located on the property. 22 East Broadway, Parcel ID 30065, Zoned TBOD

Mark Belanger, Bohler Engineering, read letter of explanation and criteria for the record.

Board Questions

Mr. Perkins asked if proposal is for the existing sign and adding the florist sign. Mr. Belanger said yes.

Mr. Perkins asked if the florist was part of Cumberland Farms. Mr. Belanger said no that they were a tenant.

Mr. Virr said that Wisteria has been in the Town of a number of years.

Mr. Kelley asked if the proposed sign was to be located on top of existing sign. Mr. Belanger said no that it would be located at the bottom.

Mr. Coppolo said that the applicant is the owner requesting for their tenant. He said that he felt it was a straight forward request.

Favor

No one spoke in favor of the request.

Opposed

No one spoke in opposition of the request.

Code Enforcement

Mr. Mackey provided the following information for the record:

- The applicant is requesting approval to install an internally illuminated, 12 square foot sign on the existing pylon sign.
- The property is located in the Traditional Business Overlay District (TBOD) which, per the Town's sign regulations, prohibits internally illuminated signs.
- The property has recently been renovated to match the current look for Cumberland Farms. The building signs are externally illuminated. The main pylon sign, which pre-dates the current sign regulations, was refaced. A previous variance was granted in 2014 to allow the LED price sign to alternate.
- If approved, a sign permit will be required.
- There are pictures of the property in the file for review by the Board.

Mr. Perkins asked if anyone sees the sign to be a safety concern or any issues with internally lite sign.

Mr. Kelley motioned to go into deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous.

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

Deliberative Session

Mrs. Evans said that the verbiage in letter with regard to the application needs to be addressed.

Mr. Virr said that the applicants need to fill out our form.

Mr. Coppolo said it was a great history lesson from Mr. Mackey of the downtown character. Nice brick buildings in the area and all the renovations have helped with ecstasies.

Mr. Perkins said that the standard motion of being subject to obtaining all State and local permits and inspections.

Mr. Virr motioned to come out of deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous.

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

Mrs. Evans motioned on case #16-112, Cumberland Farms, Inc., c/o Bohler Engineering to Grant a variance to the terms of Article XII, Section 165-101.5.A.1.n of the Town of Derry Zoning Ordinance to allow the addition of an internally illuminated sign (12 square feet) to the existing pylon sign located on the property. 22 East Broadway, Parcel ID 30065, Zoned TBOD with the following conditions:

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

Seconded by Mr. Coppolo.

Vote:

Mr. Virr:	Yes.
Mrs. Evans:	Yes.
Mr. Kelley:	Yes.
Mr. Coppolo:	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 5 minute recess.

16-113 New England Pioneer Associates

The applicant is requesting a variance to the terms of Article XII, Section 165-101.A.12 of the Town of Derry Zoning Ordinance to erect a 60 foot high sign where a maximum height of 40 feet is permitted. 56 Kendall Pond Road, Parcel ID 02019-001, Zoned IND I

George Fredette, Fredette Associates, said he representing New England Pioneer Associates and also present was Robert Harris, President of New England Pioneer.

Mr. Fredette read application criteria for the record. He said that the reason the applicant purchased the property was due to its visibility from Route 93. He said that with the widening of 93 the State is also constructing a 22' sound barrier wall so the applicant's property will no longer be visible from the highway. Mr. Fredette reviewed the plans submitted to the Board describing the reasoning for the 60' high sign request.

Board Questions

Mr. Virr said that this was part of Derry's Economic program and asked if there was a building association that does the landscape. Mr. Fredette said that New England Pioneer does their own landscape of the property for 52 & 56 Kendall Pond Road.

Mr. Virr asked if they rent out other units. Mr. Fredette said yes that there were tenants in the building.

