

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
October 6, 2022

Members Present

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

Members Absent

Alternates Present

Michael Donlon
Gaspar Obimba
Richard Tripp
James Dietzel

Alternates Absent

Code Enforcement

Robert Wentworth, Assistant Building Inspector

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag. 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.

Mr. Perkins informed the Board that the first case on the agenda was a re-hearing request for case #22-140 and that the primary members would review the case.

**#22-140 Attorney Brian Germaine
Owner: Michael I. Potucek & Kara H. Potucek**

Re-hearing Request of case #22-140 Owner: Michael I. Potucek & Kara H. Potucek of a special exception as provided in Article VI, Section 165-46.B.1 of the Town of Derry Zoning Ordinance to allow the operation of a small automotive repair business using one bay of the applicants' three bay garage at 27 Wentworth Lane, Parcel ID 08034-017, Zoned MDR

The Board members reviewed the information provided and weighed out the Findings of Fact for Case # 22-140 are as follows:

The property is zoned MDR
The board found that the proposed project would change the character of the neighborhood and that the request would be outside of the spirit of the ordinance.
The project would diminish the value of the surrounding property.
Therefore, substantial justice would apply.
Public safety came into question as the neighborhood would be affected by increased traffic.

Mrs. Morin motioned to Grant Re-Hearing Request for case #22-140, Attorney Brian Germaine, Owner: Michael I. Potucek & Kara H. Potucek to Grant a special exception as provided in Article VI, Section 165-46.B.1 of the Town of Derry Zoning Ordinance to allow the operation of a small automotive repair business using one bay of the applicants' three bay garage at 27 Wentworth Lane, Parcel ID 08034-017, Zoned MDR

Seconded by Mr. Burgess.

Mr. Corbett: No. No new information presented that was not discussed in previous meeting that would warrant a re-hearing.
Mrs. Morin: No. No new evidence presented.
Mr. Virr: No. No error of procedure or law has been made by the Board.
Mr. Burgess No. Feel Board reviewed the case thoroughly and that the case did not meet criteria with regard to safety and noise. Feel home business will change residential character of the neighborhood. No new evidence presented that had not been discussed at prior meeting.
Mr. Perkins: No. For same reasons as stated.

The application was Denied by a vote of 0-5-0. 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 that Mr. Perkins and Mr. Virr would step down and that Mr. Corbett would chair, and Mr. Obimba and Mr. Dietzel would sit for the following case.

22-143 Andrew J. Manuse

The applicant is requesting a variance to the terms of Article III, Section 165-28.2.D.1 & 2 of the Town of Derry Zoning Ordinance to allow the installation of a 680 sq. ft. ground mounted solar array less than 15 feet from the rear property line at 3 Lee Circle, Parcel ID 09060-007, Zoned LDR

Andrew J. Manuse, owner, reviewed the required criteria for the record. Mr. Manuse said that the array meets the building code requirements, but the design layout was so that when the snow melts it would not be in the driveway and as such would not meet the rear setback in one corner.

Board Questions

Mr. Dietzel said he did not have any questions at this time and feels that the application met the required criteria.

Mr. Obimba said he also felt that the applicant presented his criteria well.

Mr. Burgess asked how much would be utilized. Mr. Manuse said all of it.

Code Enforcement

Mr. Wentworth said that Mr. Mackey had provided information with regard to the property in their folders.

Mr. Mackey's information is as follows:

- The applicants are requesting a variance renewal to allow the subdivision of the 30-acre parcel into 2 lots. One of the proposed lots will have 125 feet of frontage on Warner Hill Road (where 200 ft. is required) and the other lot will have compliant frontage on Island Pond Road.
- As the proposed frontage for the lot on Warner Hill Road is less than 200 ft., a variance is being requested.
- This same request was approved by the Board on February 6, 2020, but as it was not exercised within 2 years (no plans have been submitted for TRC and Planning Board review) per N.H. RSA 674:33, the variance has expired.
- As the variance has expired, the applicants are requesting a new variance (as opposed to a request for an extension of the variance which is appropriate if the variance has not yet expired).
- If approved, Planning Board subdivision approval will be required which will include TRC review.
- There are pictures in the file for review by the Board.

Mr. Corbett said that when solar first came out did not see much but now becoming more prominent.

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

No one spoke in opposition of the request.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mr. Obimba.

Vote: Unanimous.

Mr. Dietzel, Mr. Obimba, Mr. Burgess, Mrs. Morin, Mr. Corbett

Deliberative Session

Mr. Corbett reviewed the conditions for the record.

