

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
January 19, 2023

Members Present

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

Members Absent

Alternates Present

Michael Donlon – Remote
Richard Tripp
James Dietzel

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. 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 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. 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.

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

23-101 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, 175 feet and 175.86 feet where 200 feet is required at 53 English Range Road, Parcel ID 11090, 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.

Board Questions

Mr. Perkins asked if the history of the zoning district could be outlined for the record. Mr. Mackey said that the LDR zone was established in the late 80's around 1987ish as the Derry was formerly a 1 acre with 125 feet of frontage throughout the Town.

Mr. Perkins asked if the westerly portion of the plan submitted shaded purple was the same district. Mr. Meisner said he believed it was.

Mr. Tripp asked if the proposed lots would be serviced by Town water. Mr. Meisner said no they would have private wells and private septic systems. DES approvals and locations are confirmed.

Mr. Tripp asked if would be tearing down the buildings. Mr. Meisner said they will be torn down during the permitting process.

Mr. Tripp asked if English Range Road was a state road and if there would be any issue with curb cuts. Mr. Meisner said no it was a Town road and believe that the proposed lots will meet the sight distances. He said that the proposed lots will be required to meet the Town requirements and that the plans submitted are detailed survey plans but concept of work is not.

Mr. Perkins asked if the expansion of lot size and frontage requirements was to curb development and DES studies were done in the 1980's. Mr. Mackey said that growth measurement was due to management as the Town was growing rapidly during that period.

Mr. Tripp asked if the rear portions of the lots were wetlands. Mr. Meisner said that there were some wetlands to the rear of the property and have been flagged.

Mr. Corbett said the deeds appear to be in order and asked what type of homes were being proposed. Mr. Meisner said that the plans were generic proposal of single family colonial type homes but style and locations may vary will determine what and where built.

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 ten + acre parcel to be subdivided into 3 residential 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 will have frontages of 175 feet, 175 feet, & 175.96 feet.
- As part of this subdivision, the existing dilapidated barn will be removed.
- 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. 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

Wendy Gleason, 45 English Range Road, said she was concerned with well situation as the possibility of 3 wells there could potentially could affect the ground water aquifer for the area and how did DES confirm. Ms. Gleason said that when Buttonwood Drive was built they had to drill a second well as it took water away from their property. She said that also 3 lots would channel a lot of traffic and construction noise and feel it would create high density to a small area.

Mr. Perkins said that the parcels are probably larger than appear on the plan.

Mr. Corbett asked if the concern was the location of 3 homes in line verses staggered. Ms. Gleason said yes and that wish to stipulate that the stonewalls are not affected as she has a stonewall along the property lines and that they have another on their side and wonder if they are able to remove them.

William Lowenthal, 76 English Range Road, said he was not a direct abutter to this property and interested in the next presentation.

Michael & Julie Damiano, 57 English Range Road. Mr. Damiano said that he is requesting that the Board deny the request for 3 homes and only allow 2 homes as it is an unnecessary hardship and only seeking to add more value to sale and that the three lots that were pointed out are 7 acres each. Mr. Damiano asked what the width variance was.

Mr. Mackey said that the applicant is seeking variances to the frontage requirements and the 35' setback requirement.

Mrs. Damiano said she did not see where the applicant has demonstrated hardship as the property can be used and could easily meet the requirements with less lots. If the intent is to conform to the zoning in the area then should be todays zoning. The applicant is stating will be colonial homes but unclear of what will actually be built if they will have 2 car garages etc. as the properties are not all the same. She asked if the properties referred to on the map in the blue area were built before the zoning change.

Mr. Perkins said that some of the properties were constructed during the growth management period. As for the construction type it will be with the builder and if request is granted it will be as presented.

Mr. Mackey said that if stipulated as presented any significant changes would require an additional variance.

Mrs. Damiano said that the applicant said there was no question of visibility but there are visibility issues.

Mr. Perkins said that would be a Planning Board matter as will require 200' of visibility each way is required.

Mr. Tripp asked if asking only for frontage variance wouldn't they also need setback variances.

Mr. Mackey said that the section includes both frontage and 35' setback width requirements.

