

**TOWN OF DERRY**  
**ZONING BOARD OF ADJUSTMENT MINUTES**  
**February 2, 2023**

**Members Present**

Lynn Perkins, Chairman  
Craig Corbett, Vice Chair  
Crystal Morin, Secretary  
Allan Virr  
Donald Burgess

**Members Absent**

**Alternates Present**

Richard Tripp  
James Dietzel

**Alternates Absent**

Michael Donlon  
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. Mr. Perkins stated that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 this public body is authorized to meet now physically and also electronically. As such this meeting is being held and will also be providing public access to the meeting by telephone with additional access possibilities by video utilizing the ZOOM app for the electronic meeting. 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. Mr. Perkins said that all votes taken are taken during this meeting shall be done by roll call vote.

The Board members introduced themselves.

Mr. Perkins informed the Board and Public that case #23-103 Peter Miller & Elizabeth Kwo have requested to be continued to the February 16, 2023 meeting due to a prior commitment.

It was noted that Mrs. Morin would step down and that Mr. Tripp would sit for the following case.

**23-102            Kurt Meisner, Meisner Brem Corporation**  
**Owner: Donald F. Ball Irrevocable Trust**  
**Douglas Ball, Trustee**

**The applicants are seeking a variance to the terms of Article VI, Section 165-48.B.2 & 3 of the Town of Derry Zoning Ordinance to allow the property to be subdivided into 3 residential lots with each lot having less than the required frontage and lot width. Proposed frontages are 175 feet, 72.40 feet and a zero feet (for a proposed 42+ acre conservation lot) where 200 feet is required at 82 English Range Road, Parcel ID 11087, Zoned LDR**

Kurt Meisner, Meisner Brem Corporation, said he was here tonight representing the Donald F. Ball Revocable Trust and that members of the trust were also present. Mr. Meisner reviewed the required criteria and the plans submitted to the Board for the record. He reviewed the plan that he submitted with regards outlining previous concerns that were raised during the previous meeting on January 19, 2023.

The Board took a break due to technical issues.

Mr. Meisner said that they have implemented a planting of spruce trees along lot 86 and also along lot 1 to fill the open area. Also noted on the plan they added a no cut buffer zone along the westerly side of the stonewall and beyond. The also changed the orientation of the proposed home 45% to face the open field and to plant dogwood trees along the lot line for buffer. Mr. Meisner said that the proposed revisions to the plan addresses the concerns from the previous meeting.

### **Board Questions**

Mr. Perkins asked what was the 20' easement purpose. Mr. Meisner said that the 20' easement runs along the proposed driveway and then across the main parcel to run along a wood trail that opens up to a field. He said that this is created so the parcel is not land locked and would be utilized by Town staff.

Mr. Perkins asked if easement continue as shared drive similar to the Rugh property. Mr. Meisner explained the use of the easement for the record.

Mr. Corbett asked if there was a parking area. Mr. Meisner said there was none planned at this time.

Mr. Tripp asked if the easement would be a public way and if the person with the easement set the conditions of use. Mr. Meisner said that the easement was not intended as a public way but for Town staff access. He said that Conservation has not said what intended use would be at this time.

There was some discussion with regard to access and use.

Mr. Burgess said that there appears to be other access to the property from the yellow portion on the map. Mr. Mackey said that the yellow portion of property belonged to the Ferdinando family.

Mr. Burgess asked if there would be hunting allowed. Mr. Meisner said he was unsure and that it would be up to the Conservation Commission.

Mr. Corbett said that the information received from the Conservation Commission is that hunting, hiking etc would be allowed but no RV access.

### **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 51 acre parcel to be subdivided into 3 lots.
- The property is located in the Low Density Residential Zoning District (LDR) which requires a minimum of 3 acres and 200 feet of frontage for each lot.
- The proposed lots will comply with the area requirements but not the frontage requirement.
- As proposed, the lot containing the existing farmhouse will have 175 feet of frontage, a new residential building lot will have 72.40 feet of frontage and a 42.70 acre lot will have no frontage but be accessed by a 20 foot wide access easement. This large lot is proposed to remain as conservation land/undeveloped.
- If approved by the Board, Technical Review Committee (TRC) and Planning Board Subdivision approvals will be required.
- There are pictures in the file for review by the Board.

