

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
December 21, 2017

Members Present

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

Members Absent

Alternates Present

Donald Burgess
Evan Rathburn

Alternates Absent

James Webb

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 Mr. Kelley and Mrs. Evans would be stepping down and Mr. Burgess and Mr. Rathburn would sit for the following case.

**17-129 Matthew Hatfield/M & B Auto Brokers, LLC
 Owner: Century Auto Parts, Inc.**

The applicant is requesting a variance to the terms of Article VI, Section 165-42.A. & C.2 of the Town of Derry Zoning Ordinance to allow retail automobile sales at the property (2 vehicles to be parked outside and 4 vehicles to be kept inside). 80 North High Street, Unit #7, PID 31014, Zoned IND IV

Steven Trefethan, said he was representing owners and he owns Summer view Real Estate and is representing the building. He said that the unit is actually #8 and not #7 as noticed. Mr. Trefethan said that he would answer any questions that the Board wished and the applicant is also present this evening.

Matthew Hatfield, applicant, read his application criteria for the record.

Board Questions

Mr. Coppolo asked what Mr. Hatfield said his business was small as he previously had a variance to operate a Bonded Dealer out of his home and had no complaints.

Mr. Perkins asked when the variance was obtained to operate his home business. Mr. Hatfield said it was 2005.

Mr. Kelley asked why the State took away license. Mr. Hatfield explained that the State had three types of licensing, Bonded, Wholesale and Retail licenses. He said that he had a Bonded Dealer license but the State did away with all the Bonded Dealer licenses so when it came time for renewal they would not renew.

Mr. Trefethan said that the wholesale license carries limits as can only sell a certain number of vehicles per year.

Mr. Coppolo said that the Board has seen this type of request before.

There was some discussion with regard to the different types of licensing.

Mr. Burgess asked who owns the building. Mr. Trefethan said the owner is Bruce Boar who purchased the building for investment income. He said the unit number is actually number 8 and he described the location in the building for the record.

Mr. Burgess asked where was the parking designation for the unit. Mr. Hatfield said that there were 2 near the island and he would also have some inside.

Mr. Burgess asked if mechanical work would be performed elsewhere. Mr. Hatfield said yes as the State agreement says that all vehicles must pass state inspection.

Mr. Kelley said that the State requires that all vehicles have to be inspected and if requires repairs a record has to be kept.

Mr. Coppolo asked when was the lease agreement signed. Mr. Hatfield said he signed the lease 20 days ago.

Mr. Coppolo asked if this area was where the proposed exit 4A was coming through. Mr. Trefethan said that there is no actual determination of where exit 4A will be located. He said there has been discussion for 28 years and it is still not known. They have 5 routes but not actually determined where exit will be coming through. He said that there has been discussion that possibly units 1,2 and 3 could possibly be in easement but have not been actually told nor has any paperwork been started for property purchase.

Mr. Coppolo asked if there would be any type of advertising, flags, etc. put on property. Mr. Hatfield said that he would be advertising online.

Mr. Burgess asked if there would be a sign on the existing pole located at the front of the property. Mr. Hatfield said yes.

Mr. Burgess asked if the easement for exit 4A was through the whole property. Mr. Trefethan said if it happens it will be the whole plaza and will be eminent domain but there is no word if it is actually occurring.

Mrs. Evans asked if there was water for washing. Mr. Hatfield said that he will be taking cars to a car wash as there is stipulation in lease agreement that no washing of vehicles on property.

Mrs. Evans asked if there is other auto sales in the same building. Mr. Trefethan said there used to be but not now.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow the sale of motor vehicles at the property – 2 vehicles to be kept outside and 4 vehicles to be kept inside the unit.
- The property is located in the Industrial IV zoning district which prohibits the sale automobiles.
- The applicants lease states that a maximum of 2 vehicles are permitted to be displayed for sale outside and that no mechanic work is allowed nor is the washing of cars on the premises.
- If approved, a State Retail vehicle license will be required to be obtained by the applicant.
- There are pictures of the property in the file for review by the Board.

Favor

No one spoke in favor to the request.

Opposed

No one spoke in opposition of the request.

Mr. Coppolo motioned to go into deliberative session.

Seconded by Mrs. Navarro.

Vote: Unanimous.

Mr. Rathburn, Mr. Burgess, Mrs. Navarro, Mr. Coppolo, Mr. Perkins

Deliberative Session

Mr. Coppolo said that the Town did some strong arguments for their rezoning for auto dealerships so as to not look like Rte. 28. I honestly do not think this will become anything like that and the person is only seeking to make a living but also do not want to see precedence.

Mr. Rathburn said that he felt that this was a simple and non-convoluted case.

Mr. Burgess said that the Board has seen other brokers such as this applicant seeking to do the same online sales but have to have somewhere in order to process the paperwork. He said that the only sign the applicant is seeking was to be on the existing pole. Mr. Burgess said that he did not feel this would be anything like the dealers along Rte. 28 as he was only having 2 vehicles outside.

Mr. Perkins said that the application was subtle and not what the zoning speaks to as it is not high impact and no vehicle repair or washing will be performed on the property. He said that he felt that the application meets the criteria requirements. There should be a condition of no washing to be done on property even though the lease agreement states it he feels it should be listed as part of the conditions. Also, noted that it is unit #8 and not #7.

Mr. Burgess said that a condition of no washing or vehicle repairs to be performed on the property should be noted.

Mr. Coppolo reviewed the conditions for the record.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Rathburn.

Vote: Unanimous.

Mr. Rathburn, Mr. Burgess, Mrs. Navarro, Mr. Coppolo, Mr. Perkins

Mr. Coppolo motioned on case #17-129 - Matthew Hatfield/M & B Auto Brokers, LLC, Owner: Century Auto Parts, Inc. to Grant a variance to the terms of Article VI, Section 165-42.A. & C.2 of the Town of Derry Zoning Ordinance to allow retail automobile sales at the property (2 vehicles to be parked outside and 4 vehicles to be kept inside). 80 North High Street, Unit #8, PID 31014, Zoned IND IV as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. No washing or repairs of vehicles to be done on premises.**
- 3. Sign permit required to be obtained.**

Seconded by Mr. Burgess.

Vote:

Mr. Burgess: Yes.
Mr. Rathburn: Yes.
Mr. Coppolo: Yes.
Mrs. Navarro: 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 December 7, 2017 as written.

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Other Business

Mr. Kelley wished to Thank everyone for their generosity to the Salvation Army this year with the kettle drive and donations as they were able to provide Christmas for 200 kids.

Mr. Burgess said he would like to wish everyone a Merry Christmas and a Happy New Year.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Adjourn at 7:40 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

APPROVAL OF MINUTES

Mr. Kelley motioned to approve the minutes of December 21, 2017 as written.

Seconded by Mrs. Navarro.

Vote: Unanimous.

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