Cory Dolliver, 80 English Range Road, said that the request is for 3 lots and understand that the applicant is able to something with the property but feel that it would not be in keeping with the neighborhood as would create a tight area and not keeping with the nature of the street. He said that his driveway is directly across from the proposed lot 3

and there is a corner located there that is difficult as his mailbox is also located on that side of the road and there have been multiple times of playing chicken with cars just to access his mailbox so there is a definite safety concern of driveway access.

Mr. Donlon asked Mr. Mackey if prior to the late 80's zoning change the general requirements were 1 acre with 125' frontage per lot. Mr. Mackey said yes, that all of residentially zoning was generally 1 acre with 125 frontage requirement which also allowed 2 families. In the late 80's growth at the time was rapid and the Planning Board determined to implement changes. Mr. Mackey reviewed the zones for the record.

Mr. Gleason asked if objections would go to Planning Board directly. Mr. Perkins said that if granted then next step would be Planning Board approval.

Mr. Corbett said that Planning Board has different standards and that he feels that 2 proposed lots would be better than 3 but the family has owned the property for a long time. He asked who addresses the DES concerns.

Mr. Perkins said that Mr. Meisner possibly would be able to address the concerns brought forward.

Rebuttal

Mr. Meisner said that a copy of the plan has been submitted to the Board that shows DES has reviewed the wells and septic locations as part of their approval process. He reviewed the plan for the record.

Mr. Perkins asked if the radius for the septic and wells was no guarantee for exact location. Mr. Meisner said that the locations were approximate but could change.

Mr. Meisner said that the comment of crowding of homes and other matters would be addressed at the Planning Board and that the stonewalls would be preserved and not disturbed except for driveway access. He said that the proposed lots were 3.5 acres or more than the required minimum. Mr. Meisner said that the parcels were created some time ago and unable to obtain more frontage and that the 175 feet is more than the former 125 feet and is close to the requirement of 200 feet frontage. The concern of houses built to cost and value was addressed during the review of the criteria and that feel that the homes will complement the surrounding area. Mr. Meisner said that the density on this property is over 60 acres and here proposing 3 lots on this side of the street are easily supported by land. The lot width and building setbacks are well over 100 feet. The size of the homes and restrictions feel have ample room.

Mr. Perkins asked how the site line issue be addressed and not disturb the stonewalls how would obtain site distance. Mr. Meisner said that he feels that there is plenty of space for driveways and will work with the Town safety officer with locations of driveways and there will be cross sections and profiles drawn up for Planning Board review. He said that the barn is currently at right of way line and once removed will improve site distance.

Mr. Perkins asked to explain the house locations with regard to the street and that the lots proposed have not been there for a long time. Mr. Meisner said that the plan is a concept plan and that the homes could be built anywhere on the property within the setback lines and that the tract of land has existed for a long time just now proposed for a 3 lot subdivision.

Mr. Corbett said that the lot width is 200' at the 35' setback and proposed locations are roughly 100' etc. how address the additional variance requirements. Mr. Mackey said that the request is for frontage and lot width requirements.

Mr. Dietzel motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Dietzel, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Deliberative Session

Mr. Corbett said that it is nice to see a detailed plan and share concerns of the proposed 3 lots with the abutters as feel a lot for 3 non-conforming lots.

Mr. Dietzel said he has the same concerns as Mr. Corbett as 2 structures would easily conform and would be within the spirit and intent of ordinance. He said he also had concerns for drilling of wells as it is a drought season.

Mr. Burgess said that well locations are not the purview of the Board but the Planning Board level will address more aspects and only here for frontage and width requirements. He said he was originally concerned with the 3 lots and that they are only 25' short so not the worst case scenario and that the setbacks are only 15' from sidelines.

There was some discussion with setbacks.

Mr. Mackey said for clarity for the record that the proposed plan shows a dotted line as the building setbacks so the proposed homes would be in compliance to side setbacks.

Mr. Perkins said that the Board has listened to abutters and the number of the homes sporadic and that the Board is the relief area. He said that the frontage and comfort range is a bit narrow but the size and depth are larger than averaging lots. Mr. Perkins said that the 200 foot frontage is a guide and that the applicant is seeking relief as historic ownership and what could potentially be done with the property as the Ball family has owned for a number of years and intent was to keep barn and help keep the rural affect. As Mr. Burgess pointed out earlier that the parcels down the road and average lot size would be in keeping with the neighborhood.

