

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
February 15, 2018

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. Perkins would step down and Mrs. Evans would chair the following case.

It was also noted that Mr. Rathburn would sit for the following case.

18-103 Richard Russo
Owners: Scott & Michelle King & Richard & Michelle Russo

The Applicant is requesting a variance to the terms of Article VI, Section 165-47.B.4 of the Town of Derry Zoning Ordinance to allow the existing shed on lot 01019-015 to remain 3 feet from the side lot line after a proposed lot line adjustment with parcel 01019-014 at 11 Spinnaker Drive, and 9 Spinnaker Drive, PID 01019-014, PID 01019-015, Zoned LMDR

Eric Mitchell, Eric Mitchell & Associates, said he was here this evening representing the owners and a letter of authorization was in the file. Mr. Russo was also present and available to answer any questions that the Board may have. Mr. Mitchell read the criteria for the record.

Mr. Mitchell said that Mr. Russo lawn and sprinkler system encroaches onto the neighboring property and the owners have all agreed to a lot line adjustment. However, in doing so will result in the shed to be located 3' from the side lot line where 15' is required. He said that the neighbors are being neighborly and feels that they have met the criteria and the request is a reasonable one.

Board Questions

Mr. Burgess asked why just not relocate the sprinkler system. Mr. Russo said that they have been there for 28 years and to relocate them would be unfair as he has been maintaining the property all this time.

Mrs. Evans said that the request was for a 10' adjustment. Mr. Mitchell said it was approximately 6' at the street and goes back at an angle. One of the sheds on the property will be removed and the other will be 3' from the lot line.

Mr. Kelly asked what was the distance from the lot line now. Mr. Mitchell said it was approximately 10-11'.

Mr. Coppolo asked if the letter in the file was representation for both owners. Mr. Mitchell said yes.

Mr. Coppolo asked if the variance was for the King lot and if there would be a deed transfer. Mr. Mitchell said the variance was for the King lot and that there is not a deed transfer yet as the plan still needs to go to the Planning Board for approval. He said that the reason for the variance is that the existing shed would be located to close to the side lot line.

Mr. Kelley asked if a new deed would be established. Mr. Mackey said that there would be a new deed description to include the land in question.

Mr. Burgess asked if the property tax records would change. Mr. Mackey said yes.

Mr. Coppolo asked if he were to drive down the road would he see any noticeable change. Mr. Russo said no.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow the existing shed located on 9 Spinnaker Drive, parcel ID 01019-015 to be located 3 feet from the side property line after a proposed lot line adjustment.
- The lot line adjustment is being requested due to the installation of several lawn sprinkler heads by the owners of 11 Spinnaker Drive onto the abutting property at 9 Spinnaker Drive.

- Records indicate that a building permit was issued for a 10' x 12' shed in 1999.
- If approved, Planning Board approval will be required.
- 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. Kelley motioned to go into deliberative session.

Seconded by Mr. Rathburn.

Vote: Unanimous.

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

Deliberative Session

Mrs. Evans said she felt that the case was pretty straight forward and feels it met the criteria.

Mr. Coppolo said that his job is to focus on documents and that it was unusual to see a neighbor come in to do the leg work for another neighbor and it was nice to see that people can work together. He reviewed the conditions for the record.

Mr. Kelly motioned to come out of deliberative session.

Seconded by Mrs. Navarro.

Vote: Unanimous.

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

Mr. Coppolo motioned on case #18-103 Richard Russo, Owners: Scott & Michelle King & Richard & Michelle Russo to Grant a variance to the terms of Article VI, Section 165-47.B.4 of the Town of Derry Zoning Ordinance to allow the existing shed on lot 01019-015 to remain 3 feet from the side lot line after a proposed lot line adjustment with parcel 01019-014 at 11 Spinnaker Drive, and 9 Spinnaker Drive, PID 01019-014, PID 01019-015, Zoned LMDR as presented with the following conditions:

1. Subject to obtaining all State & Town permits and inspections.
2. Subject to Planning Board approval.

Seconded by Mr. Kelley

Vote:

Mr. Coppolo: Yes.
Mrs. Navarro: Yes.
Mr. Kelley: Yes.
Mr. Rathburn: Yes.
Mrs. Evans: 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.

It was noted for the record that Mr. Perkins resumed his position as chair.

**18-104 Lifestyle Homes of NH, Inc.
Owner: David & Mary Ann Fraser**

The applicant is requesting a variance to the terms of Article VI, Section 165-46.C.2 & 3 of the Town of Derry Zoning Ordinance to allow the subdivision of a one acre lot containing the existing dwelling leaving the remainder of the lot with 117.50 feet of frontage where 125 feet is required at 42 Tsienneto Road, PID 08039, Zoned MDR

Eric Mitchell, Eric Mitchell & Associates, said he was here this evening representing the owners and a letter of authorization was in the file.