Mr. Perkins asked what was the proposed distance of the proposed home to lot 11086. Mr. Meisner said it was not calculated but roughly measured would be approximately 200-250 feet from the rear of the home. He said that the plan shows that they intend to add additional buffer.

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**

David Rugh, 84 English Range Road, said that he felt that the proposed home will still devalue the existing home in the front of the lot. He said that there has been no mention of the proposed water tank that is to be located there and feel if looking for an easement road to be cut onto the property then there will be concrete trucks up and down the easement so will be a disturbance to the area. Mr. Rugh said he also does not want to look at a water tower and that the area is not suitable for a property that is reserved for conservation and that there are other areas more suitable areas such as Old Auburn Road which has the same elevations and would be easier access. Mr. Rugh said that a water tower is not a benefit to the Town and that it is not a suitable fit for this property.

Mr. Mackey said that he has spoken with Thomas Carrier with regard to Mr. Rugh's concerns for a water tower. He said that this is one location and is a possibility but there is also another process for approval of Town Council, ect. and that the concern raised is not part of the variance for a frontage request.

There was some discussion with regard to the water tower concern.

Mr. Perkins said that the speculation of what Conservation is or is not doing is not purview of the Board and not part of tonight's request.

Mr. Perkins said he feels that the potential diminution of the property value have been addressed by the applicant. Mr. Rugh said that he feels a house behind that house where currently fields now will change the character and value of the existing structure.

### **Rebuttal**

Mr. Meisner said that he feels that they have covered the Board's concerns from the prior meeting. He said that the concerns of the water tower have not been discussed with the applicant. Mr. Meisner said that he feels that they have addressed concerns and meet the criteria requests.

Mr. Perkins asked if spruce plantings were proposed along rear lot. Mr. Meisner said that there are currently 2 existing spruce trees and the plan shows area of proposed additional plantings.

Mr. Perkins asked if the 30 foot no cut area was carried all along to lot 86. Mr. Meisner said it was carried along 86-1 and 85-1 entire rear and no cut of triangle to the back of the lot. He said they will preserve the stone wall and no cut beyond stone wall.

Mr. Perkins asked if would object to condition of spruce plantings and 30' no cut along lot 86. Mr. Meisner said that they will make an additional notation on the plan.

Mr. Perkins asked what the round cylinder was on the back of the property. Mr. Meisner said it was possibly an old dug well.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

### **Deliberative Session**

Mr. Corbett said that he liked the revised plan submitted and feel that it would be more concern has been given to the abutters.

Mr. Tripp said that he feels that the applicant has addressed the concerns that were raised. He said that he understands property being sold and that the concern of a water tank proposal that is 30 plus years old has not happened. He said that when he was on the Board the Council sometimes purchased property to have an investment for conservation land, he believes it was called the Southeast Land Trust.

Mr. Perkins said that not all Town's fund land purchases.

There was some discussion with regards to the use of funding.

Mr. Burgess said that the frontage is weak but the amount of land for the proposed lot feels complements deficiency. He also liked the condition of no cut line to be designated on the lot. Mr. Burgess said he sees where could be a problem but the applicant appears to be addressing.

Mr. Perkins said that the concern of devaluation of land in front feel that the applicant has proposed a buffer for lot 11-86.

Mr. Corbett said he likes the no cut disturbance buffer and nice alternative of tree plantings.

Mr. Perkins said that the plan still has to go to the Planning Board and the Board can recommend the proposal for the application.

Mr. Corbett said that feel plan presented keeps as much as possible from the existing home.

Mr. Perkins asked if any concerns of diminution of value and findings of fact.

Mr. Tripp said he does not see a diminution of value.

