

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
September 7, 2023

Members Present

Lynn Perkins, Chairman
Craig Corbett, Vice Chair - Remote
Crystal Morin, Secretary
Richard Tripp

Members Absent

Donald Burgess

Alternates Present

James Dietzel

Alternates Absent

Michael Donlon
Gaspar Obimba

Code Enforcement

Robert Wentworth, Assistant Building Inspector

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag. To participate in this meeting, you can be present or by dialing 323-909-140 or by clicking on the website address: derrycam.org/TuneIn the phone numbers are 646-558-8656 or 312-626-6799 meeting ID: 323-909-140 or if anybody has a problem, please call 603-845-5585 or email at: ginnyrrioux@derrynh.org. In the event that the public is unable to access the meeting, the meeting will be adjourned and rescheduled otherwise the meeting will end at 10:00 PM.

The Board members introduced themselves.

It was noted that Mr. Dietzel for the following cases.

23-124 Colin & Kristin Tyler

The applicant is requesting a variance to the terms of Article III, Section 165-20.a of the Town of Derry Zoning Ordinance to allow the construction of a 32' x 40' garage and a 6' x 24' breezeway 40.1 feet from the edge of a wetland where a 75' setback is required at 13 Partridge Lane, Parcel ID 09059-026, Zoned LDR

Timothy Peloquin, Promised Land Survey, said that he had performed the survey that has been provided by Mr. Tyler and that he was supposed to be in Manchester tonight on another matter but schedules had changed so here to help the applicant with his submission.

Colin Tyler, owner, reviewed the required criteria for the record.

Mr. Peloquin said that when the survey had been done it was found that a prime wetland was located to the rear of the property. The request meets the 150' setback and that there is also a small wetland to the side of the property, so this is the only viable spot for the structure with regard to the property layout. Mr. Peloquin said he feels the request is reasonable and that the neighbors have no objection to the request.

Board Questions

Mr. Perkins asked what was the age of the home. Mr. Peloquin said he believes that the home was built in 1981 and that there have been at least 2 zoning changes since then and that the prime wetlands were established in 1985.

Mr. Perkins asked why the structure proposed structure was so large. Mr. Tyler said that he owns a crew cab pickup, 35' trailer and wife has a truck and they also have a tractor with rollers and wish to have everything under one building.

Mr. Tripp asked where the 75' delineation mark was located. Mr. Peloquin described the property for the record.

Mr. Perkins asked if the tent sheds were being removed and items were to be consolidated under one roof. Mr. Tyler said yes.

Code Enforcement

Mr. Wentworth said that the case was pretty straight forward case.

Mr. Perkins reviewed the information that Mr. Mackey had submitted for the record as follows:

- The applicants are requesting a variance to allow the construction of an attached garage and breezeway less than 75' from a wetland greater than 1 acre.
- The wetland involved is not Prime Wetland although it does drain into the Prime Wetland in the rear of the property.
- If approved, prior to construction, appropriate erosion control measures must be installed.
- There are pictures in the file for review by the Board.

Mr. Peloquin said that the plan shows the location of the proposal and that he felt that no grading will be needed to be done to the property to build the applicants proposal.

Mr. Corbett asked if the property could be explained again. Mr. Peloquin reviewed the proposed plan for the record.

Mr. Tripp asked if any fill would be needed for the driveway. Mr. Peloquin said he was unsure but feel that the property would need minimal grading or fill for what is being proposed.

Mr. Tripp asked if there would be any run off control implemented where so close to the existing slope. Mr. Peloquin said that roof drains could be installed if needed.

Mr. Tyler said that he had spoken with Code Enforcement and he is going to install a full foundation per code and have given a lot of thought into the design of the plan.

Mr. Perkins asked if there is any potential design in mind to contain water as had properties on Germantown Road that have had underground catch basins implemented. Mr. Peloquin said if approved they were acceptable to a condition of roof drain to catch the water flow into the natural slope shown in the picture where the wording 2023 google was on the picture.

Mr. Wentworth said that sheet flow is not something that is typically dealt with on single family dwellings but a good concern to address.

Mr. Peloquin said that a possible condition of wording be that drainage from new construction have a satisfactory design in place prior to occupancy, possibly a bio detention area could be installed prior to final inspection.

Mr. Perkins informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Favor

No one spoke in favor of the request.

Mr. Perkins informed the public that now would be the time to call in opposition of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Opposed

No one spoke in opposition of the request.

Mr. Tripp asked if there was any intention of paving the driveway. Mr. Tyler said that he would like to but depends on affordability.

Mr. Tripp motioned to go into deliberative session.

Seconded by Mr. Dietzel.

Vote: Unanimous.

Mr. Dietzel, Mr. Tripp, Mrs. Morin, Mr. Corbett, Mr. Perkins.

Deliberative Session

Mr. Dietzel said that he felt that based on the 5 criteria the spirit is to protect the wetlands and feel that the proposed plan is well designed and that he did not feel that there would be any diminish of value to surrounding properties. He said that he did not see any major concerns with the applicants proposal.

Mrs. Morin said that she agrees with Mr. Dietzel and feel that the proposal would be less than what exists there now.

Mr. Tripp said that he had no concerns with the request and would like a condition with regard to the water run off from the roof.

Mr. Perkins said that the property was developed and that the prime wetlands were established after currently prohibits the owners use of his land which goes against constitutional use of ones property. He reviewed the conditions for the record.

Mr. Dietzel motioned to come out of deliberative session.

Seconded by Mr. Tripp.

Vote: Unanimous.

