

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
February 1, 2024

Members Present

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

Members Absent

Alternates Present

James Dietzel
Michael Donlon

Alternates Absent

Gaspar Obimba

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 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: ginnryrioux@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.

24-102 Steve Pasco
Owner: FTG Development, LLC

The applicants are requesting a variance to the terms of Article VI, Section 165-49.B.1.a & c and Section 165-49.G.1.a of the Town of Derry Zoning Ordinance to allow the conversion of the 8 existing commercial units located on the second floor to 8 one (1) bedroom dwelling units at 6 West Broadway, Parcel ID 30024, Zoned TBOD

Nick Gregsak, Gresak & Sons, read the application criteria for the record and described the applicants request for the record.

Board Questions

Mr. Perkins asked if there would be any structural changes. Mr. Gregsak said no as the existing demising walls were fire separation walls so no structural changes will need to be made.

Mr. Perkins asked if any electrical, plumbing, etc. would need to be done. Mr. Gregsak said that there would be some electrical and plumbing performed and minimal sprinkler changes.

Mr. Perkins asked if would be utilizing existing parking. Mr. Gregsak said yes and was also in discussions with Beverly Donovan with regarding land swap for parking in the proposed building behind the property.

Code Enforcement

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

- The applicants are requesting a variance to allow the 2nd story of this 3-story building to be converted from 8 commercial spaces to 8, 1-bedroom dwelling units.
- The property is located in the Traditional Business Overlay District (TBOD) which allows for multi-unit residential use as a mixed use in conjunction with permitted non-residential use.
- The applicants are seeking relief from the requirements in the TBOD dealing with dwelling unit square footage, density (number) of units allowed on the lot and the number of parking spaces required.
- If approved by the Board, Planning Board Site Review will be required.
- There are pictures in the file for review by the Board.

Mr. Perkins said he recalled the Abbott Court proposal but did not wish to approve without validation of approval.

Mr. Tripp asked if there would be ADA units. Mr. Gregsak said not at this time as they were ADA exempt.

Steve Pasco, applicant, said that if grant approval the parking would be taken up at the Planning Board level.

There was some discussion with regards to parking.

Mrs. Morin asked if would be subject to the winter restrictions on parking. Mr. Mackey said that he believes that there is no on-street parking during the winter months.

Mr. Tripp asked what the acreage of the property was. Mr. Gregsak said it was 3.14 acres.

Mr. Donlon asked if there would be any 2-bedroom units. Mr. Pasco said no due to the way the demising walls were set up.

Mr. Perkins said that in the 1970's Linlew Drive concept fit into the community model and the existing firewalls may have a hardship component as would need to fit in between. Mr. Pasco said that 2 bedroom units tend to draw different crowds and his 3rd floor units do not have elevator access so have an effect on rent ability.

Mr. Tripp asked if the 16 parking spaces were for the rental units and where was the commercial parking located. Mr. Pasco said yes that the 16 parking spaces were for the rental units and that the commercial parking was in the front of the building near Sabatinos and along Broadway and have had no issues with parking.

There was some discussion with regards to parking.

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 to the request.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mr. Corbett.

Vote: Unimous.

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

Deliberative Session

Mr. Corbett said a lot of relief was being requested but the application makes sense and feels that it meets the economic situation.

Mr. Tripp said he felt that it was a good use for the second floor and that the parking requires 16 spaces so only need 4 more spaces than currently have.

Mr. Burgess said that the location to downtown makes sense.

Mrs. Morin said she agrees with the Board and that one bedroom units is better than 2 bedroom units with children over businesses.

Mr. Perkins said he did not feel that it would impact services and would be meeting trend to needs and mirrors the Town Council project that is in the works. He reviewed the conditions for the record.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous

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

Mrs. Morin motioned motion on case #24-102 Steve Pasco, Owner: FTG Development, LLC to Grant a variance to the terms of Article VI, Section 165-49.B.1.a & c and Section 165-49.G.1.a of the Town of Derry Zoning Ordinance to allow the conversion of the 8 existing commercial units located on the second floor to 8 one (1) bedroom dwelling units at 6 West Broadway, Parcel ID 30024, Zoned TBOD as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board Site review.**

Seconded by Mr. Tripp.

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

- The zoning district for the property is located in the Traditional Business Overlay District (TBOD) which allows for multi-unit residential use as a mixed use in conjunction with permitted non-residential use.**
- The applicants are requesting a variance to allow the second story of a 3-story building to be converted from 8 commercial spaces to 8 1-bedroom units.**

- The applicants are seeking relief in regard to unit square footage, density of units allowed on lot and the number of parking spaces.

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.