Mr. Perkins said that he finds the division of the property unique and more extreme relief being sought under the frontage aspect but over acreage as proposed flag lot is approximately 8 acres. He said he respects concerns of diminution value and feel buffer there provides privacy.

Mr. Corbett said that he agrees and likes the stipulation of a no cut area.

Mr. Perkins said that he has walked the property and found many logging roads and stonewalls in various locations. He said that the property could be subjected to multiple homes and the proposed exchange of request is less of what could be done with the property.

Mr. Tripp said it was a typical flag lot that tends to be subdivided later but this design does not appear to allow that.

Mr. Burgess said that the applicant has indicated that a note will be put on the plan for no cut so will still be wooded. The speculation of a water tower will be a Town Council matter and not purview of the Zoning Board.

Mr. Perkins reviewed the conditions for the record. He asked Mr. Mackey how to address the proposed changes suggested by the Board.

Mr. Mackey said a condition to extend the 30' no cut buffer along lot 11-86 if that was the intention of the Board.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

**Mrs. Morin motioned on case #23-102 Kurt Meisner, Meisner Brem Corporation, Owner: Donald F. Ball Irrevocable Trust, Douglas Ball, Trustee to Grant a variance to the terms of Article VI, Section 165-48.B.2 & 3 of the Town of Derry Zoning Ordinance to allow the property to be subdivided into 3 residential lots with each lot having less than the required frontage and lot width. Proposed frontages are 175 feet, 72.40 feet and a zero feet (for a proposed 42+ acre conservation lot) where 200 feet is required at 82 English Range Road, Parcel ID 11087, Zoned LDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to TRC Review and Planning Board approval.**
- 3. Extend the 30' no cut buffer zone along the entire north/south boundary to include parcel 11086.**
- 4. Include additional plantings as presented on drawings dated January 30, 2023**

**Seconded by Mr. Burgess.**

**Vote: Unanimous.**

**Mr. Corbett: Yes.**  
**Mr. Virr: Yes**  
**Mr. Burgess: 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.**

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

- **The applicants are requesting to subdivide a 51 acre parcel into 2 residential lots and a 42+ acre conservation parcel.**
- **The zoning district is low density residential (LDR).**
- **The requirements of the zoning district are 3 acres with 200 feet of frontage per lot.**
- **The 2 residential lots will have 175' and 42.70' of frontage with the conservation parcel to have a 20' right-of-way across both proposed lots.**
- **The property will be serviced by private wells and private septic systems.**
- **The Board concludes there was no diminution of value.**
- **No cut disturbance line along 30' of the entire north/south boundary and to include parcel 11086.**
- **This proposal will also require Planning Board approval.**

**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.**

**23-104            Jeffrey Moulton**  
**Owner: Merchant Family Holding Trust**  
**Paul & Kathie Merchant, Trustees**

**The applicants are requesting a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to allow the construction of a 16' x 20' addition to the existing seasonal home less than 15' from one of the side property lines at 18 Germantown Road, Parcel ID 19089, Zoned LDR**

**Jeffrey Moulton, Moulton Engineering, reviewed the information and required criteria submitted for the record.**

## **Board Questions**

Mr. Perkins asked if the property was currently a seasonal dwelling. Mr. Moulton said yes and that it would remain seasonal.

Mr. Perkins asked if the use of pavers would be allowed by the State Shoreland as used to be more stringent on impervious surfaces. Mr. Moulton said they have submitted plans to the State and are pending approval. The use of pavers would actually reduce impact and reviewed for the record.

Mr. Tripp asked how many bedrooms would there be and if on Town water. Mr. Moulton said it currently has one bedroom and will be going to a 2 bedroom. The property is serviced by its own well and septic system.

## **Code Enforcement**

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

- The applicants are requesting a variance to allow a 16' x 20' addition to the existing seasonal dwelling.
- Germantown Road is a private road not maintained by the Town.
- The property is waterfront property which, should the variance be approved, require a State Shoreland permit and an elevation certificate in order to build the addition.
- The property is serviced by a private septic system (2 bedroom system on file) and a private well.
- There are pictures in the file for review by the Board.