Mr. Dietzel said that he was concerned for the wells as the abutter had stated they had to drill a second well due to lack of water and understand that concern is a Planning Board issue. He said that 2 lots could be more and that 3 a possible drain.

Mr. Perkins said that 1 well could dry up and that there are other wells in the area that were not affected.

Mr. Perkins reviewed the conditions for the record.

Mr. Corbett said that he believes that during a previous meeting Tim Peloquin stated that stonewalls were unable to be removed.

Mr. Mackey said that there are rules with scenic roads and that concerns would be addressed at Planning Board level.

Mr. Perkins asked if the width of the driveway curb cut would be determined at Planning Board. Mr. Mackey said that was correct as the Fire Department may require a wider curb cut.

Mr. Burgess asked if a condition be made not to remove the stone walls.

Mr. Perkins said that a condition of walls to have minimal disturbance.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Dietzel.

Vote: Unanimous.

Mr. Dietzel, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mrs. Morin motioned on case #23-101 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, 175 feet and 175.86 feet where 200 feet is required at 53 English Range Road, Parcel ID 11090, 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. Stonewall alterations only for driveway width access.**

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Virr: Yes

Mr. Burgess: Yes.
Mr. Dietzel: 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 #23-101:

- **The application is to subdivide a ten acre parcel into three residential lots.**
- **The zoning district is low density residential (LDR).**
- **The requirements of the zoning district are 3 acres with 200 feet of frontage per lot.**
- **An existing barn on the property will have to be razed.**
- **The property will be serviced by private wells and private septic systems.**
- **The proposed subdivision has received NHDES subdivision approval.**
- **Current LDR zone was established in the late 1980's to regulate growth management.**

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.

The Board took a brief recess.

It was noted for the record 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 requesting 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.

Board Questions

Mr. Burgess asked what the width of the area would be of proposed home location. Mr. Meisner said it would be approximately 250 to 700 feet and that this was also a concept plan and location not determined where home would actually be located.

Mr. Perkins asked what the conservation land intent purpose was. Mr. Meisner said it was proposed for a 41 acre lot which would abut other parcels in the area that are under conservation and have access as outlined on the proposed plan.

Mr. Tripp asked if the easement would allow public passage. Mr. Meisner said that the conservation agency is reviewing. He said that he feels that the property would not be intended for public use and know that the other side of the property is utilized by farmers and that he did not know intent of conservation interest.

Mr. Tripp said that the easement is to be determined for type of use. Mr. Meisner said that was correct.

Mr. Tripp asked if lot 11-86 had ability to make larger. Mr. Meisner said no that there is another home on that lot.

Mr. Tripp asked if the conservation lot was proposed to have zero frontage and reviewed the proposed frontages for the 3 proposed lots. Mr. Meisner said yes that was correct.

Mr. Perkins asked if the stonewall boundaries discussion was the same for the 5 acre lot. Mr. Meisner said that a portion of the property is stonewall the other portion is not wall bound.

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. Tripp asked if Conservation was providing case to purchase. Mr. Mackey said he was unsure and that he was not part of discussion.

Mr. Perkins said that the Ball family intent was to leave a portion of land undeveloped. Mr. Meisner said that the design and plan facilitates some of that and allows the Balls to keep the farm house.

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

William Lowenthal, 76 English Range Road, said he was a member of the Conservation Commission and had recused himself from their discussions and that Mr. Tripp's concerns were discussed at the Town Council meeting. He said that he was not opposed or against but that the area proposed for lot 1A is a heavily wooded lot and does have stonewall boarder that plan does not show all of the wall. He said that he would like to request that no disturbance of the stonewall which also t's off into lot 2A and wish that no disturbance or tree or brush cutting be done along the wall.

Cory Dolliver & Jen McNama, 80 English Range Road. Mr. Dolliver said that this is hard as it directly affects their property and that elevation of proposed home would be very visible and would overcast their home leaving them with no privacy.

Mr. Perkins asked how far off the road was their home. Mr. Dolliver said that their home was in the center of their lot and think it would be less than 100 feet away. He said that they have 3 small boys and want peace in their back yard.

Mr. Perkins said that the proposed home would be located 200' behind home. Mr. Dolliver said that was not correct. He said that he has concerns with proposed plan and what could potentially be built as value of their home would be lost if larger colonial built.