Mr. Dietzel, Mr. Tripp, Mrs. Morin, Mr. Corbett, Mr. Perkins.

Mrs. Morin motioned on case #23-124 Colin & Kristin Tyler to Grant a variance to the terms of Article III, Section 165-20.a of the Town of Derry Zoning Ordinance to allow the construction of a 32' x 40' garage and a 6' x 24' breezeway 40.1 feet from the edge of a wetland where a 75' setback is required at 13 Partridge Lane, Parcel ID 09059-026, Zoned LDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Bio retention area to be established for water run-off for the new building.**

Seconded by Mr. Tripp

Mr. Perkins reviewed the findings of fact as follows:

- **The property is located in the Low Density Residential Zoning District (LDR).**
- **The applicant is seeking to build an attached garage and breezeway 40.1 feet from a prime wetland where 75' is required.**
- **If approved, appropriate erosion control measures must be implemented.**
- **The wetlands were established after the lot was developed.**

The Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into its finding of facts and decisions.

Vote:

Mr. Corbett: Yes.
Mrs. Morin: Yes.
Mr. Dietzel: Yes.
Mr. Tripp: 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.

#23-125 Michele Boucher

The applicant is requesting a variance to the terms of Article VI, Section 165-46.C.4 of the Town of Derry Zoning Ordinance to allow the placement of an 8' x 12' shed less than 15' from the side and rear property lines at 8 Worthley Road, Parcel ID 56037, Zoned MDR

Michelle Boucher, owner, reviewed the required criteria. She said that she has owned the property since 2014 and have done a lot of work since purchasing. Ms. Boucher said that the property is very small and that there was no other suitable space for placement of a shed. She said that she has spoken to her neighbors and they are supportive of her request and believe that the Buzzanga's had submitted an email in support of her request.

Board Questions

Mr. Corbett said that he did not see any concerns with the placement of the proposed shed as most properties have sheds either on the lot lines or very close to the lot lines.

Mr. Perkins reviewed the letter of support from Mr. Buzzanga, 8 North Shore Road, for the record.

Mr. Tripp asked how far was the shed going to be from the lot line. Ms. Boucher said 3.5 feet to the sides. She said that she had gotten the official paperwork after her application and maybe more than 3.5 feet but wanted to be on the safe side.

Code Enforcement

Mr. Wentworth said it was a shed request and that the property was very small with limited area for placement.

Mr. Mackey supplied the following information for the Board's review.

- The applicant is requesting a variance to allow the placement of an 8' x 12' Reed's Ferry shed 3.5' from her side rear property lines.
- The property, as well as the other properties along this portion of Worthley Road, are very small with little space in the back yards.
- If approved, a shed permit will be required.
- There are pictures in the file for review by the Board.

Mr. Perkins informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Favor

No one spoke in favor of the request.

Mr. Perkins informed the public that now would be the time to call in opposition of the proposed request. He said if wish to speak press star 9 and someone will answer your call.

Opposed

No one spoke in opposition of the request.

Mr. Tripp motioned to go into deliberative session.

Seconded by Mr. Dietzel.

Vote: Unanimous.

Mr. Dietzel, Mr. Tripp, Mrs. Morin, Mr. Corbett, Mr. Perkins.

Deliberative Session

Mr. Corbett said the property was small and he did not see any issue with the proposed request.

Mr. Perkins said that hardship has been very well shown by the applicant.

Mr. Dietzel said he had no objection to the request.

Mrs. Morin said she felt that the applicant had a straight forward case.

Mr. Tripp said he grew up with a wet basement but had a barn for storage so can see reason for request.

Mr. Perkins reviewed the condition for the record.

Mr. Tripp motioned to come out of deliberative session.

Seconded by Mr. Dietzel.

Vote: Unanimous.

Mr. Dietzel, Mr. Tripp, Mrs. Morin, Mr. Corbett, Mr. Perkins.

Mrs. Morin motioned on case #23-125 Michelle Boucher to Grant a variance to the terms of Article VI, Section 165-46.C.4 of the Town of Derry Zoning Ordinance to allow the placement of an 8' x 12' shed less than 15' from the side and rear property lines at 8 Worthley Road, Parcel ID 56037, Zoned MDR as presented with the following conditions:

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

Seconded by Mr. Tripp

Mr. Perkins reviewed the findings of fact as follows:

- The property is located in the Medium Density Residential Zoning District (MDR).**
- The application is for a 8' x 12' shed to be 3.5' from the property lines.**

The Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into its finding of facts and decisions.

Vote:

Mr. Corbett: Yes.
Mrs. Morin: Yes.
Mr. Dietzel: Yes.
Mr. Tripp: 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

Mr. Tripp motioned to approve the minutes of August 17, 2023 as amended.

Seconded by Mr. Dietzel.

Vote: Unanimous.

Mr. Dietzel, Mr. Tripp, Mrs. Morin, Mr. Corbett, Mr. Perkins.

Adjourn

Mrs. Morin motioned to adjourn.

Seconded by Mr. Tripp.

Vote: Unanimous.

Mr. Dietzel, Mr. Tripp, Mrs. Morin, Mr. Corbett, Mr. Perkins

Adjourn at 7:54 pm

Minutes transcribed from notes & tape:

Ginny Rioux
Recording Clerk

Lynn Perkins
Zoning Board Chairman

Approval of Minutes September 21, 2023

Mr. Dietzel motioned to approve the minutes of September 7, 2023 as written.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Dietzel, Mr. Tripp, Mr. Burgess, Mrs. Morin, Mr. Corbett, Mr. Perkins.