Mr. Tripp asked if the sheds were existing. Mr. Moulton said that was correct.

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**

Mr. Moulton read a letter in favor of the proposal from Phillip & Andrea Messina, 20 Germantown Road for the record.

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 of the request.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

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

### **Deliberative Session**

Mr. Perkins reviewed the conditions for the record.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

**Mrs. Morin motioned on case #23-104 Jeffrey Moulton, Owner: Merchant Family Holding Trust, Paul & Kathie Merchant, Trustees to Grant a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to allow the construction of a 16' x 20' addition to the existing seasonal home less than 15' from one of the side property lines at 18 Germantown Road, Parcel ID 19089, Zoned LDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to obtaining N.H. DES State Shoreland permit.**
- 3. Subject to filing flood elevation certificate to the Code Enforcement office.**

Seconded by Mr. Virr.

### **VOTE:**

**Mrs. Morin: Yes.**

**Mr. Virr: Yes.**

**Mr. Burgess: Yes.**

**Mr. Corbett: 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.**

**Mr. Perkins noted the findings of fact as follows for case #23-104:**

- **The parcel is zoned low density residential (LDR).**
- **The applicant wishes to add a 16' x 20' addition into the setbacks.**
- **The road for the residence is located on a private road.**
- **A State Shoreland permit will be required if approved.**
- **The residence currently has an existing 2 bedroom septic system.**

**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.**

It was noted for the record that Mr. Burgess would step down and Mr. Dietzel would sit for the following case.

**23-105            Jeffrey Moulton  
                     Owner: William & Lisa Sawyer**

**The applicants are requesting a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to replace a 25' x 37' seasonal home with a new 24' x 38' home and deck which will be located less than 15' from the side property lines at 936 Whitney's Grove Road, Parcel ID 16009, Zoned LDR**

Jeffrey Moulton, Moulton Engineering, reviewed the information and required criteria submitted for the record.

### **Board Questions**

Mr. Perkins asked if intent of the impervious surface was to retain or prevent water runoff. Mr. Moulton said it would allow the water to drain into a specially designed system and described system for the record.

Mr. Tripp asked to explain the blue outlines on the drawing that was submitted. Mr. Moulton said the blue outlines depict the town setback requirements of 15 feet of where the house could go and the red outline shows the proposed house location.

Mr. Corbett asked if the existing structure would be torn down. Mr. Moulton said yes and the proposed new structure would be same size but has to go back as wish to add a deck.

Mr. Perkins asked if the proposed structure would be 2 stories. Mr. Moulton said yes.

## **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 existing seasonal home to be replaced with a new 24' x 38' home.
- The property is located on Big Island Pond in the Low Density Residential Zoning District (LDR).
- Whitney's Grove is a private road and not maintained by the Town.
- The applicants are seeking relief from the 15' side setback requirement.
- A State Shoreland permit is on file for the project as well as an approved design for a 3 bedroom septic system.
- If approved by the Board, a notice of municipal liability and responsibility must be recorded with the deed prior to issuance of the building permit.
- A flood elevation certificate must be submitted as part of the rebuild.
- There are pictures in the file for review by the Board.

Mr. Moulton said that they have received a State approval for a septic system.

Mr. Mackey said that the previous structure on the property has already been removed.

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**

Mr. Moulton read a letter of support from Frank & Michelle Tambone, 934 Whitney's Grove Road for the record.

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**

Charles & Nancy Wahl, 909 Whitney's Grove Road. Mrs. Wahl said that they have not seen any of the documents and are uniformed of what is being proposed there and would like time to review as they own part of the private road.

The Board took a brief recess so that the abutter could review the proposal with the applicant.

Mr. Wahl said thank you to the Board for allowing them time to review the information that was being proposed and that they had no objections and were in favor of the proposal.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mr. Dietzel.

Vote: Unanimous.