Mr. Perkins asked if 300' would be comfortable. Mr. Dolliver said no, and would like to know if would be keeping with homes in the are3a and that 75 feet of frontage is not enough.

Mr. Perkins said that the Board is being asked for a relief of the frontage requirement. Mr. Dolliver said that he feels would over crowd the area as it is not currently a wooded lot but open area. He said that he was concerned with the quality of life for him and his family not monetary value as would have no privacy.

David Rugh, 84 English Range Road, said that the conservation use is vague. He said that the applicant is looking to create a flag lot with insufficient frontage and create a large lot behind does not make sense. Mr. Rugh said that an easement cut off for a 20 foot right-of-way along own lot also does not make sense. He said that his property currently has an easement that people park and walk along the side of his driveway to the corn field in the rear of his property. Mr. Rugh said that if conservation wants to purchase but no one knows where the money is coming from or what they wish to do with the property. He reviewed a letter from former conservation officer Paul Dionne for the record. Farmer Phil also utilizes the access to the fields. Mr. Rugh said that he was told that the Town was proposing to put a water tank on the property so would like the Board to make a restriction of what the lot could be utilized for as when conservation purchased his property in 2001 it was with non-agricultural activities.

Mr. Tripp asked if conservation owns is the property used for recreation and that the easement is from being developed. Mr. Rugh said yes and that it was just a field.

Rebuttal

Mr. Meisner said with regard to Mr. Lowenthal's request of the stonewall strip not disturbed and the no cut zone no issue but would be at Planning Board as for the issue of the easement to the back would be limited use for Town officials.

Mr. Perkins said that brush or tree removal the Board can make recommendations but the Planning Board can make other decisions.

Mr. Corbett asked how the flag lot design came about instead of dividing space. Mr. Meisner explained the proposed layout for the record. He said that they created the 5 acre lot and 3 acre lot for the existing farmhouse. The west portion of 1A could be restricted as no intention of constructing home in that area.

Mr. Perkins asked if the area was currently a field. Mr. Meisner said yes it was an open area and has a few trees. He said that the Ball family is willing to work with the owner for hedge lines but would be a Planning Board matter. He said that they will make good faith efforts with them .

Mr. Perkins said that the Board can table this case to the next meeting if the Board feels need more information to address conservation concerns.

Mr. Corbett said that he has concerns about lot 1A as goes against spirit of ordinance and could see that the land could be divided up differently.

Mr. Tripp motioned to table to the next meeting of February 2, 2023.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Mr. Perkins said that the Board concludes their meetings at 10:00 PM but will proceed with the next case.

23-103 Peter Miller & Elizabeth Kwo

The applicants are requesting a variance to the terms of Article VI, Section 165-48.A of the Town of Derry Zoning Ordinance to allow the property/dwelling to be utilized for short term rentals at 67-69 Conley's Grove Road, Parcel ID 10652 & 16053, Zoned LDR

Ms. Kwo started the 5 criteria out of sequence. She stated there would be no diminution of property values. She stated that purchase price of property coupled with increase in improvements have contributed to the value of the property.

Public interest, she stated that there were 821 Air B&B's in Derry. Her case would set a precedent requiring the board to hear all of cases. If the board did not she would feel targeted because of her background. She stated that she believes in building trust. She stated that the ability to rent her property would increase the value of surrounding homes. Eliminating short term rentals can decrease property values.

Ms. Kwo was guided to read her application as presented to the board for the record and was sworn testimony.

Public interest- will bring high quality tenants to the town of Derry which would make it an attractive place for businesses to thrive.

Spirit of the ordinance is observed; renters can only stay on the property that is fenced in and there is additional land that does not abut other neighbors.

Substantial Justice: Renters will be fully vetted and pay for their lodging ahead of time with set quiet hours of 10 p.m. to 8a.m.

Surrounding property values are not diminished because it enhances the ability of local business' to build awareness of big island pond.

Literal enforcement of the provisions would create an unnecessary hardship, No fair and substantial relationship exists between the general purposes of the ordinance and the specific application to the property. Ms. Kwo stated that this would enhance the neighborhood and has no diminishing property value and would be in the public interest.

The proposed use is reasonable and will have minimal impact on the neighborhood and abutters as applicants will be screened for short term stays.

Ms. Kwo also reviewed the presentation packet that she provided to the Board for the record.