Mr. Burgess said he felt it was similar to a shed and did not see any problem with the request.

Mr. Dietzel said he felt that the applicant met the five criteria. He said that he drove by the property and did not feel it would diminish surrounding property values.

Mrs. Morin said she feels that the applicant met the criteria and would benefit from the use of the solar array.

The Board reviewed the Findings of Fact for Case #22-143 as follows:

- The property is zoned LDR

- About a year ago, the Town adopted a “Small Business and Residential Solar Energy Systems” section in the Zoning Ordinance (Article III, Section 165-28.2).
- The property has a single residential in existence and was seeking relief from the rear setback ordinance for ground mounted solar array installation.
- The ordinance requires installation occur no closer than 15’ from the property line, this installation would occur 11’ from line.
- No abutters have spoken in favor or opposition to this application
- The dwelling sits far back from the road and the yard is heavily wooded on all sides.
- The board found that the proposed project would not change the character of the neighborhood and that the request would not be outside of the spirit of the ordinance.
- Allowing the use of clean energy would be in the public’s interest.
- The project would not diminish the value of the surrounding property, allowing the landowner use on the ground will also eliminate the need for costly roof repairs in the future.
- Therefore, substantial justice would not apply.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Dietzel.

Vote: Unanimous.

Mr. Dietzel, Mr. Obimba, Mr. Burgess, Mrs. Morin, Mr. Corbett

Mrs. Morin motioned on case #22-143 Andrew J. Manuse to Grant a variance to the terms of Article III, Section 165-28.2.D.1 & 2 of the Town of Derry Zoning Ordinance to allow the installation of a 680 sq. ft. ground mounted solar array less than 15 feet from the rear property line at 3 Lee Circle, Parcel ID 09060-007, Zoned LDR as presented with the following conditions:

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

Seconded by Mr. Burgess.

Vote:

Mr. Burgess:	Yes. Feel it is the public interest, observes the spirit and intent of the ordinance and substantial justice has been shown.
Mr. Dietzel:	Yes.
Mr. Obimba:	Yes. Feel it meets all 5 criteria.
Mrs. Morin:	Yes.
Mr. Corbett:	Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to request a rehearing. After that the recourse would be to appeal to Superior Court.

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

#22-144 Craig Fowler

The applicant is requesting a variance to the terms of Article VI, Section 165-32.1.A of the Town of Derry Zoning Ordinance to allow the fire damaged structure to be rebuilt as a 3-unit residential apartment building at 9 Peabody Road, Parcel ID 36067-001, Zoned GC

Craig Fowler, owner, reviewed the required criteria for the record.

Board Questions

Mr. Perkins asked what the building was previously use for before the fire. Mr. Fowler said the first floor held office space and the second floor was a 3-bedroom unit. He said that the first floor had 2 small offices and it was hard to keep tenants. The surrounding area was mostly apartments and houses with very few businesses. He said that there was a daycare, and a dental office and Shaw's Plaza was built in the late 60's was located behind the building and that the area was put in the GC District, but it was hard to rent office space in an area that looks like a house. Mr. Fowler reviewed the surrounding neighborhood for the record.

There was some discussion with regards to the property and surrounding area.

Code Enforcement

Mr. Perkins reviewed the information supplied by Mr. Mackey for the record as follows:

- The applicant is requesting a variance to allow the building, recently damaged by a fire, to be rebuilt as a 3 residential unit structure.
- Previous to the fire, the building contained first floor office space and an apartment on the second floor.
- The property is located in the General Commercial Zoning District (GC) which does not allow residential and multi-family use. Therefore, a variance is being requested.
- If approved, the Planning Office will determine what planning action may be necessary.
- If approved, appropriate permits and inspections will be required to be obtained from the Building & Fire Departments.
- There are pictures in the file for review by the Board.

Mr. Fowler said that the area is surrounded by identical buildings being utilized as residential.

Mr. Perkins asked if tenant still there. Mr. Fowler said no as the building is uninhabitable at this time and the insurance company just signed off. He said they brought in a special inspector to determine the cause of the fire so took longer than anticipated.

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

No one spoke in opposition of the request.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Deliberative Session

Mr. Donlon said that he feels it is a reasonable request and that there is a need for housing and the area is a unique setting.

Mrs. Morin said she drives that area frequently and would not know that there were any businesses there before.