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

### **Deliberative Session**

Mr. Perkins said that he felt that it was a clear improvement of the property due to the current state and that the drawings submitted shows the location of where the allowed building space clearly shows the hardship.

Mr. Corbett said that the required setbacks if imposed clearly renders the property unusable and that the proposed request is reasonable.

Mr. Virr said that he agreed with Mr. Corbett.

Mr. Dietzel said that he feels that the criteria has been met and that the surrounding property value would not be diminished but enhanced. He said hardship has been shown.

Mrs. Morin said that she agrees with the Board and likes the proposed plan showing where something could be built if had to meet setbacks. She said that this was the best option for the lot.

Mr. Perkins reviewed the conditions for the record.

Mrs. Morin motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

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

**Mrs. Morin motioned on case #23-105 Jeffrey Moulton, Owner: William & Lisa Sawyer to Grant a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to replace a 25' x 37' seasonal home with a new 24' x 38' home and deck which will be located less than 15' from the side property**

lines at 936 Whitney's Grove Road, Parcel ID 16009, Zoned LDR as presented with the following conditions:

1. Subject to obtaining all State & Town permits and inspections.
2. Subject to filing flood elevation certificate to the Code Enforcement office.
3. Waiver of Municipal Liability and Responsibility must be recorded with the deed.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Mr. Perkins noted the findings of fact as follows for case #23-105:

- The parcel is zoned Low Density Residential (LDR).
- Applicants wishes are to replace an existing structure with a new dwelling.
- The parcel is located on a private road.
- The relief is for side setbacks.
- The new home will be a 3 bedroom house.
- The home will require a State Shoreland permit, septic permit, flood elevation certificate to be filed with Code Enforcement.
- Also a Waiver of Municipal Liability and Responsibility must be recorded with the deed and copy filed with the Code Enforcement Office.

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.

**#23-106      David & Emily Ferrin**

The applicants are requesting a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to allow the construction of an addition (garage and breezeway) less than 15' from the side property line at 10 Elwood Road, Parcel ID 14029-021, Zoned LDR

David Ferrin, owner, reviewed the required criteria for the record. Mr. Ferrin said that they were seeking to add additional living space to be utilized as potential living space for his in-laws that would also allow them help with their family.

### **Board Questions**

Mr. Perkins asked if the proposed breezeway/3 season room and garage attached would have access to the accessory unit. Mr. Ferrin said but the 2<sup>nd</sup> floor would not connect to the existing house it would only be over the proposed garage.

Mr. Perkins asked if was familiar with the ADU criteria. Mr. Ferrin said that he has a survey design done if needed if future failure.

Mr. Mackey said that ADU requires an approved septic design as more than just bedroom count. He said that an ADU is limited to 2 bedrooms and must be attached to the existing home.

Mr. Perkins asked if the second floor over a garage with attached breezeway qualifies. Mr. Mackey said yes.

Mr. Perkins said ADU is limited to 800 square feet so how does it fit in with the neighborhood. Mr. Ferrin said other homes in the area have 2-car garages that were attached by a breezeway.

Mr. Burgess said that the 34' garage and 12' breezeway numbers did not line up with what is on the plan. Mr. Ferrin explained the setback and size of the proposed request for the record.

There was some discussion with regard to size of the proposed request and the setback distance.

Mr. Perkins said he was concerned with the 5' from the property line and asked if Promised Land was the surveyor. Mr. Ferrin said yes that the survey was done in January by Promised Land and proposed garage is to be located where the current driveway ends.

Mr. Corbett asked if there would be any tree removal. Mr. Ferrin said that he does not plan to cut any trees as do not feel that it would interfere with his proposed garage.

Mr. Virr asked who the letter of approval was from. Mr. Ferrin said it was from the neighbor on the side that would be most impacted.

Mr. Perkins said that the arial view does show neighbors garage to be closer to the street and does appear to be to close to the property line.

Mr. Corbett asked what was the reason for the breezeway to the garage. Mr. Ferrin said it was an extension of his kitchen and living space and more of a 3-season area verses a breezeway.