Ms. Kwo stated she has initiated a higher price point to limit tenants who would be disrespectful and accountable and has implemented the following:

- Added a fine of \$2000.00 for any events that occur.
- Limited the amount of people on the property to 10.
- Have installed a new fence to preserve the integrity of the property.
- Ms. Kwo emphasized the 821 Air B&B's in Derry.
- Emphasized data of how Air B&B's increase surrounding property values.
- Stated how short-term rentals spurred economic growth in the region.

Ms. Kwo added to the geographic hardship:

- She listed a poor home inspection report at the time of purchase of the property.
- Structural deficiencies that she and her husband had to repair after they Purchased the home.
- Site work expenses the help repair the property.

Ms. Kwo speculated on the purposes of the ordinances regarding short-term rentals.

Mr. Corbett found the number of Air B&B's were found to not be accurate and perhaps there maybe only 16 in the community not 821.

Ms. Kwo finished her presentation.

Board Questions

Mr. Perkins stated that Air B&B's have had a lot of conflicts nationally. Both for impacts on communities and renters finding property not what is advertised when they arrive. Ms. Kwo agreed that there needs to be proper vetting guidelines and happy to follow the rules.

Mr. Perkins asked if this was primary residence. Ms. Kwo said she stayed there last night, and they stay there every other weekend but not their primary residence.

Mrs. Morin said that she has never rented an Air B&B and asked how it works. Mrs. Kwo reviewed how the process worked for the record.

Mr. Tripp asked if the property was a rental property. Ms. Kwo said yes. She said that she has checked the website and other Air B&B's in the area. Ms. Kwo said that she received a letter from Mr. Mackey and feels targeted as others not obtained variances.

Mr. Tripp said he feels it is hard to give a variance for something that does not have a policy in the zoning ordinance.

There was some discussion with regards to number of people staying at the property and times.

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 home/property to be utilized for short term rentals.
- After I received some concerns from neighbors regarding two separate properties in two different areas of Town (this being one of them) that were being advertised as short-term rentals, I reviewed the Town's Zoning Regulations.
- Although not specifically addressed in the Zoning Ordinance, a review of the definitions and permitted uses listed in the ordinance as well as pertinent case law, I concluded that short term rentals were not permitted., except in the Central Business District (CBD) and Office Business District (OBD) where "Tourist Homes" are allowed by right. I also consulted with the Town's Attorney who concurred with my decision. (Please review the email dialogue with Attorney Keith that you have in your packets).
- After notifying the applicant that short term rentals were not a permitted use in the LDR Zoning District they have elected to submit this variance application.
- There are pictures in the file for review by the Board.

Mr. Corbett asked what was being done about other properties. Mr. Mackey said that the Planning Board is taking up some discussion and will determine what direction will be taken.

Mr. Corbett said how primary residence in Cambridge would the property still be considered owner occupied. Mr. Mackey said no.

Ms. Kwo said that she had been informed that she could do a letter to appeal decision or apply for a variance.

Mr. Mackey said that he informed the applicant that she could appeal the decision of the Code Enforcement Officer and it would be up to the Board to agree with determination.,

Mr. Corbett motioned to extend the meeting an additional 5 minutes.

Seconded by Mrs. Morin.

Vote: Unanimous.

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

Mr. Virr asked if proposed on other properties. Mr. Mackey said no.

Mr. Burgess asked what short term rental consisted of. Mr. Mackey said that it was typically limited to 14 days.

Mr. Perkins said that unfortunately due to the lateness of the hour the Board will need to continue this meeting and suggested to have case #23-103 to be first on the agenda.

Mr. Corbett motioned to continue case #23-103 to the next meeting.

Seconded by Mr. Tripp.

Vote: Unanimous.

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

Approval of Minutes

Mr. Corbett motioned to approve the minutes of December 15, 2022 as amended.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Other Business

Mr. Perkins informed that Mr. Dietzel, Mr. Donlon, Mrs. Morin and Mr. Virr's terms would be expiring on March 31, 2023 so if wish to continue roles on the Board will need to contact Sheila Bodenrader.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Adjourn at 10:03 PM

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes February 19, 2023

Mr. Corbett motioned to approve the minutes of January 19, 2023 as amended.

Seconded by Mr. Virr.

Vote: Unanimous.

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