

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
July 20, 2017

Members Present

Lynn Perkins, Chairman
Heather Evans, Vice Chairman
Stephen Coppolo, Secretary
Randall Kelley
Michelle Navarro

Members Absent

Alternates Present

Donald Burgess

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.

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

17-116 David & Linda Clarke

The applicants are requesting a variance to the terms of Article VI, Section 165-45.B.1.d.ii of the Town of Derry Zoning Ordinance to demolish an existing 20' x 20' shed and replace it with a 24' x 32' garage less than 15' from the side and rear lot line. 33 High Street, PID 29109, Zoned MHDR

David Clarke, owner and applicant was present along with Steve Miller, designer to present his request to the Board.

Mr. Clarke said that he would like to replace his existing what should be a garage but is a bit too small to actually call it a garage. He read his application criteria for the record. Mr. Clarke said that he felt that his request was straight forward as the garage is existing

and is over 100 years old with ridge poles that are currently sagging so he would like to build a slightly larger garage that would be a more usable structure than what currently exists.

Board Questions

Mr. Perkins asked what the space between the structures was. Mr. Clarke said that the structure sits almost on the rear lot line. He said that the proposed garage would bring it 12' closer to the front lot line.

Mr. Perkins asked if the front lot line was currently 78'. Mr. Miller said that he would have to review the measurement.

Mr. Coppolo said that he thinks the plan indicates 98'. Mr. Miller said that the proposed structure is 12' longer than the existing garage and that it may be a typo.

Mr. Kelley asked why the garage could not move 15' forward and off side line as would ease some concerns. Mr. Clarke said that the could possibly move forward but then it would be close to the deck.

Mr. Burgess asked if doing job over why not move it 5' more so can get around to maintain. Mr. Miller said that if move from side would create a tight area to the home and would create turning problems.

Mr. Coppolo said that a rebuild would be less of a fire concern but was worried about the 1.7' from the fence being a fire safety hazard as it was very tight. Mr. Clarke said that the fence was his and that the abutting property was trees and yard waste.

Mr. Coppolo asked if there was a design in mind. Mr. Clarke said that he would be raising the elevation about 3-4" as the current garage builds up ice from run off in the winter.

Mr. Coppolo said he felt that the garage could still be well served if move about 4-5' from the lot line.

Mrs. Evans said that she agreed with Mr. Coppolo with the distance from the fence concern. She asked what would new garage be sitting on gravel or concrete. Mr. Miller said it would be concrete.

Code Enforcement

Mr. Mackey supplied the following information for the record.

- The applicant is proposing to demolish a 20' x 20' garage/shed currently located on the property and to replace it with a 24' x 32' garage in the same location.

- The current structure is located 3.3' from the right side property line and 1.7' from the rear property and is, therefore, considered pre-existing, non-conforming structure. There is no record of a building permit in our file.
- The applicant is seeking a variance to allow the new structure to also be located 3.3' from the right side property line and 1.7' from the rear lot line at its closest point.
- If approved, a building permit will be required.
- There are pictures of the property in the file for review by the Board.

Mr. Miller said that if they move the garage forward there would be an issue of moving around and he does not want to back out onto High Street.

Mr. Perkins said that others applicants have requested similar requests before and have failed in the motion so may wish to think of setbacks.

Favor

No one spoke in favor of the request.

Opposed

No one spoke in opposition of the request.

Board Questions

Mr. Perkins said that he was concerned with the fence distance and would like to see the structure come forward so as to have some sort of service area as pointed out by Mr. Kelley. He asked if there could be some sort of compromise with the requested setbacks.

Mr. Coppolo said that the neighbor on the south side is the most encroached upon and asked if there had been any discussion with the neighbors. Mr. Clarke said that the fence is corner to corner and that he and his neighbor had actually installed the fence together. He said that the neighbor has asked if he could park his tractor in the garage after it is built. The adjacent neighbor is an absentee landlord and has not spoken to him.

Mr. Kelley asked what the number of feet from neighbor to south structure to structure was. Mr. Miller said that he was unsure.

Mr. Burgess said that there was already some discussion with regard to moving and asked if there had been any consideration given to the suggestion. Mr. Clarke said that he could possibly relocate 3-4' forward but the side would be an issue.

Mr. Perkins asked if there was a possibility of moving or not. Mr. Miller said that he would do a study and see if it was feasible.

Mr. Clark said he would want to be able to turn around in his driveway without backing onto High Street.

Mr. Kelley said that 5' from the rear and side lines should be sufficient for allowing turn around.

Mr. Coppolo said that the Board could possibly table so not to dictate where garage should be located and that the applicant could do some research and measurements.

Mr. Miller said that 2-3' could work with but would like to measure to be sure.

Mr. Burgess said that if the Board set distance setbacks and they don't like the Board's decision that the applicant has the ability to appeal.

Mr. Perkins said that the Board does not meet again until August 17th and asked Mr. Mackey how could the Board craft the motion and not go against the legal notice. Mr. Mackey said that if note as part of the condition he felt it would be legal.

There was some discussion with distances from lot lines for the possible placement of the proposed garage.

Mr. Kelley motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Burgess, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins

Deliberative Session

Mr. Perkins said that a condition of 5' from rear lot line off fence and 6' off side should be made.

Mr. Coppolo said that the distance from rear lot line be no less than 5'.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mr. Burgess, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins

Mr. Coppolo motioned on case #17-116 David & Linda Clarke to Grant a variance to the terms of Article VI, Section 165-45.B.1.d.ii of the Town of Derry Zoning Ordinance to demolish an existing 20' x 20' shed and replace it with a 24' x 32' garage less than 15' from the side and rear lot line. 33 High Street, PID 29109, Zoned MHDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Distance from rear fence must be no closer than 5' and distance from south side lot line must be no closer than 6' to lot line.**

Seconded by Mrs. Evans.

Vote:

Mr. Burgess:	Yes.
Mr. Kelley:	Yes.
Mr. Coppolo:	Yes.
Mrs. Evans:	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. Evans motioned to approve the minutes of June 15, 2017 as written.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mr. Burgess, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

Other Business

Mr. Perkins said that there was a Town & City brochure and also a letter from Unite regarding safe digging practices.

Mr. Kelley said that the Salvation Army is hosting Christmas in July at Revive Furniture on Island Pond Road this Sunday and that Santa will also be making an appearance.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Burgess, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

Adjourn at 7:42 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

APPROVAL OF MINUTES August 17, 2017

Mr. Perkins motioned to approve the minutes of July 205, 2017 as written.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Burgess, Mrs. Navarro, Mr. Kelley, Mrs. Evans, Mr. Perkins.