

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
March 1, 2018

Members Present

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

Members Absent

Michelle Navarro

Alternates Present

Donald Burgess

Alternates Absent

James Webb
Evan Rathburn

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 also noted that Mr. Burgess would sit for the following case.

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 113.66 feet of frontage where 125 feet is required at 42 Tsienneto Road, PID 08039, Zoned MDR

Mr. Perkins noted for the record that this case was continued from the February 15, 2018 meeting so the Board could review the frontage change from 117.50 feet to 113.66. The Board allowed to hear without re-noticing and giving the abutters and Board time to review the 113.66 plan that was submitted by the applicant.

Chris Hickey, Eric Mitchell & Associates, said that was correct.

Mr. Perkins said that the Board would continue the case with additional questions and input from Code Enforcement.

Favor

No one spoke in favor to the request.

Opposed

No one spoke in opposition of the request.

Board Questions

Mr. Coppolo said that he had reviewed the proposal and done the math and that the applicant has right of use if had the required frontage they could build without a variance and only here tonight to request a variance to allow 113.66' of frontage where 125' is required. They have 91% of what is required and feel that is very close to 100%.

Mr. Perkins said that Assisted Living Community over 55 is allowed in the district.

Mr. Kelley said that he was reluctant of 55 and over communities and did not see an oversight and that everything was in place. He said he does have concern with traffic flow on Tsienneto Road.

Mrs. Evans asked if the abutting properties were all single family homes. Mr. Hickey said yes.

Mrs. Evans asked what was the slope of the proposed road. Mr. Hickey said that there would be an 8% grade going in and the units are proposed to be individual homes.

Mrs. Evans asked if the property would be serviced by Town water and sewer. Mr. Hickey said yes.

Mr. Burgess asked if the homes would be owned by the community or tenants. Mr. Hickey said that the homes would be individual ownership and they would have interest in the property.

Mr. Burgess asked if the maintenance would be done by land owner. Mr. Hickey said that the condo fee would include maintenance.

Mr. Burgess asked if the association would own their property. Mr. Hickey said that the homes would be owned by the individual with a 10' common area.

Mr. Kelley asked if the footprint was leased. Mr. Hickey said the home would be owned by the owner with approximately 10' around the home and driveway. He said that the rest of the area would be owned by the association.

Mr. Coppolo said that he lives in the Bliss Farm area and they have a condo board that deals with the plowing etc. and it has worked out well.

Mr. Burgess asked if the condo bi-laws were drawn out. Mr. Hickey said no as they still have to meet with the TRC review board and also still working on plans.

Mr. Coppolo asked if the wetland area would require State review. Mr. Hickey said no and that the water and sewer lines are coming in off of Eastgate Road.

Mr. Perkins said that if there were any encroachment to wetlands they would be required to come back to the Board for additional variance.

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.

Mr. Kelley asked if the line of site was under the Planning Board review. Mr. Mackey said yes and believes it is 200' in either direction.

There was some discussion with regard to the proposed widening of Tsienneto Road due to the proposed exit 4A.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Deliberative Session

Mr. Perkins said that he felt that the applicant has addressed the ancillary concerns and that this is a modest application than the prior approval from several years ago.

Mr. Kelley said that he was concerned with the already heavy traffic flow on Tsienneto Road and the impact to the surrounding properties, but those concerns would be addressed at the Planning Board. He said that he still had reservations regarding the public interest criteria and seeing no abutters here is a concern to him.

Mr. Burgess said that the prior meeting the abutters had Planning Board concerns and said that they will probably be at the Planning Board meeting to voice their concerns.

Mr. Perkins said that the proposal shows 50% green space and felt that the abutters probably would not notice the development.

Mr. Coppolo said he was concerned with traffic as the area is used as a thru way and not an ideal location, but the applicant has a right to establish use and they are only short slightly on frontage. He said he was a supporter of growth and feel that this proposal will have less of an impact on schools being an over 55 community development. He said he also had concern with grade of road and hopes that the Planning Board would review the proposed grade.

Mr. Burgess said that the proposal was for 30 units so 6 units could have that possibly could have school age children.

Mr. Perkins reviewed the conditions for the record.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous.

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

Mr. Coppolo motioned on case #18-104 Lifestyle Homes of NH, Inc., Owner: David & Mary Ann Fraser to Grant 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 113.66 feet of frontage where 125 feet is required at 42 Tsienneto Road, PID 08039, Zoned MDR as presented with the following conditions:

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

Seconded by Mrs. Evans.

Vote:

Mrs. Evans: Yes.

Mr. Coppolo: Yes.

Mr. Kelley: No. Believe request is contrary to the public interest due to the heavy traffic flow in the area.

Mr. Burgess: 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

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.

Other Business

Mr. Perkins said the 24th annual Spring Planning & Zoning Conference is scheduled for Saturday April 28, 2018. He said that registration opened on February 27th and wanted to know how many were planning on attending.

Mr. Mackey said that there was one case submitted for the March 15th hearing but waiting to hear back from the applicant as the case also requires an additional variance to the wetland setback so they may request to be heard for the first meeting in April instead as the engineer is currently out of the office.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Adjourn at 7:35 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes April 5, 2018

Mr. Kelly motioned to approve the minutes of March 1, 2018 as written.

Seconded by Mrs. Evans.

Vote: Unanimous.

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