

**TOWN OF DERRY**  
**ZONING BOARD OF ADJUSTMENT MINUTES**  
**January 4, 2024**

**Members Present**

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

**Members Absent**

Donald Burgess

**Alternates Present**

James Dietzel  
Gaspar Obimba – Remote

**Alternates Absent**

Michael Donlon

**Code Enforcement**

Robert Mackey, Code Enforcement Director

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](http://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: [ginnyrioux@derrynh.org](mailto:ginnyrioux@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.

Mr. Perkins informed the public that this meeting was to be a joint meeting with the Planning Board and Conservation Commission. The following members introduced themselves.

**Planning Board**

David Nelson, Vice Chairman  
Chris Feinauer

## **Conservation Commission**

James Degnan, Chair

It was noted that Mr. Nelson would chair the meeting and that the Planning Board, Conservation Commission and Zoning Board all will have input and approval will be made by the Zoning Board.

### **24-101     Beaumont & Campbell, PA             Owner: David & Laura Moalli**

**The applicants are requesting a special exception as provided in Article X, Section 165-80.A.4 of the Town of Derry Zoning Ordinance to allow the construction of a single-family dwelling on the property within the outermost 75 feet of the Prime Wetland buffer zone at 31 Collettes Grove Road, Parcel ID 19033, Zoned LDR. This hearing requires a joint meeting of the Zoning Board of Adjustment, the Planning Board and the Conservation Commission.**

Attorney Bernard Campbell, Beaumont & Campbell, PA, said he was representing the applicants this evening. Attorney Campbell reviewed the required criteria and reviewed the outlined plan for the record.

## **Zoning Board Questions**

Mr. Perkins asked when ownership was obtained and why it took so long to develop. Attorney Campbell said February of 1983 and at that time there was no pressure to develop.

David Moalli, owner, said that he purchased property and resided at 29 Collettes Grove and thought about building on the adjacent property.

Attorney Campbell said that Mr. Moalli did not become the sole owner until 1987 as the property was deeded to the Moalli family in 1983.

Mr. Corbett asked other than building a house on the property was is the initial achievement goal. Mr. Moalli said his intention was to reside there.

## **Conservation Commission Questions**

James Degnan, Conservation Chairman, said that he viewed the property and proposed construction design. He said that the Town requires a 150' setback requirement for prime wetlands and consideration is given when it extends into properties. Mr. Degnan said that if granted he would like to see a silt fence followed up with straw bales implemented during the construction phase and he was not overly concerned with the dwelling but the location of the septic system. Mr. Degnan described the best system for the property

would be a type tank and that he felt it should be installed as he has concerns with the placement of the septic system and would recommend that a 3 chamber tank be strongly considered.

### **Planning Board Questions**

Mr. Nelson said that it appears that a septic system design and test pits have been done and asked what type had been determined to be for the area. Attorney Campbell said that initial studies from Promised Land Survey are systems that are able to be suitable for the area and that he was not familiar with the type of system that Conservation is recommending. He said that he knows that there are environmental safe systems out there and will be reviewing options and if a condition is made would like to have some discretion to allow the Code Enforcement staff review so not to be locked into one vendor.

### **Code Enforcement**

Mr. Mackey provided the following information with regard to the property for the record.

- The applicants are requesting a special exception to construct a single-family dwelling within the outermost 75 feet of the Prime Wetland buffer.
- Per Article X, Section 165-80.A.4 of the Zoning Ordinance, this hearing requires a joint meeting of the Zoning Board, the Planning Board and the Conservation Commission. Per State statute, the chairman of the Planning Board chairs the hearing, but the Zoning Board will ultimately vote on whether or not to approve the request after considering input from the other Boards.
- In reviewing the request, the Board must consider the 9 criteria listed in the application for the special exception.
- The property in question is a vacant, existing lot of record and is listed at 2.72 acres. The property is almost totally encompassed by the Prime Wetland located in the rear of the property and the Prime Wetland Buffer.
- The area in the rear of the property is also within the 100-year flood zone. If the special exception is approved, a Flood Elevation Certificate will be required to be submitted to the Code Enforcement Office.
- There are pictures in the file for review by the Board.

