

**TOWN OF DERRY**  
**ZONING BOARD OF ADJUSTMENT MINUTES**  
**August 18, 2016**

**Members Present**

Lynn Perkins, Chairman  
Allan Virr, Vice Chairman  
Heather Evans, Secretary  
Teresa Hampton  
Stephen Coppolo

**Members Absent**

**Alternates Present**

Donald Burgess  
Randall Kelley  
Joseph Carnevale

**Alternates Absent**

**Code Enforcement**

Robert Mackey

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag, and notice of fire and handicap exits and that this and all Zoning Board meetings are videotaped.

The Board introduced themselves for the record.

**16-118          Christopher Mastriano**

**The applicant is requesting a variance to the terms of Article III, Section 165-9, and Article VI, Section 165-48B.4 of the Town of Derry Zoning Ordinance and an exception to RSA 674:41, II to remove the existing home, which is located on a private road, and construct a new dwelling closer to the property lines than the required setbacks at 7 Germantown Road, Parcel ID 19103, Zoned LDR**

Timothy Lavelle, Lavelle Associates, said that he was representing the applicant who was also present this evening. Mr. Lavelle read the criteria for the record and described the proposal for the Board. He said that the existing structure with the garage is 1800 square feet and the proposed structure will be 1980 square feet. He said that they will also be required to file a Shoreland Protection application.

## **Board Questions**

Mrs. Hampton asked if State permits etc. all need to be approved first before proceeding. Mr. Lavelle said yes that this was the first step of many.

Mrs. Evans said that she did not see a letter from the owner on file to allow Mr. Lavelle to appear for them. Mr. Mackey said that no letter was requested as the applicant is also present this evening.

Christopher Mastriano, owner said that he gives permission for Tim Lavelle to represent him this evening.

Mr. Coppolo asked if the old septic will be removed and a new one installed and if the well was staying in same location. Mr. Lavelle said yes the old septic will be removed and that the well will stay provided it passes State testing.

Mr. Perkins asked if it will meet the 75' radius with the septic relocation. Mr. Lavelle said yes. He said that the existing dwelling is older and started out as a camp with a 3 season on the back and it was time for an upgrade.

Mr. Kelley said that he sees it being represented as a 2 bedroom but is concerned with the open space next to bedroom 1 and asked what the intent was and what was the intent of the bonus room. Mr. Mastriano said that was a walk in closet and there was an open area to look downstairs and that the bonus room was over the garage for storage. Wording should not have been bonus room.

Mr. Perkins asked if it was a 2 bedroom septic size. Mr. Lavelle said yes.

Mr. Coppolo asked if the proposed plan was to have 1,054 square feet on the first floor and 975 square feet on the second floor. Mr. Lavelle said yes that the square footage was less than 2,000 square feet and only 180 square feet larger than the existing structure.

Mr. Virr asked if there would be a full basement. Mr. Lavelle said it was undetermined as the area has a high water table so it will probably be a crawl space.

Mr. Virr said that he had concerns as no elevations were provided for the proposed dwelling. He asked if the ridgeline was running with the length of the lot. Mr. Lavelle said yes and only one ridgeline was proposed.

Mr. Virr asked if dormers were proposed and questioned if additional living space would be added. Mr. Lavelle said he did not believe dormers would be added as will have second story with windows. He said that he did not believe there will be space in the roof line but those are questions are best to be answered by the architect. He did not believe there would be additional living space added.

Mr. Kelley said it may not be the intent of the present owner but possible for the next owner and he only wished to clarify the intent.

## **Code Enforcement**

Mr. Mackey provided the following information for the record:

- The applicant is requesting approval to remove the existing residential cottage and replace it with a new dwelling. Records indicate present home constructed in 1932.
- The new dwelling will be located further from the property lines than the existing home but will still not meet the required setbacks, therefore, a variance from Article VI, Section 165-48.B.4 is required.
- The lot on which the dwelling is proposed to be reconstructed fronts on Germantown Road which is a private road, not a town approved road. Therefore, a variance is required from Article III, Section 165-9 and RSA 674:41.II (see attached).
- If approved, the applicant must sign and record a notice of municipal responsibility and liability prior to the issuance of the building permit.
- There are several year round and seasonal homes currently located on Germantown Road which is located on Big Island Pond.
- The new dwelling is proposed to be serviced by a new State approved septic system and an existing well.
- Much of the lot is located within 250 feet of Big Island Pond so a State Shoreland permit will be required.
- A flood elevation certificate will also be required to insure that the new structure complies with FEMA and Town flood plain regulations.
- There are pictures of the property in the file for review by the Board.

Mr. Coppolo said that .14 acres is a small lot but they have seen smaller.

Mrs. Hampton said that .14 is a standard lot for the area.

Mr. Lavelle said that it is larger than some but it is a small lot.

Mr. Virr said that he recognizes the fact that the proposed new structure will improve the area but was not happy with the 2.1' from the lot line. He said that he felt that the zoning requirement was to prevent overcrowding and the new structure will be an improvement over what is existing.

Mr. Coppolo said that neighbors are 2' away. He asked what was the height of the hedge row. Mr. Lavelle said that he believes the hedges are 6-7' in height. The lot adjacent does not have a structure on it as the owner has a lot on the lake and uses it as their back lot.

