

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
April 19, 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
Crystal Morin
Craig Corbett

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 informed public of fire and handicap exits. He noted that this and all Zoning Board meetings are videotaped.

The Board introduced themselves for the record.

18-109 Todd Boyer

The Applicant is requesting a variance to the terms of Article III, Section 165-23 of the Town of Derry Zoning Ordinance to allow the construction of an industrial building with a minimum 20 foot buffer supplemented with a six (6) foot stockade fence and a single row of coniferous trees in lieu of the required 50 foot buffer with three rows of coniferous trees at 111 Franklin Street Extension, PID 35004, Zoned Industrial IV

Doug McGuire, Dubay Group, said that he was here representing the applicant who was also present this evening.

Mr. McGuire read the application criteria for the record.

Board Questions

Mr. Kelley asked what type of fence was proposed. Mr. Boyer said that they were proposing to use a white vinyl type fencing.

Mr. Kelley asked if they would be open to installing a double row of arborvitae as the apartments on the other side are pretty close.

Mr. McGuire said that the buffer is already being reduced due to the encroachment so there is not a lot of room to install 2 rows of plantings. He said that the Planning Board will be reviewing the proposal and be addressed at that time.

Mr. Coppolo said that it was a dimensional boundary that is too close and here it appears to be on the far side of 50%. He asked why they were unable to shift the structure to the north so can have parking near the boundary. Mr. McGuire said that they viewed the proposal with intent of buffer consisting of 3 rows versus 1 row and a fence. He said that he feels that the proposal is meeting the buffer requirements and there will also be some grading performed. He said that 2 rows of plantings would be replaced with the fence and felt that the abutter would prefer as it would be a solid barrier as plantings would be staggered and would take a while to fill in, so it would allow light pollution. Mr. McGuire said that the fence would substitute for plantings and also be a light barrier.

There was some discussion with regard to shifting plan to allow for parking and driveway entrance along the northern border of the property.

Mr. Perkins asked what the proposed use of the structure was. Mr. McGuire said proposal is for industrial use condos consisting of retail/office components facing the residential side and other side consisting of some overhead doors facing the industrial zone side. He said that the prior plan consisted of a residential component of 10 residential units now here with a proposal 7,500 square foot structure and feel proposal is reasonable use but still find need a variance to the buffer requirement.

There was some discussion with regard to the site.

Mr. Burgess asked if the property was elevated and if the vegetation would be removed. Mr. Boyer said that any natural buffer they would try to save but the area was mostly vines and such so it would be removed.

Mr. McGuire said that any existing evergreen trees would try to be utilized.

Mr. Coppolo said that the map discusses calculations from 2 sides and if they did not build 5th unit they could do as matter of right consisting of a 6,000 square foot structure. Mr. McGuire said that they reviewed various options, and all would still need to meet parking requirements. He said that he felt that the encroachment was minimal, and request was not unreasonable. Mr. McGuire said that there would still be a substantial buffer of greenery provided along fence line and that he felt that the plan meets the intent with reasonable use of the property.

There was some discussion with regard to the existing site.

Mr. McGuire explained the plan layout for the record.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance from Article III, Section 165-23 of the zoning ordinance which requires a 50 foot buffer to be established between the proposed industrial use and the abutting residential apartment complex.
- The applicant is seeking approval to install a 6' stockade fence and a single row of arborvitae plantings in lieu of the 50 foot buffer requirement with 3 rows of arborvitae plantings.
- The property is listed as 1.11. acres in area (48,351.6 sq. ft.)
- The buffer requirement affects the right side and rear of the property.
- A previous request for a variance to allow for the construction of residential condominiums on the property was unanimously denied by the Board on September 21, 2017.
- There are pictures of the property in the file for review by the Board.

Other Questions

Mr. Perkins asked Mr. Mackey what the definition between industrial and residential was and if one could cross over to the other and if there were any specifics to permitting. Mr. Mackey said that the requirements do not cross over that they would hold to the industrial requirements and not residential specifications.

Mr. Mackey said that the variance request references to buffer requirements and that there would not be any grandfathering to the residential use. If prior plan was approved they would have had 2 years or void and if they submitted to Planning Board and not acted on, then they could resubmit for an extension.

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 Mrs. Evans.

Vote: Unanimous.

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

Deliberative Session

Mr. Perkins said this is a transitional lot and not going from residential to industrial use. He felt that the proposal is a nice compromise even though plan is crunched into a tight area.

Mr. Kelley said that he agreed with Mr. Perkins and that the applicant has spoken to all issues from prior meeting and that he feels this is what should be there.

Mrs. Evans said that she also agrees with Mr. Perkins and Mr. Kelley as this plan looks less intrusive than prior plan.

Mr. Coppolo said that he felt that the buffer is important and not an alternative and that he sees the fence as protection to the abutter. Feels unable to force the 50' buffer where the abutter is already utilizing 20' of their property.

Mrs. Navarro said that she felt that this was a better use for the property than the previous request.

Mr. Kelley said that he would like to see a vinyl type fence installed as it is less maintenance.

There was some discussion with regard to the type of fencing to be installed and what conditions should be listed as part of the motion.

Mr. Perkins reviewed the conditions for the record.

Mr. Kelley motioned to come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Mr. Coppolo motioned on case #18-109 Todd Boyer to Grant a variance to the terms of Article III, Section 165-23 of the Town of Derry Zoning Ordinance to allow the construction of an industrial building with a minimum 20 foot buffer supplemented with a six (6) foot stockade fence and a single row of coniferous trees in lieu of the required 50 foot buffer with three rows of coniferous trees at 111 Franklin Street Extension, PID 35004, Zoned Industrial IV as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board approval.**
- 3. Composite stockade fence to be no less than 6' in height.**

Seconded by Mrs. Evans.

Vote:

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

Other Business

Mr. Perkins reminded the members who signed up for the 24th annual Spring Planning & Zoning Conference is scheduled for this Saturday April 28, 2018.

Mr. Mackey informed the Board that no cases were filed for the May 3, 2018 meeting so there will not be a meeting scheduled.

Approval of Minutes

Mr. Kelly motioned to approve the minutes of April 5, 2018 as amended.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Adjourn

Mr. Kelley motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Adjourn at 7:49 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes May 17, 2018

Mr. Perkins motioned to approve the minutes of April 19, 2018 as written.

Vote: Unanimous.

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