Mr. Corbett 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**

Daniel Abate, 23 Collettes Grove Road, said that he has lived in the area for 38 years and know that the applicant has dreamed of building his retirement home on the property. He said that he feels that they will build a beautiful home and will be an asset to the community and no impact to the area.

Mr. Corbett 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 to the request.

### **Rebuttal**

Attorney Campbell said that the applicant is amendable to offering an easement to the Town to have access to the back land and offer is available.

Mr. Perkins asked Mr. Degnan to outline the type of septic system that he was recommending. Mr. Degnan described the septic system design for the record.

Mr. Mackey said that the system should be designed to have the least impact on the site and have seen systems such as clean solutions that pretreat sewage before leaching out.

Attorney Campbell said he was unfamiliar with that type of septic system. He said that there have also been test pits done in the front of the property outside of the 150' setback and asked if system was to be installed in the front would they still be limited to specific system.

There was some discussion with regard to the septic system type and placement.

Mr. Tripp said that there was 26" to water level and that a tank was not allowed to drain into wetlands. Mr. Mackey said that was correct and that the system may need to be built up.

Mr. Tripp asked how much non pervious area would be for parking. Mr. Moalli said that the area is existing with a stone surface and not planning on paving.

Attorney Campbell said that there was a 51' x 31' footprint of impervious compact gravel that is still considered impervious and pavement could be utilized and that the driveway potential the lot was approximately 7,000 sq. ft.

Mr. Mackey said that the State Shoreland will be reviewing the proposal and will make recommendations. He said that the Town has done some drainage work in the area also and that they would not want to disturb what the Town has achieved in the area.

Mr. Corbett asked if request was to be granted what recommendation for a conservation easement would be made. Attorney Campbell said that if granted that if there were an area where the Town wished to obtain access that they were willing to provide an easement.

Mr. Degnan said that would prefer to be as presented without recommendation.

Mr. Tripp motioned to go into deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

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

### **Deliberative Session**

Mr. Perkins reviewed the condition for the record.

Mr. Tripp said some type of wording for the septic infiltration system should be made.

Mr. Perkins said that the Code Enforcement would review.

Mr. Tripp motioned to come out of deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous

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

**Mrs. Morin motioned on case #24-101 Beaumont & Campbell, PA, Owner: David & Laura Moalli to Grant a special exception as provided in Article X, Section 165-80.A.4 of the Town of Derry Zoning Ordinance to allow the construction of a single-family dwelling on the property within the outermost 75 feet of the Prime Wetland buffer zone at 31 Collettes Grove Road, Parcel ID 19033, Zoned LDR with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Most condensing leach field system design to be installed.**

**Seconded by Mr. Dietzel.**

**Mr. Corbett noted the findings of fact as follows for case #23-102:**

- The applicants are requesting a special exception to construct a single-family dwelling within the outermost 75' setback of the Prime Wetland Buffer.
- The owners were deeded the property in 1983 but did not become the sole owners until 1997.
- The zoning district is low density residential (LDR).
- This required a joint meeting of the Zoning Board of Adjustment, the Planning Board and the Derry Conservation Commission.
- The property is vacant, but almost totally encompassed by the Prime Wetland Buffer.
- The rear of the property is also within the 100-year flood zone. A Flood Elevation Certificate will be required to be submitted to the Code Enforcement Office.
- The Conservation Commission felt this is the best design for the property, but recommends a condensed septic design implemented to lessen the impact to the wetlands.

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

**Vote: Unanimous.**

**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. Corbett motioned to approve the minutes of October 19, 2023, as amended.

Seconded by Mrs. Morin.

Vote: Unanimous.

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

### **Other Business**

Mr. Mackey said that no cases had been submitted for the January 18, 2024 meeting.

## **Adjourn**

Mr. Tripp motioned to adjourn.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Adjourn at 7:58 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

## **Approval of minutes February 1, 2024**

Mr. Corbett motioned to approve the minutes of January 4, 2024 as written.

Seconded by Mrs. Morin.

Vote: Unanimous.

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