## **Favor**

Laurie Burke, owner of lots 104 & 102 next to the applicants property, said that her septic was located on parcel 104 and that she has concerns with old survey stakes as it is not

clear with property lines and would like to see a clear survey done. Mrs. Burke said that all the parcels in the area are non-conforming.

Mr. Coppolo said that the septic system location is handled later on in the process and asked if there was something being suggested that was not accurate. Mrs. Burke said that the property looks different on the website and that the buildings are all close and she would like to see clear lot lines established. She said that the shrubs on the property were planted years ago and are located on her own property.

Mr. Coppolo said that the online maps are not accurate and variance approval is important. He said that they really need to know where the lot lines are in order to approve.

Mrs. Hampton said that Mr. Lavelle surveyed her own home on the lake. She said that he has a good reputation and is a licensed surveyor.

### **Rebuttal**

Mr. Lavelle said that with regard to the septic location concern the State reviews the design and that septic systems are allowed to be 10' apart. He said that the survey of the property has been done but no points have been set at this time. He explained the pink stakes saying that they do not represent the actual lot line that it was just where the transit was set. He said that the building will be surveyed 3-4 times and will be placed exactly where they were representing. He said that the hedge row is located well onto the abutter's property.

Mr. Perkins asked if the plan will be certified. Mr. Mackey said that the office requires certified foundation plans with all new construction to assure that it meets the requirements.

Mr. Virr asked if monuments were going to be set. Mr. Lavelle said yes that steel pins with plastic caps would be set and will be orange in color

### **Opposed**

No one spoke in opposition to the request.

Mr. Virr motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins.

### **Deliberative Session**

Mr. Virr said that he felt that the questions were answered satisfactorily and that the lot is small as are most in the area.

Mr. Coppolo said that the lot currently has a structure that possibly predates zoning and feels that it would be a benefit to repair and replace the structure. He said that he feels that they have a right to update the property.

Mrs. Hampton said that the applicant still has many items to go through other than a variance and that we are the first step in the applicant's process to replacing the structure.

Mr. Perkins said that the home is dated as it currently stands and that it will be a benefit with the separation of well and septic locations. He felt that it would be bringing the property into a better service environment.

Mr. Virr said that the property will also be required to conform to today's building codes.

Mr. Perkins said that they will be reading it as 2 separate motions 165-9 being first and 165-48.B.4 second.

Mr. Mackey said that section 165-9 which deals with private roads as well as RSA 674:41.II.

Mrs. Evans reviewed the conditions to be made for the motions.

Mr. Perkins asked if there was anything else that the Board wished to be added. He said that Shoreland falls under the State permits and inspection section.

Mrs. Hampton motioned come out of deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous.

Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins.

**Mrs. Evans motioned on case #16-118 Christopher Mastriano to Grant a Variance to the terms of Article III, Section 165-9 of the Town of Derry Zoning Ordinance and an exception to RSA 674:41, II to remove the existing home, which is located on a private road at 7 Germantown Road, Parcel ID 19103, Zoned LDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to recording of Release of Municipal Liability with the NH Rockingham County Registry of Deeds.**

**Seconded by Mr. Virr.**

**Vote:**

**Mr. Coppolo: Yes.**  
**Mrs. Hampton: Yes.**  
**Mrs. Evans: Yes.**  
**Mr. Virr: 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.**

**Mrs. Evans motioned on case #16-118 Christopher Mastriano to Grant a Variance to the terms of Article VI, Section 165-48B.4 of the Town of Derry Zoning Ordinance to remove the existing home, which is located on a private road, and construct a new dwelling closer to the property lines than the required setbacks at 7 Germantown Road, Parcel ID 19103, Zoned LDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to recording of Release of Municipal Liability with the NH Rockingham County Registry of Deeds.**

**Seconded by Mr. Virr.**

**Vote:**

**Mrs. Hampton: Yes.**  
**Mr. Coppolo: Yes.**  
**Mrs. Evans: Yes.**  
**Mr. Virr: Yes.**  
**Mr. Perkins: Yes.**

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

**Approval of Minutes**

**Mrs. Hampton motioned to approve the minutes of August 18, 2016 as amended.**

**Seconded by Mrs. Evans.**

Vote: Unanimous.

Mr. Kelley, Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins

### **Other Business**

Mr. Mackey said that the Mack case is going forward with the second floor but without the kitchen.

Mr. Virr asked if they had submitted revised plans. Mr. Mackey said yes.

Mr. Mackey said that the Board will be back to the normal schedule of 2 meetings per month starting in September.

### **Adjourn**

Mr. Coppolo motioned to adjourn.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Carnevale, Mr. Kelley, Mr. Coppolo Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins.

Adjourn at 7:58 pm

Minutes transcribed from tape:

Ginny Rioux

Recording Clerk

### **APPROVAL OF MINUTES September 1, 2016**

Mr. Virr motioned to approve the minutes of August 18, 2016.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Carnevale, Mr. Kelley, Mr. Burgess, Mrs. Evans, Mr. Virr, Mr. Perkins