Mr. Virr said that he did not feel that it would change the residential character of the neighborhood. What was valid in the 60's is no longer a need at this time.

Mr. Burgess said he also did not feel it would be contrary to public interest and there is a need for housing.

Mr. Perkins said that the neighborhood is a mixed use and there is a need for housing and that the applicant is not creating a lot of bedroom space.

The Board reviewed the Findings of Fact for Case #22-143 as follows:

- The property is in the GCII district
- The structure had been a mixed-use low impact office space and Residential
- The property had been damaged by fire
- The property had an additional garage with residential space in it.
- Hardship and substantial Justice were evaluated as primary reasons for granting the variance.

Mr. Burgess motioned to go come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Mrs. Morin motioned on case #22-144 Craig Fowler to Grant a variance to the terms of Article VI, Section 165-32.1.A of the Town of Derry Zoning Ordinance to allow the fire damaged structure to be rebuilt as a 3-unit residential apartment building at 9 Peabody Road, Parcel ID 36067-001, Zoned GC as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Conversion to be 2 – 1-bedroom units on the first floor & rebuild 1 – 3-bedroom unit on the second floor.**
- 3. 2 dwellings in garage structure to remain.**

Seconded by Mr. Donlon.

Vote:

Mr. Burgess: Yes.

Mr. Donlon: Yes. Feel use is a reasonable request and there is need for more living units.

Mr. Virr: Yes.

Mrs. Morin: Yes.

Mr. Perkins: Yes. Feel just cause has been shown and findings of fact have been addressed.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to request a rehearing. After that the recourse would be to appeal to Superior Court.

**22-145 Derry Plumbing & Heating
 Owner: Harris Family Realty, LLC**

The applicant is requesting a variance to the terms of Article III, Section 165-20a of the Town of Derry Zoning Ordinance to allow the construction of a commercial building less than 75 feet from a wetland larger than 1 acre at 69-71 Birch Street, Parcel ID 28001 & 28002

David Benedict, applicant, and Nick Loring, Benchmark Engineering were present. Mr. Loring reviewed the required criteria and property for the record. He said that the property has history and in 2000 the property was going to be a gas station and now here with Derry Plumbing & Heating under a purchase and sales agreement to relocate his business to this property. Mr. Loring said that the issue is the 75' setback if had to adhere to would render the property unbuildable.

Board Questions

Mr. Virr said that the paperwork submitted states GC zone but feel the area is located in the OMB District. Mr. Loring said that the requested use is an allowed use in this area and that Mr. Benedict has had several discussions with the Town regarding the intended used.

Mr. Corbett said that Mr. Mackey has addressed the wetland setback concern in his information submitted for the record. He reviewed the ordinance for the record.

Mr. Perkins asked if the wetland was 1 acre in size. Mr. Loring said yes.

Mr. Perkins asked if could explain what seeking to do. Mr. Benedict said he was looking to expand his business and wished to build on this property so he could build a new structure and have a larger show room and an area for storage as his business is growing and need a larger place. He said that he was also hoping to expand into solar installations and operate this facility completely on solar.

Mr. Perkins asked where the vehicles were stored. Mr. Benedict said that there would be no vehicles stored on the property as they go home with his employees as it is actually safer.

There was some discussion with regard to the property and drainage concerns.

Mr. Tripp asked if this would go before the Planning Board. Mr. Loring said yes.

Mr. Perkins said that Mr. Corbett reviewed the ordinance for the record and that the use is appropriate for the zone, so the issue is the wetland setbacks.

Mr. Virr asked if the gray areas on the proposed plan could be described. Mr. Loring reviewed the proposed plan for the record.

Code Enforcement

Mr. Perkins said that there was information supplied by Mr. Mackey for the record in the file for the Board to review. Mr. Mackey's information is listed as follows:

- The applicant is requesting a variance to allow the construction of an approximately 6,000 square foot commercial building less than 75 feet from a wetland that is greater than 1 acre in size.
- The property is currently vacant and previously contained a dwelling and a small convenience store.
- The proposed use of the building for a plumbing business is an allowed use in the district.
- The wetland in question is not designated as a Prime Wetland.
- As the wetland in question is over 1 acre in size, the 75-foot setback applies which renders most of the property undevelopable unless a variance can be obtained.
- If approved, Planning Board Site Plan Review, including TRC review 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

Attorney Daniel Corley, McGrath Law, said that Mr. Benedict has outgrown his existing location and wishes to stay in Derry and this property has been sitting around for a long time and would be an ideal location for him to relocate to. He said that he is not looking for a major deviation to the property and will make it a beautiful place and aesthetically pleasing to the public. Attorney Corley said that Mr. Benedict is dedicated to his business and feel that he has met the requirements of needed to be granted a variance.