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

It was noted for the record that Mr. Perkins would step down and that Mr. Donlon would sit for the following case:

24-103 Lynne Caloggero
Owner: Peak Premises, LLC

The applicants are requesting a variance to the terms of Article VI, Sections 165-45.B.1.a.ii, 165-45.B.1.b.i, 165-45.B.1.c.i and 165-45.B.1.d.ii of the Town of Derry Zoning Ordinance to allow the property to be subdivided into 2 single family building lots which will have less than the required frontage, lot width and lot area at 27 Mt. Pleasant Street, Parcel ID 32054, Zoned MHDR

Lynne Caloggero, applicant, reviewed the required criteria and described the proposal for the record. She said she felt that the numbering on the street goes from 27 to 31 which goes back to the early 1900's so feel that there was at some point a 29 would have been built. Mrs. Caloggero reviewed the proposed subdivision for the record.

Board Questions

Mr. Burgess asked what the new lot number would be. Mrs. Caloggero said that the new home would be number 29.

Mrs. Morin said that the GIS listed the property as a 2-family home. Mr. Mackey said that the structure on the property had a fire and was assessed as a 2-family home but has since lost the grandfather status.

There was some discussion with regard to lot size requirements.

Mr. Tripp said that the proposal was to subdivide the large lot. Mrs. Caloggero said yes it was proposed to split down the middle and reviewed the proposal for the record.

Code Enforcement

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

- The applicant is requesting a variance to allow the property to be subdivided into 2 single family building lots.
- The property is located in the Medium High Density Residential Zoning District (MHDR) which requires a minimum of 10,000 sq. ft. for a single-family lot and 100 ft. of street frontage. These requirements are for properties serviced by municipal water & sewer.
- The applicants are seeking relief from lot size and frontage requirements as well as a setback variance from the side of the existing structure to the proposed lot line.
- If approved by the Board, Planning Board subdivision approval will be required.
- There are pictures in the file for review by the Board.

Mr. Perkins asked if lots happen due to conformity. Mr. Mackey said no, it was due to the amount of time vacant. Property non-conforming lot abandoned for over a year use loses its status and would require a variance to bring back.

Mr. Perkins asked how was the home laid out. Mrs. Caloggero said it was hard to determine but believes there was one up and one down.

Mrs. Morin said property listed as a 5 bedroom property. Mr. Mackey said that it would appear to have been 2 units by the number of bedrooms.

Mr. Perkins asked why not build duplex verses 2 separate units. Mrs. Caloggero said that it could be an option but feel 2 single family lots conform better to the neighborhood.

There was some discussion with regard to the number of bedrooms per dwelling unit.

Mr. Burgess said he knows what it feels like to live in structures so close together and that the ordinance is designed to help overcrowding.

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

No one spoke in favor of the request.

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

Ross Curran, 13 Mt. Pleasant Street, said that the applicant purchased and found out unable to rebuild. He said that the listing said to do due diligence and if contacted the Town would have been told that the use had expired.

Mr. Corbett asked if objecting to the 2-family. Mr. Flenniken said he was okay with rebuilding the 2-family verses 2 separate structures.

Annmarie McCoole, 25 Mt. Pleasant Street, asked how many bedrooms would the homes be and how would it affect the water and sewer and school system. Mr. Corbett said that the homes were proposed to be approximately 19 x 28 and number of bedrooms would be determined later.

Ms. McCoole said she also has concerns about possible tree removal. Mr. Corbett said that was outside of the Board's purview.

Mr. Tripp asked if in favor or opposed. Ms. McCoole said she was opposed as would like to see one large single family verses 2 homes squished together.

Rebuttal

Mrs. Caloggero said that the home has a sad history and needs to come down. They are willing to work with the neighborhood and take down trees etc. She said that a subdivision feels is more justified and could remove one of the requests as could remove the existing home and meet all setbacks. As for bedroom size can keep the same and possibly do one 3 bedroom home on the new lot and a 2 bedroom home on the existing lot. Mrs. Caloggero said as far as the due diligence we interpreted as the home burned and needed to be removed or repaired.

Mr. Corbett asked if the 2 lots were created would the new dwellings meet the setbacks. Mrs. Caloggero said yes.

Mr. Corbett said that removing the existing dwelling with a new home and meet the setback requirements would work better than the current proposal and suggest the possibility of the Board tabling and bring back with a mark up with new proposal.

Mr. Mackey said that the Board could possibly make as a condition that both dwellings meet the required setbacks.

Mr. Tripp said he agrees that 1 variance was better than request of 4.

Mr. Corbett polled the Board to table the case to the next meeting and for the applicant to provide a mark up plan showing proposal with alternative solution.

Mr. Burgess motioned to table the case to the next meeting and for the applicant to provide a mark up plan showing proposal with alternative solution.

Seconded by Mrs. Morin.

Vote: Unanimous

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

Approval of Minutes

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

Seconded by Mrs. Morin.

Vote: Unanimous.

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

Other Business

Mr. Perkins said that the Town and County magazine was available if anyone wished to view.

Mr. Mackey informed the Board that there have been 2 cases submitted for the next meeting.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Adjourn at 8:18 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of minutes March 21, 2024

Mr. Burgess motioned to approve the minutes of February 1, 2024 as written.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mr. Obimba, Mr. Donlon, Mr. Burgess, Mrs. Morin, Mr. Corbett, Mr. Perkins.