## **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 construction of an addition (attached garage & breezeway) approximately 5' from the side property line.
- The property is located in the Low Density Residential Zoning District (LDR) and is 1 acre in size and has 125' of frontage on Elwood Road.
- Based on the building file, the home was constructed in 1978 and is serviced by a private septic system, located in the front yard and a private well located in the back yard.
- If approved, appropriate permits and inspections will be required.
- There are pictures in the file for review by the Board.

Mr. Tripp asked if other home was to close to the lot line. Mr. Mackey said he did not have the file but did recall that it did receive a variance.

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**

A letter from Donald & Jane Cuthbert of 12 Elwood Road in favor to 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**

No one spoke in opposition of the request.

Mr. Perkins asked if breezeway could possibly be cut back 4' to create more room on the side. Mr. Ferrin said if he has to he would but the proposed design allows him to access the rear of his property.

Mr. Corbett asked to possibly table the request to see if the applicant could make proposal a bit more amendable.

Mr. Perkins suggested to amend the size of the proposal as applicant said he would be acceptable.

There was some discussion with regards to sizes changes.

Mr. Virr said he was comfortable to proceed with changes.

Mr. Corbett said he was okay with proposed or continue to get a solution.

Mr. Burgess said he was comfortable with the changes.

Mrs. Morin said she was also comfortable with proposed changes.

Mr. Perkins asked if acceptable to the proposed change of size. Mr. Ferrin said yes if he had to be.

Mr. Tripp asked what the size of the proposed ADU would be . Mr. Ferrin said the footprint of the proposed garage would not be the size of the proposed ADU after kneewalls, etc. but will comply with the codes.

Mr. Perkins said that the Board has made known intention and size requirements allowed.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

### **Deliberative Session**

Mr. Perkins said that the Board discussed the concerns and feel necessary to amend the distance to the setback and that the applicant is acceptable to the changes.

Mrs. Morin said that she agreed with what the Board discussed during the meeting with regard to the changes.

Mr. Burgess said that he would like to see the addition cut back so has to have 8' to the lot line.

Mr. Corbett said he was acceptable to either proposal due to the property layout as he feels that 4' will not be a difference.

Mr. Perkins said that that they have a tree line and have granted similar relief so could possibly change hardship.

Mrs. Morin said that can view both ways could be beneficial to have a garage.



Mr. Perkins asked if the Board wishes to amend to reduce the size of the breezeway or to be a set distance from the lot line.

There was some discussion with regard to distance to property line and size of proposed structure.

Mr. Perkins said a condition of no closer than 9 feet to the side property line.

Mr. Perkins reviewed the conditions for the record.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

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

**Mrs. Morin motioned on case #23-106 David & Emily Ferrin to Grant a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to allow the construction of an addition (garage and breezeway) less than 15' from the side property line at 10 Elwood Road, Parcel ID 14029-021, Zoned LDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Addition to be no closer than 9' to side set back.**

**Seconded by Mr. Burgess.**

**Mr. Corbett: Yes.**

**Mr. Virr: Yes.**

**Mr. Burgess: Yes.**

**Mrs. Morin: 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.**

**Mr. Perkins noted the findings of fact as follows for case #23-106:**

- The parcel is zoned low density residential (LDR).**
- The applicant wishes to add a garage.**
- The acreage is 1 acre and 125' of frontage where 3 acres and 200' of frontage is required.**

- The relief request is for the side setback to be 9 feet where 15 feet is required.

**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.**

### **Approval of Minutes**

Mr. Corbett motioned to table the minutes of January 19, 2023 to the next meeting.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

### **Correspondence**

Mr. Perkins said the Board has received a copy of the January/February New Hampshire Town and City.

### **Adjourn**

Mr. Tripp motioned to adjourn.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Adjourn at 9:45 PM

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

### **Approval of Minutes February 19, 2023**

Mr. Corbett motioned to approve the minutes of February 2, 2023 as written.

Seconded by Mr. Virr.

Vote: Unanimous.

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