Mr. Mitchell reviewed the criteria for the record. He explained the property layout for the Board. He said that they are here seeking relief for insufficient road frontage and the subdivision proposal will still need to be submitted to the Planning Board for site plan and subdivision review. Mr. Mitchell said that since the application was submitted the owner has since asked to see if the Board would consider an amendment to the plan of 113.66' due to the curve measurement. He said that the change was minimal and would not be noticed.

Board Questions

Mr. Perkins asked if there were any plans showing the proposed homes. Mr. Mitchell said no that he did not bring a site plan this evening as he did not feel it was needed as only seeking variance for insufficient frontage and no other variances are required for the proposed use of the property. He said that the units would be 300' from Tsienneto Road.

Mr. Perkins said the plan submitted shows 15' right-of-way to be deeded to Town. Mr. Mitchell said yes and since submission the owner has asked for an easement instead. He

said that he has plans for the Board if they wish to consider the change but may need an additional meeting.

Mr. Coppolo said that a use variance is not being requested as allowed by rite. Mr. Mitchell said that was correct as it was not required.

There was some discussion with regard to layout of the proposed use.

Mrs. Evans asked if the Barkland Drive area was to be used as a second entrance. Mr. Mitchell said no as it was a 42' wide area left as a future right-of-way of which they are not going to be utilizing as part of the proposed project.

Mr. Kelley said that someone owns the 42' right-of-way. Mr. Mitchell said that there was a 30' right-of-way on Eastgate that the owners have deeded use. The 42' right-of-way on Barkland they do not have deed and do not propose to have traffic go out that way.

Mr. Perkins said that the PSNH easement is where they were proposing to utilize. Mr. Mitchell said yes that they were crossing for utilities from the Eastgate access.

Mr. Perkins asked if this was the same area where there was a former approval in 2007 for an adult community. Mr. Mitchell said yes and that the plan was expired.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is requesting approval to allow the subdivision of the property into 2 lots leaving one of the lots with less than the required 125 feet of frontage (and less than 125' of lot width at the 35' building setback).
- The purpose of the subdivision is to create a 1 acre lot for the existing dwelling located on the property. The remainder of the property (9.91 acres) is intended to be consolidated with the lot to the rear (08039-004) and the combined parcel will then be developed as a single family independent adult community.
- If the variance is approved, the subdivision will need to be approved by the Planning Board as well as the subsequent lot consolidation and development of the property as a single family independent adult community.
- There are pictures of the property in the file for review by the Board.

Favor

No one spoke in favor to the request.

Opposed

Brenda Foley, 17 Eastgate Road, said she has some concerns with the approved easement from Eastgate as her property directly abuts it. She said that she also has concerns of traffic on Tsienneto Road.

Mr. Perkins said that the concerns and questions she has would be for the Planning Board as they were only here tonight for a variance request for insufficient frontage on Tsienneto Road.

Mr. Mitchell described the area for the abutter.

Eddie Thomas, 28 Barkland Drive, said that he was concerned with the potential use of the right-of-way off Barkland Drive and asked what it would take to have the paper status removed. He also asked if there would be some sort of buffer in the area of Barkland Drive.

Mr. Mackey said that it was not uncommon to see older subdivisions with 42' right-of-ways as they were for future use to access properties and not have them landlocked. He said that today however 42' is not wide enough as today's regulations require 50'. He said that abutters could petition the Town Council to release servitude. Mr. Mackey said that he has seen the proposal for the proposed project and that the plans do not show street going through there.

Mr. Kelley said that buffers and such would be discussions for the Planning Board.

Mr. Perkins said that there would be required to have 50% green space. Mr. Mackey said that the proposed houses were to be setup to the west of the wetland area and that the powerline area was proposed open space.

Mr. Perkins asked Mr. Mitchell if the 117' was being requested to reduce to 113'6" correct. Mr. Mitchell said that was correct and he had plans if the Board wished to review.

Mr. Perkins asked if the process would be to renote or could the Board review plans. Mr. Mackey said that the Board could review but would need to modify their motion to state 113.6 instead of 117.

There was some discussion with regard to the process and if the Board could continue the case or table to the next meeting.

Mr. Perkins asked if there would be any objection by Mr. Mitchell to table the case for 2 weeks so the Board could review the information provided. Mr. Mitchell said that he did not feel that would be an issue and everyone has been notified.

Mr. Perkins said he would entertain a motion to table the case to March 1st meeting.

Mr. Coppolo motioned to table case 18-104 Lifestyle Homes of NH, Inc. Owner: David & Mary Ann Fraser to March 1, 2018 meeting.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Approval of Minutes

Mr. Kelley motioned to approve the minutes of February 1, 2018 as written.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Other Business

Mr. Perkins said the 24th annual Spring Planning & Zoning Conference is scheduled for Saturday April 28, 2018. He said that he encourages everyone to attend the meeting as they are very informative.

Adjourn

Mrs. Navarro motioned to adjourn.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Adjourn at 8:12 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

APPROVAL OF MINUTES

Mr. Burgess motioned to approve the minutes of February 15, 2018 as written.

Seconded by Mrs. Evans.

Vote: Unanimous.

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