Mr. Burgess said that he drove around the building and then went to Salem and came back on 93 and purposely looked to see the property and could barely see through the pine trees. Mr. Harris said that the sign is very visible at night and also have a loading sign that is internally lite and can be seen at night from the highway. He said that they use it as a landmark and tell contractors to look for the sign when giving directions.

Mr. Harris said that when they purchased the property it was very important to have highway visibility and was main reason for relocating from Londonderry.

Mr. Burgess said that when he drove around and became familiar with that he realized more visible when he knew where it was located.

Mr. Virr asked if approve the 60' sign what would happen to the existing sign would it be removed. Mr. Fredette said that they would not have to remove it as according to Mr. Mackey they are allowed 3 signs and that there is no free standing sign now.

Mr. Coppolo said that the 93 widening has been coming down the pike for the past decade and asked if tenants are dreading the project. Mr. Harris said yes as visibility will be compromised. He said that DOT law states the wall has to go up due to decibel calculations. He said that they hired Cavanaugh & Koach to do a private study and have reviewed several aspects with regard to placement of sign. They even considered placing it on the roof but cost was no effective. He said that this approach was the most cost effective as tenant wants identity from highway.

There was some discussion with regard to the sign and tenants.

Mr. Coppolo asked if there were no requirements for Rebecca Lane notifications as they were not considered abutters. Mr. Mackey said that was correct.

Code Enforcement

Mr. Mackey provided the following information for the record:

- The applicant is requesting approval to install a 60 foot tall sign on the property.
- Town of Derry Zoning Regulations (Article XII, Section 165-101.A.12 allow a maximum height of 40 feet).

- The applicant is requesting a variance because the I-93 widening project and subsequent construction of a sound barrier wall will block the view of the current building sign from motorist on I-93.
- If approved, a sign permit and engineering plans will be required.
- There are pictures of the property in the file for review by the Board.

Favor

No one spoke in favor of the request.

Opposed

No one spoke in opposition of the request.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote Unanimous.

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

Deliberative Session

Mr. Virr said he feels should allow business to continue in Derry.

Mr. Perkins said he felt it would set a precedence.

Mr. Virr said yes but each would still have to request a variance.

Mr. Burgess said he felt the Shell sign was at least as tall.

Mr. Coppolo asked what was the distance from Rebecca Lane to the sign. Mr. Mackey said that might be a question for Mr. Fredette.

Mr. Coppolo motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote Unanimous.

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

Mr. Coppolo said that given the unique situation to the property and the residential area of Rebecca Lane how far would the sign be from the area. Mr. Fredette said it would be 480' from the nearest residence. North side towards Rebecca Lane has tall evergreens and did not believe the sign would be visible.

Mr. Burgess said it was noted to be 10' from property line how close would it be to highway. Mr. Fredette said approximately 50-70'.

Mr. Virr asked if Federal or State involved in sign height request. Mr. Harris said he researched Federal regulations with control of signs. He said that premise sign designated to State and off premises sign designated to State and Federal and that this was an on premise sign.

Mr. Coppolo asked if Rebecca Lane was above sight line. Mr. Fredette said yes.

Mr. Harris said that the Cracker Barrel sign was 30' and Shell sign was 90' in height. He said that Cracker Barrel was very visible and did not need to go higher.

Mr. Coppolo motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote Unanimous.

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

Deliberative Session

Mr. Virr said motion to vote positive and a condition to be subject to State and local permits and inspections.

Mr. Perkins said usually it is a standard motion but it may or may not need State permits.

Mr. Coppolo said that he felt that the need has been demonstrated.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mr. Burgess.

Vote Unanimous.

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

Mr. Coppolo motioned on case #16-113, New England Pioneer Associates to Grant a variance to the terms of Article XII, Section 165-101.A.12 of the Town of Derry

Zoning Ordinance to erect a 60 foot high sign where a maximum height of 40 feet is permitted. 56 Kendall Pond Road, Parcel ID 02019-001, Zoned IND I as presented with the following conditions:

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

Seconded by Mrs. Evans.