John Laferriere, Operations Manager for Derry Plumbing & Heating, said that he has worked for the company for several years and that they have outgrown their space and wish to purchase this property and enhance the corner. They are seeking to grown their services and looking to have a green building and showcase for their business. They have viewed other properties but would need to leave Derry in order to be able to grow but ultimately wish to stay in the Derry area.

Ralph Valentine, Valentine Group, said he was representing the Harris Family and that they were in favor of the request. Mr. Valentine said that in addition to the wetland constraints they also have restrictions on the deed such as no basement, no homes, no daycares, etc. He said that the proposed project fits well with the physical site and all the deed restrictions.

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. Tripp asked if the memorial rock would remain. Mr. Benedict said that he has been a resident of Derry his whole. He said that he did not know the whole history of the property but knows General Shute owned 500 acres here at one time and he plans on erecting a memorial with granite stating why Shute's Corner. He said that he will transform the corner and make it one of the best looking properties in Derry.

Remote

Christopher Frost, 2 Eden Street, asked if there was any building to be on the Eden Street area.

Mr. Perkins said that the former property had two buildings one store and one residential structure.

Mr. Loring said that a small portion of the property is located on Eden Street but there would be no curb cut onto Eden Street just Kendall Pond and Birch Street.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Deliberative Session

Mr. Corbett said in review of the proposal the 75' setback and size of the property makes it unable to develop. He said that the former property was an eyesore for a long time. Mr. Corbett said that he felt that the proposal was good and worthy of a variance.

Mr. Virr said that he agrees with Mr. Corbett and that the property has been sitting a long time undeveloped. He said that the property still needs to have TRC and Planning Board approval.

Mrs. Morin said that she also agrees as she has watched the property change hands and feel the applicant has met the criteria.

Mr. Burgess said that he feels that the request would not be contrary to public interest and would be good for the area and would also utilize solar.

Mr. Perkins said that he understands that there are challenges in the parcel and that also feel reasonable use and that the deed also restricts what the property could be utilized for.

The Board reviewed the Findings of Fact for Case #22-143 as follows:

- On the Birch St. Derry Plumbing and Heating.
- The parcel is in the General commercial zone
- The 1 acre wetlands are over an acre
- The property contains 2 lots of record
- The wet area extends over multiple parcels with different owners
- The wet area on these two parcels are less than 1 acre
- The deed restrictions create a hardship for the property use.
- Run-off mitigation has been provided
- The parcels had structures in the past

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Mrs. Morin motioned on case #22-145 Derry Plumbing & Heating, Owner: Harris Family Realty, LLC to Grant a variance to the terms of Article III, Section 165-20a of the Town of Derry Zoning Ordinance to allow the construction of a commercial building less than 75 feet from a wetland larger than 1 acre at 69-71 Birch Street, Parcel ID 28001 & 28002 as presented with the following conditions:

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

Seconded by Mr. Burgess.

Vote:

Mr. Burgess: Yes.
Mr. Donlon: Yes. Feel use is a reasonable request and need for rental property.
Mr. Virr: Yes.
Mrs. Morin: Yes.
Mr. Perkins: Yes. Feel just cause has been shown and the Board has addressed the findings of facts.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to request a rehearing. After that the recourse would be to appeal to Superior Court.

22-146 Maria Gruning
Owner: Tracy S. Flynn

The applicant is requesting a variance to the terms of Article VI, Section 165-45.A of the Town of Derry Zoning Ordinance to allow the property and building to be used for the operation of a non-residential home care business where caregivers take care of the elderly in their homes at 79 East Broadway, Parcel ID 32080, Zoned MHDR

Brian Gruning, applicant's husband, said that the P&S was joint tenancy. Mr. Gruning reviewed the required criteria for the record.

Board Questions

Mr. Perkins asked if the property was the one with the house and the garage. Mr. Gruning said yes.

Mr. Corbett asked if the property was just for an address and not utilized as a home. Mr. Gruning said yes at this time. He said there would be 3 employees and the owner to utilize as an office and no clients would come to the property.

Mr. Perkins asked if there was sufficient parking. Mr. Gruning said yes as it has a horse shoe driveway and also paved area in front of the garage.

There was some discussion with regard to a special exception verses a variance.