Vote:

Mr. Virr:	Yes.
Mrs. Evans:	Yes.
Mr. Coppolo:	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.

16-114 Peter J. Mack

The applicant is requesting a variance to the terms of Article VI, Section 165-46A of the Town of Derry Zoning Ordinance to allow the construction of a second floor for the purpose of creating a two family dwelling at the property. 31 Scenic Drive, Parcel ID 08040-010, Zoned MDR

Peter Mack, owner, read his application criteria for the record. He said that his parents were in their 70's and his mother does not want to move in with them without having her own space so he wished to add a second living unit onto his home that he would move into and his parents would move into the main home

Board Questions

Mr. Perkins asked if he had a septic design done. Mr. Mack said that he has access to tie into Town sewer as it was stubbed to the property.

Mr. Virr asked if there were designs showing elevations. Mr. Mack said yes and showed the Board the plans.

Mr. Perkins asked if the 2 story residence falls within the residential building code. Mr. Mackey said that he has not done a plan review yet but will need to be done as part of the code.

Mr. Virr said that he was concerned with aspect of possibility of creating a 3-family.

Mr. Perkins asked why adding dormers. Mr. Mack said they were for astatic purposes.

Mr. Perkins explained the layout of the structure for the Board.

Mr. Burgess asked if there would be attic storage. Mr. Mack said yes for light storage only.

Mr. Kelley asked if there would be separate utilities. Mr. Mack said yes.

Mr. Virr asked if the attic possibly be converted to separate living space. Mr. Mack said no due to structure.

Code Enforcement

Mr. Mackey provided the following information for the record:

- The applicant is requesting approval construct a second story to the residence in order to create a second living unit.
- The proposed second living unit will exceed the parameters allowed for an accessory apartment and therefore, constitutes a two-family dwelling, a use no longer permitted in the district.
- The home is located on Scenic Drive in an area of single family dwellings that then transition to two-family dwellings as you continue to drive up the street.
- If approved, appropriate permits and inspections will be required and the septic system will need to be upgraded or the dwelling connected to municipal sewer system which does appear to run by the property.
- There are pictures of the property in the file for review by the Board.

Mrs. Evans asked why not add an accessory unit. Mr. Mack said it was less expensive to go up. He said that the attic area would not have height requirements to create additional living space due to pitch of roof line.

There was some discussion with regard to structure layout and ownership of the dwelling and deed standing.

Mr. Virr said that he felt that the Board should table the case until clear up title concerns and wished to have a properly executed deed.

Mr. Perkins asked if the Board wished to wrap up the questions or table to the next meeting.

Mr. Virr said that he feels should table so applicant can submit a properly executed deed and would like to see plans of what is being constructed for members.

Mr. Perkins said that he concurred with seeing deed corrections and can ask for design showing elevations etc but that construction design is not part of criteria.

Mr. Perkins said that the next meeting was a month out as going into the Board's summer schedule.

Mr. Mack said that he and his wife Claudia, her maiden name was Morrisette, own the home and will locate deed and have plans submitted for the Board. He said that he had no objection to be table to the next meeting.

Mr. Virr motioned to table case #16-114, Peter J. Mack to the July 21, 2016 meeting in order to submit recorded deed with seal and plans showing structure.

Seconded by Mr. Kelley.

Vote Unanimous.

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

Case tabled to July 21, 2016

Approval of Minutes

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

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Other Business

Mr. Perkins said that the Board typically meets once in July and once in August on summer schedule. Those meeting dates would be scheduled to the following:

**July 21, 2016
August 18, 2016**

Board voted unanimously.

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 9:09 pm

Minutes transcribed by:

Ginny Rioux

Recording Clerk

APPROVAL OF MINUTES July 21, 2016

Mrs. Evans motioned to approve the minutes of June 16, 2016 as amended.

Seconded by Mr. Burgess.

Vote: Unanimous.

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