Code Enforcement

Mr. Wentworth said that there would be no exams performed on the property. He said that there would be an occasional employee possibly stopping by for supplies and leave.

Mr. Perkins said that there was information supplied by Mr. Mackey for the record in the file for the Board to review. Mr. Mackey's information is listed as follows:

- The applicant is requesting a variance to allow the existing single family residential home to be utilized as office space for a home care business.

- The property is zoned Medium High Density Residential (MHDR) which is primarily restricted to residential use. Therefore, a variance is being requested.
- The area in question along East Broadway is a mix of single family homes, apartments and a few businesses mixed in.
- Due to the nature of a home care business, most of the business activity will occur off-site with 4 people proposed to be working in the offices at the site.
- 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

David Hanscom. Realtor representing the buyer, said that the applicant was looking for a historical building and fell in love with this home with its interior wood work design. He said that the applicant is seeking to maintain the structure as it currently is and wishes only to improve the structure.

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

Meagan Corcoran, 75 East Broadway, said she had a concern with potential noise of 5 cars coming in and out of the property. Ms. Corcoran said she read online that they have 75 plus employees and feel that it would not be in the scope of the economic plan of the downtown area if allowed to expand into the residential area. She also has a concern of potential decrease of property values. Ms. Corcoran also wanted to know what happens to the property if they go out of business.

Mr. Perkins said that there was sufficient off-street parking and that East Broadway was a busy street.

There was some discussion with regards to the surrounding area.

Rebuttal

Mr. Gruning said that the total number of employees is the company and fluctuates on client base and that the 75-100 employees are independent contractors. He said that there would not be major deliveries as his wife typically purchases the masks, gloves, etc. and

either has them delivered to the clients home or brings them herself. Mr. Gruning said that there would be no clients coming to the home.

Mr. Corbett asked if there would be potential deliveries to the property. Mr. Gruning said and occasional Amazon delivery but no scheduled deliveries.

Mr. Burgess asked if there would be potential gatherings such as Christmas parties etc. Mr. Gruning said that there may be a potential for a new hire to have interview or orientation but there is no pickup of checks etc. He said that Christmas they have a potluck at home.

Mr. Virr asked if would have a sign. Mr. Gruning said yes for visibility and growth.

There was some discussion with regard to hours of operation.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Deliberative Session

Mr. Perkins said he feels apprehensive about creating commercial space in a residential area and not a homeowner seeking to operate a small home business. He said that there are exceptions to the rule as buyer is potential to live on the property but at this time only to be utilized as a stopping point for subcontractors.

There was some discussion with surrounding properties along East Broadway.

The Board reviewed the Findings of Fact for Case #22-143 as follows:

- The parcel is a residential parcel
- Applicant wishes to have an office space where they do not reside
- The application is for non-medical home care
- The applicant may take up residence at a later time
- Adequate accommodation for parking and staff can be contained on the parcel
- The impact was determined to be negligible
- The variance will terminate if use is abandoned, or property sold.

Mrs. Morin motioned to come out of deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Mrs. Morin motioned on case #22-146 Maria Gruning, Owner: Tracy S. Flynn to Grant a variance to the terms of Article VI, Section 165-45.A of the Town of Derry Zoning Ordinance to allow the property and building to be used for the operation of a non-residential home care business where caregivers take care of the elderly in their homes at 79 East Broadway, Parcel ID 32080, Zoned MHDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Hours of operation 8:00 AM – 6:00 PM Monday – Friday**
- 3. Variance to become VOID upon sale or termination of business from this property.**

Seconded by Mr. Burgess.

Vote:

Mr. Virr: Yes.

Mrs. Morin: Yes.

Mr. Corbett: No. Feel use is not in the spirit and intent of the ordinance.

Mr. Burgess: Yes.

Mr. Perkins: No. Feel the hardship criteria not met and public interest has not been shown.

The application was Granted by a vote of 3-2-0. Anyone aggrieved by a decision of the Board has 30 days to request a rehearing. After that the recourse would be to appeal to Superior Court.

Approval of Minutes

Mr. Corbett motioned to approve the minutes of September 15, 2022, as written.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Adjourn

Mr. Corbett motioned to adjourn.

Seconded by Mr. Virr.

Vote: Unanimous.

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

Adjourn at 9:47 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes on November 17, 2022

Mr. Corbett motioned to approve the minutes of October 6, 2022 as written.

Seconded by Mrs. Morin.

Vote: Unanimous.

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